

criminal, over all natives or otherwise within the districts assigned to them as may be prescribed by any Law for the time being in force in the Territory.

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

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

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

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

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

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

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

#### NATIVE AFFAIRS.

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

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

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

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

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

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

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

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

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

#### GENERAL.

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

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

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

49.—(1) Where, under any Proclamation or Law in force in the Territory, any power, jurisdiction or authority is at the commence-