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CONSTITUTIONAL CONFERENCE

LANCASTER HOUSE

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The attached document is circulated to delegates  
at the request of Bishop Muzorewa and Delegation

Lancaster House  
14 September 1979

## ACT

To provide for a new Constitution for Zimbabwe Rhodesia; to provide for the entrenchment of certain provisions of the laws to be enacted relating to electoral matters, education or medical services; to restrict the power of the Legislature to amend the provisions of certain other laws; and to provide for matters incidental to or connected with the foregoing.

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## DEDICATION

The peoples of Zimbabwe Rhodesia humbly acclaim the supremacy and omnipotence of Almighty God and acknowledge the ultimate direction by Him of the affairs of men.

BE IT ENACTED by the President and the Parliament of Rhodesia, as follows:—

## PRELIMINARY

1. This Constitution may be cited as the Constitution of Zimbabwe Rhodesia, 1979. Citation.

2. (1) Save as is otherwise provided in paragraph 1 of the Third Schedule, this Constitution shall come into operation on a date to be fixed by the President as defined in the former Constitution by proclamation in the *Gazette*. Date of commencement.

(2) The date to be fixed in terms of subsection (1) shall be not earlier than the date on which the members of the Executive Council have been appointed in accordance with the provisions of Part I of the Third Schedule.

## CHAPTER I

## THE STATE AND THE CONSTITUTION

3. Zimbabwe Rhodesia shall be a sovereign State. The State.

4. There shall be a public seal of Zimbabwe Rhodesia, showing the coat of arms of Zimbabwe Rhodesia with the inscription "Zimbabwe Rhodesia", which shall be kept by the President. Public seal.

5. (1) This Constitution is the supreme law of Zimbabwe Rhodesia and, subject to the provisions of subsection (2), any provision of an Act or instrument made under the authority thereof, enacted or made on or after the fixed date, which is inconsistent with any provision of this Constitution or which has the effect of doing anything referred to in paragraph (a), (b), (c) or (d) of subsection (1) of section *one hundred and sixty* shall be invalid to the extent of the inconsistency or to which it has that effect, as the case may be. The Constitution.

(2) The provisions of subsection (1) shall not apply to any provision of an Act with respect to which the requirements of sections *one hundred and fifty-seven* and *one hundred and fifty-eight* or of section *one hundred and fifty-nine*, as the case may be, were applicable and have been complied with.

## CHAPTER II

## HEAD OF STATE

6. There shall be a President in and over Zimbabwe Rhodesia who shall be Commander-in-Chief of the Defence Forces of Zimbabwe Rhodesia. The President.

7. The President shall have such powers and duties as are conferred or imposed upon him by or under this Constitution or by or under any law of the Legislature. Powers and duties of President.

Qualifications  
of President.

8. A person shall not be qualified for election as President unless—

- (a) he is a citizen of Zimbabwe Rhodesia; and
- (b) he is qualified for election to the Senate.

Election of  
President.

9. (1) If the office of President becomes vacant by reason of the termination of the period of office of the President or by reason of the death or resignation of the President or the removal of the President from office in terms of subsection (3) of section *ten*, the members of the Senate and the House of Assembly shall meet as an electoral college within sixty days of such vacancy occurring in order to elect a person qualified in terms of section *eight* to the office of President:

Provided that, if Parliament has been dissolved, the members of the Senate and the House of Assembly shall meet in terms of this subsection within sixty days of the election of the Senators referred to in paragraph (a), (b) or (c) of subsection (2) of section *eighteen*, whichever takes place last.

- (2) In an election of a President in terms of this section—
  - (a) each candidate shall be qualified in terms of section *eight* and shall be nominated by not less than ten members of the House of Assembly;
  - (b) if only one candidate is duly nominated, he shall be declared to be duly elected without the necessity of a ballot;
  - (c) if two or more candidates are duly nominated, a ballot shall be taken, each member of the electoral college present having one vote and no debate being allowed, and the candidate in whose favour a majority of all the votes cast is recorded shall be declared to be duly elected;
  - (d) if at the ballot in terms of paragraph (c) no candidate receives a majority of all the votes cast, the candidate or candidates who received the least number of votes shall, subject to the provisions of subsection (3), be eliminated and a further ballot shall be taken in accordance with the provisions of paragraph (c) in respect of the remaining candidates and if at such subsequent ballot no candidate receives a majority of all the votes cast at that ballot, this procedure shall be repeated as often as may be necessary until such time as one candidate does receive a majority of all the votes so cast and is declared to be duly elected;
  - (e) the votes of members of the electoral college shall be given by secret ballot.
- (3) If after any particular ballot in terms of subsection (2)—
  - (a) the application of the provisions of paragraph (d) of subsection (2) would result in two or more candidates

being eliminated and only one candidate remaining, only one of the first-mentioned candidates, who shall be determined by the drawing of lots in the presence of the electoral college, shall be eliminated and the other candidate or candidates shall remain for the subsequent ballot;

- (b) an equality of votes is found to exist between two candidates who were the only candidates at that ballot—
- (i) the Prime Minister shall have a casting vote; or
  - (ii) where there is no Prime Minister or the Prime Minister or any acting Prime Minister is not present, the candidate who is entitled to be declared elected shall be determined by the drawing of lots in the presence of the electoral college.

(4) A person holding public office who is elected as President shall vacate such public office with effect from the date on which he is so elected.

(5) A person elected as President in terms of this section shall assume the office of the President on the day upon which he is declared to be elected.

(6) The Speaker or, in the absence of the Speaker, the President of the Senate shall—

- (a) convene at the House of Assembly the electoral college; and
- (b) preside over the electoral college; and
- (c) conduct any drawing of lots in terms of subsection (3); and
- (d) declare the successful candidate to be elected.

(7) The President may make regulations prescribing the procedure for the nomination of candidates for and for other matters incidental to an election in terms of this section.

**10.** (1) The President shall hold office for a period of six years and shall, on the termination of his period of office, be eligible for re-election:

Tenure of office  
of President.

Provided that a President who has held office for two terms shall not be eligible for re-election for a third term of office.

(2) The President may resign his office by lodging his resignation in writing with the Prime Minister.

(3) The President shall cease to hold office if, after a report prepared by a joint committee of the Senate and the House of Assembly appointed at the request of the Prime Minister has recommended the removal of the President on the grounds of misconduct or inability to discharge efficiently the functions of his office, the members of the Senate and the House of Assembly sitting together have resolved by the affirmative votes of not less than two-thirds of the total number of such members that the President be removed from office.

Acting President.

11. (1) If at any time—

- (a) the office of the President is vacant; or
- (b) the President is absent from Zimbabwe Rhodesia and has not authorized the President of the Senate in terms of subsection (3) to perform his functions; or
- (c) the President is for any reason unable to perform the functions of his office and is unable to authorize the President of the Senate in terms of subsection (3) to perform those functions;

the functions of the office of the President shall, during that period, be assumed and performed by the President of the Senate as Acting President.

(2) An Acting President shall cease to perform the functions of the President in terms of subsection (1) after the President has informed him that he is about to resume his functions or when a new President assumes office in terms of subsection (5) of section nine, as the case may be.

(3) Whenever the President—

- (a) has occasion to be absent from the seat of Government but not from Zimbabwe Rhodesia; or
- (b) has occasion to be absent from Zimbabwe Rhodesia for a period which he has reason to believe will not exceed one month; or
- (c) is suffering from an illness which he has reason to believe will be of short duration;

he may, by instrument under the Public Seal, authorize the President of the Senate to perform, on his behalf as Acting President, such of the functions of the office of the President as may be specified in that instrument.

(4) The power and authority of the President shall not be abridged, altered or in any way affected by an authority in terms of subsection (3) and an Acting President shall conform to and observe all instructions that the President may from time to time address to him:

Provided that the question whether any such instructions have been observed shall not be inquired into in any court.

(5) An Acting President shall perform the functions of the President in terms of subsection (3) for such period as may be specified in the instrument by which he is so authorized, save that the President may at any time revoke his authority.

(6) For the purposes of this section, a certificate of the Chief Justice that the President is unable to perform the functions of his office and is unable to authorize the President of the Senate in terms of subsection (3) to perform those functions shall, in respect of any period for which it is in force, be conclusive and shall not be questioned in any court:

Provided that any certificate in terms of this subsection shall cease to have effect if the President notifies the Acting President in terms of subsection (2) that he is about to resume the functions of the office of the President.

Assembly referred to in paragraphs (b) and (c) of subsection (2) of section *twenty-two*;

- (c) ten shall be Chiefs of whom—
  - (i) five shall be Chiefs in Mashonaland duly elected by an electoral college consisting of those Chiefs in Mashonaland who are members of the Council of Chiefs; and
  - (ii) five shall be Chiefs in Matabeleland duly elected by an electoral college consisting of those Chiefs in Matabeleland who are members of the Council of Chiefs.
- (3) If—
  - (a) immediately after the election of Senators referred to in subsection (2) after a general election; or
  - (b) at any time when no seat of any Senator referred to in subsection (2) is vacant;

there are less than two Senators referred to in subsection (2) who have the qualifications prescribed in subsection (4) of section *thirty-four*, the President may, in order to ensure that there are at least two Senators who have those qualifications, appoint as Senators one or two persons, as may be necessary for the purpose, who have those qualifications and who are otherwise qualified in terms of the Electoral Law for election as Senators.

(4) The qualifications and disqualifications of candidates for election in terms of subsection (2) and the procedure for the nomination of such candidates and election of Senators and the filling of vacancies shall be as prescribed in the Electoral Law.

Election of  
President of Senate.

19. (1) At such time on such day as may be fixed by the Secretary to Parliament, being a day not later than the day fixed in terms of section *sixty-three* for the first meeting of Parliament after a general election, and before the Senate proceeds to the dispatch of any other business, the Senate shall elect a person to be the President of the Senate and, whenever the office of the President of the Senate becomes vacant otherwise than by reason of the dissolution of Parliament, the Senate shall not transact any other business until a person to fill that office has been elected.

(2) The President of the Senate shall be elected in accordance with Standing Orders from among persons who are or have been members of the Senate or the House of Assembly or of the former Senate or House of Assembly who are neither Ministers nor Deputy Ministers:

Provided that a person who is not a member of the Senate shall not be elected as the President of the Senate unless, in terms of the Electoral Law, he possesses the qualifications and none of the disqualifications for election as a Senator.

(3) A person who has been elected as the President of the Senate shall, before he enters upon the duties of his office, unless he has already done so in accordance with the provisions of section

12. The President shall, before entering upon his office, take before the Chief Justice or another judge of the High Court the oaths of loyalty and for the due execution of his office in the forms set out in the First Schedule.

Oath of office.

13. Any person who commits any act which is calculated to violate the dignity or injure the reputation of the President or an Acting President shall be guilty of an offence and liable to a fine not exceeding ten thousand dollars or to imprisonment for a period not exceeding five years.

Protection of dignity and reputation of President or Acting President.

14. (1) There shall be charged upon and paid out of the Consolidated Revenue Fund to the President and any Acting President such salary and allowances as may from time to time be fixed by or under a law of the Legislature.

Salary and allowances of President and Acting President.

(2) The salary and allowances payable to the President or an Acting President shall not be reduced during the period he holds the office of the President or acts as holder thereof.

### CHAPTER III

#### THE LEGISLATURE

##### PART I

##### LEGISLATIVE AUTHORITY

15. The legislative authority of Zimbabwe Rhodesia shall vest in the Legislature which shall consist of the President and Parliament.

Legislative authority.

16. The Parliament of Zimbabwe Rhodesia shall consist of a Senate and a House of Assembly.

Parliament.

17. A law of the Legislature shall, subject to the other provisions of this Constitution, make provision for the election of Senators and of members of the House of Assembly for the purposes of this Constitution.

Electoral Law.

##### PART II

##### THE SENATE

18. (1) The Senate shall consist of such persons as are qualified for election as Senators and are duly elected thereto in accordance with the Electoral Law or appointed in terms of subsection (3).

Composition of Senate.

(2) Subject to the provisions of subsection (3), there shall be thirty Senators, of whom—

- (a) ten shall be Black Senators duly elected by an electoral college consisting of the Black members of the House of Assembly referred to in paragraph (a) of subsection (2) of section *twenty-two*;
- (b) ten shall be White Senators duly elected by an electoral college consisting of the White members of the House of

*thirty-nine*, take and subscribe before the Senate the oath of loyalty in the form set out in the First Schedule.

20. (1) The President of the Senate may at any time resign his office either by announcing his resignation in person to the Senate or by notice in writing to the Secretary to Parliament. Tenure of office of President of Senate.

(2) The President of the Senate shall vacate his office—

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

(b) if he becomes a Minister or Deputy Minister; or

(c) if he becomes a Senator or a member of the House of Assembly or the Speaker; or

(d) if any circumstance arises that, if he had been a Senator—

(i) the provisions of paragraph (d), (e) or (h) of subsection (1) of section *twenty-nine* would apply to him and his seat as a Senator would become vacant; or

(ii) he would be required, by virtue of the provisions of section *thirty*, to cease to exercise his functions as a Senator.

(3) The office of the President of the Senate shall become vacant if the Senate has resolved by the affirmative votes of not less than two-thirds of its total membership that the office of the President of the Senate shall become vacant.

(4) Any function of the President of the Senate, whether authorized by law or otherwise, which is required to be performed after a dissolution of Parliament and before the President of the Senate is elected in terms of subsection (1) of section *nineteen* shall be performed by the person who was the President of the Senate immediately before such dissolution:

Provided that, if at any time after the dissolution of Parliament the person who was the President of the Senate relinquishes the functions of that office by notice in writing to the Secretary to Parliament or is for any reason unable to perform them, those functions shall be performed by the Secretary to Parliament.

21. (1) After a general election and as soon as practicable after the election of the President of the Senate in terms of section *nineteen* the Senate shall elect a Senator, not being a Minister or Deputy Minister, to be the Deputy President of the Senate and to be chairman when the Senate is in Committee and, whenever the office of the Deputy President of the Senate becomes vacant otherwise than by reason of a dissolution of Parliament, the Senate shall, as soon as convenient, elect another such Senator to that office. Election of Deputy President of Senate.

(2) The Deputy President of the Senate shall be elected in accordance with Standing Orders.

(3) The Deputy President of the Senate may at any time resign his office by notice in writing to the Secretary to Parliament and shall vacate his office if—

- (a) he ceases to be a Senator; or
- (b) he is required by virtue of the provisions of section *thirty* or *thirty-one* to cease to exercise his functions as a Senator; or
- (c) he becomes a Minister or Deputy Minister.

### PART III

#### THE HOUSE OF ASSEMBLY

Composition of  
House of Assembly.

22. (1) The House of Assembly shall consist of such persons as are qualified for election as members of the House of Assembly and are duly elected thereto in accordance with the Electoral Law.

(2) There shall be one hundred members of the House of Assembly, of whom—

- (a) seventy-two shall be Black members duly elected thereto by voters enrolled on the common voters roll for seventy-two common roll constituencies;
- (b) twenty shall be White members duly elected thereto by voters enrolled on the White voters roll for twenty White roll constituencies;
- (c) eight shall be White members duly elected thereto in accordance with the following provisions—
  - (i) sixteen candidates shall be nominated by an electoral college consisting of the White members referred to in paragraph (b) and this paragraph who are in office immediately before the dissolution of Parliament;
  - (ii) the eight White members shall be elected by an electoral college consisting of the members referred to in paragraphs (a) and (b) from sixteen candidates nominated in accordance with the provisions of subparagraph (i):

Provided that in the case of an election to fill a vacancy caused otherwise than by the dissolution of Parliament, the White member shall be elected by an electoral college referred to in subparagraph (ii) from two candidates nominated by an electoral college consisting of the White members referred to in paragraph (b) and this paragraph who are in office at the time of the vacancy.

(3) The qualifications and disqualifications of candidates for election in terms of subsection (2) and the procedure for the nomination of such candidates and election of members of the House of Assembly and the filling of vacancies shall be as prescribed in the Electoral Law.

Election of Speaker.

23. (1) At such time on such day as may be fixed by the Secretary to Parliament, being a day not later than the day fixed



terms of subsection (1) of section *twenty-three* shall be performed by the person who was the Speaker immediately before such dissolution:

Provided that, if at any time after the dissolution of Parliament the person who was the Speaker relinquishes the functions of that office by notice in writing to the Secretary to Parliament or is for any reason unable to perform them, those functions shall be performed by the Secretary to Parliament.

Election of  
Deputy Speaker.

25. (1) After a general election and as soon as practicable after the election of the Speaker in terms of section *twenty-three* the House of Assembly shall elect a member of the House of Assembly, not being a Minister or Deputy Minister, to be the Deputy Speaker and to be chairman when the House of Assembly is in Committee and, whenever the office of the Deputy Speaker becomes vacant otherwise than by reason of a dissolution of Parliament, the House of Assembly shall, as soon as convenient, elect another such member to that office.

(2) The Deputy Speaker shall be elected in accordance with Standing Orders.

(3) The Deputy Speaker may at any time resign his office by notice in writing to the Secretary to Parliament and shall vacate his office if—

- (a) he ceases to be a member of the House of Assembly;  
or
- (b) he is required, by virtue of the provisions of section *thirty* or *thirty-one*, to cease to exercise his functions as a member of the House of Assembly; or
- (c) he becomes a Minister or Deputy Minister.

#### PART IV

##### SENATE AND HOUSE OF ASSEMBLY

Remuneration of  
President of Senate  
and Speaker.

26. (1) There shall be charged upon and paid out of the Consolidated Revenue Fund to the President of the Senate and to the Speaker such salaries and allowances as may from time to time be fixed by or under a law of the Legislature:

Provided that the President of the Senate shall not be paid any salary or allowances referred to in this subsection in respect of any period during which he is entitled to be paid the salary and allowances fixed for the Acting President.

(2) Save as provided in the proviso to subsection (1), the salary payable to the President of the Senate or the Speaker shall not be reduced during the period he holds that office.

(3) A person who was the President of the Senate or the Speaker immediately before a dissolution of Parliament shall, subject to the provisions of the proviso to subsection (1), continue to receive the salary and allowances of the President of the Senate or the Speaker, as the case may be, until such time as the Senate

in terms of section *sixty-three* for the first meeting of Parliament after a general election, and before the House of Assembly proceeds to the dispatch of any other business, the House of Assembly shall elect a person to be the Speaker and, whenever the office of the Speaker becomes vacant otherwise than by reason of the dissolution of Parliament, the House of Assembly shall not transact any other business until a person to fill that office has been elected.

(2) The Speaker shall be elected in accordance with Standing Orders from among persons who are or have been members of the Senate or the House of Assembly or of the former Senate or House of Assembly who are neither Ministers nor Deputy Ministers:

Provided that a person who is not a member of the House of Assembly shall not be elected as the Speaker unless, in terms of the Electoral Law, he possesses the qualifications and none of the disqualifications for election as a member of the House of Assembly.

(3) A person who has been elected as the Speaker shall, before he enters upon the duties of his office, unless he has already done so in accordance with the provisions of section *thirty-nine*, take and subscribe before the House of Assembly the oath of loyalty in the form set out in the First Schedule.

24. (1) The Speaker may at any time resign his office either by announcing his resignation in person to the House of Assembly or by notice in writing to the Secretary to Parliament. Tenure of office  
of Speaker.

(2) The Speaker shall vacate his office—

- (a) on the dissolution of Parliament next following his election; or
- (b) if he becomes a Minister or Deputy Minister; or
- (c) if he becomes a Senator or the President of the Senate or a member of the House of Assembly; or
- (d) if any circumstance arises that, if he had been a member of the House of Assembly—
  - (i) the provisions of paragraph (d), (e) or (h) of subsection (1) of section *twenty-nine* would apply to him and his seat as a member would become vacant; or
  - (ii) he would be required, by virtue of the provisions of section *thirty*, to cease to exercise any of his functions as a member.

(3) The office of the Speaker shall become vacant if the House of Assembly has resolved by the affirmative votes of not less than two-thirds of its total membership that the office of the Speaker shall become vacant.

(4) Any function of the Speaker, whether authorized by law or otherwise, which is required to be performed after a dissolution of Parliament and before the Speaker is elected in

or the House of Assembly, respectively, first meets after the dissolution or until he ceases sooner to perform the functions of—

- (a) the President of the Senate in the circumstances referred to in subsection (4) of section *twenty*; or
- (b) the Speaker in the circumstances referred to in subsection (4) of section *twenty-four*;

as the case may be.

27. A Minister or Deputy Minister shall have the right to sit and speak both in the Senate and the House of Assembly but shall only have the right to vote in the Senate or the House of Assembly, as the case may be, if he is a member thereof.

Powers of Ministers and Deputy Ministers in Senate and House of Assembly.

28. (1) A member of the Senate who becomes a member of the House of Assembly or the President of the Senate or the Speaker shall vacate his seat as a Senator with effect from the date on which he becomes a member of the House of Assembly, the President of the Senate or the Speaker, as the case may be.

Vacating of seats by members.

(2) A member of the House of Assembly who becomes a member of the Senate or the President of the Senate or the Speaker shall vacate his seat as a member of the House of Assembly with effect from the day on which he becomes a member of the Senate, the President of the Senate or the Speaker, as the case may be.

29. (1) The seat of a member of the Senate or the House of Assembly shall become vacant—

Tenure of seat of member of Senate or House of Assembly.

- (a) on the dissolution of Parliament next following his election; or
- (b) if he resigns his seat by notice in writing to the President of the Senate or the Speaker, as the case may be, or, in the case of the death, incapacity or absence from Zimbabwe Rhodesia of the President of the Senate or the Speaker, to the Secretary to Parliament; or
- (c) if he is absent from twenty-one consecutive sittings during any session without the leave of the Senate or the House of Assembly, as the case may be, and the Senate or the House of Assembly has resolved by the affirmative votes of more than one-half of its total membership that the seat shall become vacant; or
- (d) subject to the provisions of paragraph (h), if he accepts any public office, including office as a member of a statutory body, or if he accepts employment as an employee of a statutory body; or
- (e) if he ceases to be qualified for election to the Senate or the House of Assembly, as the case may be, in terms of the Electoral Law; or
- (f) in the circumstances set out in section *thirty*; or
- (g) if he is required, by virtue of the provisions of section *twenty-eight* or *thirty-one*, to vacate his seat; or

- (h) if, being a member or employee of a statutory body at the time he becomes a member of the Senate or the House of Assembly, he fails to terminate his appointment or employment, as the case may be, as such within fourteen days of the date he became a member of the Senate or the House of Assembly, as the case may be.

(2) The resignation of a member of the Senate or the House of Assembly shall not become effective to render the seat of that member vacant under the provisions of paragraph (b) of subsection (1) in any case in which—

- (a) proceedings are pending in respect of that member's election if it is alleged that illegal or corrupt practices took place at such election; or
- (b) proceedings in the Senate or the House of Assembly, as the case may be, are contemplated or pending in respect of that member's conduct in or as a member of the Senate or the House of Assembly;

unless the Senate or the House of Assembly, as the case may be, by resolution accepts the resignation.

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

- (a) accepting appointment as a Minister or Deputy Minister; or
- (b) being an officer or member of any of the Defence Forces whose services in peace time are not wholly in the employ of the State; or
- (c) being an officer or member of the reserve forces of the Police Force whose services are not wholly in the employ of the State; or
- (d) holding any office for which no remuneration is paid other than payment by way of travelling or subsistence allowances or out-of-pocket expenses.

(4) For the purposes of this section—

- (a) any person who is appointed to a council, board or other authority which is a statutory body or which is responsible for the administration of the affairs of a statutory body shall be regarded as a member of that statutory body;
- (b) "statutory body" means—
  - (i) any Commission established by this Constitution; and
  - (ii) any body corporate—
    - A. which is established directly by or under any law of the Legislature for special purposes specified in that law; and

B. the membership of which consists wholly or mainly of persons appointed by the President or by a Minister.

30. (1) In the event of a member of the Senate or the House of Assembly being convicted—

Members sentenced to death or to imprisonment.

- (a) within Zimbabwe Rhodesia of a criminal offence; or
- (b) outside Zimbabwe Rhodesia of an offence, by whatever name called, which if committed within Zimbabwe Rhodesia would have been a criminal offence;

and being sentenced by a court to death or imprisonment, by whatever name called, for a term of six months or more, such member shall cease forthwith to exercise his functions or to be entitled to any remuneration as a member and, subject to the provisions of this section, his seat shall become vacant at the expiration of thirty days from the date of such sentence.

(2) If, during the period of thirty days referred to in subsection (1), an application for a free pardon is made or an appeal is lodged, the question whether the member is to vacate his seat shall not be determined until the abandonment or final disposal of such application or appeal, whereupon the member shall forthwith vacate his seat unless—

- (a) he is granted a free pardon; or
- (b) his conviction is set aside; or
- (c) his sentence is reduced to a term of imprisonment of less than six months; or
- (d) a punishment other than imprisonment is substituted.

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

(4) For the purposes of this section—

- (a) two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of such terms;
- (b) two or more terms of imprisonment that are required to be served concurrently shall be regarded as a single term of imprisonment for the period of the longest of such terms;
- (c) a person shall be regarded as sentenced notwithstanding that the execution of the sentence or any part thereof has been suspended;

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

Expulsion or suspension of members convicted of certain offences.

**31. (1) If—**

- (a) a member of the Senate or the House of Assembly is convicted of an offence described in subsection (1) of section *thirty* and is sentenced to imprisonment for a lesser period than that specified in that subsection or to a fine or other punishment not specified in that subsection; and
- (b) the Senate or the House of Assembly, as the case may be, after taking into account the nature of the offence and the sentence imposed, resolves by the affirmative votes of not less than two-thirds of its total membership that the member is unfit to continue as a member or that the member should be suspended from the service of the Senate or the House of Assembly, as the case may be, for such period, not exceeding six months, as the Senate or the House of Assembly may specify;

the member shall forthwith vacate his seat or, as the case may be, be suspended from the service of the Senate or the House of Assembly, as the case may be, for the period so specified.

(2) A member of the Senate or the House of Assembly who is suspended from the service of the Senate or the House of Assembly in terms of subsection (1) shall not exercise his functions and shall not be entitled to any remuneration as a member during the period of his suspension.

Validity of proceedings.

**32.** Subject to the provisions of section *forty-one*, the Senate or the House of Assembly shall not be disqualified for the transaction of business by reason of any vacancy among the members thereof or the suspension of a member in terms of section *thirty* or *thirty-one*, and any proceedings therein shall be valid notwithstanding that some person who was not entitled so to do sat or voted in the Senate or the House of Assembly or otherwise took part in the proceedings.

General elections.

**33. (1)** A general election of members of the House of Assembly shall be held on such day or days within a period not exceeding four months after the issue of a proclamation dissolving Parliament as the President may, by proclamation in the *Gazette*, fix.

(2) Following a general election in terms of subsection (1) the election of the members of the Senate shall be held on such day or days within a period not exceeding twenty-eight days after the day fixed in terms of subsection (1) for the election of the members of the House of Assembly referred to in paragraph (c) of subsection (2) of section *twenty-two* as the President may, by proclamation in the *Gazette*, fix.

## PART V

## SENATE LEGAL COMMITTEE AND ITS FUNCTIONS

34. (1) After a general election and as soon as practicable after the election of the President of the Senate in terms of section *nineteen* and of the Deputy President of the Senate in terms of section *twenty-one* the President of the Senate shall, subject to the provisions of this section, appoint a committee to be known as the Senate Legal Committee. The Senate Legal Committee.

(2) The Senate Legal Committee shall consist of such number of Senators as the President may determine and the President may, at any time after the appointment of the Senate Legal Committee, direct that the membership thereof shall be increased, or decreased, as the case may be, by such number as he may specify:

Provided that at no time shall the Senate Legal Committee consist of less than three members.

(3) A majority of the members of the Senate Legal Committee shall consist of persons who are legally qualified in terms of subsection (4).

(4) A person shall be legally qualified for the purposes of subsection (3) if he—

- (a) is a retired judge of the High Court; or
  - (b) is, and has been for not less than ten years, whether continuously or not, qualified to practise as an advocate or attorney in Zimbabwe Rhodesia; or
  - (c) has been for not less than ten years a magistrate in Zimbabwe Rhodesia.
- (5) Standing Orders shall make provision for—
- (a) the election of a chairman, the quorum and other matters relating to the procedure of the Senate Legal Committee;
  - (b) what powers, if any, the Senate Legal Committee shall have in relation to receiving evidence in connexion with the matters which, in terms of this Constitution, it is its function to consider;
  - (c) such other matters as may be deemed fit.

35. The functions of the Senate Legal Committee shall be— Functions of Senate Legal Committee.

- (a) to examine every Bill or draft Bill which is referred to it in terms of subsection (1) or (8) of section *fifty* and to report thereon in accordance with the provisions of that section;
- (b) to examine every statutory instrument or draft statutory instrument which is referred to it in terms of section *fifty-eight* or *sixty-two* and to report thereon in accordance with the provisions of section *fifty-nine* or *sixty-two*, as the case may be.

Additional functions  
of Senate Legal  
Committee.

36. A law of the Legislature may confer additional functions on the Senate Legal Committee in relation to the examination of and reporting on statutory instruments for purposes other than those specified in Part VIII and such law shall provide for the procedures subsequent to any such report of the Senate Legal Committee.

## PART VI

### GENERAL POWERS AND PROCEDURE

Power to make laws.

37. (1) The Legislature shall be the sovereign legislative authority in and over Zimbabwe Rhodesia.

(2) The Legislature shall have power, subject to the provisions of this Constitution, to make laws, to be entitled "Acts", for the peace, order and good government of Zimbabwe Rhodesia.

Standing Orders.

38. Subject to the provisions of this Constitution, the Senate and the House of Assembly shall, jointly or severally as may be appropriate, make Standing Orders with respect to—

- (a) the passing of Bills;
- (b) any matters in connexion with which Standing Orders may or are required to be made in terms of this Constitution;

and, generally, with respect to the regulation and orderly conduct of proceedings and business in and between the Senate and the House of Assembly.

Oath of loyalty.

39. Every member of the Senate or the House of Assembly shall, before taking part in any proceedings thereof, other than proceedings necessary for the purpose of this section, make and subscribe before the Senate or the House of Assembly, as the case may be, the oath of loyalty in the form set out in the First Schedule.

Presiding in  
Parliament.

40. (1) The President of the Senate or, when he is unable to act, the Deputy President of the Senate or, when they are both unable to act, a Senator, not being a Minister or Deputy Minister, elected or appointed in accordance with Standing Orders, shall preside over the deliberations of the Senate:

Provided that the President of the Senate or the Deputy President of the Senate or other Senator, as the case may be, when acting for the President of the Senate shall not preside over the deliberations of the Senate in Committee.

(2) The Speaker or, when he is unable to act, the Deputy Speaker or, when they are both unable to act, a member of the House of Assembly, not being a Minister or Deputy Minister, elected or appointed in accordance with Standing Orders, shall preside over the deliberations of the House of Assembly:

Provided that the Speaker or the Deputy Speaker or other member of the House of Assembly, as the case may be, when acting for the Speaker shall not preside over the deliberations of the House of Assembly in Committee.



41. (1) If objection is taken by a member of the Senate present that there are present, besides the President of the Senate or the Senator presiding, fewer than ten Senators and, after such interval as may be prescribed in Standing Orders, the President of the Senate or Senator presiding ascertains that the number of Senators present is less than ten, the Senate shall thereupon be adjourned in accordance with Standing Orders.

Quorum in  
Parliament.

(2) If objection is taken by a member of the House of Assembly present that there are present, besides the Speaker or the member presiding, fewer than twenty-five members and, after such interval as may be prescribed in Standing Orders, the Speaker or member presiding ascertains that the number of members present is less than twenty-five, the House of Assembly shall thereupon be adjourned in accordance with Standing Orders.

42. (1) Save as otherwise provided in this Constitution, all questions proposed for decision at a sitting of the Senate or the House of Assembly shall be determined by a majority of the votes of the members present and voting.

Voting in  
Parliament.

(2) If, upon any question before the Senate or the House of Assembly, the votes of the members are equally divided, the motion shall be lost.

(3) The person presiding at a sitting of the Senate or of the House of Assembly, as the case may be, shall not have a deliberative or a casting vote.

43. (1) Subject to the provisions of subsection (2), all debates and proceedings in the Senate or the House of Assembly shall be conducted and all records thereof shall be kept in the English language.

Parliamentary  
records and translation  
of debates.

(2) The President of the Senate may, if he considers it to be necessary or desirable for the convenience of any Senators, permit debates or other proceedings in the Senate to be conducted in Chishona and Sindebele, as well as in English, in which case he shall ensure that adequate provision is made for the translation of any language so used into the two other languages.

44. (1) Subject to the other provisions of this Constitution, a law of the Legislature may make provision to determine and regulate the privileges, immunities and powers of the Senate, the House of Assembly and the members or officers thereof, including the President of the Senate and the Speaker, and to provide for penalties for a person who sits or votes in the Senate or the House of Assembly knowing or having reasonable grounds for knowing that he is not entitled to do so.

Privileges of  
Parliament and  
members and officers  
thereof.

(2) The law referred to in subsection (1) shall apply in relation to a Minister or Deputy Minister who is not a member of the Senate or the House of Assembly as though he were a member thereof.

45. (1) There shall be a Secretary to Parliament appointed by the Speaker after consultation with the President of the Senate and subject to the approval of the House of Assembly.

Secretary to  
Parliament and  
other staff of  
Parliament.

(2) A person appointed as the Secretary to Parliament shall not be removed from office unless the House of Assembly resolves by the affirmative votes of more than one-half of its total membership that he be removed from office.

(3) Subject to any wishes which may be expressed from time to time by the House of Assembly, the Speaker shall, after consultation with the President of the Senate, appoint such number of other staff of Parliament as the Speaker may from time to time consider necessary.

(4) The staff of Parliament shall be appointed on terms of service approved from time to time by the House of Assembly and shall be deemed to be public officers but shall not form part of the Public Service.

President and other persons may address Parliament.

46. (1) The President may at any time—

(a) attend and address the Senate or the House of Assembly;  
or

(b) call a joint meeting of the Senate and the House of Assembly and attend and address such joint meeting.

(2) The President may send messages to the Senate or the House of Assembly and any such message shall be read by a Minister designated by the President at the first convenient sitting of the Senate or the House of Assembly, as the case may be, after it is received.

(3) When acting in terms of subsection (1) or (2) the President shall have regard to such constitutional conventions and practices referred to in subsection (3) of section *sixty-six*, if any, as are relevant and appropriate in the circumstances.

(4) The Senate and the House of Assembly may, either jointly or severally, pursuant to a resolution, invite any person to address the Senate or the House of Assembly or, as the case may be, a joint meeting of the Senate and the House of Assembly.

## PART VII

### PROCEDURE IN REGARD TO BILLS AND OTHER MATTERS

Introduction of Bills, motions and petitions.

47. (1) Any Bill may originate in the House of Assembly.

(2) Any Bill, other than a Money Bill, may originate in the Senate.

(3) Subject to the provisions of this Constitution and Standing Orders—

(a) any member of the Senate may introduce any Bill into or move any motion for debate in or present any petition to the Senate and the same shall be debated and disposed of according to Standing Orders;

(b) any member of the House of Assembly may introduce any Bill into or move any motion for debate in or present any petition to the House of Assembly and

the same shall be debated and disposed of according to Standing Orders;

- (c) any Minister or Deputy Minister may introduce any Bill into or move any motion for debate in or present any petition to either the Senate or the House of Assembly and the same shall be debated and disposed of according to Standing Orders.

(4) Except on the recommendation of the President signified by a Minister or Deputy Minister, the Senate or the House of Assembly shall not—

- (a) proceed upon any Bill, including any amendment to a Bill, which, in the opinion of the President of the Senate or the Speaker, as the case may be, makes provision for any of the following matters—

(i) imposing or increasing any tax;

(ii) imposing or increasing any charge on the Consolidated Revenue Fund or other public funds of Zimbabwe Rhodesia or varying any such charge otherwise than by reducing it;

(iii) compounding or remitting any debt due to the State and condoning any failure to collect taxes;

(iv) authorizing the making or raising of any loan by the State;

(v) condoning unauthorized expenditure;

or

- (b) proceed upon any motion, including any amendment to a motion, the effect of which, in the opinion of the President of the Senate or the Speaker, as the case may be, is that provision should be made for any of the matters specified in paragraph (a); or

- (c) receive any petition which, in the opinion of the President of the Senate or the Speaker, as the case may be, requests that provision be made for any of the matters specified in paragraph (a).

(5) The provisions of subsection (4) shall not apply to—

- (a) any Bill introduced, motion moved or petition presented by a Minister or Deputy Minister; or

- (b) any amendment moved by a Minister or Deputy Minister to a Bill or motion.

48. (1) Immediately after a Bill which originated in the House of Assembly has been passed by the House of Assembly, the Speaker shall cause an authenticated copy of the Bill to be transmitted to the Senate for consideration and the day on which it is transmitted to be recorded in the journal of the House of Assembly.

Procedure in regard to Bills.

(2) A Bill transmitted to the Senate in terms of subsection (1) shall be introduced forthwith into the Senate and, subject to the provisions of this Constitution, the Senate may reject the Bill or pass the Bill, with or without amendments.

(3) A Bill introduced into the Senate in terms of subsection (2) which has been passed by the Senate with amendments shall be returned forthwith to the House of Assembly with the amendments duly certified by the Secretary to Parliament and the House of Assembly may reject, agree to or amend the amendments made to the Bill by the Senate.

(4) Immediately after a Bill which originated in the Senate has been passed by the Senate, the President of the Senate shall cause an authenticated copy of the Bill to be transmitted to the House of Assembly for consideration and the day on which it is transmitted to be recorded in the journal of the Senate.

(5) A Bill transmitted to the House of Assembly in terms of subsection (4) shall be introduced into the House of Assembly as soon as may be convenient and the House of Assembly may reject the Bill or pass the Bill, with or without amendments.

(6) A Bill introduced into the House of Assembly in terms of subsection (5) which has been passed by the House of Assembly with amendments shall be returned to the Senate with the amendments duly certified by the Secretary to Parliament and the Senate may reject, agree to or amend the amendments made to the Bill by the House of Assembly.

Disagreement between  
Senate and House of  
Assembly.

49. (1) Subject to the provisions of subsection (3), if—

- (a) the Senate and the House of Assembly have not agreed upon the amendments to be made to a Bill which originated in the House of Assembly before the expiration of a period of one hundred and eighty days beginning on the day of the introduction of the Bill into the Senate; or
- (b) the Senate and the House of Assembly have not agreed upon the amendments to be made to a Bill which originated in the Senate before the expiration of a period of one hundred and eighty days beginning on the day of the return of the Bill to the Senate; or
- (c) a Bill which originated in the House of Assembly has been rejected or has not been passed by the Senate before the expiration of a period of one hundred and eighty days beginning on the day of the introduction of the Bill into the Senate;

the Bill may, subject to the provisions of this section, be presented to the President for assent in the form in which it was passed by the House of Assembly, except for minor changes required by the passage of time, with such amendments, if any, as the Senate and the House of Assembly may have agreed:

Provided that if, in the opinion of the Speaker, a Bill which—

- (a) originated in the House of Assembly; and
- (b) was introduced into the House of Assembly after the expiration of a period of one hundred and eighty days beginning on the day of the introduction into the Senate of a previous Bill originating in the Senate;

contains provisions identical with those contained in that previous Bill, except for minor changes required by the passage of time, the provisions of this subsection shall be construed and have effect as though any reference in paragraphs (a) and (c) of this subsection to a period of one hundred and eighty days were a reference to a period of eight sitting days.

(2) A Bill referred to in subsection (1) shall not be presented to the President for assent unless a resolution that the Bill be presented to the President for assent has been passed by the House of Assembly after the expiration of a period—

- (a) in the case of a Bill referred to in paragraph (a) or (c) of that subsection, of one hundred and eighty days beginning on the day of the introduction of the Bill into the Senate;
- (b) in the case of a Bill referred to in paragraph (b) of that subsection, of one hundred and eighty days beginning on the day of the return of the Bill to the Senate;
- (c) in the case of a Bill referred to in the proviso to that subsection, of eight sitting days beginning on the day of the introduction of the Bill into the Senate.

(3) The provisions of subsections (1) and (2)—

- (a) shall not apply to a Constitutional Bill;
- (b) shall apply to a Bill in respect of which the President of the Senate has reported in terms of subsection (4) of section *fifty-one* as though any reference in subsections (1) and (2) to a period of one hundred and eighty days were a reference to a period of three hundred and sixty days.

(4) A Bill referred to in subsection (1) shall not be presented to the President for assent unless it is accompanied by a certificate from the Speaker stating that the Bill is a Bill to which the relevant provisions of subsections (1) and (2) apply and that the Bill may lawfully be presented for assent by virtue of those provisions, as read with paragraph (b) of subsection (3), where relevant.

(5) A Bill presented to the President for assent in pursuance of a resolution of the House of Assembly referred to in subsection (2) shall be deemed to have been duly passed by Parliament in the form in which it is presented to the President.

(6) In the calculation of any period of eight days, one hundred and eighty days or three hundred and sixty days referred to in this section, no account shall be taken of any period during which Parliament is prorogued.

(7) For the purposes of this section—

- (a) a Bill originating in the House of Assembly shall be deemed to have been introduced into the Senate on the sitting day next following the day on which a copy of the Bill is transmitted to the Senate in terms of subsection (1) of section *forty-eight*;

- (b) a Bill originating in the Senate shall be deemed to have been returned to the Senate on the sitting day next following the day on which the Bill is returned for the first time to the Senate in terms of subsection (6) of section *forty-eight*.

Functions of Senate  
Legal Committee in  
regard to Bills.

50. (1) Subject to the provisions of subsection (6), every Bill shall, immediately after its introduction into the Senate, be referred to the Senate Legal Committee and if any such Bill is thereafter amended in the Senate the Bill as amended shall, before it is given its final reading, be referred to the Senate Legal Committee:

Provided that a Bill which originated in the House of Assembly and has been passed by the House of Assembly may be referred to the Senate Legal Committee before its introduction into the Senate.

(2) It shall be the duty of the Senate Legal Committee to examine every Bill referred to it in terms of subsection (1) and, subject to the provisions of subsection (3), to report to the Senate—

- (a) in the case of a Bill referred to the Committee before or immediately after its introduction into the Senate, within a period of twenty-one sitting days;
- (b) in the case of a Bill referred to the Committee by reason of its amendment in the Senate, within a period of five sitting days;

beginning on the day when the Bill is referred to the Committee, whether or not, in the opinion of the Committee, any provision of the Bill would, if enacted, be in contravention of the Declaration of Rights.

(3) On the application of the Chairman of the Senate Legal Committee, the President of the Senate may, if he considers it proper to do so on account of the length or complexity of a Bill or the number of matters for the time being under consideration by the Committee or for any other sufficient reason, extend the period referred to—

- (a) in paragraph (a) of subsection (2) for a further period not exceeding twenty-one sitting days; or
- (b) in paragraph (b) of subsection (2) for a further period not exceeding five sitting days;

and any extension of time so granted shall be recorded in the journal of the Senate.

(4) The Senate shall not proceed upon a Bill after the introduction of the Bill into the Senate or give a Bill its final reading after it has been amended in the Senate unless a report of the Senate Legal Committee on the Bill has been presented to the Senate:

Provided that if no report on a Bill has been presented to the Senate within the appropriate period specified in subsection (2) or any extension of that period which has been granted in terms

of subsection (3), it shall be presumed that the Committee is of the opinion that no provision of the Bill would, if enacted, be in contravention of the Declaration of Rights and, accordingly, the Senate may proceed upon the Bill or give the Bill its final reading, as the case may be.

(5) The provisions of this section shall, *mutatis mutandis*, apply to a provision of a Bill which is amended in the House of Assembly after the Bill has been passed by the Senate as they apply to a Bill which is introduced into the Senate.

(6) The provisions of subsection (1) shall not apply to—

(a) a Money Bill; or

(b) a Constitutional Bill; or

(c) a Bill to which the proviso to subsection (1) of section *forty-nine* applies.

(7) The Chairman of the Senate Legal Committee shall transmit a copy of every report referred to in subsection (2), in which it is stated that, in the opinion of the Committee, a provision of the Bill to which the report relates would, if enacted, be in contravention of the Declaration of Rights, to the Ombudsman.

(8) A Minister may, if he sees fit, transmit to the Secretary to Parliament for examination by the Senate Legal Committee a draft of any Bill he proposes to introduce into the Senate or the House of Assembly and the Secretary to Parliament shall forthwith refer the Bill to the Senate Legal Committee and the Senate Legal Committee shall consider the Bill and cause the Minister to be informed whether or not, in the opinion of the Committee, any, and if so which, provision of the Bill would, if enacted, be in contravention of the Declaration of Rights, but nothing herein contained shall affect the provisions of this section in so far as they apply should that Bill be introduced into the Senate.

51. (1) It shall be the duty of the Senate to consider any report presented to the Senate in terms of subsection (2) of section *fifty* which states that, in the opinion of the Senate Legal Committee, a provision of a Bill would, if enacted, be in contravention of the Declaration of Rights.

Reports of Senate  
Legal Committee.

(2) After considering any report presented to the Senate in terms of subsection (2) of section *fifty* in relation to a Bill the Senate may resolve that the Bill would, if enacted, be in contravention of the Declaration of Rights.

(3) If the Senate resolves that a Bill would, if enacted, be in contravention of the Declaration of Rights, the Senate shall not pass the Bill.

(4) If the Senate—

(a) by virtue of the provisions of subsection (3), does not pass a Bill; or

(b) amends a Bill so that it is no longer in contravention of the Declaration of Rights as referred to in subsection (2);

the President of the Senate shall report to the Speaker accordingly.

Procedure in regard to Bills where certificate of urgency is issued.

52. (1) The Prime Minister may, subject to the provisions of subsection (4), certify that a Bill originating in the House of Assembly which has been passed by the House of Assembly is so urgent that it is not in the national interest to delay the enactment of the Bill.

(2) If—

- (a) the Senate and the House of Assembly have not agreed upon the amendments to be made to a Bill in respect of which a certificate has been issued in terms of subsection (1) before the expiration of a period of eight sitting days beginning on the day of the introduction of the Bill into the Senate; or
- (b) a Bill in respect of which a certificate has been issued in terms of subsection (1) has not been passed by the Senate before the expiration of a period of eight sitting days beginning on the day of the introduction of the Bill into the Senate;

the Bill may, subject to the provisions of this section, be presented to the President for assent in the form in which it was passed by the House of Assembly with such amendments, if any, as the Senate and the House of Assembly may have agreed.

(3) A Bill referred to in subsection (2) shall not be presented to the President for assent unless a resolution that the Bill be presented to the President for assent has been passed by the House of Assembly after the expiration of a period of eight sitting days beginning on the day of the introduction of the Bill into the Senate.

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

- (a) a Constitutional Bill; or
- (b) a Bill referred to in section *one hundred and sixty*.

(5) A Bill referred to in subsection (2) shall not be presented to the President for assent unless it is accompanied by a certificate from the Speaker stating that the Bill is a Bill to which the provisions of subsections (2) and (3) apply and that the Bill may lawfully be presented for assent by virtue of those provisions.

(6) A Bill presented to the President for assent in pursuance of a resolution of the House of Assembly referred to in subsection (3) shall be deemed to have been duly passed by Parliament in the form in which it is presented to the President.

(7) For the purposes of this section, a Bill in respect of which a certificate has been issued in terms of subsection (1) shall be deemed to have been introduced into the Senate on the sitting day next following the day on which a copy of the Bill is transmitted to the Senate in terms of subsection (1) of section *forty-eight*.

(8) If, in the case of a Bill presented to the President for assent in pursuance of a resolution of the House of Assembly referred to in subsection (3), the Senate has not considered that Bill in the form in which it was presented to the President for



assent, a copy of that Bill certified by the Secretary to Parliament to be in the form in which it was presented to the President for assent shall be transmitted to the Senate immediately after its enactment and the provisions of sections *fifty* and *fifty-one* shall, *mutatis mutandis*, apply in relation to that Bill.

(9) The provisions of subsections (10) and (11) shall apply to a Bill to which the President has assented in pursuance of the provisions of this section if the Senate—

- (a) resolved before the day on which that Bill was enacted that a provision of that Bill, as enacted, was a provision which would, if enacted, be in contravention of the Declaration of Rights; or
- (b) resolves within a period of thirty sitting days beginning on the day on which that Bill was enacted that a provision of that Bill, as enacted, is in contravention of the Declaration of Rights.

(10) If, before the expiration of a period of eight sitting days beginning on—

- (a) the day of the resolution of the Senate referred to in subsection (9); or
- (b) the day on which the Bill is enacted;

whichever is the later day, the House of Assembly has not passed a resolution such as is referred to in subsection (11), the President shall forthwith cause to be published in the *Gazette* a notice annulling the provision to which the resolution of the Senate relates with effect from the date of the publication of that notice.

(11) If, before the expiration of the period referred to in subsection (10), the House of Assembly has resolved by the affirmative votes of more than one-half of its total membership that the provision of the Bill to which the resolution of the Senate relates shall remain in force, the provision shall, unless it is sooner repealed or has had its effect, subject to the provisions of section *one hundred and thirty-four*, continue in force for a period of two hundred and seventy days beginning on the day of the resolution or the day on which the Bill is enacted, whichever is the later day:

Provided that, if—

- (a) the resolution of the House of Assembly referred to in this subsection was passed by the affirmative votes of not less than two-thirds of the total membership of the House of Assembly; or
- (b) before the expiration of the period of two hundred and seventy days referred to in this subsection the House of Assembly has, by the affirmative votes of not less than two-thirds of the total membership of the House of Assembly, passed a further resolution that the provision shall remain in force;

the provision shall, unless it is sooner repealed or has had its effect, subject to the provisions of section *one hundred and thirty-four*,

continue in force after the expiration of the period of two hundred and seventy days.

(12) Where the Senate or the House of Assembly passes a resolution in pursuance of the provisions of subsection (9), (10) or (11), the Secretary to Parliament shall cause to be published in the *Gazette* a notice of such resolution and of the effect thereof.

Money Bills.

53. (1) The Senate shall not have power to amend a Bill which is certified by the Speaker to be a Money Bill but may recommend amendments to the House of Assembly.

(2) An amendment to a Bill referred to in subsection (1) which is recommended by the Senate shall be duly certified by the Secretary to Parliament and transmitted to the House of Assembly for its consideration.

(3) After the House of Assembly has considered amendments to a Bill referred to in subsection (1) which have been recommended by the Senate the Bill shall be presented to the President for assent in the form in which it was passed by the House of Assembly with such amendments, if any, as may have been made by the House of Assembly on the recommendation of the Senate.

(4) If a Bill referred to in subsection (1) has not been passed by the Senate before the expiration of a period of eight sitting days beginning on the day of the introduction of the Bill into the Senate, the Bill may, subject to the provisions of this section, be presented to the President for assent in the form in which it was passed by the House of Assembly.

(5) A Bill referred to in subsection (4) shall not be presented to the President for assent unless a resolution that the Bill be presented to the President for assent has been passed by the House of Assembly after the expiration of a period of eight sitting days beginning on the day of the introduction of the Bill into the Senate.

(6) A Bill referred to in subsection (4) shall not be presented to the President for assent unless it is accompanied by a certificate from the Speaker stating that the Bill is a Bill to which the provisions of subsections (4) and (5) apply and that the Bill may lawfully be presented for assent by virtue of those provisions.

(7) A Bill presented to the President for assent in pursuance of a resolution of the House of Assembly referred to in subsection (5) shall be deemed to have been duly passed by Parliament in the form in which it is presented to the President.

(8) For the purposes of this section, a Bill referred to in subsection (1) shall be deemed to have been introduced into the Senate on the sitting day next following the day on which a copy of the Bill is transmitted to the Senate in terms of subsection (1) of section *forty-eight*.

Provisions relating to amendments to Bills.

54. Subject to the provisions of this Constitution and Standing Orders, after a Bill has been returned to the House in which it originated, the Senate or the House of Assembly may,

by message to the other House pursuant to a resolution, agree to any amendment or withdraw any amendment which has been made to the Bill.

**55.** (1) No Bill shall become law unless the President has assented thereto and has signed it in token of such assent. **Assent to Bills.**

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

(3) Subject to the provisions of subsection (5) of section *forty-nine*, subsection (6) of section *fifty-two*, subsection (7) of section *fifty-three*, subsection (3) of section *one hundred and fifty-seven* and paragraph (c) of subsection (6) of section *one hundred and fifty-nine*, a Bill shall be duly passed by Parliament if the Bill has been agreed by the Senate and the House of Assembly in the form in which it is presented to the President for assent.

(4) When a Bill is presented to the President for assent he shall declare, subject to the law and constitutional convention, that he assents or refuses assent thereto.

(5) In every Bill presented to the President for assent the words of enactment shall be—

“Be it enacted by the President and the Parliament of Zimbabwe Rhodesia”.

**56.** (1) Where in this Constitution there is a provision that a Bill of a specified description shall not be presented to the President for assent unless it is accompanied by a prescribed certificate, the President shall not assent to such Bill unless it is accompanied by the prescribed certificate. **Further provisions relating to enactment of Bills.**

(2) An Act, once it is assented to by the President, shall come into operation on the day of its publication in the *Gazette* or on such other day as may be specified in or under that or some other Act.

(3) Where, by virtue of the provisions of subsection (2), an Act comes into operation on a particular day, such Act shall be deemed to come into operation immediately on the expiration of the day preceding that particular day.

**57.** (1) As soon as may be after an Act has been assented to by the President, the Secretary to Parliament shall cause a fair copy of the Act, duly authenticated by the signature of the President and the Public Seal, to be enrolled on record in the office of the Registrar of the High Court and such copy shall be conclusive evidence of the provisions of such Act. **Enrolment of Acts.**

(2) Notwithstanding the provisions of subsection (1), an Act of the Legislature may provide that a revised edition of the laws in force on any specified day shall be compiled and published and that, upon publication, the laws therein printed shall in all courts of justice and for all purposes whatever be the sole and authentic version of such laws and be conclusive evidence thereof.

and the President shall cause a duly authenticated copy of such revised edition of the laws to be deposited in the office of the Registrar of the High Court.

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

## PART VIII

### FUNCTIONS OF SENATE LEGAL COMMITTEE IN REGARD TO STATUTORY INSTRUMENTS

Statutory instruments  
to be referred to  
Senate Legal  
Committee.

58. It shall be the duty of the Secretary to Parliament to refer copies of all statutory instruments published in the *Gazette* to the Senate Legal Committee in accordance with regulations made by the President.

Senate Legal  
Committee to report.

59. (1) It shall be the duty of the Senate Legal Committee to examine every statutory instrument referred to the Committee in terms of section *fifty-eight* and, subject to the provisions of subsection (2), to report to the President of the Senate and to the authority which made the statutory instrument within a period of twenty-one days beginning on the day the statutory instrument is referred to the Committee whether or not, in the opinion of the Committee, any provision of the statutory instrument is in contravention of the Declaration of Rights.

(2) On the application of the Chairman of the Senate Legal Committee, the President of the Senate may, if he considers it proper to do so on account of the length or complexity of a statutory instrument or the number of matters for the time being under consideration by the Committee or for any other sufficient reason, extend the period referred to in subsection (1) for a further period not exceeding twenty-one days and any extension of time so granted shall be recorded in the journal of the Senate.

(3) The Chairman of the Senate Legal Committee shall transmit a copy of every report referred to in subsection (1) in which it is stated that, in the opinion of the Committee, a provision of the statutory instrument to which the report relates is in contravention of the Declaration of Rights, to the Ombudsman.

Senate to consider  
report.

60. (1) The President of the Senate shall cause every report of the Senate Legal Committee on a statutory instrument which is received by him within the period specified in subsection (1) of section *fifty-nine* or any extension of that period which has been granted in terms of subsection (2) of that section to be laid before the Senate as soon as may be after receiving that report.

(2) Unless the report is withdrawn in terms of subsection (3), it shall be the duty of the Senate to consider any report presented to the Senate in terms of subsection (1) which states that, in the opinion of the Senate Legal Committee, a provision of a statutory instrument is in contravention of the Declaration of Rights.

(3) The Senate Legal Committee may at any time before a report referred to in subsection (2) is considered by the Senate withdraw that report if the provision of the statutory instrument referred to in that subsection is repealed or is amended in such a way as, in the opinion of the Senate Legal Committee, to remove the contravention referred to in that subsection.

61. (1) If, after considering a report in terms of subsection (2) of section *sixty*, the Senate resolves, within seven sitting days after that report was laid before the Senate in terms of subsection (1) of section *sixty*, that a provision of the statutory instrument is in contravention of the Declaration of Rights, the President of the Senate shall report to the Speaker accordingly.

Procedure after report considered.

(2) Unless, within twenty-one sitting days beginning on the day that the Senate has passed a resolution referred to in subsection (1)—

- (a) the House of Assembly has resolved that the provision in question should not be repealed; or
- (b) the Senate Legal Committee has reported to the Speaker that the provision of the statutory instrument in question has been repealed or has been amended in such a way as, in the opinion of the Senate Legal Committee, to remove the contravention referred to in subsection (1);

the Secretary to Parliament shall report to the President and the President shall, as soon as possible, notwithstanding the provisions of any law, by notice in the *Gazette*, repeal the provision in question with effect from the date of the publication of that notice.

62. (1) An authority empowered to make a statutory instrument may, if it sees fit, transmit to the Secretary to Parliament for examination by the Senate Legal Committee a draft of any such statutory instrument it proposes to make and the Secretary to Parliament shall forthwith refer the statutory instrument to the Senate Legal Committee and the Senate Legal Committee shall consider the statutory instrument and cause that authority to be informed whether or not, in the opinion of the Committee, any, and if so which, provision of the statutory instrument would, if made, be in contravention of the Declaration of Rights.

Report on draft statutory instruments.

- (2) Nothing in subsection (1) contained shall relieve—
  - (a) the Secretary to Parliament from complying with his duty in terms of section *fifty-eight* when the statutory instrument is published in the *Gazette*; or
  - (b) the Senate Legal Committee from reporting on that statutory instrument in accordance with the provisions of section *fifty-nine*.

## PART IX

### SUMMONING, PROROGATION AND DISSOLUTION

63. (1) Subject to the provisions of subsection (2), the sessions of Parliament shall be held in such place and shall begin at such

Sessions of Parliament.

time and on such day as the President may direct by proclamation in the *Gazette*.

(2) There shall be a session of Parliament beginning in every year commencing on the 1st January so that a period of more than one hundred and eighty days shall not intervene between the last sitting of either House in any one session and the first sitting of Parliament in the next session.

Prorogation or  
dissolution.

64. (1) The President shall prorogue or dissolve Parliament when so advised by the Prime Minister.

(2) If a resolution of no confidence in the Government is passed by the House of Assembly and the Prime Minister does not within three days either resign from his office or advise the President to issue a proclamation in terms of subsection (7) dissolving Parliament within such period as the President, acting in his own discretion, may consider reasonable, the President, acting in his own discretion, may dissolve Parliament.

(3) If the office of Prime Minister is vacant and the President, acting in his own discretion, considers that there is no prospect of his being able within a reasonable time to appoint to that office a person who is able to command the support of a majority of the members of the House of Assembly, the President, acting in his own discretion, may dissolve Parliament.

(4) On the expiration of a period of five years beginning on the day when Parliament first met after the holding of the last preceding general election the President shall dissolve Parliament:

Provided that, where the period referred to in this subsection is extended in terms of subsection (5) or (6), the President shall dissolve Parliament on the expiration of that extended period unless Parliament has sooner been dissolved.

(5) At any time when Zimbabwe Rhodesia is at war, Parliament may from time to time extend the period specified in subsection (4) by not more than one year at a time:

Provided that such period shall not be extended in terms of this subsection for more than five years.

(6) At any time during a state of emergency, Parliament may from time to time extend the period specified in subsection (4) by not more than six months at a time:

Provided that such period shall not be extended in terms of this subsection for more than one year.

(7) Any prorogation or dissolution of Parliament in terms of this section shall be by proclamation in the *Gazette* and, in the case of a dissolution, shall take effect from the day preceding the day or first day, as the case may be, fixed in that proclamation in terms of subsection (1) of section *thirty-three* for the holding of a general election.

(8) On the dissolution of Parliament all proceedings pending at the time shall be terminated and accordingly every Bill, motion, petition or other business shall lapse.

(9) In this section—

“state of emergency” means any period during which there is in force a declaration in terms of section *seventy-five*.

#### CHAPTER IV

##### THE EXECUTIVE

65. The executive authority of Zimbabwe Rhodesia in regard to all aspects of its internal and external affairs shall vest in the President acting, subject to the provisions of this Chapter, on the advice of the Executive Council. Executive authority vested in President acting on advice of Executive Council.

66. (1) In addition to the powers conferred by this Constitution or by or under any law of the Legislature, the President shall, as the Head of State, have such powers and functions as were, immediately before the fixed date, possessed by way of prerogative by the President as defined in the former Constitution. Executive powers.

(2) Without derogation from the generality of the powers conferred by subsection (1), the President shall, subject to the provisions of this Constitution, have power—

- (a) to appoint and to accredit, to receive and to recognize ambassadors, high commissioners, plenipotentiaries, diplomatic representatives and other diplomatic officers, consuls and consular officers; and
- (b) to enter into and to ratify international conventions, treaties and agreements; and
- (c) to proclaim and to terminate martial law; and
- (d) to declare war and to make peace; and
- (e) to confer honours and precedence.

(3) Subject to the provisions of this Constitution and any law of the Legislature by which powers or duties are conferred or imposed, the President shall do and execute all things that belong to his office according to such constitutional conventions and practices as were applicable in Rhodesia immediately before the fixed date.

67. (1) Subject to the provisions of subsection (2), the President— Ministers and Deputy Ministers.

- (a) shall appoint a Prime Minister; and
- (b) shall appoint other Ministers of the Government and may assign functions to such Ministers, including the administration of any Act or of any Ministry or department of the Government; and
- (c) may appoint Deputy Ministers of any specified Ministry or department of the Government or of such other description as the President may determine and may authorize any Deputy Minister to exercise or perform

on behalf of a Minister any of the powers, functions and duties entrusted to such Minister under any law or otherwise.

- (2) In exercising his functions in terms of—
- (a) paragraph (a) of subsection (1), the President shall act in his own discretion in the manner prescribed in paragraph (b) of subsection (3) of section *seventy-one*;
- (b) paragraph (b) or (c) of subsection (1), the President shall act on the advice of the Prime Minister.

(3) A person who holds office as a Minister or Deputy Minister and who is at no time while holding that office also a member of the Senate or the House of Assembly shall be ineligible for reappointment as a Minister or Deputy Minister before Parliament is next dissolved after he ceases to hold that office, unless in the meantime he has become a member of the Senate or the House of Assembly.

(4) A Minister or Deputy Minister may at any time by notice in writing addressed to the President and delivered to the Prime Minister resign his office.

(5) Any person appointed under this section shall, before entering upon his office, take before the President or some person authorized by the President in that behalf oaths of loyalty and for the due execution of his office in the forms set out in the First Schedule.

Tenure of office of  
Prime Minister,  
Ministers and  
Deputy Ministers.

68. (1) If a resolution of no confidence in the Government is passed by the House of Assembly and the Prime Minister does not, within three days of the passing thereof, resign from his office, the President shall remove the Prime Minister from office unless, in pursuance of the provisions of subsection (1) or (2) of section *sixty-four*, Parliament is to be dissolved in consequence of such resolution.

(2) If at any time between the holding of a general election and the first sitting of the House of Assembly thereafter the President, acting in his own discretion, considers that, in consequence of changes in the membership of the House of Assembly resulting from that general election, the Prime Minister will not be able to command the support of a majority of the members of the House of Assembly, the President, acting in his own discretion, may remove the Prime Minister from office:

Provided that the President shall not remove the Prime Minister from office within the period of ten days immediately following the last day fixed for polling at that general election unless he is satisfied that a party or party alliance in opposition to the Government has at that general election gained a majority of all the seats in the House of Assembly.

(3) The office of a Minister, other than the Prime Minister, or a Deputy Minister shall become vacant—



- (a) if the President, acting on the advice of the Prime Minister, so directs; or
- (b) if the Prime Minister resigns from office within three days after a resolution of no confidence in the Government is passed by the House of Assembly or is removed from office in terms of subsection (1) or (2); or
- (c) upon the appointment of any person to the office of Prime Minister.

(4) A person who holds office as a Minister or Deputy Minister for any period of four consecutive months without also being a member of the Senate or the House of Assembly shall cease to be a Minister or Deputy Minister, as the case may be, at the end of that period:

Provided that, if that period expires after the publication of a proclamation in terms of subsection (7) of section *sixty-four* dissolving Parliament, he shall cease to be a Minister or Deputy Minister, as the case may be, on the day when Parliament first meets after the dissolution, unless he is elected—

- (a) as a member of the Senate immediately following the general election following such dissolution; or
- (b) as a member of the House of Assembly at that general election.

(5) If the Prime Minister or any other Minister or Deputy Minister is required by virtue of the provisions of section *thirty* or *thirty-one* to cease to exercise for any period his functions as a member of the Senate or the House of Assembly or would, if he were a member of the Senate or the House of Assembly, be required by virtue of the provisions of section *thirty* to cease to exercise for any period his functions as such, he shall not, during that period, perform any of his functions as Prime Minister, Minister or Deputy Minister, as the case may be.

69. (1) Whenever the Prime Minister is absent from Zimbabwe Rhodesia or is, by reason of illness or of the provisions of subsection (5) of section *sixty-eight*, unable to perform his functions, the President may in writing authorize some other Minister to perform those functions, other than the functions conferred by subsection (2), and that Minister may perform those functions until his authority is revoked by the President.

Acting Prime Minister.

(2) The powers of the President in terms of subsection (1) shall be exercised by him on the advice of the Prime Minister:

Provided that, if—

- (a) the President, acting in his own discretion, considers that it is impracticable to obtain the advice of the Prime Minister owing to the absence or illness of the Prime Minister; or
- (b) the Prime Minister is unable to tender advice by reason of the provisions of subsection (5) of section *sixty-eight*;

the President may exercise those powers acting in his own discretion.

Executive Council.

70. (1) To advise the President in the government of Zimbabwe Rhodesia there shall be an Executive Council consisting of the Prime Minister and such other persons, being Ministers, as the President, on the advice of the Prime Minister, may from time to time appoint.

(2) A member of the Executive Council shall hold office during the pleasure of the President and may be removed from office by the President, acting on the advice of the Prime Minister:

Provided that—

- (i) he shall cease to hold office if he ceases to be a Minister;
- (ii) he may at any time by notice in writing addressed to the President and delivered to the Prime Minister resign his office.

(3) Any person appointed under this section shall, before entering upon his office, take before the President or some person authorized by the President in that behalf the oath of a member of the Executive Council in the form set out in the First Schedule.

Exercise of functions of President.

71. (1) Subject to the provisions of this section, in the exercise of his functions the President shall act on the advice of the Executive Council or of the Prime Minister or a Minister acting under the authority of the Executive Council.

(2) Where by or under this Constitution or any law of the Legislature the President is, in the exercise of his functions, required to act on the advice of any authority or person other than the Executive Council, he shall act on the advice of that authority or person.

(3) In exercising his powers in terms of—

- (a) section *forty-six*, the President shall, subject to the provisions of subsection (3) of that section, act in his own discretion;
- (b) paragraph (a) of subsection (1) of section *sixty-seven*, the President shall appoint as Prime Minister the person who, in his opinion, is best able to command the support of a majority of the members of the House of Assembly;
- (c) subsection (2) of section *sixty-eight*, the President shall, subject to the provisions of that subsection, act in his own discretion;
- (d) section *sixty-nine* in the circumstances specified in the proviso to subsection (2) of that section, the President shall act in his own discretion.

(4) The provisions of paragraph (b) of subsection (3) shall apply in relation to any period between a dissolution of Parliament

and the determination of the results of the next general election as if Parliament had not been dissolved.

(5) Where in any matter the President has received the advice of the Executive Council or a Minister, other than the Prime Minister, for the purposes of subsection (1), he may, within the specified period, by writing under his own hand request that, for reasons which he shall specify, the Prime Minister cause such advice to be reconsidered or, as the case may be, considered at a meeting of the Executive Council, and thereupon the following provisions shall apply—

- (a) during the specified period no act in furtherance of that advice shall be done by any other person pending reconsideration or consideration thereof unless the Prime Minister, by writing under his own hand, has certified that on grounds of urgency such act should be done; and
- (b) a meeting of the Executive Council shall be held within seven days after the receipt by the Prime Minister of the request made by the President that the advice be reconsidered or considered, as the case may be; and
- (c) if the Executive Council, having reconsidered or, as the case may be, considered the original advice tendered to the President, resubmits the same advice to him, the President shall forthwith act in accordance with that advice.

(6) Where the President is required to act in his own discretion or on the advice of any specified person or authority, a court shall not, in any case, inquire into any of the following questions or matters—

- (a) on whose advice the President acted;
- (b) whether any advice was tendered or acted on;
- (c) the nature of any advice tendered;
- (d) the manner in which the President has exercised his discretion as referred to in subsection (3).

(7) Save where expressly provided that the President shall act in his own discretion, the provisions of this Constitution or any law of the Legislature or instrument made thereunder referring to the President shall be construed as referring to the President acting on the advice of the Executive Council, unless it is specifically provided in such provision that he shall act on the advice of any other authority or person, and where he acts on the advice of such other authority or person by or under this Constitution or any law of the Legislature, that fact may be stated in the relevant instrument, but no act of the President, acting within the powers conferred upon him by or under this Constitution or any law of the Legislature, shall be invalid by reason of the omission to state on whose advice he has acted.

(8) In subsection (5)—

“specified period” means the period of seven days com-

mencing with the day upon which the President has received the advice in question or, if the President, by writing under his hand, so directs in any case before the expiration of the said period of seven days, the period of fourteen days commencing as aforesaid.

President to be kept informed.

72. The Prime Minister shall keep the President fully informed concerning the general conduct of the government of Zimbabwe Rhodesia and shall furnish the President with such information as he may request with respect to any particular matter relating to the government of Zimbabwe Rhodesia.

Disposal of land.

73. (1) Subject to the provisions of any law of the Legislature relating to land, including Tribal Trust Land, any land or other immovable property which is vested in the President may be granted, sold, leased or otherwise disposed of—

- (a) in terms of any enactment relating to the grant, sale, lease or other disposition of such land; or
- (b) if there is no enactment relating to the grant, sale, lease or other disposition of such land, by the President or by such Minister or other authority as the President may authorize to make such grants, sales, leases or other dispositions on his behalf.

(2) In granting any authorization in terms of paragraph (b) of subsection (1), the President may fix the terms and conditions subject to which any particular immovable property or class of immovable property may be granted, sold, leased or otherwise disposed of by the authority concerned.

Prerogative of mercy.

74. (1) The President may, subject to such lawful conditions as he may deem fit—

- (a) grant to any person concerned in or convicted of an offence against any law a pardon; or
- (b) grant to any person a respite, either indefinite or for a specified period, from the execution of any sentence passed on that person for such an offence; or
- (c) substitute a less severe punishment for that imposed by any sentence for such an offence; or
- (d) suspend for a specified period or remit the whole or part of any sentence passed for such an offence or any penalty or forfeiture otherwise imposed on account of such an offence.

(2) Where a person resident in Zimbabwe Rhodesia has been convicted in a foreign country of an offence against a law in force in that foreign country, the President may declare that that conviction shall not be regarded as a conviction for the purposes of this Constitution or any other law in force in Zimbabwe Rhodesia.

Declaration relating to public emergencies.

75. (1) The President may at any time, by proclamation in the *Gazette*, declare in relation to the whole of Zimbabwe Rhodesia or any part thereof that—

- (a) a state of public emergency exists; or
- (b) a situation exists which, if it is allowed to continue, may lead to a state of public emergency.

(2) Subject to the provisions of subsection (5), a declaration in terms of subsection (1), if not sooner revoked, shall cease to have effect at the expiration of a period of fourteen days beginning with the day of the publication of the proclamation in the *Gazette* unless, before the expiration of that period, the declaration is approved by a resolution passed by the House of Assembly:

Provided that, if Parliament is dissolved during the period of fourteen days referred to in this subsection, the declaration, unless sooner revoked, shall cease to have effect at the expiration of a period of thirty days beginning with the day of the publication of the proclamation in the *Gazette* unless, before the expiration of that period, the declaration is approved by a resolution passed by the House of Assembly.

- (3) Where a declaration in terms of subsection (1)—
  - (a) is not approved by a resolution passed by the House of Assembly in pursuance of the provisions of subsection (2), the President shall forthwith after the House of Assembly has considered the resolution and failed to approve it or, if the House of Assembly has not considered the resolution, on the expiration of the appropriate period specified in subsection (2), by proclamation in the *Gazette*, revoke such declaration;
  - (b) is approved by a resolution passed by the House of Assembly in pursuance of the provisions of subsection (2), such declaration shall, subject to the provisions of subsection (4), continue in force for a period of six months beginning with the day of the publication of the proclamation in the *Gazette*:

Provided that, where the House of Assembly has in the resolution in pursuance of the provisions of subsection (2) specified that such declaration shall continue in force for a period of less than six months, the President shall, by proclamation in the *Gazette*, declare that the declaration shall, subject to the provisions of subsection (4), be revoked on the expiration of the period specified in the resolution.

(4) Subject to the provisions of subsection (5), if the House of Assembly resolves that it considers it expedient that a declaration in force in terms of this section should be continued in force for a further period not exceeding six months, the President shall forthwith, by proclamation in the *Gazette*, declare that such declaration is extended for such further period as may be so resolved.

(5) No resolution for the purposes of subsection (2) or (4) shall be deemed to have been duly passed unless it receives the affirmative votes of more than one-half of the total membership of the House of Assembly.

(6) Notwithstanding any of the provisions of this section, the House of Assembly may at any time—

- (a) resolve that a declaration in force under this section should be revoked;
- (b) whether in passing a resolution for the purposes of subsection (2) or (4) or subsequently, resolve that a declaration in force under this section should relate to such lesser area as the House of Assembly may specify;

and the President shall forthwith, by proclamation in the *Gazette*, revoke the declaration or declare that the declaration shall relate to such lesser area, as the case may be.

(7) A declaration in terms of this section may be continued in force in terms of this section notwithstanding that such declaration has previously been continued in force in terms of this section.

(8) The expiry or revocation of any declaration in terms of this section shall not affect the validity of anything done in pursuance of such declaration.

## CHAPTER V

### THE JUDICATURE

Composition of the High Court.

76. There shall be a High Court of Zimbabwe Rhodesia which shall consist of—

- (a) the Appellate Division of the High Court; and
- (b) the General Division of the High Court.

Chief Justice of Zimbabwe Rhodesia.

77. There shall be a Chief Justice of Zimbabwe Rhodesia who shall be the Head of the judiciary of Zimbabwe Rhodesia.

Composition and jurisdiction of Appellate Division.

78. (1) The Appellate Division shall be a superior court of record and shall have such jurisdiction and powers as may be conferred upon it by or under this Constitution and any law of the Legislature.

- (2) The Appellate Division shall consist of—
  - (a) the Chief Justice; and
  - (b) such number of other judges of appeal, being not less than two, as the President may deem necessary; and
  - (c) such judges of the Appellate Division as have been designated under the provisions of subsection (3).

(3) If the services of an additional judge of appeal are required for a limited period, the Chief Justice may designate a person holding the office of puisne judge or who has held office as a judge of the High Court or the former High Court of Rhodesia to be a judge of the Appellate Division for such period as may be specified by the Chief Justice.

Composition and jurisdiction of General Division and criminal jurisdiction of other courts.

79. (1) The General Division shall be a superior court of record and shall have such jurisdiction and powers as may be conferred upon it by or under this Constitution and any law of the Legislature.

(2) The General Division shall have power, jurisdiction and authority to review all proceedings of all inferior courts of justice and tribunals established by law.

(3) There shall be a Senior Puisne Judge who shall, subject to the directions of the Chief Justice, be in charge of the General Division.

(4) The General Division shall consist of the Senior Puisne Judge and such other puisne judges as may from time to time be appointed.

(5) No law, other than a disciplinary law, shall confer jurisdiction in criminal matters upon a court or other adjudicating authority which did not have such jurisdiction before the fixed date.

**80.** (1) A person shall not be qualified for appointment as a judge of the High Court unless— Qualifications of judges.

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

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

(2) In computing, for the purposes of paragraph (b) of subsection (1), the period during which any person has been qualified to practise as an advocate, any period during which he has held judicial office after having so qualified shall be included.

**81.** A judge of the High Court, including an acting judge, shall, before entering upon his office, take before the President or some person authorized by the President in that behalf the oath of allegiance and the judicial oath in the forms set out in the First Schedule. Oath of office.

**82.** (1) Subject to the provisions of this section, the Chief Justice and the other judges of the High Court shall be appointed by the President, acting on the advice of the Judicial Service Commission, by instrument under the Public Seal. Appointment of judges.

(2) The Chief Justice shall be appointed from the persons who hold the office of judge of appeal or Senior Puisne Judge.

(3) The judges of appeal shall be appointed from the persons who hold the office of puisne judge.

(4) The Senior Puisne Judge shall be appointed from the persons who hold the office of judge of appeal or puisne judge.

**83.** (1) If—

Acting judges.

(a) the office of Chief Justice is vacant; or

- (b) the Chief Justice is for any reason unable to perform the functions of his office;

the President may, acting on the advice of the Judicial Service Commission, appoint some person holding the office of judge of appeal or Senior Puisne Judge to act as Chief Justice.

- (2) If—

- (a) the office of a judge of appeal is vacant; or

- (b) a judge of appeal is—

- (i) appointed to act as Chief Justice or Senior Puisne Judge; or

- (ii) for any reason unable to perform the functions of his office;

the President may, acting on the advice of the Judicial Service Commission, appoint a person holding the office of puisne judge or who has held office as a judge of the High Court or the former High Court of Rhodesia to act as a judge of appeal.

- (3) If—

- (a) the office of Senior Puisne Judge is vacant; or

- (b) the Senior Puisne Judge is—

- (i) appointed to act as Chief Justice or judge of appeal or is designated as a judge of the Appellate Division in terms of subsection (3) of section *seventy-eight*; or

- (ii) for any reason unable to perform the functions of his office;

the President may, acting on the advice of the Judicial Service Commission, appoint a person holding the office of judge of appeal or puisne judge to act as Senior Puisne Judge.

- (4) If—

- (a) the office of a puisne judge, other than the Senior Puisne Judge, is vacant; or

- (b) a puisne judge, other than the Senior Puisne Judge, is—

- (i) appointed to act as judge of appeal or Senior Puisne Judge or is designated as a judge of the Appellate Division in terms of subsection (3) of section *seventy-eight*; or

- (ii) for any reason unable to perform the functions of his office;

or

- (c) the services of an additional puisne judge are required for a limited period;

the President may, acting on the advice of the Judicial Service Commission, appoint a person qualified in terms of section *eighty* for appointment as a judge to act as a puisne judge.

- (5) A person who is appointed to act as a puisne judge in terms of subsection (4)—



- (a) shall, subject to the provisions of section *eighty-five*, continue to act for the period of his appointment or, if no such period is specified, until his appointment is revoked by the President acting on the advice of the Judicial Service Commission:

Provided that an acting puisne judge may resign his acting office at any time by writing under his hand addressed to the President; and

- (b) may, notwithstanding that the period of his appointment has expired or that his appointment has been revoked, sit as a judge for the purpose of giving judgment or otherwise in relation to any proceedings commenced before or heard by him while he was so acting.

84. (1) Subject to the provisions of section *eighty-five*, a judge of the High Court shall retire when he attains the age of sixty-five years unless, before he attains that age, he has elected to retire on attaining the age of seventy years: **Tenure of office of judges.**

Provided that—

- (i) an election in terms of this subsection shall be subject to the submission to, and acceptability by, the President, acting on the advice of the Judicial Service Commission, of a medical report as to the mental and physical fitness of the judge so to continue in office;
- (ii) the provisions of this subsection shall not apply to any person who has been appointed to act as a judge for a specified or unspecified period.

(2) A judge of the High Court may at any time resign his office by notice in writing to the President.

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

(4) A judge of the High Court may, notwithstanding that he has attained the age at which he is required by subsection (1) to retire, sit as a judge for the purpose of giving judgment or otherwise in relation to any proceedings commenced before or heard by him while he was in office.

85. (1) A judge of the High Court may be removed from office only for inability to discharge the functions of his office, whether arising from infirmity of body or mind or any other cause, or for misbehaviour and shall not be so removed except in accordance with the provisions of this section. **Removal of judges from office.**

(2) If the President, acting on the advice of the Prime Minister, considers that the question of the removal from office of the Chief Justice for inability as referred to in subsection (1) or misbehaviour ought to be investigated, the President shall appoint a tribunal in accordance with the provisions of subsection (4) to inquire into the matter.

(3) If, in the case of a judge of the High Court other than the Chief Justice, the Chief Justice advises the President that the

question of removal from office of the judge concerned for inability as referred to in subsection (1) or misbehaviour ought to be investigated, the President shall appoint a tribunal in accordance with the provisions of subsection (4) to inquire into the matter.

(4) A tribunal appointed in terms of subsection (2) or (3) shall consist of not less than three members selected by the President from the following—

- (a) persons who have held office as a judge of the High Court or of the former High Court of Rhodesia;
- (b) persons who hold or have held office as a judge of a superior court of a foreign country in which the common law is Roman-Dutch and English is an official language;
- (c) an advocate of not less than ten years' standing who has been nominated in terms of subsection (5) by the association representing advocates or the majority of advocates practising in Zimbabwe Rhodesia;
- (d) an attorney of not less than ten years' standing who has been nominated in terms of subsection (5) by the association representing attorneys or the majority of attorneys practising in Zimbabwe Rhodesia;

one of whom shall be designated by the President as chairman.

(5) It shall be the duty of the association referred to in paragraph (c) or (d) of subsection (4) to nominate a panel containing the names of not less than three duly qualified advocates or attorneys, as the case may be, for the purposes of the said paragraph when so required by the President.

(6) A tribunal appointed in terms of subsection (2) or (3) shall inquire into the matter and report on the facts thereof to the President and recommend to the President whether or not he should refer the question of the removal of the judge from office to the Judicial Service Commission.

(7) The provisions of the Commissions of Inquiry Act [Chapter 83] as in force at the time or any other law substituted for the same shall, *mutatis mutandis*, apply in relation to a tribunal appointed in terms of subsection (2) or (3) as they apply to commissioners appointed under that Act.

(8) If the question of removing a judge of the High Court from office has been referred to a tribunal under subsection (2) or (3), the judge shall be suspended from performing the functions of his office until the President, on the recommendation of the tribunal or the Judicial Service Commission, revokes the suspension or the judge is removed from office in terms of subsection (9), as the case may be.

(9) If the tribunal has, in terms of subsection (6), recommended to the President that the question of the removal of a judge should be referred to the Judicial Service Commission and the Judicial Service Commission recommends that the judge be

removed from office, the President shall, by order under the Public Seal, remove that judge from office.

86. (1) There shall be charged upon and paid out of the Consolidated Revenue Fund to a person who is holding the office of or acting as Chief Justice, a judge of appeal, Senior Puisne Judge or a puisne judge, as the case may be, such salary and allowances as may from time to time be fixed by or under a law of the Legislature for the person holding such office or persons holding offices of such class, as the case may be.

Remuneration of judges.

(2) The salary and allowances payable to a person in terms of subsection (1) shall not be reduced during the period he holds the office concerned or acts as holder thereof.

87. Subject to the provisions of any law for the time being in force in Zimbabwe Rhodesia relating to the application of African customary law, the law to be administered by the High Court and by any courts in Zimbabwe Rhodesia subordinate to the High Court shall be the law in force in the Colony of the Cape of Good Hope on the 10th June, 1891, as modified by subsequent legislation having in Zimbabwe Rhodesia the force of law.

Law to be administered.

## CHAPTER VI

### COMMISSIONS AND PUBLIC OFFICES

#### PART I

##### JUDICIAL SERVICE COMMISSION

88. (1) There shall be a Judicial Service Commission which shall consist of—

Judicial Service Commission.

- (a) the Chief Justice or, if there is no Chief Justice or acting Chief Justice or the Chief Justice or acting Chief Justice is not available, the most senior judge of appeal who is available; and
- (b) the Chairman of the Public Service Commission; and
- (c) one other member appointed, subject to the provisions of this section, by the President acting on the advice of the Chief Justice or other judge referred to in paragraph (a).

(2) A person shall not be qualified for appointment in terms of paragraph (c) of subsection (1)—

- (a) unless—
  - (i) he is or has been a judge of the High Court; or
  - (ii) he is and has been for not less than ten years, whether continuously or not, qualified to practise as an advocate or attorney in Zimbabwe Rhodesia;
 or
- (b) if he is a member or has, within the period of three years of the date of the proposed appointment, been a member or been nominated for election as a

member of the Senate or the House of Assembly or any local authority.

(3) If at any time the member appointed in terms of paragraph (c) of subsection (1) is for any reason unable to perform the functions of his office, the President, acting on the advice of the Chief Justice, may appoint a person qualified in terms of subsection (2) to act as a member of the Judicial Service Commission and any person so appointed shall continue to act until the period for which he was appointed has expired or his appointment is revoked by the President acting on the advice of the Chief Justice.

Functions of Judicial Service Commission.

89. The functions of the Judicial Service Commission shall be to make recommendations to the President and to do such other things as may be required in terms of Chapter V, Chapter X or this Chapter.

Holders of judicial office.

90. (1) The appointment of any person as a judge of the Water Court or to preside over a Special Court shall be made by the President on the recommendation of the Judicial Service Commission.

(2) During the term of office of a person appointed as a judge of the Water Court or to preside over a Special Court his conditions of service shall not be amended and his office shall not be abolished without his consent.

(3) In this section—

“Special Court” means—

- (a) the Compensation Court established by section 3 of the Land Acquisition Act, 1979;
- (b) the Fiscal Appeal Court established by section 3 of the Fiscal Appeal Court Act [*Chapter 180*];
- (c) the Special Court established by section 3 of the Income Tax Act [*Chapter 181*];
- (d) any court or other adjudicating authority established by law to exercise any functions previously exercised by a court referred to in paragraph (a), (b) or (c);
- (e) any court or other adjudicating authority established by law, other than a local court or a court established by or under a disciplinary law, if there is no right of appeal from a decision of that court or other adjudicating authority to the High Court;
- (f) any court or other adjudicating authority established by law which is declared by that law to be a Special Court for the purposes of this section.

## PART II

### THE PUBLIC SERVICE AND THE PRISON SERVICE

The Public Service and the Prison Service.

91. (1) There shall be a Public Service for the administration of the country.

(2) There shall be a Prison Service for the administration of the prisons and that service shall be under the command of the Director of Prisons who shall be appointed by the President on the recommendation of the Public Service Commission:

Provided that before making any recommendation for the purposes of this subsection the Commission shall consult with the Minister for the time being responsible for prisons.

92. (1) There shall be a Public Service Commission which shall consist of a chairman and not less than two and not more than four other members appointed, subject to the provisions of subsection (2), by the President. Public Service Commission.

(2) The persons to be appointed as members in terms of subsection (1) shall be chosen for their ability and experience in administration or their professional qualifications and their suitability otherwise for appointment as members, and the following provisions shall apply in relation thereto—

- (a) the chairman and at least one other member or, if there are more than three members, at least two other members shall be persons who have held the post of Secretary of, or Deputy Secretary or Under Secretary in, a Ministry in the Public Service or a post in the Public Service of a grade equivalent to or higher than that of Under Secretary for periods which in the aggregate amount to at least five years;
- (b) a person shall not be eligible for appointment if he is a member or has, within the period of three years of the date of the proposed appointment, been a member or been nominated for election as a member of the Senate or the House of Assembly or any local authority;
- (c) if a person, immediately prior to his appointment, is employed in the Public Service or Prison Service or as a regular or full-time member of the Defence Forces or the Police Force, he shall cease to be so employed with effect from the date of his appointment;
- (d) during the period of his service as a member and for a period of three years thereafter he shall not be eligible for appointment to any post in the Public Service or Prison Service:

Provided that a member other than the chairman may be appointed to a post in the Public Service or Prison Service if the Commission considers that the appointment is in the best interests of that Service and the President has consented thereto.

(3) Whenever the office of chairman of the Public Service Commission is vacant or the chairman is for any reason unable to perform the functions of his office, those functions shall be performed by such other specially qualified member of the Commission as the President may appoint.

(4) If at any time a member of the Public Service Commission, other than the chairman, is acting as chairman or is for

any reason unable to perform the functions of his office, the President may appoint a person qualified in terms of subsection (2) to act as the member and any person so appointed shall continue to act until the period for which he was appointed has expired or his appointment is revoked by the President:

Provided that a person appointed to act for a specially qualified member shall also be qualified in terms of paragraph (a) of subsection (2).

(5) The chairman may delegate to a specially qualified member of the Public Service Commission his functions as chairman of the Police Service Commission or Defence Forces Service Commission.

(6) The salary of a specially qualified member of the Public Service Commission shall not be less than the salary payable to any Secretary of a Ministry in the Public Service.

Functions of Public  
Service Commission.

93. (1) Subject to the provisions of this Chapter, the functions of the Public Service Commission shall be—

- (a) to regulate and control the general organization of the Public Service and the Prison Service;
- (b) to appoint persons to hold or act in a post or grade in the Public Service, whether as officers or employees or on special contract, and to fix and regulate their conditions of service;
- (c) to appoint persons to hold or act in a post or rank in the Prison Service and to fix and regulate their conditions of service;
- (d) to exercise disciplinary powers in relation to persons employed in the Public Service or Prison Service and to remove such persons from office;
- (e) to ensure the general well-being and good administration of the Public Service and the Prison Service and the maintenance thereof in a high state of efficiency;
- (f) to make regulations in terms of section *ninety-four*;
- (g) to do such other things not inconsistent with the provisions of this Chapter as may be required by or under a law of the Legislature or regulations made in terms of section *ninety-four*.

(2) Where two or more persons are candidates for a vacant post in the Public Service or Prison Service, the Public Service Commission shall give preference to that person who, in its opinion, is the most efficient and suitable for appointment to the post and, in considering the candidates, the Commission shall have consideration for and give due weight to the following factors—

- (a) the character and responsibilities of the work attaching to the vacant post; and
- (b) the practical and academic qualifications of the candidates for the appointment and their aptitude for the discharge of the duties attaching to the vacant post, together with merit, diligence and good conduct.

(3) The Public Service Commission, before appointing any person—

- (a) as Secretary or other head of a Ministry, shall consult with the appropriate Minister to whom the administration of that Ministry is assigned; or
- (b) to any post of magistrate or to any post in the office of the Attorney-General which is required to be held by a legally qualified person, shall consult with the Judicial Service Commission.

(4) The Public Service Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its functions in terms of—

- (a) paragraph (b) or (d) of subsection (1) in relation to the Public Service to any of its members or to any officer in the Public Service; or
- (b) paragraph (c) or (d) of subsection (1) in relation to the Prison Service to any of its members or to the Director of Prisons;

as it thinks fit:

Provided that the person to whom such functions are delegated shall comply with the requirements of subsections (2) and (3), if they are applicable.

(5) The Director of Prisons may, with the agreement of the Public Service Commission, by directions given in such manner as he thinks fit and subject to such conditions as he thinks fit, delegate any of the functions delegated to him in terms of subsection (4) to any other member of the Prison Service.

94. (1) For the performance of its functions the Public Service Commission may—

Powers of Public Service Commission.

- (a) inspect offices of a Ministry or other division of the Public Service or of the Prison Service;
- (b) examine official documents, books or other records held by, and obtain information and advice from, any person employed in the Public Service or Prison Service;
- (c) do all such things, including the taking of evidence on oath and the administration of oaths, as are incidental or conducive to the exercise of its functions.

(2) Subject to the provisions of subsections (4) and (5), the Public Service Commission may make such regulations as it considers to be necessary or expedient—

- (a) for the general well-being and good administration of the Public Service and the Prison Service and the maintenance thereof in a high state of efficiency;
- (b) providing for the conditions of service of members of the Public Service or Prison Service.

(3) Regulations may provide for—

- (a) the classification of members of the Public Service, the classification of members and rank structures in

the Prison Service and the organization and management of the Public Service or Prison Service;

- (b) the appointment, qualifications, salaries, allowances and other remuneration, promotion, transfer, secondment, powers and duties, hours of work, leave of absence, resignation and retirement of members of the Public Service or Prison Service;
- (c) the circumstances in which members of the Public Service or Prison Service may be removed from office or have their salaries withheld or suspended;
- (d) the payment of pensions, gratuities and other benefits to or in respect of members of the Public Service or Prison Service on their death, injury, illness or termination of service, including the payment of pension contributions and the commutation of pensions;
- (e) the functions, powers and duties of boards established in relation to the payment of compensation in respect of death, injury or illness arising out of or in the course of official duties or established for any other purpose;
- (f) the holding of inquiries by the Commission or any board or person appointed by the Commission or in terms of the regulations and the powers, rights, privileges and duties of and the procedure to be followed by the Commission or such board or person in such inquiries;
- (g) the punishment, including the imposition of fines, of members of the Public Service found guilty of misconduct;
- (h) the punishment, including imprisonment or the imposition of fines, of members of the Prison Service found guilty of offences against discipline;
- (i) appeals to or review by the High Court or any other court or adjudicating authority in relation to any proceedings in connexion with offences against discipline;
- (j) the recognition of any association as representing members of the Public Service or Prison Service;
- (k) offences and penalties therefor.

(4) Notwithstanding anything to the contrary contained in this Part, the Public Service Commission may not, whether by way of regulations made in terms of this section or otherwise—

- (a) increase or authorize an increase in—
  - (i) the fixed salary or salary scale applicable to any post, grade or rank in the Public Service or Prison Service; or
  - (ii) the bonuses or allowances payable to, or the other privileges or benefits that may be granted to,



members of the Public Service or Prison Service;  
or

- (iii) the rate of pensions, gratuities or other benefits referred to in paragraph (d) of subsection (3); or
- (iv) the rate of leave that may be granted to or accrued by members of the Public Service or Prison Service; or
- (v) the number or level of posts fixed for any Ministry or other division of the Public Service or Prison Service;

or

- (b) provide for a general decrease or permit a general decrease in the hours of work to be performed by members of the Public Service or Prison Service;

unless the Minister for the time being responsible for finance, having regard to the financial implications, whether direct or indirect, has agreed thereto.

(5) Regulations may not provide for or permit a reduction in the fixed salary or salary scale applicable to any member of the Public Service or Prison Service except where such member has been found guilty of misconduct or an offence against discipline or has consented to such reduction.

(6) Regulations may provide for the application to the Public Service or Prison Service, as the case may be, of regulations made by the Police Service Commission in terms of section *one hundred and two* or the Defence Forces Service Commission in terms of section *one hundred and seven*, with such modifications as the Public Service Commission considers to be necessary or expedient.

**95.** (1) There shall be an Attorney-General whose office shall be a public office and part of the Public Service and who shall be appointed by the President on the recommendation of the Judicial Service Commission. **Attorney-General.**

(2) A person shall not be qualified to hold or act in the office of Attorney-General unless—

- (a) he is qualified for appointment as a judge of the High Court; and
- (b) he has served in the office of the Attorney-General for at least ten years.

(3) The Attorney-General shall have power in any case in which he considers it desirable so to do—

- (a) to institute and undertake criminal proceedings before any court, not being a court established by a disciplinary law, and to prosecute or defend an appeal from any determination in such proceedings; and
- (b) to take over and continue any criminal proceedings that have been instituted by any other person or authority before any court, not being a court established by a disciplinary law, and to prosecute or defend

any appeal from any determination in proceedings so taken over by him; and

- (c) to discontinue at any stage before judgment is delivered any criminal proceedings he has instituted in terms of paragraph (a) or taken over in terms of paragraph (b) or any appeal prosecuted or defended by him from any determination in such proceedings.

(4) The powers of the Attorney-General in terms of subsection (3) may be exercised by him in person or through other persons acting in accordance with his general or specific instructions.

(5) The powers of the Attorney-General in terms of paragraphs (b) and (c) of subsection (3) shall be vested in him to the exclusion of any other person or authority:

Provided that where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance of that person or authority at any stage before the person against whom the proceedings have been instituted has been arraigned before the court.

(6) In the exercise of his powers in terms of subsection (3), the Attorney-General shall not be subject to the direction or control of any person or authority.

(7) For the purposes of this section, the provisions of subsection (3) shall apply in relation to any case stated or question of law reserved for the purposes of any criminal proceedings to any other court as they apply in relation to an appeal from any determination in criminal proceedings.

Comptroller and  
Auditor-General.

96. (1) There shall be a Comptroller and Auditor-General whose office shall be a public office, but shall not form part of the Public Service.

(2) A person shall not be qualified to hold or act in the office of Comptroller and Auditor-General unless he has held the post of Secretary of, or Deputy Secretary or Under Secretary in, a Ministry in the Public Service or a post in the Public Service of a grade equivalent to or higher than that of Under Secretary for periods which in the aggregate amount to at least five years.

(3) The Comptroller and Auditor-General shall, subject to the provisions of section *one hundred and eleven*, be appointed and hold office on such terms and conditions as are fixed by the President on the recommendation of the Public Service Commission.

Principal representa-  
tives of Zimbabwe  
Rhodesia abroad.

97. The power to appoint persons to hold the offices of ambassador, high commissioner or other principal representative of Zimbabwe Rhodesia in any other country or accredited to any international organization and to remove such persons from any such office shall vest in the President acting on the advice of the Prime Minister:

Provided that before advising the President to appoint to any such office a person who holds or is acting in some other public office, the Prime Minister shall consult the Public Service Commission or, if that person is holding an appointment in the Police Force or Defence Forces, the Police Service Commission or Defence Forces Service Commission, as the case may be.

### PART III

#### THE POLICE FORCE

98. (1) For the purpose of preserving the internal security of and maintaining law and order in Zimbabwe Rhodesia, there shall be a Police Force and every member of that Force is charged with the general duty of maintaining law and order, of taking all steps which on reasonable grounds appear to him to be necessary for preserving the peace, for preventing crime, for protecting property from malicious injury, for the detection of crime, for apprehending offenders and for suppressing all forms of civil commotion or disturbance that may occur in any part of Zimbabwe Rhodesia:

Police Force and  
Commissioner of  
Police.

Provided that nothing contained in this subsection shall be considered as authorizing any member of the Police Force to disobey the lawful order or direction of a superior officer or person placed in authority over him by the Commissioner of Police.

(2) The Police Force shall be under the command of the Commissioner of Police who shall be appointed by the President on the recommendation of the Judicial Service Commission:

Provided that—

- (i) a person shall not be qualified to hold or act in the office of Commissioner of Police unless he has held the rank of Assistant Commissioner in the Police Force or any more senior rank in the Police Force for periods which in the aggregate amount to at least five years;
- (ii) before making any recommendation for the purposes of this subsection, the Judicial Service Commission shall consult with the Prime Minister and the retiring Commissioner of Police if he is available.

(3) The Prime Minister or such other Minister as may be authorized in that behalf by the Prime Minister may give to the Commissioner of Police such general directions of policy with respect to the maintenance of law and order as he may consider necessary and the Commissioner of Police shall comply with such directions or cause them to be complied with.

(4) The Commissioner of Police shall, subject to regulations made in terms of section *one hundred and two*, be responsible for the administration of, and determining the use and controlling the operations of, the Police Force and, except as provided in subsection (3), he shall not, in his command of the Police Force and in the exercise of his responsibilities and powers in relation thereto, be subject to the direction or control of any person or authority:

Provided that the Commissioner of Police shall not increase the number or level of posts fixed for the Police Force unless the Minister for the time being responsible for finance, having regard to the financial implications, has agreed thereto.

Members of  
Police Force.

99. (1) Subject to the provisions of this section and section *one hundred and one* and any regulations made in terms of section *one hundred and two*, the power to make appointments to any office or rank in the Police Force and the power to remove persons holding or acting in such offices or ranks from the office or reduce them in rank shall vest—

- (a) in relation to the rank of Inspector or any more senior rank, in the President acting on the recommendation of the Commissioner of Police;
- (b) in relation to any rank below that of Inspector, in the Commissioner of Police.

(2) Except as otherwise provided in regulations made in terms of section *one hundred and two*, a person who has served in the Police Force for more than two years shall not be removed from office or reduced in rank except with the confirmation of the Police Service Commission.

(3) Advisory boards consisting of members of the Police Force shall be established by the Commissioner of Police to consider the suitability of members for promotion within the Police Force and no member shall be promoted to a higher rank, other than that of Commissioner of Police, unless his case has been considered by such a board.

(4) The Commissioner of Police may, by directions given in such manner as he thinks fit and subject to such conditions as he thinks fit, delegate any of his powers under paragraph (b) of subsection (1) to any member of the Police Force.

(5) If regulations made in terms of section *one hundred and two* alter the ranks into which the Police Force is divided or which ranks shall be commissioned ranks, the Police Service Commission may, by order in the *Gazette*, specify some other rank in the Police Force as being equivalent to the rank of Inspector as it existed before the first alteration as the lowest commissioned rank, and the references in subsection (1) to the rank of Inspector shall thereafter be construed as if they were references to the rank for the time being so specified.

Police Service  
Commission.

100. (1) There shall be a Police Service Commission which shall consist of—

- (a) a chairman who, subject to the provisions of subsection (5) of section *ninety-two*, shall be the person holding the office of chairman of the Public Service Commission; and
- (b) not less than two and not more than four other members appointed, subject to the provisions of subsection (2), by the President.

(2) The persons to be appointed as members in terms of paragraph (b) of subsection (1) shall be chosen for their ability and experience in administration and their suitability otherwise for appointment as members, and the following provisions shall apply in relation thereto—

- (a) at least two of the members shall be persons who have held the rank of Assistant Commissioner in the Police Force or any more senior rank in the Police Force for periods which in the aggregate amount to at least five years;
- (b) a person shall not be eligible for appointment if he is a member or has, within the period of three years of the date of the proposed appointment, been a member or been nominated for election as a member of the Senate or the House of Assembly or any local authority;
- (c) if a person, immediately prior to his appointment, is employed in the Public Service or Prison Service or as a regular or full-time member of the Defence Forces or the Police Force, he shall cease to be so employed with effect from the date of his appointment;
- (d) during the period of his service as a member and for a period of three years thereafter he shall not be eligible for appointment to any post in the Police Force.

(3) If at any time a member of the Police Service Commission, other than the chairman, is for any reason unable to perform the functions of his office, the President may appoint a person who is qualified in terms of subsection (2) to act as the member and any person so appointed shall continue to act until the period for which he was appointed has expired or his appointment is revoked by the President:

Provided that a person appointed to act for a specially qualified member shall also be qualified in terms of paragraph (a) of subsection (2).

**101.** (1) The functions of the Police Service Commission shall be— **Functions of Police Service Commission.**

- (a) to consider any grievance by a member of the Police Force in regard to any administrative action, decision or order which has been made within the time and the manner prescribed in regulations made in terms of section *one hundred and two* and thereafter to make such recommendations as it thinks fit to the Commissioner of Police; and
- (b) to consider any proposal submitted to it in accordance with the requirements of subsection (2) of section *ninety-nine* that a member who has served in the Police Force for more than two years should be removed from office or reduced in rank and to confirm such proposal if deemed fit;

- (c) to make regulations in terms of section *one hundred and two*;
- (d) to make recommendations to the Commissioner of Police concerning the recruitment and promotion policy for, examinations for entry to and advancement in and the grading of posts in, the Police Force;
- (e) to do such other things not inconsistent with the provisions of paragraphs (a), (b), (c) and (d) as may be required by or under a law of the Legislature or regulations made in terms of section *one hundred and two*.

(2) The Commissioner of Police shall comply with any recommendation made by the Police Service Commission in terms of paragraph (a) of subsection (1).

Powers of Police Service Commission to make regulations.

102. (1) Subject to the provisions of this section, the Police Service Commission may make such regulations as it considers to be necessary or expedient—

- (a) for the general well-being and good administration of the Police Force and the maintenance thereof in a high state of efficiency;
- (b) providing for the conditions of service of members of the Police Force.

(2) Regulations may provide for—

- (a) the rank structure in the Police Force and the organization and management of the Police Force;
- (b) the appointment, qualifications, salaries, allowances and other remuneration, promotion, transfer, secondment, powers and duties, hours of work, leave of absence, resignation and retirement of members of the Police Force;
- (c) the circumstances in which members of the Police Force may be removed from office or have their salaries withheld or suspended;
- (d) the payment of pensions, gratuities and other benefits to or in respect of members of the Police Force on their death, injury, illness or termination of service, including the payment of pension contributions and the commutation of pensions;
- (e) the functions, powers and duties of boards established in relation to the payment of compensation in respect of death, injury or illness arising out of or in the course of official duties or established for any other purpose;
- (f) the holding of inquiries by any board or other authority established by or in terms of the regulations and the powers, rights, privileges and duties of and the procedure to be followed by the authority in such inquiries;

- (g) the punishment, including imprisonment or the imposition of fines, of members of the Police Force found guilty of offences against discipline;
  - (h) appeals to or review by the High Court or any other court or adjudicating authority in relation to any proceedings in connexion with offences against discipline;
  - (i) the recognition of any association as representing the members of the Police Force.
- (3) Regulations may not—
- (a) increase or authorize an increase in—
    - (i) the fixed salary or salary scale applicable to any post or rank in the Police Force; or
    - (ii) the bonuses or allowances payable to, or the other privileges or benefits that may be granted to, members of the Police Force; or
    - (iii) the rate of pensions, gratuities or other benefits referred to in paragraph (d) of subsection (2); or
    - (iv) the rate of leave that may be granted to or accrued by members of the Police Force; or
    - (v) the number of posts fixed for the Police Force;
 or
  - (b) provide for a general decrease or permit a general decrease in the hours of work to be performed by members of the Police Force;

unless the Minister for the time being responsible for finance, having regard to the financial implications, whether direct or indirect, has agreed thereto.

(4) Regulations may not provide for or permit a reduction in the salary or salary scale applicable to any member of the Police Force except where such member has been found guilty of an offence against discipline or has consented to such reduction.

(5) Regulations shall not be published in the *Gazette* until they have been approved by the Commissioner of Police.

(6) Regulations may provide for the application to the Police Force of regulations made by the Public Service Commission in terms of section *ninety-four* or the Defence Forces Service Commission in terms of section *one hundred and seven*, with such modifications as the Police Service Commission considers to be necessary or expedient.

#### PART IV

##### THE DEFENCE FORCES

**103.** (1) For the purposes of defending Zimbabwe Rhodesia, there shall be an Army, an Air Force and such other branches, if any, of the Defence Forces as may be provided for by or under a law of the Legislature, and—

**Defence Forces and  
Commanders thereof.**

- (a) the Army shall be under the command of the Commander of the Army;
- (b) the Air Force shall be under the command of the Commander of the Air Force;
- (c) any other branch shall be under the command of such Commander as is provided for in the law concerned.

(2) A Commander referred to in subsection (1) shall be appointed by the President on the recommendation of the board established in terms of subsection (6):

Provided that—

- (i) a person shall not be qualified to hold or act in the office of Commander of the Army unless he has held the rank of Colonel in the Army or any more senior rank in the Army for periods which in the aggregate amount to at least five years;
- (ii) a person shall not be qualified to hold or act in the office of Commander of the Air Force unless he has held the rank of Group Captain in the Air Force or any more senior rank in the Air Force for periods which in the aggregate amount to at least five years;
- (iii) before making any recommendation for the purposes of this subsection, the board shall consult with the Prime Minister.

(3) The Prime Minister or such other Minister as may be authorized in that behalf by the Prime Minister may give to a Commander referred to in subsection (1) such general directions of policy with respect to the defence of Zimbabwe Rhodesia as he may consider necessary and that Commander shall comply with such directions or cause them to be complied with.

(4) The Commander concerned shall, subject to regulations made in terms of section *one hundred and seven*, be responsible for the administration of, and determining the use and controlling the operations of, the Army, Air Force or other branch of the Defence Forces, as the case may be, and, except as provided in subsections (3) and (5), he shall not, in his command of the branch concerned and in the exercise of his responsibilities and powers in relation thereto, be subject to the direction or control of any person or authority:

Provided that the Commander shall not increase the number or level of posts fixed for the branch concerned unless the Minister for the time being responsible for finance, having regard to the financial implications, has agreed thereto.

(5) If the Prime Minister, after consultation with the Commanders of the Army and of the Air Force, considers that some authority should be established to co-ordinate the operations of the various branches of the Defence Forces, he may appoint a person recommended by the said Commanders, who shall be a member of the Army or the Air Force or a former commander of the Army or the Air Force, to be Commander of Combined Opera-



tions or Deputy Commander of Combined Operations for such period and on such conditions and with such functions relating to the command and control of operations as the Prime Minister may specify.

(6) The board for the purposes of subsection (2) shall consist of—

- (a) a chairman who shall be the retiring Commander of the Army, Air Force or other branch concerned or, if he is not available, the chairman of the Defence Forces Service Commission; and
- (b) if the board is considering the appointment of a Commander of—
  - (i) the Army, the Commander of the Air Force;
  - (ii) the Air Force, the Commander of the Army;
  - (iii) any other branch of the Defence Forces, the Commander of the Army or of the Air Force, as the President may appoint;
 or, if that Commander is not available, the holder or one of the holders of the next most senior rank in that branch appointed by the President; and
- (c) one other member appointed by the President who is the Secretary of a Ministry in the Public Service.

(7) Any decision of the Board established in terms of subsection (6) shall require the concurrence of a majority of all the members thereof.

**104.** (1) Subject to the provisions of this section and section *one hundred and six* and any regulations made in terms of section *one hundred and seven*, the power to make appointments to any office or rank in a branch of the Defence Forces and the power to remove persons holding or acting in such offices or ranks from office or reduce them in rank shall vest—

Members of Defence Forces.

- (a) in relation to the rank of—
  - (i) Second Lieutenant or any more senior rank in the Army; or
  - (ii) Air Sub-lieutenant or any more senior rank in the Air Force; or
  - (iii) any rank in any other branch of the Defence Forces which is a commissioned rank;
 in the President acting on the recommendation of the Commander of the branch concerned;
- (b) in relation to any rank below that referred to in subparagraph (i), (ii) or (iii) of paragraph (a), in the Commander of the branch concerned.

(2) Except as otherwise provided in regulations made in terms of section *one hundred and seven*, a person serving in the Defence Forces shall not be removed from office or reduced in rank except with the confirmation of the Defence Forces Service Commission.

(3) Advisory boards consisting of members of the branch concerned shall be established by the Commander to consider the suitability of commissioned members for promotion within that branch and no commissioned member shall be promoted to a higher rank, other than that of Commander, unless his case has been considered by such a board.

(4) The Commander referred to in subsection (1) may, by directions given in such manner as he thinks fit and subject to such conditions as he thinks fit, delegate any of his powers under paragraph (b) of subsection (1) to any member of the branch concerned.

(5) If regulations made in terms of section *one hundred and seven* alter the ranks into which the Army or Air Force is divided or which ranks shall be commissioned ranks in the Army or Air Force, the Defence Forces Service Commission may, by order in the *Gazette*, specify some other rank in the Army or Air Force as being equivalent to the rank referred to in subparagraph (i) or (ii) of paragraph (a) of subsection (1) as it existed before the first alteration as the lowest commissioned rank, and the references in that subparagraph to that rank shall thereafter be construed as if they were references to the rank for the time being so specified.

Defence Forces  
Service Commission.

**105.** (1) There shall be a Defence Forces Service Commission which shall consist of—

- (a) a chairman who, subject to the provisions of subsection (5) of section *ninety-two*, shall be the person holding the office of chairman of the Public Service Commission; and
- (b) not less than two and not more than four other members appointed, subject to the provisions of subsection (2), by the President.

(2) The persons to be appointed as members in terms of paragraph (b) of subsection (1) shall be chosen for their ability and experience in administration and their suitability otherwise for appointment as members, and the following provisions shall apply in relation thereto—

- (a) at least two of the members shall be persons who have held the rank of Colonel in the Army or Group Captain in the Air Force or any more senior rank in the Defence Forces for periods which in the aggregate amount to at least five years;
- (b) a person shall not be eligible for appointment if he is a member or has, within the period of three years of the date of the proposed appointment, been a member or been nominated for election as a member of the Senate or the House of Assembly or any local authority;
- (c) if a person, immediately prior to his appointment, is employed in the Public Service or Prison Service or as a regular or full-time member of the Defence Forces or the Police Force, he shall cease to be so employed with effect from the date of his appointment;

- (d) during the period of his service as a member and for a period of three years thereafter he shall not be eligible for appointment to any post in the Defence Forces.

(3) If at any time a member of the Defence Forces Service Commission, other than the chairman, is for any reason unable to perform the functions of his office, the President may appoint a person who is qualified in terms of subsection (2) to act as the member and any person so appointed shall continue to act until the period for which he was appointed has expired or his appointment is revoked by the President:

Provided that a person appointed to act for a specially qualified member shall also be qualified in terms of paragraph (a) of subsection (2).

**106.** (1) The functions of the Defence Forces Service Commission shall be—

Functions of Defence Forces Service Commission.

- (a) to consider any grievance by a member of the Defence Forces in regard to any administrative action, decision or order which has been made within the time and in the manner prescribed in regulations made in terms of section *one hundred and seven* and thereafter to make such recommendation as it thinks fit to the appropriate Commander;
- (b) to consider any proposal submitted to it in accordance with the requirements of subsection (2) of section *one hundred and four* that a person serving in the Defence Forces should be removed from office or reduced in rank and to confirm such proposal if deemed fit;
- (c) to make regulations in terms of section *one hundred and seven*;
- (d) to make recommendations to the appropriate Commander concerning the recruitment and promotion policy for, examinations for entry to and advancement in and the grading of posts in, the Army, Air Force or other branch of the Defence Forces;
- (e) to do such other things not inconsistent with the provisions of paragraphs (a), (b), (c) and (d) as may be required by or under a law of the Legislature or regulations made in terms of section *one hundred and seven*.

(2) The appropriate Commander shall comply with any recommendation made by the Defence Forces Service Commission in terms of paragraph (a) of subsection (1).

**107.** (1) Subject to the provisions of this section, the Defence Forces Service Commission may make such regulations as it considers to be necessary or expedient—

Powers of Defence Forces Service Commission to make regulations.

- (a) for the general well-being and good administration of the Defence Forces and the maintenance thereof in a high state of efficiency;
- (b) providing for the conditions of service of members of the Defence Forces.

- (2) Regulations may provide for—
- (a) the rank structures in the Defence Forces and the organization and management of the Defence Forces;
  - (b) the appointment, qualifications, salaries, allowances and other remuneration, promotion, transfer, secondment, powers and duties, hours of work, leave of absence, resignation and retirement of members of the Defence Forces;
  - (c) the circumstances in which members of the Defence Forces may be removed from office or have their salaries withheld or suspended;
  - (d) the payment of pensions, gratuities and other benefits to or in respect of members of the Defence Forces on their death, injury, illness or termination of service, including the payment of pension contributions and the commutation of pensions;
  - (e) the functions, powers and duties of boards established in relation to the payment of compensation in respect of death, injury or illness arising out of or in the course of official duties or established for any other purpose;
  - (f) the holding of inquiries by any board or other authority established by or in terms of the regulations and the powers, rights, privileges and duties of and the procedure to be followed by the authority in such inquiries;
  - (g) the punishment, including death, imprisonment or the imposition of fines, of members of the Defence Forces found guilty of offences against discipline;
  - (h) appeals to or review by the High Court or any other court or adjudicating authority in relation to any proceedings in connexion with offences against discipline.
- (3) Regulations may not—
- (a) increase or authorize an increase in—
    - (i) the fixed salary or salary scale applicable to any post or rank in the Defence Forces; or
    - (ii) the bonuses or allowances payable to, or the other privileges or benefits that may be granted to, members of the Defence Forces; or
    - (iii) the rate of pensions, gratuities or other benefits referred to in paragraph (d) of subsection (2); or
    - (iv) the rate of leave that may be granted to or accrued by members of the Defence Forces; or
    - (v) the number of posts fixed for the Defence Forces;or
  - (b) provide for a general decrease or permit a general decrease in the hours of work to be performed by members of the Defence Forces;

unless the Minister for the time being responsible for finance,

having regard to the financial implications, whether direct or indirect, has agreed thereto.

(4) Regulations may not provide for or permit a reduction in the salary or salary scale applicable to any member of the Defence Forces except where such member has been found guilty of an offence against discipline or has consented to such reduction.

(5) Regulations shall not be published in the *Gazette* until they have been approved by the Commanders of the Army and the Air Force.

(6) Regulations may provide for the application to the Defence Forces of regulations made by the Public Service Commission in terms of section *ninety-four* or the Police Service Commission in terms of section *one hundred and two*, with such modifications as the Defence Forces Service Commission considers to be necessary or expedient.

## PART V

### GENERAL

**108.** (1) The provisions of this section shall apply to any of the following—

**Tenure of office of  
members of  
Commissions.**

(a) the member of the Judicial Service Commission appointed in terms of paragraph (c) of subsection (1) of section *eighty-eight*; and

(b) the members of the Public Service Commission, Police Service Commission or Defence Forces Service Commission;

(hereinafter in this section referred to as a commissioner).

(2) Subject to the provisions of this section, a commissioner shall be appointed and hold office on such terms and conditions as are fixed by the President and shall vacate his office—

(a) at the expiration of such period, being not less than three years from the date of his appointment, as may be fixed at the time of his appointment:

Provided that the period of office of a commissioner may be extended, from time to time, for such period as the President thinks fit; or

(b) if any circumstances arise that, if he were not the holder of that office, would cause him to be disqualified for appointment thereto.

(3) There shall be charged upon and paid out of the Consolidated Revenue Fund such salaries and allowances as may from time to time be fixed in terms of subsection (2).

(4) The salary payable to a commissioner shall not be reduced during his continuance in office.

(5) A commissioner may be removed from office only for inability to discharge the functions of his office, whether arising from infirmity of body or mind or any other cause, or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(6) A commissioner shall be removed from office by the President if the question of his removal from office has been referred to a tribunal appointed in terms of subsection (7) and that tribunal has advised the President that the commissioner ought to be removed from office for inability as mentioned in subsection (5) or for misbehaviour.

(7) If the President, on the recommendation of the Prime Minister, considers that the question of removing a commissioner ought to be investigated, then—

- (a) the President shall appoint a tribunal in accordance with the provisions of subsection (10); and
- (b) that tribunal shall inquire into the matter and report on the facts thereof to the President and advise the President whether the member ought to be removed:

Provided that in exercising his powers in terms of this subsection in relation to the commissioner referred to in paragraph (a) of subsection (1), the President shall act on the recommendation of the Chief Justice.

(8) The provisions of the Commissions of Inquiry Act [Chapter 80] as in force at the time or any other law substituted for the same shall, *mutatis mutandis*, apply in relation to a tribunal appointed in terms of subsection (7) as they apply to commissioners appointed in terms of that Act.

(9) If the question of removing a commissioner has been referred to a tribunal in terms of this section, the President, on the recommendation of the Prime Minister, may suspend that member from performing the functions of his office and any such suspension—

- (a) may at any time be revoked by the President;
- (b) shall cease to have effect if the tribunal advises the President that the member should not be removed.

(10) A tribunal appointed in terms of subsection (7) shall consist of a chairman and two other members appointed by the President on the recommendation of the Prime Minister, and—

- (a) the chairman shall be a person who is or has been a judge of the High Court; and
- (b) at least one of the other members shall be a person who is and has been for not less than ten years, whether continuously or not, qualified to practise as an advocate or attorney in Zimbabwe Rhodesia.

**Performance of  
functions of  
Commissions.**

109. (1) Any Commission may by regulation make provision for regulating and facilitating the performance by the Commission of its functions under this Constitution.

(2) Any decision of a Commission shall require the concurrence of a majority of all the members thereof and, subject as aforesaid, the Commission may act notwithstanding the absence of any member:

Provided that if in any particular case a vote of all the members is taken to decide the question and the votes cast are equally divided, the chairman shall have and shall exercise a casting vote.

(3) Subject to the provisions of this section, a Commission may regulate its own procedure.

(4) In the exercise of its functions under this Constitution, a Commission shall not be subject to the direction or control of any person or authority.

(5) The validity of the transaction of business of a Commission shall not be affected by the fact that some person who was not entitled to do so took part in the proceedings.

(6) In this section—

“Commission” means a Commission established by this Chapter.

**110.** (1) The Public Service Commission shall appoint a person to be secretary to the Commissions established by this Chapter and such other staff as may be necessary for the proper performance and functions, responsibilities, powers and duties of such Commissions. **Secretary and staff of Commissions.**

(2) The control and supervision of the staff of the Commissions referred to in subsection (1) shall, subject to the provisions of regulations made in terms of section *ninety-four*, be exercised by the secretary appointed in terms of subsection (1).

(3) The secretary appointed in terms of subsection (1) shall act in accordance with the decisions of the appropriate Commission.

**111.** (1) The provisions of this section shall apply to the offices referred to in section *ninety* and to the offices of Attorney-General, Comptroller and Auditor-General, Commissioner of Police, Commander of the Army, Commander of the Air Force, Commander of any other branch of the Defence Forces and Director of Prisons (hereinafter in this section referred to as a designated office). **Removal of certain officers.**

(2) Subject to the provisions of this section, a person holding a designated office shall vacate that office on attaining the retiring age or completing such period in that designated office as is specified by or under this Constitution.

(3) The holder of a designated office may be removed from office only for inability to discharge the functions of his office, whether arising from infirmity of body or mind or any other cause, or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(4) The holder of—

(a) a designated office, other than that of Comptroller and Auditor-General, shall be removed from office by the President if the question of his removal from office has been referred to a tribunal appointed on the recommendation of the appropriate Commission in terms of subsection (5) and that tribunal has advised the President that the person concerned ought to be removed from office;

- (b) the office of Comptroller and Auditor-General shall be removed from office by the President if the House of Assembly has resolved by the affirmative votes of more than one-half of its total membership that he be removed from office;

for inability as mentioned in subsection (3) or for misbehaviour.

(5) If the appropriate Commission considers that the question of removing from office the holder of a designated office, other than that of Comptroller and Auditor-General, ought to be investigated, then—

- (a) the President shall appoint a tribunal in accordance with the provisions of subsection (8); and
- (b) that tribunal shall inquire into the matter and report on the facts thereof to the President and advise the President whether the holder of the designated office should be removed.

(6) The provisions of the Commissions of Inquiry Act [Chapter 80] as in force at the time or any other law substituted for the same shall, *mutatis mutandis*, apply in relation to a tribunal appointed in terms of subsection (5) as they apply to commissioners appointed in terms of that Act.

(7) If the question of removing from office the holder of a designated office has been referred to a tribunal in terms of this section, the President, on the recommendation of the Prime Minister, may—

- (a) suspend that person from performing the functions of his office and any such suspension—
- (i) may at any time be revoked by the President;
- (ii) shall cease to have effect if the tribunal advises the President that that person should not be removed;
- (b) direct that that person shall not be entitled to receive any salary but may be paid such allowance as the President may fix.

(8) A tribunal appointed in terms of subsection (5) shall consist of a chairman and two other members appointed by the President on the recommendation of the Prime Minister, and—

- (a) the chairman shall be a person who is or has been a judge of the High Court; and
- (b) at least one of the other members shall be a person who is and has been for not less than ten years, whether continuously or not, qualified to practise as an advocate or attorney in Zimbabwe Rhodesia.

(9) The retiring age for the holder of a designated office shall be such age as may be specified in relation to the designated office concerned by or under this Constitution:

Provided that any provision made by or under this Constitution, to the extent that it alters the age referred to in this subsection, shall not have effect in relation to the holder of a designated office after his appointment unless he consents to it having such effect.



(10) Any provision made by or under this Constitution, to the extent that it alters the period of service referred to in subsection (2), shall not have effect in relation to any holder of a designated office after his appointment unless he consents to its having such effect.

(11) In this section—

“appropriate Commission”, in relation to—

- (a) an office referred to in section *ninety* or that of Attorney-General or Commissioner of Police, means the Judicial Service Commission;
- (b) the office of Commander of the Army or the Air Force or any other branch of the Defence Forces, means the Defence Forces Service Commission.

112. (1) The law to be applied with respect to any pensions benefits that were granted to any person before the fixed date shall be the law that was in force at the date on which those benefits were granted or any law in force at a later date that is not less favourable to that person.

Protection of  
pension rights  
of public officers.

(2) The law to be applied with respect to any pensions benefits not referred to in subsection (1) in relation to a public officer or former public officer in respect of a period of service as a public officer, or any ill-health or injury arising out of and in the course of his official duties during a period of service as a public officer, that—

- (a) commenced before the fixed date shall be the law that was in force immediately before that date which, for the purposes of this paragraph, shall include any right conferred by section 85 of the former Constitution; or
- (b) commenced on or after the fixed date shall be the law in force on the date on which that period of service commenced;

or any law in force at a later date that is not less favourable to the person entitled to such pensions benefits.

(3) Where a person is entitled to exercise an option as to which of two or more laws shall apply in his case, the law for which he opts shall, for the purposes of this section, be deemed to be more favourable to him than the other law or laws.

(4) All pensions benefits shall be charged upon and paid out of the Consolidated Revenue Fund.

(5) Any law which alters the age at which a person holding public office shall retire or otherwise vacate his office shall not have effect in relation to any public officer who was appointed before that law takes effect unless he consents thereto.

(6) In this section—

“pensions benefits” means any pensions, commutation of pensions, gratuities or other like allowances or refund of pension contributions, including any interest payable thereon, for persons in respect of their service as public

officers or any ill-health or injury arising out of and in the course of their official duties or for the spouses, children, dependants or personal representatives of such persons in respect of such service, ill-health or injury.

(7) References in this section to the law with respect to pensions benefits include, without derogation from their generality, references to the law regulating—

- (a) the circumstances in which such benefits may be granted or in which the grant of such benefits may be refused; or
- (b) the circumstances in which any such benefits that have been granted may be increased, withheld, reduced in amount or suspended; or
- (c) the amount of any such benefits.

Interpretation in Chapter VI.

113. (1) In this Chapter—

“Defence Forces” means the Army, Air Force and any other branch of the Defence Forces referred to in subsection (1) of section *one hundred and three*;

“Police Force” means the Police Force established by the Police Act [*Chapter 98*] and includes any other police force established by or under a law of the Legislature to succeed to or to supplement the functions of that Force but does not include any police force forming part of the Defence Forces;

“Public Service” means the service of the State in the government of Zimbabwe Rhodesia but does not include—

- (a) the Prison Service, Police Force or Defence Forces;
- (b) service as a judge of the High Court or in an office referred to in section *ninety*;
- (c) service as a member of any Commission established by this Constitution or any body corporate which is established directly by or under any law of the Legislature for special purposes specified in that law;

“specially qualified”, in relation to a member of—

- (a) the Public Service Commission, means qualified in terms of paragraph (a) of subsection (2) of section *ninety-two*;
- (b) the Police Service Commission, means qualified in terms of paragraph (a) of subsection (2) of section *one hundred*;
- (c) the Defence Forces Service Commission, means qualified in terms of paragraph (a) of subsection (2) of section *one hundred and five*.

(2) Any reference in this Chapter to appointments to any public office or rank shall be construed as including a reference to appointments on promotion to that office or rank or transfer to that office or the upgrading of an incumbent of that office.

(3) The delegation by any Commission or person of any function or power under any provision of this Chapter shall not divest the Commission or person of such function or power and the Commission or person concerned may at any time withdraw such function or power in the same manner as it was delegated.

(4) If regulations made in terms of section *ninety-four*, *one hundred and two* or *one hundred and seven* alter the posts or grades into which the Public Service or the ranks into which the Police, Army or Air Force, as the case may be, is divided, the appropriate Commission may, by order in the *Gazette*, specify some other post, grade or rank in the Public Service, Police, Army or Air Force, as the case may be, as being equivalent to the post, grade or rank, as the case may be, referred to in paragraph (a) of subsection (2) of section *ninety-two*, subsection (2) of section *ninety-six*, proviso (i) to subsection (2) of section *ninety-eight*, paragraph (a) of subsection (2) of section *one hundred*, proviso (i) or (ii) to subsection (2) of section *one hundred and three* or paragraph (a) of subsection (2) of section *one hundred and five*, and the reference in any of those provisions to that post, grade or rank, as the case may be, shall thereafter be construed as including a reference to the post, grade or rank, as the case may be, for the time being so specified.

## CHAPTER VII

### FINANCE

**114.** All fees, taxes and other revenues of the State of Zimbabwe Rhodesia from whatever source arising, not being moneys that—

Consolidated Revenue Fund.

- (a) are payable by or under a law of the Legislature into some other fund established for a specific purpose; or
- (b) may, by or under a law of the Legislature, be retained by the authority that received them for the purpose of defraying the expenses of that authority;

shall be paid into and form one Consolidated Revenue Fund.

**115.** (1) No moneys shall be withdrawn from the Consolidated Revenue Fund except—

Withdrawals from Consolidated Revenue Fund or other public fund.

- (a) to meet expenditure that is charged upon that Fund by this Constitution or by a law of the Legislature; or
- (b) where the issue of those moneys has been authorized by an Appropriation Act or an Act made in pursuance of the provisions of section *one hundred and sixteen* or *one hundred and seventeen*.

(2) Where any moneys are charged by this Constitution or a law of the Legislature upon the Consolidated Revenue Fund or any other public fund, they shall be paid out of that fund by the Government to the person or authority to whom payment is due.

(3) No moneys shall be withdrawn from any public fund, other than the Consolidated Revenue Fund, unless the issue of those moneys has been authorized by or under a law of the Legislature.

(4) A law of the Legislature may prescribe the manner in which withdrawals may be made from the Consolidated Revenue Fund or any other public fund.

(5) The investment of moneys forming part of the Consolidated Revenue Fund shall be made in such manner as may be prescribed by or under a law of the Legislature.

(6) Notwithstanding the provisions of subsection (1), provision may be made by or under a law of the Legislature authorizing withdrawals to be made from the Consolidated Revenue Fund, in such circumstances and to such extent as may be prescribed by or under such law, for the purpose of making repayable advances.

Authorization of expenditure from Consolidated Revenue Fund by appropriation.

**116.** (1) The Minister for the time being responsible for finance shall cause to be prepared and laid before the House of Assembly before or not later than thirty days after the start of each financial year estimates of the revenue and expenditure of Zimbabwe Rhodesia for that financial year:

Provided that if, by reason of the dissolution of Parliament, the provisions of this subsection cannot be complied with, the estimates of the revenue and expenditure shall be laid before the House of Assembly within thirty days of the date on which the House of Assembly first meets after that dissolution.

(2) When the estimates of expenditure, other than expenditure charged upon the Consolidated Revenue Fund by this Constitution or a law of the Legislature, have been approved by the House of Assembly, a Bill, to be known as an Appropriation Bill, shall be introduced in the House of Assembly providing for the issue from the Consolidated Revenue Fund of the sums necessary to meet that expenditure and the appropriation of those sums, under separate votes for the several heads of expenditure approved, to the purposes specified therein.

(3) If in respect of any financial year it is found that the amount appropriated by the Appropriation Act to any purpose is insufficient or that a need has arisen for expenditure for a purpose to which no amount has been appropriated by that Act, a supplementary estimate showing the sums required shall be laid before the House of Assembly and, when such estimates have been approved by the House of Assembly, a supplementary Appropriation Bill shall be introduced in the House of Assembly providing for the issue of such sums from the Consolidated Revenue Fund and the appropriation thereof, under separate votes for the several heads of expenditure approved, to the purposes specified therein.

(4) A law of the Legislature may make provision for the President, where he is satisfied that there is an urgent need for expenditure which was unforeseen or the extent of which was unforeseen and for which no other provision exists, to authorize the withdrawal from the Consolidated Revenue Fund of moneys for the purpose of meeting that expenditure and any moneys so withdrawn shall be included in supplementary or additional estimates which shall be laid before the House of Assembly on one of the fourteen days on which the House of Assembly sits next

after the authorization of such withdrawal and, when such estimates have been approved by the House of Assembly, a supplementary or additional Appropriation Bill shall be introduced in the House of Assembly providing that the sums so withdrawn shall be charged upon the Consolidated Revenue Fund and that they shall be appropriated, under separate votes for the several heads of expenditure approved, to the purposes specified therein:

Provided that the aggregate of all moneys so authorized to be withdrawn shall not at any one time prior to the consequential estimates having been approved by the House of Assembly exceed one and one-half *per centum* of the total amount appropriated in the last main Appropriation Act.

(5) If in respect of any financial year it is found that any moneys have been expended for any purpose in excess of the amount appropriated to that purpose under this Chapter or for a purpose to which no amount has been appropriated under this Chapter, the Minister for the time being responsible for finance shall cause to be introduced in the House of Assembly on one of the fourteen days on which the House of Assembly sits next after the extent of the unauthorized expenditure has been established a Bill providing for the condonation of such unauthorized expenditure.

117. (1) A law of the Legislature may make provision under which, if the Appropriation Act in respect of any financial year has not come into operation by the beginning of that financial year, the President may authorize the withdrawal of moneys from the Consolidated Revenue Fund for the purpose of meeting expenditure necessary to carry on the services of the Government during the period commencing with the beginning of that financial year and expiring four months thereafter or on the coming into operation of the Act, whichever is the earlier:

Authorization of expenditure in advance of appropriation.

Provided that—

- (i) the aggregate of all moneys so authorized to be withdrawn shall not exceed one-third of the sums included in the estimates of expenditure for the preceding financial year that have been laid before the House of Assembly;
- (ii) any moneys so withdrawn shall be included in the Appropriation Act under separate votes and shall be accounted for in accordance with the provisions thereof.

(2) A law of the Legislature may make provision under which, where at any time Parliament has been dissolved before any provision or sufficient provision is made under this Chapter for the carrying on of the government of the country, the President may authorize the withdrawal of moneys from the Consolidated Revenue Fund for the purpose of meeting expenditure necessary to carry on the services of the Government during the period beginning on the dissolution of Parliament and expiring three months after the day on which the House of Assembly first meets after that dissolution and any moneys so withdrawn shall

be included in an Appropriation Act under separate votes and shall be accounted for in accordance with the provisions thereof.

Public debt.

**118.** (1) All debt charges for which the Government of Zimbabwe Rhodesia is liable shall be charged upon the Consolidated Revenue Fund.

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

(3) For the purposes of this section, debt charges include interest, sinking fund charges, the repayment or amortization of debt and all expenditure in connexion with the raising of loans on the security of the Consolidated Revenue Fund and the service and redemption of debt created thereby.

Functions of  
Comptroller and  
Auditor-General.

**119.** (1) The public accounts of Zimbabwe Rhodesia and of all accounting officers, receivers of revenue and other persons entrusted with public moneys or property of the State shall at least once in every financial year be examined, audited and reported on by the Comptroller and Auditor-General on behalf of the House of Assembly:

Provided that if the Comptroller and Auditor-General is of the opinion that it would not be appropriate or expedient for him to examine and audit any particular account or fund or any particular class of documents, he may, by notice in writing, inform the Speaker and the Minister for the time being responsible for finance of his opinion and, unless otherwise directed by the House of Assembly, he shall not make any examination, audit or report in relation thereto.

(2) It shall be the duty of the Comptroller and Auditor-General to satisfy himself that—

(a) all moneys that have been appropriated by the Legislature and disbursed have been applied to the purposes for which they were so appropriated and that the expenditure conforms to the authority that governs it; and

(b) all reasonable precautions have been taken to safeguard the collection of all fees, taxes and other revenues of the State and to safeguard and control property of the State.

(3) The Comptroller and Auditor-General and any officer authorized by him shall have access to all books, records, returns, reports and other documents that, in his opinion, relate to any of the accounts referred to in subsection (2) and to all cash, stamps, securities, stores and other property of whatever kind that he considers it necessary to inspect in connexion with any of those accounts and that is in the possession of any employee, agent or authority of the State.

(4) The Comptroller and Auditor-General shall submit every report made by him in terms of subsection (1) to the Minister for the time being responsible for finance who shall, on one of the seven days on which the House of Assembly sits next after he has received the report, lay it before the House of Assembly.

(5) The Comptroller and Auditor-General shall exercise in relation to the accounts of the State or the accounts of any authority, body or fund established directly by or under any law of the Legislature for special purposes specified in that law such other functions as may be prescribed by or under a law of the Legislature.

(6) In the exercise of his functions under subsections (1), (2), (3) and (4), the Comptroller and Auditor-General shall not be subject to the direction or control of any person or authority other than the House of Assembly.

## CHAPTER VIII

### THE DECLARATION OF RIGHTS

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

- (a) life, liberty, security of the person and the protection of the law; and
- (b) freedom of conscience, of expression and of assembly and association; and
- (c) protection for the privacy of his home and other property and from the compulsory acquisition of property without compensation;

AND WHEREAS it is the duty of every person to respect and abide by the Constitution and the laws of Zimbabwe Rhodesia:

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

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

(2) A person shall not be regarded as having been deprived of his life in contravention of this section if he dies as the result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably justifiable in the circumstances of the case—

- (a) for the defence of any person from violence or for the defence of property; or
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; or
- (c) for the purpose of suppressing a riot, insurrection or mutiny or of dispersing an unlawful gathering; or
- (d) in order to prevent the commission by that person of a criminal offence;

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

(3) It shall be sufficient justification for the purposes of subsection (2) in any case to which that subsection applies if it is

shown that the force used did not exceed that which might lawfully have been used in the circumstances of that case under the law in force immediately before the fixed date.

Protection of right  
to personal  
liberty.

121. (1) No person shall be deprived of his personal liberty save as may be authorized by law in any of the following cases, that is to say—

- (a) in consequence of his unfitness to plead to a criminal charge or in execution of the sentence or order of a court, whether in Zimbabwe Rhodesia or elsewhere, in respect of a criminal offence of which he has been convicted;
- (b) in execution of the order of a court punishing him for contempt of that court or of another court or tribunal or in the execution of the order of the Senate or the House of Assembly punishing him for a contempt;
- (c) in execution of the order of a court made in order to secure the fulfilment of an obligation imposed on him by law, including any African customary law;
- (d) for the purpose of bringing him before a court in execution of the order of a court or an officer of a court or before the Senate or the House of Assembly in execution of the order of the Senate or that House;
- (e) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence;
- (f) under the order of a court or with the consent of his parent or guardian, for the purpose of his education or welfare during a period beginning before he attains the age of twenty-one years and ending not later than the date when he attains the age of twenty-three years;
- (g) for the purpose of preventing the spread of an infectious or contagious disease;
- (h) if he is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his care, treatment or rehabilitation or the protection of the community;
- (i) for the purpose of preventing the unlawful entry of that person into Zimbabwe Rhodesia or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from Zimbabwe Rhodesia or the taking of proceedings relating thereto;
- (j) subject to the provisions of subsections (4) to (9), for the purposes of his preventive detention in the interests of defence, public safety or public order.

(2) Any person who is arrested or detained shall be informed as soon as reasonably practicable in a language that he understands of the cause of his arrest or detention and shall be permitted at his own expense to obtain and instruct without delay a legal representative of his own choice and to hold communication with him.

(3) Any person who is arrested or detained—

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



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

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

(4) No law providing for preventive detention shall authorize the detention of a person for a period longer than fourteen days, unless the Minister designated for the purpose has issued an order providing for the preventive detention of that person.

(5) Where a person has been detained by virtue of the provisions of a law providing for preventive detention—

- (a) his case shall be reviewed by a tribunal established for the purposes of this section not later than thirty days after the commencement of the detention and thereafter at intervals of not more than one hundred and eighty days from the date on which his case was last reviewed by that tribunal; and

- (b) at the hearing of his case by that tribunal he shall be permitted to appear in person or at his own expense by a legal representative of his own choice; and

(c) if that tribunal—

- (i) orders, either because that person satisfies the tribunal that new circumstances have arisen or because the tribunal considers it to be desirable, that the case of that person should be submitted to the tribunal for review before the expiration of one hundred and eighty days from the previous review of his case, the case of that person shall be submitted for review when so ordered by the tribunal; or

- (ii) reports that, in its opinion, there is not sufficient cause for the continued detention of that person, he shall forthwith be released.

(6) A person who has been detained by virtue of the provisions of any law providing for preventive detention and who has been released from detention in consequence of a report of a tribunal established for the purposes of this section that there is, in its opinion, insufficient cause for his detention shall not again be detained by virtue of such provisions within the period of one hundred and eighty days from his release on the same grounds as those on which he was originally detained.

(7) A tribunal established for the purposes of this section shall be established by law and shall consist of—

- (a) a chairman, who shall be a person who is or has been a judge of the High Court or is qualified in terms of section *eighty* to be appointed as such; and

(b) two other persons, one of whom—

- (i) is or has been a judge of the High Court or is qualified in terms of section *eighty* to be appointed as such; or
- (ii) has been a magistrate in Zimbabwe Rhodesia for not less than ten years; or
- (iii) is, and has been for not less than ten years, whether continuously or not, qualified to practise as an attorney in Zimbabwe Rhodesia.

(8) The reference in paragraph (a) of subsection (5) to a period of thirty days includes a reference to any lesser periods that amount in the aggregate to thirty days:

Provided that no two such lesser periods shall be aggregated for this purpose if the period between the expiration of the first and the commencement of the second is more than thirty days.

(9) For the purposes of subsection (6), a person shall be deemed to have been detained on the same grounds as those on which he was originally detained unless a tribunal established for the purposes of this section has reported that, in its opinion, there appear *prima facie* to be new and reasonable grounds for the detention, but the giving of any such report shall be without prejudice to the provisions of subsections (4) and (5).

(10) Any person who is unlawfully arrested or detained by any other person shall be entitled to compensation therefor from that other person or from any person or authority on whose behalf or in the course of whose employment that other person was acting:

Provided that—

- (a) any judicial officer acting in his judicial capacity reasonably and in good faith; or
- (b) any public officer, or person assisting a public officer, acting reasonably and in good faith and without culpable ignorance or negligence;

may be protected by law from liability for such compensation.

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

(2) For the purposes of subsection (1)—

“forced labour” does not include—

- (a) any labour required in consequence of the sentence or order of a court; or
- (b) labour required of any person while he is lawfully detained which, though not required in consequence of the sentence or order of a court—
  - (i) is reasonably necessary in the interests of hygiene or for the maintenance or management of the place at which he is detained; or
  - (ii) is reasonably required for the purposes referred to in paragraph (f) or (h) of subsection (1) of section *one hundred and twenty-one*;

or

Protection from  
slavery and forced  
labour.

- (c) any labour required of a person who is a member of any naval, military or air force or who is otherwise subject to any disciplinary law in pursuance of his duties as a member of that force or under that law or any labour required of any person by virtue of a written law in lieu of service as a member of such a force; or
- (d) any labour required by way of parental discipline; or
- (e) any labour required by virtue of a written law during a period of public emergency or in the event of any other emergency or disaster which threatens the life or well-being of any section of the community, to the extent that the requiring of such labour is reasonably justifiable in the circumstances of any situation arising or existing during that period or as a result of that other emergency or disaster, for the purpose of dealing with that situation.

**123.** (1) No person shall be subjected to torture or to inhuman or degrading punishment or other such treatment.

**Protection from  
inhuman treatment.**

(2) No treatment reasonably justifiable in the circumstances of the case to prevent the escape from custody of a person who has been lawfully detained shall be held to be in contravention of subsection (1) on the ground that it is degrading.

(3) Nothing contained in or done under the authority of any written law shall be held to be in contravention of subsection (1) to the extent that the law in question authorizes the doing of anything by way of punishment or other treatment which might lawfully have been so done in Zimbabwe Rhodesia immediately before the fixed date.

**124.** (1) No property of any description or interest or right therein shall be compulsorily acquired, except under the authority of a law that—

**Protection from  
deprivation of  
property.**

- (a) requires the acquiring authority to give reasonable notice of the intention to acquire the property, interest or right, as the case may be, to any person owning the property or having any other interest or right therein that would be affected by such acquisition; and
- (b) requires the acquiring authority before or not later than thirty days after the acquisition to apply to the General Division or some other court for an order authorizing such acquisition; and
- (c) requires the General Division or other court not to grant such an order unless it is satisfied that—
  - (i) the acquisition is reasonably necessary in the interests of defence, public safety, public order, public morality, public health, town and country

planning, the utilization of that or any other property for a purpose beneficial to the public generally or to any section thereof or, subject to the provisions of subsection (2), the settlement of land for agricultural purposes; and

- (ii) where the acquisition relates to only part of a piece of land, such acquisition will not render the remainder of that piece of land unsuitable for the purpose for which it was being used or was *bona fide* intended to be used immediately before such acquisition;

and

- (d) requires the acquiring authority—

- (i) where such an order is refused, to return the property and pay promptly such damages in respect of any acquisition as the General Division or other court may think fit;

- (ii) where such an order is granted, to pay promptly adequate compensation for the acquisition;

and

- (e) enables any claimant for compensation, if no agreement as to the amount and manner of payment of compensation has been concluded within thirty days of the grant of the order referred to in paragraph (b), to apply to the General Division or some other court for the determination of those matters, including, where necessary, any question as to his entitlement to compensation, and for the purpose of obtaining prompt payment of the compensation; and

- (f) enables any person who is aggrieved by any decision of the General Division or other court on any matter referred to in this subsection, unless he has agreed in writing to accept that decision as final, to appeal to the Appellate Division; and

- (g) requires the acquiring authority to pay the costs reasonably incurred by any other party in connexion with the proceedings before the General Division or other court for any of the aforesaid purposes, including any appeal from any decision of that court given for those purposes:

Provided that the law may authorize the General Division or other court, if it is satisfied that any opposition to an application for an order referred to in paragraph (b) or any appeal is frivolous or unreasonable, to make such order as to costs as it thinks fit.

(2) A law referred to in subsection (1) shall require the court not to grant an order referred to in paragraph (b) of subsection (1) authorizing the acquisition of a piece of land or part thereof or an interest or right therein for the purposes of the

settlement thereof for agricultural purposes unless it is satisfied, having regard to its area and suitability for those purposes, that the piece of land in question has not been substantially put to use for those purposes for a continuous period of at least five years immediately prior to the date of application for the order:

Provided that such law shall provide that any period during which a piece of land is not put to use for agricultural purposes by reason of any public disorder or any disaster shall—

- (a) be disregarded for the purpose of computing the period of five years referred to in this subsection; and
- (b) not be regarded as interrupting such period.

(3) A law referred to in subsection (1) shall require the court, in the case of the acquisition of land or an interest or right therein, to fix as adequate compensation an amount which shall not be less than the highest amount which the land, together with any improvements thereon at the date of the acquisition, or the interest or right therein, as the case may be, would have realized if sold on the open market by a willing seller to a willing buyer at any time during the period of five years immediately prior to the date of the acquisition:

Provided that the law may require that—

- (a) where part only of a piece of land has been acquired, adequate compensation for that part shall be fixed as an amount not less than the difference between the value determined in terms of this subsection of the whole piece of land and the value so determined of the remainder of that piece of land;
- (b) if the land was, immediately prior to the date of acquisition, used for a purpose and adapted for such purpose in such a way that there is no general demand or market for the land so used and adapted and if the justice of the case so requires, adequate compensation shall be fixed on the basis of the reasonable cost of adapting other land in such a way that the claimant is restored as closely as may be possible to the position in which he was immediately prior to that date or on any other basis which the court thinks just;
- (c) in fixing adequate compensation the court shall disregard—
  - (i) anything done after the giving of the notice referred to in paragraph (a) of subsection (1);
  - (ii) any change in the value of the land, interest or right, as the case may be, resulting from any action taken or to be taken by the acquiring authority connected with the acquisition of the land, interest or right or resulting from the purpose for which or in connexion with which the land, interest or right is being acquired or taken or is to be used;

- (iii) any increase in the value of any land that is due to the use of the land in a manner which is illegal, detrimental to the land or restrainable;
  - (iv) any improvement effected *mala fide* on any land in order to increase any compensation payable;
- (d) in fixing adequate compensation the court shall take into account any increase in the value of any other property or rights of the claimant or any benefit which the claimant will receive due to any works undertaken by the acquiring authority which are connected with the acquisition of the land, interest or right, as the case may be.

(4) Where any person, by virtue of a law, contract or scheme relating to the payment of pensions benefits, has a right, whether vested or contingent, to the payment of pensions benefits or any commutation thereof or a refund of contributions, with or without interest, payable in terms of such law, contract or scheme, any law which thereafter provides for the extinction of or a diminution in such a right shall be regarded for the purposes of subsection (1) as a law providing for the acquisition of a right in property.

(5) Nothing contained in or done under the authority of any law shall be held to be in contravention of subsection (1) to the extent that the law in question authorizes the taking of possession of property compulsorily during a period of public emergency or in the event of any riot, disorder or other emergency or any disaster that threatens the life or well-being of the community or where there is a situation which may lead to such emergency or disaster and makes provision that—

- (a) requires the acquiring authority promptly to give reasonable notice to any person owning or possessing the property of the taking of possession; and
- (b) enables any such person to notify the acquiring authority in writing that he objects to the compulsory taking of possession of the property by that authority; and
- (c) requires the acquiring authority, in the case of any such notification, to apply within thirty days thereafter to the General Division or other court for a determination of the authority's entitlement to take possession of the property compulsorily; and
- (d) requires the General Division or other court to order the acquiring authority to return the property unless it is satisfied that the taking of possession thereof by that authority is reasonably justifiable, in the circumstances of the situation existing, for the purpose of dealing with that situation; and
- (e) requires—
  - (i) the prompt return, wherever possible, of the property in the condition in which it was at the time of the taking of possession thereof when the

possession thereof is no longer reasonably justifiable as referred to in paragraph (d); and

- (ii) the prompt payment of adequate compensation for the taking of possession and, where appropriate, for the failure to return the property as referred to in subparagraph (i) or for any damage to the property;

and

- (f) enables any claimant for compensation to apply to the General Division or some other court for the prompt return of the property and for the determination of the amount and manner of payment of compensation, including, where necessary, any question as to his entitlement to compensation, and for the purpose of obtaining prompt payment of that compensation; and
- (g) enables any person who is aggrieved by any decision of the General Division or other court on any matter referred to in this subsection to appeal to the Appellate Division.

(6) In the case of compensation payable under subsection (1) in respect of the loss of ownership or enjoyment of a piece of land or a substantial portion thereof to—

- (a) an individual who is a citizen of or ordinarily resident in Zimbabwe Rhodesia, such individual shall not be prevented from remitting, within a reasonable time after he has received any amount of that compensation, the whole of that amount;
- (b) a company all or the majority by value of the shareholders in which, not being nominee shareholders, are at the date of such loss individuals who are citizens of or ordinarily resident in Zimbabwe Rhodesia, any such shareholder who is a citizen of or ordinarily resident in Zimbabwe Rhodesia shall not be prevented from remitting, within a reasonable time after the company has received any amount of that compensation, such portion of that amount as is paid to him by virtue of his shareholding in that company;

to any country of his choice outside Zimbabwe Rhodesia free from any deduction, tax or charge, other than ordinary bank charges, made or levied in respect of its remission.

(7) Nothing contained in or done under the authority of any law shall be held to be in contravention of subsection (6) to the extent that the law in question authorizes the attachment, by order of a court, of any amount of compensation to which a person is entitled to secure the jurisdiction of the court for the purpose of any civil proceedings or in satisfaction of the judgment of a court or pending the determination of civil proceedings to which he is a party.

(8) Nothing contained in or done under the authority of any law shall be held to be in contravention of subsection (1)—

- (a) to the extent that the law in question makes provision for the acquisition of any property or any interest or right therein in any of the following cases—
- (i) in satisfaction of any tax or rate;
  - (ii) by way of penalty for breach of any law, including any African customary law, whether under civil process or after conviction of an offence, or forfeiture in consequence of a breach of the law or in pursuance of any order referred to in paragraph (b) of subsection (1) of section *one hundred and twenty-one*;
  - (iii) upon the removal or attempted removal of the property in question out of or into Zimbabwe Rhodesia in contravention of any law;
  - (iv) as an incident of a contract, including a lease or mortgage, which has been agreed between the parties to the contract, or of a title deed to land fixed at the time of the grant or transfer thereof or at any other time with the consent of the owner of the land;
  - (v) in the execution of a judgment or order of a court in proceedings for the determination of civil rights or obligations;
  - (vi) by reason of the property in question being in a dangerous state or prejudicial to the health or safety of human, animal or vegetable life or having been constructed or grown on any land in contravention of any law relating to the occupation or use of that land;
  - (vii) in consequence of any law with respect to the limitation of actions, acquisitive prescription or derelict land;
  - (viii) as a condition in connexion with the granting of permission for the utilization of that or other property in any particular manner;
  - (ix) by way of the taking of a sample for the purposes of a law;
  - (x) where the property consists of an animal, upon its being found trespassing or straying;
  - (xi) for so long only as may be necessary for the purpose of any examination, investigation, trial or inquiry;
  - (xii) in the case of land, for so long only as may be necessary for the purpose of the carrying out thereon of—
    - A. work for the purpose of the conservation of natural resources of any description; or
    - B. agricultural development or improvement which the owner or occupier of the land has



been required, and has without reasonable or lawful excuse refused or failed, to carry out;

- (xiii) in consequence of any law requiring copies of any book or other publication published in Zimbabwe Rhodesia to be lodged with the National Archives or a public library;
- (xiv) for the purposes of, or in connexion with, the prospecting for or exploitation of minerals, mineral oils, natural gases, precious metals or precious stones which are vested in the President on terms which provide for the respective interests of the persons affected;
- (xv) for the purpose of, or in connexion with, the exploitation of underground water or public water which is vested in the President on terms which provide for the respective interests of the persons affected;

except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society; or

- (b) to the extent that the law in question makes provision for the acquisition of any property or any interest or right therein in any of the following cases—
  - (i) for the purpose of the administration, care or custody of any property of a deceased person or a person who is unable, by reason of any incapacity, to administer it himself, on behalf and for the benefit of the person entitled to the beneficial interest therein;
  - (ii) by way of the vesting or administration of any property belonging to or used by or on behalf of an enemy or an organization which is proscribed or declared by or in terms of a written law to be an unlawful organization;
  - (iii) by way of the administration of moneys payable or owing to a person outside Zimbabwe Rhodesia or to the government of a foreign country where restrictions have been placed by law on the transfer of such moneys outside Zimbabwe Rhodesia;
  - (iv) as an incident of—
    - A. a composition in insolvency accepted or agreed to by a majority in number of creditors who have proved claims and by a number of creditors whose proved claims represent in value more than fifty *per centum* of the total value of proved claims; or
    - B. a deed of assignment entered into by a debtor with his creditors;

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

(9) Nothing in this section shall affect the making or operation of any law in so far as it provides for—

- (a) the orderly marketing of any agricultural produce or mineral or any article or thing prepared for market or manufactured therefor in the common interests of the various persons otherwise entitled to dispose of that property or for the reasonable restriction of the use of any property in the interests of safeguarding the interests of others or the protection of lessees or other persons having rights in or over such property; or
- (b) the compulsory acquisition in the public interest of any property or any interest or right therein where that property, interest or right, as the case may be, is held by a body corporate established directly by law for public purposes in which no moneys are invested other than moneys provided from public funds.

(10) If in any proceedings it is alleged that anything contained in or done under the authority of any law is in contravention of subsection (1) and the court decides that, as a result of hearing the parties, the complainant has shown that the court should not accept that the provision of the law concerned is reasonably justifiable in a democratic society on such of the grounds mentioned in paragraph (a) of subsection (8) as are relied upon by the other party without proof to its satisfaction, it shall issue a rule *nisi* calling upon the responsible Minister to show cause why that provision should not be declared to be in contravention of subsection (1).

(11) For the purposes of this section—

“acquiring authority” means the person or authority intending compulsorily to take possession of or acquire the property or the interest or right therein or who has taken possession of or acquired the property or the interest or right therein, as the context may require;

“agricultural purposes” includes forestry, fruit-growing and animal husbandry, including the keeping of poultry, bees or fish;

“pensions benefits” means any pension, annuity, gratuity or other like allowance—

- (a) which is payable from the Consolidated Revenue Fund to any person; or
- (b) for any person in respect of his service with an employer or for any spouse, child or dependant of such person in respect of such service; or
- (c) for any person in respect of his ill-health or injury arising out of and in the course of his employment or for any spouse, child or dependant of such

person upon the death of such person from such ill-health or injury; or

- (d) for any person upon his retirement on account of age or ill-health or other termination of service;

“piece of land” means a piece of land registered as a separate entity in the Deeds Registry.

125. (1) Except with his own consent or by way of parental discipline, no person shall be subjected to the search of his person or his property or the entry by others on his premises. Protection from arbitrary search or entry.

(2) Nothing contained in or done under the authority of any law shall be held to be in contravention of subsection (1) to the extent that the law in question makes provision—

- (a) in the interests of defence, public safety, public order, public morality, public health or town and country planning; or
- (b) without derogation from the generality of the provisions of paragraph (a), for the enforcement of the law in circumstances where there are reasonable grounds for believing that the search or entry is necessary for the prevention, investigation or detection of a criminal offence, for the seizure of any property which is the subject-matter of a criminal offence or evidence relating to a criminal offence, for the lawful arrest of a person or for the enforcement of any tax, rate, duty or due; or
- (c) for the purposes of a law which provides for the taking of possession of any property or the acquisition of any property or interest or right therein and which is not in contravention of the provisions of section *one hundred and twenty-four*; or
- (d) for the purpose of protecting the rights or freedoms of other persons; or
- (e) that authorizes any local authority or any body corporate established directly by or under any law of the Legislature for a public purpose to enter on the premises of any person in order to inspect those premises or anything thereon for the purpose of any tax, rate, duty or due or in order to carry out work connected with any property of that authority or body which is lawfully on those premises; or
- (f) that authorizes, for the purpose of enforcing the judgment or order of a court in any civil proceedings, the search of any person or property by order of a court or the entry upon any premises by such order;

except so far as that provision or, as the case may be, anything done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(3) A law referred to in subsection (2) which makes provision for the searching or examination of the body of any woman

shall require that such search or examination, unless made by a medical practitioner, shall only be made by a woman and shall be conducted with strict regard to decency.

(4) If in any proceedings it is alleged that anything contained in or done under the authority of any law is in contravention of subsection (1) and the court decides, as a result of hearing the parties, that the complainant has shown that the court should not accept that the provision of the law concerned is reasonably justifiable in a democratic society on such of the grounds mentioned in subsection (2) as are relied upon by the other party without proof to its satisfaction, it shall issue a rule *nisi* calling upon the responsible Minister to show cause why that provision should not be declared to be in contravention of subsection (1).

Provisions to secure  
protection of law.

126. (1) Every person is entitled to the protection of the law.

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

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

- (a) shall be presumed to be innocent until he is proved or has pleaded guilty;
- (b) shall be informed as soon as reasonably practicable, in a language which he understands and in detail, of the nature of the offence charged;
- (c) shall be given adequate time and facilities for the preparation of his defence;
- (d) shall be permitted to defend himself in person or, save in proceedings before a local court, at his own expense by a legal representative of his own choice;
- (e) shall be afforded facilities to examine in person or, save in proceedings before a local court, by his legal representative the witnesses called by the prosecution before any court and to obtain the attendance and carry out the examination of witnesses to testify on his behalf before that court on the same conditions as those applying to witnesses called by the prosecution;
- (f) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the charge;

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

(4) When a person is tried for any criminal offence the accused person or any person authorized by him in that behalf shall, if he so requires and subject to payment of such reasonable fee as may be prescribed by law, be given within a reasonable time

after judgment a copy for the use of the accused person of any record of the proceedings made by or on behalf of the court.

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

(6) Subject to the provisions of paragraph (d) of subsection (13), no person who shows that he has been tried by a competent court for a criminal offence upon a good indictment, summons or charge upon which a valid judgment could be entered, and either convicted or acquitted, shall again be tried for that offence or for any other criminal offence of which he could have been convicted at the trial for that offence, save—

- (a) where a conviction and sentence of the General Division or of a court subordinate to the General Division are set aside on appeal or review on the ground that evidence was admitted which should not have been admitted or that evidence was rejected which should have been admitted or on the ground of any other irregularity or defect in the procedure; or
- (b) otherwise upon the order of the High Court in the course of appeal or review proceedings relating to the conviction or acquittal.

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

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

(9) Every person is entitled to be afforded a fair hearing within a reasonable time by an independent and impartial court or other adjudicating authority established by law in the determination of the existence or extent of his civil rights or obligations.

(10) Except in the case of a trial such as is referred to in subsection (14) or with the agreement of all the parties thereto and subject to the provisions of subsection (11), all proceedings of every court and proceedings for the determination of the existence or extent of any civil right or obligation before any other adjudicating authority, including the announcement of the decision of the court or other authority, shall be held in public.

(11) Nothing in subsection (10) shall prevent—

- (a) the court or other adjudicating authority from excluding from the proceedings, except the announcement of the decision of the court or other authority, persons other than the parties thereto and their legal representatives to such extent as the court or other authority—

- (i) may by law be empowered so to do and may consider necessary or expedient in circumstances where publicity would prejudice the interests of

justice, or in interlocutory proceedings, or in the interests of public morality, the welfare of persons under the age of twenty-one years or the protection of the private lives of persons concerned in the proceedings; or

(ii) may by law be empowered or required so to do in the interests of defence, public safety, public order or the economic interests of the State;

or

(b) the court from excluding from proceedings preliminary to trial in respect of a criminal offence persons other than the accused person and his legal representative when so required by law, unless the accused person otherwise requests.

(12) Notwithstanding anything contained in subsection (4), (10) or (11), if in any proceedings before a court or other adjudicating authority such as is referred to in subsection (2) or (9), including any proceedings by virtue of section *one hundred and thirty-four*, a certificate in writing is produced to the court or other authority signed by a Minister that it would not be in the public interest for any matter to be publicly disclosed, the court or other authority shall make arrangements for evidence relating to that matter to be heard *in camera* and shall take such other action as may be necessary or expedient to prevent the disclosure of that matter.

(13) Nothing contained in any law shall be held to be in contravention of—

(a) subsection (2), paragraph (e) of subsection (3) or subsection (9), to the extent that the law in question makes reasonable provision relating to the grounds of privilege or public policy on which evidence shall not be disclosed or witnesses are not competent or cannot be compelled to give evidence in any proceedings; or

(b) paragraph (a) of subsection (3), to the extent that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts; or

(c) paragraph (e) of subsection (3), to the extent that the law in question imposes reasonable conditions which must be satisfied if witnesses called to testify on behalf of an accused person are to be paid their expenses out of public funds; or

(d) subsection (6), to the extent that the law in question authorizes a court to try a member of a disciplined force for a criminal offence, notwithstanding any trial and conviction or acquittal of that member under the appropriate disciplinary law, so, however, that any court so trying such a member and convicting him shall, in sentencing him to any punishment, take into account any punishment awarded him under that disciplinary law; or

(e) subsection (8), to the extent that the law in question authorizes a court, where the person who is being tried refuses without just cause to answer any question put to him, to draw such inferences from that refusal as are proper and to treat that refusal, on the basis of such inferences, as evidence corroborating any other evidence given against that person.

(14) In the case of any person who is held in lawful detention, the provisions of subsection (2) shall not apply in relation to his trial for a criminal offence under the law regulating the discipline of persons held in such detention, save that the case of such person shall be afforded a fair hearing within a reasonable time, and the person or authority conducting the trial shall be regarded as a court for the purposes of this section.

(15) For the purposes of this section, a local court shall not be regarded as not being an independent and impartial court by reason of—

- (a) the fact that a member of the court has an interest in the proceedings because of his position in the tribal society; or
- (b) the traditional or customary tribal practices and procedures.

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

Protection of  
freedom of  
conscience.

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

(3) No religious community shall be prevented from making provision for the giving by persons lawfully in Zimbabwe Rhodesia of religious instruction to persons of that community in the course of any education provided by that community, whether or not that community is in receipt of any government subsidy, grant or other form of financial assistance from the State.

(4) No person shall be compelled to take any oath that is contrary to his religion or belief or to take any oath in a manner that is contrary to his religion or belief.

(5) Nothing contained in or done under the authority of any law shall be held to be in contravention of subsection (1) or (3) to the extent that the law in question makes provision—

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

- (b) for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practise any religion or belief without the unsolicited intervention of persons professing any other religion or belief; or
- (c) with respect to standards or qualifications to be required in relation to places of education, including any instruction, not being religious instruction, given at such places;

except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(6) If in any proceedings it is alleged that anything contained in or done under the authority of any law is in contravention of this section and the court decides, as a result of hearing the parties, that the complainant has shown that the court should not accept that the provision of the law concerned is reasonably justifiable in a democratic society on such of the grounds mentioned in subsection (5) as are relied upon by the other party without proof to its satisfaction, it shall issue a rule *nisi* calling upon the responsible Minister to show cause why that provision should not be declared to be in contravention of this section.

(7) References in this section to a religion shall be construed as including references to a religious denomination and cognate expressions shall be construed accordingly.

Protection of  
freedom of  
expression.

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

(2) Nothing contained in or done under the authority of any law shall be held to be in contravention of subsection (1) to the extent that the law in question makes provision—

- (a) in the interests of defence, public safety, public order, the economic interests of the State, public morality or public health; or
- (b) for the purpose of—
  - (i) protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings; or
  - (ii) preventing the disclosure of information received in confidence; or
  - (iii) maintaining the authority and independence of the courts or tribunals, the Senate or the House of Assembly; or
  - (iv) regulating the technical administration, technical operation or general efficiency of telephony, telegraphy, posts, wireless broadcasting or television or creating or regulating any monopoly in these fields; or



(v) in the case of correspondence, preventing the unlawful dispatch therewith of other matter;

or

(c) for the imposition of restrictions upon public officers;

except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(3) No religious denomination and no person or group of persons shall be prevented from establishing and maintaining schools, whether or not that denomination, person or group is in receipt of any subsidy, grant or other form of financial assistance from the State.

(4) Nothing contained in or done under the authority of any law shall be held to be in contravention of subsection (3) to the extent that the law in question makes provision—

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

(b) for regulating such schools in the interests of persons receiving instruction therein;

except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(5) No person shall be prevented from sending to any school a child of whom that person is parent or guardian by reason only that the school is not a school established or maintained by the State.

(6) If in any proceedings it is alleged that anything contained in or done under the authority of any law is in contravention of subsection (1) or (3) and the court decides, as a result of hearing the parties, that the complainant has shown that the court should not accept that the provision of the law concerned is reasonably justifiable in a democratic society on such of the grounds mentioned in subsection (2) or (4), as the case may be, as are relied upon by the other party without proof to its satisfaction, it shall issue a rule *nisi* calling upon the responsible Minister to show cause why that provision should not be declared to be in contravention of subsection (1) or (3), as the case may be.

(7) The provisions of subsection (1) shall not be held to confer on a person a right to exercise his freedom of expression in or on any road, street, lane, path, pavement, side-walk, thoroughfare or similar place which exists for the free passage of persons or vehicles.

(8) In subsection (5)—

“child” includes a stepchild and a lawfully adopted child and “parent” shall be construed accordingly.

Protection of  
freedom of assembly  
and association.

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

(2) The freedom referred to in subsection (1) shall include the right not to be compelled to belong to an association.

(3) Nothing contained in or done under the authority of any law shall be held to be in contravention of subsection (1) to the extent that the law in question makes provision—

- (a) in the interests of defence, public safety, public order, public morality or public health; or
- (b) for the purpose of protecting the rights or freedoms of other persons; or
- (c) for the imposition of restrictions upon public officers;

except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(4) Without prejudice to the generality of subsection (3), nothing contained in or done under the authority of any law shall be held to be in contravention of subsection (1) to the extent that the law in question makes provision for the registration of companies, partnerships, societies or other associations of persons, other than political parties, trade unions or employers' organizations, except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(5) If in any proceedings it is alleged that anything contained in or done under the authority of any law is in contravention of subsection (1) and the court decides, as a result of hearing the parties, that the complainant has shown that the court should not accept that the provision of the law concerned is reasonably justifiable in a democratic society on such of the grounds mentioned in subsection (3) or (4) as are relied upon by the other party without proof to its satisfaction, it shall issue a rule *nisi* calling upon the responsible Minister to show cause why that provision should not be declared to be in contravention of subsection (1).

(6) The provisions of subsection (1) shall not be held to confer on any person a right to exercise his freedom of assembly or association in or on any road, street, lane, path, pavement, sidewalk, thoroughfare or similar place which exists for the free passage of persons or vehicles.

Protection of  
freedom of  
movement.

130. (1) No person shall be deprived of his freedom of movement, that is to say, the right to move freely throughout Zimbabwe Rhodesia, the right to reside in any part of Zimbabwe

Rhodesia, the right to enter Zimbabwe Rhodesia, the right to leave Zimbabwe Rhodesia and immunity from expulsion from Zimbabwe Rhodesia.

(2) Any restriction on a person's freedom of movement that is involved in his lawful detention shall not be held to be in contravention of subsection (1).

(3) Nothing contained in or done under the authority of any law shall be held to be in contravention of subsection (1) to the extent that the law in question makes provision—

- (a) for the imposition of restrictions on the freedom of movement of persons generally or any class of persons that are required in the interests of defence, public safety, public order, public morality or public health; or
- (b) for the imposition of restrictions on the acquisition or use of land or other property in Zimbabwe Rhodesia; or
- (c) for the imposition of restrictions, by order of a court, on the movement or residence within Zimbabwe Rhodesia of any person or on any person's right to leave Zimbabwe Rhodesia—
  - (i) in consequence of his having been found guilty of a criminal offence under the law of Zimbabwe Rhodesia or for the purpose of ensuring that he appears before a court for trial for such a criminal offence or for proceedings preliminary to trial; or
  - (ii) for proceedings relating to his extradition or lawful removal from Zimbabwe Rhodesia; or
  - (iii) for the purpose of ensuring that he appears before a court as a witness for the purposes of any criminal proceedings;or
- (d) for the imposition of restrictions on the movement or residence within Rhodesia of persons who are neither citizens of Zimbabwe Rhodesia nor regarded by virtue of a written law as permanently resident in Zimbabwe Rhodesia or for excluding or expelling from Zimbabwe Rhodesia any person who is not a citizen of Zimbabwe Rhodesia; or
- (e) for the imposition of restrictions by order of a court on the right of any person to leave Zimbabwe Rhodesia that are required for the purpose of ensuring that he appears before a court or other adjudicating authority as a party or a witness or to secure the jurisdiction of the court or other adjudicating authority for the purpose of any civil proceedings; or
- (f) for the imposition of restrictions on the residence within Tribal Trust Land of persons who are not tribespeople

to the extent that such restrictions are reasonably required for the protection of the interests of tribes-people or their well-being;

except, in the case of any provision referred to in paragraphs (a) to (e), in so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(4) The provisions of paragraph (a) of subsection (3) shall not be construed as authorizing a law to make provision for preventing any person from leaving Zimbabwe Rhodesia or excluding or expelling from Zimbabwe Rhodesia any person who is a citizen of Zimbabwe Rhodesia.

(5) If in any proceedings it is alleged that anything contained in or done under the authority of any law is in contravention of subsection (1) and the court decides, as a result of hearing the parties, that the complainant has shown that the court should not accept that the provision of the law concerned is reasonably justifiable in a democratic society on such of the grounds mentioned in subsection (3) as are relied upon by the other party without proof to its satisfaction, it shall issue a rule *nisi* calling upon the responsible Minister to show cause why that provision should not be declared to be in contravention of subsection (1).

**Protection from  
discrimination.**

**131.** (1) Subject to the provisions of this section—

- (a) no written law shall contain any provision that is discriminatory;
- (b) no person acting by virtue of any written law in the capacity of a public officer or officer of any public authority shall perform any executive or administrative act in a discriminatory manner.

(2) For the purposes of subsection (1), a provision of a written law shall be regarded as discriminatory and an executive or administrative act shall be regarded as having been performed in a discriminatory manner only if by or as an inevitable consequence of that provision or that act, as the case may be, persons of a particular description by race, tribe, place of origin, political opinions, colour or creed are prejudiced—

- (a) by being subjected to a condition, restriction or disability to which persons of another such description are not made subject; or
- (b) by the according to persons of another such description of a privilege or advantage which is not accorded to persons of the first-mentioned description;

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

(3) Nothing contained in any written law shall be held to be in contravention of paragraph (a) of subsection (1) to the extent that the law in question relates to any of the following matters—

- (a) adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law;
- (b) the application of African customary law in any case involving Africans or an African and one or more persons who are not Africans where such persons have consented to the application of African customary law in that case;
- (c) restrictions on entry into or employment in Zimbabwe Rhodesia or on the enjoyment of services provided out of public funds in the case of persons who are neither citizens of Zimbabwe Rhodesia nor regarded, by virtue of a written law, as permanently resident in Zimbabwe Rhodesia;
- (d) qualifications, not being qualifications specifically relating to race, tribe, place of origin, political opinions, colour or creed, for service as a public officer or as a member of a disciplined force or for service with any public authority or any body corporate established directly by or under a law of the Legislature for a public purpose;
- (e) the appropriation of public revenues or other public funds;
- (f) the according to tribespeople to the exclusion of other persons of rights or privileges relating to Tribal Trust Land.

(4) The provisions of paragraph (b) of subsection (1) shall not apply to—

- (a) anything that is expressly or by necessary implication authorized to be done by any provision of a law that is referred to in subsection (3); or
- (b) the exercise of any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court vested in any person by or under this Constitution or any other law.

**132.** (1) Nothing contained in any law shall be held to be in contravention of any of the following provisions of the Declaration of Rights, that is to say, section *one hundred and twenty-one* or *one hundred and twenty-five*, subsection (2) of section *one hundred and twenty-six*, save in so far as that subsection requires that a person charged with a criminal offence shall be afforded a fair hearing within a reasonable time, or section *one hundred and twenty-seven*, *one hundred and twenty-eight*, *one hundred and twenty-nine*, *one hundred and thirty* or *one hundred and thirty-one* to the extent that the law in question makes provision with respect to the taking, during any period of public emergency, of action

**Savings for periods of public emergency.**

for the purpose of dealing with any situation arising during that period, and nothing done by any person under the authority of any such law shall be held to be in contravention of any of the said provisions unless it is shown that the action taken exceeded anything which, having due regard to the circumstances prevailing at the time, could reasonably have been thought to be required for the purpose of dealing with the situation in question.

(2) Where a person is lawfully detained by virtue of a provision such as is referred to in subsection (1)—

- (a) he shall be informed as soon as reasonably practicable in a language that he understands of the cause of his detention and shall be permitted at his own expense to obtain and instruct without delay a legal representative of his own choice and to hold communication with him; and
- (b) his case shall be reviewed by a tribunal established in accordance with the provisions of subsection (7) of section *one hundred and twenty-one* not later than thirty days after the commencement of the detention and thereafter at intervals of not more than one hundred and eighty days from the date on which his case was last reviewed by that tribunal; and
- (c) at the hearing of his case by the tribunal he shall be permitted to appear in person or at his own expense by a legal representative of his own choice.

(3) On any review by a tribunal in pursuance of the provisions of subsection (2) of the case of any person, the tribunal may make recommendations concerning the necessity or expedience of continuing the detention to the authority by whom it was ordered and that authority shall be obliged to act in accordance with any recommendation of that tribunal unless the President otherwise directs.

(4) Where the President has directed that the authority referred to in subsection (3) shall not act in accordance with any recommendation of the tribunal referred to in that subsection, that authority shall cause to be published in the *Gazette* a notice that the President has so directed.

(5) The reference in paragraph (b) of subsection (2) to a period of thirty days includes a reference to any lesser periods that amount in the aggregate to thirty days:

Provided that no two such lesser periods shall be aggregated for this purpose if the period between the expiration of the first and the commencement of the second is more than thirty days.

Other special savings.

**133.** (1) Subject to the provisions of subsection (2), nothing contained in or done under the authority of any written law shall be held to be in contravention of the Declaration of Rights to the extent that the law in question—

- (a) is a law with respect to which the requirements of sections *one hundred and fifty-seven* and *one hundred and fifty-eight* were applicable and were complied with; or
- (b) is a law (hereinafter in this section referred to as an existing law) that has had effect as part of the law of Rhodesia before the fixed date and has continued to have effect as part of the law of Zimbabwe Rhodesia since that date; or
- (c) repeals and re-enacts an existing law without alteration; or
- (d) alters an existing law and does not thereby render that law in contravention of any provision of the Declaration of Rights in a manner in which or to an extent to which it did not previously contravene the Declaration of Rights.

(2) The provisions of paragraphs (b), (c) and (d) of subsection (1)—

- (a) shall not apply in respect of any law relating to the compulsory acquisition of property of any description or of any interest or right therein; and
- (b) shall cease to apply after the expiration of a period of ten years beginning on the fixed date

(3) For the purposes of this section, the reference—

- (a) in paragraph (d) of subsection (1) to altering an existing law includes references to repealing it and re-enacting it with modifications or making different provisions in lieu thereof and to modifying it;
- (b) in subsection (1) to a written law includes any instrument having the force of law;

and the reference to re-enacting an existing law shall be construed accordingly.

(4) In relation to any person who is a member of a disciplined force of Zimbabwe Rhodesia or who is otherwise subject to a disciplinary law, nothing contained in or done under the authority of the appropriate disciplinary law shall be held to be in contravention of the Declaration of Rights, other than sections *one hundred and twenty-two* and *one hundred and twenty-three*.

(5) In relation to any person who is a member of a disciplined force that is not a disciplined force of Zimbabwe Rhodesia and who is present in Zimbabwe Rhodesia in pursuance of arrangements made between the Government and a foreign government or an international organization, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be in contravention of the Declaration of Rights.

(6) No measures taken in relation to a person who is a member of a disciplined force of a country with which Zimbabwe Rhodesia is at war or with which a state of hostilities exists and no law, to the extent that it authorizes the taking of any such measures, shall be held to be in contravention of the Declaration of Rights.

Enforcement of protective provisions of Declaration of Rights.

**134.** (1) Subject to the provisions of subsection (8), if any person alleges that the Declaration of Rights has been or is being contravened in relation to him, then, without prejudice to any other action with respect to the same matter which is lawfully available, that person may, subject to the provisions of subsection (3), apply to the Appellate Division for redress.

(2) If in any proceedings in the General Division or in any court subordinate to the General Division any question arises as to the contravention of the Declaration of Rights, the person presiding in that court may, and if so requested by any party to the proceedings shall, refer the question to the Appellate Division so, however, that he shall not be required to comply with any such request which, in his opinion, is merely frivolous or vexatious.

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

(4) The Appellate Division shall have original jurisdiction—

- (a) to hear and determine any application made by any person in pursuance of the provisions of subsection (1) or to determine without a hearing any such application which, in its opinion, is merely frivolous or vexatious;
- (b) to determine any question arising in the case of any person which is referred to it in pursuance of the provisions of subsection (2);

and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of the Declaration of Rights:

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

(5) If in any proceedings in any court it falls to be determined whether any law is in contravention of the Declaration of Rights, the Attorney-General shall be entitled to be heard by the court on that question and if in any such proceedings any law is determined by the court to be in contravention of the Declaration of Rights, then, whether or not he has exercised his right to be heard in those proceedings, the Attorney-General shall have the like right with respect to an appeal from that determination as if he had been a party to the proceedings.



(6) Where any provision of any law is held by a competent court to be in contravention of the Declaration of Rights, any person detained in custody under that provision shall be entitled as of right to make an application to the Appellate Division for the purpose of questioning the validity of his further detention, notwithstanding that he may have previously appealed against his conviction or sentence or that any time prescribed for the lodging of such an appeal may have expired.

(7) A written law may confer upon the Appellate Division such powers, in addition to those conferred by this section, as may appear to be necessary or desirable for the purpose of enabling the Appellate Division more effectively to exercise the jurisdiction conferred upon it by this section.

(8) A written law may make provision with respect to the practice and procedure—

- (a) of the Appellate Division in relation to the jurisdiction and powers conferred upon it by or under this section;
- (b) of subordinate courts in relation to references to the Appellate Division under subsection (2);

including provision with respect to the time within which any application or reference shall or may be made or brought.

**135.** No court shall declare any provision of an Act enacted or statutory instrument made before the fixed date to be *ultra vires* on the grounds that that provision is inconsistent with or in contravention of the provisions of the Declaration of Rights set out in Chapter VI of the Constitution of Southern Rhodesia, 1961, or Chapter VII of the Constitution of Rhodesia, 1965, as the case may be.

Validity of existing laws.

**136.** In this Chapter—

Interpretation of terms in Chapter VIII.

“court” means any court of law in Zimbabwe Rhodesia, including a tribal court but not including a court established under a disciplinary law;

“democratic society” means a society which has a proper respect for the rights and freedoms of the individual;

“law” means—

- (a) any provision of an Act of the Legislature or of a former legislature and any statute included in the Revised Edition of the Laws prepared under the authority of the Revised Edition of the Laws Act, 1973, which is in force in Zimbabwe Rhodesia;
- (b) any provision of an instrument having the force of law made in terms of an Act or statute referred to in paragraph (a);

- (c) any unwritten law in force in Zimbabwe Rhodesia other than African customary law; and "lawful" and "lawfully" shall be construed accordingly;

"legal representative", in relation to—

- (a) proceedings before a court, means a person entitled to practise as an advocate or, except in relation to proceedings before a court in which an attorney has no right of audience, as an attorney;

- (b) any matter not referred to in paragraph (a), means a person entitled to practise as an advocate or attorney;

and who is lawfully in Zimbabwe Rhodesia;

"local court" means any court constituted by or under a written law for the purposes of applying African customary law;

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

"period of public emergency" means—

- (a) any period during which Zimbabwe Rhodesia is engaged in any war and the period immediately following thereon until such date as may be declared by the President by proclamation in the *Gazette* as the end of the period of public emergency caused by that war; or

- (b) any period during which there is in force a declaration in terms of section *seventy-five*.

## CHAPTER IX

### CITIZENSHIP

Persons who continue as citizens of Zimbabwe Rhodesia.

**137.** A person who, immediately before the fixed date, was or was deemed to be a citizen of Rhodesia by birth, descent or registration shall, on and after that date, continue to be a citizen of Zimbabwe Rhodesia by birth, descent or registration, as the case may be.

Citizenship by birth.

**138.** (1) A person born in Zimbabwe Rhodesia on or after the fixed date shall be a citizen of Zimbabwe Rhodesia by birth unless—

- (a) at the time of his birth, his father—
- (i) possesses such immunity from suit and legal proceedings as is accorded to an envoy of a foreign country accredited to Zimbabwe Rhodesia; and

(ii) is not a citizen of Zimbabwe Rhodesia;

or

(b) at the time of his birth—

(i) his father is an enemy alien; and

(ii) his mother is interned in a place set aside for the internment of enemy aliens or the place of the birth of the person is under occupation by the enemy;

or

(c) at the time of his birth, his father or, in the case of an illegitimate child, his mother is residing in Zimbabwe Rhodesia in contravention of the provisions of any law:

Provided that, if subsequent to his birth his father or mother, as the case may be, is accepted for permanent residence in Zimbabwe Rhodesia under any law in force in Zimbabwe Rhodesia, he shall be a citizen of Zimbabwe Rhodesia by birth; or

(d) at the time of his birth, his father or, in the case of an illegitimate child, his mother is—

(i) not a citizen of Zimbabwe Rhodesia; and

(ii) not ordinarily resident in Zimbabwe Rhodesia.

(2) A person born outside Zimbabwe Rhodesia on or after the fixed date shall be a citizen of Zimbabwe Rhodesia by birth if—

(a) his father or, in the case of an illegitimate child, his mother is at the time of his birth—

(i) a citizen of Zimbabwe Rhodesia and resident outside Zimbabwe Rhodesia by reason of the service of his father or his mother, as the case may be, under the Government; or

(ii) lawfully ordinarily resident in Zimbabwe Rhodesia;

and

(b) his birth is registered in terms of the law relating to the registration of births.

139. Save as is otherwise provided by subsection (2) of section *one hundred and thirty-eight*, a person born outside Zimbabwe Rhodesia on or after the fixed date shall be a citizen of Zimbabwe Rhodesia by descent if—

(a) his father or, in the case of an illegitimate child, his mother is at the time of his birth a citizen of Zimbabwe Rhodesia otherwise than by descent; and

- (b) his birth is registered in terms of the law relating to the registration of births.

Citizenship by registration.

140. (1) Any person who, immediately before the fixed date, possessed such qualifications prescribed by the law then in force relating to citizenship as would have entitled the Minister as defined in that law, upon application duly made and subject to the applicant satisfying the Minister as to certain matters, to authorize his registration as a citizen of Rhodesia shall be entitled—

- (a) upon making application at any time during the period of five years from the fixed date in such manner as may be prescribed by or under a law of the Legislature; and
- (b) after satisfying the appropriate Minister as to those matters;

to be registered as a citizen of Zimbabwe Rhodesia.

(2) Any woman who—

(a) is, on the fixed date, married to a person who—

- (i) is, on the fixed date, a citizen of Zimbabwe Rhodesia by virtue of the provisions of section *one hundred and thirty-seven*; or
- (ii) after the fixed date, becomes a citizen of Zimbabwe Rhodesia while the marriage still subsists;

or

(b) prior to the fixed date, was married to a person who—

- (i) is, on the fixed date, a citizen of Zimbabwe Rhodesia by virtue of the provisions of section *one hundred and thirty-seven*; or
- (ii) having died before the fixed date, would, but for his death, have been a citizen of Zimbabwe Rhodesia by virtue of the provisions of section *one hundred and thirty-seven*;

or

(c) on or after the fixed date, marries a person who is a citizen of Zimbabwe Rhodesia or who becomes a citizen of Zimbabwe Rhodesia while the marriage still subsists;

shall be entitled, upon making application in such manner as may be prescribed by or under a law of the Legislature, to be registered as a citizen of Zimbabwe Rhodesia.

(3) Any person, one of whose parents is a citizen of Zimbabwe Rhodesia at the date of his application, shall be entitled, upon making application in such manner as may be prescribed by or under a law of the Legislature, to be registered as a citizen of Zimbabwe Rhodesia:

Provided that, if the person is not of full age and capacity, the application shall be made on his behalf by his responsible parent or by his guardian or other lawful representative.

(4) A person adopted on or after the fixed date by order made in terms of the law relating to the adoption of children who was not, at the date of the order, a citizen of Zimbabwe Rhodesia shall become a citizen of Zimbabwe Rhodesia on the date of the order if the adopter or, in the case of a joint adoption, the male adopter was, at the date of the order, a citizen of Zimbabwe Rhodesia, and such adopted person shall be regarded as a citizen of Zimbabwe Rhodesia by registration.

(5) The registration as a citizen of Zimbabwe Rhodesia of a person referred to in subsection (1), (2) or (3) who is of full age shall not be authorized unless and until the person has taken the oath of loyalty in the form specified in the First Schedule, and such person shall be registered and become a citizen of Zimbabwe Rhodesia by registration on the date he takes the oath of loyalty.

(6) A person referred to in subsection (1) who has not been registered as a citizen of Zimbabwe Rhodesia shall, for the period referred to in that subsection, enjoy the same rights and privileges, other than those which relate to the acquisition of citizenship or which relate to qualifications for a vote or for election or appointment to the Senate or the House of Assembly, as a citizen of Zimbabwe Rhodesia.

(7) In subsection (3)—

“responsible parent”, in relation to a child, means—

- (a) if the father is dead or the mother has been given custody of the child by order of a court or has custody of the child by virtue of the provisions of a law relating to the guardianship of children or the child is illegitimate, the mother of the child; and
- (b) in any other case, the father of the child.

**141.** (1) A person who, on the fixed date, is a citizen of Zimbabwe Rhodesia or entitled to be registered as such and also a citizen of a foreign country or entitled to be registered as such shall not, on and after that date, solely on the ground that he is or becomes a citizen of that foreign country, be—

- (a) deprived of his citizenship of Zimbabwe Rhodesia; or
- (b) refused registration as a citizen of Zimbabwe Rhodesia; or
- (c) required to renounce his citizenship of that foreign country;

by or in terms of any law:

Provided that a person referred to in this subsection may be required to take the oath of loyalty in the form specified in the First Schedule.

- (2) A person referred to in subsection (1) shall not—
- (a) be refused a passport of Zimbabwe Rhodesia or have such a passport withdrawn, cancelled or impounded solely on the ground that he is in possession of a passport issued by a foreign country of which he is a citizen; or
  - (b) be required to surrender or be prohibited from acquiring a passport issued by a foreign country of which he is a citizen before being issued with a passport of Zimbabwe Rhodesia or as a condition of retaining such a passport.

Powers of Parliament in relation to citizenship.

**142.** A law may make provision for—

- (a) the acquisition of citizenship of Zimbabwe Rhodesia by persons who are not eligible or who are no longer eligible to become citizens of Zimbabwe Rhodesia under the provisions of this Chapter;
- (b) subject to the provisions of section *one hundred and forty-one*—
  - (i) the circumstances in which a person who is a citizen of Zimbabwe Rhodesia, other than a citizen by birth, and who becomes a citizen of a foreign country or a person who is a citizen of a foreign country and who becomes a citizen of Zimbabwe Rhodesia shall cease to be a citizen of Zimbabwe Rhodesia;
  - (ii) depriving any person, other than a person referred to in section *one hundred and thirty-seven, one hundred and thirty-eight or one hundred and thirty-nine*, of his citizenship of Zimbabwe Rhodesia;
- (c) the renunciation by any person of his citizenship of Zimbabwe Rhodesia;

Interpretation in Chapter IX.

**143.** (1) In this Chapter—

- “appropriate Minister” means the Minister for the time being responsible for citizenship;
- “child” means a legitimate child and “father” shall be construed accordingly.

(2) For the purposes of this Chapter—

- (a) a person born aboard a registered ship or aircraft shall be deemed to have been born in the place at which the ship or aircraft was registered;
- (b) a person born aboard an unregistered ship or aircraft of the government of any country shall be deemed to have been born in the country to which the ship or aircraft belonged at the date of his birth;
- (c) a person shall be regarded as—

- (i) of full age if he has attained the age of majority or if, being under that age, he is or has been married; and
- (ii) of full capacity if he is not of unsound mind;
- (d) a person shall be deemed not to have attained a specified age until the commencement of the relevant anniversary of the date of his birth.

## CHAPTER X

### OMBUDSMAN

144. (1) There is hereby established the office of Ombudsman which shall be a public office but shall not form part of the Public Service. Office of Ombudsman.

(2) The President, acting on the advice of the Judicial Service Commission, shall, subject to the provisions of subsection (3), appoint the Ombudsman on such terms as the President, on the advice of the Judicial Service Commission, may fix.

(3) A person shall not be qualified to be appointed as Ombudsman if he is a member or has, within the period of five years of the date of the proposed appointment, been a member or been nominated for election as a member of the Senate or the House of Assembly or any local authority.

(4) The Ombudsman shall not—

- (a) perform the functions of any other public office; or
- (b) without the approval of the Prime Minister in each particular case, hold any other paid office or engage in any occupation for reward outside the duties of his office.

(5) The Ombudsman shall vacate his office—

- (a) at the expiration of four years from the date of his appointment; or
- (b) if any circumstances arise that, if he were not the holder of that office, would cause him to be disqualified for appointment thereto.

(6) The provisions of subsections (5) to (10) of section *one hundred and eight* shall apply in respect of the removal from office of the Ombudsman as they apply in respect of the removal from office of a commissioner as defined in that section.

145. (1) The Ombudsman may from time to time appoint such other staff as he, on the advice of the Public Service Commission, considers to be necessary for the proper performance of his functions. Staff of Ombudsman.

(2) The staff of the Ombudsman shall be appointed on terms of service fixed by the Ombudsman on the advice of the Public Service Commission and shall be deemed to be public officers but shall not form part of the Public Service.

Payment of salaries and allowances of Ombudsman and his staff.

146. (1) There shall be charged upon and paid out of the Consolidated Revenue Fund such salaries and allowances as may from time to time be fixed in terms of section *one hundred and forty-four* for the Ombudsman and section *one hundred and forty-five* for his staff.

(2) The salary payable to the Ombudsman shall not be reduced during his continuance in office.

Investigations by Ombudsman.

147. (1) Subject to the provisions of this section, the Ombudsman may investigate any action taken by any officer or authority referred to in subsection (2) in the exercise of the administrative functions of that officer or authority in any case where—

- (a) a complaint is made to him alleging that a person has suffered injustice in consequence of that action; or
- (b) he is invited by any Minister or Deputy Minister or any member of the Senate or the House of Assembly to investigate a complaint such as is referred to in paragraph (a); or
- (c) of his own motion, he considers it desirable to do so.

(2) The provisions of subsection (1) shall apply in respect of any action of the following officers and authorities—

- (a) any Ministry or department of the State or any member of such Ministry or department;
- (b) the Prison Service or any member thereof;
- (c) any other force or service maintained and controlled by the State, other than the Defence Forces or Police Force as defined in subsection (1) of section *one hundred and thirteen*, or any member of such force or service;
- (d) any local authority or any officer or employee thereof;
- (e) any authority empowered to determine the person with whom any contract or class of contracts is to be entered into by or on behalf of the State or by or on behalf of any person or authority referred to in paragraph (a), (b), (c) or (d);
- (f) such other persons or authorities as may be prescribed for the purposes of this paragraph by or under a law of the Legislature.

(3) The Ombudsman shall not investigate the activities of the following—

- (a) the President or his personal staff;
- (b) any commission established by or under this Constitution or the staff of any such commission;
- (c) the Attorney-General in connexion with his functions in relation to prosecutions or any officer acting in that regard in accordance with his instructions;



- (d) any person or authority in so far as they relate to the exercise by that officer or authority of a power—
  - (i) to make appointments in a Ministry, department, force or service referred to in paragraphs (a) to (d) of subsection (2); or
  - (ii) to exercise disciplinary control over persons in or to remove persons from a Ministry, department, force or service referred to in paragraphs (a) to (d) of subsection (2).

(4) The Ombudsman shall not investigate any complaint—

- (a) if the person aggrieved has or had—
  - (i) a right of appeal, reference or review to or before a tribunal or other adjudicating authority; or
  - (ii) any remedy by way of proceedings in a court of law;

unless the Ombudsman is satisfied that the person aggrieved cannot reasonably be expected to have availed himself of his right or remedy:

Provided that nothing in this paragraph shall preclude the Ombudsman from conducting any investigation as to whether the action in respect of which the complaint is made is in contravention of the Declaration of Rights; or

- (b) if—
  - (i) the person aggrieved is not resident in Zimbabwe Rhodesia or, where he has died, was not so resident at the time of his death; and
  - (ii) the complaint does not relate to any action taken in relation to the person aggrieved while he was present in Zimbabwe Rhodesia or in relation to the rights or obligation of the person aggrieved which accrued or arose in Zimbabwe Rhodesia;

or

- (c) if it is not made by the aggrieved person himself:

Provided that where any person by whom a complaint might have been made has died or is for any reason unable to act for himself, the complaint may be made by his personal representative or by a member of his family or other individual whom the Ombudsman considers to be competent to represent him; or

- (d) which is frivolous, vexatious or trivial or where the person aggrieved has no sufficient interest in the subject-matter of the complaint or where the complaint has been delayed without reasonable cause for more than twelve months; or
- (e) if the Ombudsman is given notice in writing by the Prime Minister that—

- (i) the action complained of was lawfully taken by a Minister or Deputy Minister in person in the exercise of his own discretion; or
- (ii) the investigation of the complaint would not be in the interests of the security of the State;

or

- (f) which is made by—
  - (i) a Ministry, department or authority of the State or any local authority; or
  - (ii) any other authority or body whose members or the majority of whose members are appointed by the President or by a Minister or the revenues of which consist wholly or mainly of moneys provided from public funds.

Procedure in respect of investigations.

148. (1) Where an investigation referred to in subsection (1) of section *one hundred and forty-seven* is held—

- (a) the proceedings shall be conducted in private;
- (b) subject to the provisions of this section or any provisions referred to in section *one hundred and fifty-three*, the procedure shall be such as the Ombudsman considers appropriate in the circumstances;
- (c) the principal officer of any authority or body concerned and any other person who is alleged to have taken or authorized the action in question shall be afforded an opportunity to comment on any allegations made to the Ombudsman in respect thereof;
- (d) the Ombudsman may permit any person involved in the proceedings to be represented by an advocate or attorney or otherwise;
- (e) the Ombudsman may obtain information from such persons in such manner, and may make such inquiries, as he thinks fit;
- (f) the Ombudsman may require any Minister or Deputy Minister or member of any authority or body concerned or any other person who, in his opinion, is able to furnish information or produce documents relevant to the investigation to furnish any such information or produce any such document;
- (g) the Ombudsman shall, subject to the provisions of paragraph (h), have the same powers as the General Division in respect of the summoning and examination of witnesses, including the administration of oaths and the examination of witnesses outside Zimbabwe Rhodesia, and in respect of the production of documents;
- (h) no obligation to maintain secrecy and no other restriction upon the disclosure of information obtained by or furnished to persons employed by the State which is

imposed by any law shall apply to the disclosure of information for the purposes of the investigation, and the State shall not be entitled, in relation to any such investigation, to any such privilege in respect of the production of documents or the giving of evidence as is allowed in law in legal proceedings:

Provided that no person shall be required or authorized by virtue of this paragraph to furnish any information or answer any question or produce any document relating to the proceedings of the Executive Council or any committee thereof comprised wholly or partly of Ministers of the Government, and, for the purposes of this proviso, a certificate issued by the Secretary to the Executive Council, with the approval of the Prime Minister, and certifying that any information, question or document so relates shall be conclusive.

(2) If the Attorney-General gives notice to the Ombudsman with respect to any document or information or class of documents or information specified in the notice that, in his opinion, the disclosure of that document or information or of documents or information of that class would be contrary to the public interest in relation to defence, external relations or internal security, or to the economic interests of the State, the Ombudsman or any member of his staff shall not communicate any such document or information to any person outside the office of the Ombudsman for any purpose otherwise than with the authority of the Attorney-General and subject to such conditions as he may fix.

(3) The Ombudsman or any member of his staff to whom is disclosed any information obtained by or furnished to any person employed by the State subject to an obligation referred to in paragraph (h) of subsection (1) shall not communicate any such information to any other person outside the office of the Ombudsman for any purpose.

(4) Any person who—

- (a) contravenes the provisions of subsection (2) or (3) shall be guilty of an offence and liable to imprisonment for a period not exceeding two years;
- (b) has been subpoenaed to give evidence or to produce any book or document under the provisions of paragraph (g) of subsection (1) for the purposes of an investigation and who fails to attend or to remain in attendance until duly excused by the Ombudsman from further attendance or refuses without sufficient cause, the onus of proof whereof shall rest upon him, to be sworn as a witness, to answer fully and satisfactorily a question lawfully put to him or to produce such book or document shall be guilty of an offence and liable to a fine not exceeding fifty dollars or to imprisonment for a period not exceeding one month or to both such fine and such imprisonment.

Proceedings after investigation.

149. (1) If, after conducting an investigation, the Ombudsman is of the opinion—

- (a) that the action which was the subject-matter of the investigation was contrary to law, based wholly or partly on a mistake of law or fact, unreasonably delayed or otherwise unjust or manifestly unreasonable; and
- (b) that—
  - (i) the matter should be given further consideration; or
  - (ii) an omission should be rectified; or
  - (iii) a decision should be cancelled, reversed or varied; or
  - (iv) any practice on which the act, omission, decision or recommendation was based should be altered; or
  - (v) any law on which the act, omission, decision or recommendation was based should be reconsidered; or
  - (vi) reasons should have been given for the decision; or
  - (vii) any other steps should be taken;

the Ombudsman shall, subject to the provisions of subsections (2) and (3) of section *one hundred and forty-eight*, report his opinion, together with his reasons therefor, to the secretary or principal officer of any Ministry, authority or body concerned and may make such recommendations as he thinks fit and shall also send a copy of his report and recommendations to the Prime Minister and to any Minister concerned.

(2) The Ombudsman may request the secretary or principal officer referred to in subsection (1) to notify him, within a specified time, of the steps, if any, that it is proposed to take to give effect to his recommendations.

(3) If, within a reasonable time after a report is made in terms of subsection (1), no action is taken which, in the opinion of the Ombudsman, is adequate and appropriate, he may, if he thinks fit after considering the comments, if any, made by or on behalf of any Ministry, authority or body affected, thereafter, subject to the provisions of subsections (2) and (3) of section *one hundred and forty-eight*, make such further report on the matter as he thinks fit to the Senate and the House of Assembly.

Payment of costs or expenses incurred in relation to proceedings for enforcement of Declaration of Rights.

150. (1) Where any person—

- (a) has made or intends to make application to the Appellate Division under subsection (1) of section *one hundred and thirty-four* in relation to a provision contained in a written law; or
- (b) has raised or intends to raise any question in relation to a provision contained in a written law which is referred or to be referred to the Appellate Division in pursuance of subsection (2) of that section;

he may apply to the Ombudsman for the payment of any costs which he has incurred or will incur in relation thereto.

(2) If, after receiving an application in terms of subsection (1), the Ombudsman considers that the application to the Appellate Division or the raising of the question, as the case may be, constitutes a proper and suitable test case for determining the validity of the provision in question, he may—

- (a) if the applicant has already incurred costs in relation to any matter referred to in subsection (1), reimburse the applicant for any costs or part thereof which, after consultation with the Registrar of the Appellate Division, the Ombudsman considers have reasonably been incurred by the applicant;
- (b) if the applicant has not incurred costs in relation to any matter referred to in subsection (1), pay to the legal representative of the applicant such amounts as the legal representative certifies the applicant will incur and which, after consultation with the Registrar of the Appellate Division, the Ombudsman considers will reasonably be incurred:

Provided that any amount paid in terms of this paragraph which is not required for the purpose for which it was paid shall be refunded to the Ombudsman.

(3) Where the Chairman of the Senate Legal Committee has, in terms of subsection (7) of section *fifty* or subsection (3) of section *fifty-nine*, transmitted to the Ombudsman a copy of a report referred to in that section in relation to a provision contained in a written law and thereafter any person makes an application in terms of subsection (1) in relation to that provision, the Ombudsman, unless he has acted on a similar application in relation to that provision, shall act in terms of paragraph (a) or (b) of subsection (2), as the case may require.

**151.** (1) The Ombudsman, in deciding whether to initiate, continue or discontinue an investigation referred to in subsection (1) of section *one hundred and forty-seven*, shall not be subject to the direction or control of any person or authority, and any question whether a complaint is duly made in terms of that section shall be determined by him.

Discharge of functions of Ombudsman.

(2) No proceedings of the Ombudsman shall be called in question in any court of law.

(3) The Ombudsman shall, subject to the provisions of subsections (2) and (3) of section *one hundred and forty-eight*, make an annual report to the President concerning the discharge of his functions which shall be laid before the Senate and the House of Assembly by the Prime Minister.

**152.** If, in relation to the discharge of his functions, the Ombudsman requires advice on any matter, he may—

Right of Ombudsman to obtain advice.

- (a) obtain such advice from any person whom he considers to be qualified to give it; or

- (b) in relation to a matter on which legal advice is required, if he thinks fit, lay before the Attorney-General a case in writing as to the matter and the Attorney-General shall furnish the Ombudsman with a legal opinion thereon.

Supplementary and ancillary provisions.

153. An Act of the Legislature may make or provide for the making of provisions for such supplementary and ancillary matters as may appear necessary or expedient in consequence of any of the provisions of this Chapter including, without derogation from the generality of the foregoing, provision for—

- (a) the procedure to be observed by the Ombudsman in performing his functions;
- (b) the manner in which complaints in terms of section *one hundred and forty-seven* may be made;
- (c) the powers, protection and privileges of the Ombudsman and his staff or of other persons, authorities or bodies with respect to any investigation or report by the Ombudsman, including the privilege of communications to and from the Ombudsman and his staff;
- (d) offences connected with the functions of the Ombudsman and his staff and the fixing of penalties for such offences.

Interpretation of term in Chapter X.

154. In this Chapter—

“action” includes a failure to act.

## CHAPTER XI

### AMENDMENT OF CONSTITUTION AND ENTRENCHED PROVISIONS OF OTHER LAWS

Power to amend Constitution.

155. Subject to compliance with the other provisions of this Constitution, an Act of the Legislature may amend, add to or repeal any of the provisions of this Constitution:

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

Constitutional Bill not to amend other laws.

156. A Constitutional Bill shall not in express terms purport to amend, add to or repeal any law other than this Constitution.

Special procedure for Constitutional Bill.

157. (1) A Constitutional Bill shall not be introduced into the House of Assembly unless the text of the Bill has been published in the *Gazette* not less than thirty days before it is so introduced.

(2) Subject to the provisions of subsection (6) of section *one hundred and fifty-nine*, a Constitutional Bill shall not be deemed to have been duly passed by Parliament unless—

- (a) subject to the provisions of subsection (3), at the final vote thereon in the Senate it received the affirmative

votes of not less than two-thirds of the total membership of the Senate; and

(b) at the final vote thereon in the House of Assembly it received the affirmative votes of—

(i) in the case of a Constitutional Bill which amends, otherwise than by merely altering the name of the country, any of the provisions of this Constitution enumerated in the Second Schedule as being specially entrenched provisions of this Constitution or any other provision which may hereafter be declared by an amendment of this Constitution to be a specially entrenched provision of this Constitution, not less than seventy-eight members of the House of Assembly; or

(ii) in the case of any Constitutional Bill other than one specified in subparagraph (i), not less than two-thirds of the total membership of the House of Assembly.

(3) If, in the case of a Constitutional Bill which has been passed by the House of Assembly in accordance with the provisions of paragraph (b) of subsection (2) and has not been passed by the Senate in accordance with the provisions of paragraph (a) of subsection (2) within a period of one hundred and eighty days beginning on the day on which the Bill was first introduced into the Senate, the House of Assembly after the expiration of that period resolves by the affirmative votes of not less than two-thirds of its total membership that the Bill be presented to the President for assent in the form in which it was passed by the House of Assembly, except for minor changes required by the passage of time, and with such amendments, if any, as the Senate and the House of Assembly may have agreed, the Bill shall be deemed to have been duly passed by Parliament in the form in which it is presented to the President.

(4) For the purposes of subsection (3), a Constitutional Bill shall be deemed to be introduced into the Senate on the sitting day next following the day on which a copy of the Bill is transmitted to the Senate in terms of subsection (1) of section *forty-eight*.

158. A Constitutional Bill shall not be submitted to the President for assent unless—

Submission of  
Constitutional Bill  
for assent.

(a) it is accompanied by—

(i) a certificate from the President of the Senate that at the final vote thereon in the Senate the Bill received the affirmative votes of not less than two-thirds of the total membership of the Senate; and

(ii) a certificate from the Speaker that at the final vote thereon in the House of Assembly the Bill received the affirmative votes of—

- A. in the case of a Constitutional Bill referred to in subparagraph (i) of paragraph (b) of subsection (2) of section *one hundred and fifty-seven*, not less than seventy-eight members of the House of Assembly; or
- B. in the case of a Constitutional Bill referred to in subparagraph (ii) of paragraph (b) of subsection (2) of section *one hundred and fifty-seven*, not less than two-thirds of the total membership of the House of Assembly;

or

- (b) it is accompanied by the appropriate certificate referred to in subparagraph (ii) of paragraph (a) and a further certificate from the Speaker stating that the Bill is a Bill to which the relevant provisions of subsection (3) of section *one hundred and fifty-seven* apply and that the Bill may lawfully be presented for assent by virtue of those provisions.

Review of certain provisions relating to composition of Parliament.

**159.** (1) On the date Parliament is dissolved in terms of section *sixty-four* for the second time after the fixed date or after the expiration of a period of ten years beginning on the fixed date, whichever is the later, a commission shall be established in accordance with the provisions of subsection (2) to review the provisions of paragraphs (b) and (c) of subsection (2) of section *twenty-two*.

(2) The Commission established in terms of subsection (1) shall comprise—

- (a) the Chief Justice or a judge of the High Court, other than an acting judge, nominated by the Chief Justice, who shall be chairman; and
- (b) four other members, who shall not be persons who are members of the Senate or the House of Assembly or, where Parliament has been dissolved, who were such members immediately before such dissolution, of whom—
  - (i) two shall be elected in terms of subsection (3) by the members of the House of Assembly referred to in paragraphs (b) and (c) of subsection (2) of section *twenty-two* or, where Parliament has been dissolved, those persons who were such members immediately before such dissolution; and
  - (ii) two shall be appointed by the President.

(3) In the election of the members referred to in subparagraph (i) of paragraph (b) of subsection (2)—

- (a) the members or former members, as the case may be, of the House of Assembly referred to in that subparagraph shall sit as an electoral college;



- (b) each candidate shall be nominated by not less than five members or former members, as the case may be, of the House of Assembly referred to in that subparagraph;
- (c) if only two persons are nominated for election, they shall be declared elected without the necessity of a ballot;
- (d) each member of the electoral college shall have two votes to be cast for separate candidates and the votes of the members of the electoral college shall be given by secret ballot;
- (e) the two candidates who receive, respectively, the highest and the next highest number of votes shall be declared elected:

Provided that—

- (i) if two candidates have received an equal number of votes which is in excess of the number of votes received by any other candidate, those two candidates shall be declared elected;
- (ii) if more than two candidates have received an equal number of votes which is in excess of the number of votes received by any other candidate, the two candidates who shall be declared elected shall be determined from such candidates by the drawing of lots by the Secretary to Parliament;
- (iii) if two or more candidates have received the next highest number of votes as referred to in this paragraph, the candidate who shall be declared elected shall be determined from such candidates by the drawing of lots by the Secretary to Parliament.

(4) The Commission shall, by a majority of the members thereof, recommend whether any or all of the members of the House of Assembly referred to in paragraphs (b) and (c) of subsection (2) of section *twenty-two* shall cease to be required to be White persons elected in the manner specified in those paragraphs and shall be persons duly elected thereto by voters registered on the common voters roll for common roll constituencies.

(5) If the Commission recommends that any or all of the members of the House of Assembly referred to in subsection (4) shall cease to be required to be White persons elected in the manner referred to therein, it shall further recommend—

- (a) that the members of the House of Assembly referred to in paragraph (a) of subsection (2) of section *twenty-two* shall not be required to be Black persons; and
- (b) where it recommends that the number of members of the House of Assembly referred to in subsection (4)

which are required to be White persons elected in the manner referred to in that subsection shall be reduced to less than twenty, that all the members of the Senate referred to in paragraphs (a) and (b) of subsection (2) of section *eighteen* shall be elected by an electoral college consisting of all the members of the House of Assembly.

(6) A Bill which provides only for giving effect to recommendations of the Commission in terms of subsections (4) and (5) shall—

- (a) not be introduced into the House of Assembly until the expiration of a period of three months after a copy of the report of the Commission containing such recommendations has been laid before that House; and
- (b) be deemed to have been duly passed by Parliament if at the final vote thereon in the House of Assembly it received the affirmative votes of not less than fifty-one members of the House of Assembly; and
- (c) notwithstanding the provisions of section *forty-eight*, not be transmitted to the Senate for consideration.

(7) A Bill referred to in subsection (6) shall not be presented to the President for assent unless it is accompanied by a certificate from the Speaker stating that the Bill is a Bill to which the relevant provisions of subsection (6) apply and that the Bill may lawfully be presented for assent by virtue of those provisions.

Amendment of entrenched provisions of certain other laws.

**160.** (1) Any Bill containing a provision which, if enacted, would have the effect of—

- (a) amending, adding to or repealing any provision of—
  - (i) the Electoral Law; or
  - (ii) any law of the Legislature relating to primary or secondary school education or medical services; or
  - (iii) the Housing Standards Control Act [*Chapter 208*]; which is specified in that law to be a specially entrenched provision; or
- (b) reducing or permitting the reduction of the area of parks and wild life land or forest land by an amount in excess of one *per centum* of the extent of such area immediately before the fixed date; or
- (c) amending, adding to or repealing in any law of the Legislature any provision relating to—
  - (i) the establishment and abolition of municipalities, towns, rural councils or local boards and the fixing and alteration of the boundaries of the areas thereof or under the jurisdiction thereof, as the case may be, and the division of such areas into wards and the abolition of such wards; or
  - (ii) the constitution of municipal councils, town councils, rural councils and local boards, the

qualifications of voters at elections for and of candidates for election as members of such councils or boards and the fixing of the number of such members to be elected or appointed to represent or the assigning of such members to represent each ward referred to in subparagraph (i); or

- (iii) the powers of any municipality, town, rural council or local board to combine with other local authorities and to delegate their functions and the restrictions on such powers;

or

- (d) reducing or derogating from the powers, functions, responsibilities and duties of municipalities, towns, rural councils or local boards provided for directly and without reference to any other law by the law of the Legislature providing for the establishment of such corporate bodies or by the law of the Legislature relating to town and country planning;

shall, subject to the provisions of subsection (3) and subsection (6) of section *one hundred and fifty-nine*, be subject to the same procedure in all respects as if it were a Constitutional Bill specified in subparagraph (i) of paragraph (b) of subsection (2) of section *one hundred and fifty-seven*.

(2) A Bill enacted after the fixed date which declares any provision of the Electoral Law or of any other law referred to in paragraph (a) of subsection (1) to be an entrenched provision for the purposes of this section shall, subject to the provisions of subsection (3), be subject to the procedure specified in subsection (1).

(3) A Bill referred to in subsection (1) or (2) shall, immediately after its introduction into the Senate, be referred to the Senate Legal Committee and the provisions of subsections (2), (3), (4), (5) and (7) of section *fifty* shall, *mutatis mutandis*, apply in relation to that Bill:

Provided that a Bill which originated in the House of Assembly and has been passed by the House of Assembly may be referred to the Senate Legal Committee before its introduction into the Senate.

(4) No Bill to which the provisions of subsection (1) or (2) refer shall be presented to the President for assent unless the Bill is accompanied by the appropriate certificates referred to in section *one hundred and fifty-eight*.

(5) No Act of the Legislature shall be deemed to amend, add to or repeal any provision referred to in subsection (1) of a law referred to in that subsection unless it does so in express terms.

(6) In paragraph (b) of subsection (1)—

“forest land” means land set aside as such by the Forest Act [*Chapter 125*];

“parks and wild life land” means land set aside as such by the Parks and Wild Life Act, 1975 (No. 14 of 1975).

164. (1) There is hereby established a Statutory Corporations Commission which shall consist of a chairman and not less than two and not more than four other members who shall be appointed, subject to the provisions of subsection (2), by the President.

Statutory Corporations  
Commission.

(2) The persons to be appointed as members in terms of subsection (1) shall be chosen for their ability and experience in administration or their professional qualifications and their suitability otherwise for appointment as members, and the following provisions shall apply in relation thereto—

- (a) the chairman and at least two other members shall be persons who have held the post of Secretary of, or Deputy Secretary or Under Secretary in, a Ministry in the Public Service or a post in the Public Service of a grade equivalent to or higher than that of Under Secretary or the most senior or second most senior post in the service of any statutory corporation for periods which, in the aggregate, amount to at least five years;
- (b) a person shall not be eligible for appointment if he is a member or has, within the period of three years of the date of the proposed appointment, been a member or been nominated for election as a member of the Senate or the House of Assembly or any local authority;
- (c) if a person immediately prior to his appointment is employed by a statutory corporation, he shall cease to be so employed with effect from the date of his appointment;
- (d) during the period of his service as a member and for a period of three years thereafter, he shall not be eligible for appointment to any post in the service of any statutory corporation.

(3) Whenever the office of chairman of the Commission is vacant or the chairman is for any reason unable to perform the functions of his office, those functions shall be performed by such other member of the Commission who is qualified in terms of paragraph (a) of subsection (2) as the President may appoint.

(4) If at any time a member of the Commission, other than the chairman, is acting as chairman or is for any reason unable to perform the functions of his office, the President may appoint a person qualified in terms of subsection (2) to act as the member and any person so appointed shall continue to act until the period for which he was appointed has expired or his appointment is revoked by the President:

Provided that a person appointed to act for a member who is qualified in terms of paragraph (a) of subsection (2) shall also be so qualified.

(5) The functions of the Commission shall be—

## CHAPTER XII

## MISCELLANEOUS PROVISIONS

## PART I

## GENERAL

## English language.

**161.** The English language shall be the only official language of Zimbabwe Rhodesia.

## Chiefs and Councils of Chiefs.

**162.** (1) There shall be Chiefs to preside over the tribespeople in Zimbabwe Rhodesia who shall, subject to the provisions of subsection (2), be appointed by the President in terms of a law of the Legislature.

(2) A law of the Legislature referred to in subsection (1) shall provide that in appointing a Chief the President shall give due consideration to the customary principles of succession of the tribespeople over which the Chief shall preside and may provide for the appointment of deputy Chiefs and acting Chiefs.

(3) There shall be a Council of Chiefs which shall consist of such number of Chiefs elected by the Chiefs from each of the various areas of Tribal Trust Land in such manner as may be prescribed by or under a law of the Legislature, so, however, as to secure as far as is practicable equitable representation for the various areas of Tribal Trust Land with due regard to the total number of tribespeople in each such area:

Provided that a law of the Legislature may provide for the establishment of two or more Councils of Chiefs for separate areas of Tribal Trust Land.

(4) The qualifications and disqualifications of candidates for election to any Council of Chiefs and the tenure of office of members thereof shall be as prescribed by or under the law referred to in subsection (3).

## Regional authorities.

**163.** (1) Subject to the provisions of section *one hundred and sixty* and subsection (2), it shall be the duty of the Government to establish by or under a law of the Legislature regional authorities for specified areas for the purpose of administering functions relating to health and education and other functions affecting the daily lives of the inhabitants of such area in so far as those functions are at the time being administered by the Government.

(2) In the specifying of areas of regional authorities regard shall be had to any community of interests of the people in such areas and the law referred to in subsection (1) shall—

- (a) provide that the members of each regional authority shall be elected, directly or indirectly, by the inhabitants of the area of the authority; and
- (b) confer on each regional authority such powers as may be necessary to regulate the conduct and affairs of the inhabitants of the area of the authority in relation to the functions referred to in subsection (1).

- (a) to approve any appointment or acting appointment or promotion to a designated post for the purposes of subsection (6); and
- (b) to hear any appeal by the holder of a designated post whose service is terminated by a statutory corporation which has been made within the time and in the manner prescribed in regulations made in terms of subsection (9) and thereafter to make such recommendations to the statutory corporation concerned in relation to the reinstatement of the aggrieved person, including the conditions thereof, or such other matters as it thinks fit.

(6) No statutory corporation shall appoint or promote any person to a designated post or to act in a designated post unless the Commission has approved such appointment or promotion.

(7) The Commission may only withhold its approval in terms of paragraph (a) of subsection (5) if it is not satisfied in relation to the proposed appointment or promotion of any person to the designated post that the person concerned has the appropriate practical and academic qualifications or is otherwise suitable for the post.

(8) A statutory corporation shall comply with any recommendation made by the Commission in terms of paragraph (b) of subsection (5).

(9) The Commission may make regulations for the purposes of paragraph (b) of subsection (5) and for otherwise regulating and facilitating the performance by the Commission of its functions in terms of this section.

(10) The provisions of—

- (a) section *one hundred and eight* shall, *mutatis mutandis*, apply in relation to the tenure of office of members of the Commission;
- (b) subsections (2) to (5) of section *one hundred and nine* and section *one hundred and ten* shall, *mutatis mutandis*, apply in relation the performance of the functions of the Commission.

(11) In this section—

“Commission” means the Statutory Corporations Commission established by subsection (1);

“designated post” means a post in the service of any statutory corporation designated by the Commission for the purposes of this section;

“statutory corporation” means any body corporate, other than a local authority, established directly by or under any law of the Legislature for special purposes specified in that law.

Remittability of pensions.

165. (1) Any person who is entitled to receive a pension and who is not ordinarily resident in Zimbabwe Rhodesia shall

not be prevented from having remitted to him outside Zimbabwe Rhodesia, free from any deduction, tax or charge, other than ordinary bank charges, made or levied in respect of its remission—

- (a) any payment of a pension to which he is entitled; and
- (b) subject to the provisions of subsections (2), (3) and (4), the amount of any commutation—
  - (i) of a pension to which he first became entitled on or after the effective date; and
  - (ii) which has been made in accordance with the rules of the pension fund or the conditions under which the pension was granted; and
  - (iii) which relates to an amount of pension not exceeding two hundred and fifty dollars per annum or one-third of the pension, whichever is the greater.

(2) The provisions of paragraph (b) of subsection (1) shall not apply in relation to a pension or part thereof which is payable from a private pension fund where the contributions paid in respect of that pension or part thereof commenced in terms of an agreement entered into after the 3rd March, 1978, unless the contributions have been made for a continuous period of not less than ten years.

(3) A law of the Legislature may provide for the imposition of restrictions not greater than those specified in subsection (4) in respect of the remission in terms of subsection (1) of any commutation referred to in paragraph (b) of that subsection which is received by any person—

- (a) within the period of five years from the effective date; and
- (b) before he attains the age of sixty years;

unless the commutation relates to a pension received by a person who—

- (i) was employed subject to conditions of service which have been in force since prior to the 3rd March, 1978, and which required or permitted him to retire on or after attaining the age of fifty years or required him to retire after serving in a particular post for a specified period and has retired on or after attaining such age or after serving in such post for such period or has been discharged after attaining an age at which he could have been permitted to retire in terms of such conditions of service; or
- (ii) has been discharged on the grounds of ill-health, physical or mental unfitness or incapacity or personal injury; or
- (iii) was a male member referred to in subparagraph (1) or (2) of paragraph 35 of the Third Schedule who has retired in terms of paragraph 37 of the Third Schedule;

and who became entitled to such pension on such retirement or discharge, as the case may be.

(4) Restrictions in terms of subsection (3) may provide that, in the case of any commutation referred to in paragraph (b) of subsection (1) which becomes payable with effect from a day—

- (a) before the first anniversary of the effective date, the amount of the commutation may be remitted in five annual instalments commencing on the fifth anniversary of the effective date;
- (b) on or after the first anniversary and before the second anniversary of the effective date, one-fifth of the amount of the commutation may be remitted at any time after the receipt thereof and the remaining four-fifths may be remitted in four annual instalments commencing on the fifth anniversary of the effective date;
- (c) on or after the second anniversary and before the third anniversary of the effective date, two-fifths of the amount of the commutation may be remitted at any time after the receipt thereof and the remaining three-fifths may be remitted in three annual instalments commencing on the fifth anniversary of the effective date;
- (d) on or after the third anniversary and before the fourth anniversary of the effective date, three-fifths of the amount of the commutation may be remitted at any time after the receipt thereof and the remaining two-fifths may be remitted in two annual instalments commencing on the fifth anniversary of the effective date;
- (e) on or after the fourth anniversary and before the fifth anniversary of the effective date, four-fifths of the amount of the commutation may be remitted at any time after the receipt thereof and the remaining one-fifth may be remitted after the fifth anniversary of the effective date.

(5) Any amount which a person is entitled to have remitted in terms of this section shall not be deducted from the amount of money that he may be entitled to have remitted outside Zimbabwe Rhodesia by or under this Constitution or any law of the Legislature.

(6) In this section—

“effective date” means the 30th April, 1979;

“pension” means any pension or annuity which is payable—

- (a) from the Consolidated Revenue Fund to any public officer or former public officer or other person by or under this Constitution or any law of the Legislature; or
- (b) in accordance with the rules of any pension fund to—
  - (i) a person who was a member of that fund upon his retirement on account of age or ill-health or other termination of service or on his attaining a specified age; or
  - (ii) the spouse, children or dependants of a person who was a member of that fund upon or after the death of such former member;



and which is payable for the lifetime of the recipient or for a specified period or until the happening of a specified event;

“pension fund” means any scheme or arrangement established or operating in Zimbabwe Rhodesia the principal object of which is to provide benefits for persons who are or have been members of the scheme or arrangement upon their retirement on account of age or ill-health or other termination of service or on attaining a specified age, whether or not such scheme or arrangement also provides for the payment of benefits in other circumstances, or for dependants or nominees of deceased members;

“private pension fund” means any pension fund the rules of which provide for the payment of contributions by—  
 (a) the member of the fund with no contributions being paid by an employer of the member; or  
 (b) an employer in respect of the member of the fund with no contributions being paid by that member.

**166.** With effect from immediately before the fixed date the Constitution of Rhodesia, 1969, shall be repealed and revoked by this Constitution and, subject to the provisions of section *one hundred and sixty-seven*, no longer operative. Repeal of former Constitution.

**167.** Notwithstanding anything to the contrary contained in the foregoing Chapters, the provisions set out in the Third Schedule shall apply in order to enable this Constitution to have effect on and after the fixed date and to provide for matters contained therein. Transitional provisions.

## PART II

### INTERPRETATION

**168.** The provisions of this Part shall apply to the provisions of this Constitution unless the context otherwise requires. Application of this Part.

**169.** (1) In this Constitution— Interpretation.

“African customary law” means the tribal law and custom of Africans of a particular tribe;

“amend” includes vary, alter, modify or adapt;

“Appellate Division” means the Appellate Division of the High Court referred to in paragraph (a) of section *seventy-six*;

“Chief” means a Chief referred to in subsection (1) of section *one hundred and sixty-two*;

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

“Council of Chiefs” means any Council of Chiefs referred to in subsection (3) of section *one hundred and sixty-two*;

“Declaration of Rights” means the provisions of sections *one hundred and twenty* to *one hundred and thirty-one*;

“Deputy Minister” means a Deputy Minister appointed in terms of subsection (1) of section *sixty-seven*;

“disciplinary law” means any law of the Legislature or statutory instrument in so far as it provides for the regulation of the discipline of—

- (a) regular or full-time members of any disciplined force or any other members of a disciplined force while they are rendering service as such members or in respect of their failure to render such service; or
- (b) persons in prison awaiting trial or serving prison sentences; or
- (c) persons whose detention has been authorized in terms of any law of the Legislature or statutory instrument;

“disciplined force” means—

- (a) a naval, military or air force; or
- (b) a police force; or
- (c) a prison service; or
- (d) any other body established for public purposes by or under a law of the Legislature providing for the regulation of the discipline of that body and declared by that law to be a disciplined force for the purposes of this definition;

“Electoral Law” means the law referred to in section *seventeen* which is for the time being in force;

“Executive Council” means the Executive Council established by section *seventy*;

“financial year” means the period of twelve months ending on the 30th June in any year;

“fixed date” means the date fixed in the proclamation in terms of section *two*;

“former Constitution” means the Constitution of Rhodesia, 1969;

“*Gazette*” means the official *Gazette* of the Government of Zimbabwe Rhodesia;

“general election” means a general election of the members of the House of Assembly;

“General Division” means the General Division of the High Court referred to in paragraph (b) of section *seventy-six*;

“local authority” means any council or other such body established by or in terms of any law to regulate the affairs of any local community and to make statutory instruments for that purpose;

“Mashonaland” means the area in Zimbabwe Rhodesia which is defined in the Electoral Law to constitute Mashonaland for the purposes of this Constitution;

“Matabeleland” means the area in Zimbabwe Rhodesia which is defined in the Electoral Law to constitute Matabeleland for the purposes of this Constitution;

“member”, in relation to a disciplined force, includes any person who, in terms of any disciplinary law relating to that force, is subject to that discipline;

“Minister” means a Minister, including the Prime Minister, appointed in terms of subsection (1) of section *sixty-seven*;

“Money Bill” means a public Bill which contains only provisions dealing with all or any of the following matters—

- (a) the imposition, repeal, remission, alteration, administration or regulation of taxation or any exemption therefrom;
- (b) the imposition, for the payment of debt or other financial purposes, including expenses of administration, of charges on the Consolidated Revenue Fund or any other public funds or on moneys provided by the Legislature or the variation or repeal of any such charges;
- (c) the grant of money for the services of the Government, including expenses of administration, or the grant of money to any authority or person or the variation or revocation of any such grant;
- (d) the appropriation, receipt, custody, investment, issue or audit of accounts of public money;
- (e) the making or raising of any loan by the Government or the repayment thereof or the establishment, alteration, administration or abolition of any sinking fund provided in connexion with any such loan;
- (f) the guarantee given by or on behalf of the Government in respect of any loan raised by any person and any conditions which are attached to such guarantee;
- (g) the compounding or remitting of any debt and the condoning of any failure to collect taxes;
- (h) the condoning of unauthorized expenditure;
- (i) subordinate matters which are ancillary or incidental to any of the foregoing matters;

and, for the purposes of this definition, any reference in paragraphs (a) to (i) to taxation, public funds, public money, debt, taxes or expenditure shall not be construed as including a reference to any taxation by, or the funds, moneys, debt, taxes or expenditure of, a local authority or statutory body;

“Ombudsman” means the Ombudsman appointed in terms of subsection (2) of section *one hundred and forty-four*;

“person” means any individual or any body of persons, whether corporate or unincorporated;

“President” means the President referred to in section *six*;

“President of the Senate” means the President of the Senate referred to in subsection (1) of section *nineteen*;

“public moneys” means any fees, taxes or other revenues payable to the State and any other moneys received and held by an employee of the State in his official capacity;

“public office” means, save as may otherwise be expressly provided by law, any paid office in the service of the Government;

“public officer” means the holder of any public office;

“Secretary to Parliament” means the person appointed in terms of subsection (1) of section *forty-five* as the Secretary to Parliament;

“Senate Legal Committee” means the Senate Legal Committee established by section *thirty-four*;

“session” means the sittings of Parliament commencing when Parliament first meets after a prorogation or dissolution at any time and terminating when Parliament is next prorogued, or dissolved without being prorogued;

“sitting” means a period during which the Senate or the House of Assembly, as the case may be, is sitting continuously without adjournment, including any period during which the Senate or the House of Assembly is in Committee;

“sitting day” means any weekday which is prescribed in the Standing Orders of the House of Assembly to be a sitting day, whether or not the House of Assembly or the Senate, as the case may be, meets on that sitting day;

“Speaker” means the Speaker referred to in subsection (1) of section *twenty-three*;

“Standing Orders” means the Standing Orders made in terms of section *thirty-eight* which are for the time being in force;

“statutory instrument” means any proclamation, rule, regulation, by-law, order, notice or other instrument having the force of law made by the President, a Minister or any other person or body under the authority of this Constitution or any law of the Legislature;

“tax” includes duty or due;

“Tribal Trust Land” means land set aside as such by the Tribal Trust Land Act, 1979, or any other law substituted for the same.

(2) Any reference in this Constitution, without qualification, to—

(a) a section, Chapter or Schedule shall be read and construed as a reference to a section or Chapter of or Schedule to, as the case may be, this Constitution;

- (b) a Part shall be read and construed as a reference to a Part of the Chapter in which the reference is made;
  - (c) a subsection shall be read and construed as a reference to a subsection of the section in which the reference is made;
  - (d) a paragraph shall be read and construed as a reference to a paragraph of the Schedule, section, subsection, definition or proviso, as the case may be, in which the reference is made;
  - (e) a subparagraph shall be read and construed as a reference to a subparagraph of the paragraph in which the reference is made.
- (3) In this Constitution—
- (a) words importing the masculine gender include females;
  - (b) words in the singular include the plural and words in the plural include the singular;
  - (c) where a period of time is expressed—
    - (i) to begin on or to be reckoned from a particular day, that day shall not be included in the period;
    - (ii) to end on or to be reckoned to a particular day, that day shall be included in the period;
  - (d) where the time limited for the doing of any thing expires or falls upon a Saturday, Sunday or public holiday, the time so limited shall extend to and the thing may be done on the first following day that is not a Saturday, Sunday or public holiday;
  - (e) a reference to a month shall be construed as a reference to a calendar month;
  - (f) a reference without qualification to a year shall be construed as a reference to a period of twelve months.
- (4) This Constitution shall be construed as always speaking and where any thing is expressed in the present tense it shall be applied to the circumstances as they occur so that effect may be given to each provision according to its true spirit, intent and meaning.
- (5) Any power, jurisdiction or right conferred by this Constitution may be exercised and any duty imposed by this Constitution shall be performed from time to time as occasion requires.
- (6) Any reference in this Constitution to an Act or a law of the Legislature shall be read and construed as including a reference to—
- (a) any law included in the Revised Edition of the Statute Law of Rhodesia prepared under the authority of the Revised Edition of the Laws Act, 1973, or which, though omitted from that Edition, continued to have force or effect notwithstanding the omission; and
  - (b) any Act of the former Legislature of Rhodesia or Southern Rhodesia;
- which was in force in Rhodesia immediately before the fixed date.

- (7) Any reference in this Constitution to—
- (a) a Black person shall be read and construed as a reference to a person who—
- (i) is a member of the aboriginal tribes or races of Africa and the islands adjacent thereto, including Madagascar and Zanzibar; or
  - (ii) has the blood of such tribes or races and lives as a member of an aboriginal native community;
- (b) a White person shall be read and construed as a reference to a person who is not a person referred to in paragraph (a).

**Supplementary provisions.**

170. (1) Where any person is required by this Constitution to take an oath, he shall be permitted, if he so wishes, to comply with that requirement by making an affirmation and, in any such case, the form of oath set out in the First Schedule shall be varied by—

- (a) the substitution for the word "swear" of the expression "solemnly and sincerely affirm and declare"; and
- (b) the deletion of the words "So help me God".

(2) Any reference in this Constitution to the holder of any office by the term designating his office shall be construed as including a reference to any person for the time being lawfully acting in or exercising the functions of that office.

(3) Where any person has vacated any office established by this Constitution, he may, if qualified, again be appointed or elected to hold that office in accordance with the provisions of this Constitution.

(4) For the purposes of this Constitution, no person shall be deemed to be holding a public office by reason only of the fact that he is in receipt of a pension, half-pay, retired pay or any other like allowance in respect of service in an office that was at the relevant time a public office.

(5) If it is provided by any law of the Legislature that any office shall or shall not be a public office for the purposes of this Constitution or any specified provision thereof, this Constitution or that provision shall have effect as if that law were enacted herein:

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

(6) Any reference in this Constitution to the passage of a motion or the final vote on any Bill by the affirmative votes of not less than two-thirds of the total membership of the Senate or the House of Assembly, as the case may be, shall, when the total membership of that House is not an integral multiple of three, be interpreted to mean that the number of votes in favour of the motion or Bill in question shall be not less than two-thirds of the number next above that of such total membership which is an integral multiple of three.

(7) The Interpretation Act for the time being in force shall apply in the interpretation of any regulations made by the President in the exercise of a power to make regulations conferred by this Constitution and in the interpretation of any such power.

**FIRST SCHEDULE (Sections 12, 19 (3), 23 (3), 39, 67 (5),  
70 (3), 81, 140, 141 and 170 (1) )**

**OATHS**

1. *Oath of loyalty*

I, .....  
do swear that I will be faithful and bear true allegiance to Zimbabwe Rhodesia and observe the laws of Zimbabwe Rhodesia. So Help Me God.

2. *Oath for the due execution of office*

I, .....  
do swear that I will well and truly serve Zimbabwe Rhodesia in the office of .....  
So Help Me God.

3. *Oath of a member of the Executive Council*

I, .....  
being chosen and admitted to the Executive Council of Zimbabwe Rhodesia, do swear that I will to the best of my judgment, at all times when thereto required, freely give my counsel and advice to the President of Zimbabwe Rhodesia for the good management of the public affairs of Zimbabwe Rhodesia, that I will not, directly or indirectly, reveal such matters as may be debated in the Executive Council and committed to my secret, but that I will in all things be a true and faithful member thereof. So Help Me God.

4. *Judicial Oath*

I, .....  
do swear that I will well and truly serve Zimbabwe Rhodesia in the office of .....  
and that I will do right to all manner of people after the laws and usages of Zimbabwe Rhodesia, without fear or favour, affection or ill will. So Help Me God.

**SECOND SCHEDULE (Section 157 (2) (b) (i) )**

**SPECIALY ENTRENCHED PROVISIONS**

<i>Chapter or Schedule</i>	<i>Provision</i>
Chapter I	The whole.
Chapter II	Sections 6, 7, 9 and 10.
Chapter III	Sections 15, 16, 17, 18, 22, 29, 30, 31 and 37, Part VII and section 64.
Chapter IV	Sections 65, 66, 67, 68, 70, 71 and 75.
Chapter V	The whole.
Chapter VI	The whole.
Chapter VII	The whole.
Chapter VIII	The whole.
Chapter IX	The whole.

<i>Chapter or Schedule</i>	<i>Provision</i>
Chapter X	The whole.
Chapter XI	The whole.
Chapter XII	Sections 161, 162, 165 and 167 and, in so far as they relate to any provision specified in this Schedule, sections 169 and 170.
Second Schedule	The whole.
Third Schedule	The whole.

### THIRD SCHEDULE (Section 167)

#### TRANSITIONAL PROVISIONS

##### PART I

##### PROVISIONS TO MAKE CONSTITUTION EFFECTIVE ON AND AFTER FIXED DATE

Special provisions relating to first elections.

1. (1) This Part and such of the other provisions of this Constitution as are necessary for or ancillary or incidental to—

- (a) the first election, in terms of Chapter II, of the President; or
- (b) the first election, in terms of Chapter III, of the President of the Senate, the Deputy President of the Senate, the Speaker and the Deputy Speaker; or
- (c) the holding of the first election of Senators and members of the House of Assembly for the purposes of Chapter III;

shall come into operation on the date of the publication of this Constitution in the *Gazette*.

(2) Notwithstanding anything to the contrary contained in this Constitution, for the purposes of the elections referred to in subparagraph (1)—

- (a) the regulations referred to in subsection (7) of section *nine* shall be made by the President as defined in the former Constitution;
- (b) section *nine* shall have effect as if provision were made in that section for the holding of the election referred to in subparagraph (a) of subparagraph (1) as soon as possible after the holding of the last of the elections of Senators referred to in subparagraph (c) of subparagraph (1);
- (c) the Standing Orders made in terms of the former Constitution which were in force immediately before the date referred to in subparagraph (1) shall have effect, *mutatis mutandis*, as if they had been made in terms of this Constitution and references to Standing Orders in the provisions of this Constitution referred to in that subparagraph shall be construed accordingly;
- (d) the references to the Secretary to Parliament and the Chief Justice in the provisions of this Constitution referred to in subparagraph (1) shall be construed as



references to the holders of those offices constituted by the former Constitution;

- (e) the references to—
  - (i) the Council of Chiefs shall be construed as references to the Council of Chiefs established by section 6 of the Council of Chiefs and Provincial Assemblies Act [*Chapter 243*]; and
  - (ii) Chiefs shall be construed as references to the holders of such office immediately before the date referred to in subparagraph (1);
- (f) section *twenty-two* shall have effect as if that section provided for the nomination of candidates for election as and the election of members of the House of Assembly in the manner prescribed by Chapter XI of the Electoral Act, 1979.

2. (1) Notwithstanding anything to the contrary contained in this Constitution, such of the provisions of this Constitution as are necessary for or ancillary or incidental to giving effect to the provisions of subparagraphs (3), (4) and (5) shall come into operation immediately after the date of the publication of this Constitution in the *Gazette*.

Date of assumption of office and appointment of first Government.

(2) Notwithstanding anything to the contrary contained in this Constitution or the Electoral Act, 1979, the persons elected to office in the elections referred to in subparagraph (1) of paragraph 1 or appointed to office in terms of this paragraph shall, subject to the provisions of this paragraph, assume office with effect from the fixed date.

- (3) The President shall, before the fixed date—
  - (a) appoint a Prime Minister in terms of paragraph (a) of subsection (1) of section *sixty-seven*; and
  - (b) appoint and assign functions to other Ministers of the Government in terms of paragraph (b) of subsection (1) of section *sixty-seven* and the provisions of paragraph 9; and
  - (c) appoint the members of the Executive Council in terms of subsection (1) of section *seventy*.

(4) The Prime Minister and the Executive Council shall, before the fixed date, exercise such functions as may be necessary for the exercise by the President of the functions to be exercised by the President in terms of this Part.

(5) The persons referred to in subparagraph (2) shall, before exercising any functions referred to in this Part or other functions necessary to give effect to the provisions of this Part, take the requisite oaths of office.

3. Notwithstanding anything contained in the former Constitution or the Electoral Act [*Chapter 5*]—

Dissolution of Parliament established by former Constitution.

- (a) when the President as defined in the former Constitution next after the date referred to in subparagraph (1) of paragraph 1 dissolves the Parliament constituted by

the former Constitution by proclamation in terms of section 52 as read with section 29 of the former Constitution, that Parliament shall be dissolved in pursuance of that proclamation with effect from such date as is specified in that proclamation;

- (b) the proclamation referred to in subparagraph (a) shall not fix a day or days for the general election of members of the House of Assembly constituted by the former Constitution.

## PART II

### TRANSITIONAL PROVISIONS AND SAVINGS

Appointment of first Commissions.

4. The members of the Judicial Service Commission established by section *eighty-eight*, the Police Service Commission established by section *one hundred*, the Defence Forces Service Commission established by section *one hundred and five* and the Statutory Corporations Commission established by section *one hundred and sixty-four* shall be appointed before the expiration of a period of fourteen days beginning on the fixed date.

Adaptation of existing laws.

5. (1) The President may, within six months after the fixed date, by order in the *Gazette*, provide that any law in force immediately before the fixed date shall be read and construed with such modifications and adaptations as may appear to the President to be necessary for bringing the provisions of that law into conformity with the provisions of this Constitution or otherwise for giving effect or enabling effect to be given to those provisions, and that law shall have effect accordingly from such date as may be specified in the order, not being a date earlier than the fixed date.

(2) An order made in terms of subparagraph (1) may be repealed or amended by a further order made in terms of that subparagraph or, in relation to any law or instrument affected thereby, by the authority who has power to repeal, revoke or amend that law or instrument.

Convening of new Parliament.

6. In pursuance of the provisions of subsection (1) of section *sixty-three* the President shall direct that the first session of Parliament shall begin within a period of three months beginning on the fixed date.

Temporary modification of section 22.

7. Notwithstanding anything to the contrary contained in this Constitution, the provisions of subparagraph (f) of subparagraph (2) of paragraph 1 shall, *mutatis mutandis*, apply for the purposes of—

- (a) any general election which is held after the fixed date and before the publication of a proclamation by the President in terms of section 8 of the Electoral Act, 1979; and
- (b) the filling, after the fixed date, of any vacancy in the membership of the House of Assembly which occurs during the life of a Parliament where the members of the House of Assembly were elected in accordance with the provisions of paragraph 1 or of subparagraph (a).

8. (1) Notwithstanding any of the provisions of this Constitution, during the period before the establishment of the Commission referred to in subsection (1) of section *one hundred and fifty-nine*, any party which is represented in the House of Assembly by a majority of the members referred to in paragraphs (b) and (c) of subsection (2) of section *twenty-two* shall not, for the purpose of forming a government, form a coalition with any single party other than the Black majority party.

Prohibition of coalition government in certain circumstances.

(2) In subparagraph (1)—

“Black majority party” means the party represented in the House of Assembly by a greater number of members referred to in paragraph (a) of subsection (2) of section *twenty-two* than the number of such members representing any other single party or, if there are two parties so represented by an equal number of such members, either such party.

9. (1) Notwithstanding any of the provisions of this Constitution, during the period prior to the dissolution of the first Parliament or the period of five years, whichever is longer, the following provisions shall apply—

Interim National Government.

(a) there shall be not less than fifteen Ministers all of whom shall be members of the Executive Council;

(b) each party which is represented in the House of Assembly by five or more members thereof shall be entitled to be represented in the Executive Council in terms of subparagraph (c);

(c) a party referred to in subparagraph (b) shall be represented by such number of Ministers as bears the same proportion to the total membership of the Executive Council as the number of members of that party who are members of the House of Assembly bears to the total number of members of all the parties referred to in subparagraph (b) who are members of the House of Assembly;

(d) in recommending to the President the persons to be appointed as Ministers in terms of subparagraph (c), the Prime Minister shall act on the advice of the leader of the party concerned;

(e) the Prime Minister shall not recommend the removal from office of a Minister appointed in terms of subparagraph (d) unless the leader of the party concerned has advised him so to recommend;

(f) before recommending to the President the functions to be allocated to the various Ministers, the Prime Minister shall consult with the leaders of all the parties referred to in subparagraph (b);

(g) if the Prime Minister wishes to recommend the appointment of Deputy Ministers, the provisions of subparagraphs (b) to (f) shall, *mutatis mutandis*, apply.

(2) If the application of the provisions of subparagraph (c) of subparagraph (1) results in a fraction of—

(a) less than one-half, the fraction shall be disregarded;

- (b) one-half or more, the party concerned shall be represented by one additional member in respect of that fraction.

Saving for existing laws.

10. (1) Save as otherwise provided in this Constitution, all laws in force immediately before the fixed date shall, to the extent that they are not inconsistent with this Constitution, remain of full force and effect on and after that date subject to the exercise of any power to amend or repeal the same as is vested in the Legislature or any other authority, and any reference in any such law to Rhodesia shall, unless the context otherwise requires, be read and construed as a reference to Zimbabwe Rhodesia.

(2) Any person who, immediately before the fixed date, was the holder of a firearm certificate in terms of the Firearms Act [Chapter 308] shall not, on or after that date, by or under any law of the Legislature, be deprived of such certificate or of the rights which such certificate confers in respect of the purchase, acquisition or possession of a firearm and ammunition therefor:

Provided that the provisions of this subparagraph shall not prevent—

- (a) a court which convicts any person of a criminal offence from ordering, in terms of any provision of a law that has had effect as part of the law of Zimbabwe Rhodesia since the fixed date, any firearm or ammunition to be forfeited to the State as the result of such conviction; or
- (b) the person referred to in subsection (7) of section 6 of the Firearms Act [Chapter 308] from revoking a firearm certificate on such grounds as were referred to in that subsection immediately before the fixed date, subject to such right of appeal to a judge of the General Division as was referred to in section 49 of that Act immediately before the fixed date.

(3) Any law of the Legislature or statutory instrument made thereunder which provided for any of the matters for which, in terms of section *ninety-four, one hundred and two* or *one hundred and seven*, the Public Service Commission, the Police Service Commission or the Defence Forces Service Commission, as the case may be, may make regulations and which was in force immediately before the fixed date shall, subject to the provisions of paragraph 5, on and after that date, continue in force as though it were and shall be deemed to be regulations made by the Public Service Commission, the Police Service Commission or the Defence Forces Service Commission, as the case may be, and may be amended or repealed as though it had been so made.

(4) Any thing done or commenced before the fixed date under the Constitution of Southern Rhodesia, 1961, or by or under the Constitution of Rhodesia, 1965, the former Constitution or any other law which was of full force and effect or capable of acquiring full force and effect shall, on and after that date, continue to have or to acquire full force and effect, as the case may be, and no law after that date shall have the effect of rendering anything so made, done or commenced unlawful.

(5) The Indemnity and Compensation Act, 1975 (No. 45 of 1975) shall, on and after the fixed date, continue to apply in respect of any act, matter or thing whatsoever advised, commanded, ordered, directed or done or omitted to be done before, on or after that date to which, in terms of section 3 of the Act, the provisions of that Act apply, and no law after that date shall have the effect of rendering the indemnity conferred by section 4 of that Act in respect of any such act, matter or thing invalid:

Provided that a law of the Legislature may withdraw the indemnity conferred by section 4 of that Act in respect of any such act, matter or thing advised, commanded, ordered, directed or done or omitted to be done on or after the date of promulgation of such law.

11. (1) Any person who, immediately before the fixed date, held the office of judge of the High Court constituted by the former Constitution shall, on and after that date, continue to hold the like office as if he had been appointed thereto under the corresponding provisions of this Constitution:

Holders of public  
office or commission  
to continue.

Provided that—

- (i) the person who, immediately before the fixed date, held the office of Judge President shall, on and after that date—
  - (a) continue to retain that title and the salary and allowances which were payable to him immediately before that date; and
  - (b) be in charge of the Appellate Division and preside over it in the absence of the Chief Justice;

and the provisions of Chapter V shall otherwise apply in relation to him as though he were a judge of appeal;
- (ii) the person who, immediately before the fixed date, held the office of puisne judge longer than any other such person shall, on and after that date, be deemed to have been appointed Senior Puisne Judge, and the provisions of Chapter V shall apply in relation to him accordingly.

(2) The person who, immediately before the fixed date, held the office of Secretary to Parliament constituted by the former Constitution shall, on and after that date, be deemed to have been duly appointed as Secretary to Parliament in terms of subsection (1) of section *forty-five* and his conditions of service shall, *mutatis mutandis*, continue to apply subject to any amendment.

(3) A person who, immediately before the fixed date, was a member of the staff of Parliament in terms of the former Constitution shall, on and after that date, continue as a member of the staff of Parliament and shall be regarded as if he had been appointed thereto in terms of subsection (3) of section *forty-five* and his conditions of service shall be deemed to have been approved in terms of that section.

(4) The persons who, immediately before the fixed date, held the offices of chairman and members of the Public Services Board established by section 3 of the Public Services Act [Chapter 271] shall, on and after that date, be deemed to have been appointed chairman and members, respectively, of the Public Service Commission and their conditions of service shall be deemed to have been fixed by the President in terms of section *one hundred and eight*.

(5) Any person who, immediately before the fixed date, held any public office which public office continues on and after that date to be a public office shall, subject to the provisions of this Constitution and any other law, continue to hold that office.

(6) Any person who, immediately before the fixed date, held the office of Chief or member of the Council of Chiefs shall, subject to the provisions of this Constitution and any other law, continue to hold that office.

(7) Any person who, immediately before the fixed date, held the office of Commander or Deputy Commander of Combined Operations, Commander of the Army, Commander of the Air Force, Commander of the Guard Force or Commissioner of Police or any other commissioned rank in the Defence Forces or the Police Force shall, subject to the provisions of this Constitution or any other law, on and after that date, continue to hold such rank and be deemed to have been commissioned under this Constitution.

(8) Any person who, under the provisions of this paragraph, holds a public office or commissioned rank on and after the fixed date by virtue of having been the holder of that office or rank immediately before that date shall be deemed to have complied with the requirements of this Constitution or any other law relating to the taking of oaths on appointment to such office or rank.

High Court.

12. The High Court referred to in section 62 of the former Constitution shall be deemed to have been duly constituted as the High Court under Chapter V.

Statutory instruments  
to be referred to  
Senate Legal  
Committee.

13. (1) Any statutory instrument which has been published in the *Gazette* before the fixed date and—

- (a) had not been referred to the Senate Legal Committee in terms of the former Constitution; or
- (b) had been referred to the Senate Legal Committee in terms of the former Constitution but in respect of which that Senate Legal Committee has not reported in terms of that Constitution; or
- (c) in respect of which the Senate Legal Committee had reported in terms of the former Constitution but the report had not been laid before the Senate in terms of that Constitution or, where the report is to the effect that, in the opinion of that Senate Legal Committee, a provision of the statutory instrument is inconsistent with or in contravention of the Declaration of Rights of that Constitution, the report had not been considered by the Senate in terms of that Constitution;

shall, within seven days of the appointment of the Senate Legal Committee in terms of section *thirty-four*, be referred to that Committee by the Secretary to Parliament and the provisions of Part VIII of Chapter III shall apply as if that statutory instrument had been published in the *Gazette* on or after the fixed date.

(2) The President of the Senate shall make interim Standing Orders providing for the matters referred to in subsection (5) of section *thirty-four* which shall be deemed to be Standing Orders made in terms of section *thirty-eight* until such time as the Senate makes Standing Orders providing for those matters.

14. The moneys which, immediately before the fixed date, were standing to the credit of the Consolidated Revenue Fund established by the former Constitution shall be transferred to and become the Consolidated Revenue Fund established by section *one hundred and fourteen*.

Transfer of moneys  
in old Consolidated  
Revenue Fund.

15. All stocks, cash, bankers balances and securities for money, State land and public works and all property, movable or immovable, and all rights of whatever description, including all rights in or to water, other than private water, and all rights in or to mines, minerals, mineral oils, natural gases, precious metals and precious stones and all rights in connexion with the searching for, working for or disposing of minerals, mineral oils, natural gases, precious metals or precious stones which, immediately before the fixed date, belonged to or vested in the President as defined in the former Constitution shall belong to or vest in the President.

Assets of former  
Government.

16. (1) Subject to the provisions of subparagraph (3), as from the fixed date the Government established under this Constitution shall assume all debts and liabilities of the Government established by the former Constitution subject to any conditions applicable thereto immediately before the fixed date and without prejudice to any rights of security or priority in respect of the payment of principal, interest, sinking fund and other charges conferred on creditors of the said former Government.

Liabilities of former  
Government.

(2) Subject to the provisions of subparagraph (3), the rights of stockholders to undertakings given by the Government of Southern Rhodesia at the time of the issue of any Rhodesian Government stock registered under the Colonial Stock Act, 1877, of the United Kingdom or any Act amending or replacing the same shall be maintained and there shall be no departure from the original contract in respect of such stock.

(3) Notwithstanding the provisions of the Declaration of Rights or of subparagraphs (1) and (2), a law of the Legislature may provide that, while circumstances preventing the repayment of obligations to the Government of the United Kingdom or of stock referred to in subparagraph (2) remain—

(a) no repayment shall be made by the Government in relation to—

(i) any loan made by the Government of the United Kingdom or any agency or authority of that Government or which has been guaranteed by that Government; or

(ii) any stocks issued in London by the Government of Southern Rhodesia or of the former Federation of Rhodesia and Nyasaland;

whether in respect of interest payments or redemption of capital; and

(b) the Government shall not be obliged to pay any moneys into a sinking fund established for the purpose of redeeming a loan raised by means of stocks issued in London;

and such law shall not be regarded for the purposes of this Constitution as being in contravention of the Declaration of Rights.

(4) For the purposes of subparagraph (2)—

“Rhodesian Government stock” means stock which in terms of subparagraph (1) forms part of the public debt.

Existing conventions and agreements.

17. All rights and obligations of the Government established by the former Constitution existing under any convention or agreement immediately before the fixed date shall devolve upon the Government of Zimbabwe Rhodesia.

Legal proceedings to continue.

18. (1) All criminal proceedings which, immediately before the fixed date, were required to be instituted in the name of Rhodesia shall be instituted in the name of Zimbabwe Rhodesia.

(2) All civil or criminal proceedings pending or commenced in any court in Rhodesia immediately before the fixed date shall continue in that or the corresponding court as from the fixed date.

(3) Any civil proceedings instituted before the fixed date by or against a Minister as representing the Government of Rhodesia which have not been disposed of before the fixed date or, having been disposed of, are thereafter reopened may be proceeded with without interruption by or against the appropriate Minister as representing the Government of Zimbabwe Rhodesia.

(4) All judgments or orders of any court given or made prior to the fixed date shall have the same force and effect as if they had been given or made by that or the corresponding court existing on or after the fixed date.

Oaths of loyalty.

19. Any provision of any law in terms of which a person is required to take an oath or solemn declaration of allegiance to Rhodesia shall be construed as a provision requiring such person to take an oath or solemn declaration in the form of the oath of loyalty set out in the First Schedule.

Declaration of emergency and proclamation of martial law.

20. (1) If, immediately before the fixed date, a proclamation by the President under section 61 of the former Constitution is in force, there shall be deemed to be in force from the fixed date a declaration in terms of subsection (1) of section *seventy-five* that has been approved by the House of Assembly at the fixed date and that declaration shall, unless it is sooner revoked or unless it is extended in terms of subsection (4) of that section, continue in force until the expiration of a period of thirty



days beginning with the day that the first session of Parliament is convened in accordance with the provisions of paragraph 6.

(2) Any regulations, orders or directions made under the provisions of the Emergency Powers Act [*Chapter 83*] which were in force immediately before the fixed date shall, unless sooner revoked, continue in force so long as the declaration continues in force in terms of subparagraph (1).

(3) Any proclamation of martial law in force immediately before the fixed date shall continue to have force and effect as though it had been proclaimed in terms of section *sixty-six* until such time as it is terminated in terms of that section.

21. (1) Standing orders made in terms of section 31 of the former Constitution shall be deemed to have been made in terms of section *thirty-eight* and may be amended or replaced accordingly.

Standing orders and rules and regulations relating to conditions of service of officers of Parliament.

(2) Regulations and rules governing the terms of service of officers of Parliament made in pursuance of the provisions of section 38 of the former Constitution shall be deemed to have been made in pursuance of the provisions of section *forty-five* and may be amended or replaced accordingly.

22. A law of the Legislature may, notwithstanding any of the provisions of the Declaration of Rights, provide for an indemnity for any person against any action, indictment or proceedings in any court for or on account of or in respect of any act, matter or thing whatsoever advised, commanded, ordered, directed or done or omitted to be done before the fixed date, and such law shall not be regarded for the purposes of this Constitution as being in contravention of the Declaration of Rights.

Law of Legislature may provide for indemnity.

### PART III

#### BENEFITS FOR MEMBERS OF PUBLIC SERVICE AND OTHERS

23. (1) In this Part—

Interpretation.

“contributor” means a person who contributes to the Consolidated Revenue Fund by virtue of the provisions of the Pensions Regulations;

“effective date” means the 30th April, 1979;

“officer” means a person who is an officer for the purposes of the Public Services Act;

“officer of Parliament” means a member of the staff of Parliament who contributes to the Consolidated Revenue Fund for the purpose of securing benefits for himself and his dependants on his retirement from, or other termination of service with, Parliament;

“Parliamentary terms of service” means the regulations and rules governing the terms of service of officers of Parliament made in pursuance of the provisions of section *forty-five*;

“Pensions Act” means the State Service (Pensions) Act [*Chapter 275*];

“Pensions Regulations” means the State Service (Pensions) (Public Service) Regulations, 1976;

“Public Services Act” means the Public Services Act [Chapter 271].

(2) The calculation for the purposes of this Part of the pensionable service and the average pensionable emoluments or retiring pensionable emoluments of—

- (a) an officer or other contributor shall be made in accordance with the provisions of the Pensions Act and Pensions Regulations;
- (b) a person referred to in paragraph 32 shall be made in accordance with the provisions of the conditions of his appointment to the office concerned;
- (c) an officer of Parliament shall be made in accordance with the provisions of the Parliamentary terms of service with the reference to average pensionable emoluments or retiring pensionable emoluments being construed as a reference to actual emoluments rate or terminal emoluments rate, as the case may be.

Replacement or loss of office.

24. (1) Subject to the provisions of paragraph 28, if a contributor who was appointed to the Public Service before the 1st October, 1978, and has had continuous service as a contributor since that date is discharged on grounds not provided for in the Public Services Act immediately before the effective date, he shall be entitled, with effect from the date of his discharge, to a pension at the rate of 1/550th of his retiring pensionable emoluments for each complete month of his qualifying service.

(2) For the purposes of subparagraph (1)—

“qualifying service”, in relation to a contributor, means the pensionable service of that contributor increased by one-third calculated to the nearest complete month:

Provided that the number of complete months by which the period of pensionable service is to be increased shall not exceed the number of complete months by which the age of the contributor in months is less than 780.

Early retirement.

25. (1) Subject to the provisions of paragraph 28, an established officer who was appointed to the Public Service as an officer before the 1st October, 1978, and has had continuous service as an officer since that date may, at any time after he has completed a period of service of not less than one year after the effective date, retire from the Public Service:

Provided that an officer who wishes to retire in terms of this paragraph shall give not less than three calendar months' notice of his intention to retire, which shall expire not earlier than the 30th April, 1980.

(2) Notwithstanding the provisions of the proviso to subparagraph (1), a head of Ministry may accept a period of notice to retire in terms of subparagraph (1) which amounts to less than three calendar months but does not expire before the 30th April, 1980.

Benefits on retirement.

26. (1) An officer who retires in terms of paragraph 25 and who, at the date on which he retires, has not attained the age of fifty-five years shall be entitled, with effect from the date of his retirement, to a pension calculated, if he retires—

- (a) on or after the first anniversary and before the second anniversary of the effective date, at the rate of 1/880th;
- (b) on or after the second anniversary and before the third anniversary of the effective date, at the rate of 1/836th;
- (c) on or after the third anniversary and before the fourth anniversary of the effective date, at the rate of 1/792nd;
- (d) on or after the fourth anniversary and before the fifth anniversary of the effective date, at the rate of 1/748th;
- (e) on or after the fifth anniversary and before the sixth anniversary of the effective date, at the rate of 1/704th;
- (f) on or after the sixth anniversary of the effective date, at the rate of 1/660th;

of his average pensionable emoluments for each complete month of his pensionable service.

(2) Save as otherwise provided in subparagraph (3), an officer who retires in terms of paragraph 25 and who, at the date on which he retires, has attained the age of fifty-five years or more shall be entitled, with effect from the date of his retirement, to a pension calculated—

- (a) if he has not attained the age of fifty-six years, at the rate of 1/792nd;
- (b) if he has attained the age of fifty-six years but has not attained the age of fifty-seven years, at the rate of 1/748th;
- (c) if he has attained the age of fifty-seven years but has not attained the age of fifty-eight years, at the rate of 1/704th;
- (d) if he has attained the age of fifty-eight years but has not attained the age of fifty-nine years, at the rate of 1/660th;
- (e) if he has attained the age of fifty-nine years but has not attained the age of sixty years, at the rate of 1/638th;
- (f) if he has attained the age of sixty years but has not attained the age of sixty-one years, at the rate of 1/616th;
- (g) if he has attained the age of sixty-one years but has not attained the age of sixty-two years, at the rate of 1/594th;
- (h) if he has attained the age of sixty-two years but has not attained the age of sixty-three years, at the rate of 1/572nd;
- (i) if he has attained the age of sixty-three years or more, at the rate of 1/550th;

of his average pensionable emoluments for each complete month of his pensionable service:

Provided that if such an officer had, at the date of his retirement, served for four years or more after the effective date, his pension shall be calculated at the appropriate rate specified in subparagraph (d), (e) or (f) of subparagraph (1) or the appropriate rate specified in this subparagraph, whichever is the more favourable to him.

(3) A female officer who had been appointed as an officer prior to the 1st January, 1965, and has had continuous service as an officer since that date and who retires in terms of paragraph 25 and at the date on which she retires has attained the age of fifty-five years or more shall be entitled, with effect from the date of her retirement, to a pension calculated—

- (a) if she has not attained the age of fifty-eight years, at the rate of 1/638th;
- (b) if she has attained the age of fifty-eight years but has not attained the age of sixty-one years, at the rate of 1/616th;
- (c) if she has attained the age of sixty-one years but has not attained the age of sixty-two years, at the rate of 1/594th;
- (d) if she has attained the age of sixty-two years but has not attained the age of sixty-three years, at the rate of 1/572nd;
- (e) if she has attained the age of sixty-three years or more, at the rate of 1/550th;

of her average pensionable emoluments for each complete month of her pensionable service.

**Ill-health or death of officer.**

27. (1) An officer referred to in paragraph 25 who is discharged on or after the 30th April, 1980, on the grounds of ill-health or mental or physical deficiency or infirmity shall be entitled to receive the benefits provided in the Pensions Regulations or, if he so elects by notice in writing, a pension calculated in terms of paragraph 26.

(2) If on the death of an officer referred to in paragraph 25 on or after the 30th April, 1980, his spouse or any child or dependant is entitled to receive a pension in terms of the Pensions Regulations, the pension payable to that person shall be calculated in accordance with the provisions of the Pensions Regulations or in terms of paragraph 26, whichever is the more favourable to the recipient of the pension.

**Officers not eligible for benefits.**

28. (1) The provisions of paragraphs 24 and 25 shall not apply to an officer who was transferred to the Public Service from pensionable employment in the former Federal Public Service consequent on the dissolution of the former Federation of Rhodesia and Nyasaland and who, at the effective date, is occupying a post which is classified in terms of the Public Services Act as a Group I or Group II employee post.

- (2) An officer may not retire in terms of paragraph 25 if—
- (a) he retires or resigns to avoid discharge on the grounds of misconduct; or
  - (b) the notice of intention to retire in terms of paragraph 25 is given or would expire whilst he is under suspension or prohibition from duty in terms of the law relating to the Public Service; or
  - (c) having been granted special leave for training or study purposes subject to the condition that he serves Government for a specified period after the expiration of such leave, the notice of intention to retire in terms of paragraph 25 is given or would expire before he has completed his service for that specified period.

29. On and after the death of a former contributor who is in receipt of a pension in terms of this Part the provisions of the Pensions Regulations shall, *mutatis mutandis*, apply in relation to the determination of whether any pension is payable to or in respect of his spouse or any child or dependant and, if so, the amount thereof, as though the pension being paid to that former contributor were paid in terms of the Pensions Regulations.

**Pensions for spouses and dependants.**

30. The provisions of the Pensions Act and the relevant regulations made thereunder shall, *mutatis mutandis*, apply in relation to the commutation of a pension payable in terms of this Part as though the pension were payable in terms of the Pensions Regulations.

**Commutation of pensions.**

31. A contributor who is paid any pension or commutation thereof in terms of this Part shall not be entitled to receive any pension in terms of the Pensions Regulations.

**Prohibition of dual benefits.**

32. (1) The provisions of paragraphs 25 to 31 shall, *mutatis mutandis*, apply to—

**Application of provisions to certain former officers.**

- (a) a member of the Public Service Commission who, immediately before his appointment as such, was—
  - (i) a service member of the former Public Services Board; or
  - (ii) an established officer who was appointed to the Public Service as an officer before the 1st October, 1978, and has had continuous service as an officer since that date;
 and
- (b) the person holding the office of Comptroller and Auditor-General if, immediately before his appointment as such, he—
  - (i) held the office of Comptroller and Auditor-General under the former Constitution; or
  - (ii) was an established officer referred to in subparagraph (ii) of paragraph (a).

(2) The application of the provisions of paragraph 31 in relation to a person referred to in subparagraph (a) or (b) of subparagraph (1) shall not preclude the payment in terms of his conditions of service of any pension or other benefits in respect of any ill-health of or injury to, or the death of, that person arising out of and in the course of his official duties.

Application of provisions to officers of Parliament.

33. (1) The provisions of paragraph 24 shall, *mutatis mutandis*, apply in relation to an officer of Parliament who is removed from office on grounds of expediency or necessity not otherwise specified in the Parliamentary terms of service as in force immediately before the effective date.

(2) The provisions of paragraphs 25 to 31 shall, *mutatis mutandis*, apply in relation to an officer of Parliament who is not an officer under contract as defined in the Parliamentary terms of service in force immediately before the effective date.

(3) The application of the provisions of paragraph 31 in relation to an officer of Parliament referred to in subparagraph (2) shall not preclude the payment in terms of the Parliamentary terms of service of any pension or other benefits in respect of any ill-health of or injury to, or the death of, that officer arising out of and in the course of his official duties.

#### PART IV

##### BENEFITS FOR MEMBERS OF UNIFORMED FORCES

Interpretation of terms in Part IV.

34. (1) In this Part—

“Commanding Officer”, in relation to a member referred to in—

- (a) subparagraph (1) of paragraph 35, means the Commissioner of Police;
- (b) subparagraph (2) of paragraph 35, means the Commander of the Army or the Air Force, as the case may be;
- (c) subparagraph (3) of paragraph 35, means the Director of Prisons;

“contributor” means a member who is paying contributions to the Consolidated Revenue Fund in terms of the Pensions Regulations;

“effective date” means the 30th April, 1979;

“member” means a person to whom, in terms of paragraph 35, the provisions of this Part apply;

“Pensions Act” means the State Service (Pensions) Act [Chapter 275];

“Pensions Regulations” means the State Service (Pensions) (Uniformed Forces) Regulations, 1976;

“Uniformed Force” means the Police Force, the Army, the Air Force or the Prison Service, as the case may be.

(2) The calculation, for the purposes of this Part, of the pensionable service and the retiring pension emoluments of a member or other contributor shall be made in accordance with the provisions of the Pensions Act and Pensions Regulations.

35. (1) The provisions of this Part shall apply to any member of the Regular Force of the Police Force, other than an auxiliary member, who has had continuous service as a contributor since before the 1st October, 1978, and who— **Application of Part IV.**

- (a) at that date was of the rank of patrol officer or above; or
- (b) was appointed to that Regular Force in terms of subparagraph (i) of paragraph (d) of subsection (1) of section 3 of the Police (Cadet) Regulations, 1965, before the 1st October, 1978, and has since attained the rank of patrol officer in that Regular Force; or
- (c) was last appointed to that Regular Force before the 1st October, 1978, and has since attained the rank of patrol officer before the 30th April, 1979; or
- (d) was a National Service member of the Police Force undergoing Phase I service immediately before the 1st October, 1978, and has, during the currency of his Phase I service and before the 30th April, 1979, attained the rank of patrol officer.

(2) The provisions of this Part shall apply to any member of the Regular Force of the Army or Air Force who has had continuous service as a contributor since before the 1st October, 1978, and who—

- (a) at that date was an officer as defined in the Defence (Regular Force) (Officers) Regulations, 1976, or a member as defined in the Defence (Regular Force) (European Members) Regulations, 1976, or the Defence (Regular Force) (Rhodesia Women's Services) Regulations, 1978; or
- (b) was a member as defined in the Defence (Regular Force) (African Members) Regulations, 1976, before the 1st October, 1978, and has since been promoted to commissioned rank in terms of the Defence (Regular Force) (Officers) Regulations, 1976, before the 30th April, 1979; or
- (c) was a National Service member of the Army or Air Force undergoing Phase I service immediately before the 1st October, 1978, and has, during the currency of his Phase I service and before the 30th April, 1979, become a member of the Regular Force of the Army or Air Force.

(3) The provisions of this Part shall apply to any member of the Prison Service, other than the Auxiliary Branch or National

Service Branch thereof, who has had continuous service as a contributor since before the 1st October, 1978, and who—

- (a) at that date was of the rank of prison officer or above;  
or
- (b) was appointed as a member of the Prison Service, other than the Auxiliary Branch or National Service Branch thereof, before the 1st October, 1978, and has since attained the rank of prison officer before the 30th April, 1979.

Replacement or loss of office.

36. (1) If a contributor who was appointed to a Uniformed Force before the 1st October, 1978, and has had continuous service as a contributor since that date is discharged on grounds not provided for in the conditions of service applicable to him immediately before the effective date, he shall be entitled, with effect from the date of his discharge, to a pension at the rate of 1/490th of his retiring pensionable emoluments for each complete month of his qualifying service.

(2) For the purposes of subparagraph (1)—

“qualifying service”, in relation to a contributor, means the pensionable service of that contributor increased by one-third calculated to the nearest complete month:

Provided that the number of complete months by which the period of pensionable service is to be increased shall not exceed—

- (a) in the case of a contributor who, on the date of his discharge, has not attained the age of fifty-five years, the number of complete months by which his age in months is less than 660;
- (b) in the case of a contributor not referred to in paragraph (a), the number of complete months by which his age in months at his next birthday is more than his age in months.

Early retirement.

37. (1) A member who, at the date of his retirement, will have completed not less than two years' service as a contributor since his last appointment as such may, at any time after he has completed a period of service of not less than one year after the effective date, retire from the Uniformed Force of which he is a member:

Provided that a member who wishes to retire in terms of this paragraph shall give not less than three calendar months' notice of his intention to retire, which shall expire not earlier than the 30th April, 1980.

(2) Notwithstanding the provisions of the proviso to subparagraph (1), the Commanding Officer may accept a period of notice to retire in terms of subparagraph (1) which amounts to less than three calendar months but does not expire before the 30th April, 1980.



38. (1) A member who retires in terms of paragraph 37 and who, at the date on which he retires, would not, in terms of the Pensions Regulations, be entitled to a pension shall be entitled, with effect from the date of his retirement, to a pension calculated, if he retires—

Benefits on retirement.

- (a) on or after the first anniversary and before the second anniversary of the effective date, at the rate of 1/820th;
- (b) on or after the second anniversary and before the third anniversary of the effective date, at the rate of 1/776th;
- (c) on or after the third anniversary and before the fourth anniversary of the effective date, at the rate of 1/732nd;
- (d) on or after the fourth anniversary and before the fifth anniversary of the effective date, at the rate of 1/688th;
- (e) on or after the fifth anniversary and before the sixth anniversary of the effective date, at the rate of 1/644th;
- (f) on or after the sixth anniversary of the effective date, at the rate of 1/600th;

of his retiring pensionable emoluments for each complete month of his pensionable service.

(2) A member who was eligible in terms of the Pensions Regulations to retire on pension at any time before the first anniversary of the effective date and who retires in terms of paragraph 37 on or after the first anniversary of the effective date shall be entitled, with effect from the date of his retirement, to a pension calculated, if he retires—

- (a) on or after the first anniversary and before the second anniversary of the effective date, at the rate of 1/556th;
- (b) on or after the second anniversary and before the third anniversary of the effective date, at the rate of 1/534th;
- (c) on or after the third anniversary and before the fourth anniversary of the effective date, at the rate of 1/512th;
- (d) on or after the fourth anniversary of the effective date, at the rate of 1/490th;

of his retiring pensionable emoluments for each complete month of his pensionable service.

(3) A member who at any time after the first anniversary of the effective date first becomes eligible in terms of the Pensions Regulations to retire on pension and who retires in terms of paragraph 37 on or after the first anniversary of the effective date shall be entitled, with effect from the date of his retirement, to a pension calculated, if he retires—

- (a) on or after the date he first becomes eligible to retire on pension in terms of the Pensions Regulations and before the first anniversary of that date, at the rate of 1/556th;

- (b) on or after the first anniversary and before the second anniversary of the date referred to in subparagraph (a), at the rate of 1/534th;
- (c) on or after the second anniversary and before the third anniversary of the date referred to in subparagraph (a), at the rate of 1/512th;
- (d) on or after the third anniversary of the date referred to in subparagraph (a) at the rate of 1/490th;

of his retiring pensionable emoluments for each complete month of his pensionable service.

Ill-health or death of member.

39. (1) A member referred to in paragraph 37 who is discharged on or after the 30th April, 1980, on the grounds of ill-health, physical or mental unfitness or incapacity or personal injury shall be entitled to receive the benefits provided in the Pensions Regulations or, if he so elects by notice in writing, a pension calculated in terms of paragraph 38.

(2) If on the death of a member referred to in paragraph 37 on or after the 30th April, 1980, his spouse or any child or dependant is entitled to receive a pension in terms of the Pensions Regulations, the pension payable to that person shall be calculated in accordance with the provisions of the Pensions Regulations or in terms of paragraph 38, whichever is the more favourable to the recipient of the pension.

Pensions for spouses and dependants.

40. On and after the death of a former member who is in receipt of a pension in terms of this Part the provisions of the Pensions Regulations shall, *mutatis mutandis*, apply in relation to the determination of whether any pension is payable to or in respect of his spouse or any child or dependant and, if so, the amount thereof, as though the pension being paid to that former member were paid in terms of the Pensions Regulations.

Commutation of pensions.

41. The provisions of the Pensions Act and the relevant regulations made thereunder shall, *mutatis mutandis*, apply in relation to the commutation of a pension payable in terms of this Part as though the pension were payable in terms of the Pensions Regulations.

Prohibition of dual benefits.

42. A member who is paid any pension or commutation thereof in terms of this Part shall not be entitled to receive any pension in terms of the Pensions Regulations.

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CC(79) 9  
THIRD PLENARY SESSION

COPY NO:

89

CONSTITUTIONAL CONFERENCE  
LANCASTER HOUSE  
LONDON  
SEPTEMBER 1979

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Summary of the proceedings of the Third Plenary  
Session of the Conference, Thursday 13 September

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Lancaster House  
13 September 1979

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Present:

UK Delegation

Lord Carrington (in the Chair)

Sir I Gilmour Bt

Sir M Havers

Lord Harlech

Mr R Luce

Sir M Palliser

Sir A Duff

Mr D M Day

Mr R A C Byatt

Mr R W Renwick

Mr P R N Fifoot

Mr N M Fenn

Mr G G H Walden

Mr C D Powell

Mr P J Barlow

Mr R M J Lyne

Bishop Muzorewa and Delegation

Bishop A T Muzorewa

Dr S C Mundawarara

Mr E L Bulle

Mr F Zindoga

Mr D C Mukome

Mr G B Nyandoro

Mr L Nyemba

Chief K Ndiweni

Mr Z M Bafanah

Mr D C Smith

Mr C Andersen

Dr J Kamusikiri

Mr G Pincus

Mr L G Smith

Air Vice Marshal H Hawkins

Mr Mugabe, Mr Nkomo and Delegation

Mr R G Mugabe	Mr J M Nkomo
Mr S V Muzenda	Mr J M Chinamano
Mr E Z Tekere	Mr J W Msika
Mr J M Tongogara	Mr T G Silundika
Mr H Ushewokunze	Mr A M Chambati
Mr J Tungamirai	Mr L Baron
Mr E Zvobgo	Mr C Ndlovu
Mr S Mubako	Miss T Siziba
Mr W Kamba	

Secretariat

Mr J M Willson

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The session commenced at 1505 hours.

THE CHAIRMAN said that he appreciated delegates' wishes to have time to study the proposals circulated by the UK delegation the previous evening (Conference Paper CC (79) 6). He proposed to say a few words on the draft constitution and then to adjourn for tea with the Prime Minister, who was anxious to meet Conference delegates.

The Chairman said that when the British Government invited those present to attend, they had been given an outline of the British proposals (Conference Paper CC(79) 2) which took full account of consultations which had taken place over the previous three months. These proposals were designed to provide genuine majority rule and to bring Rhodesia to independence, comparable with that granted to former dependent territories but taking into account the special circumstances of Rhodesia. Both delegations had asked for the British proposals to be made more specific and it was in response to this that a fuller outline (Conference Paper CC(79)6) had been circulated.

The Chairman thought it might be helpful to explain the basis of that document. Any agreement reached would have to be translated into the language of constitutional draftsmen, and he proposed to leave such discussion to the legal experts. There was a need for the Conference to reach agreement, in its own terms, on what it regarded as essential. The document set forth clearly an outline which corresponded to the chapters in a legally drafted independence constitution. A great

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deal of the outline would, he expected, present little difficulty. The British Government did not wish to pre-empt decisions or inhibit discussion and were ready to consider alternative solutions which were acceptable to the parties concerned. The Chairman reiterated the British Government's responsibility to make clear the basis on which it was prepared to present its independence proposals to Parliament. For example, the parliamentary representatives of minorities should not, on their own, be able to block amendments to the constitution.

The Chairman asked delegates to indicate those points in the document which were acceptable and those which were not. Difficulties were bound to arise, but these could and must be resolved. He thought that Section A would not cause difficulties, but that Section B, which concerned technical questions of citizenship, might usefully be delegated to experts who could report back to the Conference. Discussion round the table should focus on the major political issues in an attempt to build up areas of agreement. The Conference should do all in its power to grasp this opportunity to create genuine majority rule.

MR NKOMO questioned the Chairman's statement that the British proposals had been circulated to the parties after three months of consultation; they could not be said to have emerged from Lord Harlech's visit. He said that his delegation had its own constitutional proposals which would cover all the relevant issues and would be tabled in due course. It was not a question of simply going through the British document; the Conference should consider all the documents tabled. Britain's  
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invitation to the Conference did not give the Chairman the sole responsibility for deciding what should be discussed.

THE CHAIRMAN looked forward to receiving the proposals of Mr Nkomo and his delegation which the Conference could then discuss; but as these had not yet been tabled he hoped the Conference could begin by considering those proposals already circulated.

MR NKOMO said that his delegation would comment in due course on the British proposals. In response to THE CHAIRMAN'S request for an early response, MR MUGABE said that his delegation shared the sense of urgency. Some not directly concerned with the Conference had been given both the outline and the detailed British proposals before his delegation had seen them. His delegation had to take time to digest the proposals. He asked the Chairman to be tolerant and to recognise that this matter, which affected the very constitutional existence of his country, was crucial. He thought that it might be possible to comment by the following day.

THE CHAIRMAN explained that the detailed British proposals had not been circulated earlier because he had not wished to give the impression that proposals were being put forward on a "take it or leave it" basis. The British had therefore presented outline proposals only, to be fleshed out at the Conference.

BISHOP MUZOREWA said that his delegation was not ready to comment. THE CHAIRMAN asked if he would be ready to make a statement the following day. BISHOP MUZOREWA replied that he might be ready to ask questions about the proposals.

/THE CHAIRMAN

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THE CHAIRMAN remarked that little of substance had so far emerged, although the Conference had been in session for almost a week. He hoped that at least preliminary views on his proposals would be put forward the following day. MR NKOMO said that much had been achieved over the past few days, but agreed with the Chairman that more remained to be done.

THE CHAIRMAN suggested that the Conference should adjourn until the following afternoon to allow both sides to prepare a general statement on the British proposals. This would be followed after the weekend by detailed discussion. BISHOP MUZOREWA agreed, but felt that this should not imply lack of progress.

It was agreed to adjourn until 1500 hours on Friday 14 September.

The session closed at 1535.

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CC(79) 8  
SECOND PLENARY SESSION

COPY NO:

89

CONSTITUTIONAL CONFERENCE  
LANCASTER HOUSE  
LONDON  
SEPTEMBER 1979

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Summary of proceedings of the Second Plenary  
Session of the Conference, Wednesday 12 September

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Lancaster House  
12 September 1979

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Present:

UK Delegation

Lord Carrington (in the chair)

Sir I Gilmour Bt

Mr R Luce

Sir A Duff

Mr D M Day

Mr R A C Byatt

Mr R W Renwick

Mr P R N Fifoot

Mr N M Fenn

Mr G G H Walden

Mr C D Powell

Mr R D Wilkinson

Mr R M J Lyne

Mr M J Richardson

Mr Mugabe, Mr Nkomo and Delegation

Mr J M Nkomo	Mr R G Mugabe
Mr J M Chinamano	Mr S V Muzenda
Mr J W Msika	Mr E Z Tekere
Mr T G Silundika	Mr J M Tongogara
Mr A M Chambati	Mr E R Kadungure
Mr J Nkomo	Mr H Ushewokunze
Mr L Baron	Mr E Zvobgo
Mr S K Sibanda	Mr S Mubako
Miss T Siziba	Mr W Kamba

Bishop Muzorewa and Delegation

Bishop A T Muzorewa  
Dr S C Mundawarara  
Mr E L Bulle  
Mr F Zindoga  
Mr D C Mukome  
Mr G B Nyandoro  
Rev N Sithole  
Mr L Nyemba  
Chief K Ndiweni  
Mr Z M Bafanah  
Mr I D Smith  
Mr D C Smith  
Mr C Andersen  
Dr J Kamusikiri  
Mr L G Smith  
Air Vice Marshal H Hawkins  
Mr D Zamchiya  
Mr G Mutambanengwe

Secretariat

Mr J M Willson

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The session commenced at 1510 hours.

THE CHAIRMAN said that the agenda which he had circulated (Conference Paper (CC(79) 5) took care of the points raised by Mr Mugabe and Mr Nkomo during the morning session. It envisaged discussion of the subjects listed but did not exclude others which might be raised additionally. The agenda thus met the British obligation to discuss all relevant matters. The Chairman said that a long time had been spent on procedural questions, and that the Conference should now get down to business.

BISHOP MUZOREWA said that the purpose of the Conference was to discuss the Constitution. He was therefore prepared to accept Item 1 on the agenda. Whilst he could not prevent the Chair from placing any additional items on the agenda, he did not at this stage accept the additional Item 2, and therefore reserved his position in this regard. Bishop Muzorewa concluded by proposing discussion of the Constitution.

MR MUGABE said that his delegation's agenda, circulated during the morning session (Conference Paper CC(79)4) had taken into account the British desire to discuss the Constitution. It had proposed an order of discussion which, in his view, would expedite the conduct of Conference business. The Chairman had not done full justice to his Delegation's suggestions and had not taken fully into account the various subjects detailed in their proposed agenda. It was necessary to specify subjects. The order was not of primary significance, and it would be possible to begin by

/discussing

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discussing the Independence Constitution and then move on to the other issues. There was in the Chairman's agenda, however, an obvious omission of the proposed subheadings in his Delegation's agenda. His delegation envisaged transitional arrangements which would make progress towards independence clear and irreversible. That was why their agenda went into some detail. The agenda to be accepted by the Conference could include subjects not covered by his delegation's draft agenda.

He was surprised that the other side had apparently changed posture and now rejected discussion of the transitional arrangements. The achievement of peace depended on the conclusion of a satisfactory agreement on these matters. There could not be a cease-fire without satisfactory arrangements concerning the army, the police, the public service and the judiciary.

In conclusion he said that he hoped the re-arrangement of the agenda proposed by the British side did not indicate a wish to avoid the clearest possible discussion of the transitional arrangements. An effective Constitution would not be possible unless there was a guarantee that the progress towards independence was irreversible. The forces which had been used since 1965 to maintain illegality must be put under firm control. A settlement could be obtained only by discussing both the Independence Constitution and the transitional Constitution. MR MUGABE wanted real peace, not the sort of peace produced in April this year.

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/MR NKOMO



MR NKOMO said that the Conference should not avoid discussing those issues which would bring real peace to his country.

THE CHAIRMAN noted Bishop Muzorewa's point, but said that if a successful conclusion on the Constitution were reached, it followed that pre-Independence arrangements would have to be discussed. In response to Mr Mugabe, the Chairman said the British Government had no intention of evading discussion of the necessary issues. Anything which either side wished to raise would be discussed at the proper time. Mr Mugabe's comments on Item 2 of the agenda circulated by the UK Delegation seemed to him, however, to be substantive proposals and not suggestions for inclusion in an agenda. There would be many proposals, and it would be wrong to include them as part of the order of business. The Chairman said that he had come a long way to meet the requirements of the Patriotic Front, and, as Chairman of the Conference, would give an undertaking that the proposed headings would not exclude discussion of other subjects.

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What he now proposed was the "lowest common denominator" of disagreement. He very much hoped that, although neither of the visiting delegations was entirely satisfied with the proposed agenda, the conference could now proceed to discussion of the Constitution.

MR NKOMO said that while items 1 and 2 a. and b. of the Chairman's agenda were clear, item 2 c. was not. It could mean anything. The Patriotic Front did not wish to find itself in a situation where, having agreed on the terms of a Constitution, the British Government then dictated the kind of administrative arrangements which would be put into effect during the pre-independence phase.

THE CHAIRMAN said that the agenda simply set out points for discussion. It was not an attempt to lay down the law. He thought that his draft had gone as far as was possible to meet the Patriotic Front's wishes; item 2 specifically said "including" a, b and c, so that anyone was free to bring up other items. He appealed to the delegations to allow the conference to proceed.

MR MUGABE then asked whether the Patriotic Front could assume that under item 2 c. of the agenda circulated by the Chairman all the items contained in points 1 and 2

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of the agenda previously circulated by his and Mr Nkomo's delegation could be discussed.

THE CHAIRMAN agreed that this was indeed the case.

He next suggested that the conference should examine the outline proposals of the British Government in order to determine on which principles the sides could agree and those on which only qualified agreement could be given. This would serve as a useful preliminary to more detailed discussion.

As delegations were already aware, the outline proposals contained provision for a "constitutional" Head of State. This was a normal provision of previous independence constitutions and it had the merit of allowing the formal duties of the office to be performed by a non-political figure. It was for this reason that he thought such a provision was useful. He recognised that alternatives were possible, and he would welcome the views of other delegations on this.

Turning to the legislature, the Chairman said that there was provision for a bi-cameral legislature. This again was a feature of previous independence constitutions. The outline proposals suggested that the Senate should have no provision to block legislation passed by the

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lower House, but it was the British experience that a second chamber was a useful complement to the directly-elected House, particularly for the discussion of more technical issues. However, if the conference were to prefer a uni-cameral system, the British Government would respect that preference.

Although recognising that the next issue might present difficulties for some of those present, the British Government believed that it was reasonable to provide, as a temporary measure, for a minority of seats in the lower House to be reserved for representatives to be elected by the white community. The particular history and circumstances of the country required, in the British Government's judgment, such a provision. The proportion of such seats was obviously a question for discussion, but the British proposal concerned representation, not a blocking mechanism.

Continuing, the Chairman said that the provision for the regulation of public services was a common feature of independence Constitutions granted by Britain; indeed it was an indispensable feature of any administration. Such provisions, he added, must however provide for the legitimate claims, at all levels, of the majority of the population. He also believed that a democratically

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elected government, through its Chief Executive, should have power to make certain senior appointments itself in order to ensure the effective implementation of its policies.

The British Government believed that these principles could form the basis for a genuinely democratic independence Constitution, which they could confidently put to Parliament. The Chairman then asked the other delegations whether these proposals were acceptable in outline.

BISHOP MUZOREWA asked whether there were further principles to be enunciated or whether the Chairman now proposed to provide more details of the outline principles already circulated.

THE CHAIRMAN said that the outline proposals contained all the principles, but that he would be circulating later in the afternoon a document containing further details in respect of these principles which delegates might wish to consider overnight.

BISHOP MUZOREWA said that his delegation would like to consider both the outline and the detailed proposals before commenting further. MR MUGABE said that the Patriotic Front would also like to examine the detailed

proposals

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proposals before they gave their views. THE CHAIRMAN agreed to circulate the more detailed proposals so that delegations could consider them overnight and give their views at the session beginning at 1030 on the following day.

The session then adjourned at 1545.

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FIRST PLENARY SESSION

COPY NO:

89

CONSTITUTIONAL CONFERENCE

LANCASTER HOUSE

LONDON

SEPTEMBER 1979

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Summary of proceedings of the First Plenary  
Session of the Conference, Wednesday 12 September

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LANCASTER HOUSE

12 September 1979

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Present:

UK Delegation

Lord Carrington (in the chair)

Sir I Gilmour Bt

Mr R Luce

Sir A Duff

Mr D M Day

Mr R A C Byatt

Mr R W Renwick

Mr P R N Fifoot

Mr N M Fenn

Mr G G H Walden

Mr C D Powell

Mr R D Wilkinson

Mr R M J Lyne

Mr M J Richardson



Bishop Muzorewa and Delegation

Bishop A T Muzorewa

Dr S C Mundawarara

Mr E L Bulle

Mr F Zindoga

Mr D C Mukome

Mr G B Nyandoro

Rev N Sithole

Mr L Nyemba

Chief K Ndiweni

Mr Z M Bafanah

Mr I D Smith

Mr D C Smith

Mr C Andersen

Dr J Kamusikiri

Mr L G Smith

Air Vice Marshal H Hawkins

Mr D Zamchiya

Mr G Mutambanengwe

Mr Mugabe, Mr Nkomo and Delegation

Mr R G Mugabe	Mr J M Nkomo
Mr S V Muzenda	Mr J M Chinamano
Mr E Z Tekere	Mr J W Msika
Mr J M Tongogara	Mr T G Silundika
Mr E R Kadungure	Mr A M Chambati
Mr H Ushewokunze	Mr J Nkomo
Mr E Zvobgo	Mr L Baron
Mr S Mubako	Mr S K Sibanda
Mr W Kamba	Miss T Siziba

Secretariat

Mr J M Willson

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The session commenced at 10.35.

THE CHAIRMAN said that he had studied the statements of both sides and was grateful to them for setting out their views. In the statements there was some common ground: a recognition of the crucial importance of finding a just and lasting solution to the problems of Rhodesia; a recognition of the suffering of the people involved; a readiness to approach the Conference constructively and in good faith; and an acceptance of the principle that the people of Rhodesia should be free to choose their own government. There were of course wide divergences of view, but he hoped and expected that all delegates would demonstrate a desire to negotiate constructively.

The British Government's aim was to end the war, and those present at the Conference had it in their power to do this. The people of Rhodesia and those of neighbouring countries looked to the Conference to succeed, as did the international community. He saw no way of achieving that objective unless the Conference could agree on the country's future constitution. The only way to end the war was to remove the reasons for it.

Bishop Muzorewa had said that Rhodesia had a Constitution which represented a good basis for legal independence and majority rule. The British Government had frequently acknowledged that significant advances within Rhodesia had been made in terms of political change, the abolition of racial discrimination and the development of a multiracial society. The British Government had also made it clear that it was Britain's responsibility to approve and enact the independence constitution,

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and that on certain important issues changes would be needed in the present arrangements. On 25 July in the House of Commons the Prime Minister had expressed the British Government's desire for a solution which would contribute to a better and more secure future for the people of Rhodesia and of the neighbouring countries and had said that the British Government would put forward constitutional proposals to form a basis for legal independence. Outline proposals had been given to both delegations on 14 August. The Chairman noted Bishop Muzorewa's view that most of the British requirements in the outline proposals had already been substantially met. This would be discussed during the Conference. The British Government's responsibility was to gain the widest possible agreement at the Conference, and to fulfil its constitutional obligation by making clear what Constitutional arrangements it would be prepared to submit to Parliament.

The CHAIRMAN thanked Mr Nkomo for his opening statement and for his welcome for the British Government's intention to bring about genuine majority rule in Rhodesia. The war could not be ignored. He understood the Patriotic Front's concern about the pre-independence arrangements: these had to be discussed and agreement on them reached before the Conference could achieve its purpose. Mr Nkomo had covered points relating both to the constitution and to pre-independence arrangements. It remained the British Government's view that agreement on a future independence Constitution must be the Conference's objective; they also needed to consider the arrangements to bring that Constitution into effect. The

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key element would be a free and fair election, properly supervised by Britain, in which all parties could compete on an equal basis. The British Government accepted that agreement on a Constitution was linked to subsequent agreement on the pre-independence arrangements.

The Patriotic Front had set out their views on the causes of the war. The purpose of the war was to achieve majority rule. All parties had now accepted majority rule, and the British Government had put forward proposals to this end. The British Government believed that the future government of Rhodesia had to be settled by the people of Rhodesia. Therefore certain of Mr Nkomo's points fell to the people of Rhodesia to decide through their elected representatives.

Mr Mugabe had suggested that the views of the Commonwealth Heads of Government were of secondary importance. The British Government, however, believed that the agreement reached at Lusaka was of very considerable importance, revealing the extent of international support for this attempt to reach a peaceful solution to the conflict.

Mr Nkomo had said that the British Government had to take the Conference into its confidence. The British Government was prepared to put forward further specific proposals, but it was necessary first to receive the participants' views on the framework circulated. The CHAIRMAN invited both Delegations to set out their views more fully on the Constitution, on the understanding that if agreement were reached, that agreement would be contingent on agreement on the arrangements for implementing it.

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The CHAIRMAN therefore hoped to proceed on this basis to a general discussion on the Constitution.

Mr NKOMO thanked the Chairman for his reaction to their statement and for the amplification of his intentions regarding the conduct of the Conference. The Chairman had not, however, said what arrangements would be required to implement a future Constitution. It was essential to have a whole picture of what the Conference was about. The only specific arrangement mentioned by the chairman had been the need for elections under British authority. Mr Nkomo asked how the sides should proceed to elections and who would organise them.

Mr NKOMO then asked that a draft agenda prepared by his Delegation should be circulated to the Conference. This would enable the Conference to move forward. He did not want it to stagnate.

THE CHAIRMAN asked Bishop Muzorewa for his comments.

BISHOP MUZOREWA said that he accepted the Chairman's ruling that the Conference should start by discussing the Constitution. However, the Chairman had said that any Constitution should be a product of its own people. In his delegation's case such a constitution already existed. It had been drafted by the people of his country and took account of the needs and aspirations of all the communities of the country. He asked the Chairman to clarify what the British Government meant in asking the Conference to discuss a Constitution.

The respective delegations then discussed amongst themselves the draft agenda as circulated by the delegation of Mr Mugabe and Mr Nkomo.

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The CHAIRMAN then invited Bishop Muzorewa to comment on the Patriotic Front's proposed agenda.

BISHOP MUZOREWA replied that, in his view, the agenda should be drawn up by the Chairman and the Secretariat. MR MUGABE intervened to say that the Chairman should not have a monopoly in the formulation of the agenda. Delegations could not be excluded from putting forward their views, although in the final analysis it was for the Chairman to decide. His delegation's idea was to present the overall picture, and how they saw the two stages. Transitional arrangements should be examined, especially those aspects mentioned under Point 1 of their draft agenda.

The state of affairs at Independence was contingent on the character of the transitional period. He would therefore prefer that the Conference began by examining Items 1 and 2 of his draft agenda. His Delegation would like to see a transitional structure with definite powers and instruments of control in order to make it possible for the Constitution to work. He said that the 1961 Constitution, which was a legal Constitution, had been overturned and UDI declared in 1965 by a minority which had been able to reinforce its position by use of such instruments as the Army, Police, the Air Force, the Public Service and the Judiciary. It then became the reality which the British Government could not overthrow. It was therefore necessary that the process established at the Conference should be irreversible. He thought that if the Conference proceeded along the lines of the draft agenda, a quicker solution would be achieved.

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His Delegation's attitude was positive, not obstructive as had frequently been suggested.

The CHAIRMAN expressed his gratitude to all three speakers. He said that the object of the Conference was to reach agreement in the most logical and sensible way. The approach of the British Government had been to discuss the best way to achieve a solution with their friends and allies and the parties involved. It was clear from these discussions that the root of the problem lay in the Constitution. If the Conference could agree on the Constitution, it would remove the causes of the war. Once agreement on the Constitution was settled, agreement on other matters could come more easily. The nature of the discussion of some of the other points in the draft agenda would be determined by the solution reached on the Constitution. Some of the points raised by Mr Nkomo in his opening speech were matters which would form part of the discussion on the Constitution. The British Government's view, reinforced by their consultations with others, was that logic determined that the Conference should discuss the Constitution first. He believed that Bishop Muzorewa and his Delegation agreed. He hoped very much that the Patriotic Front could agree.

MR NKOMO said that the Chairman had referred to "other things" essential for implementing the Constitution. He wanted to know exactly what the British Government meant by this. The purpose of the draft agenda was to get the Chairman to elucidate this. The Conference could then agree on where it should start. The Patriotic Front had no wish

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to find themselves in a position where the British Government declared that the Conference had reached agreement on the Constitution, and then sought an adjournment without discussing the other arrangements. The war had to be ended.

THE CHAIRMAN said that he thought that he had made the point in his initial contribution that agreement on a Constitution was contingent on the Conference reaching agreement on suitable Independence arrangements. The British Government recognised that the Constitution had to be put into practice on the basis of specific arrangements. MR NKOMO asked what the Chairman meant by "arrangements". It was essential that they should contain the proposals in the draft. He was not suggesting that his Delegation was saying that these arrangements had to be discussed now. What they wanted to know was whether the Chairman agreed that items 1 and 2 of the draft contained the elements required. It was essential that the Conference should discuss these issues and that the parties should agree on this. He was not saying "Do not discuss the Constitution first".

MR MUGABE said that the outline proposals presented by the British Government set out the general principles governing the Constitution, but avoided setting out the principles which should govern the transitional period. There was a need to do this, perhaps in a general way. The details could be discussed later.

BISHOP MUZOREWA repeated that it was the understanding of his Delegation that they had been invited to the Conference to

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discuss the Constitution. They were willing to do this, despite the fact that the people of Rhodesia had already decided on their Constitution. He then suggested that if the Conference were to adopt the draft agenda, its sequence might well be reversed. MR MUGABE said that his delegation preferred the suggested order, but if a different order would facilitate progress, they would consider it. MR I D SMITH said that he was anxious for the work of the Conference to begin. He thought that they should begin with discussion on the Constitution, which was the foundation of the structure. He had understood the draft to be in order of priority, but he was now uncertain where Mr Mugabe and Mr Nkomo's priorities lay. They had said in their speeches that the cease fire agreement was a priority, yet it only appeared as item 4 on the draft agenda.

REV. SITHOLE then sought clarification from the Chair. His understanding of the position of Mr Nkomo and Mr Mugabe was that it was not a question of sequence; what they wanted to know was whether the Conference would accept the contents of the draft agenda as items for discussion. Could the Conference begin with item 3 of the draft, followed in turn by discussion of items 1, 2 and 4? THE CHAIRMAN replied that the draft agenda itself was not complete; there was, for example, no reference to the conduct of elections. What the British Government visualised was discussion and agreement on a constitution. This would be subject to agreement on other issues. Once agreement had been reached on the Constitution then other issues would be discussed in an agreed  
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order. He gave an undertaking that all points raised in the draft agenda would have to be discussed, probably along with others.

MR MUGABE said that he was concerned that an agenda should be drawn up, so that the delegations could have a complete picture of what the Conference had to discuss and be certain that all matters on the agenda would be discussed. The Constitution could come first, but all other matters had to be considered.

THE CHAIRMAN adjourned the session at 11.00 am to enable the parties to reflect on the question of a formal agenda.

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Mr Alexander  
No. 10.

CC(79) 6  
CONFERENCE PAPER

Copy No

CONSTITUTIONAL CONFERENCE  
LANCASTER HOUSE  
LONDON  
SEPTEMBER 1979

The attached Summary of an Independence Constitution is circulated to delegates at the request of the Chairman.

Lancaster House  
12 September 1979

SUMMARY OF THE INDEPENDENCE CONSTITUTION

A. THE STATE OF ZIMBABWE

1. Zimbabwe will be a sovereign State. "Zimbabwe" will be established as the official name of the country.

2. The Constitution will be the supreme law of the State and will prevail over any other law.

CITIZENSHIP

1. Existing citizens:
  - a. Every person who was a citizen of Rhodesia immediately before independence will automatically become a citizen of Zimbabwe on independence (by birth, descent or registration, as the case may be, according to his former status).
  - b. Every person who, immediately before independence, possessed such qualifications that the relevant authority would, upon application duly made, have registered him as a citizen of Rhodesia, will be entitled to make application in the prescribed manner at any time during the first 5 years after independence and it will be open to the competent authority to grant that application and cause him to be registered as a citizen of Zimbabwe.
2. Every person who is born in Zimbabwe after independence (other than the child of a diplomat accredited to the Government of Zimbabwe or of an enemy alien) will become a citizen of Zimbabwe by birth.
3. Every person who is born outside Zimbabwe after independence but whose father (or, if he is illegitimate, whose mother) is then a citizen of Zimbabwe by birth will himself become a citizen of Zimbabwe by descent.
4. Any woman who is or has been married to a person who is or was at any time during the subsistence of the marriage a citizen of Zimbabwe (or would but for his death have automatically become a citizen of Zimbabwe at independence) will, on making application in the prescribed manner, be entitled to be registered as a citizen of Zimbabwe.
5. Any person one of whose parents is a citizen of Zimbabwe at the date of his application will be entitled, on making application in the prescribed manner, to be registered as a citizen of Zimbabwe. If the person is a minor, the application may be made on his behalf by his parent or guardian.

6. Dual citizenship will be permitted.

7. Parliament may make additional provision for citizenship.

C. DECLARATION OF RIGHTS

1. The Constitution will set out a declaration of fundamental human rights and freedoms in the customary form, which will be fully justiciable, i.e. any person who asserts that they have been or are being infringed in his case will be able to apply to the High Court for redress. These rights will include:

- i. the right to life;
- ii. the right to personal liberty;
- iii. protection from slavery and forced labour;
- iv. protection from inhuman treatment;
- v. protection from the arbitrary deprivation of property;
- vi. protection from arbitrary search or entry;
- vii. protection of the law;
- viii. freedom of conscience;
- ix. freedom of expression;
- x. freedom of assembly and association;
- xi. freedom of movement;
- xii. freedom from discrimination.



D. THE EXECUTIVE

i. The President

1. The President will be a "constitutional" Head of State and Commander-in-Chief of the Defence Forces. He will be elected by the members of Parliament.
2. Alternatively other arrangements could be considered for a constitutional Head of State.
3. The President will hold office until he resigns or until a period of 6 years has elapsed. Thereafter he will be eligible for re-election for one further period of office.
4. A President may be removed from office on the grounds of misconduct or inability to discharge efficiently the functions of his office. A motion for removal requires to be supported by not less than two-thirds of all the members of Parliament.
5. Provision will be made for the discharge of the functions of the office of President during the President's absence or temporary incapacity.
6. The executive power of Zimbabwe will be vested in the President acting on the advice of the Prime Minister or of a Minister acting under the authority of the Executive Council.
7. The President will exercise the Prerogative of Mercy on the advice of Ministers.
8. The President will have power, on the advice of Ministers, to declare a state of public emergency, or the existence of a situation which, if allowed to continue, may lead to a state of public emergency. Such a declaration will lapse unless it is approved within 14 days by the affirmative votes of more than one-half of the total membership of the House of Assembly. The declaration may not continue in effect for longer than 6 months unless it is renewed by a similar resolution.

ii. Executive Council and Ministers

1. The Executive Council will consist of the Prime Minister and the other Ministers.

2. The President will appoint as Prime Minister the person who, in his opinion, is best able to command the support of a majority of the members of the House of Assembly. He will appoint and dismiss Ministers and Deputy Ministers on the advice of the Prime Minister.

3. A Minister or Deputy Minister will, as a rule, be a member of the Senate or House of Assembly.

4. The Attorney-General shall be a member of the Public Service. He shall be appointed by the President on the advice of the Prime Minister after consultation with the appropriate Commission. He shall exercise the functions of a director of public prosecutions and his tenure of office shall be protected.

5. Permanent Secretaries shall have the supervision of departments under the general direction and control of the responsible Minister. Permanent Secretaries shall be appointed by the President on the advice of the Prime Minister after consultation with the appropriate Commission.

6. Heads of Diplomatic Missions shall be appointed by the President on the advice of the Prime Minister after consultation with the appropriate Commission.

/iii.

iii. The Public Service and Police Force

1. Public Service

There will be a Public Service Commission which will be responsible for regulating and controlling the organisation of the Public (i.e. Civil) Service and the Prison Service. The Commission will consist of a chairman and not less than 2 and not more than 4 other members appointed by the President on the advice of the Prime Minister. The composition of the Commission must take account of the need for it to receive the advice of properly qualified and experienced persons. When considering candidates for appointment to a vacant post in the Public Service or Prison Service, the Commission will be required, subject to any general directions of the President (see paragraph 3 below) to give preference to the person who, in its opinion, is the most efficient and suitable for appointment.

2. Save as otherwise indicated, the Public Service Commission will have power to appoint and remove members of the Public Service.

3. The President, acting on the advice of the Prime Minister, will have power to give the Commissions such general directions with respect to the exercise of their functions as he may consider necessary. These may include directions designed to achieve a suitable representation of the various component groups of the population in the services of the State.

4. The Police Force

The Police Force will be under the command of the Commissioner of Police who will be appointed by the President on the recommendation of the Prime Minister. Before making his recommendation, the Prime Minister will consult the Police Service Commission.

5. Subject to such general directions as may be given to him by the Prime Minister, the Commissioner of Police will be responsible for the administration and operations of the Police Force. Appointments to the Police Force shall be made on the advice of or by the Commissioner of Police.

6. There will be a Police Service Commission which will consist of a chairman (who will be the Chairman of the Public Service Commission) and not less than 2 and not more than 4 other members appointed by the President on the advice of the Prime Minister. The composition of the Commission must take account of the need for it to receive the advice of properly qualified and experienced persons. The functions of the Police Service Commission will be to consider grievances by members of the Police Force, to consider and, if it deems fit, to confirm any proposal to dismiss a member who has had more than 2 years' service and to make regulations for the general well-being and good administration of the Police Force and the maintenance thereof in a high state of efficiency. The President, acting on the advice of the Prime Minister, may give the Commissioner and the Commission similar directions to those referred to in paragraph 3 above.

E. PARLIAMENT

1. The legislature will consist of the President and Parliament, which will comprise a Senate and a House of Assembly.
2. All citizens who are 18 years of age or over will be eligible to be enrolled on a Common Voters Roll. As long as there is the provision for special minority representation in Parliament (described in paragraph 5 below) White citizens who have attained the age of 18 years will, as an alternative to being enrolled on the Common Voters Roll, be eligible to be enrolled on a White voters roll. Subject to the foregoing, an electoral law will provide for the election of Senators and members of the House of Assembly.
3. It is proposed that there shall be a Senate, of whom:
  - a. one-third of the members will be elected by the ordinary members of the House of Assembly;
  - b. one-third will be elected by the European members of the House of Assembly; and
  - c. the election of the remaining one-third will give due weight to regional considerations.
4. The Senate will elect a President and a Deputy President of the Senate. A Minister or Deputy Minister will not be eligible for this post.
5. The House of Assembly will consist of X members elected as follows:
  - a. Y members will be Blacks elected by voters on the Common Voters Roll for Y constituencies;
  - b. Z members will be Whites elected by voters enrolled on the White voters roll for Z White roll constituencies.
6. There will be provision for:
  - a. the establishment of a Delimitation Commission to delimit the Y Common Roll and Z White Roll constituencies for general elections;
  - b.

- b. the qualifications and disqualifications of candidates for election as members of the Senate or the House of Assembly;
- c. the establishment of an Electoral Supervisory Commission and the functions thereof in connection with the supervision of general elections.

7. The House of Assembly will elect a Speaker and a Deputy Speaker. A Minister or Deputy Minister will not be eligible for this post.

8. A Minister or Deputy Minister will have the right to sit and speak both in the Senate and in the House of Assembly but will only have the right to vote in the Senate or in the House of Assembly if he is a member of the Senate or the House, as the case may be. The President will have the right to address either House of Parliament or a joint meeting of both Houses.

9. The President will prorogue or dissolve Parliament when so advised by the Prime Minister. The President will have power to dissolve Parliament if the House of Assembly pass a resolution of no confidence in the Government or if there is no candidate for the post of Prime Minister who is able to command the support of a majority in the House of Assembly. If Parliament has not been earlier dissolved, it will stand dissolved automatically at the end of 5 years after a general election.

10. Subject to paragraph 12, Parliament will have full powers to make laws by bills passed by both Houses of Parliament and assented to by the President.

11. (1) The Senate will not be able to amend Money Bills, though it may recommend amendments.

(2) If the Senate does not approve within 180 days a Bill which has been approved by the House of Assembly, the House of Assembly will be able to resolve that it should be presented to the President for his assent.

12. (1) The provisions of the Constitution relating to minority representation in Parliament will not be amendable for a specific period after independence. [Certain provisions of the Bill of Rights relating to basic human rights

will similarly not be amendable for a specific period after independence.]

(2) Certain principal provisions of the Constitution such as those relating to the Legislature, the Judiciary, and the amendment of the Constitution will be specially entrenched. A Bill to amend the entrenched provisions of the Constitution will require the affirmative votes of[at least 70]per cent of all the members of the House of Assembly. In addition, any Bill to amend the Constitution will require the affirmative votes of two-thirds of the total membership of the Senate, but if this cannot be obtained the Bill may, after a period of 180 days, be sent to the President for his assent despite the failure of the Senate to approve it.

F. THE JUDICATURE

1. There will be a High Court of Zimbabwe, consisting of an Appellate Division and a General Division. The General Division will have unlimited original jurisdiction in both civil and criminal matters and such other jurisdiction as may be conferred on them by the Constitution or any other law. Appeals will lie from decisions of the General Division to the Appellate Division in such cases and in accordance with such procedure as may be prescribed by an Act of Parliament.
2. The Chief Justice will be appointed by the President on the advice of the Prime Minister. The other judges will be appointed by the President on the advice of the Judicial Service Commission.
3. The qualifications for appointment as a judge of the High Court are:
  - a. he has had appropriate judicial experience; or
  - b. he is, and has been for not less than [10] years, qualified to practise as an advocate in Zimbabwe, or in a court of the Commonwealth, or in a country in which the common law is Roman-Dutch, and in any such case English is the official language.
4. The tenure of High Court judges will be protected.
5. The power to appoint, exercise disciplinary control over, and remove from office the judges of the subordinate courts and certain other officers connected with the High Court (e.g. Registrar) will vest in the Judicial Service Commission.
6. The Constitution will establish an independent Judicial Service Commission, consisting of the Chief Justice, the Chairman of the Public Service Commission, a legally qualified person appointed by the President and a lay member appointed by the President in each case acting on the advice of the Prime Minister.



G. THE DEFENCE FORCES

1. All armed forces shall be regulated by law. The Defence Forces will consist of the Army, the Air Force and any other branch established by law.
2. There will be a Commander of each branch. Each Commander will be appointed by the President, acting on the advice of the Prime Minister who will, before he makes his recommendation, consult an appropriately composed board appointed for the purpose. The power to relieve a Commander of his appointment vests in the President acting on the advice of the Prime Minister.
3. The Commander of a branch of the Defence Forces shall be responsible for that branch subject to any general directions which may be given to him by the Prime Minister (or other responsible Minister) for the operations or administration of the branch concerned. Appointments within a branch shall be made on the advice of or by the Commander.
4. There will be a Defence Forces Service Commission which will consist of a Chairman (who will be the Chairman of the Public Service Commission) and not less than 2 and not more than 4 other members appointed by the President acting on the advice of the Prime Minister. The composition of the Commission must take account of the need for it to receive the advice of properly qualified and experienced persons. The functions of the Defence Forces Service Commission will be to consider grievances by members of the Defence Forces, to consider and, if it deems fit, to confirm any proposal to dismiss a member who has had more than 2 years' service, to make regulations for the general well-being and good administration of the Defence Forces and the maintenance thereof in a high state of efficiency. The President, acting on the advice of the Prime Minister, may give the Commander and the Commission similar directions to those referred to in paragraph 3 of Head D (iii).

H. FINANCE

1. There will be one Consolidated Revenue Fund into which all revenues shall be paid unless a law provides for the payment of any such revenues into another fund or that they be retained for the defraying of expenses. All withdrawals from the Consolidated Revenue Fund will have to be authorised by or under an Act of Parliament.

2. There will be a Controller and Auditor-General who will be appointed by the President on the recommendation of the Public Service Commission. His functions will be to audit and report on the accounts of the State and his reports will be laid before the House of Assembly. The tenure of office of the Controller and Auditor-General will be protected.

3. Pension Rights of Public Officers

The pension rights of public officers and former public officers and of their dependants will be protected under the Constitution. In addition, a scheme will be introduced to encourage officers of the Public Service and members of the Police Force, Army, Air Force or Prison Service who were in office prior to 1 October 1978 to continue to serve on and after a specified date.

/I.

I.. OMBUDSMAN

1. There will be an Ombudsman who will be appointed by the President on the advice of the Judicial Service Commission. His duty will be to investigate complaints against actions taken by employees of the Government or of a local authority or, if a law so requires, of any other authority.

CC(79) 5  
CONFERENCE PAPER

COPY NO

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CONSTITUTIONAL CONFERENCE  
LANCASTER HOUSE  
LONDON  
SEPTEMBER 1969

The attached agenda has been issued  
by the Chairman

Lancaster House  
12 September 1979

AGENDA

1. Independence Constitution
2. Pre-Independence Arrangements, including
  - a. elections
  - b. a ceasefire and military arrangements
  - c. the administrative arrangements and the maintenance of law and order during the transitional period.

CC(79) 4  
CONFERENCE PAPER

Copy No

89

CONSTITUTIONAL CONFERENCE

LANCASTER HOUSE

LONDON

SEPTEMBER 1979

The attached draft agenda is circulated at  
the request of the Delegation of Mr Mugabe and  
Mr Nkomo.

Lancaster House  
12 September 1979

DRAFT

Agenda submitted by the Delegation of  
Mr Mugabe and Mr Nkomo.

1. Administration of Country during Transitional Period.
  - (1) Army.
  - (2) Police.
  - (3) Public Service.
  - (4) Judiciary.
  
2. Transitional Constitution.
  - (1) Structure of Transitional Government.
  - (2) Functions of Transitional Government.
  - (3) Powers of Resident Commissioner.
  
3. Independence Constitution.
  
4. Cease-Fire Agreement.

CC(79) 3  
SECOND SESSION

COPY NO: 89

CONSTITUTIONAL CONFERENCE  
LANCASTER HOUSE  
LONDON  
SEPTEMBER 1979

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Record of proceedings of the Second Session of  
the Conference, Tuesday 11 September

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LANCASTER HOUSE  
11 September 1979



PRESENT:

UK DELEGATION:

Lord Carrington (in the Chair)

Sir I Gilmour Bt

Lord Harlech

Mr R Luce

Sir M Palliser

Sir A Duff

Mr D M Day

Mr R A C Byatt

Mr R W Renwick

Mr P R N Fifoot

Mr N M Fenn

Mr G G H Walden

Mr C D Powell

Mr P J Barlow

Mr R D Wilkinson

Mr R M J Lyne

MR MUGABE, MR NKOMO AND DELEGATION

Mr J M Nkomo  
Mr J M Chinamano  
Mr J W Msika  
Mr T G Silundika  
Mr A M Chambati  
Mr John Nkomo  
Mr L Baron  
Mr S K Sibanda  
Miss T Siziba

Mr R G Mugabe  
Mr S V Muzendo  
Mr E Z Tekere  
Mr J M Tongogara  
Mr H Ushewokunze  
Mr D Mutumbuka  
Mr E Zvobgo  
Mr S Mubako  
Mr W Kamba

Bishop Muzorewa and Delegation

Bishop A T Muzorewa

Dr S C Mundawarara

Mr E L Bulle

Mr F Zindoga

Mr D C Mukome

Mr G B Nyandoro

Rev. N Sithole

Mr L Nyemba

Chief K Ndiweni

Mr Z M Bafanah

Mr I D Smith

Mr D C Smith

Mr C Andersen

Dr J Kamusikiri

Mr G Pincus

Mr L G Smith

Air Vice Marshal H Hawkins

Mr D Zamchiya

Secretariat

Mr J M Willson

The Session commenced at 15.20.

CHAIRMAN: Gentlemen, I think we might begin. As you know, we did not have our session this morning because I had a request earlier on from the Patriotic Front that they would be grateful if they could have a little more time in order to make a considered contribution to what I had said in my opening remarks yesterday. This seemed to me to be a reasonable request and therefore I informed Bishop Muzorewa and his delegation and we agreed to meet here this afternoon to continue where we left off yesterday.

I understand that both delegations now have something they would like to say and perhaps I might ask the Patriotic Front whether they would begin.

MR NKOMO: Mr Chairman, first I would like to apologise to the conference, through you, that we in the first place requested that we had some time, as given in our letter, and secondly that we still were late. We apologise for that to the conference.

Mr Chairman, the Patriotic Front is going to give a statement that represents the Front. Mr Mugabe and myself are presenting this statement on behalf of our group.

The Patriotic Front, deeply conscious of the need to bring an end to racism and colonialism which continue to plague the people of Zimbabwe, welcomes the British Government's stated aim to assist in this task of decolonization. We have come to London to attend this conference in response to the invitation recently extended to us by you, Mr Chairman, on behalf of the British Government. For us our presence here is by itself an

act of immense sacrifice. The scarce material resources we have had to divert and the manpower we must of necessity tie down in London for the duration of this conference should be enough evidence of our seriousness and good faith. We have always said that we will leave no stone unturned in our struggle for the total liquidation of colonialism in Zimbabwe.

In particular we welcome the fact that the British Government now states that it is prepared to help bring genuine majority rule to our country, Zimbabwe. We are anxious to discover whether that is in fact the intention. Equally we wish to make our position absolutely clear and understood in order to facilitate frank and meaningful discussions.

The unique reality of the situation is that for many years now a major war of national liberation has been raging in our country. This arose from the single tragic fact that Britain failed to meet her decolonisation responsibilities even in the face of the continuing of flagrant illegal acts of the secular minority which challenges the people of Zimbabwe to take up arms and decolonise themselves. Thus we are faced with the task of a peace conference.

British secular colonisation in Zimbabwe presented special problems which did not disappear by being ignored for decades. The war is an additional special problem and cannot be ignored if it is to end.

To achieve decolonisation comparable to that in other Commonwealth states we must first achieve the basic

conditions for the movement to independence which existed in those countries. That was peace, safety and security for all, in the context of which an independent state would be governed according to the agreed constitution by a government elected by a people who were essentially free and secure when they chose their government. That essential preliminary situation does not yet prevail in Zimbabwe and even an accepted and agreed constitution will not create it. It is our basic task here to create those conditions.

Mr Chairman, the extent and character of the war of national liberation must be made perfectly clear. Ninety per cent of the country is covered by this war: the towns and cities are surrounded by and often penetrated by the armed struggle. Parts of the country the regime has written off and abandoned: these we term the liberated areas. In other areas the regime can only achieve a temporary daily presence with punitive raids on the villages: these we term the semi-liberated areas. The remaining contested areas include the towns and the citadels of the regime which we are poised to conquer. Thus the Patriotic Front has now responsibilities not only to fight but also to ensure peace, order and good government - the 'problem of success' - inside Zimbabwe.

Clearly it is not our purpose in coming to London to betray or abandon any of these victories of the people of Zimbabwe who have partly liberated themselves and are continuing the task precisely because Britain failed to carry out her responsibilities.

This conference is not only unique in British colonial history because it must achieve peace as well as a future constitution: it is unique because this is the first time that two decolonising forces have to co-operate in this task. The Patriotic Front representing the people of Zimbabwe are here as the effective decolonising factor, while Britain is here asserting her diminished legal authority. In this connection it must be pointed out that Britain, despite its claimed experience in decolonisation has had no success in Zimbabwe or did not give any determined effort. The task has had to be undertaken by the people themselves. Through their sweat and blood the process is well on its way. The most positive proof of this is the admission of Britain's agent in the form of the declaration of martial law in over nearly 90 per cent of the total area of the country.

Yet we are more aware than any of the destruction and tragic toll of our struggle, of the regime's continued ability and increasing determination to wreak havoc and mass destruction. It is thus our vital responsibility to achieve genuine independence, thereby bringing about peace and putting an end to the prevailing anarchy and chaos. This is no longer a solely British responsibility; we must - and our presence here demonstrates our will to do so - work together with Britain.

We have stated before and we repeat the fact that the Patriotic Front and the achievements of the Zimbabwean people are essential factors in the decolonising process. We have to do this together. This is vital.

The task of this peace conference is to ensure through an indivisible comprehensive agreement the irreversible transfer of power to the people of Zimbabwe. This is one continuous interdependent process. It is complex but does not lend itself to piecemeal treatment. The critical period leading to independence is as vital as the independence constitution itself. In practice the task of creating a suitable constitution for the crucial transitional period will serve the ultimate task of agreeing a constitutional model for independence for our country and assist us in that undertaking in understanding one another's constitutional preferences. There must be no doubt about the freedom and fairness of the context of pre-independence elections. As the recent history of our land so eloquently demonstrates, treachery, tribalism and mass murder is all that can result from a false solution. To accept such a Zimbabwe would be a betrayal of our people, of our principles and quite simply (since dead and detained men can neither canvass nor cast votes) a betrayal of ourselves. We must remember here that it has always been, and it remains, the basic objective of the Patriotic Front to ensure that government of a genuine free Zimbabwe is based upon free and fair elections. We have said this, Mr Chairman, several times.



We were the initiators of the principle of universal adult suffrage in Zimbabwe, in the face of its constant rejection by Britain herself and the minority regime in that country.

Zimbabwe must be a sovereign republic in which the sovereign nation pursues its own destiny, totally unshackled by any fetters or constraints.

The sovereign Zimbabwean people must, acting through their own freely chosen representatives in parliament, be free and fully vested with the power to exercise complete dominion over resources from time to time as need arises. They must be free to reorganise the social, political and economic institutions and structures and be free to shape their own destiny as a nation without having to pander to any racial, ethnic, tribal, religious, social or other interests or differences.

The safety and survival of the republic must be the sacred trust of the Zimbabwean nation, not the pawn in the hands of mercenaries and other alien adventurers and agents. We are irrevocably committed to the position that the Zimbabwean people, by whose blood and sacrifice colonialism was exorcised from the land, must themselves be the perpetual guarantors of sovereignty in the face of all challenges, domestic or foreign. Liberation and the process leading thereto must, once agreed, be irrevocable and irreversible. We know no other way of ensuring this than strict adherence to the principle that the people and their forces who have toppled minority rule must be entrusted with the task of ensuring that colonialism, under whatever guise, will not return to plague the nation once again.

Justice will not occur by accident in a sovereign Zimbabwe, nor will its administration and dispensation remain in the hands of privileged minority. It must conform to the social and cultural values of the Zimbabwe people themselves.

The socio-economic system must conform to the people's sense of justice, democracy and fair play.

These and similar goals, cherished vigorously by our people, and for which thousands now lie in mass graves throughout Zimbabwe, Zambia, Mozambique, Botswana and Angola must not be betrayed or compromised. In the past many people present here in Lancaster House, but who are now our antagonists cherished them too. It is personal ambition and greed that propelled them into betrayal and treason. We are sworn not to follow their example.

At this stage, Mr Chairman, having seen both the British proposals and yesterday's statement by Lord Carrington, we find the British proposals are too vague for us to judge whether they are adequate to our comprehensive task. The British Government must now be prepared to take us into their confidence and show us what their real proposals are. This is very essential if we are to discuss with clarity of mind. The present outline states no more than some of the elements of any constitution but contains also certain aspects which are very different from the normal British pattern and are also seriously retrogressive as compared with earlier British proposals such as the Anglo-American proposals.

It avoids the real issues which should be brought before this conference and solved. Only by dealing with them can we hope to leave here and return to freedom and the prospect of peace and tranquillity in our country, Zimbabwe.

The essential questions we have posed constantly to ourselves and which we insist must be understood by all seriously concerned with a solution include the following :-

1. Will the people of Zimbabwe be really sovereign and be able to exercise their sovereign authority?
2. Whose army shall defend Zimbabwe and its people?  
It must be noted here that 60% of the present white army are mercenaries.
3. Whose police force shall protect the people of Zimbabwe?

4. What type of administration and judiciary shall serve the people of our country, Zimbabwe?
5. Will any ethnic, religious, tribal or other group be able to hold the rest of the people of Zimbabwe hostage?
6. How do we create the situation for the holding of free and fair elections?
7. Whose laws will govern such elections?
8. In particular, apart from the British supervisors and the Commonwealth observers, who will administer the elections and ensure the safety of the voters and candidates?
9. What will be the future of the people's land?

These and similar issues are those which should be placed on the agenda of this conference and before the world if real peace is to return to our beloved Zimbabwe. The time for evasion is long past and we insist that the final phase of decolonisation be seriously pursued now by the British and by ourselves.

We have won that position by our own sacrifice, our own struggle, our own blood. We are not requesting anybody to bestow this right on us. We have done it ourselves. We continue to do it.

Thank you, Mr Chairman.

CHAIRMAN: Thank you, Mr Nkomo.

Bishop Muzorewa, would you like to make your statement?

BISHOP MUZOREWA: Mr Chairman, it gives our delegation great pleasure to be in this historic building representing the democratically elected government of Zimbabwe Rhodesia, seeking recognition and the lifting of sanctions.

I must first, on behalf of my delegation and on my own behalf, say how grateful we all are to Her Majesty's Government for the hospitality accorded us, the spirit in which we have been received here and, above all, for the opportunity to resolve, once and for all, the constitutional problems facing our country.

I was pleased to accept the invitation to attend this constitutional conference and to lead the delegation of our Government of National Unity, because it enables me to report officially and in person to the British Government and the British people that we have fulfilled all the requirements insisted upon by successive British administrations. This being so, it is up to the British Government to recognise the new reality of the situation in our country and to act accordingly.

It is now the responsibility of your government, Mr Chairman, to accept and acknowledge this fact. You, Mr Chairman, have referred to the laying of foundations for a free, independent and democratic society. We would suggest that those foundations have already been laid, and Britain has a legal and moral duty in the name of democracy, integrity and fair play to follow its own hallowed principles and recognise the new popularly elected government in our country which is of the people, by the people and for the people.

Let me examine, Mr Chairman, the present

situation in relation to the five principles listed by the British Government in 1965 and the sixth subsequently added in 1966. I might add, at this stage, that these principles have received general approval by other countries and were even endorsed by the United Nations Organisation.

Those principles were :

- (a) unimpeded progress to majority rule must be maintained and guaranteed;
- (b) there must be guarantees against retrogressive amendment to the constitution;
- (c) there must be an immediate improvement in the political status of the black population;
- (d) there must be progress towards ending racial discrimination;
- (e) the constitutional proposals must be acceptable to the people of Rhodesia as a whole; and
- (f) there must be no oppression of the majority by the minority or of the minority by the majority.

In connection with these six principles, universal adult suffrage has been accepted and introduced in our country and this change cannot be reversed. Thus, the political status of the black population has been fulfilled and majority rule is enshrined in the constitution. No retrogressive amendments can be made without the approval of the black representatives in Parliament. Racial discrimination has been totally abolished and there is no question but that the changes which have been brought about in our country are accepted by the people as a whole. There is in our country today no oppression of the majority by the minority or of the minority by the majority. I can confidently state therefore, Mr Chairman, that the requirements of previous British Governments have been fully satisfied and nothing should now stand in the way of our Government of Zimbabwe Rhodesia being granted their rightful recognition.

Let us accept one further fact. The reasons which led to the British and subsequent international action against our country were directed purely and simply against a white minority government which unilaterally declared independence in 1965. Those reasons are no longer valid, Mr Chairman. That government, which was anathema to the majority of our people, no longer exists. It has now been replaced by a government popularly elected by 64.8 per cent of our electorate in elections which were conducted in an honest, impartial, democratic, free and fair manner. This was testified to by virtually all the observers sent to monitor our elections, including the team led by Lord Boyd which was sent by your party. You yourself, Mr Chairman, indicated in the House of Lords on May 22 that the British Government would be guided by Lord Boyd's conclusions. I fear that in some measure you may have shifted your ground in this regard and, perhaps due to the pressures exerted on your Prime Minister in Lusaka, your commitment has not been followed through. I do most sincerely hope and trust that your government has no intention of accepting a situation where Zimbabwe-Rhodesia becomes the sacrificial lamb on the altar of expediency.

I would now take you back to the 15th May of this year. At the opening of the present British Parliament your Prime Minister, Mrs Thatcher, said it was the objective of your government to build on the major change that had taken place in my country to achieve a return to legality in conditions of wide international recognition. Let me

emphasise the word 'major', which is of the greatest importance. This is exactly what has happened in Zimbabwe-Rhodesia. There is a total new reality in our country. In Parliament, the House of Assembly consists of 72 black and 28 white members, the Senate consists of 20 black and 10 white senators. The Cabinet contains 19 ministers, of whom 14 are black and 5 are white. Prior to May the two highest posts in the land, that of Prime Minister and President, were held by whites. Now these posts are filled by blacks. Furthermore, as Minister of Combined Operations and Minister of Defence, I have executive control and ultimate authority over all military matters in my country. The military commanders operate under my immediate policy directives. Similarly, my black colleague, the Minister of Law and Order, who is a member of my delegation, holds executive power over the police.

All racially discriminatory laws, including those relating to land tenure, have been repealed - I repeat, have been repealed. People of all races are now permitted to live where they choose, whether in rural or urban residential areas. Our black population participates in all facets of business without any racial restrictions. Our schools and hospitals are now non-racial. All these significant developments were unheard of and thought impossible less than two years ago.

Mr Chairman, you said yesterday that in the case of Rhodesia, as in all other cases, the constitution must take account of special circumstances. That is precisely what we have done. We have a new constitution drafted by both black



and white members of the four parties to the March 3rd Agreement - it was drawn up by the people of our country to meet the needs of our country. We have a new flag, one that is symbolic of our country and all its people.

We have a new non-racial nation, one that is dedicating itself to be a good example to other countries, not only on the African continent but throughout the world. The successful conclusion of our agreement of the 3rd March 1978, and the implementation of our new constitution, has been achieved through the tremendous courage displayed by the vast majority of our electorate during elections. They went to the polls happily and willingly to exercise their newly won democratic right to elect a government of their choice despite intimidation and threats of death. In doing so they clearly demonstrated their desire to determine the future course of their country and that this should be achieved through the ballot and not the bullet. The people voted because they had at last secured their inalienable right to do so, in spite of repeated threats by the Patriotic Front to disrupt our elections, to punish and maim our citizens who dared to vote and to execute the democratically elected black leaders of their government.

There are a number of most important matters on which we require a clear, binding and unequivocal undertaking from your government, Mr Chairman, from the very outset of this conference. I repeat that we have met the six principles. Lord Boyd reported on the last outstanding principle and your government has not denied his finding that the fifth principle has been met.

We require to know clearly and categorically what more your government requires from us before you will remove sanctions and grant recognition to our government. Thereafter, if we are able to reach agreement, we shall require a firm commitment in specific terms from your government that it is prepared to support our government to the fullest extent, that sanctions will be lifted, and that recognition will be granted. Here I must make it absolutely clear that we are not prepared to see any negation of what has so far been achieved in our country on behalf of our people, unless it is in their interests and in the interests of their country.

We require from Her Majesty's Government a guarantee, made publicly, to the effect that no one - I repeat, no one - will have the power of veto over the stated scope and focus of this conference and that the same will apply to any decisions that may be agreed.

Mr Chairman, yesterday you asked us to set down fully our views on the constitutional questions and on the outline proposals published by the British Government when extending the invitation to this conference. I have already dealt with the constitutional questions. As far as the outline proposals are concerned, the Constitutional Agreement of 3rd March 1978, and our present constitution, substantially meet all the points that are made. We sincerely trust that you will not insist on us making changes to our constitution, which is already working very well, merely for the sake of appeasing other countries who do not appreciate the position in Zimbabwe-Rhodesia. I repeat what you yourself said

yesterday, Mr Chairman: in the case of Zimbabwe-Rhodesia, as in all other cases, the constitution must take account of special circumstances. The constitution of Zimbabwe-Rhodesia was agreed in that country, and for that reason it is likely to stand the test of time. History has shown that many constitutions which have been agreed in this place have not lasted for any appreciable period. We do not want the same thing to happen to us.

The British Government, in its invitation to this conference, strongly urged both sides to observe a ceasefire. Yesterday, Mr Chairman, you said it was a matter of great regret and disappointment to you that hostilities are continuing during this conference. My delegation would like to have it placed on record that we accepted that appeal by the British Government and, in fact, we are still prepared to co-operate fully in trying to bring about a ceasefire. However, no ceasefire can be achieved unless all the parties to the conflict agree to observe this.

Finally, Mr Chairman, in your address yesterday it was clear that you personally, and your government, earnestly desire to see this conference succeed, and that you have the sincere determination to achieve this noble objective. You struck a chord which resounds in our own hearts when you deplored the terrible and useless loss of lives in our country. You challenged us in the name of humanity to adopt a constructive approach and contribute to the successful outcome of our deliberations.

I wish to assure you, Mr Chairman, that I and my delegation are most willing, and indeed anxious, to respond to your challenge in the most positive manner. We shall do so in the true spirit of the Christian and democratic principles which we have always followed. We shall do so because deep in our consciences and our souls we believe that this will lead to the salvation of our people, our country and our nation. You will not find us lacking, Mr Chairman, in our efforts to seek a realistic solution which will enable our country to progress to peace and prosperity. In God's name I pray that goodwill may prevail and that this conference will be blessed with success.

Thank you, Mr Chairman.

THE CHAIRMAN thanked Bishop Muzorewa and Mr Nkomo for their addresses, and assured them that he and his colleagues would read the statements and study them with great care. He noted that both Delegations had expressed a willingness to negotiate and suggested that the Conference should now proceed. He noted the stress Mr Nkomo laid on the transitional arrangements which had to be agreed before elections. It was correct that such matters had to be agreed to before proceeding to elections. He thought, however, that the most orderly and sensible way to proceed would be to settle the Constitution first. This was the procedure agreed at Lusaka with the Commonwealth Heads of Government: that this should be a Constitutional Conference. This was the basis on which the invitations to the Conference had been sent out.

THE CHAIRMAN suggested that it would be both convenient and the right way to proceed if the Conference reconvened at 10.30 the following day to seek to begin a discussion on the constitution and on the outlines of the constitution which had been put before delegates. He suggested that he might introduce the session with a general discussion about what his Government would want to see (or not see) in the constitution and that further general discussion on those lines might then follow.

MR NKOMO intervened to say that what happened in Lusaka was not very relevant, although Lusaka had acted as a catalyst. The way the Conference proceeded should be decided by the Conference as a whole. The method of procedure could not be imposed unilaterally.

THE CHAIRMAN replied that the terms of the invitation to the Conference had clearly stated that the purpose of the Conference was, first of all, to discuss a Constitution. He believed it was possible to work out a Constitution. To do so would contribute greatly towards a settlement and towards agreement on the important points raised by Mr NKOMO.

MR MUGABE said that he was disappointed that although the Chairman had agreed to study the viewpoints presented in the opening addresses, he had already taken a decision on how to proceed. He would like to hear the Chairman's reaction to their views before moving on to other matters. Thereafter how the Conference might proceed could be worked out in consultation with the delegations.

THE CHAIRMAN said that his reference to studying the viewpoints presented had indicated his intention that all the problems and points raised in the opening speeches would be discussed during the Conference. There would be opportunity to do this but the invitation to the Conference had stated clearly what the purpose and the procedure of the Conference would be. A beginning had to be made somewhere and the right place seemed to him to be the Constitution.

After some further discussion the CHAIRMAN said that he would respond the following day to the speeches made.

It remained his view that the logical order in which to proceed was to begin by discussing the purpose for which the Conference had been called.

The session was adjourned at 16.30.

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OPENING SESSION

CONSTITUTIONAL CONFERENCE

LANCASTER HOUSE

LONDON

SEPTEMBER 1979

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Opening Statement by the Chairman, Lord Carrington

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LANCASTER HOUSE

10 SEPTEMBER 1979

PRESENT:

UK DELEGATION

Lord Carrington (in the Chair)

Sir I Gilmour Bt

Sir M Havers

Lord Harlech

Mr R Luce

Sir M Palliser

Sir A Duff

Mr D M Day

Mr R A C Byatt

Mr R W Renwick

Mr P R N Fifoot

Mr N M Fenn

Mr G G H Walden

Mr C D Powell

Mr R D Wilkinson

Mr R M J Lyne



Bishop Muzorewa and Delegation

Bishop A T Muzorewa  
Dr S C Mundawarara  
Mr E L Bulle  
Mr F Zindoga  
Mr D C Mukome  
Mr G B Nyandoro  
Rev N Sithole  
Mr L M Nyemba  
Chief K Ndiweni  
Mr Z M Bafanah  
Mr I D Smith  
Mr D C Smith  
Mr C Andersen  
Dr J Kamusikiri  
Mr L G Smith  
Air Vice Marshal H Hawkins  
Mr D M Zamuchiya  
Mr G Mutambanengwe

Mr Mugabe, Mr Nkomo and Delegation

Mr R G Mugabe	Mr J M Nkomo
Mr S V Muzenda	Mr J M Chinamano
Mr E Z Tekere	Mr J W Msika
Mr J M Tongogara	Mr T G Silundika
Mr E R Kadungure	Mr A M Chambati
Mr H Ushewokunze	Mr L Baron
Mr D Mutumbuka	Mr S K Sibanda
Mr J Tungamirai	Mr C Ndlovu
Mr E Zvobgo	Miss T Siziba

Secretariat

Mr J M Willson  
Mr R S Dewar

CHAIRMAN: Gentlemen, now that we have got the preliminaries over, I am glad to welcome you to this Conference and to open its proceedings.

When the British Government issued invitations to this Conference on 14 August, after extensive consultations, we naturally hoped for and expected a positive response. Our consultations had revealed a strong desire that the United Kingdom should take the initiative in making a further attempt to achieve a final settlement of the problem of Rhodesia, in fulfilment of its constitutional responsibilities. There was also a widespread feeling that continuation or intensification of the war was not in the best interests of any of the parties to the dispute, nor of the people of Rhodesia as a whole. Nevertheless, it is not a simple matter for those who have been involved in a bitter and tragic military confrontation to sit round a conference table together. The British Government felt strongly that it had the responsibility to bring that about.

When inviting you here we appealed to you, in the interests of the people of Rhodesia, to approach these negotiations in a positive spirit and to seek to build up areas of agreement. We hope thereby to lay the foundations for a free, independent and democratic society in which all the people of Rhodesia, irrespective of their race or political beliefs, would be able to live in security and at peace with each other and with their neighbours. The act of coming together is important. It is now up to us to build on that.

Since 1965, and indeed long before, many meetings have been held to try to resolve this problem. I am under no illusions, nor are any of my colleagues with me under any illusion, about the magnitude of the task before us. The problem is one which has defeated the efforts of successive British Governments, all of whom sought to achieve the objective of a peaceful settlement in conditions which would guarantee to the people of Rhodesia the full enjoyment of their rights. But I have no intention of going back over the history of those attempts; and I hope that you also will be prepared to look to the future rather than to the past.

I would like to hope that there is a difference between this meeting and those which have preceded it. This is a constitutional conference, the purpose of which is to decide the proper basis for the granting of legal independence to the people of Rhodesia. Many conferences like this have been held in this very building. A great many former dependent territories of the United Kingdom have successfully made the transition to independent statehood on the basis of constitutions agreed here. It is our intention to approach this Conference on the basis of the same principles and with no less strong a determination to succeed than in the case of those other conferences, which resulted in the granting of independence by this country to our former dependent territories. I believe that we can take some pride in the part we have played at conferences held at Lancaster House in the

process of decolonisation. As Commonwealth leaders agreed at Lusaka, Britain has had no lack of experience as a decolonising power.

The agreement reached at Lusaka has made it possible for the British Government to convene this Conference with the very real hope that it will lead to an internationally acceptable settlement. I would like to pay tribute to the Commonwealth Heads of Government and the Commonwealth Secretary-General, all of whom worked so hard at Lusaka to establish an agreed position. In summary, the Commonwealth Heads of Government at Lusaka confirmed that they were wholly committed to genuine majority rule for the people of Rhodesia, and accepted that this requires the adoption of a democratic constitution including appropriate safeguards for minorities. They reiterated that it is the responsibility of the British Government to grant legal independence to Rhodesia. They agreed that the government formed under the independence constitution must be chosen through free and fair elections, properly supervised under British Government authority, and with Commonwealth observers. They welcomed the British Government's intention to convene this Conference, and recognised that the search for a settlement must involve all parties to the conflict. We should do well, I think, to bear in mind throughout our discussions the framework thus set out in the Lusaka communique. Not only does it incorporate the views of the British Government, but it sets out the approach which the Commonwealth will support

and which will gain international acceptance.

Against this background I approach the search for a fair constitutional settlement in Rhodesia with the conviction that it is illusory to think that any settlement can fully satisfy the requirements of either side. An agreement can only be reached if there is a willingness to compromise.

The British Government has put to you an outline of the kind of constitution on the basis of which we would be prepared to grant independence. We wish to discuss these proposals with you at this Conference, and will be prepared to elaborate them in the light of our discussions. If we can reach agreement at this Conference, there will be an end to the war. That is an outcome which I believe will be greeted with immense relief by the people of Rhodesia and throughout Africa. Rhodesia will proceed to legal independence with a government formed by whichever party and whichever leader can show that they command the confidence of the people. I must confess that I find it difficult to see how any party or group or leader can hope to benefit from what would follow failure to reach agreement along the general lines we have put before you, and those who would suffer most would be the people of Rhodesia, towards whom our real responsibility lies.

A quarter of the population of Rhodesia has been born since 1965. Their lives have been overshadowed, not merely by a tragic and unnecessary political dispute, but by armed conflict. Many of them have died as innocent

victims of the war. Or they have lost their parents, or their brothers or their sisters. Or they have lost their homes. Many of them, black and white, face the prospect of themselves having to fight, on one side or the other, or of being deprived indefinitely of peaceful residence in the land of their birth - a quarter of a million people are now in refugee camps in other countries. If we, who are assembled in this room, cannot agree on a way to end the fighting and to provide for you to settle your differences by political means, this is what will happen.

This generation now at risk had no part in the initial causes of the conflict. It was not born when the problem of Rhodesia came to a crisis in 1965. But now there is acceptance by all the parties of a society free from racial discrimination, of universal suffrage and majority rule. We can make this objective a reality if - and only if - we are prepared to look at the problems on the basis of principles on which both sides should be able to agree. I believe that the people assembled in this room have it in their power to end the war and to enable the people of Rhodesia to decide their future by peaceful means. We - you and I - bear a heavy responsibility, and I do not believe that the people of Rhodesia will readily forgive any party which deprives them of this opportunity to settle their future by peaceful means. That is a thought which should be in all our minds throughout the whole of this Conference.

It is, I must say, a matter of great regret and disappointment to me and my colleagues that hostilities are continuing during this Conference. Progress towards agreement on political issues - which I hope we are all

determined to achieve - will by definition mean progress towards removing the causes of the war. It must be our objective to proceed as soon as possible to a stage at which there can be agreement on a ceasefire. We shall fall short of what we ought to achieve for the people of Rhodesia if we do not give them a chance to make a fresh start, its causes and its consequences put firmly in the past.

Gentlemen, Britain has at times, and variously, been described on the one side as choosing to stand with arms folded on the touchline; and on the other as not being serious in its determination to decolonise. Let me assure you today, if anyone is in any doubt, that we could not be more serious in our intention to achieve a satisfactory basis for the granting of legal independence for the people of Rhodesia, and in this attempt to bring about an end to the war.

Since we were elected the government of this country at the beginning of May we have engaged in extensive consultations on the best way of achieving these objectives. Lord Harlech visited Africa early in the life of this Government to consult with the parties to the dispute and with the Commonwealth and other African governments most closely concerned. He found a general conviction that a solution to the problem of bringing Rhodesia to legal independence must stem from Britain as the constitutionally responsible authority, and that we must put forward proposals to achieve that objective. He also found that there was criticism of the present constitutional arrangements, in particular of the blocking power given to the white minority over a wide range of legislation, and of the character of the Public Service and other Commissions.



In the period of consultations, we made it clear that we would attach particular importance to the Commonwealth Heads of Government meeting at Lusaka. At Lusaka the British Prime Minister said that the British Government were wholly committed to genuine majority rule in Rhodesia. The principle of majority rule has been accepted by all the delegates at this Conference. The Prime Minister, at Lusaka, also recognised the importance of encouraging the European minority to remain as an integral part of the community. The Prime Minister emphasised that Britain fully accepted its constitutional responsibility to bring Rhodesia to legal independence on a basis of justice and democracy, comparable with the arrangements we have made for the independence of other countries.

The British Government took action immediately to give effect to the Lusaka declaration by convening this Conference and by putting forward constitutional proposals in accordance with the principles which were agreed at Lusaka and which have formed the basis for other independence constitutions in Africa and elsewhere.

The constitution is the fundamental problem to which we must address ourselves. I am of course well aware that there are other aspects of a settlement which must in due course be resolved. But it is essential to the prospects of success that we should first seek agreement on our destination - which is the independence constitution. If that can be achieved it will be necessary to decide the arrangements to give effect to that agreement. The British

Government has stated clearly that it will be prepared to accept its full share of the responsibility for the practical implementation of those arrangements. The central element will be free and fair elections, properly supervised under British Government authority.

The British Government's outline proposals for an independence constitution have been before you for four weeks. I did not suggest that this Conference should be held on the basis of prior acceptance of this document. Instead, I would like to take the document as the starting point for our discussions. The British Government have been asked to put forward proposals and we have done so. Unless there is a focus for our discussion it will be impossible to make progress.

There are certain general points which I would make in introducing them.

First, as the constitutional authority for Southern Rhodesia, the United Kingdom intends to take direct responsibility for the independence constitution. What you have before you are the British Government's proposals, taking account of the points made to us in our consultations. They are intended to give effect to the principles which have been accepted by successive British Governments as the proper basis for independence, and you will recollect them very clearly. They are that the principle of majority rule must be maintained and guaranteed; that there must be guarantees against retrogressive amendments to the constitution; that there should be immediate improvement in the political

status of the African population; that racial discrimination is unacceptable; that we must ensure that, regardless of race, there is no oppression of majority by minority or of minority by majority; and that what is agreed must be shown to be acceptable to the people of Rhodesia.

Second, our proposals are comparable to the basis on which the United Kingdom has granted independence to other former dependent territories, in particular those in Africa. We have no doubt, therefore, that a solution on this basis will be accepted by the international community, as giving effect to the principles we have accepted in granting independence to other former dependent territories. In the case of Rhodesia, as in all other cases, a constitution must take account of special circumstances. But the broad lines of independence constitutions are clear enough; and in the precedents there are points which can help us towards a solution, for example on the representation of minorities.

Third, we have made it unequivocally clear that our constitutional proposals represent in outline the kind of constitution on the basis of which the British Government would be prepared to grant legal independence. If agreement could be reached on alternative proposals which meet the British Government's criteria, we would be ready to grant independence on that basis. But we believe that the best hope of success lies in negotiation on the lines we have proposed, in accordance with the Commonwealth declaration.

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If it is possible to get agreement on the general framework for the independence constitution, the British Government will be prepared to put forward more detailed proposals to give effect to that agreement. We shall therefore have further suggestions to put before the Conference. But, before we advance to that stage, we must establish what measure of agreement exists on the outline proposals, and where the major difficulties, if any, will lie. As the first step, therefore, I shall hope to hear your views on the outline proposals.

Before inviting you, in our next session - because I think it would be appropriate to leave it to the next session - to state your positions on the constitutional framework for independence, I would like **very** briefly to speak about the arrangements to give effect to an agreement on the constitution.

In other countries approaching independence, the United Kingdom's role has invariably been to establish just conditions for independence, and not to encourage the aspirations of this or that party. Our role in Rhodesia will be the same as in other dependent territories. The international community is well aware of this and of our constitutional responsibility. In many countries we have handed over power to people who had previously been confirmed opponents of the policy of the United Kingdom, if they have been elected by the people of their countries. In the position which we agreed with other Commonwealth Governments at Lusaka, we stated that there must be free and fair

elections, properly supervised under British Government authority and with Commonwealth observers. This has been accepted by all Commonwealth Governments; and, as I have already said, the British Government will be ready to carry out its responsibilities in this regard.

I turn now briefly to the way in which we might proceed at this Conference. The Conference is being held under my Chairmanship. I attach the highest priority to bringing it to a successful conclusion, and I assure you I intend to play the fullest part in the proceedings. At times when I am prevented from being here, I would propose to ask the Lord Privy Seal, Sir Ian Gilmour, to take the Chair.

We have made no attempt to fix the duration of the Conference. I hope that we can move forward rapidly. I trust that we can show real progress towards agreement on the constitution. We for our part are prepared to continue for as long as it is necessary, provided of course that progress is being made. In the opening plenary sessions I would ask you to set out fully your views on constitutional questions and on the outline proposals before the Conference, as I have done. Depending on the progress made, it might then be appropriate to consider aspects of the constitution in more detail, perhaps on the basis of further proposals tabled by the British Government. We may also wish to consider meeting in less formal groups at different levels. We shall have between us to decide on that as we proceed.

The Conference Secretariat, headed by the Conference Secretary, Mr Willson, is at the service of all delegates. Any questions on administrative arrangements should be referred to Mr Willson and the Conference Officers assisting him.

The Secretariat will prepare summary records of discussions in the formal conference sessions, that is to say, records which give a resume of the main points made by each speaker. They will circulate these records within 24 hours. If you wish to make corrections of substance to your own interventions I would be grateful if you would do so within two days. These will also be circulated. The summary records will not be made available to the press.

There will - and I dare say you have already seen it - be world-wide interest in the progress of the Conference. A great many journalists have been accredited to it. I shall be making public my own statement this afternoon; you may wish to do the same with your opening speeches. The press will not be admitted to Lancaster House, but there is a fully equipped press centre just across the road. This is at the disposal of all delegations. Mr Fenn will act as my spokesman as Chairman of the Conference. He will also release to the press any joint statements on which we may from time to time agree, and I invite each delegation, if they would be so good, to nominate a member of their staff as Press Secretary, to be in touch with Mr Fenn about these matters. They will of course be welcome to use the facilities at the press centre.

If there are other papers which you wish to have circulated to all participants, the Secretariat will be ready to have them reproduced and distributed as Conference documents.

May I say this in conclusion. This Conference has been convened in response to the statement agreed by the Commonwealth Heads of Government at Lusaka. We have put forward proposals designed to bring Rhodesia to legal independence. Your acceptance of our invitation has given hope to the people of Rhodesia and the neighbouring countries. It is within the power of the parties represented here to bring an end to the war.

I have deliberately avoided talking of a "last chance" of a settlement. Last chances have come and gone before. But I would put it differently. Since Geneva, the conflict has reached new levels. The cost of continuing it is very high. Since 1976 the number of men under arms on both sides has more than doubled. The war has spread into neighbouring states. The toll in casualties inside Rhodesia and in the neighbouring countries has continued to rise. Neither side has infinite resources. The price of failure at this Conference would be further prolonged bloodshed and further destruction of the life of whole communities. The responsibility for preventing this lies upon all those present here, and the eyes of the international community will be upon us all to see that we live up to that responsibility. The British Government is determined for its part to do everything in its power to bring this Conference to a successful conclusion. It is in that spirit that I ask all of you to address the task before us.



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CC(79)

CORRIGENDUM 1

CONSTITUTIONAL CONFERENCE

LANCASTER HOUSE

LONDON

SEPTEMBER 1979

A revised list of delegates is attached, to replace  
Appendix II of paper CC(79) Admin 1.

Lancaster House

10 September 1979

LIST OF DELEGATES

UNITED KINGDOM DELEGATION

Lord Carrington (Chairman)

Sir I Gilmour Bt

Sir M Havers

Lord Harlech

Mr R Luce

Sir M Palliser

Sir A Duff

Mr D M Day

Mr R A C Byatt

Mr R W Renwick

Mr P R N Fifoot

Mr N M Fenn

Mr G G H Walden

Mr C D Powell

Mr P J Barlow

Mr R D Wilkinson

Mr A M Layden

Mr R M J Lyne

Mr M J Richardson

Mr C R L de Chassiron

LIST OF DELEGATES

MR MUGABE, MR NKOMO AND DELEGATION

Mr R G Mugabe	Mr J M Nkomo
Mr S V Muzenda	Mr J M Chinamano
Mr E Z Tekere	Mr J W Msika
Mr J M Tongogara	Mr T G Silundika
Mr E R Kadungure	Mr A M Chambati
Mr H Ushewokunze	Mr John Nkomo
Mr D Mutumbuka	Mr L Baron
Mr J Tungamirai	Mr S K Sibanda
Mr E Zvobgo	Mr E Mlambo
Mr S Mubako	Mr C Ndlovu
Mr W Kamba	Miss T Siziba

UK Liaison Officer:  
Mr K Evetts

UK Liaison Officer:  
Mr A Singleton

Accommodation: The Royal Garden Hotel  
Kensington High Street  
W8  
(Tel: (01) 937 8000)

APPENDIX II (cont'd)

LIST OF DELEGATES

BISHOP MUZOREWA AND DELEGATION

Bishop A T Muzorewa  
Dr S C Mundawarara  
Mr E L Bulle  
Mr F Zindoga  
Mr D C Mukome  
Mr G B Nyandoro  
Rev N Sithole  
Mr L Nyemba  
Chief K Ndiweni  
Mr Z M Bafanah  
Mr I D Smith  
Mr D C Smith  
Mr R Cronje  
Mr C Andersen  
Dr J Kamusikiri  
Mr G Pincus  
Mr L G Smith  
Air Vice Marshal H Hawkins  
Mr D Zamchiya  
Mr G Mutambanengwe  
UK Liaison Officer: Mr R G Bowen

Accommodation: The Carlton Tower Hotel  
Cadogan Place  
SW1  
(Tel: (01) 235 5411)

CC(79) Admin 1

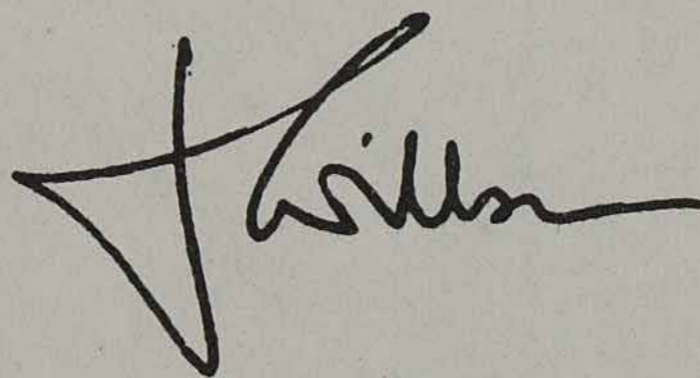
CONSTITUTIONAL CONFERENCE

LANCASTER HOUSE

LONDON

SEPTEMBER 1979

The attached paper outlines the administrative arrangements for the Conference. It will comprise the agenda for a preliminary meeting of delegation secretaries in Room 212 on the Second Floor of Lancaster House at 1030 on Monday 10 September.



J M Willson  
Secretary-General

CONSTITUTIONAL CONFERENCE  
LANCASTER HOUSE  
LONDON - SEPTEMBER 1979

ADMINISTRATIVE ARRANGEMENTS

1. DATE AND PLACE OF CONFERENCE

The Constitutional Conference will open at Lancaster House, London (tel: 839 3488) on Monday 10 September 1979 under the chairmanship of Lord Carrington.

2. PROGRAMME OF EVENTS

(a) The Programme of Events for Monday 10 September (which will include the Chairman's opening address) is shown at Appendix I.

(b) Opening addresses by other delegations will be delivered on Tuesday 11 September, commencing at 1030.

(c) The first plenary session of the Conference will follow the opening addresses.

(d) It is proposed that Conference sessions will thereafter normally run from 1030-1230 and from 1500-1700 daily, though this may be varied from time to time.

3. DELEGATIONS, HOTEL ACCOMMODATION AND SECRETARIAT

The composition of the Delegations, together with the hotel accommodation of visiting Delegations, is shown at Appendix II. Secretariat, Press and Security Staff are shown at Appendix III.

4. SESSIONS

Sessions will take place in the State Drawing Room on the First Floor. The Table Layout is at Appendix IV. The UK Delegation will have 7 seats at the table plus 9 seats behind. The visiting Delegations will have 8 seats at the table plus 8 seats behind. Entry to all Sessions will be restricted to these numbers of delegates.

5. It will be the responsibility of Delegation Secretaries to ensure that individual name plates are correctly arranged on the table for each meeting and are changed when necessary.

6. WORKING ACCOMMODATION

The allocation of rooms on the first and second floors of Lancaster House is given at Appendix V. Plans of the building are attached, together with a map of the St James's area.

## 7. RECORD OF PROCEEDINGS

(a) Verbatim records of Opening Addresses will be taken. They will be circulated to the Conference and issued to the Press. It would assist the Secretariat if texts could be handed to the Secretary-General as far in advance of delivery as possible.

(b) (i) All subsequent meetings will be recorded by Secretariat Summary;

(ii) The record of each day's meetings will be circulated by 1030 the following day and any comments on, or suggested amendments to, the summary records should be made in writing to the Secretary-General. Summary records will be assumed to have been agreed to if no comment or suggestions are received by 1030 on the second working day after the session to which they refer.

## 8. DISTRIBUTION OF DOCUMENTS

(a) Documents will be distributed from the Secretariat Documents Office (telephone ext: 450) on the Second Floor: there will be pigeon-holes in the Documents Office for individual delegates.

(b) The Secretariat is responsible for the circulation of all Conference Documents; two typescript copies of any document intended for circulation to delegates as a Conference Document should be authorised by the Head of Delegation or his representative and submitted to the Secretary-General.

## 9. INFORMATION

There will be an Information Desk for delegates in the East Ante-Room (next to the main Conference Room).

## 10. TELEPHONES

(a) A Conference telephone directory is being issued separately.

(b) The Lancaster House Conference Switchboard (telephone number (01) 839 3488) will be operated from 0900-2000 hours daily (excluding Saturdays and Sundays). Night lines will be connected in certain offices.

(c) The cost of telephone calls from Lancaster House to destinations within the United Kingdom will be met by HMG. Calls to destinations outside the United Kingdom will be charged to the caller, and the telephonist will be asked to record the caller's name, and pass the relevant details to the Conference Officer, who will arrange to recover the cost from the person concerned.

## 11. TRANSPORT

(a) Six cars will be available for the official use of each of the two visiting delegations.

/(b)



(b) Parking spaces will be allocated in the Horse Ride at the back of Lancaster House for the above cars.

(c) Special windscreen stickers will be provided by the Conference Officer for Delegations, Secretariat and staff.

(d) There will be a car call-up point at the front door of Lancaster House.

## 12. SECURITY AND PASSES

(a) Detailed security arrangements for the Conference including passes, hand baggage, document security and room security are given separately in the note on security arrangements. This should be read carefully.

## 13. PRESS ARRANGEMENTS

Detailed press arrangements are shown in the Press Handbook. The Conference Spokesman is Mr N M Fenn. Press facilities will be available at the Government Press Centre, Little St James's Street, SW1 (tel: (01) 930 6776). Mr D Kerr is the Press Centre Manager and enquiries relating to press matters should be addressed to him or his staff.

(a) Delegates who wish to meet press representatives in the Press Centre will be able to make arrangements through the Press Centre Manager or his staff.

(b) In the Press Centre the following rooms are available for Delegation Press Officers:

Bishop Muzorewa and Delegation:  
Room No 303 (tel extn 303)

Mr Mugabe, Mr Nkomo and Delegation:  
Room Nos 323/322 (tel extn 323/322)

## 14. CATERING ARRANGEMENTS

(a) Morning coffee and afternoon tea will be served each day in the Delegates' Lounge.

(b) The bar in the Delegates' Lounge will be open for approximately half an hour after the morning and afternoon sessions.

(c) Coffee will be available in the East corridor on the Second Floor and in the Household Dining Room on the Ground Floor from 1000 to 1100 and from 1530 to 1630.

(d) In addition light refreshments will be on sale in the East corridor (Second Floor) from 1230 to 1430 on meeting days.

## 15. MEDICAL

A nurse will be on duty in Lancaster House during Sessions.

16. ADMINISTRATION

The Secretary-General of the Conference is Mr J M Willson (Ext 489);  
The Assistant Secretary-General is Mr R S Dewar (Ext 456). The  
Secretariat will include the following to whom administrative  
enquiries may be addressed:

Mr M M Hall, Conference Officer (Visiting Delegations) (Ext 586)

Mr L A Coles, Conference Officer (Lancaster House) (Ext 597/502)

Miss M Edward, Assistant Conference Officer (Information Desk)  
(Ext 500)

September 1979

PROGRAMME OF EVENTS  
MONDAY 10 SEPTEMBER 1979

- |           |  |                    |
|-----------|--|--------------------|
| 1030      | Preparatory meeting of Delegation Secretaries at Lancaster House to explain the Conference arrangements and office accommodation. Mr Willson will be in the Chair  | Room 212           |
| 1200      | Briefing on press facilities by the Conference Spokesman and the Press Centre Manager.   | Press Centre       |
| 1525      | Arrival at Lancaster House of the Conference Chairman, Lord Carrington   |                    |
| 1530      | The Secretary-General will greet delegates in the Front Hall and conduct them to the Main Hall, where they will be greeted by the Chairman who will be standing on the West side of the staircase. Members of the Secretariat will escort those delegates attending the Opening Session to the State Drawing Room. Press photographers will be present outside the Entrance and in the Main Hall | Main Hall          |
| 1550      | Delegates attending the Opening Session take their seats in the State Drawing Room. Press photographers will be present. Photocall for 10 minutes  | State Drawing Room |
| 1600      | Opening Address by the Chairman  |                    |
| 1800-1930 | Reception by the Chairman for delegates and invited guests (Invitations will be issued separately)   | State Dining Room  |

LIST OF DELEGATES

UNITED KINGDOM DELEGATION

Lord Carrington (Chairman)

Sir I Gilmour Bt

Sir M Havers

Lord Harlech

Mr R Luce

Sir M Palliser

Sir A Duff

Mr D M Day

Mr R A C Byatt

Mr R W Renwick

Mr P R N Fifoot

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Mr P J Barlow

Mr R D Wilkinson

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Mr R M J Lyne

Mr M J Richardson

Mr C R L de Chassiron

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Mr S V Muzenda

Mr E Z Tekere

Mr J M Tongogara

Mr E R Kadungure

Mr D Mutumbuka

Mr H Ushewokunze

Mr J Tungamirai

Mr R Manyika

Mr S Sekeramai

UK Liaison Officer:  
Mr K Evetts

Mr J M Nkomo

Mr J M Chinamano

Mr J W Msika

Mr C G Msipa

Mr T G Silundika

Mr A M Chambati

Mr S Menhta

Mr E Ndhlovu

Miss J Ngwenya

Mr E Malandu

UK Liaison Officer:  
Mr A Singleton

Accommodation: The Royal Garden Hotel  
Kensington High Street  
W8

(Tel: (01) 937 8000)

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Dr S C Mundawarara

Mr E L Bulle

Mr F Zindoga

Mr D C Mukome

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Rev N Sithole

Mr L Nyemba

Chief K Ndiweni

Mr Z M Bafanah

Mr I D Smith

Mr D C Smith

Mr R Cronje

Mr C Andersen

Dr J Kamusikiri

Mr G Pincus

Mr G S Smith

Air Vice Marshal H Hawkins

Mr D Zamuchiya

Mr G Mutambanengwe

UK Liaison Officer: Mr R G Bowen

Accommodation: The Carlton Tower Hotel  
Cadogan Place  
SW1

(Tel: (01) 235 5411)

THE SECRETARIAT

Mr J M Willson	Secretary-General
Mr R S Dewar	Assistant Secretary-General
Mr D E R Moore	Secretariat Liaison Officer
Mr M M Hall	Conference Officer (Visiting Delegations)
Mr L A Coles	Conference Officer (Lancaster House)
Miss M Edward	Assistant Conference Officer (Information Desk)
Mr R G Bowen	Liaison Officers for Visiting Delegations
Mr K Evetts	
Mr A Singleton	
Mr L G Faulkner	Record Taker
Mr M C Raven	Record Taker
Mr N E Sheinwald	Record Taker
Miss E A Urquhart	Record Taker
Mr D T Cox	Documents Officer
Mr P Westhorpe	Documents Clerk
Mr P D J Ellis	Documents Clerk
Mrs I Brookes	Duplicator Operator
Mrs E E Sheehan	Superintendent of Typists
Miss E McKnight	Shorthand-Typist
Miss M Stewart	Shorthand-Typist
Miss M Scott	Shorthand-Typist
Mrs D Gibson	Shorthand-Typist
Mrs M Couchman	Copy-Typist
Mrs A Bolton	Audio-Typist

APPENDIX III (cont'd)

PRESS STAFF

Mr N M Fenn	Conference Spokesman
Mr C de Chassiron	Assistant Conference Spokesman
Mr I Knight Smith	Assistant Conference Spokesman
Mr S Rowe	Archivist
Miss C Wheeler	Secretary
-----	
Mr D F Kerr	Press Centre Manager
Miss B J Connolly	Assistant to Press Centre Manager
Miss V Dean	Secretary (FCO)
-----	
Mr D Healy	Head of Information Duty Room
(COI) Miss Frances Nelson	
" Mr David Harding	Information Duty Room
" Miss Janette Hale	Information Duty Room

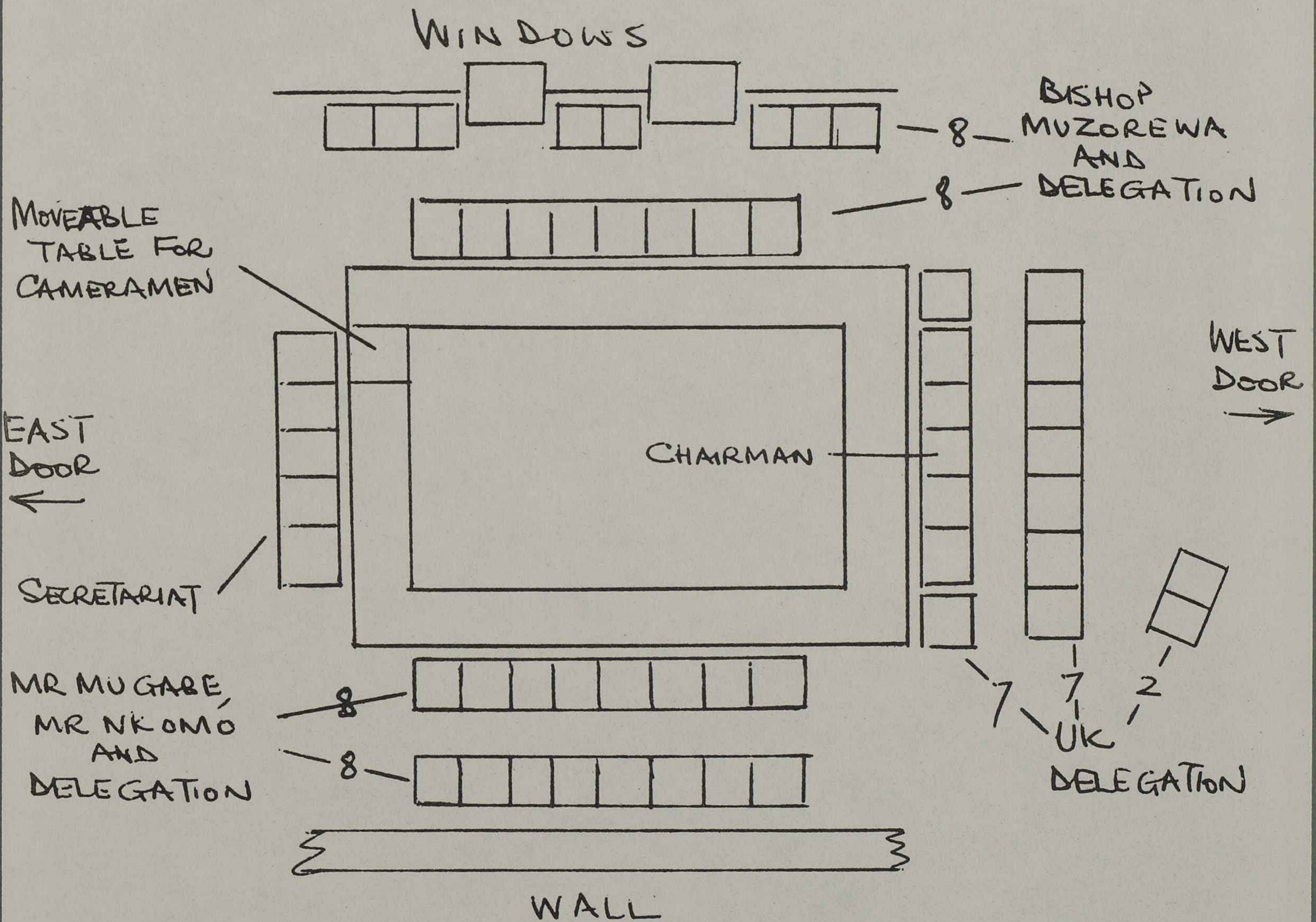
SECURITY STAFF

Mr R G Beer	Conference Security Coordinator
Major M Ramsay, RMP	O.C., RMP detachment
Mr A J M Dunlop	Deputy Conference Security Coordinator



APPENDIX IV

TABLE LAYOUT  
IN THE  
STATE DRAWING ROOM (1st FLOOR)



OFFICE ACCOMMODATION

(01-839 3488)

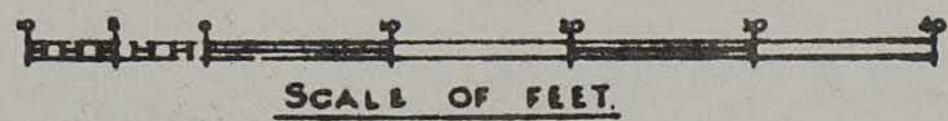
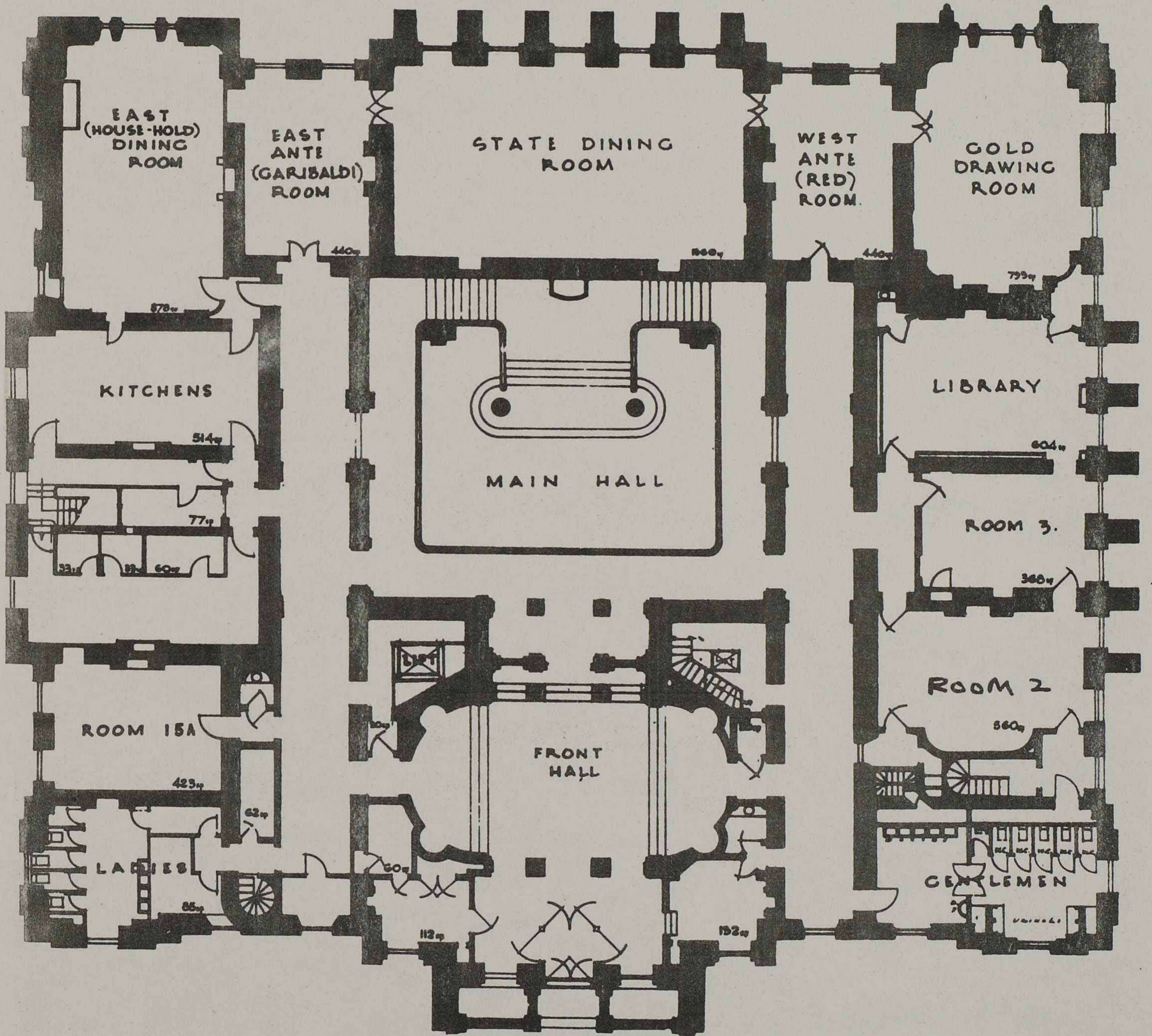
ROOMFirst Floor

State Drawing Room	Main Conference Room
West Drawing Room	Chairman
East Ante Room	Conference Officers and Information Desk
Music Room	Delegates' Lounge
Royal Gallery	Delegates' Telephones
Room 108	Private Secretary to the Chairman
Room 109	Secretariat
Room 110	Secretary-General and Assistant Secretary-General

Second Floor

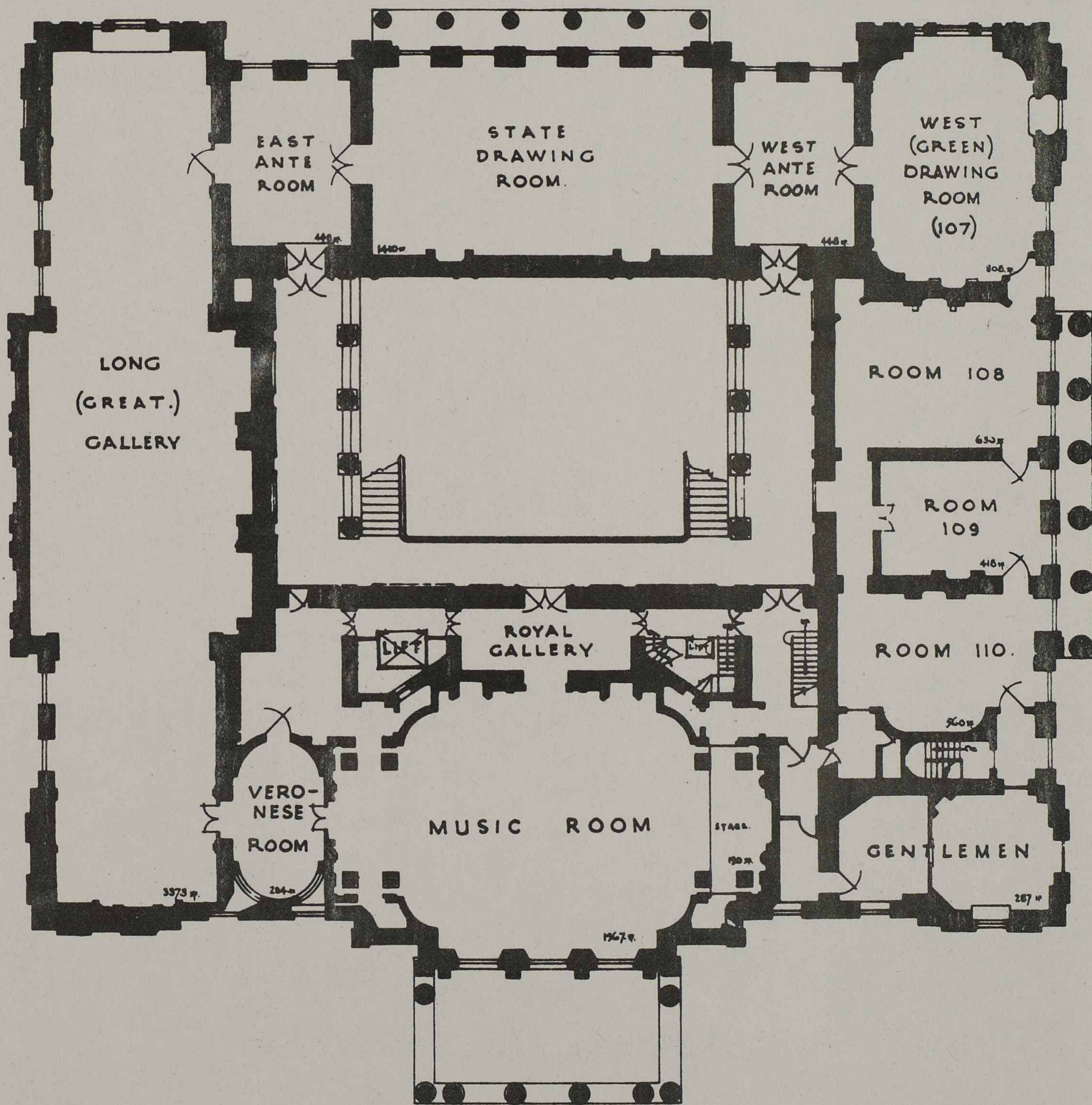
Room 213	UK Delegation
Rooms 208-211	Bishop Muzorewa and Delegation
Rooms 200, 201, 204, 205	Mr Mugabe, Mr Nkomo and Delegation
Room 206	UK Liaison Officers
Room 214	Record Takers
Room 215	Typists
Room 216	Photocopying and Duplication Centre
Room 216A	Secretariat Documents Office (Pigeon holes for delegates are located in the office)

LANCASTER HOUSE - GROUND FLOOR



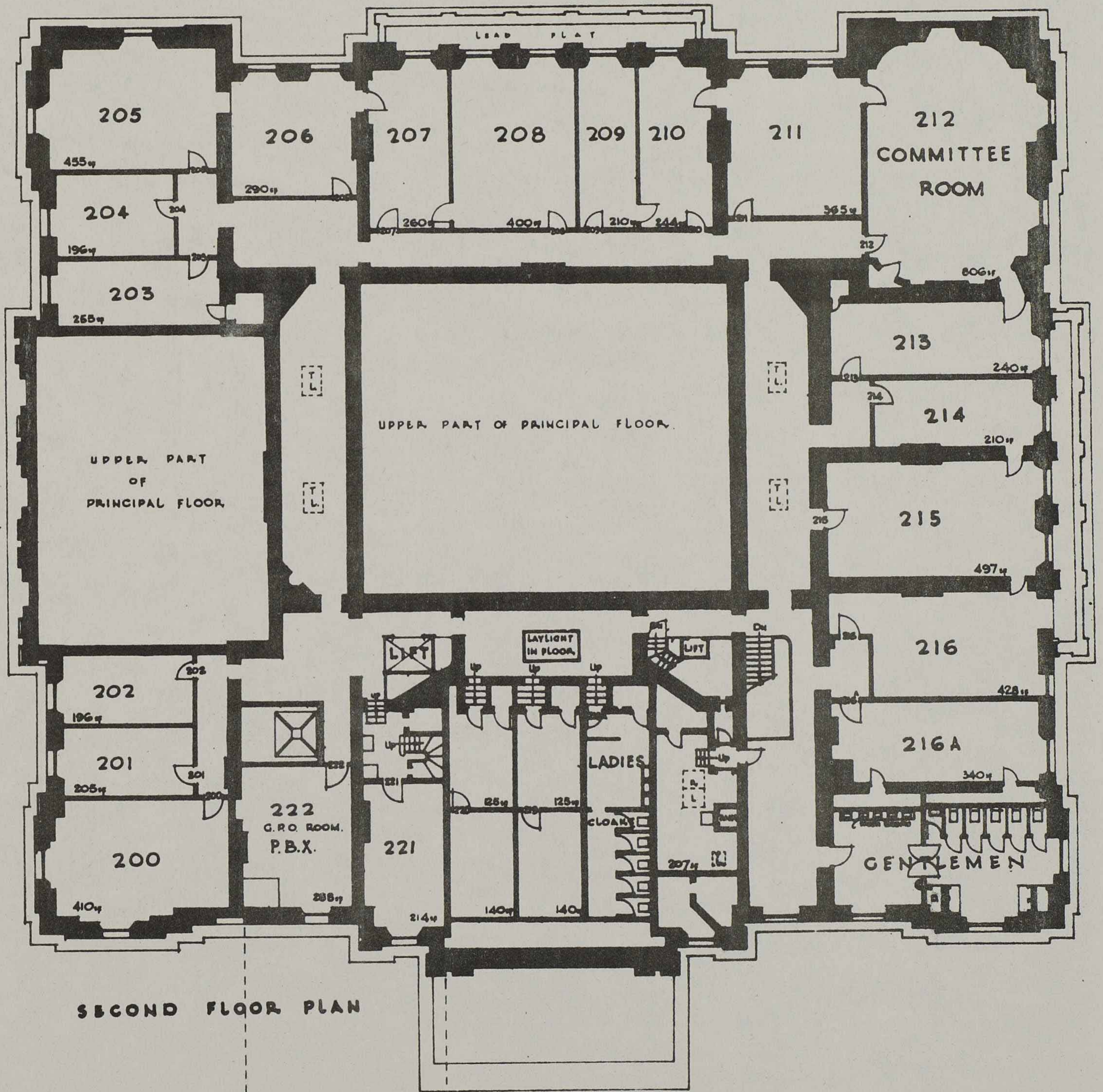
GROUND FLOOR PLAN		DIRECTORATE OF LABOUR MIN. OF PUBLIC BUILDINGS ROMNEY HOUSE	
DRG. No	TITLE	RB.	SCA
473/1	LANCASTER HOUSE ST. JAMES'S	AS	DAI
	AMENDED		SE.

LANCASTER HOUSE - FIRST FLOOR

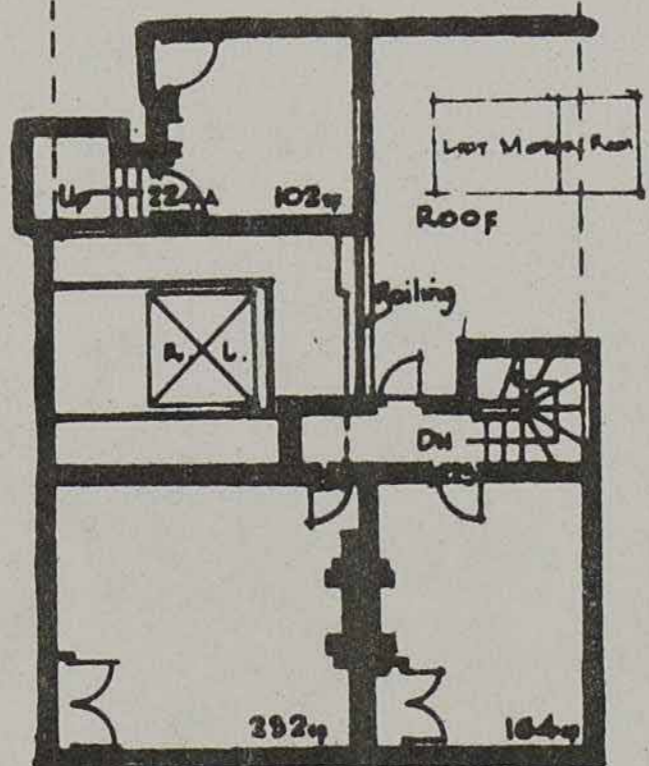


SCALE OF FEET.

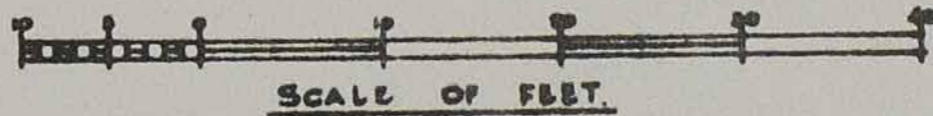
<b>FIRST FLOOR PLAN</b>		DIRECTORATE OF MIN. OF PUBLIC BUL ROMNEY HOUSE -
DRG No.	TITLE <b>LANCASTER HOUSE ST. JAMES'S.</b>	E K A R T S
473/2	AMENDED	



SECOND FLOOR PLAN

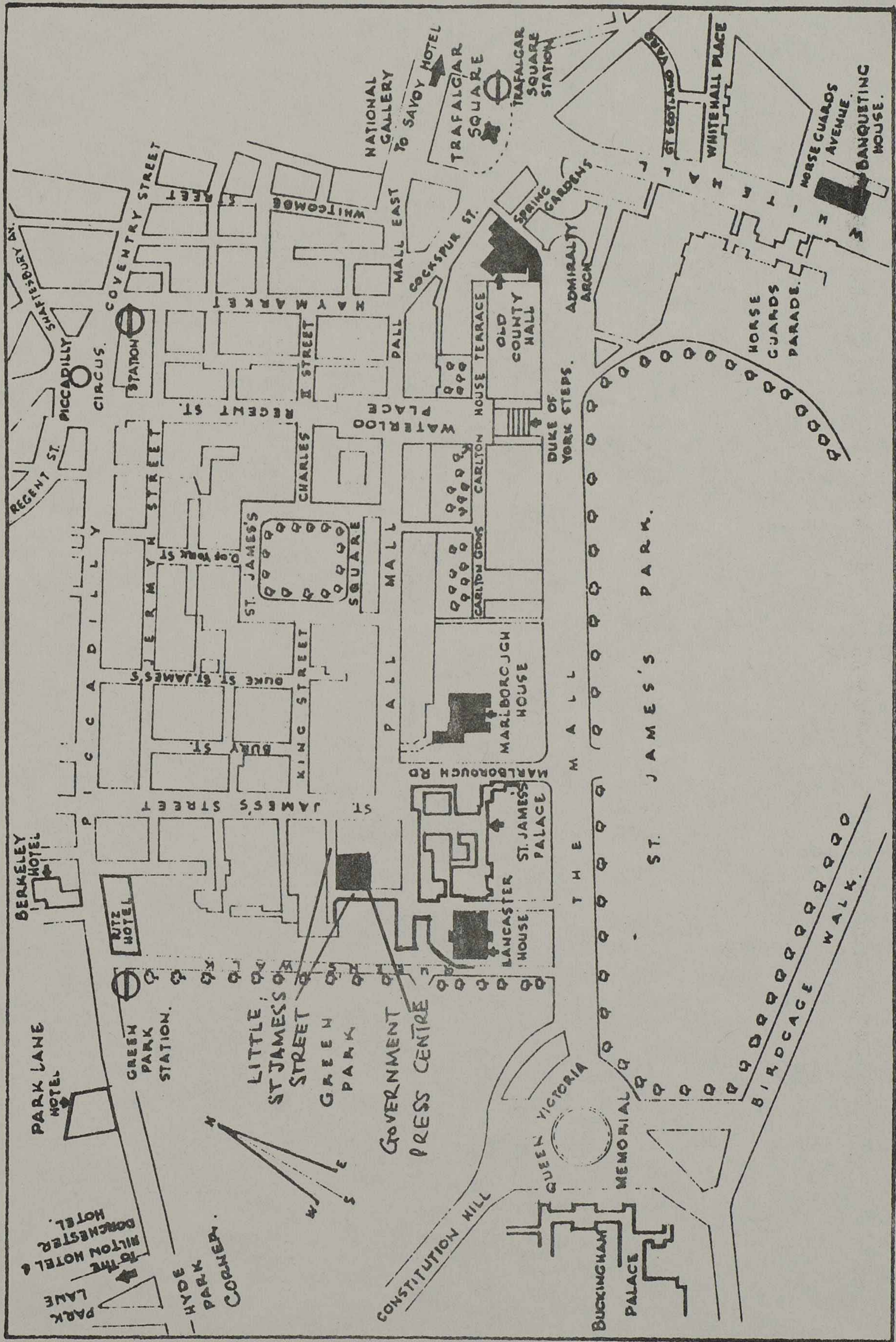


TOP FLOOR ROOF PLAN.



FLOOR PLANS		DIRECTORATE OF MIL. OF PUBLIC BU ROMNEY HOUSE
DRG No 473/s	TITLE LANCASTER HOUSE ST. JAMES'S.	
AMENDED.		

PLAN OF ST JAMES'S AREA



010.

CONSTITUTIONAL CONFERENCE

LANCASTER HOUSE

LONDON

SEPTEMBER 1979

Bishop Muzorewa's Opening Address

CHECK AGAINST DELIVERY

Mr Chairman,

It gives our delegation great pleasure to be in this historic building representing the democratically elected government of Zimbabwe Rhodesia, seeking recognition and the lifting of sanctions.

I must first, on behalf of our delegation and on my own behalf, say how grateful we all are to Her Majesty's Government for the hospitality accorded us, the spirit in which we have been received here and, above all, for the opportunity to resolve, once and for all, the constitutional problems facing our country.

I was pleased to accept the invitation to attend this Constitutional Conference and to lead the delegation of our Government of National Unity because it enables me to report officially and in person to the British Government and the British people that we have fulfilled all the requirements insisted upon by successive British administrations. This being so it is up to the British Government to recognise the new reality of the situation in our country and to act accordingly.

It is now the responsibility of your Government, Mr Chairman, to accept and acknowledge this fact. You, Mr Chairman, have referred to the laying of foundations for a

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free, independent and democratic society. We would suggest that those foundations have already been laid and Britain has a legal and moral duty in the name of democracy, integrity and fair play to follow its own hallowed principles and recognise the new popularly-elected government in our country which is of the people, by the people and for the people.

Let me examine, Mr Chairman, the present situation in relation to the five principles listed by the British Government in 1965 and the sixth subsequently added in 1966. I might add, at this stage, that these principles have received general approval by other countries and were even endorsed by the United Nations Organization.

Those principles were:

- (a) unimpeded progress to majority rule must be maintained and guaranteed;
- (b) there must be guarantees against retrogressive amendment to the Constitution;
- (c) there must be an immediate improvement in the political status of the black population;
- (d) there must be progress towards ending racial discrimination;
- (e) the Constitutional proposals must be acceptable to the people of Rhodesia as a whole;  
and
- (f) there must be no oppression of the majority by the minority or of the minority by the majority.

In connection with these 6 principles, universal adult suffrage has been accepted and introduced in our country and this change cannot be reversed. Thus, the political status of the black population has been fulfilled and majority rule is enshrined in the Constitution. No retrogressive amendments can be made without the approval of the black representatives in Parliament. Racial discrimination has been totally abolished and there is no question but that the changes which have been brought about in our country are accepted by the people as a whole. There is, in our country today, no oppression of the majority by the minority or of the

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minority by the majority. I can confidently state therefore, Mr Chairman, that the requirements of previous British Governments have been fully satisfied and nothing should now stand in the way of our Government of Zimbabwe Rhodesia being granted their rightful recognition.

Let us accept one further fact. The reasons which led to the British and subsequent international action against our country were directed purely and simply against a white minority government which unilaterally declared independence in 1965. Those reasons are no longer valid. That government, which was anathema to the majority of our people, no longer exists. It has now been replaced by a government popularly elected by 64,8% of our electorate in elections which were conducted in an honest, impartial, democratic, free and fair manner. This was testified to by virtually all the observers sent to monitor our elections, including the team led by Lord Boyd which was sent by your party. You yourself, Mr Chairman, indicated in the House of Lords on May 22 that the British Government would be guided by Lord Boyd's conclusions. I fear that in some measure you may have shifted your ground in this regard and, perhaps due to the pressures exerted on your Prime Minister in Lusaka, your commitment has not been followed through. I do most sincerely hope and trust that your government has no intention of accepting a situation where Zimbabwe Rhodesia becomes the sacrificial lamb on the altar of expediency.

I would now take you back to the 15th May of this year. At the opening of the present British Parliament your Prime Minister, Mrs Thatcher, said it was the objective of your government to build on the major change that had taken place in my country to achieve a return to legality in conditions of wide international recognition. Let me emphasise the word 'major' which is of the greatest importance. This is exactly what has happened in Zimbabwe Rhodesia. There is a total new reality in our country. In Parliament, the House of Assembly consists of 72 black and 28 white Members, the Senate consists of 20 black and 10 white Senators. The Cabinet contains 19 Ministers of whom 14 are black and 5 are white. Prior to May the two highest posts in the land, that of Prime Minister and President, were held by whites. Now these posts are filled

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by blacks. Furthermore, as Minister of Combined Operations and Minister of Defence, I have executive control and ultimate authority over all military matters in my country. The military commanders operate under my immediate policy directives. Similarly, my black colleague, the Minister of Law and Order who is a member of my delegation, holds executive power over the police.

All racially discriminatory laws, including those relating to land tenure, have been repealed. People of all races are now permitted to live where they choose, whether in rural or urban residential areas. Our black population participates in all facets of business without any racial restrictions. Our schools and hospitals are now non-racial. All these significant developments were unheard of and thought impossible less than two years ago.

Mr Chairman, you said yesterday that in the case of Rhodesia, as in all other cases, the constitution must take account of special circumstances. That is precisely what we have done. We have a new constitution drafted by both black and white members of the four parties to the March 3rd Agreement - it was drawn up by the people of our country to meet the needs of our country. We have a new flag, one that is symbolic of our country and all its people.

We have a new non-racial nation, one that is dedicating itself to be a good example to other countries, not only on the African continent but throughout the world. The successful conclusion of our Agreement of the 3rd March, 1978, and the implementation of our new Constitution has been achieved through the tremendous courage displayed by the vast majority of our electorate during the elections. They went to the polls happily and willingly to exercise their newly-won democratic right to elect a government of their choice despite intimidation and threats of death. In doing so they clearly demonstrated their desire to determine the future course of their country and that this should be achieved through the ballot and not the bullet. The people voted because they had at last secured their inalienable right to do so, in spite of repeated threats by the Patriotic Front to disrupt our elections, to punish and

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mains our citizens who dared to vote and to execute the democratically elected black leaders of their government.

There are a number of most important matters on which we require a clear, binding and unequivocal undertaking from your Government, Mr Chairman, from the very outset of this Conference. I repeat that we have met the six principles. Lord Boyd reported on the last outstanding principle and your Government has not denied his finding that the fifth principle has been met.

We require to know clearly and categorically what more your Government requires from us before you will remove sanctions and grant recognition to our Government. Thereafter, if we are able to reach agreement, we shall require a firm commitment in specific terms from your Government that it is prepared to support our Government to the fullest extent, that sanctions will be lifted and that recognition will be granted. Here I must make it absolutely clear that we are not prepared to see any negation of what has so far been achieved in our country on behalf of our people, unless it is in their interests and the interests of their country.

We require from Her Majesty's Government a guarantee made publicly to the effect that no one - I repeat no one - will have the power of veto over the stated scope and focus of this Conference and that the same will apply to any decisions that may be agreed.

Mr Chairman, yesterday you asked us to set down fully our views on the Constitutional questions and the outline proposals published by the British Government when extending the invitation to this Conference. I have already dealt with the Constitutional questions. As far as the outline proposals are concerned, the Constitutional Agreement of 3rd March, 1978, and our present Constitution substantially meets all the points that are made. We sincerely trust that you will not insist on us making changes to our Constitution, which is already working very well, merely for the sake of appeasing other countries who do not appreciate the position in Zimbabwe Rhodesia. I repeat what you yourself

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said yesterday, Mr Chairman - in the case of Zimbabwe Rhodesia, as in all other cases, the Constitution must take account of special circumstances. The Constitution of Zimbabwe Rhodesia was agreed in that country and for that reason it is likely to stand the test of time. History has shown that many constitutions which have been agreed in this place have not lasted for any appreciable period. We do not want the same thing to happen to us.

The British Government, in its invitation to this Conference, strongly urged both sides to observe a ceasefire. Yesterday, Mr Chairman, you said it was a matter of great regret and disappointment to you that hostilities are continuing during this Conference. My delegation would like to have it placed on record that we accepted that appeal by the British Government and, in fact, we are still prepared to co-operate fully in trying to bring about a ceasefire. However, no ceasefire can be achieved unless all the parties to the conflict agree to observe this.

Finally, Mr Chairman, in your address yesterday it was clear that you personally, and your Government, earnestly desire to see this Conference succeed and that you have the sincere determination to achieve this noble objective. You struck a chord which resounds in our own hearts when you deplored the terrible and useless loss of lives in our country. You challenged us in the name of humanity to adopt a constructive approach and contribute to the successful outcome of our deliberations.

I wish to assure you, Mr Chairman, that I and my delegation are most willing and indeed anxious to respond to your challenge in the most positive manner. We shall do so in the true spirit of the Christian and democratic principles which we have always followed. We shall do so because deep in our consciences and our souls we believe that this will lead to the salvation of our people, our country and our Nation. You will not find us lacking, Mr Chairman, in our efforts to seek a realistic solution which will enable our country to progress to peace and prosperity. In God's name I pray that goodwill may prevail and that this Conference will be blessed with success.

CONSTITUTIONAL CONFERENCE

LANCASTER HOUSE

LONDON

SEPTEMBER 1979

Lord Carrington's Opening Address, Monday 10 September

CHECK AGAINST DELIVERY

It gives me great pleasure to welcome you to this Conference and to open its proceedings.

When the British Government issued invitations to this Conference on 14 August, after extensive consultations, we naturally hoped for and expected a positive response. Our consultations had revealed a strong desire that the United Kingdom should take the initiative in making a further attempt to achieve a final settlement of the problem of Rhodesia, in fulfilment of its constitutional responsibilities. There was also a widespread feeling that continuation or intensification of the war was not in the best interests of any of the parties to the dispute, nor of the people of Rhodesia as a whole. Nevertheless, it is no simple matter for those who have been involved in a bitter and tragic military confrontation to sit round a conference table together. The British Government felt strongly that it had the responsibility to bring that about.

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When inviting you here, we appealed to you, in the interests of the people of Rhodesia, to approach these negotiations in a positive spirit and to seek to build up areas of agreement. We hope thereby to lay the foundations for a free, independent and democratic society in which all the people of Rhodesia, irrespective of their race or political beliefs, would be able to live in security and at peace with each other and with their neighbours. The act of coming together is important. It is now up to us to build on that.

Since 1965, and long before, many meetings have been held to try to resolve this problem. I am under no illusions about the magnitude of the task before us. The problem is one which has defeated the efforts of successive British Governments, all of whom sought to achieve the objective of a peaceful settlement in conditions which would guarantee to the people of Rhodesia the full enjoyment of their rights. But I have no intention of going back over the history of those attempts; and I hope that you will also be prepared to look to the future rather than the past.

I would like to hope that there is a difference between this meeting and those which have preceded it. This is a

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constitutional conference, the purpose of which is to decide the proper basis for the granting of legal independence to the people of Rhodesia. Many such constitutional conferences have been held in this place before. A great many former dependent territories of the United Kingdom have successfully made the transition to independent statehood on the basis of constitutions agreed here. It is our intention to approach this Conference on the basis of the same principles and with no less strong a determination to succeed than in the case of those other conferences, which resulted in the granting of independence by this country to our former dependent territories. I believe that we can take some pride in the part we have played at conferences held at Lancaster House in the process of decolonisation. As Commonwealth leaders agreed at Lusaka, Britain has had no lack of experience as a decolonising power.

The agreement reached at Lusaka has made it possible for the British Government to convene this Conference with the very real hope that it will lead to an internationally acceptable settlement. I would like to pay tribute to the Commonwealth Heads of Government and the Commonwealth Secretary-General, who worked so hard at Lusaka to  
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establish an agreed position. In summary, the Commonwealth Heads of Government at Lusaka confirmed that they were wholly committed to genuine majority rule for the people of Rhodesia, and accepted that this requires the adoption of a democratic constitution including appropriate safeguards for minorities. They reiterated that it is the responsibility of the British Government to grant legal independence to Rhodesia. They agreed that the government formed under the independence constitution must be chosen through free and fair elections, properly supervised under British Government authority, and with Commonwealth observers. They welcomed the British Government's intention to convene this Conference, and recognised that the search for a settlement must involve all parties to the conflict. We should do well to bear in mind, throughout our discussions, the framework thus set out in the Lusaka communique. Not only does it incorporate the views of the British Government, but it sets out the approach which the Commonwealth will support and which will gain international acceptance.

Against this background I approach the search for a fair constitutional settlement in Rhodesia with the  
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conviction that it is illusory to think that any settlement can fully satisfy the requirements of either side. An agreement can only be reached if there is a willingness to compromise.

The British Government has put to you an outline of the kind of constitution on the basis of which we would be prepared to grant independence. We wish to discuss these proposals with you at this Conference, and will be prepared to elaborate on them in the light of our discussions. If we can reach agreement at this Conference, there will be an end to the war. That is an outcome which I believe will be greeted with immense relief by the people of Rhodesia and throughout Africa. Rhodesia will proceed to legal independence with a government formed by whichever party and whichever leader can show that they command the confidence of the people. I must confess that I find it difficult to see how any party, group or leader can hope to benefit from what would follow failure to reach agreement along the general lines we have put before you, and those who would suffer most would be the people of

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Rhodesia, towards whom our real responsibility lies.

A quarter of the population of Rhodesia has been born since 1965.

Their lives have been overshadowed, not merely by a tragic and unnecessary political dispute, but by armed conflict. Many of them have died as innocent victims of the war. Or they have lost their parents, brothers or sisters. Or they have lost their homes. Many of them, black and white, face the prospect of themselves having to fight, on one side or another, or of being deprived indefinitely of peaceful residence in the land of their birth - a quarter of a million people are now in refugee camps in other countries - if we, who are assembled in this room, cannot agree on the way to end the fighting and to provide for you to settle your differences by political means.

This generation now at risk had no part in the initial causes of the conflict. It was not born when the problem of Rhodesia came to a crisis in 1965. But now there is acceptance by all the parties of a society free from racial discrimination, of universal suffrage and majority rule. We can make this objective a reality if - and only if - we are prepared to

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look at the problem on the basis of principles on which both sides should be able to agree.

I believe that the people assembled in this room have it in their power to end the war and to enable the people of Rhodesia to decide their future by peaceful means. We bear a heavy responsibility and I do not believe that the people of Rhodesia will readily forgive any party which deprives them of this opportunity to settle their future by peaceful means. This is a thought which should be in our minds throughout this Conference.

It is a matter of great regret and disappointment to me and my colleagues that hostilities are continuing during this Conference. Progress towards agreement on political issues - which I hope we are all determined to achieve - will by definition mean progress towards removing the causes of the war. It must be our objective to proceed as soon as possible to a stage at which there can be agreement on a ceasefire. We shall fall short of what we ought to achieve for the people of Rhodesia if we do not give them the chance to make a fresh start, its causes and its consequences put firmly in the past.

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Britain has at times been described on one side as choosing to stand with arms folded on the touchline; and on the other as not being serious in its determination to decolonise. Let me assure you today, if anyone is in doubt, that we could not be more serious in our intention to achieve a satisfactory basis for the granting of legal independence for the people of Rhodesia and in this attempt to bring about an end to the war.

We have engaged in extensive consultations on the best way of achieving these objectives. Lord Harlech visited Africa early in the life of this Government to consult with the parties to the dispute and with the Commonwealth and other African Governments most closely concerned. He found a general conviction that a solution to the problem of bringing Rhodesia to legal independence must stem from Britain as the constitutionally responsible authority and that we must put forward proposals to achieve that objective. He also found that there was criticism of the present constitutional arrangements, in particular of the blocking power given to the white minority over a wide range of legislation, and of the character of the Public Service and other Commissions.

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In the period of consultations, we made it clear that we would attach particular importance to the Commonwealth Heads of Government meeting at Lusaka. At Lusaka, the British Prime Minister said that the British Government were wholly committed to genuine majority rule in Rhodesia. The principle of majority rule has been accepted by all the delegates to this Conference. The Prime Minister, at Lusaka, also recognised the importance of encouraging the European minority to remain as an integral part of the community. The Prime Minister emphasised that Britain fully accepted its constitutional responsibility to bring Rhodesia to legal independence on a basis of justice and democracy, comparable with the arrangements we have made for the independence of other countries.

The British Government took action immediately to give effect to the Lusaka declaration by convening this Conference and by putting forward constitutional proposals in accordance with the principles which were agreed at Lusaka and which have formed the basis for other independence constitutions in Africa and elsewhere.

The constitution is the fundamental problem to which we must address

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ourselves. I am well aware that there are other aspects of a settlement which must in due course be resolved. But it is essential to the prospects of success that we should first seek agreement on our destination - which is the independence constitution. If that can be achieved, it will be necessary to decide the arrangements to give effect to that agreement. The British Government has stated clearly that it will be prepared to accept its full share of the responsibility for the practical implementation of those arrangements. The central element will be free and fair elections, properly supervised under British Government authority.

The British Government's outline proposals for an independence constitution have been before you for four weeks. I did not suggest that this Conference should be held on the basis of prior acceptance of this document. Instead, I would like to take the document as the starting point for our discussions. The British Government have been asked to put forward proposals and we have done so. Unless there is a focus for our discussion, it will be impossible to make progress.

There are certain general points which I could make in introducing them.

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First, as the constitutional authority for Southern Rhodesia, the United Kingdom intends to take direct responsibility for the independence constitution. What you have before you are the British Government's proposals, taking account of the points made to us in our consultations. They are intended to give effect to the principles which have been accepted by successive British Governments as the proper basis for independence. Those principles are that the principle of majority rule must be maintained and guaranteed; that there must be guarantees against retrogressive amendments of the constitution; that there should be immediate improvement in the political status of the African population; that racial discrimination is unacceptable; that we must ensure that, regardless of race, there is no oppression of majority by minority or of minority by majority; and that what is agreed must be shown to be acceptable to the people of Rhodesia.

Second, our proposals are comparable to the basis on which the United Kingdom has granted independence to other former dependent territories, in particular those in Africa. We have no doubt, therefore, that a solution on this basis will be accepted by the international community, as giving effect to the principles we have accepted in granting independence to our other former dependent

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territories. In the case of Rhodesia, as in all other cases, a constitution must take account of special circumstances. But the broad lines of independence constitutions are clear enough; and in the precedents there are points which can help us towards a solution, for example on the representation of minorities.

Third, we have made it unequivocally clear that our constitutional proposals represent in outline the kind of constitution on the basis of which the British Government would be prepared to grant legal independence. If agreement could be reached on alternative proposals which meet the British Government's criteria, we would be ready to grant independence on that basis. But we believe that the best hope of success lies in negotiation on the lines we have proposed, in accordance with the Commonwealth declaration.

If it is possible to get agreement on the general framework for the independence constitution, the British Government will be prepared to put forward more detailed proposals to give effect to that agreement. We shall therefore have further suggestions to put before the Conference. But, before we advance to that stage, we must establish what measure of  
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agreement exists on the outline proposals, and where the major difficulties will lie. As the first step, therefore, I shall hope to hear your views on the outline proposals.

Before inviting you in our next session to state your positions on the constitutional framework for independence, I would like to speak briefly about the arrangements to give effect to an agreement on the constitution.

In other countries approaching independence, the United Kingdom's role has invariably been to establish just conditions for independence, not to encourage the aspirations of this or that party. Our role in Rhodesia will be the same as in other dependent territories. The international community is well aware of this and of our constitutional responsibility. In many countries we have handed over power to people who had previously been confirmed opponents of the policy of the United Kingdom, if they have been elected by the people of their countries. In the position which we agreed with other Commonwealth Governments at Lusaka, we stated that there must be free and fair elections, properly supervised under British Government authority and with Commonwealth observers. This has been accepted by all Commonwealth Governments; and, as I have already said, the British Government will be ready to carry out its responsibilities in this regard.

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I turn now briefly to the way in which we might proceed at this conference. The Conference is being held under my chairmanship. I attach the highest priority to bringing it to a successful conclusion, and I intend to play the fullest part in the proceedings. At times when I am prevented from being here, I would propose to ask the Lord Privy Seal, Sir Ian Gilmour, to take the Chair.

We have made no attempt to fix the duration of the Conference. I hope that we can move forward rapidly. I trust that we can show real progress towards agreement on the constitution. We for our part are prepared to continue for as long as is necessary provided of course that progress is being made. In the opening plenary sessions I would ask you to set out fully your views on constitutional questions and on the outline proposals before the Conference, as I have done. Depending on the progress made, it might then be appropriate to consider aspects of the constitution in more detail, perhaps on the basis of further proposals tabled by the British Government. We may also wish to consider meeting in less formal groups at different levels. We shall have to decide on this as we proceed.

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The Conference Secretariat, headed by the Conference Secretary, Mr Willson, is at the service of all delegates. Any questions on administrative arrangements should be referred to Mr Willson and the Conference Officers assisting him.

The Secretariat will prepare summary records of discussions in the formal conference sessions, that is to say records which give a resume of the main points made by each speaker. They will circulate these records within 24 hours. If you wish to make corrections of substance to your own interventions, please do so within two days. These will also be circulated. The summary records will not be made available to the press.

There will be world-wide interest in the progress of the Conference. A great many journalists have been accredited to it. I shall be making public my own statement this afternoon; you may wish to do the same with your opening speeches. The press will not be admitted to Lancaster House, but there is a fully equipped press centre across the road. This is at the disposal of all delegations. Mr Fenn will act as my spokesman as Chairman of the Conference. He will also release to the press any joint statements on which we may

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from time to time agree. I invite each delegation to nominate a member of their staff as Press Secretary, to be in touch with Mr Fenn about these matters. They will of course be welcome to make use of the facilities at the press centre.

If there are other papers which you wish to have circulated to all participants, the Secretariat will be ready to have them reproduced and distributed as Conference documents.

In conclusion:

- a. this Conference has been convened in response to the statement agreed by the Commonwealth Heads of Government at Lusaka;
- b. we have put forward proposals designed to bring Rhodesia to legal independence;
- c. your acceptance of our invitation has given hope to the people of Rhodesia and the neighbouring countries;
- d. it is within the power of the parties represented here to bring an end to the war.

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I have deliberately avoided talking of a "last chance" of a settlement. Last chances have come and gone before. I would put it differently. Since Geneva the conflict has reached new levels. The cost of continuing it is very high. Since 1976 the number of men under arms on both sides has more than doubled. The war has spread into neighbouring states. The toll in casualties inside Rhodesia and in the neighbouring countries has continued to rise. Neither side has infinite resources. The price of failure at this Conference would be further prolonged bloodshed and further destruction of the life of whole communities. The responsibility for preventing this lies upon all those present here. The eyes of the international community will be upon us all to see that we live up to that responsibility. The British Government is determined for its part to do everything in its power to bring this Conference to a successful conclusion. It is in that spirit that I would ask you also to address the task before us.

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**SUBMISSION**

**FOLDER**



RHODESIA: CONSTITUTIONAL CONFERENCE

- A. The Commonwealth Agreement at Lusaka;  
The Prime Minister's Statement at Lusaka;  
The Outline Constitutional Proposals circulated by  
the British Government on 14 August;  
Our invitations to the Conference.
- B. Secretary of State's minute of 31 August to the Prime  
Minister with our fuller constitutional proposals (Annex B);  
Our proposals on the key issues (Annex C);  
Statement for use as necessary on elections and a  
cease-fire (Annex D).
- C. Points likely to be raised by the Patriotic Front and  
ways to deal with these
- D. Points likely to be raised by the Salisbury delegation
- E. The Attitudes of the Parties and the Front-Line States
- F. Pre-Independence Arrangements
- G. The Public Service Commissions
- H. The Prime Minister's meeting of 13 July with Bishop  
Muzorewa.

RHODESIA: CONSTITUTIONAL CONFERENCE

STEERING BRIEF

OBJECTIVES

1. Our objectives at this stage of the negotiations will be:
  - a. to demonstrate that we are engaged in a serious attempt to achieve an agreement on terms which should be acceptable to both sides;
  - b. to retain as long as possible the support of the Commonwealth African Presidents, thereby putting maximum strain on their support for the Patriotic Front if, as is probable, the latter adopt an obstructive attitude;
  - c. to leave ourselves free, if the attempt to achieve a wider agreement is unsuccessful, to proceed with the internal parties, provided that:
    - i. they will accept the constitutional changes we have made clear we regard as indispensable; and
    - ii. arrangements will be made to show that the outcome is acceptable to the people of Rhodesia.

TACTICS

2. We should aim by the end of the first week of the Conference to have put forward our fuller constitutional proposals (Annex B), thereby leaving ourselves in the best position to urge President Nyerere when he comes to London on 14 September to support a settlement on these lines.
3. The Conference must not be allowed to develop into a replay of the unstructured and profitless "all-party discussions" in Geneva. We should at each stage seek to retain the initiative by putting forward our proposals (Annex B in the first week; and

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a statement on the key issues in the second week). We should be prepared to deal firmly with procedural quibbles by the Patriotic Front. We should not place any emphasis on confidentiality in the early stages of the Conference: we alone would be likely to observe any such constraints. Our aim in this stage will be to demonstrate publicly the reasonableness of our proposals (for example, we should publish Annex B) and the intransigence of the Patriotic Front.

4. The Patriotic Front may well put forward their own proposals. We cannot decide our response to these until we have seen them. Their general tactic, however, will be to try to discuss first the military and other transitional arrangements. We should make clear - on the lines of Annex D - that this is a Constitutional Conference. If agreement can be reached on the main provisions of the Constitution, this can be contingent on agreement on the pre-independence arrangements - the key element in which is acceptance by both sides that elections should be held under our authority. Military questions will fall to be discussed last. Our tactics throughout the early stages should be to concentrate on bringing the discussion back to the Lusaka agreement and to our outline constitutional proposals. We should encourage both wings of the Patriotic Front to express their views on the various questions at issue. Other members of Bishop Muzorewa's delegation will wish to speak and should be permitted to do so.

5. In the early stages it will be important not to rush the process. We must not expose ourselves to charges of having deliberately precipitated a crisis at the Conference. We should avoid bringing matters to a point at which it is clear that we intend to proceed with the internal parties alone, at least until after the civilian government is established in Nigeria on 1 October. This may point to an adjournment of the Conference - on the basis of our proposals on the key issues - at the end of the second week, allowing time for a final effort to persuade the

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Commonwealth African Presidents that a fair settlement is on offer if the Patriotic Front are prepared to participate.

6. It will be essential at each stage to retain the confidence of Bishop Muzorewa. He should start from the position of defending the present arrangements in Rhodesia and the April elections, but must be persuaded to adopt a reasonable and constructive attitude towards our proposals, in contrast to the intransigence likely to be displayed by the Patriotic Front. He can be assured that whatever ideas we put forward at the Conference will be fully compatible with what we have throughout made clear to him are our pre-requisites for a settlement (as explained to him by the Prime Minister on 13 July); and that the Patriotic Front will not be allowed to exercise a veto. We should not, however, put ourselves in the position of pre-negotiating with the Rhodesians the action we consider it necessary to take at the Conference. There is a demand on both sides to make clear what our requirements are. We should remain in close political contact with the Salisbury delegation throughout, but should not enter into detailed negotiations with the Rhodesians in the early stages of the Conference (such negotiations would be likely to become public knowledge). The time for further detailed discussions with Rhodesian officials will come after the first stage of the Conference: it will be much easier to bring them to a successful conclusion against the background of a firm statement (on the lines of Annex C) of what we will be prepared to enact on the key issues. The chances of winning international support for the eventual outcome depend on our proceeding in this way.

7. After the adjournment, the Conference would in due course be resumed on the basis of the proposals we had put forward. The Patriotic Front would still have a chance to participate on that basis; but the probability is that they will reject them. We should then complete negotiations on the Constitution with the internal parties and, in parallel, arrange a demonstration of their acceptability.

/THE MAIN ISSUES

SECRET

## THE MAIN ISSUES

8. There is with one proviso nothing in our general constitutional proposals (Annexes B and C) to which Commonwealth African governments can reasonably object. The provisions for constitutional amendment are comparable to those in other Commonwealth countries. Public service commissions are unexceptionable provided they are under ultimate governmental control. If it is argued that there should be an executive President, we can say that we could agree to this, provided the parties did so. If questions are raised about the Senate, we can point to the very limited extent of its powers. There will, however, be resistance to the idea that, for the first five or at most ten years, 20% of the members of the Assembly should be whites elected separately by the white electorate. This is a higher percentage than has been conceded in any other independence Constitution; and it will be argued that the white representatives should be chosen by the electorate as a whole. This is not, however, a point on which there can be any real give in our position. We must take the firm line that, in the circumstances prevailing in Rhodesia, this is not unreasonable as a transitional provision; and that the essential point is that the white members must not be able, acting by themselves, to block constitutional amendment or a wide range of legislation.

9. The way in which we should seek to enlist Commonwealth support for a reasonable settlement on this point is related to the question of the pre-independence arrangements. Presidents Nyerere and Kaunda - unlike the Patriotic Front - accept that elections should be held under our authority. We shall need to assure them that, if the Patriotic Front are prepared to participate, we will supervise the electoral process to the full extent necessary to ensure that the Rhodesian administration would not be in a position to deprive them of any chance of success. This would apply to freedom to campaign and free access to the press, radio etc. The Commonwealth Presidents may argue that Bishop Muzorewa should not

/be

be able to campaign as "Prime Minister". We should reply that all parties would have to campaign as parties, with equal chances of success. They will argue that the policing of the elections by the Rhodesian police would not be acceptable unless they were brought under our control. We should have to be prepared to make provision for this. In short, if there is an agreement involving both sides and a cease-fire we should be prepared to say that we will contemplate a return to legality before independence - and the lifting of sanctions at that stage.

10. The Commonwealth Presidents are likely to say that there will be a need for some additional neutral force to support the police and watch over the maintenance of a cease-fire. As a final demonstration that we are prepared to give the Patriotic Front a fair chance to participate and, above all, to put maximum strain on Commonwealth support for them if they are not, we should at the appropriate moment be prepared to indicate to Nyerere and Kaunda that - if this is the final element required for a peaceful settlement and they are prepared to support our constitutional proposals - we do not exclude the idea of a Commonwealth force. But we should not put ourselves into a position of having to sell a Commonwealth force to Muzorewa unless there is firm evidence that the Commonwealth Presidents are prepared to "deliver" the Patriotic Front. It will be for the Commonwealth African Presidents to decide whether they are prepared to oblige the Patriotic Front to participate in elections which they would have a fair (but no more than that) chance of winning.

11. We should have regard throughout to the possibility that Nkomo may be more seriously interested in a settlement than Mugabe. We should bear in mind, however, that the chances of a split in the ranks of the Patriotic Front will be correspondingly less if we appear to be trying to engineer it. We are making arrangements to remain in touch with Nkomo throughout the Conference.

/CONCLUSION

SECRET

## CONCLUSION

12. In the aftermath of the Lusaka agreement we are in a position in which we should be able to demonstrate that we are ready to give the Patriotic Front a fair chance to participate, if they are prepared to put their electoral popularity to a fair test. If not, we shall be well placed to proceed with Muzorewa, subject to the acceptance of constitutional change and a demonstration of acceptability (whether by a referendum or an election). There will be resistance to this from the internal parties; but Bishop Muzorewa has said publicly that he does not rule this out if it is the key to legal independence and the lifting of sanctions. Such a demonstration is essential to our ability to carry the US government and some others with us, as well as to demonstrating beyond doubt that all six principles have been fulfilled. Although there will be tough bargaining ahead, key members of the Salisbury administration (eg General Walls) are conscious that a failure to seize this opportunity to reach a settlement would have serious consequences, both political and military.

Rhodesia Department  
6 September 1979

## RHODESIA: OUTLINE OF PROPOSALS FOR AN INDEPENDENCE CONSTITUTION

(published by the British Government on 14 August)

Zimbabwe will be an independent sovereign state in which all citizens will enjoy equal rights under the law.

There will be a "constitutional" Head of State.

The Head of Government will be the Prime Minister, who will be a member of the House of Assembly having the support of a majority in that House. Power to appoint and dismiss Ministers will be exercised in accordance with the advice of the Prime Minister.

Parliament will consist of a Senate and a House of Assembly. The Senate will be indirectly elected, and a majority of its members will be Africans. It will have power to delay but not block bills passed by the House of Assembly. The House of Assembly will be directly elected by universal adult suffrage.

For a specified minimum period after independence the House of Assembly will contain a minority of seats reserved for representatives to be elected by the European Community. The proportion of these seats to the total number of seats in the House will be a matter for discussion between the British Government and the Rhodesian parties.

Parliament will have power to amend the constitution, which will prescribe procedures to be followed for effecting such amendments on lines similar to those contained in other independence constitutions granted by Britain.

The constitution will protect the independence of the judiciary.

Under the law, public servants will carry out the instructions of Ministers. Power to appoint, dismiss and discipline members of the public service will be vested in an independent public service commission. The constitution will protect the pension rights of public servants.

The commanders of the police force and the defence forces will act in accordance with general policy directives given by the Prime Minister or other responsible Minister. The police commissioner and each defence force commander will be responsible for the administration and operational control of their forces. There will be independent service commissions for the respective forces which will have prescribed powers in the disciplinary and establishment fields.

The public service commission, and the other service commissions, will be appointed on a basis, and with terms of reference, which will take due



account of the need to preserve a high standard of efficiency and which also recognise the legitimate claims of the majority of the population to increasing representation in all forms of public office. The power to make certain senior appointments in the public service and other services will be vested in the Prime Minister, acting after consultation with the appropriate commission.

There will be a fully justiciable declaration of rights and an independent official to assist in its enforcement.

EXTRACT FROM LUSAKA CHGM COMMUNIQUE, 5 AUGUST 1979

In relation to the situation in Rhodesia, heads of Government ...

A - Confirmed that they were wholly committed to genuine black majority rule for the people of Zimbabwe;

B - Recognised, in this context, that the internal settlement constitution is defective in certain important respects;

C - Fully accepted that it is the constitutional responsibility of the British Government to grant legal independence to Zimbabwe on the basis of majority rule;

D - Recognised that the search for a lasting settlement must involve all parties to the conflict;

E - Were deeply conscious of the urgent need to achieve such a settlement and bring peace to the people of Zimbabwe and their neighbours;

F - Accepted that independence on the basis of majority rule requires the adoption of a democratic constitution including appropriate safeguards for minorities;

G - Acknowledged that the Government formed under such an independence constitution must be chosen through free and fair elections, properly supervised under British government authority and with Commonwealth observers;

H - Welcomed the British Government's indication that an appropriate procedure for advancing towards these objectives would be for them to call a Constitutional Conference to which all parties would be invited; and,

I - Consequently, accepted that it must be a major objective to bring about a cessation of hostilities and an end to sanctions as part of the process of implementation of a lasting settlement.

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FM LUSAKA 030945Z AUG 79

TO FLASH FCO

TELEGRAM NUMBER 825 OF 3 AUGUST

AND TO FLASH DAR ES SALAAM, MAPUTO, GABORONE, LUANDA, LAGOS,  
MIRIMBA SALISBURY, PRETORIA, NAIROBI,  
IMMEDIATE PARIS, BONN, OTTAWA, WASHINGTON, UKMIS NEW YORK,  
ADDIS ABABA, MONROVIA, CANBERRA, JOHANNESBURG

CHGM: SOUTHERN AFRICA

1. FOLLOWING IS TEXT OF STATEMENT BY THE PRIME MINISTER DURING  
THE OPENING DEBATE ON SOUTHERN AFRICA THIS MORNING. IT IS BEING  
RELEASED TO THE PRESS AND YOU MAY USE IT ACCORDINGLY.

2. QUOTE

I IMAGINE THAT IT IS ON THE QUESTION OF RHODESIA THAT MY  
COLLEAGUES WILL WISH ME TO SPEAK SEMICLN AND I THEREFORE PROPOSE TO  
CONFINE MY OWN INTERVENTION TO THAT SUBJECT.

THE PROBLEM OF RHODESIA HAS HUNG OVER THE COMMONWEALTH FOR MANY  
YEARS. THE PRESENT TROUBLE BEGAN IN 1965 WHEN THE THEN RHODESIAN  
GOVERNMENT MADE THE ILLEGAL DECLARATION OF INDEPENDENCE.  
THIS WAS FOLLOWED BY YEARS IN WHICH THE EFFORTS OF SUCCESSIVE  
BRITISH GOVERNMENTS TO ACHIEVE A SETTLEMENT BASED ON THE WISHES  
OF A MAJORITY OF THE PEOPLE OF RHODESIA WERE FRUSTRATED, YEARS  
IN WHICH THE POLITICAL RIGHTS OF THE MAJORITY WERE DENIED.  
THEN CAME THE WAR WHICH HAS BROUGHT GREAT HARDSHIP AND SUFFERING  
BOTH INSIDE RHODESIA AND IN NEIGHBOURING COUNTRIES.

WHAT BEGAN AS A STRUGGLE BETWEEN THE WHITE MINORITY AND THE BLACK  
MAJORITY HAS MORE RECENTLY TAKEN ON A VERY DIFFERENT DIMENSION.  
THERE IS NOW AN AFRICAN PRESIDENT, AN AFRICAN PRIME MINISTER  
AND AN AFRICAN MAJORITY IN PARLIAMENT.

THERE HAVE BEEN ELECTIONS IN WHICH FOR THE FIRST TIME THE AFRICAN  
MAJORITY HAVE BEEN ABLE TO ELECT THE LEADERS OF THE GOVERNMENT.  
THERE ARE THOSE WHO SEEM TO BELIEVE THAT THE WORLD SHOULD SIMPLY  
GO ON TREATING BISHOP MUZOREWA AS IF HE WERE MR. SMITH.  
BUT THE CHANGE THAT HAS TAKEN PLACE IN RHODESIA CANNOT BE DISMISSED  
AS OF NO CONSEQUENCE.

/IT IS THE

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TOP  
CONF

IT IS THE BRITISH GOVERNMENT'S VIEW THAT WE MUST USE THE OPPORTUNITY  
OFFERED BY THE CHANGES WHICH HAVE TAKEN PLACE IN RHODESIA TO SEE  
IF WE CAN NOW FIND THE SOLUTION WHICH HAS ELUDED US FOR SO LONG,  
AND TO BRING AN END TO THE WAR.

WE OWE IT TO THE PEOPLE OF RHODESIA TO DO ALL WE CAN, ALL OF US,  
TO HELP ALL OF THEM, TO RESOLVE THEIR POLITICAL DIFFERENCES PEACE-  
FULLY RATHER THAN BY FORCE.

I SIMPLY DO NOT BELIEVE THAT THERE IS ANYTHING NOW DIVIDING THE  
PEOPLE OF RHODESIA WHICH IS WORTH THE USE OF THE BOMB AND THE GUN  
TO KILL AND MAIM MEN, WOMEN AND CHILDREN BY THE THOUSAND, OR WHICH  
CAN JUSTIFY THE MISERY OF THE HUNDREDS OF THOUSANDS IN REFUGEE CAMPS.  
IN THE CHANGES THAT HAVE NOW TAKEN PLACE WE SURELY HAVE THE BASIS  
FROM WHICH TO TRY TO DEVELOP A SOLUTION WHICH WILL COMMAND GENERAL  
INTERNATIONAL ACCEPTANCE.

AS YOU KNOW, ON THE BRITISH GOVERNMENT'S BEHALF, LORD HARLECH SAW  
THE HEADS OF GOVERNMENT OF SEVEN AFRICAN STATES AND ALSO MR MUGABE  
AND REPRESENTATIVES OF MR NKOMO.

RICHARD LUCE SAW THE GOVERNMENTS OF A FURTHER FIVE AFRICAN COUNTRIES.  
WE HAVE ALSO BEEN IN TOUCH WITH ALL OUR OTHER COMMONWEALTH FRIENDS  
AS WELL AS WITH OUR EUROPEAN COMMUNITY PARTNERS AND THE UNITED  
STATES. THE CONSULTATIONS WE HAVE HAD SO FAR HAVE BEEN OF GREAT  
VALUE TO THE GOVERNMENT IN HELPING TO IDENTIFY WHAT THE SOLUTION  
SHOULD BE. I SHOULD LIKE TO TAKE THIS OPPORTUNITY TO THANK  
PERSONALLY ALL THOSE HEADS OF GOVERNMENT HERE TODAY WHO HAVE  
HELPED US IN THIS WAY.

FROM OUR CONSULTATIONS CERTAIN COMMON FACTORS EMERGE CLEARLY.  
THE STRONGEST IS THE VIEW THAT THE CONSTITUTION UNDER  
WHICH BISHOP MUZOREWA HAS COME TO POWER IS DEFECTIVE IN  
CERTAIN IMPORTANT RESPECTS.

I REFER OF COURSE TO THE PROVISIONS WHICH MAKE IT POSSIBLE  
FOR THE WHITE MINORITY TO BLOCK, IN THE PARLIAMENT, CONSTITUTIONAL  
CHANGES THAT WOULD BE UNWELCOME TO THEM.

THIS IS A VALID CRITICISM - SUCH A BLOCKING MECHANISM HAS NOT  
APPEARED IN ANY OTHER INDEPENDENCE CONSTITUTION AGREED TO BY  
THE BRITISH PARLIAMENT.

THE PRINCIPLE THAT THERE SHOULD BE SOME GUARANTEED REPRESENTATION  
FOR MINORITY COMMUNITIES DURING A CERTAIN MINIMUM PERIOD FOLLOWING  
THE TRANSFER OF POWER ON INDEPENDENCE IS NOT NEW - AND I THINK  
WE ALL RECOGNISE THE IMPORTANCE TO RHODESIA OF ENCOURAGING THE  
EUROPEAN MINORITY TO REMAIN AND TO CONTINUE TO PLAY A USEFUL  
PART IN THE LIFE OF THE COMMUNITY.

BUT THAT IS A VERY DIFFERENT MATTER FROM ENABLING THEM TO BLOCK  
ALL CHANGE.

THE OTHER MAIN CRITICISM OF THE CONSTITUTION RELATING TO THE COMPOSITION AND POWERS OF THE VARIOUS SERVICE COMMISSIONS IS ALSO VALID. IT IS CLEARLY WRONG THAT THE GOVERNMENT SHOULD NOT HAVE ADEQUATE CONTROL OVER CERTAIN SENIOR APPOINTMENTS.

THOSE CONSULTED ALSO CONSIDERED IT ESSENTIAL THAT THE SEARCH FOR A SOLUTION SHOULD INVOLVE THE PRESENT EXTERNAL PARTIES, SO THAT THEIR SUPPORTERS OUTSIDE THE COUNTRY MIGHT RETURN HOME IN PEACE AND PLAY THEIR FULL PART IN POLITICAL LIFE.

LASTLY, IN CONSIDERING THE CONSULTATIONS WE HAVE HAD SO FAR, I HAVE BEEN IMPRESSED BY THE GENERAL CONVICTION THAT ANY SOLUTION OF THE RHODESIA PROBLEM MUST DERIVE ITS AUTHORITY FROM BRITAIN AS THE RESPONSIBLE COLONIAL POWER.

THE INTERNATIONAL COMMUNITY HAS LOST FEW OPPORTUNITIES TO REMIND US THAT IT IS BRITAIN'S CONSTITUTIONAL RESPONSIBILITY TO BRING RHODESIA TO LEGAL INDEPENDENCE ON A BASIS OF JUSTICE AND DEMOCRACY FULLY COMPARABLE WITH THE ARRANGEMENTS WE HAVE MADE FOR THE INDEPENDENCE OF OTHER COUNTRIES.

WE ACCEPT THAT RESPONSIBILITY AND HAVE EVERY INTENTION OF DISCHARGING IT HONOURABLY.

MR CHAIRMAN, AS I MENTIONED EARLIER, THE CONSULTATIONS WE HAVE HAD WITH OUR COMMONWEALTH PARTNERS OVER THE LAST TWO MONTHS, AND INDEED WITH MANY OTHER GOVERNMENTS, HAVE BEEN MOST HELPFUL. WE HAVE LOOKED FORWARD TO THIS MEETING AS AN IMPORTANT STAGE IN THAT PROCESS OF CONSULTATION BEFORE WE DECIDE OUR POLICY AND INITIATE WHAT WE ALL PROFOUNDLY HOPE WILL BE THE FINAL APPROACH TO A SOLUTION.

I LOOK FORWARD VERY MUCH TO HEARING ANY FURTHER VIEWS OF COLLEAGUES HERE: BUT YOU WILL HAVE GATHERED THAT WE THINK WE CAN BEGIN TO SEE THE FORM THAT AN ATTEMPT AT A SOLUTION OUGHT TO TAKE.

LET ME THEREFORE, BEFORE THIS DEBATE CONTINUES, MAKE CERTAIN POINTS ABOUT THE BRITISH POSITION QUITE CLEAR.

(I) THE BRITISH GOVERNMENT ARE WHOLLY COMMITTED TO GENUINE BLACK MAJORITY RULE IN RHODESIA:

(II) WE ACCEPT THAT IT IS OUR CONSTITUTIONAL RESPONSIBILITY TO GRANT LEGAL INDEPENDENCE ON THAT BASIS AND THAT ONLY BRITAIN CAN DO IT:

(III) WE ACCEPT THAT OUR OBJECTIVE MUST BE TO ESTABLISH THAT INDEPENDENCE ON THE BASIS OF A CONSTITUTION COMPARABLE WITH THE CONSTITUTIONS WE HAVE AGREED WITH OTHER COUNTRIES:

(IV) WE ARE DEEPLY CONSCIOUS OF THE URGENT NEED TO BRING PEACE TO THE PEOPLE OF RHODESIA AND HER NEIGHBOURS: WE WILL THEREFORE PRESENT OUR PROPOSALS AS QUICKLY AS POSSIBLE TO ALL THE PARTIES, AND AT THE SAME TIME CALL ON THEM TO CEASE HOSTILITIES AND MOVE FORWARD WITH US TO A SETTLEMENT.

OUR AIM IS, AS I STATED IT DURING OUR OPENING SESSION, TO BRING RHODESIA TO LEGAL INDEPENDENCE ON A BASIS WHICH THE COMMONWEALTH AND THE INTERNATIONAL COMMUNITY AS A WHOLE WILL FIND ACCEPTABLE.

I BELIEVE THAT WE NOW HAVE A CHANCE TO ACHIEVE THIS, AND WE MUST TAKE IT.

UNQUOTE

3. FOR RHODESIA DEPARTMENT. PLEASE REPEAT FLASH TO ALL OTHER COMMONWEALTH POSTS AND IMMEDIATE TO ALL OTHER RELEVANT POSTS.

ALLINSON

[NOT PASSED BY C O D]

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RHODESIA D

ADDITIONAL DISTRIBUTION  
RHODESIA POLICY

## RHODESIA: INVITATION TO CONSTITUTIONAL CONFERENCE

The British Government announced in July that they intended in due course to put forward firm proposals of their own for bringing Rhodesia to legal independence. They agreed with other Commonwealth Governments in Lusaka that an appropriate procedure would be to call a constitutional conference to which all the parties would be invited.

The British Government now formally invite Bishop Muzorewa/The Patriotic Front to appoint a delegation of up to 12 members to attend a constitutional conference to be held at Lancaster House, London, from 10 September 1979, under the chairmanship of the Secretary of State for Foreign and Commonwealth Affairs, Lord Carrington. The purpose of the conference will be to discuss and reach agreement on the terms of an independence constitution. An outline of proposals for an independence constitution is attached.

The British Government are of the opinion that the military questions associated with a transition to legal independence should be for discussion once the terms of an independence constitution have been agreed. They believe nevertheless, and strongly urge on the parties, that the prospects for a successful conference will be greatly enhanced if both sides will observe a ceasefire.

The constitutional proposals attached represent in outline the kind of constitution which the British Government believe should be acceptable to the Rhodesian people, and on the basis of which the British Government would be prepared to grant independence. The British Government would also be ready to consider granting independence on the basis of alternative proposals, put forward by any of the parties, on which the parties themselves are able to reach agreement. During the period between now and 10 September, the British Government are ready to take part in consultations at official level with the parties to whatever extent the parties themselves think useful in order to prepare for the conference and to clarify their respective positions.

The British Government believe that the need for a political settlement and an end to the war in Rhodesia is more urgent today than it has ever been. In addressing this invitation to the parties they therefore also appeal to them, in the interests of the people of Rhodesia, to approach these negotiations, as they will themselves, in a constructive and forward-looking spirit and lay the foundations for a free, independent and democratic society in which all Rhodesians, whatever their race or political beliefs, will be able to live in security and at peace with each other and their neighbours.



PM/79/74

PRIME MINISTER

*Mr. Barlow*  
*is in the States*  
*✓ Mr Powell*  
*2/8/8* *me*

Rhodesia: Constitutional Conference

1. In its discussion on 10 August the Cabinet endorsed the approach set out in my Memorandum of 9 August (C(79)33).
2. Formal invitations to a Constitutional Conference at Lancaster House on 10 September were issued to Bishop Muzorewa and to the Patriotic Front on 14 August. At the same time we put forward the outline of our proposals for the Rhodesian Independence Constitution (Annex A).
3. Bishop Muzorewa accepted our invitation "without pre-conditions". We made it clear that the composition of the Salisbury delegation was a matter for him to decide. The Bishop would have preferred to come without Mr Ian Smith, but Mr Smith insisted on attending. His presence offers the advantage that whatever is agreed should be acceptable to the white community - though this is more than offset by the propaganda advantage his involvement will give to the Patriotic Front. Sithole and Ndiweni have also been included. Chikerema has been excluded. The initial Rhodesian reactions in our private consultations with them about constitutional change show that there is some tough bargaining ahead.
4. The Patriotic Front, after some initial prevarication, also agreed to attend. It would have put them in an impossible position vis-a-vis the Commonwealth African Presidents if they had refused to do so. They issued a statement rejecting our constitutional proposals, the idea of special representation for the white minority and our responsibility to ensure that new elections are fairly conducted. In other statements they have insisted on control over the administration and that the army should be based on the "liberation forces."
5. This approach is incompatible with the Lusaka agreement. There has been a good response so far from the Commonwealth African governments to our outline constitutional proposals and

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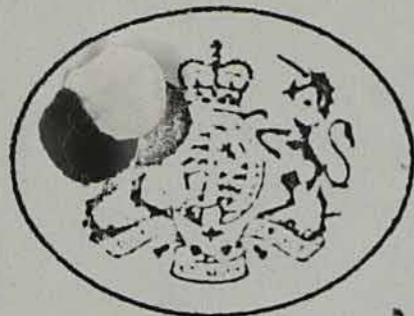
to the speed with which we have acted to give effect to the Lusaka agreement. The Patriotic Front will be nervous of coming under further pressure from the Commonwealth African Presidents.

6. Our task at the Constitutional Conference must be to demonstrate clearly that we are making a determined effort to achieve a fair settlement. The chances that the Patriotic Front will be prepared to accept reasonable constitutional proposals and agree to participate in new elections are slight (though Nkomo is under some pressure from his own supporters to negotiate; Mugabe, who believes that he is gradually winning the guerrilla war, can be expected to stick to his extreme demands). It is more probable that we shall be able to wring sufficient concessions from Bishop Muzorewa to achieve constitutional arrangements comparable to those on which we had granted independence to other Commonwealth African countries and which we would be prepared to put into effect subject to their being demonstrated to be acceptable to the people of Rhodesia.

7. We must not however so proceed as to give rise to accusations that this was our objective from the outset. We should seek to ensure that, if there is a break-down at the Conference, the responsibility for this is clearly seen to rest with the Patriotic Front and their intransigence on the basic issues - their demands in relation to the Constitution and the arrangements for elections. We should proceed in such a way as to put maximum strain on Commonwealth African governments' support for the Patriotic Front; and on the relations between Nkomo and Mugabe.

8. There is widespread support for the line we have so far adopted that we must proceed step by step and that the first task should be to secure agreement on the constitutional proposals we have put forward. We have successfully resisted demands to display more detailed proposals in advance of the Conference, thereby giving the Patriotic Front - or the Front Line States - a chance to evade the main issues, and to seek to pre-negotiate the Constitution.

9. We should persist with this approach. We have made it clear that there are large sections of the existing Constitution which



are acceptable so far as we are concerned and which we would regard as being comparable to provisions in other independence constitutions. But it would be prejudicial to the chances of agreement and give the Patriotic Front a major propaganda advantage if, from the outset, we put on the table the full text of the existing Rhodesian Constitution, with amendments to it. The Rhodesians will themselves put their constitution on the table.

10. We should allow the Conference to open with our existing proposals (Annex A) and seek to oblige parties to declare their position in relation to them. The Salisbury parties are likely to do so in much more constructive terms than the Patriotic Front. We should then be prepared, if we are asked to put forward proposals to give effect to those principles, to table a fuller outline Constitution on the lines of the draft at Annex B attached. This draft is based on the existing Rhodesian Constitution, but in such a way as to emphasise the elements of that Constitution which may be regarded as common form and to focus attention on the main questions at issue. The tabling of this draft will be seen as a further serious attempt to promote agreement at the Conference. The draft is fully compatible with the existing Rhodesian Constitution, subject only to those areas on which we have already indicated we will insist on amendment. It will be easier for the Commonwealth African Presidents and others to support this approach in the initial stages of the Conference than for them to support an amended version of the full text of the existing Constitution. Mr Vance has assured us that it will have his full support.

11. We should not however allow the Patriotic Front to engage in a protracted filibuster or to evade the main issues. In order to focus attention on these and to make clear our view on what would be acceptable on the central issues we should at the appropriate moment be prepared to make a statement on the question of white representation and the blocking mechanism and the public service commissions on the lines set out at Annex C. The proposal that 20% of the parliamentary seats should be reserved to the white electorate will be criticised in Africa, but is

/ indispensable



indispensable to retain the confidence of the white community. These proposals are likely to be rejected by the Patriotic Front (if they have not already broken off the negotiations on other issues).

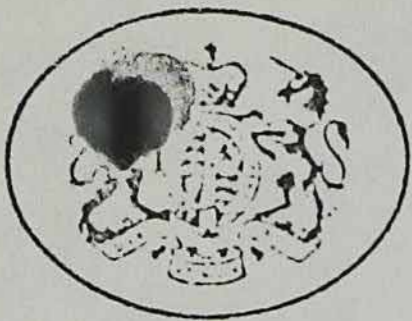
12. We shall also be pressed at the beginning of the Conference to make clear how we would proceed to give effect to the commitment in the Lusaka agreement to hold new elections if agreement could be reached. The way in which we should deal with this problem is set out at Annex D. We should take the line that the purpose of the Conference is to reach agreement on the destination - the future independence Constitution. Once this has been achieved discussion should then take place of the means of implementing that agreement.

13. In order to emphasise at each stage that we are genuinely seeking agreement and to maximise the chance of weakening Commonwealth African support for the Patriotic Front, we should be prepared if the Conference appears to be reaching deadlock to urge the Commonwealth African Presidents to intervene with the Patriotic Front to persuade them to moderate their attitude. You will have an opportunity to do this with President Nyerere on 14 September. It may be necessary to arrange an adjournment of the Conference for this purpose. We should in any event seek to avoid bringing matters to a point at which we proceed with Muzorewa alone until the civilian government has been established in Lagos on 1 October.

14. We should, in the meantime proceed with our bilateral negotiations with the Salisbury parties to establish the kind of Constitution we could in the end accept. We must continue to make clear, as we have done from the outset to Bishop Muzorewa, that in order to be able to proceed with the internal parties alone, we must be able to demonstrate the acceptability to the people of Rhodesia as a whole of what has been agreed. This means that there will need to be a referendum or new elections on the basis of the independence Constitution and that this test of acceptability must be supervised or at least observed by HMG.

15. I believe that this approach is the best way to build on the success achieved at Lusaka and in particular the recognition

/ that



that it is our responsibility to make the proposals for legal independence. By this approach we should be able to carry the United States government with us and to retain as long as possible the support of the Commonwealth African Presidents (though it remains to be seen if they will be prepared to put effective pressure on the Patriotic Front). If, as is to be expected, the Patriotic Front reject these proposals, we shall then be best placed to proceed with the internal parties with a chance of securing a measure of international support at any rate from our principal friends and allies.

16. We should not however suppose that, if we are left to negotiate with the Salisbury parties alone, all will be plain sailing. Their instinct at that stage will be to hold out for a settlement that will look as nearly as possible identical with their present arrangements. They will not easily comprehend the need to make changes for the sake of gaining international respectability. Specifically, they will wish to proceed by way of minimum amendment to their own constitution - rather than accepting a similar document enacted by the British Parliament; and they will refuse any form of test of acceptability. We shall have to persuade them that to obtain their legal independence, the lifting of sanctions, and recognition by a respectable number of governments, they must accept as a minimum that:

- a) whatever procedures they may go through in their own (illegal) Parliament, their independence constitution must be enacted as a whole by the British Parliament (though many of the provisions will be based on the existing Constitution);
- b) there must be some form of test of acceptability.

The prize will be within their reach; but they will have to be persuaded to grasp it.

(CARRINGTON)

RHODESIA: SUMMARY OF THE INDEPENDENCE CONSTITUTION  
[Draft as of 31 August 1979]

A. THE STATE OF ZIMBABWE

1. Zimbabwe will be a sovereign State. "Zimbabwe" will be established as the official name of the country.
2. The Constitution will be the supreme law of the State and will prevail over any other law.

## B. CITIZENSHIP

1. Existing citizens:
  - a. Every person who was a citizen of Rhodesia immediately before independence will automatically become a citizen of Zimbabwe on independence (by birth, descent or registration, as the case may be, according to his former status).
  - b. Every person who, immediately before independence, possessed such qualifications that the relevant authority would, upon application duly made, have registered him as a citizen of Rhodesia, will be entitled to make application in the prescribed manner at any time during the first 5 years after independence and it will be open to the competent authority to grant that application and cause him to be registered as a citizen of Zimbabwe.
2. Every person who is born in Zimbabwe after independence (other than the child of a diplomat accredited to the Government of Zimbabwe or of an enemy alien) will become a citizen of Zimbabwe by birth.
3. Every person who is born outside Zimbabwe after independence but whose father (or, if he is illegitimate, whose mother) is then a citizen of Zimbabwe by birth will himself become a citizen of Zimbabwe by descent.
4. Any woman who is or has been married to a person who is or was at any time during the subsistence of the marriage a citizen of Zimbabwe (or would but for his death have automatically become a citizen of Zimbabwe at independence) will, on making application in the prescribed manner, be entitled to be registered as a citizen of Zimbabwe.
5. Any person one of whose parents is a citizen of Zimbabwe at the date of his application will be entitled, on making application in the prescribed manner, to be registered as a citizen of Zimbabwe. If the person is a minor, the application may be made on his behalf by his parent or guardian.

6. Dual citizenship will be permitted.

7. Parliament may make additional provision for citizenship.

## C. DECLARATION OF RIGHTS

1. The Constitution will set out a declaration of fundamental human rights and freedoms in the customary form, which will be fully justiciable, i.e. any person who asserts that they have been or are being infringed in his case will be able to apply to the High Court for redress. These rights will include:

- i. the right to life;
- ii. the right to personal liberty;
- iii. protection from slavery and forced labour;
- iv. protection from inhuman treatment;
- v. protection from the arbitrary deprivation of property;
- vi. protection from arbitrary search or entry;
- vii. protection of the law;
- viii. freedom of conscience;
- ix. freedom of expression;
- x. freedom of assembly and association;
- xi. freedom of movement;
- xii. freedom from discrimination.



## D. THE EXECUTIVE

i. The President

1. The President will be a "constitutional" Head of State and Commander-in-Chief of the Defence Forces. He will be elected by the members of Parliament.
2. Alternatively other arrangements could be considered for a constitutional Head of State.
3. The President will hold office until he resigns or until a period of 6 years has elapsed. Thereafter he will be eligible for re-election for one further period of office.
4. A President may be removed from office on the grounds of misconduct or inability to discharge efficiently the functions of his office. A motion for removal requires to be supported by not less than two-thirds of all the members of Parliament.
5. Provision will be made for the discharge of the functions of the office of President during the President's absence of temporary incapacity.
6. The executive power of Zimbabwe will be vested in the President acting on the advice of the Prime Minister or of a Minister acting under the authority of the Executive Council.
7. The President will exercise the Prerogative of Mercy on the advice of Ministers.
8. The President will have power, on the advice of Ministers, to declare a state of public emergency, or the existence of a situation which, if allowed to continue, may lead to a state of public emergency. Such a declaration will lapse unless it is approved within 14 days by the affirmative votes of more than one-half of the total membership of the House of Assembly. The declaration may not continue in effect for longer than 6 months unless it is renewed by a similar resolution.

/ii.

ii. Executive Council and Ministers

1. The Executive Council will consist of the Prime Minister and the other Ministers.
2. The President will appoint as Prime Minister the person who, in his opinion, is best able to command the support of a majority of the members of the House of Assembly. He will appoint and dismiss Ministers and Deputy Ministers on the advice of the Prime Minister.
3. A Minister or Deputy Minister will, as a rule, be a member of the Senate or House of Assembly.
4. The Attorney-General shall be a member of the Public Service. He shall be appointed by the President on the advice of the Prime Minister after consultation with the appropriate Commission. He shall exercise the functions of a director of public prosecutions and his tenure of office shall be protected.
5. Permanent Secretaries shall have the supervision of departments under the general direction and control of the responsible Minister. Permanent Secretaries shall be appointed by the President on the advice of the Prime Minister after consultation with the appropriate Commission.
6. Heads of Diplomatic Missions shall be appointed by the President on the advice of the Prime Minister after consultation with the appropriate Commission.

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iii. The Public Service and Police Force

1. Public Service

There will be a Public Service Commission which will be responsible for regulating and controlling the organisation of the Public (ie Civil) Service and the Prison Service. The Commission will consist of a chairman and not less than 2 and not more than 4 other members appointed by the President on the advice of the Prime Minister. The composition of the Commission must take account of the need for it to receive the advice of properly qualified and experienced persons. When considering candidates for appointment to a vacant post in the Public Service or Prison Service, the Commission will be required, subject to any general directions of the President (see paragraph 3 below) to give preference to the person who, in its opinion, is the most efficient and suitable for appointment.

2. Save as otherwise indicated, the Public Service Commission will have power to appoint and remove members of the Public Service.

3. The President, acting on the advice of the Prime Minister, will have power to give the Commissions such general directions with respect to the exercise of their functions as he may consider necessary. These may include directions designed to achieve a suitable representation of the various component groups of the population in the services of the State.

4. The Police Force

The Police Force will be under the command of the Commissioner of Police who will be appointed by the President on the recommendation of the Prime Minister. Before making his recommendation, the Prime Minister will consult the Police Service Commission.

5. Subject to such general directions as may be given to him by the Prime Minister, the Commissioner of Police will be responsible for the administration and operations of the Police Force. Appointments to the Police Force shall be made on the advice of or by the Commissioner of Police.

6. There will be a Police Service Commission which will consist of a chairman (who will be the Chairman of the Public Service Commission) and not less than 2 and not more than 4 other members

appointed by the President on the advice of the Prime Minister. The composition of the Commission must take account of the need for it to receive the advice of properly qualified and experienced persons. The functions of the Police Service Commission will be to consider grievances by members of the Police Force, to consider and, if it deems fit, to confirm any proposal to dismiss a member who has had more than 2 years' service and to make regulations for the general well-being and good administration of the Police Force and the maintenance thereof in a high state of efficiency. The President, acting on the advice of the Prime Minister, may give the Commissioner and the Commission similar directions to those referred to in paragraph 3 above.

## E. PARLIAMENT

1. The legislature will consist of the President and Parliament, which will comprise a Senate and a House of Assembly.
2. All citizens who are 18 years of age or over will be eligible to be enrolled on a Common Voters Roll. As long as there is the provision for special minority representation in Parliament (described in paragraph 5 below) White citizens who have attained the age of 18 years will, as an alternative to being enrolled on the Common Voters Roll, be eligible to be enrolled on a White voters roll. Subject to the foregoing, an electoral law will provide for the election of Senators and members of the House of Assembly.
3. It is proposed that there shall be a Senate, of whom:
  - a. one-third of the members will be elected by the ordinary members of the House of Assembly;
  - b. one-third will be elected by the European members of the House of Assembly; and
  - c. the election of the remaining one-third will give due weight to regional considerations.
4. The Senate will elect a President and a Deputy President of the Senate. A Minister or Deputy Minister will not be eligible for this post.
5. The House of Assembly will consist of X members elected as follows:
  - a. Y members will be Blacks elected by voters on the Common Voters Roll for Y constituencies;
  - b. Z members will be Whites elected by voters enrolled on the White voters roll for Z White roll constituencies.
6. There will be provision for:
  - a. the establishment of a Delimitation Commission to delimit the Y Common Roll and Z White Roll constituencies for general elections;

- b. the qualifications and disqualifications of candidates for election as members of the Senate or the House of Assembly;
  - c. the establishment of an Electoral Supervisory Commission and the functions thereof in connection with the supervision of general elections.
7. The House of Assembly will elect a Speaker and a Deputy Speaker. A Minister or Deputy Minister will not be eligible for this post.
8. A Minister or Deputy Minister will have the right to sit and speak both in the Senate and in the House of Assembly but will only have the right to vote in the Senate or in the House of Assembly if he is a member of the Senate or the House, as the case may be. The President will have the right to address either House of Parliament or a joint meeting of both Houses.
9. The President will prorogue or dissolve Parliament when so advised by the Prime Minister. The President will have power to dissolve Parliament if the House of Assembly pass a resolution of no confidence in the Government or if there is no candidate for the post of Prime Minister who is able to command the support of a majority in the House of Assembly. If Parliament has not been earlier dissolved, it will stand dissolved automatically at the end of 5 years after a general election.
10. Subject to paragraph 12, Parliament will have full powers to make laws by bills passed by both Houses of Parliament and assented to by the President.
11. (1) The Senate will not be able to amend Money Bills, though it may recommend amendments.
- (2) If the Senate does not approve within 180 days a Bill which has been approved by the House of Assembly, the House of Assembly will be able to resolve that it should be presented to the President for his assent.
12. (1) The provisions of the Constitution relating to minority representation in Parliament will not be amendable for a specific period after independence. [Certain provisions of the Bill of Rights relating to basic human rights

will similarly not be amendable for a specific period after independence.]

(2) Certain principal provisions of the Constitution such as those relating to the Legislature, the Judiciary, and the amendment of the Constitution will be specially entrenched. A Bill to amend the entrenched provisions of the Constitution will require the affirmative votes of [at least 70] per cent of all the members of the House of Assembly. In addition, any Bill to amend the Constitution will require the affirmative votes of two-thirds of the total membership of the Senate, but if this cannot be obtained the Bill may, after a period of 180 days, be sent to the President for his assent despite the failure of the Senate to approve it.

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## F. THE JUDICATURE

1. There will be a High Court of Zimbabwe, consisting of an Appellate Division and a General Division. The General Division will have unlimited original jurisdiction in both civil and criminal matters and such other jurisdiction as may be conferred on them by the Constitution or any other law. Appeals will lie from decisions of the General Division to the Appellate Division in such cases and in accordance with such procedure as may be prescribed by an Act of Parliament.
2. The Chief Justice will be appointed by the President on the advice of the Prime Minister. The other judges will be appointed by the President on the advice of the Judicial Service Commission.
3. The qualifications for appointment as a judge of the High Court are:
  - a. he has had appropriate judicial experience; or
  - b. he is, and has been for not less than [10] years, qualified to practise as an advocate in Zimbabwe, or in a court of the Commonwealth, or in a country in which the common law is Roman-Dutch, and in any such case English is the official language.
4. The tenure of High Court judges will be protected.
5. The power to appoint, exercise disciplinary control over, and remove from office the judges of the subordinate courts and certain other officers connected with the High Court (e.g. Registrar) will vest in the Judicial Service Commission.
6. The Constitution will establish an independent Judicial Service Commission, consisting of the Chief Justice, the Chairman of the Public Service Commission, a legally qualified person appointed by the President and a lay member appointed by the President in each case acting on the advice of the Prime Minister.

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## G. THE DEFENCE FORCES

1. All armed forces shall be regulated by law. The Defence Forces will consist of the Army, the Air Force and any other branch established by law.
2. There will be a Commander of each branch. Each Commander will be appointed by the President, acting on the advice of the Prime Minister who will, before he makes his recommendation, consult an appropriately composed board appointed for the purpose. The power to relieve a Commander of his appointment vests in the President acting on the advice of the Prime Minister.
3. The Commander of a branch of the Defence Forces shall be responsible for that branch subject to any general directions which may be given to him by the Prime Minister (or other responsible Minister) for the operations or administration of the branch concerned. Appointments within a branch shall be made on the advice of or by the Commander.
4. There will be a Defence Forces Service Commission which will consist of a Chairman (who will be the Chairman of the Public Service Commission) and not less than 2 and not more than 4 other members appointed by the President acting on the advice of the Prime Minister. The composition of the Commission must take account of the need for it to receive the advice of properly qualified and experienced persons. The functions of the Defence Forces Service Commission will be to consider grievances by members of the Defence Forces, to consider and, if it deems fit, to confirm any proposal to dismiss a member who has had more than 2 years' service, to make regulations for the general well-being and good administration of the Defence Forces and the maintenance thereof in a high state of efficiency. The President, acting on the advice of the Prime Minister, may give the Commander and the Commission similar directions to those referred to in paragraph 3 of Head D (iii).

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## H. FINANCE

1. There will be one Consolidated Revenue Fund into which all revenues shall be paid unless a law provides for the payment of any such revenues into another fund or that they be retained for the defraying of expenses. All withdrawals from the Consolidated Revenue Fund will have to be authorised by or under an Act of Parliament.

2. There will be a Controller and Auditor-General who will be appointed by the President on the recommendation of the Public Service Commission. His functions will be to audit and report on the accounts of the State and his reports will be laid before the House of Assembly. The tenure of office of the Controller and Auditor-General will be protected.

3. Pension Rights of Public Officers

The pension rights of public officers and former public officers and of their dependants will be protected under the Constitution. In addition, a scheme will be introduced to encourage officers of the Public Service and members of the Police Force, Army, Air Force or Prison Service who were in office prior to 1 October 1978 to continue to serve on and after a specified date.

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I. OMBUDSMAN

1. There will be an Ombudsman who will be appointed by the President on the advice of the Judicial Service Commission. His duty will be to investigate complaints against actions taken by employees of the Government or of a local authority or, if a law so requires, of any other authority.

## RHODESIA: PROPOSALS ON KEY ISSUES

1. It is the desire of the British Government to reach agreement with the representatives of the people of Rhodesia on an independence constitution which will be comparable with the terms on which independence was granted to other countries which were formerly British dependent territories. Special circumstances have existed in every case, and every territory has developed and agreed its own solutions to its particular problems. Almost everywhere, however, independence constitutions granted by Britain have included provision for:

- a. an elected legislature (or, if bi-cameral, an elected lower house);
- b. a "Westminster" model executive; that is, the Prime Minister is whoever commands a majority in the legislature (or its lower house) and chooses his administration. Where there is provision for an elected executive President, appointments to the Cabinet are made by the President from members of the legislature;
- c. a judiciary: the Chief Justice is appointed on the advice of Prime Minister, and other judges by or on the advice of a Judicial Service Commission;
- d. Public and Police Services: appointments are made to senior posts (e.g. Attorney-General, Ambassador, Secretary to Cabinet, those of Permanent Secretary, Commissioner of Police) on the advice of a holder of political office (usually the Prime Minister), others by the Public or Police Service Commission; Ministers have direction and control over public departments;
- e. a Bill of Rights;
- f. amendment of the Constitution.

2. The British Government is confident that, with goodwill on both sides, it will be possible to reach agreement on an independence constitution for Zimbabwe which, like the outline proposals, is consistent with this pattern. It is ready to give early effect to such an agreement, or to any other which may be acceptable to the parties themselves, and to play its full part as the constitutionally responsible authority in whatever arrangements are necessary for its practical implementation.

3. There are, however, three aspects of a possible independence constitution which are known to be of particular concern both to the parties themselves and to international opinion. These are:

- a. arrangements for minority representation in Parliament;
- b. arrangements for amendment of the constitution;
- c. the Public Service and other Commissions.

This paper examines each of these in detail.

#### MINORITY REPRESENTATION IN PARLIAMENT

4. The constitution must provide for a democratically chosen Government which reflects, and is responsive to the wishes of, the majority of the inhabitants of the country. The British Government are unequivocally of the opinion that this can be achieved only if the electoral system by which the Government is chosen is based firmly on the principle of universal adult suffrage. It is the British Government's view that, without detracting from the principle of one man one vote, and without creating arrangements which could undermine the verdict of the polls, it is reasonable to give the European, Coloured and Asian minorities a significant voice in Parliament as a confidence-building measure for a fixed period of time during the early years of independence. There is precedent for the inclusion of special representatives of minority communities in the legislature of Commonwealth countries in Africa at the time of their independence (eg Tanzania, Kenya and Zambia).

5. The British Government consider that any such arrangement,

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which should be transitional, will need to avoid producing a result in Parliament whereby the European (including in this context Coloured and Asian) Members can alter in a fundamental way the preference of the electorate. At the same time, the British Government feel that, while it is important for the protection of all citizens that certain key provisions of the Constitution should be "entrenched", no minority racial group, and especially one to which special representation is to be given, should be in a position, by itself, to block amendment to the Constitution.

6. It is with these considerations in mind that the British Government propose the arrangements described in paragraphs 8 to 10 below.

7. It is proposed that there shall be a Senate, of whom:

- a. one-third of the members will be elected by the ordinary members of the House of Assembly;
- b. one-third will be elected by the European members of the House of Assembly; and
- c. the election of the remaining one-third will give due weight to regional considerations.

The Senate will have a delaying power but not a veto over Bills passed by the House of Assembly.

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- \*8. The House of Assembly will consist of members elected as follows:
- a. 80% of the members will be elected by voters on the Common Voters Roll.
  - b. 20% will be Europeans elected on a preferential voting system by voters enrolled on the European Voters Roll.

The provisions relating to the election of European members will not be amendable in any case for [five/ten] years or the life of [one/two] Parliaments, whichever is the longer.

CONSTITUTIONAL AMENDMENTS

- \*9. a. Any Bill to amend the <sup>principal provisions of the</sup> Constitution will require the affirmative votes of 70% of the members of the House of Assembly.
- b. Any Bill to amend the Constitution will require the affirmative votes of two-thirds of the members of the Senate, but, if this cannot be obtained, the Bill may, after a period of 180 days, be sent to the President for his assent despite the failure of the Senate to approve it.
- c. In order to give additional protection to all minority groups as well as to all the people of Zimbabwe, certain provisions of the Bill of Rights relating to basic human rights, such as the right to life, to liberty and to freedom from discrimination, shall be unamendable for at the least [ten] years or the life of [two] Parliaments, whichever is the longer.

THE PUBLIC SERVICES AND DEFENCE FORCES

10. The establishment of a Public Services Commission with jurisdiction in relation to appointments, dismissals and discipline in the public service has ample precedent in other independence constitutions granted by Britain. The British Government are prepared also to see this principle extended to the prison and police services and to the defence forces. There are, however, important respects in which the British Government believe the powers and discretion of the Public Service Commission and any other Commissions to be established by the constitution should be limited.

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\* Note: Paragraphs 8 and 9 are the form in which our proposals in these areas have been put to the Salisbury Administration.

11. In the first place, it is proposed that the power to appoint the Chief Justice, Ambassadors, Permanent Secretaries of Ministries, the Secretary to the Cabinet, the Attorney-General, Commissioner of Police and the Commanders of the Defence Forces should be vested in the President, acting on the advice of the Prime Minister after the latter has in appropriate cases consulted the relevant Commission.

12. In the second place, the British Government propose that the Constitution should provide for the President, acting on the advice of the Prime Minister, to give to any Commission general directions with regard to the exercise of their functions, including directions designed to achieve a suitable representation of the various component groups of the population in the services of the State.



RHODESIA: ELECTIONS

1. In the event of all-party agreement on an independence constitution for Rhodesia, it will be necessary to consider how to proceed to independence.

2. It is presumed that the independence constitution will provide in the normal way for the legislature and (directly or indirectly) the executive to derive their authority and powers from an expression of the popular will through an election. If that is to be so, a legislature and executive constituted in terms of the independence constitution cannot take office on Independence Day unless there has been an election before independence. Consideration must therefore be given to designating an authority to conduct the elections and to agreeing the conditions in which the elections and the campaign leading up to them are to be held.

3. The British Government believes that the following elements will be essential to the conduct of a free and fair election, in which all parties would be able to participate:

- (a) the administration of the election should be scrupulously impartial as between one party and another;
- (b) peaceful political activity, including pre-election campaigning, would take place freely and without intimidation of any kind;
- (c) all parties should have free and uncensored access to all the public media (press, radio and television); and
- (d) the election should be properly supervised under British Government authority.

4. The British Government will, as the constitutionally responsible authority, see that these requirements are met if the parties agree on an independence constitution.

[NOTE:

In addition it is likely to be necessary for HMG to make a statement about the conditions in which a ceasefire would be maintained while elections were held. This could be made at the same time as, or separately from, the above statement about elections.]

CEASEFIRE

5. The conduct of the elections will require the agreement of the parties on a ceasefire and the separation of the forces. In the event of agreement on the independence constitution, and acceptance that elections should be held under the British Government's authority, the British Government will arrange negotiations between the military commanders on both sides to settle the conditions in which a ceasefire shall be established and maintained and to consider proposals for the policing of the ceasefire.

## PATRIOTIC FRONT'S APPROACH TO THE CONSTITUTIONAL CONFERENCE

1. The approach of the Patriotic Front in the negotiations at Geneva and since has consistently been that:

(a) They will negotiate only with the British (who would represent the interests of the settlers): the only constitutional forum for reaching a settlement on Rhodesia is that constituted by Britain as "the colonial and de-colonising power" on the one hand, and by the Patriotic Front as the representatives of the people of Zimbabwe on the other.

(b) The transfer of power must be irreversible and must take place on a pre-determined time scale.

(c) The Patriotic Front will not stop fighting until an irreversible transfer of power is in hand, the first step in this being the surrender of power by the illegal regime.

(d) In recognition of their military achievements, the Patriotic Front should hold a dominant position in a transitional administration, and the colonial power should play a "subsidiary role", viz:

(i) the Patriotic Front to have a clear majority in the Governing Council or Executive of a transitional administration;

(ii) Armed forces to consist of the Patriotic Front's liberation army, into which acceptable elements of the existing security forces would be integrated (not vice-versa).

(iii) It is not acceptable simply to change the Police Commissioner: Patriotic Front representatives must be integrated in the police (at different times the Patriotic Front have suggested that the ratio should be 2:1 in their favour, or 1:1).

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(iv) Election arrangements must be made under the close supervision of genuinely independent persons: the British Government are too partial to the whites to be allowed to supervise the election alone, and Rhodesian officials are identified with interests hostile to the Patriotic Front.

(e) The Patriotic Front have accepted United Nations involvement. But in the Dar-es-Salaam talks Mugabe described the functions of the UN forces as being to dis-arm the Rhodesian forces and restrict them to barracks until independence; to maintain State security jointly with the Patriotic Front; and jointly with the Patriotic Front to advise the resident Commissioner in the event of a threat to the security of the State (especially from South Africa).

(f) By signing the internal agreement, Muzorewa, Sithole and Chirau joined the illegal regime and placed themselves outside the law.

2. Although Mugabe insisted to Lord Harlech on 18 June that discussion of a ceasefire and other transitional arrangements would have to take place after agreement on the independence constitution, the Patriotic Front have generally maintained (e.g. in the Malta talks) that the order of events should be:

1. Agreement on a transitional structure;
2. Ceasefire;
3. Independence.

In this context they have argued that the holding of elections is only one among many elements in the transfer of power and should not delay independence.

3. The Patriotic Front's basic line of argument was reflected in the paper tabled at Malta (copy attached). The P.F.'s statement of 20 August (also attached) shows no basic change of approach in its main points:

(a) The Patriotic Front has become "the only dominant force operating against the colonial system": Britain's

/role

Flag A  
Flag B

role as a de-colonising power has diminished to the point where it is "merely nominal".

(b) The Patriotic Front is the sole legitimate representative of the people of Zimbabwe.

(c) The regime's forces must be dis-banded and replaced by the liberation forces under the control of a "truly democratic government".

(d) Special constitutional provisions giving groups preferential treatment on a basis of colour are undemocratic.

(e) The British Government is biased in favour of the regime: the elections should be supervised by people of unquestionable impartiality.

(f) The war will continue until "the objective of liberation" is achieved.

(g) The Patriotic Front accepts the principle of exploratory negotiations, but not of talks on the proposed constitutional framework.

Flag C 4. These points were reinforced by Mugabe in his press conference at Belgrade on 26 August. Mugabe said that Britain was trying to rebuild the internal settlement constitution, had declared its support for Smith and Muzorewa, and could not play an unbiased part in the holding of free elections. The PF would insist on a return to the path to independence set out in the Anglo-American proposals.

#### Tactics at Constitutional Conference

5. At the conference the Patriotic Front's approach is most likely to follow from the previous position set out above, i.e. to reject the British constitutional proposals: to insist on discussing the transitional arrangements first: and to try

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to get us to acknowledge their view of the "realities" of the situation - that it is the armed struggle which has been responsible for progress inside Rhodesia and that Patriotic Front guerillas hold sway over most of the country. The Patriotic Front would then assert that the talks must begin by tackling this "reality" and that, as recognised in UN Security Council resolutions, the internal nationalist leaders should not be dealt with on the same basis as the Patriotic Front.

6. However, the P.F. are aware that the acceptance of the British Government's approach by Zambia, Tanzania, Nigeria and other Commonwealth countries has placed them in a difficult position. They will not wish to wrong-foot themselves in the eyes of their principal African backers by rejecting out of hand all the elements of the Lusaka agreement. They will seek to divert the discussion into other channels and - in relation to the constitution - to confuse the issue by insisting for instance on a unicameral legislature.

7. Faced with such tactics, we should continually bring the argument back to the Lusaka agreement and our outline constitutional proposals.

8. The attached paper lists specific points which the Patriotic Front may raise and suggests answers to them.

POINTS WHICH MAY BE RAISED BY PATRIOTIC FRONT NEGOTIATORS

A Nature of Conference

"THESE ARE EXPLORATORY TALKS BETWEEN THE PATRIOTIC FRONT AND THE BRITISH GOVERNMENT"

There is no need for further exploratory talks. Before convening this Conference we held extensive consultations with African, Commonwealth and other Governments, as well as with the parties themselves.

As we made clear in our invitation, and agreed with our Commonwealth partners, the search for a settlement must involve all parties to the conflict, and the right approach lies through a Constitutional Conference. This Conference will therefore follow the pattern of previous Constitutional Conferences.

"MUZOREWA, SITHOLE AND SMITH ARE SIGNATORIES OF AN AGREEMENT RECOGNISED BY THE UN AS ILLEGAL. THE UN SECURITY COUNCIL HAS DECLARED THE RHODESIAN ELECTIONS TO BE NULL AND VOID. THE BRITISH GOVERNMENT IS CONDONING THE ILLEGAL ACTIONS OF THE REGIME IF IT TREATS MUZOREWA'S ADMINISTRATION AS A SEPARATE ELEMENT"

As the constitutional authority for Rhodesia, it is for the British Government to decide who to invite to this Conference. The terms of our invitation did not confer a particular status of any party; they were based on political realities and the desire to reach a lasting settlement.

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B Agenda

"YOU HAVE SAID THAT YOU WISH TO END THE WAR. YOU SHOULD BEGIN BY DISCUSSING HOW TO END IT"

Until both sides to the conflict know what constitutional arrangements they are being asked to accept, they will have no incentive to stop fighting. Our role as the constitutional authority is first of all to determine what those arrangements should be. Agreement on these arrangements will provide an impetus to agree on measures for their implementation.

"IF WE AGREE TO DISCUSS THE CONSTITUTION FIRST, WILL THE BRITISH GOVERNMENT GIVE A FIRM UNDERTAKING TO IMPLEMENT A SETTLEMENT, REGARDLESS OF WHETHER IT IS ACCEPTED BY THE SETTLER REPRESENTATIVES?"

We have said repeatedly that we accept our responsibility as the constitutional authority. Our first responsibility is to achieve agreement on a just independence constitution. We shall then play a full part in bringing the country to independence.

"WHATEVER WE AGREE TO IN CONNECTION WITH THE INDEPENDENCE CONSTITUTION WILL BE CONDITIONAL ON A SATISFACTORY UNDERSTANDING ON ARRANGEMENTS FOR THE TRANSITION"

We are content to discuss the independence constitution first on that basis.



C Constitution

"ANY PROVISIONS BASED ON RACE ARE UNACCEPTABLE"

The British Government will only accept a constitution compatible with the Six Principles, which specifically refer to the need to end racial discrimination and to ensure that, regardless of race, there is no oppression of majority by minority. Our constitutional proposals are comparable with the basis on which other former British territories gained independence. We have agreed with the Commonwealth that there must be appropriate safeguards for minorities in a democratic constitution providing for independence on the basis of majority rule. In previous independence constitutions - eg those of Tanzania, Malawi, Mauritius, Zambia and Kenya - we have accepted the need for representation in the Legislature of special categories of members.

"TO RESERVE 20% OF THE SEATS IS TOO HIGH A PROPORTION, WHEN WHITE COMMUNITY ONLY CONSTITUTES 3% OF THE POPULATION"

The exact percentage of seats to be allocated is a matter for discussion. The essential points are that the minority should not have the power to block legislation or constitutional amendments, and that they should be encouraged to reach agreement on a just constitution. Our proposals would not allow the holders of reserved seats to exercise a dominant role in the Legislature which could affect the political outcome resulting from an election in which all took part.

"THE BRITISH CONSTITUTIONAL PROPOSALS ARE NOT DEMOCRATIC"

The House of Assembly will be directly elected by universal adult suffrage. The Prime Minister must have the support of a majority in that House. This provides a fully democratic basis for the Government.

"THE WHITES WILL BE ABLE TO BLOCK CONSTITUTIONAL AMENDMENTS IN ALLIANCE WITH A MINORITY OF AFRICANS WHO ARE DEPENDENT ON THEM"

No-one will be able to block amendments unless there is the requisite support in the directly-elected Assembly, representing the population as a whole.

"THE CRITERIA TO BE APPLIED BY THE SERVICE COMMISSIONS WILL LEAVE SENIOR APPOINTMENTS IN WHITE HANDS"

The public service, security forces and police will come under direct Ministerial control. Public servants and service commanders will act in accordance with the policy laid down by the Prime Minister or other responsible Ministers. The power to make the most senior appointments will be vested in the Prime Minister.

Similar provisions were made in the independence constitutions of other countries, and allowed rapid Africanisation of public offices to take place. We have acknowledged that the legitimate claims of the majority of the population to increasing representation in all forms of public office must be recognised.

"WE CAN ACCEPT A PUBLIC SERVICE COMMISSION, BUT THE SECURITY FORCES AND POLICE SHOULD COME WHOLLY UNDER MINISTERIAL CONTROL"

Policy on military and security matters, as in the Civil Service, will be determined by Ministers. The functions of the relevant Commission will be to maintain the high standard of efficiency and discipline which is as essential in the armed forces and police as in the Civil Service. The Commissions will not have the power to take separate decisions on the direction of policy.

"THERE SHOULD BE AN EXECUTIVE PRESIDENT"

The general pattern for independence constitutions granted

by the UK has included a constitutional Head of State, with executive power vested in the Prime Minister and other Ministers. If, as in some Commonwealth countries, the people of the country subsequently decide on different arrangements and amend the constitution by due process, that is a matter for them. If the parties agree during this Conference on an alternative form of Head of State, the British Government would be prepared to consider different arrangements.

"THERE MUST BE A UNICAMERAL LEGISLATURE"

Some previous independence constitutions have incorporated a unicameral legislature. We think a bicameral legislature -- as in the Kenyan and Nigerian independence constitutions -- would be more likely to meet the present requirements of Rhodesia. The Upper House would not be able to block bills passed by the House of Assembly. As with the provisions for the Head of State, the people of the country could implement different arrangements if they so wished.

"WE CAN ACCEPT A BICAMERAL LEGISLATURE ONLY IF THE UPPER HOUSE IS ELECTED DIRECTLY. INDIRECT ELECTION IS UNDEMOCRATIC"

There are precedents -- eg Nigeria -- for indirect election of the Upper House. An indirectly elected Upper House makes it possible to strengthen the legislature and guarantee the representation of different groups in the country, which could be particularly helpful during the early years of universal adult suffrage. It would not impair the democratic functioning of the Assembly because of the limitation on its powers.

"IF THE PATRIOTIC FRONT ACCEPT BRITAIN'S CONSTITUTIONAL PROPOSALS AND THE REGIME DOES NOT DO SO, BRITAIN WILL NOT BE ABLE TO IMPLEMENT THEM. DOESN'T THIS GIVE SMITH AND MUZOREWA A VETO?"

The question being addressed to you is whether you accept our proposals. If you do, we will expect the Salisbury parties to cooperate in implementing them.

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D Implementation of a settlement

"WHAT ARRANGEMENTS WILL BRITAIN MAKE TO IMPLEMENT A SETTLEMENT?"

We are not seeking to make arrangements until we have a settlement to implement. We intend to discharge our constitutional responsibilities. We shall play a full part in effecting a settlement, in particular in the organisation of elections, in accordance with the Lusaka agreement.

"THE BRITISH GOVERNMENT SAYS IT IS COMMITTED TO "GENUINE MAJORITY RULE". DOES THE ABSENCE OF PROPOSALS ON TRANSITIONAL ARRANGEMENTS IMPLY THAT BRITAIN REGARDS THE PRESENT SITUATION IN RHODESIA AS MAJORITY RULE AND DOES NOT INTEND TO CARRY OUT A GENUINE TRANSFER OF POWER?"

We have acknowledged that the present constitution is defective. We intend to ensure that Rhodesia proceeds to independence on the basis of genuine majority rule, on the lines of the British Government's constitutional proposals.

"WHAT SORT OF TRANSITIONAL ADMINISTRATION WILL THERE BE? HOW WILL THE PATRIOTIC FRONT BE REPRESENTED IN IT?"

Following agreement on a constitution, we shall wish to move as rapidly and effectively as possible to implement a settlement. We shall be prepared to carry out our responsibility to ensure that free elections are held in which the parties are able to compete with equal chances of success.

"WHAT ABOUT THE ANGLO-AMERICAN PROPOSALS?"

Agreement was never reached on the basis of the Anglo-American Proposals, not least because of the insistence on discussing the arrangements for their implementation before agreement had been reached on the independence constitution. The present British Government will be guided in its approach by the Lusaka agreement.

"THE BRITISH GOVERNMENT IS BIASED TOWARDS THE SETTLERS - ELECTIONS UNDER BRITISH SUPERVISION WOULD NOT BE FAIR"  
All Commonwealth governments have recognised Britain's constitutional responsibilities towards Rhodesia and support our intention to hold elections. We shall carry out our responsibilities with the same impartiality we have shown in bringing most of the Commonwealth to independence.

"WILL OFFICIALS OF THE PRESENT REGIME CONDUCT THE REGISTRATION OF VOTERS AND ADMINISTER THE BALLOT?"

The physical arrangements will be for the British Government to decide. We have sufficient experience of holding elections in other pre-independence territories.

"WHO WILL MAINTAIN SECURITY DURING THE ELECTION PERIOD? BRITISH TROOPS? THE REGIME'S POLICE?"

The security problem can only be tackled once there is agreement on a constitution and on steps to put it into effect. Neither side will then have reason to continue fighting. In these circumstances we are confident that, with the assistance of the parties, proper arrangements can be made to negotiate the separation of the forces. We should arrange for negotiations to be held between the military commanders.

"WILL THE PATRIOTIC FRONT BE GIVEN TIME AND A FAIR CHANCE TO ESTABLISH THEIR POLITICAL POSITION BEFORE THE ELECTIONS?"

We shall provide a setting in which all the parties will be able to put their political case fairly - including, in the case of the Patriotic Front, their argument that they should be credited with the events leading to a settlement.

"IF MUZOREWA IS NOT IMMEDIATELY REMOVED FROM OFFICE, HE WILL HAVE AN UNFAIR ADVANTAGE BY CAMPAIGNING AS PRIME MINISTER"

The election will be held in circumstances in which all

parties must have an equal chance of winning. All parties would campaign as parties, on the same basis as each other.

"THE PF WILL ONLY ENTER INTO A CEASEFIRE WHEN THERE IS AN ABSOLUTE GUARANTEE OF THE CERTAINTY OF INDEPENDENCE"

The British Government have said that they would be prepared to grant independence on the basis of their proposals for an independence constitution. Agreement by the parties to implement these proposals would provide the necessary guarantee.

"HOW WILL THE CEASEFIRE BE SUPERVISED? BY A UNITED NATIONS FORCE?"

Arrangements for the supervision of the ceasefire will have to be agreed once agreement has been reached:

- a. on the outline of the independence constitution;
- b. that elections should be held under the British Government's authority.

CONSTITUTIONAL CONFERENCE: PROCEDURAL PITFALLS

## EXPENSES

- Q. Why aren't HMG more generous in meeting the expenses of delegations?
- A. We originally agreed to meet the travel and hotel expenses of 12 members per delegation. At the request of the parties, we have increased this to 20. This already involves very substantial expenditure [approaching £100,000]. We cannot go beyond this.

[Background: At Geneva we paid for 9 delegates each from ZAPU and ZANU.]

## TITLE/PURPOSE OF CONFERENCE

- Q. Why is it called just "Constitutional Conference"?
- A. The purpose of the Conference is to decide the independence Constitution for Zimbabwe.

[Background: Strictly speaking it ought to be "Constitutional Conference on Southern Rhodesia". But to avoid controversy it is simpler to refer just to the Constitutional Conference. The purpose is clear to all.]

## TITLE OF DELEGATIONS

- Q. [from Bishop Muzorewa] Why is the Salisbury delegation not described as the Government of Zimbabwe-Rhodesia [or Zimbabwe - if by then the name has been changed]?
- A. We cannot recognise any government in Salisbury until we have achieved the basis for legal independence.

[Background: At Geneva, Mr Smith tried to insist that his delegation be called the Government of Rhodesia and that he be recognised as Prime Minister. This is impossible for us and anathema to the Patriotic Front. We can as necessary refer to the delegations as "the Patriotic Front" and "the Salisbury delegation", or by the names of their leaders, i.e. Bishop Muzorewa's delegation etc.]

/LEGITIMACY

## LEGITIMACY OF SALISBURY DELEGATION

Q. [From the Patriotic Front] Whom does Bishop Muzorewa's delegation purport to represent?

A. The delegations to the Conference represent the main parties whose agreement will be necessary on the terms under which Rhodesia can be brought to legal independence. [He is the head of the elected administration in Salisbury.]

Q. Bishop Muzorewa's so-called government has no legitimate standing. He should be part of the British delegation.

A. No-one is being asked to recognise anything. The CHGM communique made clear that a settlement must involve the parties who are round this table. It is up to each party to decide the composition of its delegation and nominate its spokesman.

[Background: The Patriotic Front may claim that they are prepared to negotiate with HMG, but not with Bishop Muzorewa.]

## SEATING

Q. [From Patriotic Front] We are here to negotiate with the British Government, not with the so-called Salisbury Administration. Why, therefore, are we not seated facing the British delegation?

A. As Chairman, we must be in a position to hear all the parties, which is easier when sitting between them. This is purely a practical matter which should be left to the Chairman's discretion.

## OPENING SPEECH

Q. Why is the Chairman alone to speak at the Opening Session?

A. It is the British Government's constitutional responsibility to grant independence. It is right that Britain's proposals be presented first and considered before other delegates reply.

/ORDER



ORDER OF INITIAL STATEMENTS

[This should if possible be negotiated before the conference opens.]

Our objective should be to avoid giving the Patriotic Front an opening to postpone discussion of matters of substance by engaging in a procedural wrangle on this issue at the outset. The simplest way to call their bluff would be to invite them to speak first, or to give them the choice between doing so and speaking after Bishop Muzorewa. We will explore before the conference Muzorewa's views on this. We will at every stage wish to encourage both Patriotic Front leaders to speak; and the various coalition partners in Muzorewa's delegation will no doubt also wish to do so.


NUMBER OF STATEMENTS

- Q. Since there are 2 wings to the Patriotic Front, why cannot both Mr Mugabe and Mr Nkomo make opening statements?
- A. Both Mr Mugabe and Mr Nkomo will have a chance to speak (as will other members of Bishop Muzorewa's delegation).

NUMBERS IN ROOM

- Q. Why are numbers in the Conference Room limited to 16 a side? We need more.
- A. Limits have to be arranged if the business of the conference is to proceed. It is open to each party to vary the members of its delegation attending the sessions, within the limit of 16.

[Background: At Geneva, each delegation was limited to 13 in the room.]



ZANU DETAINEES IN RHODESIA, E G CANAAN BANANA, WERE NOT  
RELEASED TO ENABLE THEM TO ATTEND THE CONFERENCE.

We passed this request on to the authorities in Salisbury.  
They decided to refuse it and the Patriotic Front should pursue  
the question with them.

The Patriotic Front's own record in this respect is far from ir-  
reproachable. The Hamadziripi/Gumbo group of ZANU are still in  
detention in Mozambique. Others detained by ZAPU have claimed  
that they should be invited to the conference on the grounds  
that the Mugabe group are not representing their interests.

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TO IMMEDIATE FCO TELNO 46 OF 31 JANUARY

INFO IMMEDIATE UKMIS NEW YORK WASHINGTON CAPETOWN LUSAKA  
DAR ES SALAAM GABORONE MAPUTO NAIROBI LAGOS NEW DELHI

MY TELNO 44. RHODESIA TALKS WITH THE PATRIOTIC FRONT

FOLLOWING IS TEXT OF PATRIOTIC FRONT PAPER PROPOSALS FOR A  
SETTLEMENT IN SOUTHERN RHODESIA.

1. WE ARE POISED FOR TOTAL VICTORY ON THE BATTLEFIELD. HOWEVER, WE  
HAVE ALWAYS BEEN WILLING TO ENGAGE IN MEANINGFUL TALKS TO ACHIEVE  
OUR OBJECTIVE. ANY SUCH SETTLEMENT WILL INVOLVE THREE STEPS  
REFLECTING MOVEMENT FROM A WAR SITUATION TO A CEASEFIRE IN THE  
FOLLOWING ORDER :-

- (A) AGREEMENT ON TRANSITIONAL STRUCTURE:
- (B) A CEASE-FIRE AGREEMENT:
- (C) INDEPENDENCE.

2. THE TRANSITIONAL PERIOD.

2.1 DURING THE TRANSITIONAL PERIOD AUTHORITY WILL BE VESTED IN A  
BODY COMMITTED TO THE TRANSFER OF POWER AND SUPPORTED BY ARMED  
FORCES EQUALLY SO COMMITTED. BOTH THESE ELEMENTS ARE ESSENTIAL.

2.2 THE ADMINISTERING AUTHORITY WILL BE A GOVERNING COUNCIL  
COMPOSED OF THE SAME PARTIES AS ENTERED INTO THE CEASE-FIRE AGREE-  
MENT. THE MEMBERSHIP WILL BE THE RESIDENT COMMISSIONER REPRESENTING  
BRITAIN, WHO WILL BE THE CHAIRMAN AND WHO WILL BE AUTHORISED TO  
SIGN LEGISLATIVE ACTS, FOUR MEMBERS REPRESENTING THE PATRIOTIC  
FRONT AND ONE MEMBER REPRESENTING THE SETTLERS. EACH MEMBER WILL  
HAVE ONE VOTE AND DECISIONS WILL BE BY SIMPLE MAJORITY.

2.3 THE PRESENT RHODESIAN ARMED FORCES WILL BE DEMOBILISED, BUT  
WE WOULD BE PREPARED TO INTEGRATE ACCEPTABLE ELEMENTS INTO OUR  
FORCES, WHICH WILL BE THE ONLY FORCES SUPPORTING THE INTERIM  
ADMINISTRATION.

2.4 THE POLICE FORCE WILL BE RE-STRUCTURED IN SUCH A WAY THAT ONLY ACCEPTABLE ELEMENTS WITH UNQUESTIONABLE LOYALTY TO THE TRANSITIONAL ADMINISTRATION ARE RETAINED.

2.5 MANY OF THE EXISTING JUDGES AND MAGISTRATES WILL BE REPLACED SO THAT THE BUILDING OF THE FUTURE JUDICIARY BEGINS IMMEDIATELY.

2.6 AT THE HIGHER LEVELS THE OFFICERS IN THE PUBLIC SERVICE WILL BE SUBJECT TO SCREENING, BUT THE REMAINDER WILL CONTINUE IN OFFICE SUBJECT TO THE RIGHT OF A PUBLIC SERVICE COMMISSION, TO BE APPOINTED BY THE GOVERNING COUNCIL, TO TERMINATE THE APPOINTMENT OF ANY OFFICER REGARDED AS UNACCEPTABLE.

2.7 THE REGISTRATION OF VOTERS WILL REQUIRE TWO SAFEGUARDS: CLOSE SUPERVISION OF THE REGISTERING OFFICERS BY INDEPENDANT PERSONS: AND THE APPOINTMENT OF SUITABLE REGISTERING OFFICERS TO REPLACE SUCH TRADITIONAL OFFICIALS AS DISTRICT COMMISSIONERS. THE PRE-INDEPENDENCE ELECTIONS WILL BE INDEPENDENTLY SUPERVISED TO ENSURE THAT THEY ARE FREE AND IMPARTIAL.

2.8 THE GOVERNING COUNCIL WILL HAVE FULL LEGISLATIVE AND EXECUTIVE POWERS.

2.9 THE TRANSITIONAL CONSTITUTION WILL CONTAIN A JUSTICIABLE BILL OF RIGHTS, ON THE LINES OF THE BILL OF RIGHTS IN THE INDEPENDENCE CONSTITUTION.

2.10 THE GOVERNING COUNCIL AS A BODY WILL BE THE COMMANDER IN CHIEF OF THE ARMED FORCES AND WILL HAVE COMMAND OF THE POLICE.

2.11 IT WILL BE NECESSARY TO DEAL WITH LAWS WHICH WERE PURPORTED TO HAVE BEEN MADE SINCE UDI. THE TRANSITIONAL ORDER IN COUNCIL WILL CONTAIN A SCHEDULE REPEALING OR AMENDING PARTICULAR LAWS: IN ADDITION THE ORDER IN COUNCIL WILL INVALIDATE, TO THE EXTENT OF THE INCONSISTENCY, ALL LAWS INCONSISTENT WITH THE TRANSITIONAL CONSTITUTION.

2.12 THERE WILL BE NO AMNESTIES IN RESPECT OF WAR CRIMES OR CRIMES AGAINST HUMANITY, NOR FOR MERCENARIES, NOR WILL CIVIL CLAIMS BE EXTINGUISHED. ALL PERSONS SERVING SENTENCES OR AWAITING TRIAL FOR

RESISTING THE REGIME, ALL PERSONS IN DETENTION OR RESTRICTION WITHOUT TRIAL, AND ALL PERSONS RESTRICTED IN THE SO-CALLED PROTECTED VILLAGES, WILL BE RELEASED ON THE TRANSITIONAL ADMINISTRATION BEING INSTALLED.

2.13 THE TRANSITIONAL ADMINISTRATION WILL NOT ASSUME OBLIGATIONS ENTERED INTO BY, OR ARISING OUT OF, ACTS OF THE SETTLER REGIME IN SUPPORT OF THE REBELLION OR IN SUPPRESSION OF THE MASSES OF ZIMBABWE.

2.14 THE ROLE OF THE UNITED NATIONS WILL INCLUDE :-

- (A) WITNESSING THE CEASE-FIRE AGREEMENT:
- (B) THE SUPERVISION OF THE REGISTRATION OF VOTERS AND THE PRE-INDEPENDENCE ELECTIONS.

### 3. CEASE-FIRE-AGREEMENT

3.1 ANY CEASE-FIRE AGREEMENT MUST BE CONCLUDED BETWEEN THE PARTIES TO THE ARMED CONFLICT, THE PATRIOTIC FRONT ON THE ONE SIDE AND THE BRITISH GOVERNMENT AND THE SETTLERS ON THE OTHER.

3.2 THE TERMS OF ANY SUCH AGREEMENT WILL INCLUDE THE CONDITIONS WHICH ARE ESSENTIAL TO THE TRANSFER OF POWER AND THE ACHIEVEMENT OF REAL INDEPENDENCE WITHOUT FURTHER BLOODSHED: THESE CONDITIONS ARE THE SUBSTANCE OF THE TRANSITIONAL ARRANGEMENTS OUTLINED ABOVE.

### 4. PRINCIPLES OF THE INDEPENDENCE CONSTITUTION.

4.1 THE INDEPENDENCE CONSTITUTION WILL -

- (A) PROVIDE FOR A DEMOCRATICALLY ELECTED GOVERNMENT ON THE BASIS OF ONE MAN ONE VOTE:
- (B) CONTAIN A JUSTICIABLE BILL OF RIGHTS:
- (C) SECURE THE INDEPENDENCE OF THE JUDICIARY.

4.2 ALL PERSONS WILL BE QUALIFIED TO VOTE WHO ARE :-

- (A) CITIZENS OF ZIMBABWE AND
- (B) EIGHTEEN YEARS OF AGE.

/DISQUALIFICATION

DISQUALIFICATION ON THE GROUND OF CONVICTION FOR A CRIMINAL OFFENCE WILL BE LIMITED TO CERTAIN TYPES OF OFFENCES.

4.3 THERE WILL BE A SINGLE CHAMBER NATIONAL ASSEMBLY, CONSISTING OF A NUMBER OF ELECTED MEMBERS TO BE DECIDED. THESE WILL BE RETURNED BY THE CORRESPONDING NUMBER OF CONSTITUENCIES, EACH CONSTITUENCY RETURNING ONE MEMBER ON A SIMPLE MAJORITY BASIS. THE CONSTITUENCIES WILL HAVE BEEN DELIMITED BY A DELIMITATION COMMISSION APPOINTED BY GOVERNING COUNCIL.

4.4 THE QUALIFICATIONS FOR ELECTION TO THE NATIONAL ASSEMBLY WILL BE THE SAME AS FOR THE FRANCHISE.

4.5 THERE WILL BE AN EXECUTIVE PRESIDENT, WHO WILL BE ELECTED BY POPULAR VOTE AT THE SAME TIME AS THE MEMBERS OF THE NATIONAL ASSEMBLY, THE TWO ELECTIONS BEING LINKED.

4.6 THERE WILL BE A JUSTICIABLE BILL OF RIGHTS PROTECTING THE FUNDAMENTAL RIGHTS AND FREEDOM OF THE INDIVIDUAL.

4.7 THERE WILL BE A COURT OF APPEAL AND A HIGH COURT. THE CHIEF JUSTICE AND THE OTHER JUDGES OF THE COURT OF APPEAL WILL BE APPOINTED BY THE PRESIDENT: THE PUISNE JUDGES WILL BE APPOINTED BY THE PRESIDENT ACTING ON THE ADVICE OF THE JUDICIAL SERVICE COMMISSION.

4.8 JUDGES APPOINTED PRIOR TO OR DURING THE TRANSITIONAL PERIOD WILL HOLD OFFICE UNTIL INDEPENDENCE, WHEN THEY MAY APPLY FOR REAPPOINTMENT.

4.9 PERSONS WHO WERE CITIZENS OF SOUTHERN RHODESIA PRIOR TO THE 11TH NOVEMBER 1965, AND PERSONS WHO WERE RESIDENT IN THE COLONY PRIOR TO THAT DATE AND WHO BECAME CITIZENS THEREAFTER IN TERMS OF THE LAW IN FORCE IN THE COLONY ON THE 11TH NOVEMBER 1965,

WILL

WILL BECOME CITIZENS OF ZIMPAPWE ON INDEPENDENCE PROVIDED THEY HAVE NOT PRIOR TO INDEPENDENCE BECOME CITIZENS OF A FOREIGN COUNTRY.

4.10 ALL AMENDMENTS TO THE CONSTITUTION WILL BE BY A SINGLE MACHINERY; NAMELY PUBLICATION FOR THIRTY DAYS BEFORE THE FIRST READING AND A TWO THIRDS MAJORITY IN THE NATIONAL ASSEMBLY.

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TO IMMEDIATE FCO

TELNO 684 OF 20 AUGUST

INFO IMMEDIATE MIRIMBA SALISBURY, WASHINGTON, UKMIS NEW YORK, LUSAKA, LAGOS, GABORONE, LUANDA, MAPUTO

MY TELNO 683: (39) PATRIOTIC FRONT AND THE RHODESIA CONSTITUTIONAL CONFERENCE

TOP COPY

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1. TEXT OF STATEMENT HEADED "THE BASIC POLITICAL POSITION OF THE PF" THIS AFTERNOON OVER NAMES OF MUGABE AND NKOMO ALSO FOLLOWS:

1. THE REALITY IN ZIMBABWE IS THAT OF A WAR SITUATION IN WHICH THE LIBERATION FORCES OF THE PATRIOTIC FRONT AS REPRESENTING THE INTERESTS OF SEVEN MILLION ZIMBABWEANS ARE LOCKED IN A BITTER CONFLICT AGAINST THE FORCES OF THE REBEL REGIME REPRESENTATIVE OF THE RACIST SETTLER MINORITY.

2. THE HISTORICAL DEVELOPMENT OF THE PRESENT CONFLICT SITUATION CONSISTENTLY DEMONSTRATES THAT BRITAIN, AS THE COLONIAL POWER SINCE 1890, HAS IN SUCCESSIVE STAGES NOT ONLY DELIBERATELY REFRAINED FROM EXERCISING HER COLONIAL RESPONSIBILITY TOWARDS THE ZIMBABWEAN PEOPLE BUT ALSO YIELDED TO THE RACIAL DEMANDS OF ITS SETTLER MINORITY COMMUNITY TO THE EXTENT OF ACQUIESCING IN THE ILLEGAL ACT OF THE UNILATERAL DECLARATION OF INDEPENDENCE.

3. SINCE THE PATRIOTIC FRONT FORCES ASSUMED THE REVOLUTIONARY TASK, IT REDRESSED THE IMBALANCE OF POWER BETWEEN THE OPPRESSED AND SUBJECTED MAJORITY AND THE OPPRESSIVE MINORITY RULING CLASS THROUGH THE INSTRUMENTALITY OF ARMED STRUGGLE. BY ITS SWEAT AND BLOOD, THEREFORE, THE PATRIOTIC FRONT BECAME THE EFFECTIVE AND DECISIVE FACTOR IN THE DECOLONISATION PROCESS WHICH THE COLONIAL POWER HAD FAILED TO ACCOMPLISH. ACCORDINGLY, BY THE FACT OF THE ADVANCE OF THE LIBERATION STRUGGLE RESULTING IN THE ESTABLISHMENT OF FIRM AND INDISPUTABLE CONTROL OVER A VAST REGION OF THE COUNTRY AND THE EXTENSION OF ITS MILITARY OPERATIONS TO OVER NINETY PERCENT OF THE TOTAL LAND AREA OF ZIMBABWE, THE PATRIOTIC FRONT, WHICH ENJOYS THE FULLEST SUPPORT OF THE MASSES, HAS BECOME THE ONLY DOMINANT FORCE OPERATING AGAINST THE SETTLER COLONIAL SYSTEM, THUS DIMINISHING THE ROLE OF BRITAIN AS A DECOLONISING POWER TO THE EXTENT TO WHICH IT HAS BECOME MERELY NOMINAL.

/4. BY VIRTUE



4. BY VIRTUE OF ITS ESTABLISHED MILITARY AND POLITICAL POSITION, THE PATRIOTIC FRONT HAS BECOME THE SOLE, LEGITIMATE AND AUTHENTIC REPRESENTATIVE OF THE PEOPLE OF ZIMBABWE, WITHOUT WHOSE CONSENT NO SETTLEMENT OF WHATEVER KIND COULD EVER SUCCEED.

5. THE PATRIOTIC FRONT, RECOGNISING THAT THE PROCESS OF ACHIEVING AN ACCEPTABLE CONSTITUTIONAL AGREEMENT IS NECESSARILY A MOVEMENT FROM WAR TO PEACE, HOLDS THAT THE BASIS OF ANY DESIRED CONSTITUTIONAL SETTLEMENT CANNOT FALL SHORT OF THE COMPLETE REMOVAL OF THE CAUSES OF THE WAR, THROUGH THE DISBANDMENT OF THE OPPRESSIVE AND RACIST REGIME TOGETHER WITH ITS PHYSICAL INSTRUMENTS OF CONTROL, AND ITS CONSEQUENT REPLACEMENT BY A TRULY DEMOCRATIC GOVT INTO WHOSE CONTROL THE LIBERATION FORCES ARE PLACED AND TRANSFORMED INTO THE PEOPLES ARMY,

6. THE MOVEMENT FROM WAR TO PEACE, BEING A MOVEMENT FROM AN UN DEMOCRATIC AND OPPRESSIVE SETTLER MINORITY RULE TO A DEMOCRATIC SYSTEM, CANNOT AT THE SAME TIME BE BASED ON A CONSTITUTION OF THE VERY RACIAL AND UNDEMO-CRATIC SYSTEM IT SEEKS TO DESTROY. TO DO SO IS NOT ONLY TO VITIATE THE PRINCIPLE OF DEMOCRACY, BUT ALSO TO SANCTIFY ILLEGALITY AND RACISM. SIMILARY, TO INCORPORATE IN A PURPORTEDLY DEMOCRATIC CONSTITUTION PROVISIONS CREATING A SPECIAL POSTION FOR GROUPS OR COMMUNITIES OR ACCORDING SUCH GROUPS OR COMMUNITIES ANY PREFERENTIAL TREATMENT ON NO OTHER BASIS THAN THOSE OF RACE AND COLOUR IS REPUGNANT TO THE PRINCIPLES OF DEMOCRACY AS WE UNDERSTAND AND CHERISH THEM. ALL CITIZENS BEING EQUAL BEFORE THE LAW, MUST ENJOY EQUAL RIGHTS AND PRIVILEGES.

7. THE PROCESS OF ESTABLISHING PEACE FROM WAR MUST AIM AT THE ACHIEVEMENT OF GENUINE INDEPENDENCE THROUGH THE UTILISATION OF SUCH MODALITIES AS ARE PROMOTIVE AND NOT INHIBITIVE OF THE PROCESS. IN THIS REGARD, THE ELECTION PROCESS LEADING TO THE EMERGENCE OF THE GOVERNMENT OF AN INDEPENDENT ZIMBABWE SHOULD NOT ONLY BE DEMOCRATIC BUT SHOULD ALSO COME UNDER THE SUPERVISION OF SUCH PERSONS OR GROUPS OF PERSONS AS POSSESS AN OBJECTIVITY AND IMPARTIALITY WHICH ARE BEYONE QUESTION. THE CONSERVATIVE GOVERNMENT OF BRITAIN HAVING PUBLICLY ENDORSED THE FRAUDULENT ELECTIONS HELD BY THE PRESENT ILLEGAL REGIME IN APRIL AS 'FREE AND FAIR', AND HAVING PRONOUNCED THEMSELVES IN FAVOUR OF LIFTING SANCTIONS, HAS FORFEITED EVERY RIGHT TO SUPERVISE THE PROCESS OF CHANGE. IT IS DECIDEDLY BIASED IN FAVOUR OF THE ILLEGAL REGIME.

ANY PROPOSED SCHEME ENVISAGING THE SOLUTION OF THE RHODESIAN PROBLEM MUST BE CONSISTENT WITH THE EXPRESSED WISHES AND INTERESTS OF THE PEOPLE OF ZIMBABWE AND THE COURSE WHICH THE INTERNATIONAL COMMUNITY, IN PARTICULAR THE OAU THE UNITED NATIONS HAS PRESCRIBED AND ADVOCATED WITH CONSISTENT VIGOUR OVER THE LAST SEVENTEEN YEARS, THAT IS FROM 1962 TO 1979. DURING THIS PERIOD, THE UNITED NATIONS, HAS DEMANDED CONSISTENTLY THAT RHODESIA BE DECOLONISED TO THE SATISFACTION OF THE PEOPLE OF ZIMBABWE. BOTH THE GENERAL ASSEMBLY AND THE SECURITY COUNCIL REJECTED UDI IN 1965 AT THE REQUEST OF BRITAIN (RESOLUTIONS 232 AND 252). IN 1977, BRITAIN SOUGHT BEFORE THE SECURITY COUNCIL, A RESOLUTION EMPOWERING THE UNITED NATIONS TO SUPERVISE ELECTIONS IN ZIMBABWE UNDER THE ANGLICAMERICAN PLAN. IN MARCH 1978, THE SECURITY COUNCIL PASSED A RESOLUTION REJECTING THE MARCH 3 SO-CALLED INTERNAL SETTLEMENT AND CALLED FOR A RESOLUTION BASED ON THE UNITED NATIONS RESOLUTIONS ON RHODESIA.

9. THE PATRIOTIC FRONT HAS ALWAYS RECOGNISED THAT THE PRINCIPLE OF SERIOUS NEGOTIATIONS TO BRING ABOUT A GENUINE SETTLEMENT LEADING TO THE TOTAL TRANSFERENCE OF POWER, FROM THE SETTLER RACIST MINORITY TO THE MAJORITY OF THE PEOPLE IN ZIMBABWE, COULD NOT BE EXCLUDED AS AN ADDITIONAL MEANS OF RESOLVING THE PRESENT CONFLICT. THE PATRIOTIC FRONT, THEREFORE, EXPRESSES ITSELF IN FAVOUR OF ENTERING INTO SERIOUS NEGOTIATIONS WITH THE BRITISH GOVERNMENT WITH A VIEW TO ASSESSING WHETHER ANY SUBSTANTIAL AREA OF COMMON AGREEMENT EXISTS BETWEEN BRITAIN AND ITSELF.

10. BY ACCEPTING THE BRITISH INVITATION TO ATTEND THE PROPOSED CONFERENCE, THE PATRIOTIC FRONT MUST CLEARLY BE UNDERSTOOD TO HAVE DONE NOTHING MORE THAN INDICATE ITS WILLINGNESS TO NEGOTIATE A SOLUTION. IT REJECTS BOTH THE PROPOSED CONSTITUTIONAL FRAMEWORK, WHICH HAS AS ITS BASIS THE ILLEGAL INTERNAL SETTLEMENT CONSTITUTION, AND THE PROPOSAL OF A CEASEFIRE IT UNJUSTIFIABLY MAKES. THE WAR WILL THEREFORE CONTINUE UNTIL THE OBJECTIVE OF LIBERATION HAS BEEN ACHIEVED.

2. MAIN POINTS OF ENSUING PRESS CONFERENCE WILL FOLLOW FIRST CONTACT 21 AUGUST.

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PS/MR. LUCE

PS/MR. RIDLEY

PS/MR. HURD

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LORD H G LENNOX

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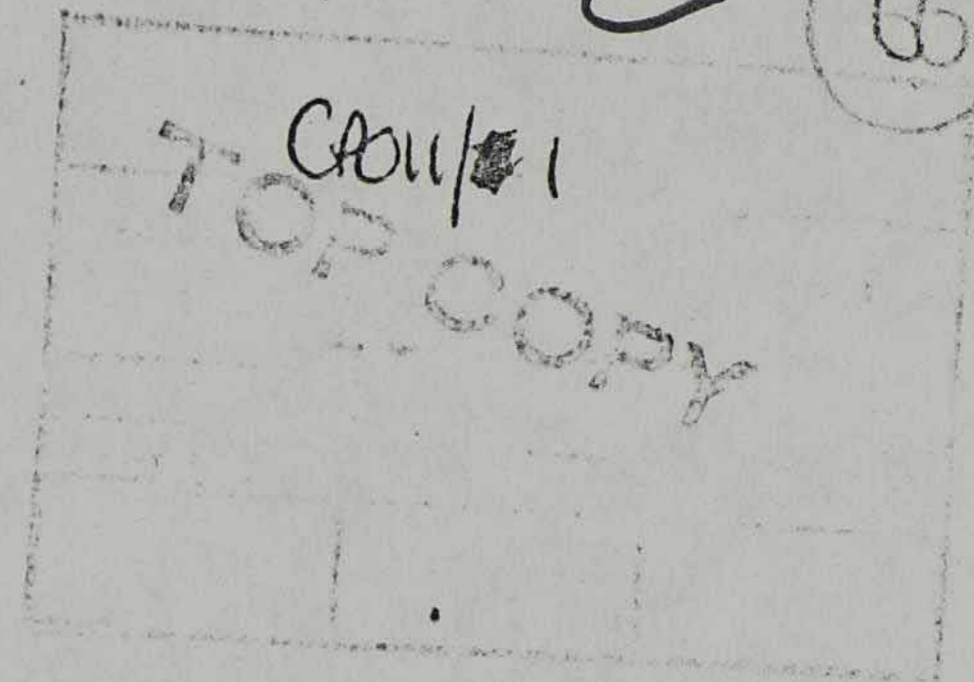
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TO IMMEDIATE FCO

TELEGRAM NUMBER 126 OF 27 AUGUST



MUGABE PRESS CONFERENCE

1. ON EVE OF DEPARTURE FROM BELGRADE YESTERDAY EVENING MUGABE SPOKE TO FOREIGN PRESS. FOLLOWING IS SUMMARY OF CONFERENCE.
2. MUGABE SAID THAT HE AND HIS DELEGATION WERE IN YUGOSLAVIA TO CONSOLIDATE FRIENDSHIP AND SOLIDARITY AND BRIEF YUGOSLAVS ON POLITICAL AND MILITARY SITUATION IN ZIMBABWE. HE HAD DISCUSSIONS WITH SOCIALIST ALLIANCE PRESIDENT, KURTOVIC AND FOREIGN MINISTER, VRHOVEC AND BRIEFED THEM ON BRITISH MOVES TO HOLD A CONSTITUTIONAL CONFERENCE.
3. THE PATRIOTIC FRONT WOULD ATTEND THIS CONFERENCE BUT BRITAIN'S CONSTITUTIONAL PROPOSALS WERE EFFECTIVELY AN ATTEMPT TO REBUILD THE INTERNAL SETTLEMENT CONSTITUTION ON WHICH BASIS THE PUPPET REGIME OPERATED. IT WAS INTERNATIONALLY ACCEPTED THAT THIS CONSTITUTION WAS ILLEGAL. AN ILLEGAL CONSTITUTION COULD NOT THEREFORE CONSTITUTE A VALID BASIS FOR ANY CONFERENCE. THE FRONT ACCORDINGLY REJECTED BRITAIN'S PROPOSALS SINCE THEY WERE BASED ON A CONSTITUTION WHICH SOUGHT TO ENTRENCH MINORITY RIGHTS. THE FRONT WOULD THEMSELVES BE OFFERING A NEW BASIS FOR DISCUSSION.
4. BRITAIN NOW SOUGHT TO ACT IN ZIMBABWE AS A FULL DE-COLONISING POWER. BUT ONLY LAST YEAR IT HAD ACCEPTED THAT IT NO LONGER HAD FULL POWERS TO BRING ABOUT A DE-COLONIALIZING PROCESS AND HAD SOUGHT THE INVOLVEMENT OF THE UN AND PARTNERED ITSELF WITH AMERICA. THROUGH THEIR ARMED STRUGGLE THE FREEDOM FIGHTERS HAD IN EFFECT CARRIED OUT THE DE-COLONISING PROCESS TO THE SITUATION WHEN THE SETTLER REGIME WAS NOW ON THE VERGE OF DEFEAT. THEY, THEREFORE, NOT THE BRITISH, HAD THE RIGHT TO THIS POSITION AND WOULD REJECT ATTEMPTS TO INSTALL BRITAIN AS THE DE-COLONISING POWER.

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5. BRITAIN, ESPECIALLY THE PRESENT GOVERNMENT HAD PRONOUNCED ITSELF IN DEFINITE ALLIANCE WITH SMITH AND MUZOREWA. HOW COULD SUCH A GOVERNMENT PLAY AN UNBIASED PART IN THE HOLDING OF FREE ELECTIONS. IT SHOULD BE RECOGNISED INTERNATIONALLY THAT NO SOLUTION COULD BE ACHIEVED WITHOUT THE PATRIOTIC FRONT LAYING DOWN ITS ARMS. BUT THIS WOULD NOT HAPPEN MERELY BECAUSE BRITAIN HAD CONVENED A CONFERENCE. ONLY WHEN THE FRONT WAS SATISFIED THAT THE QUESTION OF INDEPENDENCE MEANT TRANSFER OF POWER TO THE PEOPLE COULD A CEASEFIRE BE CONSIDERED.

6. THE PATH TO INDEPENDENCE ENVISAGED UNDER THE PREVIOUS ANGLO-AMERICAN PROPOSALS WAS REALISTIC. DEFINITE PREREQUISITES WERE FOR THE SETTLER REGIME AND ITS ARMED FORCES TO BE SCRAPPED AND FOR THE LIBERATION FORCES TO CONSTITUTE THE PEOPLE'S ARMY. THE PATRIOTIC FRONT WOULD BE MAKING THESE POINTS TO THE BRITISH GOVERNMENT REMINDING THEM THAT THESE STEPS WERE AGREED LAST YEAR. THEY WOULD INSIST THAT BRITAIN UPHOLD THIS PROCESS SINCE IT ALONE COULD WORK THE IRREVERSIBLE MECHANISM FOR THE ESTABLISHMENT OF INDEPENDENCE AND TRUE DEMOCRACY IN ZIMBABWE.

7. ASKED ABOUT HIS EXPECTATIONS OF THE CONSTITUTIONAL CONFERENCE MUGABE SAID THAT THE BRITISH WERE IN THE HABIT OF AVOIDING SOLUTIONS FOR ZIMBABWE. HE COULD NOT SEE A BRITISH CONSERVATIVE GOVERNMENT ARRIVING AT A SOLUTION THAT WAS ACCEPTABLE, BUT IF IT DID, SO MUCH THE BETTER. MUGABE REFUSED TO GIVE DETAILS OF HIS NEW PROPOSALS BUT SAID THESE INVOLVED "UNFETTERED INDEPENDENCE VIA DEMOCRATIC PROCESSES, NO RESERVATION OF PRIVILEGES FOR THE WHITE MINORITY AND A COMPLETE DISBANDMENT OF THE FORCES OF ILLEGAL REGIME".

8. ASKED WHETHER HE WOULD INSIST ON A DIFFERENT BASIS FOR TALKS IN LONDON, MUGABE SAID THAT HE WOULD ONLY NEGOTIATE WITH BRITAIN AS THE CONSTITUTIONAL AUTHORITY. THE PATRIOTIC FRONT WOULD SUBMIT THEIR PLAN TO BRITAIN AND PROPOSE THAT THIS SHOULD CONSTITUTE THE BASIS FOR DISCUSSION. OTHER PARTIES WOULD NO DOUBT SUBMIT OTHER PROPOSALS AND THEY WERE ENTITLED TO DISCUSS THESE WITH THE UK. THE PATRIOTIC FRONT WOULD BE PREPARED TO SIT IN THE SAME ROOM AS SMITH AND MUZOREWA BUT IT WOULD ONLY NEGOTIATE WITH BRITAIN.

9. MUGABE HOPED THAT THE NON-ALIGNED SUMMIT IN HAVANA WOULD GIVE THE FRONT THE FULL STAMP OF BEING THE SOLE AND LEGITIMATE REPRESENTATIVE OF THE ZIMBABWE PEOPLE, TO STRENGTHEN ITS HAND. HE HOPED

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HAVANA WOULD ALSO SUPPORT THE FRONT'S APPROACH TO THE LONDON TALKS. ASKED ABOUT THE THEORY OF A NATURAL ALLIANCE BETWEEN THE NON-ALIGNED AND THE SOCIALIST BLOC, MUGABE DIMISSED THIS AS PREPOSTEROUS. MUGABE REFUSED TO DISCLOSE WHICH COUNTRY HIS DELEGATION WOULD VISIT NEXT.

10. YUGOSLAV PRESS REPORTING HAS EMPHASISED THE NON-ALIGNED CONTENT OF CONFERENCE AND HAS SO FAR AVOIDED PUTTING TOO NEGATIVE A TONE ON MUGABE'S COMMENTS ON RHODESIA CONFERENCE.

11. RHODESIA DEPT. PLEASE PASS AS NECESSARY.

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PS/SIR I GILMOUR  
PS/MR LUCE  
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MUGABE, ROBERT GABRIEL

President ZANU (Mugabe)

Born Zuimba TTL, 1924. A Zezuru. Related to Chikerema (qv). Educated at Kutama and Empandeni Roman Catholic missions and trained as a teacher. Taught at Todd's Dadaya mission with the Rev Sithole (qv) after leaving Kutama over a pay dispute. Went to Fort Hare University, where he got a BA in 1951. Obtained two further degrees by private study. Taught in Salisbury until 1954 when he went to Northern Rhodesia. In 1956 went to Ghana, where he taught at the University College and married a Ghanaian.

Returned to Rhodesia May 1960 and joined NDP as publicity secretary and chairman of its first congress, where he made mark by his radical speeches. Also publicity secretary and later Vice President of ZAPU. In charge of the Zimbabwe Liberation Army, which was ZAPU's underground wing, carrying out sabotage. After the banning of ZAPU in 1962 opposed Nkomo. Failed to oust him and set up ZANU with the Rev Sithole. Went abroad to canvass for ZANU; and then returned to Rhodesia in December 1963, when he was arrested and sentenced for making a subversive speech. Remained in detention until December 1974, when he was released following the Lusaka agreement. Later left Rhodesia and is now based in Maputo. In 1976 ousted Rev Sithole to become leader of ZANU. In October 1976 linked with ZAPU to form an alliance known as the Patriotic Front. Attended 1976 Geneva Conference as joint leader with Nkomo of PF delegation and has been involved in subsequent settlement moves. Seen by both Dr Owen and officials in 1977 and with Nkomo met Dr Owen and Mr Young in Malta January/February and Dr Owen and Mr Vance in Dar es Salaam in April 1978 for discussions of the Anglo/US proposals. Visited China in 1977 and 1978, but has recently made frequent visits to Eastern Europe, and Cuba.

An uncompromising nationalist who is held in wide respect for his integrity even by ZAPU supporters. Some believe he is still a practising Catholic but he has strong Marxist leanings and has caused concern among Whites and moderate Blacks about the measures he would take if he came to power. Has experienced internal problems with ZANU in Mozambique, but a showdown in early 1978 in which prominent ZANU members such as Hamadziripi and Gumbo were arrested may have strengthened his position. There is some evidence that the Mozambique authorities may be cooling towards Mugabe, preferring his colleague Tongogara. Influenced by his Ghanaian experience, emphasises the "back to Africa" aspects of nationalism, especially no shoes and fur hats. Seen by the Pearce Commission to whom he presented strong anti-settlement memorandum.

Mugabe's wife, a fire-brand in her own right, lived in Ghana for some time while he was in Mozambique, but has now re-joined him.

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NKOMO, JOSHUA MQABUKO NYONBOLO

PRESIDENT, ZAPU

Born June 1917 in Malopa (Matabeleland) of humble Matabele (or, as some have it, Kalanga Shona) origin. Educated at Trolotto School, Adams College, Natal and the Jan Hofmeyr School of Social Work, Johannesburg. Subsequently took Social Science degree through correspondence course.

Worked as a carpenter and driver. Came to prominence initially through Trade Union movement and was General Secretary of Rhodesia Railways African Employees Association in early 1950's. In 1951 elected President-General of the first African National Congress. In April 1952 accompanied Sir Godfrey Huggins to London Conference on Federation to represent African opinion, and subsequently stood unsuccessfully for Federal Parliament. When the African National Congress was reformed in 1957, Nkomo was elected President. He subsequently occupied the same position with successor parties, the National Democratic Party and ZAPU. Both parties were banned in turn.

In 1961 Nkomo led an NDP delegation to the 1961 Constitutional Conference and initially agreed to work the 1961 Constitution. This proved to be unpopular with his followers and Nkomo reneged on his earlier agreement. He went on to urge Africans to refrain from registering as voters and to boycott elections, with disastrous results for the African Nationalist movement. In July 1963 growing dissatisfaction with Nkomo's leadership ( he had twice been out of the country when his party was banned and was suspected of personal cowardice) led to a split in the National ranks and the formation of rival parties: ZAPU led by Nkomo and ZANU led by Rev Sithole (qv). After months of inter-factional violence between these groups, both were banned and Nkomo himself was restricted to Gonakudzingwa (April 1964). He was quite unwilling to accept the Fearless terms or 1971 proposals. Seen by Sir Alec Douglas-Home in November 1971 and Pearce Commission, to whom he presented a memorandum remarkable for its lack of bitterness. Moved from Gonaku dzingwa to Buffalo Range June 1974.

Released in December 1974 to attend Lusaka talks. Remained in the background for several months after his release working at grass roots level to enlarge his personal support. Attended Kingston Heads of Government Meeting June 1975.

Returned to Rhodesia after attending abortive Victoria Falls talks. Denounced reformed external wing (Zimbabwe Liberation Council) and called ANC National Congress in Salisbury in September 1975, at which he was elected President.

Opened constitutional discussions with Smith in December 1975 and for his pains was bitterly criticised for a "sell-out" by

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African nationalists outside the ZAPU tradition. In fact Nkomo's approach to the negotiations was both principled and shrewd, and involved no compromise with the objective of early majority rule. Although many believed that a breakthrough was imminent just before the negotiations ended in failure in March 1976, it now seems fairly clear that there was no serious intention on Smith's part to make real concessions to nationalist aspirations. Following the breakdown of his discussions with Smith, Nkomo became progressively more extreme in his public statements and immediately before the Geneva Conference formed a loose alliance with Robert Mugabe's breakaway ZANU known as the Patriotic Front. Was again widely criticised when his secret discussions with Smith in 1977 and 1978 became public knowledge: great strain was thrown on ZAPU/ZANU relations. Now based outside Rhodesia, Nkomo devotes most of his energies to touring world capitals championing ZAPU's cause and seeking funds for his party. The Soviet Union and Cuba have been particularly forthcoming in terms of military assistance. A regular visitor to London, Nkomo has been received on several occasions by successive Secretaries of State and by Mr Callaghan as Prime Minister. With Mugabe, he had talks with Dr Owen and Mr Young in Malta in January/February and with Dr Owen and Mr Vance in Dar es Salaam in April 1978 on arrangements for the transition period under the Anglo-US proposals.

Nkomo is, of all the older generation of nationalist politicians, the one who is most congenial to President Kaunda and the only one who has shown himself capable of real statesmanship. He is first and foremost a nationalist and his pragmatism contrasts with Mugabe's ideological commitment.

Nkomo is grossly overweight ( some say deliberate over-provision of food and drink during his detention contributed to his obesity) and is now making efforts to follow an abstemious diet which excludes meat and most forms of alcohol.

He is married with children.

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SMITH, IAN DOUGLAS

Minister without Portfolio under Bishop Muzurewa in the Administration set up after the April 1979 elections; President of the Rhodesian Front.

Born 8 April 1919 at Selukwe mining camp near Gwelo, third child of an immigrant Scots miner, who later turned to farming and business, and was awarded MBE for his services to Selukwe. Educated Selukwe School; Chaplin School, Gwelo; Rhodes University, Grahamstown, South Africa. Served in RAF 1941-4 (130 Squadron RAF and 237 (Rhodesia) Squadron) and reached the rank of Flight Lieutenant. Severely injured in a take-off crash in North Africa in 1943 and shot down over enemy territory in Italy in 1944. Escaped after 6 months in hiding.

Started farming at Selukwe and elected Liberal Party MP, 1948. Elected to Federal Parliament in 1953 as member of UFP. Appointed Chief Whip by Welensky 1958. Resigned from UFP in 1961. Founder member of the RF. RF member of Southern Rhodesian Legislative Assembly for Umzingwane (Matabeleland) and Minister of the Treasury from 1962. Replaced Field as Prime Minister, and President of the RF 13 April 1964. Declared IDI 11 November 1965.

Not well known before 1964 but subsequently commanded near-worship from the majority of whites and carried all before him up to 1972. The test of acceptability, the re-emergence of the terrorist threat, the closure of the border with Zambia and the internal agreement of March 1978 have since provoked considerable criticism, but he has no obvious successor within the RF and unless there is a settlement, his opponents outside the RF will find his uncanny instinct for gauging popular feeling difficult to challenge. Won 1974 general election with ease, being returned unopposed in his own constituency. Although persuaded by the South Africans to take part in Mr Vorster's "detente" exercise and to release from detention and negotiate with the principal African leaders, he succeeded for some time in withstanding pressure to make meaningful concessions and skilfully exploited divisions in the African ranks. However, the various pressures, economic and political, eventually forced him to recognise the writing on the wall: he announced his acceptance of majority rule and initiated talks with three African leaders late 1977 which resulted in the Salisbury Constitutional Agreement of 3 March 1978, under which a transitional "Government" was set up and an independence date pledged at the end of 1978. The agreement over-insured the white position and many remain sceptical about his commitment to true majority rule. In 1978 he announced his intention of retiring from political life, but later stayed on, as he said to reassure white citizens that their interests would be protected. He may retire soon if he feels confident that he can leave behind a system which will provide whites with a secure position.

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He has aged considerably over the past few years, but is said to be still quite fit, keeping very simple outdoor habits.

Married with 2 step-children and one son of his own, who was convicted on a drugs charge in 1971 but has now been "converted" into a staunch MRA supporter. His wife, Janet, a South African widow, is a woman of personal ambition and reactionary views, and has considerable influence on him. Mrs Smith's sister is married to Mr Owen Horwood, South African Minister of Finance.

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SITHOLE, REVEREND NDABANINGI

President ZANU (Sithole)

Born 31 July 1920 near Shabani of Shangaan father and Matabele mother. Attended a Wesleyan school in 1932; resumed schooling at Todd's Dadaya Mission 1935. In 1939 went to Waddilove Teacher Training Institute. Became a teacher at Dadaya Mission; appointed assistant at Tegwani Training Institute 1948. Joined a newly-organised African Church 1950 and went as a teacher to Mount Selinda Mission 1953.

Went to study theology at Andover Newton Theological Seminary, Massachusetts in 1955. Returned to Rhodesia 1958 as Bachelor of Divinity. Joined Congregationalist Church and became principal of Chikore Mission in Chipinga District and President of Southern Rhodesia Teachers' Association. In 1959 his book on "African Nationalism" was published which made his reputation.

Made an official of the National Democratic Party October 1960. As a result his teaching services were terminated by Director of African Education. In December 1960 accompanied Nkomo to London to see the Commonwealth Secretary about NDP representation at Southern Rhodesia Constitutional Conference. Walked out of Conference with Nkomo in May 1961.

Appointed to National Executive of ZAPU 1961. Moved to Tanganyika when ZAPU banned in September 1962 and continued to work for the party. Returned to Salisbury and arrested July 1963 on a charge arising from a circular urging voters to boycott the December 1962 elections. On 8 August 1963 formed ZANU, but sentenced to imprisonment of one year from 1964-65 and then served with a restriction order for 5 years from May 1965. Met Mr Wilson in Salisbury in 1965. Moved to a detention camp in November 1968 and charged in January 1969 with incitement to murder Mr Smith and other Ministers on basis of a letter written to one of his associates. Sentenced to six years hard labour on 12 February 1969.

Released in December 1974 to attend Lusaka talks. Re-detained in March 1975 on charges of plotting to kill other members of the ANC leadership. Released after external pressure in April 1975 to attend OAU meeting in Dar es Salaam. Attended Commonwealth Conference in Kingston. Member of ANC delegation at Victoria Falls Talks. Was the prime mover in the re-formation of the ANC external wing (Zimbabwe Liberation Council) in September 1975, which contributed to the schism. Faded from the scene somewhat in 1976, and by September 1976 had been ousted as leader of ZANU by Robert Mugabe (qv). Omitted from original list of nationalist leaders invited to Geneva Conference but invited at the insistence of the Front Line Presidents. Returned to Rhodesia

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in 1977 where he formed the ANC (Sithole). Seen by Dr Owen in both London and Salisbury in 1977. With Bishop Muzorewa and Chief Chirau embarked on internal settlement talks with Mr Smith in December 1977. Signatory with them of the internal settlement agreement on 3 March 1978 and joined with them in forming Executive Council on 21 March. Did badly in the April 1979 elections which he had been sure he would win; immediately denounced as defective the new Constitution he had previously agreed to, and brought a legal action, which still drags on, alleging foul play in the elections. He and his 11 supporters who won seats in the election boycotted the Assembly and Government until August 1979; now, however, two of his supporters have taken Cabinet posts, though Sithole himself has not.

Sithole's programme and reputation are difficult to determine. At various times he has united with and later fallen out with all the main nationalist leaders. He has also frequently been at odds with one or other of the Front Line Presidents. Tribally he has, in spite of his origin become largely identified with the Shona. When led by Sithole, ZANU was under Chinese influence, and ZANU publications frequently reproduced ill-digested Maoist dogma. But Sithole himself does not give the impression of having strong Marxist convictions. Since the split in ZANU and especially during the period of his own temporary eclipse in 1976, Sithole has sought backing and material assistance from a wide variety of sources including commercial concerns.

Still commands support and respect of many "traditional" ZANU adherents. Claims also to have the support of many ZANLA guerrillas; he probably has much less support in this area than he claims and few guerrillas responded to the Executive Council's call in May 1978 for them to return. Harbours bitter feelings towards Mugabe and dislikes Nkomo. Unscrupulous but astute, he keeps his lines open to all parties and governments, and is certainly prepared to consider alternative arrangements if the "internal" agreement fails. Has proved unreliable: he has been the source of many "leaks" of meetings at which he has participated. Close to President Banda.

Alleged to have various diseases including syphilis and epilepsy. Daughter at Bishopslea (girls' school, Salisbury).

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MUZOREWA, BISHOP ABEL TENDEKAYI

Prime Minister in the Administration set up after the April 1979 Elections

President UANC

Born 1925 at Old Umtali with help of United (American) Methodist missionary doctors. Eldest child of a Manica peasant. Educated at Old Umtali mission and underwent theological training. Ordained deacon in the American Methodist Church in 1955 and elder in 1957. Spent 1958-68 in the USA obtaining BA in theology at Central Methodist College, Missouri, and MA at Nashville, Scarrit College. In 1968 elected first African Bishop in Rhodesia over the head of another African who was acting as Bishop after Bishop Dodge had been deported in 1964. Because he criticised the LTA he was banned in 1970 from entering Tribal Trust Lands by a restriction order which is still in force.

Approached by ZANU ex-detainees to lead the ANC in December 1971, and after 3 weeks hesitation because of his doubts about combining church and political work, became chairman of the ANC. Although seen at first as a front man, put up to make the ANC look respectable, he developed considerably in stature by his visit to the UK and USA in February 1972, during which he addressed the Security Council in strong terms. Came through London again just before Pearce report was published and was seen by Sir Alec Douglas-Home. Went abroad in July 1972 to East Africa for the All Africa Conference of Churches, of which he had been elected president in March, and on to West Africa where he was seen by General Gowon. Fell ill with a stomach ulcer on his return and spent 2 months in Nyadiri Mission Hospital. Rhodesian authorities then took away his passport to prevent him going abroad to lobby for the ANC. Re-elected (for another 4 years) UMC Bishop for Rhodesia at Methodist Conference in Malawi, September 1972. Met Lance Smith secretly in November 1972, and from July 1972 to May 1973 engaged in negotiations with Mr Smith. Although ANC Central Committee rejected Mr Smith's proposals in June 1974, Muzorewa's image was somewhat tarnished by revelations of his dealings with Smith and he was attacked by ZANU and ZAPU. Awarded UN Peace Prize 1973 but unable to go to New York to receive it.

Emerged as compromise President of post-Lusaka enlarged ANC in December 1974. Led ANC delegation to the Victoria Falls talks in August 1975. His weak leadership of the ANC contributed to the split in the leadership in September 1975. Later threw in his lot with the Sithole/Chikerema faction and, influenced by them, became increasingly militant. Repeatedly voiced his criticism of discussions held between Joshua Nkomo (qv) and Ian Smith (qv) 1975/6. Led delegation to Geneva Conference 1976. Reportedly offered a place in his delegation to Sithole (qv) who declined. Gained in popularity inside Rhodesia during 1976-1977 and by late 1977

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had attracted Chikerema (qv) and Nyandoro to his cause. Seen by Dr Owen in both London and Salisbury 1977. With Sithole and Chief Chirau opened "internal" negotiations with Mr Smith in December 1977. Signatory with them of the internal settlement agreement on 3 March 1978 and joined with them in forming Executive Council on 21 March. Sworn in as Prime Minister of Zimbabwe Rhodesia on 29 May 1979.

A man of integrity and principle, he lacks political skill and can be indecisive. Almost invariably overshadowed in discussion by colleagues and rivals alike. Retains considerable influence as one of the traditional leaders of the Rhodesian nationalist movement. Claims support among ZANU (Mugabe) guerrillas, but despised to some extent by the Front Line Presidents and the external nationalists. Many of them recognise his following, however, and would like to see him "saved" rather than, as they forecast, sink with the internal agreement. Has marked personal antipathy for Nkomo. His critics say he is over-influenced by his kinsmen and fellow Manica tribesmen.

Married with 5 sons, whose passport problems are a thorn in the side of British officials. Wife is a capable organiser.

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RHODESIA : CONSTITUTIONAL CONFERENCE

POINTS LIKELY TO BE RAISED BY THE SALISBURY DELEGATION

RHODESIA ALREADY HAS A CONSTITUTION WHICH HAS BEEN SHOWN TO BE ACCEPTABLE TO THE PEOPLE. THERE IS A BLACK MAJORITY GOVERNMENT CHOSEN IN FREE AND FAIR ELECTIONS. THEREFORE THERE IS NO NEED FOR FURTHER CONSTITUTIONAL CHANGE OR FOR NEW ELECTIONS.

1. We have fully acknowledged the extent of the political change which has taken place and the progress which has been made in Rhodesia. These have transformed the situation in the country.
2. But, as the Prime Minister made clear in Lusaka, there are aspects of the present constitution, in relation especially to the blocking power of the whites in Parliament and to the composition and powers of the Public Service and other Commissions, which have been justifiably criticised.
3. The British Parliament alone can grant legal independence to Rhodesia, and the British Government has the responsibility to recommend to Parliament arrangements for bringing Rhodesia to legal independence which are fully comparable with those we have made for the independence of other countries.
4. There is also a need to make a determined effort to see if it is possible to achieve a settlement which offers hope of bringing an end to the war and which demonstrably offers all parties a chance to participate on terms which are fair to all.
5. We are confident that, with goodwill on both sides, this can be done in a way which will not damage the legitimate interests of any group in Rhodesia, and which will secure the wide international acceptance which is crucially important for the future of a legally independent Zimbabwe.

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6. Our task at this Conference is to take advantage of the favourable atmosphere created by the Lusaka meeting to arrive at a solution which will be fair to everyone in Rhodesia and offer you and the people you represent the best chance of legal independence on terms which will be truly beneficial to you. This is what we must now concentrate on.

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RHODESIA: CONSTITUTIONAL CONFERENCE

ATTITUDES OF THE PARTIES

THE PATRIOTIC FRONT

A. ZANU (MUGABE)

1. The indications from intelligence and other sources are that ZANU, as expected, will not be coming to the Conference with any intention of negotiating seriously for an agreement. Mr Mugabe, influenced by the experience of FRELIMO in Mozambique, knows that to win a guerrilla war it is not necessary to defeat the Rhodesian security forces in the field (which is beyond his capacity); it is sufficient to go on fighting until the other side has had enough. He now has 11,000 men fighting inside Rhodesia with some 15,000 in reserve. It is more difficult for the Rhodesians to hit targets in Mozambique than Zambia and Mugabe's army (ZANLA) are more adept in the use of genuine guerrilla tactics, avoiding large concentrations. He has the support of the Mozambique government and also, though less unequivocally, of Nyerere. If the military pressure exerted by ZANLA can be sustained and increased, a point could come at which the white exodus would become a flood and victory would be attainable. But he is conscious that he could at that stage find himself in a military confrontation with Nkomo; and of the risk of South African intervention.

2. Mugabe is likely to adopt an intransigent attitude at the Conference. This is in his nature: he has never shown himself ready to compromise. His political strength lies partly in the fact that, alone among the nationalist leaders, he has never been caught negotiating with Mr Smith. He was able to exploit to Nkomo's disadvantage the latter's last attempt to negotiate with Mr Smith in August 1978. Mugabe believes, probably rightly, that he could win an election against Nkomo (being a Shona he has a wider tribal base) and

/that

that the longer the war goes on the stronger his position will become. Mugabe will be adamant in his insistence that the Patriotic Front should exert effective control over the administration before new elections are held and that the future army must be "based on the liberation forces". He will also seek to argue that there should be no separate white representation at all and no amnesty. He will not want any constraints of the kind we have normally written into independence constitutions. Much is sometimes made of Mugabe's Catholic education, which has certainly influenced his cast of thought. But he is a committed Marxist, though not of the pro-Soviet type. ZANLA receive no direct military support from the Soviet Union (though they do have access to older Soviet equipment supplied to them by the Mozambicans, Ethiopians and others). Mugabe dislikes and distrusts the Soviet government because of their support for Nkomo. He is intellectually in a much higher category than either Nkomo or Muzorewa. He is at present in more effective control of ZANU than in the past, though it is a collective leadership, within which he depends on Tekere (Secretary-General) and the military commander, Tongogara. Most of his senior colleagues are much less intellectually impressive than Mugabe, and even more inflexible. Mugabe is contemptuous of Nkomo whom he regards as an opportunist; but he will be concerned to maintain the semblance at least of Patriotic Front unity throughout the Conference and to drag Nkomo with him in a refusal to participate in new elections held under our authority. Mugabe would be in serious difficulty, both politically and militarily, if Nkomo agreed to participate while ZANU tried to continue fighting.

## B. ZAFU (NKOMO)

1. The indications from intelligence and other sources are that Nkomo will be under considerable pressure from the Zambians and elements within his own party to negotiate seriously at the Conference. But he will be concerned not to appear to be being out-flanked by Mugabe or to be exposed to accusations of splitting the Patriotic Front. It is difficult to predict how he will re-act to these contradictory pressures. He may at the outset adopt a blustering and intransigent approach. But whereas Mugabe tends to take the same line in public and in private, Nkomo can be expected to give a number of private indications that he may be prepared to participate in new elections. The leading "moderate" members of his party (Chinamano and Chambati) will be urging him to do so, provided they are satisfied that the pre-independence arrangements would give ZAFU a fair chance.

2. Nkomo at present has only about 2,800 men inside Rhodesia, but over 20,000 in Zambia. His troops are better equipped (by the Soviet Union) than those of Mugabe; but various plans for a conventional offensive have come to nothing in the face of Rhodesian air attacks.

3. Nkomo's strength lies in the fact that as the traditional nationalist leader he enjoys considerably more support in the OAU than Mugabe. He also has direct Soviet support. A settlement involving Nkomo (but excluding Mugabe) would get widespread support elsewhere in Africa. Nkomo dislikes and affects to despise the doctrinaire and physically unimpressive Mugabe but, in recent years, has been steadily out-manoeuvred by him. Nkomo launched a serious attempt in December 1975 to negotiate an orderly transition to majority rule with Mr Smith and it was only after the breakdown of that attempt in March 1976 that he took up the "armed struggle", from which he had been isolated in any case during his ten years in detention (1964-74). His forces (ZIPRA) are more vulnerable to

/Rhodesian

Rhodesian attack than those of Mugabe, because some of the units are formed on "conventional" lines and it is easier for the Rhodesians to attack bases in Zambia (where they have better intelligence). ZIPRA's strategy, in the event of a collapse inside Rhodesia, would be to use their conventional units to put themselves in a position to dictate terms to ZANU.

4. There has been an erosion of Nkomo's support inside Rhodesia, as Muzorewa and Mugabe have established themselves as the Shona leaders. But Nkomo still enjoys general support among the Ndebele (20% of the population) and there could be a rapid revival in his political fortunes if he returned to Rhodesia as the "peace-maker". He also has among his lieutenants some of the ablest and - in the past - most moderate of the older nationalist leaders. Despite President Kaunda's strong personal support for Nkomo there is a good deal of discontent in both Zambia and Botswana at the ill-disciplined activities of Nkomo's forces. He will not therefore want to put himself in a position where a failure of the Conference is attributed to him, to an extent which could affect Kaunda's continuing support. He will oppose the idea that up to 20% of the Parliament should be elected by whites on a separate roll. But he is likely to attach most importance to the pre-independence arrangements (that elections should not be influenced by the present administration, Muzorewa should not be permitted to campaign as "Prime Minister" and there must be a UN or Commonwealth force).

## THE SALISBURY DELEGATION

## A. BISHOP MUZOREWA

1. When the Prime Minister saw Bishop Muzorewa on 13 July she made clear to him that the independence Constitution would have to be comparable to the constitutions which we had given other African countries at independence; the Constitution would have to be seen to have originated with and to be approved by the United Kingdom; and there would have to be a demonstration of the acceptability by the people of Rhodesia of what had been agreed. On this basis we would not permit any other party to exercise a veto over a settlement. Muzorewa is therefore in no doubt about the basis on which we will be prepared to grant legal independence.

2. As he demonstrated in the April elections, Muzorewa has extensive political support in the Shona population (though virtually none in Matabeleland). He has a well-organised party machine, some able lieutenants and is not regarded as an opportunist like Sithole or Chikerema. He has a genuine commitment to a solution in which the white community would be able to play a full part.

3. Muzorewa and the other UANC Ministers would, for their part, have no difficulty in accepting the kind of constitutional changes we regard as indispensable. But they are concerned that if they lose the support of the defence commanders, they would no longer be able to hold off the Patriotic Front. There are signs that Muzorewa's inability since the April elections to bring about changes affecting the lives of the African population generally may be losing him some support. He is also concerned about the attitude of Sithole, Chikerema (leading a break-away faction of his own party) and Ndiweni. He realises that we have been doing what we can to bolster his authority, both in public statements and in leaving in his

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hands the composition of the Salisbury delegation.

4. Muzorewa is not a decisive leader. He will be looking to us to fight his battles for him both vis-à-vis the Patriotic Front and the Rhodesia Front. He will not be able to impose his own views on the Rhodesia Front Ministers. But he will realise that it is essential to his own prospects of political survival to be seen to be making progress towards a settlement and the lifting of sanctions. He will at the outset make a strong defence of the existing Constitution, but is well aware that we will not be prepared to grant independence on that basis. We shall be impressing on him the need at every stage in the Conference for him to be seen to be adopting a reasonable attitude in the face of Patriotic Front intransigence. He will be worried about any combination involving Nkomo, which could threaten his political position. He will also show resistance to the idea of a new election, but has said publicly that he would be prepared to accept this if it would help to win international recognition and bring an end to the war. He would be well-placed to win such an election if he is able to show that he has succeeded in negotiating the arrangements for legal independence and the lifting of sanctions.

## B. THE WHITE COMMUNITY

1. Mr Ian Smith will come to the Conference with the intention of winning the political argument with the Patriotic Front, but also with the object of emerging with little or no change to the present Constitution. The defence commanders did not support his inclusion in the Salisbury delegation and his presence will render it <sup>more</sup> difficult for Muzorewa to present himself as the real leader of his delegation.

2. Mr Smith has brought off the extraordinary feat of defying most of the rest of the international community for fifteen years, but has only been prepared to concede majority rule at a stage at which the security situation was already almost out of control. His deferment of the elections which were due to be held in December 1978 caused serious problems for Muzorewa. It was only under strong pressure from the South Africans that he went ahead with them in April 1979. He promised the South African Prime Minister and stated publicly that he would withdraw from politics before the April elections, and subsequently gave equally firm undertakings not to participate in the government thereafter. His present stated intention is to withdraw from politics once legal independence has been achieved and sanctions are lifted. His endorsement of a settlement would, however, be an important element in the maintenance of the confidence of the white community. His withdrawal from the Government could also be a useful element in presenting a settlement to moderate international opinion.

3. Mr Smith will hope that as the November date for the renewal of Section 2 of the Southern Rhodesia Act approaches the Government will be under pressure to accept only minor changes to the Constitution (and no demonstration of its

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acceptability). It will be essential to disabuse him of any illusions on this score. Mr David Smith, who will be accompanying him, is likely to be prepared to accept reasonable constitutional change. But it will be difficult to get him to stand up to Ian Smith on any issue of consequence.

4. General Walls has told Muzorewa that it is extremely important that this opportunity to find a solution should be seized. He does not appear himself to see serious difficulty about our proposals for constitutional change. He believes that the Rhodesian forces can contain the security situation, though Mugabe's guerrillas are exerting increasing pressure. The business and farmers' leaders are also anxious for a settlement.

5. The white officials in the Salisbury delegation will negotiate to preserve as much as possible of the existing constitution, in particular the numerous provisions which give them effective control over the administration, judiciary and the defence forces. It will be possible to reassure them that we have very much in mind the need to preserve standards of efficiency in the civil service, within which senior appointments must, however, be under ultimate governmental control. They will negotiate with considerable intransigence, but will be doing so against the background of a political and military situation which could deteriorate rapidly if no settlement is in sight; and the fact that the real pressure on the white community is exerted by the war.



C. OTHER PARTIES

1. Sithole will support the kind of constitutional changes we have in mind, though there is a danger that he will try to play a maverick role at the Conference. We have told him that it would be extremely unwise of him to put forward proposals (as he intended to do) for a transitional administration until agreement has been reached on the outline independence Constitution. He has been flirting, through his connection with Mr Rowland on Lonrho, with some kind of alliance with Nkomo, involving also Chikerema and, possibly, Ndiweni. Nkomo would only be interested in such an alliance on his own terms. Sithole detests Mugabe, who supplanted him as leader of ZANU.

2. Chief Ndiweni will try to use the Conference to put forward ideas for a Constitution giving greater representation to Matabeleland; and will be hoping to see an agreement involving Nkomo (as the real Ndebele leader).

[Note:

It will be apparent from the above that if the Salisbury delegation find themselves in an awkward position because of the intransigence of the Rhodesia Front, this is likely to put considerable strain on the cohesion of the various elements of the governing coalition.]

## ATTITUDES OF THE "FRONT LINE" STATES

### A. TANZANIA

1. President Nyerere has responded well to his discussions with the Prime Minister at Lusaka; and there has been a positive exchange of messages with him. The Tanzanians can see little wrong with our outline constitutional proposals, subject to one important proviso. This is that Nyerere will show a tendency to argue that the white representatives in parliament should not be elected by the white community on a separate roll (which he regards as a "racial" provision) but by the electorate as a whole. This would not be negotiable with the internal parties.

2. Nyerere will attach more importance, however, to the pre-independence arrangements. He has always said that if the Patriotic Front were offered a chance to participate in elections on fair terms, the Front Line Presidents would insist that they must do so. Nyerere will support the Lusaka agreement that elections should be held under our authority, with Commonwealth observers present. But he will also argue that it would be unfair to the Patriotic Front for those elections to be conducted with the Salisbury administration in place and Muzorewa able to campaign as "Prime Minister". He will also place emphasis on the need, during the pre-independence period, for a Commonwealth or UN force to support the police; and for the latter to be brought under our control. In short Nyerere may well find himself arguing for a temporary return to dependent status with an administration largely under British direction. It will however be hard for him to argue for any arrangements which would pre-judge the outcome of the elections in favour of the Patriotic Front. He is well aware that the present government would not agree to the concession made to him by President Carter that the future army should be "based on the liberation forces". Nyerere has sufficient influence on

/Mugabe

Mugabe (via Machel) to render it difficult for him to obstruct an agreement which Nyerere is prepared to back; and he is also concerned to play a leading role within the OAU. He could therefore see a real interest in working with us towards a settlement, but will also be liable to look for a pretext to revert to support for the Patriotic Front if the attempt fails. He will react against any manoeuvres which he interprets as being designed to split the Patriotic Front.

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## B. ZAMBIA

1. President Kaunda has a strong personal commitment to Nkomo, who is a life long friend. He is conscious of the history of Nkomo's attempts to negotiate with Mr Smith and considers that he was forced into taking up arms by Smith's intransigence during the 1976 negotiations. Kaunda has an equally strong commitment to bringing about "genuine" majority rule in Rhodesia. Although the attacks on Rhodesia which have been launched by Nkomo's forces in Zambia have caused less problems for the Rhodesian security forces than Mugabe's efforts from Mozambique, the normalisation of relations with Zambia is the key to transforming the security situation in Rhodesia. Kaunda is conscious of the fact that there is a good deal of dissatisfaction in Zambia with Nkomo and his forces and a disposition to argue that the President should give priority to Zambia's interests.
2. Kaunda will be concerned about the extent of white representation in the Rhodesian parliament, but has so far reacted well to our constitutional proposals. As in the case of Nyerere, he will be concerned that he can assure Nkomo that, if he agrees to participate in fresh elections, he will have a fair chance of winning, ie that we will be prepared to supervise the elections (and not to leave much of this to the existing administration) and that we are not excluding the idea of a Commonwealth force. But he lacks Nyerere's intellectual subtlety and is unlikely to push the argument for British involvement in the transition as far. As in the case of Nyerere, there must be question-marks about Kaunda's ultimate determination to force Nkomo to participate in new elections; but there is sufficient war-weariness in Zambia to render that a possibility. Kaunda cares little for Mugabe and will show less concern for Patriotic Front unity than Nyerere.
3. Kaunda is sending his special adviser, Mr Mark Chona, to keep in touch with the delegations throughout the Conference.

## C. BOTSWANA

1. President Seretse Khama has a strong interest in a peaceful settlement. The Botswana defence forces are unable to control the activities either of Nkomo's ZIPRA or the Rhodesian forces on their territory and Botswana faces a major refugee problem. The Botswana government can therefore be expected to play a helpful role (President Khama has already reluctantly agreed, for example, not to make an issue of his sincere objections to special parliamentary representation for whites). But they do not have any capacity to exert pressure on the Patriotic Front unless Kaunda or Nyerere can be persuaded to take the lead in doing so. The Botswana Foreign Minister, Mr Mogwe, may come to London during the Conference.

## D. MOZAMBIQUE

1. The Mozambique Government have responded reasonably positively (though with less commitment than the Commonwealth African Presidents) to the Lusaka agreement. They are sending a Minister, Mr Cabaco, and President Machel's British-educated special adviser, Mr Honwana, to London during the Conference. Mr Honwana has said that we should not take too seriously the extreme line at present being put out by Mr Mugabe. The Mozambique government recognise that some safeguards for the white community would be necessary to get an agreement. The Rhodesian army was not defeated and the Patriotic Front were not united. Provided that the new government did not have to live with the Rhodesian security forces commanded by the present commanders, Mozambique would urge the Patriotic Front to participate in new elections.

2. The Mozambique government is, however, strongly committed to Mugabe and ZANU, though they are suffering heavily from the Rhodesian raids and from dissident movements helped by the Rhodesians in western Mozambique. It is unlikely that Mozambique would hold out against an agreement supported by the Commonwealth African Presidents. But they can be expected to give general support to Mugabe's negotiating demands and to give him continuing support in fighting the war if the Conference fails to produce a solution which is accepted by the Commonwealth African Presidents.

E. ANGOLA

1. Angola is not really a front-line state. They do not at present appear to be intending to send an observer. President Neto reacted favourably to the Lusaka agreement. The Angolans support Nkomo rather than Mugabe.

RHODESIA: PRE-INDEPENDENCE ARRANGEMENTS

1. During the negotiations on the basis for independence, we are going to run into questions from the parties about the arrangements for implementing whatever settlement is agreed. The central questions will be how the election is to be conducted and who is to be responsible for the administration of the country during it.
2. The agreement at the Commonwealth Heads of Government meeting at Lusaka was that:

"the government formed under such an independence constitution must be chosen through free and fair elections properly supervised under British Government authority, and with Commonwealth observers."
3. This paper considers two possibilities:
  - a. the pre-independence arrangements which might need to be made in the event of the Patriotic Front - under pressure from the Commonwealth African Presidents - agreeing to participate in new elections;
  - b. the more likely eventuality that we may have to supervise a demonstration of the acceptability to the people of Rhodesia of revised constitutional arrangements accepted by the internal parties alone.
4. Although we are unlikely to have to implement the arrangements at (a) above, it is necessary to work out our ideas on these to the extent necessary to deal with the argument the Patriotic Front will deploy from the outset, that no agreement can be reached on the Constitution without prior agreement on the transitional arrangements. We must deal with this argument in such a way as to expose the fact - which the Patriotic Front have never taken much trouble to disguise - that their demand is not for parity but for dominance in any "transitional"

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administration and for control over the administration and the composition of the future national army before elections are held.

A. PRE-INDEPENDENCE ARRANGEMENTS IN THE EVENT OF ALL-PARTY AGREEMENT

5. Our general response to the argument that the transitional arrangements must be settled (and Bishop Muzorewa's administration "dis-mantled") before elections are held should be to say that this is a Constitutional Conference. We are, deliberately, adopting a step by step approach. The first priority is to agree on the basis for independence. We have agreed at Lusaka that, in that event, new elections would be held under British Government authority, with Commonwealth and other observers present. We should insist that it is our responsibility to ensure that those elections are free and fair and that we are fully resolved in that event to do so. As at Lusaka, we should resist attempts to dictate to us the manner in which we should carry out our responsibilities. The Patriotic Front have already sought to reject elections held under our control; but we should base ourselves firmly on the Lusaka agreement. If it is argued that the Anglo-American Proposals made detailed provisions for a transitional administration, we should say that they are no longer on the table. We are adopting a different approach. Under the Anglo-American Proposals, it was never possible to get into a discussion of the basis for independence precisely because the parties focussed from the start on the problem of the transition.

6. We will not, however, be able to hold this position. A point will come at which we shall have to give some indication of our intentions for the transition if agreement is reached on an independence constitution. The Patriotic Front might refuse to take the discussion beyond a certain point on the ground that they are not prepared to agree to an independence constitution without guarantees that it will be fairly implemented. Such an attitude would not be wholly unreasonable, if - though this is very doubtful - they are prepared to negotiate seriously; and

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it is in any case essential for us to deal with this argument.

7. It is unnecessary, and would be unwise, for us to respond to such a move by putting forward detailed proposals for a transitional administration under British or any other auspices. The better course will be to make a statement in general terms of what we believe to be the basic elements in a fair transition, and to make clear that we are prepared to play the part in it appropriate to us as the constitutionally responsible authority.

A A draft statement is attached, for use as necessary with the parties themselves and with the Front Line Presidents.

8. There is little chance of the Patriotic Front accepting any arrangements for the transition which we would be prepared to implement. If they continue to demand dominance in response to a statement on the lines attached, we shall be able to represent to other countries, including the Americans, the impossibility of reaching a fair agreement with them.

9. If, however,

- a. agreement had been reached on an independence constitution and
- b. the Patriotic Front - under pressure from the Commonwealth African Presidents - agreed to participate in elections without a dominant position in advance.

this would put strong pressure on the Salisbury administration to agree that we should assume control over the electoral process while elections were held. This is an unlikely eventuality; but we should be prepared to carry out that responsibility. We would do so by offering to provide a British Election Commissioner and supporting team. At the same time we should have to arrange for the parties to have equal access to the Rhodesian press, radio and television. In relation to the policing of the elections, we would probably need to rely on the existing police, under British supervision and control.

10. But the Patriotic Front will argue that they cannot be expected to participate in new elections with a fair chance of success - even if they are held under "neutral" control - if Bishop Muzorewa remains in charge of the administration. They will not accept that he should be able to campaign as "Prime Minister". If there was any evidence that they were under pressure to accept a "neutral" arrangement, it might be necessary to contemplate either (a) that all parties participating in new elections should detach themselves from the administration while they did so and/or (b) a return to legality. Course (b) would enable sanctions to be lifted forthwith. It would be compatible with the agreement at Lusaka that elections would be held "under the British Government's authority". But it would involve us in still more direct responsibility than for the organisation of elections - albeit in the context of a cease-fire, and with the support of the neighbouring countries. Alternative (c) - the idea of an interim Council with both sides participating on the basis of parity - was never accepted by either side in negotiation on the Anglo-American proposals (with both insisting on a dominant position).

11. The military arrangements (organisation of a cease-fire and the separation of the forces) would be a matter for negotiation with the parties. We should not be prepared to agree to any demand for the dis-mantlement of the Rhodesian security forces. But arrangements would have to be made to separate the Rhodesian security forces and those of the Patriotic Front. We should insist that the military problem can in our view be resolved provided the political will to reach a settlement has been demonstrated by agreement on the independence constitution (and, if that can be agreed, that new elections would be held under our supervision). We would then arrange talks between the military leaders on either side, under our chairmanship. The key element would be agreement on the separation of the forces. This would have to involve no military activity

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by the Patriotic Front - and no movement by the Rhodesian security forces. It will be argued by the Patriotic Front that the police have also been fighting against them. The response to this would have to be that, for the elections, they would be brought under our control; and that Commonwealth observers would be present. It might also be argued (more reasonably) that the police alone would not be able to supervise a cease-fire, and we have ruled out the use of British troops. If it ever came to that, there could be renewed Commonwealth interest - if this clearly were the key to implementation of the Lusaka agreement - in a Commonwealth force, which would, however, have to be composed of elements acceptable to both sides. (The Patriotic Front have said that they would accept a United Nations force - which would be unacceptable to the internal parties - but only in a context in which they had effective control over the interim administration.)

#### B. PROCEEDING WITH THE INTERNAL PARTIES

12. Paragraphs 5 to 11 above demonstrate (a) the extreme difficulty of working out any practical arrangement for the pre-independence period if both sides agreed to take part in new elections; but also (b) the importance of winning the argument with the Patriotic Front about reasonable conditions for new elections. It is more likely that we shall instead face the task of working out a convincing demonstration of the acceptability of whatever proposals for independence we are able to work out with Bishop Muzorewa's government without the Patriotic Front's concurrence. The question of establishing an administration which was impartial as between the Salisbury parties and the Patriotic Front would not arise, since the latter would have refused to participate (except on terms which guaranteed them dominance). Whatever form it took, the consultation would need to demonstrate clearly the acceptability to the people of Rhodesia of the constitutional arrangements proposed as the basis for independence.

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13. In this situation we shall have to devise a practical arrangement (not just a statement of principles) which will not be impossibly insecure for the Salisbury administration, or too difficult or expensive for HMG, and yet will offer assurance to responsible international opinion that a genuinely fair and impartial test of opinion has been carried out. The previous history of such tests in Rhodesia and elsewhere suggest that they are only accepted as fair in Africa if they produce the "right" answer. But we must aim to carry conviction with the wider international audience, in particular with the United States, the old Commonwealth and our European allies; and to make it appear that we are seeking to fulfil our part of the Lusaka agreement, the responsibility for frustrating which lay with the Patriotic Front.

14. No selective test of opinion on Pearce lines would carry conviction in present conditions. If it found in favour of proposals worked out only between HMG and the Salisbury administration, there would be immediate charges of bias. The Pearce formula was adopted in 1972 largely because of Mr Smith's objections to the political implications of a referendum of the African population, objections which could hardly be sustained now that Rhodesia has had an election on the basis of adult suffrage.

15. The demonstration of acceptability would, therefore, need to take the form of an election or referendum or a combination of the two. To carry conviction, we would need to ensure that the conditions in which an election/referendum were held included the following:

- a. freedom to conduct normal political activities, provided this is done in a peaceful and democratic manner;
- b. freedom to campaign both for and against the constitutional proposals, subject to a.;

/c. radio

- c. radio and TV time and freedom to advertise in the press for all parties in the House of Assembly and for any other body prepared to campaign peacefully for or against the proposals.

16. It would remain then to settle who should conduct such a test and how its impartiality is to be secured. In such circumstances there would be no question of our playing a direct role in the administration of the country or in ensuring law and order during the referendum. These functions would be left to the Salisbury administration (who are unlikely to accept anything else).

17. The crucial question will be that of the arrangements for supervision of the election or referendum. We would be on stronger ground the more closely we could approximate to the conditions on which plebiscites were conducted in the UN trusteeship territories in the late 1950s. In these cases the administering power (ie the local British, French or Belgian administration) carried out the referendum, while a UN visiting mission provided the supervision. In the case of the Togoland plebiscite of 1956, the visiting mission consisted of a Referendum Commissioner and staff, including observers. They carried out the following tasks:

- a. supervising the registration of voters and hearing complaints and allegations in this connexion;
- b. agreeing the "symbols to be allocated to the two alternatives";
- c. attending the printing of ballot papers and supervising their packing, sealing and opening at the other end;
- d. being in the territory throughout the plebiscite campaign to observe that it was fairly conducted and to hear complaints and representations in this connexion;

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- e. being present throughout the vote at every polling centre;
- f. supervising the counting of ballots.

18. It will be seen that the role of such a mission will be different to that of the observers who were invited to witness the Rhodesian elections in April 1979. Persons trained and experienced in this field could be found in the UK and elsewhere. While we would regard the supervision of the <sup>election or</sup> referendum as a matter for Britain alone, we should insist that Commonwealth governments and others should be invited to observe it. We should not insist on the registration of voters, which would not be possible in the time available, but we should try to encompass as many as possible of the other functions in paragraph 17 above.

19. On the pros and cons of a referendum or an election, the advantages of an election are that this would be most closely in accordance with the Lusaka agreement. It may be easier to secure a high turn-out in an election. A partial election at any rate will be required if the number of African seats is increased; a general election would obviously be preferable. The disadvantages are that Muzorewa will strongly resist a new general election, in which he would have most to lose. Elections have been held and were considered by Lord Boyd and others to be reasonably fair. It could still be argued that the constitutional proposals were not being voted on directly.

20. The advantage of a referendum is that it would deal with the latter argument. To that extent it would be complementary to the April elections. The question could be simply put: "Do you wish to proceed to independence on the basis agreed with the British Government?". Fears of a low turn-out could be overcome by a campaign based on the fact that a positive vote would result in legal independence and the lifting of sanctions.

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The disadvantages are that it would not correspond to the Lusaka agreement. It would be argued that this would leave the "illegally elected" pre-independence Parliament in being. Sithole, Chikerama and others will cause a great deal of trouble if they are not able to secure at least partial elections.

21. The ideal solution would be a new general election coupled with a referendum on the constitutional agreement. But the questions of a referendum or a new election will be a matter for negotiation with the Salisbury administration. A new partial election will be necessary if there is an adjustment of the parliamentary seats. This could be coupled with a referendum. If Muzorewa can promise recognition and the lifting of sanctions, he should be able to get a high turn-out and to win. If he cannot, the regime is unlikely to survive anyway. The essential point for HMG is that there should be a convincing demonstration of the acceptability of what is finally agreed with him.



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## PRIVACY MARKING

DRAFT STATEMENT [For use as necessary  
 during the Conference]

In Confidence

## RHODESIA: ELECTIONS

1. In the event of all-party agreement on an independence constitution for Rhodesia, it will be necessary to consider how to proceed to independence.
2. It is presumed that the independence constitution will provide in the normal way for the legislature and (directly or indirectly) the executive to derive their authority and powers from an expression of the popular will through an election. If that is to be so, a legislature and executive constituted in terms of the Independence Constitution cannot take office on Independence Day unless there has been an election before independence. Consideration must therefore be given to designating an authority to conduct the elections and to agreeing the conditions in which the elections and the campaign leading up to them are to be held.
3. The British Government believes that the following elements will be essential to the conduct of a free and fair election the result of which will be acceptable to the international community:-
  - (a) the administration of the election should be scrupulously impartial as between one party and another;
  - (b) peaceful political activity, including pre-election campaigning, would take place freely and without intimidation of any kind;
  - (c) all parties should have free and uncensored access to all the public media (press, radio and television); and
  - (d) the election should take place under impartial supervision.

The British Government is prepared to assume its responsibility, as the constitutionally responsible authority, to see that these requirements are met if the parties agree on an independence constitution.

5. The conduct of the elections will require the agreement of the parties on a ceasefire and on the separation of the forces. In the event of agreement on the independence constitution, the British Government will facilitate talks between the military commanders on both sides to settle the conditions in which a ceasefire shall be established and maintained.

## THE RHODESIAN CONSTITUTION: THE COMMISSIONS

1. We have tended to use "the Commissions" as a shorthand for what is a complex series of provisions in the 1979 Constitution for regulating the public (civil), police, prison and defence services.
2. Judicial, Public Service and Police Service Commissions (we do not recall precedents for Commissions for defence services) have been a common factor of independence constitutions. They have been designed to set standards and to give appropriate protection to members of the civil services, particularly against nepotist and tribal tendencies amongst the heads of individual Ministries. The basic problem with the provisions for Commissions in the Rhodesia Constitution is that their composition and powers seem designed to make the elected government a prisoner in the hands of the existing establishment of senior civil servants, judges and army and police officers.

Main Objections

3. In particular, the provisions of the 1979 Constitution for the control of the civil and uniformed services have the effect:
  - a. that the existing public service hierarchy rather than the political leadership of the country will have the decisive vote in appointments to the top jobs, including those of Chief Justice, the Secretary of the Cabinet, Secretaries (i.e. Permanent Secretaries) of Ministries, the Police Commissioner, the Attorney-General, and the Commanders of the Armed Forces;
  - b. that the qualifications laid down for holders of the office of Chief Justice, other judges, the Attorney-General, the Police Commissioner and the Armed Forces Commanders make it almost inevitable that the posts be held by Whites for the foreseeable future;
  - c. that the composition of the various Commissions makes it inevitable that Whites will continue to dominate them. Thus the Chairman of the Public Service Commission and two out of four of its other members must have been a Secretary,

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Deputy Secretary or Under Secretary in the Public Service; the Chairman of the Public Service Commission chairs the Police and Defence Services Commissions, two of whose other members must have held the rank of Assistant Commissioner of Police, Colonel or Group Captain respectively. Although the President has the power to appoint 2 other members in each case, the 2 "qualified" members with the Chairman will always constitute a majority.

- d. for the foreseeable future, therefore, Whites will retain an exclusive power over appointments throughout the judiciary and civil service; the same will apply in the police and armed forces, where the power of appointment rests with the Commissioner of Police and the Commanders respectively.
- e. the problem in c. and d. above will be compounded by the statutory provision requiring appointing authorities to give preference to qualifications and experience (which will favour the Whites) and the absence of any positive provision for Africanisation;
- f. the provision for general political direction of the Commissioner of Police and the Commanders of the Armed Forces is inadequate;
- g. the Commissioner of Police, the Armed Forces Commanders and the members of the Commissions have protection of tenure.

#### Our Proposals

4. We have informed the Rhodesians privately of our objections on these points. At the same time, in the constitutional proposal which we are preparing to table at the Conference, we have tried to overcome them in the following ways:

- a. by giving the President, acting on the advice of the Prime Minister, the right to make appointments to the top posts (Chief Justice, Attorney-General, Permanent Secretaries, Police Commissioner, Armed Forces Commanders) subject only to consultation with the appropriate Commissions.
- b. removing the 10-year "in house" qualification for the Attorney-General and the provision that senior judges be appointed from the next junior grade.

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- c. setting no precise qualifications for membership of the Commissions (except the Judicial Service Commission) other than that their composition must take account of their need to receive the advice of properly qualified and experienced persons.
  - d. equipping the President with the power to give directives to the Commissions to achieve a suitable representation of the various components of the population in making appointments.
  - e. providing that the Commissioner of Police and other commanders are responsible for their respective forces subject to general Ministerial direction.
  - f. removing protection of tenure from the Commissioner of Police and the Commanders of the Defence Forces.

These changes would bring the functions and powers of the Commissions and the exercise of the responsibilities of senior posts in the Public Service and Armed Forces into line with those in other independence constitutions. For presentational purposes, particularly vis-à-vis the Patriotic Front, our position needs to be "pure" on each point, i.e. we need to be able to demonstrate that under each provision it would be possible for an elected government to exercise proper control, and for Africans to hold key posts. In practice we might not need to insist on all of them. If, for instance, the Chairman of the Public Service Commission was appointed on the advice of the Prime Minister and the Commissions were generally subject to a direction to achieve Africanisation, then the precise qualification of members of the Commissions would matter less.

#### Handling of the Commissions at the Constitutional Conference

5. In tactical terms it will suit us to concentrate discussion at the Conference first on the question of White representation in Parliament and the blocking mechanism. There is little likelihood that the Salisbury delegation will be prepared to agree arrangements for the Commissions until the main political question of White representation in Parliament is settled. Similarly it will be sufficient that our broad proposals on the Public Service Commissions are publicly defensible vis-à-vis the Patriotic

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Front: but we should not get involved in detailed negotiation with them until they have agreed on the main political issues.

6. We shall want therefore to stick initially to the 2 principle set out in our published proposals: the need to preserve standard of efficiency in the public service while recognising the legitimate claims of the majority of the population to increasing representation in all forms of public office; and the need for the Prime Minister to have the power to make certain senior appointments in the public service. At the appropriate moment we shall wish to table the built-up outline of a constitution, which contains the proposals described in paragraph 4 above. Although the Patriotic Front will probably object to the principle of the Commissions and try to claim that even our proposals will allow the Whites to exercise continued dominance, our problem with them is likely to be more acute in respect of the composition of the armed forces and police (and possibly the top ranks of the civil service) at the commencement of the independence constitution (i.e. a transitional problem) than of the permanent provision for the control of services. Muzorewa must himself see merit in our proposals but will look to us to convince the White members of his government and White officials to accept them.

7. How we handle the problem after the initial stages can only be decided in the light of progress on the questions of White representation and blocking powers. So long as:

a. the Patriotic Front are still engaged in negotiation, our aim will be to stick to the broad principles set out in our proposals and argue that these provide reasonable safeguards for both communities. The Constitution itself should not seek to establish provisions which are too elaborate, e.g. on the membership of commissions. This should be left to secondary legislation to be considered by a post-independence Parliament (and thus reflect the political realities).

If on the other hand:

b. we are negotiating with the internal parties alone, we should need to argue that changes in the Commissions are as vital to the acceptability of a settlement as changes in

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White representation and blocking powers. The key provisions on which we shall want to insist are political control over the most senior appointments and provision for fair representation of all sections of the community. Our other proposals will be negotiable, in the sense that it will be for the post-independence government to make detailed provisions. Our aim will be as much to keep out of the Constitution provisions which are damaging in presentational terms as to write in those which are substantial improvements on existing arrangements. Provided that it is clearly within the Prime Minister's power to decide who shall be Chairman of the Public Services Commission, there could be no objection to his retaining the present holder of that office, if he wishes to do so.

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10 DOWNING STREET

From the Private Secretary

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13 July 1979

CP353/4	Mr. [unclear]
13 July 1979	Mr. [unclear]
	Mr. [unclear]
	Mr. [unclear]

Shall

Dear Sir,

BISHOP MUZOREWA'S CALL ON THE PRIME MINISTER ON 13 JULY, 1979

Bishop Muzorewa, accompanied by his Minister for External Affairs, Mr. Mukome, called on the Prime Minister at No. 10 this afternoon at 1445. The Foreign and Commonwealth Secretary and Sir Antony Duff were present at the meeting. I enclose a copy of my note of the discussion, which lasted for just over three-quarters-of-an-hour.

I should be grateful if you would ensure that the record, parts of which are particularly sensitive, is given a very restricted distribution indeed.

I am sending a copy of this letter, and enclosure, to Martin Vile (Cabinet Office).

Yours ever,

*[Signature]*

J.S. Wall, Esq.,  
Foreign and Commonwealth Office.



CONFIDENTIAL

NOTE OF THE PRIME MINISTER'S DISCUSSION WITH BISHOP ABEL MUZOREWA,  
PRIME MINISTER OF ZIMBABWE-RHODESIA, AT 10 DOWNING STREET, ON  
13 JULY 1979

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Present:

The Prime Minister

Foreign and Commonwealth Secretary

Sir Antony Duff

Mr. B.G. Cartledge

Bishop Muzorewa

Mr. Mukome (Minister for  
External Affairs)

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When the Prime Minister had welcomed Bishop Muzorewa, and the Bishop had in turn congratulated the Prime Minister on her election victory, the Prime Minister said that although she did not wish to cover the same ground as Lord Carrington during the Bishop's morning session of talks with him, she thought it would be useful to summarise the British Government's position once more.

The Prime Minister told Bishop Muzorewa that everybody in the United Kingdom recognised that he and his colleagues had come a tremendously long way. She never failed to tell everybody she met that Rhodesia had held elections on the basis of one person, one vote, in which there had been a 65 per cent turn out and which had resulted in the election of a black Prime Minister, with a black President, a black majority in Parliament and a black majority in the Cabinet. Zimbabwe-Rhodesia had covered the greater part of its journey towards independence. The British Government wished to take as many people as they possibly could with them in winning acceptance for the new situation in the country; this was the purpose of the consultations which had been carried on in recent weeks. From these consultations, two points had come across very strongly. The first was that the constitution of Zimbabwe-Rhodesia would have to be comparable to the constitutions which the UK had given

/to other

to other African countries at their independence. Secondly, the constitutional arrangements would have to be seen to have originated with, and to have been approved by, the UK.

The Prime Minister went on to say that the constitutional changes which the UK thought necessary would not be such as to undermine the confidence of the white population in Rhodesia. Bishop Muzorewa was very wise to insist on retaining this confidence, in the interests of his country's future economic success. The changes would, moreover, be quite small in relation to the distance which Rhodesia had already travelled. The Prime Minister pointed out to Bishop Muzorewa that the kind of changes the UK had in mind would in fact increase his own powers as Prime Minister. It was astonishing that he, as Prime Minister, should have to submit new appointments to the independent commissions. There were also too many white Members of Parliament, who were able to operate a blocking mechanism. The Prime Minister repeated that changes to these aspects of the constitution would, nevertheless, be minor in relation to what Rhodesia had already achieved. Rhodesia had already covered 90 per cent of the distance: the UK wanted her to travel the remaining 10 per cent of the way, so that the British Government could say that the constitution was legal and comparable to those which had been granted in the past.

The Prime Minister said that the British Government was determined that if they regarded revised constitutional arrangements as being right, they would not be blocked or dictated to by anybody or at any conference. Having come so far, it would be foolish if Rhodesia were to fail to take the final step. The Prime Minister repeated that the British Government had no wish to undermine the confidence of the whites. They were speaking to Bishop Muzorewa as friends and they wanted to see rapid progress over the last phase. Sir Anthony Duff was already engaged in a detailed comparison of the constitution of Zimbabwe-Rhodesia with the constitutions of other former British colonies in Africa. Many of these constitutions had allowed

for the special representation of minorities: there could be no objection of principle to this and minorities had to be protected. The Prime Minister emphasised that the British Government were not seeking immediate or instant changes. They were concerned to work towards the ending of sanctions, as rapidly as possible; but, at the forthcoming conference in Lusaka, they would not propose to set out the constitutional changes which they had in mind in detail. This was purely a matter between Bishop Muzorewa and the UK. At Lusaka, she and Lord Carrington would simply say that they would be making proposals for a constitutional basis on which Zimbabwe-Rhodesia could be brought to legal independence. Thereafter, if the proposals were acceptable to the Bishop, the British Government would invite him and the representatives of the Patriotic Front to a conference. If the Patriotic Front refused to attend, this would not give them a power of veto over progress to independence. There would then have to be a test of acceptability but it should be possible to complete the whole process by the end of October.

Lord Carrington said that he had only one point to add, namely that unless the kind of changes which the Prime Minister had outlined took place, no country of any importance would recognise Zimbabwe-Rhodesia, even if the UK had done so. The Prime Minister agreed and pointed out that Lord Harlech's consultations had shown that even President Banda and President Seretse Khama had made it clear that changes to the constitution were essential. The British Government must be able to argue, with other African governments, that they had themselves accepted comparable constitutions when they had achieved independence and that they consequently had no right to object to the constitution of Zimbabwe-Rhodesia.

Lord Carrington said that it was important to be able to wrong-foot the bullies: if this were done, there would be a much better chance of putting an end to the war in Rhodesia. In a brief reference to Mr. Ian Smith, the Prime Minister said that he would presumably leave the Government as soon as he was certain that independence and the lifting of sanctions were in prospect.

/Bishop Muzorewa

Bishop Muzorewa told the Prime Minister how much he appreciated the new and positive attitude of the British Government towards his country. The visits to Salisbury of Sir Antony Duff, Mr. Day and Lord Harlech had made a very great difference to the situation and he and his colleagues in Salisbury now knew that the British Government were trying to help. The Bishop said that the Prime Minister clearly understood some of his concerns. But he still believed, on the basis of the reports which he had received from his representatives, that many in Africa would follow a clear lead from the UK. If the British Government were to decide to lift sanctions or to recognise his regime, they would find that they had support even if no changes had taken place in the existing constitution. Sanctions, after all, had not been imposed because of defects in a constitution: they had been imposed as a result of rebellion against the British Crown. But now the people of Zimbabwe-Rhodesia were sovereign and had spoken up for government by the people. Zimbabwe-Rhodesia nevertheless remained Britain's responsibility and it was therefore up to Britain to give a lead. Inevitably, there would be some shouting and name-calling: but, the Bishop said, many would follow the UK.

The Prime Minister replied that she wished that this were true. But it did not accord with the British Government's own information. Telegram after telegram which she had read showed that there was still some way for Rhodesia to go. The Prime Minister emphasised that it would strengthen the Bishop's own hand if he were to get rid of the commissions and if he were to increase the number of black Members of Parliament - it might be easier to add to the black membership rather than reducing the white membership.

Bishop Muzorewa said that a key problem was the fact that in the present situation all the members of the white community were sensitive and frightened. The situation following the

/achievement

achievement of black majority rule was in any case a delicate one: but in Zimbabwe-Rhodesia it was greatly aggravated by the war. The whites were wondering in what way Bishop Muzorewa was any different from other African leaders. He could only show them how different he was through his own actions. Any move towards constitutional change would frighten the whites. The Prime Minister replied that the British Government was only asking that Rhodesia should have a constitution similar to that which had been given to other African states on independence. She asked the Bishop whether it would be helpful for Lord Carrington to visit Salisbury immediately after the Lusaka conference. This might strengthen the confidence of the white population. Lord Carrington said that it might be better if somebody other than he were to go; such a visit could, in any case, have an unsettling rather than a reassuring effect on the white

The Prime Minister said that the opponents of the internal settlement argued that power had not really been transferred to the Africans. She assured them that it had. The critics then pointed to the blocking mechanism and to the commissions. If these aspects of the constitution were changed, the critics' argument would crumble. The British Government would also be able to say that the constitution was comparable to others. It would be possible, in those circumstances, for the UK to bring the United States along with her; the American attitude had already changed significantly, as a result of the British Government's efforts.

Lord Carrington said that the United States would probably be able to come along with the UK. But the US would certainly not support the UK if recognition were to be given on the basis of the constitution as it stood.

Bishop Muzorewa said that Zimbabwe-Rhodesia's problem was that they had already done so much and would have hoped for

/some reward

some reward for what had already been achieved. For example, sanctions could be lifted now, in return for what had already been done, and legality restored in return for the further changes which the British Government wanted. This procedure would create greater confidence in the white community. If they were given some reward now, the whites would face the second stage of change with greater confidence. The Prime Minister said that this approach would create political problems in her own Party. The timescale of the process which the British Government had in mind would in fact be very short: once constitutional changes had been made, the UK would move very fast. Lord Carrington pointed out that a further difficulty in the course suggested by the Bishop would be that it would undermine the procedural approach which the Government had in mind: if sanctions had already been lifted, nobody would take the British Government's further efforts at all seriously. The Prime Minister asked Lord Carrington whether it would be possible for him to go to Salisbury any earlier, before Lusaka. Lord Carrington pointed out that this would be interpreted, at Lusaka, as collusion between London and Salisbury; the British would be accused of ganging up with the Rhodesians.

Sir Antony Duff, referring to the comparative constitutional study on which he was working, said that the independence constitutions of both Tanzania and Zambia had provided for special minority representation. Bishop Muzorewa agreed and commented that the Tanzanian constitution, in particular, had been extremely generous to minorities.

The Prime Minister repeated that it would be necessary to work very fast. Bishop Muzorewa would not have long to wait. The UK would send somebody to visit Salisbury, with specific proposals, very soon after the end of the Lusaka conference on 8 August. Lord Carrington said that Lord Harlech's and Mr. Day's talks with members of the white community in Zimbabwe-Rhodesia showed that many whites, for example David Smith, admitted that there was a need for some change.

/Mr. Mukome

Mr. Mukome said that the unfortunate factor in the situation was that his country was engaged in a war. Any leak concerning the possibility of constitutional change would gravely undermine the confidence of the white members of the security forces, since they would have no means of knowing how extensive the changes were likely to be. Their suspicions would be aroused. The whites argued that the British Government had set out six principles which must be fulfilled. These had all now been carried out and they would have expected the British Government to acknowledge this. Instead, they were told that there were still weaknesses in the constitution and that they could not reap the benefit of what they had done until changes had been made. They were always being asked for more. It was true that some of the changes which the British Government wanted to see concerned aspects of the constitution which the Africans themselves had tried to get rid of. But their retention was the price which the Africans had to pay for being able to keep the terrorists down, which could not be done without the help of the whites. The Prime Minister said that it would have to be made very clear to the white community that the changes for which the British Government were asking represented the end of the process. She told Bishop Muzorewa that she would have to take the whole of her Party with her if sanctions were to be lifted. Lord Carrington added that unless there was some move on the constitution, a number of Conservatives would vote against the removal of sanctions.

The Prime Minister said that the way forward which she had indicated should be acceptable to the Bishop and his people and it would also enable the British Government to bring the Americans, and others, along with them. She and her colleagues had no interest in those who wanted the bullet to win in Rhodesia. Bishop Muzorewa told the Prime Minister that at the end of his meeting with President Carter, the President had said that the US Government would follow whatever lead the British Government gave. Lord Carrington pointed out that

/what the President

what the President had in mind in saying this was precisely the kind of procedure which he and the Prime Minister had been outlining.

Bishop Muzorewa asked about the timetable which the Prime Minister had in mind. The Prime Minister said that the UK's proposals for changes in the constitution could be put forward by the middle of August and a constitutional conference convened in September. The whole process could be completed by the end of October. When the British Government made its proposals, Bishop Muzorewa could make it clear that he and his people would accept the new constitution if the UK were to grant Zimbabwe-Rhodesia legal independence. Lord Carrington pointed out that if Nkomo and Mugabe did, in fact, agree to attend the constitutional conference, the next steps would have to be arranged rather differently; but they were very unlikely to come. The Prime Minister said that if they did attend, and accepted the proposals, there would be no argument against an immediate return to legality.

Mr. Mukome said that he feared that the Patriotic Front leaders might be advised by the Front Line Presidents to accept invitations to the constitutional conference in order to buy more time. If this happened, the confidence of the whites would be undermined and Zimbabwe-Rhodesia would lose a great many of her most skilled people. He could foresee a situation in which the Patriotic Front might attend a conference and drag it out while the war continued. Sanctions would remain in force at the same time, while the Patriotic Front were supplied with more new weapons. The timescale of what the UK was proposing was much too long.

Bishop Muzorewa said that another problem lay in the Prime Minister's reference to a further test of acceptability. The

/British Government



British Government should not under-estimate what the people of Zimbabwe-Rhodesia had been through during the last election, turning out to vote at the risk of their lives. Lord Carrington said that this stage was still some way off. Sir Antony Duff told Bishop Muzorewa that he was permanently concerned by all the things which might go wrong along the road to a settlement. It was impossible to perceive exactly how matters would turn out: but both the British Government and the Bishop were certain of their objectives and the only sensible approach was to move forward step by step, tackling problems as and when they arose. He was now more optimistic about the prospects for a settlement than he had been for a very long time.

The Prime Minister said that the British Government certainly possessed the resolve to carry matters to a conclusion. Lord Carrington added that they were also working to a timetable.

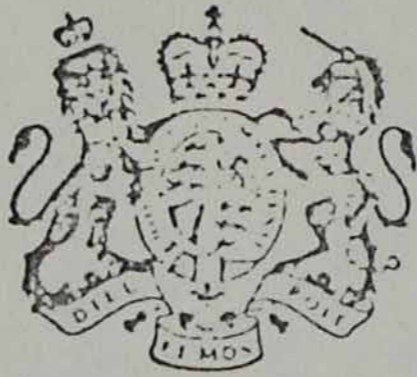
After a short discussion of what should be said to the press, it was agreed that both sides would adhere strictly to the three paragraphs of the attached note, omitting the second paragraph of the original draft press line.

Concluding the discussion, the Prime Minister repeated that the British Government had the resolve to help Zimbabwe-Rhodesia towards legal independence within a limited time.

The meeting ended at 1535.

*Ant.*

13 July 1979



10 DOWNING STREET

The Prime Minister and Lord Carrington have discussed with Bishop Muzorewa ways of making progress towards the Government's stated objective of bringing Rhodesia to legal independence with wide international acceptance.

The Government will be continuing its consultations with particular reference to the discussions at the Commonwealth Heads of Government Meeting in Lusaka.

There will be further discussions with Bishop Muzorewa and his colleagues as necessary in Salisbury and elsewhere.

13 July 1979

