

REPUBLIC OF ZAMBIA



**REPORT**  
**OF THE**  
**NATIONAL COMMISSION**  
**ON THE**  
**ESTABLISHMENT**  
**OF A**  
**ONE-PARTY PARTICIPATORY**  
**DEMOCRACY IN ZAMBIA**

**Price: 40n**

**Lusaka\* October, 1972**

**THE NATIONAL COMMISSION ON THE ESTABLISHMENT OF  
A ONE-PARTY PARTICIPATORY DEMOCRACY IN ZAMBIA**

Lusaka,  
15th October, 1972

His Excellency Dr Kenneth D. Kaunda  
President of the Republic of Zambia State  
House Lusaka

Your Excellency,

By Statutory Instrument No. 46 of 1972, Your Excellency appointed us Commissioners to consider and recommend changes in the Constitution of the Republic of Zambia, the Constitution of the United National Independence Party and matters related thereto necessary to bring about the establishment of a One-Party Participatory Democracy in Zambia.

We feel honoured and privileged at having been asked to examine and make recommendations on such a vitally important subject.

We have the honour to submit herewith our Report.

I have the honour to be,  
Your Excellency's  
obedient servant,

M. MAINZA CHONA,  
*Chairman*

## TABLE OF CONTENTS

	<i>Page</i>
Letter of Presentation.....	i
Statutory Instrument No. 46 of 1972 .....	vi
<b>PART I</b>	
INTRODUCTION	
Establishment of the Commission .....	1
Commission Proceedings and Method of Work.....	2
<b>PART II</b>	
THE CONSTITUTION OF THE REPUBLIC OF ZAMBIA	
The Zambia Independence Act and Zambia Independence Order .. Preamble to the Republican Constitution	
Citizenship	
PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL	
Protection of Freedom of Assembly and Association.....	8
Provisions Relating to Personal Liberty, Restrictions and Detentions.....	8
Protection from Slavery and Forced Labour.....	9
Protection of Freedom of Movement.....	9
Protection from Discrimination on the Grounds of Race, etc. ....	10
THE EXECUTIVE	
Office of President.....	10
Election of the President.....	11
Qualifications for Election to the Post of President.....	12
Tenure of Office of President.....	12
Removal of President for Violation of Constitution or Gross Misconduct.....	13
Vacancy in Office of President.....	13
Discharge of Functions of President During Absence, Illness, etc.....	13
Salary and Allowances of President.....	13
Cabinet.....	13
Office of Prime Minister.....	14
Ministers and Deputy Ministers.....	14

PARLIAMENT	<i>Page.</i>
Composition of Parliament .. .. .	15
Qualifications for Election to the National Assembly .. .. .	16
Freedom of Speech in Parliament .. .. .	19
Speaker of the National Assembly .. .. .	19
Deputy Speaker .. .. .	19
Tenure of Office of Members of the National Assembly .. .. .	20
The Franchise .. .. .	20
Electoral Commission .. .. .	21
Constituencies and Elections .. .. .	21
Conduct of Elections .. .. .	22
Exercise of Legislative Power of Parliament .. .. .	23
Alteration of the Constitution .. .. .	23
Quorum in the National Assembly .. .. .	23
The House of Chiefs.....	24
Judicature .. .. .	25
Finance .. .. .	26
Public Service .. .. .	27

### PART III

#### THE PRACTICES AND PROCEDURES OF THE GOVERNMENT OF THE REPUBLIC OF ZAMBIA

Civil Service .. .. .	29
Security Forces .. .. .	30
Foreign Service .. .. .	32
Provincial and District Government .. .. .	33
Local Government .. .. .	35
Para-statal Organisations .. .. .	36
Re-organisation of Ministries .. .. .	37
Resignation from Constitutional Posts .. .. .	37
Office of the Investigator General .. .. .	37

### PART IV

#### THE CONSTITUTION OF THE UNITED NATIONAL INDEPENDENCE PARTY

Preamble to the Party Constitution .. .. .	41
Name of the Party .. .. .	41
Policy and Objectives of the Party .. .. .	43

CENTRAL COMMITTEE	<i>Page</i>
Composition, Elections and Qualifications .. .. .	44
Meetings of the Central Committee .. .. .	45
Executive Officers and their Duties .. .. .	46
Sub-Committee of the Central Committee .. .. .	46
Relationship with Cabinet .. .. .	47
Duties of Regional Officials and Regional Annual Conference ..	47
Constituencies, Branches and Duties of Officials .. .. .	48
Membership .. .. .	48
Youth Brigade .. .. .	50
Women's Brigade .. .. .	51
The National Council, Meetings, Powers, Functions and Qualifications ..	52
.. .. .	52
Party General Conference .. .. .	53
Party Funds and Audit .. .. .	53
Standing Orders .. .. .	54
THE CODE OF LEADERSHIP .. .. .	54

## PART V

### THE ROLE OF THE LABOUR MOVEMENT AND OTHER SPECIALISED ORGANISATIONS

## PART VI

### MISCELLANEOUS

Political Rallies	<b>63</b>
Land Tenure	<b>63</b>
Public Holidays ..	<b>64</b>
General Provision	<b>64</b>

## PART VII

Acknowledgments	65
Appendices	65
President K. D. Kaunda's Press Statement	67
Tour Programme	71

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT No. 46 OF 1972

**The Inquiries Act, 1967**  
(Act No. 45 of 1967)

**A Commission**

THE COMMISSION in the Schedule hereto, issued by His Excellency the President, is published in accordance with the provisions of section *two* of the Inquiries Act, 1967.

A. M. MILNER,  
*Secretary-General to the Government*

SCHEDULE A

COMMISSION

HIS EXCELLENCY KENNETH DAVID KAUNDA, President  
of the Republic of Zambia—

*To:*

His HONOUR MAINZA CHONA, MP, Vice-President of the  
Republic.

THE HONOURABLE HUMPHREY MULEMBA, MP, Minister of  
Mines and Mining Development.

THE HONOURABLE FITZPATEICK CHUULA, MP, Minister of  
Legal Affairs and Attorney-General.

THE HONOURABLE CLEMENT MUMBA MWANANSHIKU, MP,  
Minister of State and Member of the Central Committee  
of the United National Independence Party.

DANIEL MUCHTVVA LISULO, ESQ., Legal Practitioner and  
Member of the Central Committee of the United National  
Independence Party.

FRANK MACHARIOUS CHITAMBALA, ESQ., Member of the  
Central Committee of the United National Independence  
Party.

TIMOTHY KANDEKE, ESQ., District Governor.

HARRY MWAANGA NKTTMBTJLA, MP, President,  
African National Congress.  
NALUMINO MUNDIA, MP, Deputy President, African  
National Congress.  
LAVU MULIMBA, ESQ., Deputy President, Zambia  
Congress of Trade Unions.  
DAVID PHIRI, ESQ., Director, Anglo American Corporation  
Limited.  
DANIEL KATTJNGTJ, ESQ., President of the Zambia  
National Council for Commerce and Industry.  
LIEUTENANT-COLONEL BENJAMIN NDABILA  
MIBENGE, Chief of Staff, Zambia Army.  
KASUKA MTJUKWA, ESQ., Lecturer in Political Science,  
University of Zambia.  
His LORDSHIP BISHOP ELIAS MUTALE, Bishop of Luapula.  
REVEREND JACKSON MWAPE, President of the United  
Church of Zambia.  
VALERIAN LAVU, ESQ., Permanent Secretary, Ministry  
of Education.  
MRS LILY MONZE, Editor of the Parliamentary Debates.  
PARAMOUNT CHIEF UNDI, President of the House of  
Chiefs.  
CHIEF MUKUMBI, Vice-President of the House of Chiefs.

GREETINGS :

WHEREAS in my opinion it is advisable for the public welfare to appoint Commissioners to inquire into the matters herein-after set out:

Now THEREFORE, by virtue and in exercise of the powers conferred upon me by the Inquiries Act, 1967, I do by this my Commission under my hand and the Public Seal of the Republic of Zambia, appoint you Your Honour MAINZA CHONA, the said Honourable HUMPHREY MULEMBA, Honourable FITZPATRICK CHUULA, Honourable CLEMENT MUMBA MWANANSHIKU, DANIEL MUCHIWA LISULO, ESQ., FRANK MACHARIOUS CHITAMBALA, ESQ., TIMOTHY KANDEKE, ESQ., HARRY MWAANGA NKUMBULA, MP, NALUMINO MUNDIA, MP, LAVU MULIMBA, ESQ., DAVID PHIRI, ESQ., DANIEL KATUNGU, ESQ., LT-COL BENJAMIN NDABILA MIBENGE, KASUKA MUTUKWA, ESQ., His Lordship Bishop ELIAS MUTALE, Reverend JACKSON MWAPE, VALERIAN LAVU, ESQ., MRS LILY MONZE, Paramount Chief UNDI, Chief MUKUMBI to be Commissioners with all the powers of the said Act conferred and I do hereby authorise and require you in the manner of the said Act provided—

To:

1. Consider the changes in—
  - (a) the Constitution of the Republic of Zambia;

(b) the practices and procedures of the Government of the Republic; and

(c)~ the Constitution of the United National Independence Party;

necessary to bring about and establish One Party Participatory Democracy in Zambia.

2. Consider all matters incidental to or connected with the aforesaid matter in general and in particular the following matters:

(a) The nature of the Presidency, methods of election including the important question of whether or not a Presidential candidate shall be eligible for re-election, and if so, after how many terms.

(b) The nature and structure of Government in general including the relationship between Cabinet, Parliament and the Central Committee of the Party.

(c) The nature and structure of Parliament itself and its relationship to, for example, the National Council of the Party.

(d) The relationship between various political and administrative, elected and appointed bodies ranging from Village Productivity and Village Political/Section Committees to the Cabinet and the Central Committee of the Party.

(e) The Code of Leadership for Parliamentarians and other leaders in order to qualify for various positions in which supreme power normally vested in the people, is exercised by them indirectly on behalf of the people.

(f) The supremacy of the Party vis-à-vis Government administration.

(g) The amount of freedom of the people to form pressure groups based on tribal loyalties or for particular purposes.

(h) The role of the Labour Movement and other specialised organisations in the Nation in the formulation of Government policies.

(i) The participation of Public Servants in politics and Government.

(j) The system of discipline in the Party, Government and Public Service.

(k) Lastly, the freedom of candidates to stand for elections at local or national level.



AND I hereby direct that the Commissioners shall, in their consideration and recommendation, pay due regard and adhere to the following principles as cardinal, inviolable and built-in safeguards of One-Party Participatory Democracy in Zambia:

1. Zambia shall continue to be a Sovereign Republic.
2. Zambia must continue to build a humanist society.
3. All citizens of Zambia shall continue to enjoy complete equality.
4. The supremacy of the rule of law and independence of the Judiciary shall continue to be maintained.
5. The fundamental rights and freedom of the individual shall be protected as now provided under Chapter III of the Constitution of the Republic of Zambia.
6. The right of the individual to freely choose leaders and representatives to Parliament and many other democratic institutions, national and local, shall be fully preserved.
7. Supreme power must be vested in the people and everything shall be done to ensure that power is exercised by them directly where possible, and indirectly through established democratic representative institutions. There shall, therefore, be complete freedom among the people to participate fully in then running of their affairs at local and national level through institutions under people's own control.
8. Zambia is part and in the front-line of the continent-wide revolutionary movement which seeks to liberate Africa and rid the Continent of all forms of imperialism, colonialism, racism and foreign exploitation which have plagued the African people in the past. Zambia's geo-political position demands a strong and purposeful Government and a united nation if the Zambian revolution is to succeed. There can, therefore, be no room for complacency and for lofty ideas.
9. Zambia is permanently opposed to exploitation of man by man and the people of Zambia will persist relentlessly in their struggle for self-reliance and the establishment of protective measures against possible exploitation by foreign and local economic interests. The people of Zambia will continue to fight against the establishment of economic, social, political and cultural classes in order to guarantee the equality of all human beings in a humanist society.

AND I hereby direct that His Honour MAINZA CHONA, Vice-President of the Republic, be the Chairman of the said Commission.

AND I hereby direct that the said Honourable HUMPHREY MULEMBA be the Vice-Chairman of the said Commission.

AND I hereby direct that the persons before whom you shall take and subscribe the oath or affirmation required by the aforesaid Act shall be the Honourable the Chief Justice, MB JUSTICE BRIAN ANDBE DOYLE.

AND I hereby direct that the Chairman sitting with not less than ten other Commissioners shall constitute a quorum.

AND I hereby direct that the Inquiry shall be made in Lusaka and in such other places in Zambia as deemed necessary by the Commission.

AND I hereby direct that the report of the Inquiry shall be rendered to me as soon as possible after the Commissioners have completed their inquiries and decided upon their recommendation.

AND I hereby direct that the said Inquiry shall be held in public.

AND I hereby appoint CALVIN MAKA SIKAZWE to be Secretary for the purposes of the said Inquiry.

AND I hereby authorise the Commissioners to engage the services of such advisers and experts as they deem necessary to aid and assist them in the said Inquiry.

AND I lastly do hereby command all persons whom it may concern to take due notice hereof and give their obedience accordingly.

GIVEN under my hand and the Public Seal of the Republic of Zambia at Lusaka this 1st day of March, the year of our Lord one thousand nine hundred and seventy-two.



KENNETH D. KAUNDA,  
*President*

## PART I

### INTRODUCTION

#### ESTABLISHMENT OF THE COMMISSION

On the 25th February, 1972, President Kenneth D. Kaunda made an historic statement at a press conference which was held at State House, Lusaka, in which he informed the nation that the Government had decided that Zambia shall become a One-Party Participatory Democracy and that practical steps should be taken to implement the decision. In this statement, the President announced the appointment of a National Commission to consider changes in the Constitution of the Republic, the practices and procedures of the Government and the Constitution of the United National Independence Party (UNIP) necessary to bring about the establishment of a One-Party Participatory Democracy in Zambia.

2. At this press conference the President, among other things, said: ' . . . since Independence there has been a constant demand for the establishment of a One-Party State in Zambia. The demands have increasingly become more and more widespread in all corners of Zambia. In recent months I have received hundreds of messages and letters from organisations and individuals appealing to me to take concrete steps to bring about a One-Party system of Government. In the resolutions passed by almost every conference, whether political or non-political, unequivocal demands have been made for Government to introduce a One-Party system of Government. Chiefs last year joined the chorus of the overwhelming majority of the people. Indeed, the UNIP National Council sitting in Mulungushi Hall between the 1st and the 3rd October last year charged the Central Committee of the ruling party to work towards the achievement of a One-Party Democracy in which the liberties and welfare of the common man will be paramount. The Central Committee in its study of the subject noted that in this overwhelming public demand the objective for calling for a new system of Government is the fundamental need to preserve unity, strengthen peace and accelerate development in freedom and justice. Accordingly, the Central Committee decided in favour of a change in the Constitution and directed Government to take appropriate measures. It is against this background, it is in the light of the loud and clear voice of the overwhelming majority of the people of this country that Government undertook an exhaustive consideration and examination of all the representations made both verbally and in writing demanding a change in the system of Government . . . '

3. The President further stressed:

' A number of things are striking in this announcement:

*First:*

The decision that Zambia should become a One-Party Democracy is firm.

*Second:*

The Commission which has been appointed is a National Commission, its membership represents a very wide cross-section of the people of this country and their interests, political, economic, religious, legal and traditional. All aspects of the life of the people of this country have been taken into account. The composition of the Commission will enable it to examine changes in every conceivable and relevant field of life in order to help streamline Government structure and practices so as to maximise the efficiency and effectiveness of the administration both at local and national level

4. The full text of the President's press statement is at Appendix I.

5. In accordance with the Inquiries Act, members of the Commission were sworn in by the Hon. Chief Justice, Mr Justice Brian Doyle, at the High Court Building, Lusaka, on 3rd March, 1972. However, two of the Commissioners, Mr Harry Mwaanga Nkumbula, MP, President of the African National Congress and his Deputy, Mr Nalumino Mundia, MP, were not sworn in and did not take part in the work of the Commission.

#### COMMISSION PROCEEDINGS AND METHOD OF WORK

6. Immediately after the swearing in ceremony, we held our first meeting in the Old National Assembly building to study our terms of reference and to discuss the procedure and programme of work.

7. We unanimously agreed that as we were dealing with such a crucial national issue it was imperative that supreme power of decision making should be vested in the Zambian people and therefore it was unquestionably desirable to give ample opportunity to as many Zambian citizens as possible to enable them to express their views on this matter either orally or in writing. In order to achieve the above objectives we decided—

(a) to call for oral and written submissions from all Zambian citizens both at home and abroad. We made it clear at the outset that the nature of our task required that only Zambian nationals participated;

(6) to visit all provincial headquarters and districts. The itinerary of our visits is shown at Appendix II.

8. We further agreed not to split into groups when touring the country in order to afford ample opportunity to each and every Commissioner to be physically present at every sitting to familiarise himself or herself with the people's feelings and aspirations.

9. A wide and intensive publicity campaign was mounted throughout the country for Zambians to come forward and give evidence. Our programme was widely publicised and the dates and venues of our sittings were advertised in the national and local newspapers and on radio and television.

10. Bearing in mind that the majority of Zambians would not be fully conversant with the official language (English), we decided to translate our

terms of reference into the main local languages and posters were distributed throughout the Republic.

11. In order to encourage members of the public to come forward and submit their views, the Chairman of the Commission, Vice-President Mainza Chona, held a press conference which was covered by both television and radio. In his press conference the Chairman further elaborated on the Commission's tasks and made an appeal to all Zambians, irrespective of their political affiliations, social status, creed or sex, to rise to their national responsibilities by submitting their representations to the Commission.

12. As directed by our terms of reference all our hearings were held in public and accordingly members of the public were free to attend. In order to enable as many people as possible to attend, our hearings were held in the largest available hall at each centre and where the hall was not big enough, the public address system was utilised. At Kaputa, for example, we held our hearings in the open.

13. The procedure which we adopted at our public hearings was that before the submission of representations, the Chairman asked the petitioner for his particulars and explained to him the Commission's terms of reference and its tasks. In most cases we asked petitioners after submitting their views to clarify certain issues arising from their submissions. We allowed petitioners much latitude and freedom in making their submissions. A number of petitioners did not confine themselves strictly to the terms of reference regarding the form of the One-Party Democracy as such and discussed matters relating to the pros and cons of its establishment. We, however, insisted that our task was not to listen to petitioners who gave reasons for or against the establishment of the One-Party System.

14. We are satisfied that we received views from a cross-section of the population including those from political detainees. We then proceeded to consider written and oral evidence presented to us.



## PART II

### THE CONSTITUTION OF THE REPUBLIC OF ZAMBIA THE ZAMBIA INDEPENDENCE ACT AND ZAMBIA INDEPENDENCE ORDER

15. The Zambia Independence Act, 1964, a British Act, granted Independence to this country on 24th October, 1964. Under and by virtue of this Act as read with another British Act, namely, the Foreign Jurisdiction Act, 1890, the Zambia Independence Order, 1964, was made and the Constitution of Zambia was issued as a Second Schedule to the Order.

16. We observed that at Appendix I to the Laws of Zambia, the Zambia Independence Act and the Zambia Independence Order appeared as one document with the Constitution of Zambia. We examined these British legal instruments and came to the conclusion that with the establishment of the One-Party Participatory Democracy Zambia should no longer be tied to the British Constitutional provisions in this respect. Our Constitution should stand by itself.

17. WE THEREFORE RECOMMEND that the Zambia Independence Act, 1964, and the Zambia Independence Order, 1964, cease to have any legal effect in Zambia and that any provisions of the British Laws which are still applicable to this country by virtue of the Act or Order be replaced by Zambian legislation.

#### PREAMBLE TO THE REPUBLICAN CONSTITUTION

18. We discussed the need for a preamble to the Constitution and felt that as the nation was establishing a One-Party Participatory Democracy, the guiding principles of the Constitution, the sentiments and aspirations of the people of Zambia should be high-lighted in such a preamble. We were of the opinion that it was fitting and proper to have a preamble.

19. WE THEREFORE RECOMMEND the following preamble:

'WE, THE PEOPLE OF ZAMBIA, by our representatives assembled in our Parliament, having established a One-Party Participatory Democracy;

IN PURSUANCE of our determination to uphold our inherent and inviolable rights to decide, appoint and proclaim the means and style whereby we shall govern ourselves as a united and indivisible Sovereign State under the banner of our motto " One Zambia, One Nation ";

PROCEEDING from the base that all men have the right to freely determine and build their own political, economic and social system by ways and means of their own free choice;

DETERMINED to ensure the rights of all men to participate fully and without hindrance in the affairs of their own government and in shaping the destiny of their own motherland;

RECOGNISING that individual rights of citizens including freedom, justice, liberty and equality are founded on the realisation of the rights and

duties of all men in the protection of life, liberty and property, freedom of conscience, expression and association within the context of our National Constitution;

PLEDGING to all citizens the bounden duty of the State to respect the rights and dignity of all men to uphold the laws of the State and to conduct the affairs of the State in such a manner that its resources are preserved, developed and enjoyed for the benefit of its citizens as a whole and so as to prevent the exploitation of man by man;

IN THE HOPE THAT we may by our action enhance the development of Pan-Africanism, African Unity, independence and the total liberation of Africa, and further strive to foster the development of non-alignment and all other forms of international co-operation conducive to the consolidation of peace and the strengthening of mutual respect and friendship among peoples and States;

DO HEREBY ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.'

## CITIZENSHIP

20. We noted that the majority of petitioners felt that Zambian citizenship should be acquired through descent only and that citizenship by registration or naturalisation should be discontinued. Some of the petitioners were of the opinion that those who had already obtained Zambian citizenship by registration or naturalisation should not be deprived of their citizenship and that in future those who could not qualify as citizens by descent might be granted resident status. A considerable number of petitioners expressed great concern about the manner in which citizenship was granted to aliens.

21. We took considerable time discussing matters relating to citizenship and found it necessary to recommend changes in the acquisition and granting of citizenship.

22. We discussed the desirability of amending those provisions of the Constitution which provide, with minor exceptions, that every person born in Zambia after 23rd October, 1964, automatically became a citizen at the date of his birth. We considered the views advanced by some petitioners that children born of alien parents should not become citizens at the date of their birth but that such children should be eligible for citizenship on application. Some petitioners expressed fears that such provisions gave citizenship to people who had no connection with or interest in Zambia.

23. We observed that the Constitution provides that a person born outside Zambia after 23rd October, 1964, becomes a citizen at the date of his birth if his father is a citizen of Zambia. These provisions clearly base citizenship by descent through a male parent. We considered that these provisions discriminated against persons born outside Zambia where one of the parents, a Zambian, was the mother. We were of the opinion that in a country like Zambia where some people are matrilineal or patrilineal, every person whether born in or outside Zambia should have the right to claim citizenship by descent through either parent.



24. We also noted that the Constitution provides that any woman who married a Zambian citizen after 23rd October, 1964, might be registered as a citizen of Zambia upon making an application in a prescribed manner. These provisions should, in our view, continue to apply but we were of the opinion that there should be a qualifying period before such a woman would be eligible to apply for registration as a citizen.

25. We also observed that the Citizenship Act contains provisions on citizenship by adoption and by registration of minors and also gives the President powers to cause a person to be registered as a citizen under certain conditions. However, we considered that the qualifying period for a person who has been ordinarily resident in Zambia before applying for citizenship should be extended because we thought that a much longer period would enable an applicant to appreciate the Zambian way of life.

26. We noted that the provisions for the deprivation of citizenship were too cumbersome and felt that the procedure should be simplified.

27. We felt that in a One-Party Participatory Democracy matters relating to citizenship should be handled by a Citizenship Board with powers to consider, among other things, applications for citizenship as well as to investigate irregularities or complaints relating to the granting of citizenship before or after the establishment of a One-Party Participatory Democracy. The members of the Board should be appointed by the President of the Republic and should consist of a Cabinet Minister, responsible for matters relating to citizenship, a legal practitioner, a civil servant and four other persons.

28. We discussed the views of some of the petitioners which were forcefully expressed that Zambians by registration or naturalisation should be barred from holding certain posts such as those of President of the Republic, Cabinet Ministers, diplomats, etc. We felt, however, that it would be unfair to treat Zambian citizens in this manner as all citizens must be accorded the same privileges, rights and opportunities as well as bear the same duties and obligations to the state.

29. WE THEREFORE RECOMMEND—

- (1) that persons should acquire citizenship by—
  - (a) descent through either parent;
  - (b) registration or naturalisation;
- (2) that a person born in Zambia of alien parents who have been ordinarily resident in Zambia should continue to enjoy dual citizenship until he has attained the age of twenty-one. He may apply for Zambian Citizenship at the age of eighteen, but—
  - (a) his application will have to be approved by the Citizenship Board; and
  - (b) he will have to renounce his parents' citizenship;
- (3) that a person who has been ordinarily resident in Zambia for a continuous period of fifteen years and over may apply for citizenship;

- (4) that alien women married to Zambians may apply for citizenship after being ordinarily resident in Zambia for at least five years after marriage;
- (5) that a Citizenship Board with legal powers be established to consider applications for citizenship as well as to investigate complaints relating to the granting of citizenship since Independence ;
- (6) that the Board be appointed by the President of the Republic and consist of a Cabinet Minister, responsible for citizenship, a legal practitioner, a civil servant and four other persons;
- (7) that the constitutional provisions relating to reciprocal privileges for citizens of other countries should be incorporated in the Citizenship Act; and
- (8) that the procedure for the deprivation of citizenship be simplified.

## PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL

### PROTECTION OF FREEDOM OF ASSEMBLY AND ASSOCIATION

30. A good number of petitioners submitted that they did not favour the formation of political pressure groups based on tribal loyalties because, they argued, this would lead to politics being conducted on tribal lines. We shared the petitioners' concern that political pressure groups based on tribal loyalties could be turned into 'political parties'. We came to the conclusion that it was not in the interests of the nation to prohibit the formation of non-political associations based on tribal loyalties. Such an action would retard the cultural growth and development of Zambia. Notwithstanding the directive in our terms of reference that the fundamental rights and freedoms of the individual shall be protected as now provided for under Chapter III of the Constitution of the Republic of Zambia, we considered that by implication those sections which gave people the freedom to form more than one political party could not be retained in the Constitution.

31. WE THEREFORE RECOMMEND that apart from the freedom to belong to the only political party, people be free to form and to belong to non-political associations provided they are not prejudicial to the national interest.

### PROVISIONS RELATING TO PERSONAL LIBERTY, RESTRICTIONS AND DETENTIONS

32. Many petitioners made strong representations in favour of the right to personal liberty and the right to freedom of movement as enshrined in the Constitution. They criticised many aspects of the provisions relating to restrictions and detentions without trial. However, there were other petitioners who called for more stringent measures to deal with dissidents. We felt that in the interest of security, provisions for detention without trial should be retained in the Constitution provided the powers of the executives were curtailed, the detention period before the review was reduced, the grounds of detention were served in a shorter period and that detainees were free to communicate with their lawyers and relatives.

33. WE THEREFORE RECOMMEND—

- (1) that there be no detention without trial except during a state of emergency;
- (2) that a detainee or restrictee be furnished with a written statement specifying the grounds for his detention or restriction within ten days;
- (3) that the notification of detention or restriction be published in the *Government Gazette* within fourteen days of such detention or restriction;
- (4) that a tribunal be established to review the detention or restriction within three months and that its decisions be binding on the authority;
- (5) that the composition of the tribunal which may sit in public or in camera be as follows: the Chairman and two other persons (one lawyer and one other person) to be appointed by the Chief Justice in consultation with the President of the Republic;
- (6) that detainees be free to communicate with their lawyers and relatives and not be held incommunicado;
- (7) that whenever a state of emergency is declared while Parliament is not in session or after its dissolution, the National Assembly be summoned within twenty-eight days of the date of the proclamation for approval; and
- (8) that a declaration of a state of emergency ceases after a period of six months from the date of the proclamation unless the National Assembly approves its continuation.

PROTECTION FROM SLAVERY AND FORCED LABOUR

34. We discussed the petitioners' views that loafers, particularly those in urban areas, should be forced to work. We considered whether any remunerative work assigned by the State to unemployed persons should be treated as an exception to forced labour. We decided against such a provision as it would be contrary to the rights of the individual and would be difficult to implement.

PROTECTION OF FREEDOM OF MOVEMENT

35. Some petitioners made strong representations that squatter compounds should be demolished and the majority of them expressed grave concern about the presence of squatter compounds and the concentration of unemployed persons in urban areas. This they attributed to the uncontrolled movement of people from rural to urban areas. The existence of these compounds, they contended, had contributed to the high incidences of crime, the harbouring of illegal immigrants and was a health hazard. Petitioners submitted that all unemployed persons in urban areas including unmarried women who were not in regular employment should be repatriated to their villages. Some further proposed that people should leave rural areas for urban areas only with the express permission of their Chiefs.

36. We recognised that there was a chronic housing shortage in the country which had contributed to the mushrooming of squatter compounds. We felt strongly, however, that the growth of squatter compounds should be controlled and that there should be a programme to phase them out as soon as practically possible. We also observed that there was a general lack of enforcement of the laws dealing with squatter control, such as the Town and Country Planning Act and the Public Health Act.

37. We noted the views of the petitioners who called for restrictions on the movement of people from rural to urban areas. However, we felt that the proposal would be an infringement of the fundamental rights now enjoyed by the individual. We considered that the problem of migration of people from rural areas to urban areas would be minimised with accelerated rural development.

38. WE THEREFORE RECOMMEND—

- (1) that Local Authorities be assisted to enforce the laws relating to squatter control more effectively than hitherto with a view to phasing out illegal dwellings; and
- (2) that in addition to the repatriation of illegal immigrants, special measures be taken to meet the problem.

PROTECTION FROM DISCRIMINATION ON THE GROUNDS OF RACE, ETC.

39. The Constitution contains provisions which give protection from discrimination on various grounds. We noted, however, that **protection** from discrimination on grounds of sex is not covered in all the relevant sections of the Constitution.

40. WE THEREFORE RECOMMEND that protection from discrimination on the grounds of sex be included in all relevant sections of the Constitution.

## THE EXECUTIVE

### OFFICE OF PRESIDENT

41. Petitioners expressed divergent views on this issue. The first view was that the status quo should be maintained: On this idea of maintaining the- *status quo* we felt that there was too much concentration of work and power in the hands of the Chief Executive and therefore, in the interest of good Government and in accordance with the principle of checks and balances, we did not accept that concept. The second view was that there should be a ceremonial President supported by an Executive Prime Minister. We were of the opinion that for a developing country a ceremonial President was a luxury for the nation and also this arrangement might contain areas of conflict between the President and the Prime Minister. The third view was that Dr K. D. Kaunda should be life President. We felt that the proposal for a life Presidency exposed the holder of the office and the country to many risks. The fourth view was that there should be an Executive President with specified powers supported by a Prime Minister who would be the Head of Government. We favoured this idea of a President exercising specified executive powers supported by a Prime Minister thereby separating the policy-making from the administrative institutions.

#### 42. WE THEREFORE RECOMMEND—

- (1) that there be a President with specified executive powers supported by a Prime Minister who would be responsible for Government administration;
- (2) that the functions of the President be as follows:
  - (a) to be the Head of State and President of the Party;
  - (b) to have supreme responsibility for national defence and security;
  - (c) to summon, prorogue and dissolve Parliament in consultation with the Prime Minister;
  - (d) to assent to Bills and promulgate laws voted by Parliament;
  - (e) to appoint a Prime Minister from among Members of Parliament subject to the approval of the National Assembly;
  - (f) to appoint officers to such public offices as the Republican and Party Constitutions or any other law may -specifically empower him so to do;
  - (g) to appoint the Secretary-General of the Party from among members of the Central Committee subject to the approval of the National Council;
  - (h) to accord and withdraw recognition of Chiefs;
  - (i) to nominate three members of Parliament;
  - (j) to confer national honours and awards;
  - (k) to receive credentials from heads of foreign diplomatic missions;
  - (l) to exercise the prerogative of mercy ;
  - (m) to call and preside over extraordinary Cabinet meetings; and
  - (n) to perform all other functions as the Constitution or any other law specifically empowers him so to do.

#### ELECTION OF THE PRESIDENT

43. The majority of petitioners expressed the view that the President of the Republic should be popularly elected and that candidature for the post of the President should be open to every citizen. Some of them further expressed the view that there, should always be more than one candidate to stand for the post of President so as to provide a wide choice for the electorate. We examined this matter carefully and came to the conclusion that there was need for an open contest. We therefore resolved that the period for nomination should be extended to give as many people as possible maximum opportunity to stand for the post of President. In the event of there being only one candidate after the nomination period he should be presented to the electorate for approval. If rejected, Parliament should elect the President. Furthermore we felt that intimidation by any candidate during an election campaign should be a disqualification and that all Presidential candidates

should be provided with equal election facilities. We considered the feasibility of a serving President vacating his office during the election campaign in order that other candidates may compete with him on an equal footing. It was felt that a President should not vacate his office until his successor was elected. However, one Commissioner was of the opinion that to ensure a free and fair election, a serving President should vacate his office if he was contesting a current election.

44. WE THEBEFOBE RECOMMEND—

- (1) that the President be popularly elected;
- (2) that the nomination period be thirty days;
- (3) that if after the nomination period there is only one candidate, the candidate be presented to the electorate for confirmation by a simple majority. If not confirmed then Parliament elects a President other than the rejected candidate; and
- (4) that all Presidential candidates be accorded equal election facilities during the election campaign.

QUALIFICATIONS FOR ELECTION TO THE POST OF PRESIDENT

45. A substantial number of petitioners who spoke on this issue submitted that the holder of this post should be a mature person, intelligent, literate, of good character, an active Party member, a humanist and a Zambian citizen. A number of petitioners also submitted that the post of President should be restricted to 'true Zambians' because the Head of State should have no other home to run to in times of crisis. We did not accept the view that the post of President should be restricted to 'true Zambians' as we felt that it would be wrong to design qualifications aimed at disqualifying a section of Zambian citizens. All citizens should be treated equally. We also felt that qualifications should aim at eliminating frivolous candidates.

46. WE THEBEFOBE RECOMMEND that a Presidential candidate should have the following qualifications:

- (1) he must be a Zambian citizen;
- (2) he must be a paid-up member of the Party;
- (3) he must have attained the age of thirty years;
- (4) he must be literate and conversant with the official language;
- (5) he must be sponsored by 200 supporters from each of not less than six provinces of the Republic;
- (6) he must pay a non-refundable election fee of K500 (K300 to the Party and K200 to the Government); and
- (7) he must meet all the other qualifications for Parliamentary candidature.

TENURE OF OFFICE OF PRESIDENT

47. Petitioners expressed divergent views on this issue. Varying terms of office ranging from six months to life presidency were suggested. After discussing this matter, we came to the conclusion that the post of President should be within reach of as many aspiring citizens as possible.

48. WE THEREFORE RECOMMEND—

- (1) that the term of office for a President be five years; and
- (2) that a President be eligible to stand for a second term of five years after which he shall not be eligible to stand as President for a period of at least five years; thereafter he shall be eligible to stand for a new term of five years.

REMOVAL OF PRESIDENT FOR VIOLATION OF CONSTITUTION OR  
GROSS

MISCONDUCT

49. We observed that the tribunal which investigates whether or not the President should be removed from office for violation of the Constitution or gross misconduct consisted of not less than three persons. We felt that in view of the importance of the assignment, the minimum number of persons sitting on this tribunal should be raised to five.

VACANCY IN OFFICE OF PRESIDENT

50. We were of the opinion that in the event of a vacancy occurring in the Office of President the principle of separating the policy-making from the policy-executing institutions should apply.

51. WE THEREFORE RECOMMEND—

- (1) that the Secretary-General of the Party acts as President if the Office of the President becomes vacant and in his absence the Central Committee elects one person from amongst themselves to act as President provided that Presidential Elections be held within three months from the date of the Office becoming vacant;
- (2) that a person acting as President shall not revoke any appointments made by his predecessor and shall not have powers to dissolve Parliament.

DISCHARGE OF FUNCTIONS OF PRESIDENT DURING ABSENCE, ILLNESS, ETC.

52. Whenever the President is absent from Zambia or considers it desirable so to do by reason of illness or any other cause he may, by directions in writing, authorise the Secretary-General of the Party to discharge such of the functions of the Office of President as he may specify. During any period when there is no Secretary-General to the Party or when he is absent from Zambia or is incapable to discharge these duties, the President may by directions in writing authorise any other person to perform the functions of his Office.

SALARY AND ALLOWANCES OF PRESIDENT

53. We were of the opinion that the present system whereby the President's salary and allowances were determined by resolution of Parliament was both cumbersome and embarrassing.

54. WE THEREFORE RECOMMEND that the President's salary and allowances be provided for in an Act of Parliament.

CABINET

55. A substantial number of petitioners submitted that the present Cabinet was rather too large and called for its reduction. They also said

that there were too many Ministers of State and called for the reduction in their number as well. In addition, they did not see the need for the continuation of the posts of Cabinet Minister and Minister of State for the Provinces. Other petitioners submitted that the *status quo* should remain. We were of the opinion that we should provide the Prime Minister with a reasonable number of Cabinet Ministers and also decided to recommend the creation of new posts for officers in charge of provinces.

56. Most petitioners called for equal provincial representation in Cabinet and also emphasised the need for Ministers to hold relevant professional qualifications. We did not think it advisable for provinces to have equal representation in Cabinet in view of the fact that Ministers should not represent the interests of their provinces but those of the country as a whole. Regarding the petitioners' views that all Ministers should be technocrats, we were of the opinion that where possible some Ministries should be headed by professionally qualified persons. As indicated earlier on, we accepted the creation of the office of Prime Minister and decided that he should be head of the Cabinet.

57. WE THEREFORE RECOMMEND the following:

*Office of Prime Minister*

- (1) The Prime Minister be appointed by the President from amongst Members of Parliament subject to Parliament's approval and shall have the following functions:
  - (i) to be the Head of Government administration and the chief spokesman on Government matters;
  - (ii) to be the Head of Cabinet and to preside over Cabinet meetings;
  - (iii) to appoint Ministers and deputy Ministers in consultation with the President;
  - (iv) to appoint, in consultation with the President, the Attorney-General of the Republic from amongst members of Parliament; and
  - (v) to be the leader of Government business in the National Assembly.
- (2) He shall continue in office at the pleasure of the President and/or Parliament.

*Ministers and Deputy Ministers*

- (1) There shall be fifteen Cabinet Ministers and seven deputy Ministers appointed by the Prime Minister from amongst members of Parliament in consultation with the President;
- (2) The tenure of office of Ministers shall be at the pleasure of the Prime Minister;
- (3) Ministers shall perform their functions under the direction of the Prime Minister.
- (4) Deputy Ministers shall deputise and attend Cabinet meetings in the absence of their Ministers and shall perform any other functions delegated to them.



## PARLIAMENT

### COMPOSITION

58. Most petitioners favoured the retention of a unicameral legislature on the grounds of economy, but most of those who argued for a bicameral set up called for wider representation in the present House of Chiefs to include representatives from other institutions and interest groups such as the trade unions, the church, the University of Zambia, businessmen, etc. Thus, they submitted that the enlarged House of Chiefs which they called the Upper House would have powers to initiate and veto Bills. We accepted the petitioners' submission that the National Assembly should consist of representatives of various interests and freely elected members who would carefully examine Bills to ensure that they were in the best interests of the country. In the light of the foregoing, we came to the conclusion that we should continue to have a unicameral legislature as we felt that a bicameral legislature was superfluous for a developing economy like ours.

59. On the membership of Parliament, a substantial number of petitioners, especially those in the rural areas, submitted that the number of constituencies in rural areas should be increased because of poor communications which made it difficult for a local Member of Parliament to meet all his constituents. They also called for equal provincial representation in Parliament. Petitioners also expressed varying views on the number of Members of Parliament in the House ranging from 100 to 200. Although some of them wanted the *status quo* to be maintained for economic reasons, the majority favoured an enlarged Parliament to accommodate more representational views from various institutions and interest groups. After a careful examination we came to the conclusion that there was a case for allocating more constituencies to the rural areas. However, we had difficulties in deciding which rural areas should be given additional seats. We did not accept the demand from petitioners for equal provincial representation in Parliament because a Member of Parliament should represent his constituency rather than provincial interests.

60. In arriving at the size of Parliament we were guided by a sense of economy and practicability. Too large a House might prove too expensive, cumbersome and by implication inefficient. However, bearing in mind the principle of participatory democracy and therefore the need for wider and increased representation especially in the rural areas, we were sympathetic with the petitioners' call for an enlarged Parliament. Parliament being the highest legislative institution in the land should have varied and expert views which would enrich its debates. We considered whether by providing for institutional representation we were not bringing in an element of dual voting and representation. We felt, however, that Members of Parliament in this category would not only represent their organisations' interests but also those of the nation as a whole. Moreover, there was a possibility that all citizens might belong in one way or another to any of the specified organisations or institutions. Petitioners had varying views on the principle of nominations. Views were expressed that there should never be nominated Members of Parliament because every member of Parliament should represent a constituency except for the Speaker of the National Assembly whose full-time duties in that office would not allow him to perform constituency

functions satisfactorily. Other views were that those who had been defeated in current elections should never be nominated to Parliament, while others supported the *status quo*. We also received petitions to the effect that Parliament should have more nominated women Members of Parliament as traditionally they were at a disadvantage to compete on the same footing with men. We did not agree with petitioners who called for a total ban on nominations to Parliament. We felt that the Head of State should be left with some discretion to bring to Parliament special talent. We thought, however, that by providing for institutional representation in Parliament, the number of nominated Members of Parliament should be reduced. No candidates defeated in a current election should get into Parliament through nomination. On the question of nominated women Members of Parliament, we felt that women should be encouraged to compete with men on an equal footing and moreover they might be included in the number of nominated or institutional representative Members of Parliament.

61. WE THEREFORE RECOMMEND—

- (1) that Parliament should consist of 136 members, i.e., 115 elected, 17 institutional representatives, 3 nominated and the Speaker of the National Assembly;
- (2) that ten additional constituencies be created and allocated only to rural areas;
- (3) that the following institutions directly appoint Members of Parliament within twenty-one days after the general elections provided those appointed satisfy the requirements of the Electoral Commission:
 

Chiefs .. .. .	..8 (one from each province)
Churches .. .. .	.. 1
Civil Service .. .. .	.. 1
National Council of Commerce and Industry .. .. .	.. 1
National Women's Council .. .. .	.. 1
Professional Organisations .. .. .	.. 1
Security Forces .. .. .	.. 1
University of Zambia .. .. .	.. 1
Youth Council of Zambia .. .. .	.. 1
Zambia Congress of Trade Unions .. .. .	.. 1
- (4) that the President nominates three persons to Parliament; and
- (5) that a candidate defeated in the current elections should not be nominated or appointed as a Member of Parliament.

QUALIFICATIONS FOR ELECTION TO THE NATIONAL ASSEMBLY

62. We received various submissions from petitioners on the subject of qualifications for election to the National Assembly. On citizenship, some petitioners expressed the need to confine membership of the National Assembly to the citizens of Zambia as at present. However, other petitioners wished to restrict membership of the National Assembly to 'true Zambians'.

We were of the view that there were no compelling reasons to depart from the present qualifications, namely, that a person shall qualify to be elected as a Member of Parliament if he is a citizen of Zambia irrespective of whether such person is a Zambian citizen by registration or not.

63. Many petitioners emphasised the importance of reasonably high educational qualifications for members of the National Assembly in order to enable them to discharge their functions efficiently. We accepted petitioners' views that Members of Parliament should be knowledgeable and literate.

64. The majority of petitioners who expressed their views on candidature for parliamentary elections proposed that it should be restricted to Party members and some even demanded that only those who had been Party members for a specified period should be allowed to stand for parliamentary elections. A few petitioners, however, submitted that candidature for parliamentary elections should be open to everybody whether he belonged to the Party or not. On Party membership we agreed with the views expressed by petitioners that candidates for parliamentary elections should be members of the Party. We felt that as the Party in a One-Party State would be a mass movement, only Party members should be eligible to stand for elections. We did not agree with the proposal that candidacy should be restricted to persons who had been Party members for a specified period as this would exclude many eligible persons from standing.

60. The majority of petitioners who spoke on age qualifications for Members of Parliament favoured the age range of twenty-one to twenty-five in order to accord maturity and respectability to Parliament thus raising the qualifying age for a parliamentary candidate above the present qualifying age for a voter. But a good number called for the same age qualifications for the franchise and for eligibility to stand for parliamentary elections. We took note of the petitioners' desire for a mature and respectable Parliament. However, we were guided in reaching our conclusion by the principle of participatory democracy whereby more people should be eligible to stand for parliamentary elections. We also felt that it would be unfair to differentiate the age qualifications for parliamentary candidature from the universal voting age.

66. Other petitioners were of the view that parliamentary candidates should be persons of good reputation and thus submitted that persons who had been convicted in a court of law for serious criminal offences such as treason, corruption, dishonesty and especially misappropriation of public funds should not be allowed to stand for elections. We agreed with the petitioners' views that candidates for parliamentary elections should be persons of integrity in order to maintain a respectable House.

67. Some petitioners emphasised the need for eliminating frivolous candidates for parliamentary elections by maintaining the present system of sponsorship and deposits for standing for elections but a few others did not favour this system. We agreed with the petitioners who emphasised the need for eliminating frivolous candidates by retaining the system of deposit. We thought this was a genuine precaution in view of the fact that the door to Parliament would be opened to all qualified citizens without the Party vetting them. We also felt that this would be a welcome contribution to

election expenses by the candidates. In addition an element of sponsorship in parliamentary elections should be maintained in order to test the popularity and influence of the parliamentary candidates from the outset.

68. WE THEREFORE RECOMMEND—

- (1) that a parliamentary candidate should have the following qualifications:
  - (a) must be a Zambian citizen;
  - (b) must be a paid-up Party member;
  - (c) must have attained the age of eighteen years;
  - (d) must be literate and conversant with the official language;
  - (e) must be sponsored by 100 registered voters;
  - (f) must pay a non-refundable election fee of K50 (K35 of which must go to the Party and K15 to the Government);
  - (g) must be a disciplined person without a record of having committed any of the offences specified in (2) below;
  
- (2) that in addition to the provisions of the Constitution a person shall be disqualified from standing for election for five years after conviction or after serving the sentence, whichever is applicable, if he has been convicted under the Penal Code of any of the following offences:
  - (a) corruption, abuse of office and related offences;
  - (b) treason and related offences;
  - (c) offences relating to the Administration of Justice. Act, except sections 115, 116 and 117;
  - (d) murder, manslaughter and offences connected therewith;
  - (e), offences against liberty such as kidnapping, abduction, wrongful confinement, dealings in slavery and forced labour;
  - (f) offences relating to theft, robbery, extortion, burglary, house breaking, false pretences, and receiving stolen property;
  - (g) offences relating to counterfeiting coins, stamps, trade marks, designs and patents or forgery;
  - (h) offences against morality in so far as they relate to rape, indecent assaults, defilement, living on earnings of prostitution, indecent practices between males and between females, brothels, carnal knowledge of animals and carnal knowledge with any person against the order of nature, incest;
  - (i) attempts, accessories before the fact, accessories after the fact, and conspiracies to commit these offences; and
  - (j) all offences under the State Security Act;
  
- (3) that the above provisions should apply to the Speaker of the National Assembly, institutional representatives and nominated Members of Parliament where applicable.

## FREEDOM OF SPEECH IN PARLIAMENT

69. We discussed the question of how much freedom of speech Members of Parliament should have in a One-Party Participatory Democracy. We took note of the present practice whereby the freedom of speech of Members of Parliament was controlled by the dictates of party discipline and party parliamentary caucus decisions. We came to the conclusion that in a One-Party State caucus meetings were no longer necessary. We did not think, however, that Ministers should be free to criticise Government policy publicly as this would be contrary to the principle of collective responsibility. We felt that any Minister who disagreed with any Government policy and wished to state this publicly, should resign.

70. WE THEREFORE RECOMMEND—

- (1) that Members of Parliament be free to speak and/or vote as they like on any issue in the National Assembly;
- (2) that Ministers should not be free to criticise Government policy publicly unless they resign their posts; and
- (3) that Party Parliamentary caucus meetings should not be held.

## SPEAKER OF THE NATIONAL ASSEMBLY

71. The petitioners' views and some of our recommendations on this office have already been outlined above in relation to the size of Parliament and qualifications for Members of Parliament. After further discussion as to whether we should recommend a change in the title and functions of the Speaker, we decided to retain the title of Speaker. We believed that parliamentary debates in the One-Party Participatory Democracy might be more lively and perhaps more controversial, hence the Speaker should be impartial if he was to effectively control the National Assembly deliberations and maintain discipline among Members of Parliament. It was partly for this reason of impartiality that our earlier view not to tie the Speaker to a parliamentary constituency was made. We felt that the Speaker should continue being a full-time salaried officer.

72. WE THEREFORE RECOMMEND—

- (1) that the Speaker be elected from outside Parliament by members of the National Assembly;
- (2) that once the Speaker has been so elected, he becomes a member of the National Assembly.

## DEPUTY SPEAKER

73. We discussed the position of the office of the Deputy Speaker of the National Assembly. We were of the opinion that the functions of the Deputy Speaker did not justify a full-time post. We also felt that the arrangement for electing a Deputy Speaker from among members of Parliament should continue.

74. WE THEREFORE RECOMMEND that the post of Deputy Speaker should not be a full-time one though the holder should receive a Deputy Speaker's allowance.

#### TENURE OF OFFICE OF MEMBERS OF THE NATIONAL ASSEMBLY

75. We discussed what the tenure of office of members of the National Assembly should be and agreed to retain the present term of five years in line with our recommendation for retaining the present term of office for the President. We felt that five years was a reasonable period within which Parliament could achieve its targets. To reinforce their demand that Members of Parliament should consult as many of their constituents as possible, petitioners called for the provision of offices for Members of Parliament in their constituencies. This, they said, would enable a Member of Parliament to convincingly present pressing needs of his constituency before Parliament. In this connection, some petitioners submitted that if a Member of Parliament proved incompetent, his constituency should initiate action to remove him from Parliament. We viewed favourably the petitioners' demand that permanent offices should be established for Members of Parliament in their constituencies as there was more need for personal contact between the electorate and their representative in Parliament than at present. We discussed the question of salaries for Members of Parliament and came to the conclusion that Members of Parliament should continue to receive salaries on a full-time basis. This, however, should not exclude Members of Parliament who did not hold public offices on a full-time basis from being gainfully employed outside Parliament provided this did not interfere with their duties as parliamentarians. We felt that however dedicated a Member of Parliament might be, parliamentary work was not all that occupying for him to be able to do nothing else. We did not accept the proposal that a Member of Parliament should be dismissed from Parliament at the initiative of his constituency as such a provision could be abused, for instance, by some unscrupulous constituents plotting to oust him through unwarranted allegations against him. However, we felt that there was need for a Member of Parliament to be answerable to his electorate in face of gross incompetence and that he should be available for consultation with his constituents.

70. WE THEREFORE RECOMMEND—

- (1) that offices be provided for all Members of Parliament in their constituencies; and
- (2) that Members of Parliament continue to receive salaries.

#### THE FRANCHISE

77. Petitioners were almost unanimous on maintaining the *status quo* as regards the voting age. However, some of them argued that as the present qualifying age for eligibility to stand for parliamentary elections was twenty-one years, the voting age for parliamentary elections should be raised from eighteen to twenty-one years. Besides, they thought that a person below twenty-one years was not mature enough to exercise the vote with discretion. We considered these views in detail and came to the conclusion that it would be undesirable to deny young people aged between eighteen and twenty-one years the right to vote, especially young women some of whom at eighteen years were mothers. Moreover, we noted that many countries were gradually lowering the voting age from twenty-one to eighteen years. We discussed whether voting should be made compulsory as we thought that voting was not only a right but also a national duty. We came to the conclusion that

people should not be compelled to vote but should be made to realise through political education that unlike other individual rights, the right to exercise the vote was a national duty. We recommend no change in the franchise.

#### ELECTORAL COMMISSION

78. While endorsing the present provisions in the Constitution relating to the Electoral Commission we were of the opinion that as delimitation of parliamentary constituencies was a very delicate issue, there was need to amend these provisions so that whenever the Electoral Commission was established to review boundaries of parliamentary constituencies it should not stand dissolved on the submission of its report to the President but should be available to assist in any inquiries relating to its review. We also were of the opinion that when the Commission was reviewing boundaries of constituencies, it should be called the 'Delimitation Commission' except when supervising the registration of voters and the conduct of elections when it should be referred to as the 'Electoral Commission'.

#### 79. WE THEREFORE RECOMMEND—

- (1) that whenever the Electoral Commission is established to review boundaries of parliamentary constituencies, it should not immediately stand dissolved until such date as the President may determine; and
- (2) that it be called the 'Delimitation Commission' when reviewing boundaries of constituencies.

#### CONSTITUENCIES AND ELECTIONS

80. In the light of petitioners' submissions for the membership of Parliament to be enlarged to cater for more rural representation, we discussed at length the fact that at the moment the majority of rural constituencies were larger than urban constituencies. We expressed our concern that unless in future the Delimitation Commission placed more emphasis on communications and geographical features as criteria in demarcating constituencies, there would continue to be more urban than rural representation in Parliament. We also felt that elections should be held on two consecutive days in order to enable as many voters as possible to cast their votes. We were also of the opinion that elections should generally be held during the dry season to enable more people to vote. In addition we agreed that the nomination period for parliamentary elections should be extended to afford as many candidates as possible the opportunity to file their nominations.

#### 81. WE THEREFORE RECOMMEND—

- (1) that the Delimitation Commission while adhering to the provisions of those sections of the Constitution governing the delimitation of Constituencies place greater emphasis on communications and geographical features in rural areas in allocating constituencies;
- (2) that elections be held on two consecutive days;
- (3) that as far as possible elections be held during the dry season; and
- (4) that the nomination period for parliamentary elections be extended to seven days.

## CONDUCT OF ELECTIONS

82. We discussed at length the conduct of parliamentary elections and the role of the Party in the choice of candidates. We took note of petitioners' submissions to the effect that every qualified citizen should be free to stand for elections and that the choice of candidates should be placed in the hands of local people themselves. We came to the conclusion that in a One-Party Participatory Democracy, elections should be completely free and that the Party should have no role in vetting or selecting candidates in order to avoid charges and practices of nepotism, tribalism and the possible abuse of this function by local Party officials. Since to qualify as a candidate one must be a Party member, we felt that the electorate should be left to choose the best candidate from among the contestants. Moreover, as the membership of the Party should be open to every citizen and every Party member should be free to stand for elections, we came to the conclusion that there should be no independent candidates. We considered the idea of conducting primaries in order to arrive at the final list of candidates and came to the conclusion that such a practice would be expensive to the tax-payer apart from involving the electorate in numerous elections. We considered whether people should stand in any constituency of their own choice. Some petitioners submitted that candidates should stand only in areas where they were born or in their tribal areas; others submitted that candidates should be resident within the constituency. We felt, however, that restricting candidature to tribesmen or residents would be undesirable and could lead to sectional representation at the expense of merit, efficiency and national unity.

83. We also discussed the conduct of election campaigns at great length and were of the opinion that if we were going to have free candidature, we must devise a system which ensured fairness by eliminating mud-slinging, intimidation, violence, corruption and associated malpractices. In the event of there being only one candidate, we considered whether at the expiration of the nomination period, that candidate should be returned unopposed or should be presented to the electorate for confirmation. We came to the conclusion that as candidature should be free for all wishing to stand and in view of our recommendation to extend the nomination period to provide ample time for those wishing to stand to do so, any candidates standing unopposed after the nomination period should be declared duly elected. We also discussed whether the Prime Minister and his Cabinet should continue to hold offices during the period of election campaigns and came to the conclusion that they should vacate their offices because they would otherwise be at an advantage in the campaigns as against competing candidates.

84. . WE THEREFORE RECOMMEND—

- (1) that all qualified Zambian citizens be free to stand for parliamentary elections;
- (2) that there should be no primary elections in the One-Party Participatory Democracy;
- (3) that the Party should organise a number of public meetings to introduce candidates and thereafter candidates should be free to organise individual campaigns at their own expense;



- (4) that the Prime Minister and his Cabinet should resign during parliamentary elections and that during this period all executive power and the administration of Government vest in the President who may recall the outgoing Cabinet in the event of a national crisis.

#### EXERCISE OF LEGISLATIVE POWER OF PARLIAMENT

85. We discussed whether the President should exercise a veto over Bills voted and presented to him by the National Assembly and for how long he could delay giving his assent to Bills after they had been presented to him. We felt that the wishes of Parliament should prevail over those of the President in this matter.

86. WE THEREFORE RECOMMEND—

- (1) that when a Bill which has been referred back to the National Assembly for further consideration has been passed by two-thirds majority of all Members of Parliament the President be obliged to give his assent to it; and
- (2) that all Bills be assented to by the President within twenty-one days of their being presented to him.

#### ALTERATION OF THE CONSTITUTION

87. The majority of petitioners who spoke on this matter were satisfied with the present system of altering the Constitution, i.e., by not less than two-thirds of all the Members of the National Assembly. A good number, however, felt that there should be an entrenched constitutional clause to the effect that the continuation of the One-Party Participatory Democracy and the introduction of other vital national issues should be subjects of Commissions of Inquiry or Referenda. Some petitioners even suggested trial periods ranging from five to ten years for the One-Party Participatory Democracy. But we did not accept this proposal because we felt that it would be wrong in principle to set a trial period for a One-Party Participatory Democracy. The issue of altering the Constitution was one of the controversial subjects we discussed at length. We agreed with petitioners that the present system of altering the Constitution by a two-thirds parliamentary majority was satisfactory as any other methods to achieve the same ends, might prove expensive. But as regards Chapter III of the Constitution which protects individual rights and freedoms we felt that additional provisions should be made to section 72 of the Constitution because fundamental rights were so vital to the individual.

88. WE THEREFORE RECOMMEND that no amendments to Chapter III of the Constitution be effected other than by a vote of not less than two-thirds of all the members of the National Assembly followed by a Referendum.

#### QUORUM IN THE NATIONAL ASSEMBLY

89. We felt that in a One-Party Participatory Democracy as many people as possible should attend Parliament in order to give due consideration to parliamentary business.

90. WE THEREFORE RECOMMEND that the quorum in the National Assembly be raised to one-third of all the members of the Assembly.

## THE HOUSE OF CHIEFS

91. An overwhelming number of petitioners who spoke on this issue submitted that chiefs should have more powers and therefore more influence than at present. It was for this reason that some petitioners suggested that matters relating to chiefs should be conducted along the pro-Independence lines with chiefs presiding in court and their Kapasus arresting criminals. Other views expressed were for chiefs to be represented in Parliament; the retention of an enlarged House of Chiefs with power to veto bills; more involvement of chiefs on District Development Committees; Provincial Development Committees and Rural Councils; powers to approve applications for firearms and for business licences; the settling of local customary disputes out of court; more administrative powers for chiefs at village level and control of movement of people from rural to urban areas. A few in this group even suggested that chiefs should be accorded government ministerial status in matters of housing, transport, etc. A few petitioners, however, called for the abolition of chieftainship because they felt that chiefs received public funds for doing nothing.

92. We discussed the role of chiefs in a One-Party Participatory Democracy in detail. It was agreed that chieftainship should continue as it was part and parcel of the administration. It was appreciated that some chiefs played a useful role during the struggle for our Independence from colonial rule and felt that the very reasons which led our national leaders to involve chiefs in this manner at that stage should guide our approach to this matter. We noted that chiefs were custodians of traditional and cultural matters. We observed that petitioners were not aware of the provisions contained in the Registration and Development of Villages Act of 1971 and of the pocket manual by the Government of the Republic of Zambia on Village Productivity and Ward Development Committees. Some of the demands they made on behalf of chiefs were already catered for in these provisions. Admittedly, individual chiefs like many other people might have their own shortcomings in performing functions already assigned to them. We felt that the present system of processing firearms applications by the Police should continue but that chiefs could be consulted where necessary. With regard to the suggestion that the movement of people from rural to urban areas should be controlled by chiefs, we considered this contrary to the fundamental rights and freedoms of the individual.

93. We discussed at length the proposal to retain the House of Chiefs in the Constitution in its present form and agreed for reasons outlined under the composition of Parliament that chiefs should not have a special legislative House. Even an enlarged House of Chiefs embracing other institutions was not acceptable for the very reasons we gave in rejecting a bi-cameral legislature. We earlier on recommended that chiefs should be represented in Parliament because we appreciated the need for chiefs to participate effectively in the formulation of laws. We also came to the conclusion that matters pertaining to chiefs should be removed from the Constitution and be provided for in an Act of Parliament. Commissioners Paramount Chief Gawan Undi and Chief Mukumbi dissented to this view as they feared that this action might be misinterpreted by ill-wishers of the One-Party State to mean that it was the first step towards the abolition of chieftainship. They also

argued that whereas a Parliamentary Act could be removed by a resolution or simple majority vote in the National Assembly, a constitutional provision would be more protective.

94. It was felt, however, that since the One-Party Participatory Democracy did not mean less participation than at present for some sections of the community, chiefs should be provided with a machinery to meet at both provincial and national levels to exchange views and ideas.

95. WE THEREFORE RECOMMEND—

- (1) that all matters pertaining to chiefs should be moved from the Constitution and be provided for in an Act of Parliament;
- (2) that the new arrangement provides for a Provincial Council of Chiefs in each province; and
- (3) that the eight chiefs who are Members of Parliament, the eight who are members of the National Council and the eight Chairmen, of Provincial Councils of Chiefs constitute the Chiefs' National Committee.

#### JUDICATURE

96. We discussed the position of the Court of Appeal and the High Court of Zambia in relation to the Judicial Committee of the Privy Council to which appeals from the Court of Appeal might be referred. We came to the conclusion that time had come to remove even the permissive references to the appellate jurisdiction of the Judicial Committee of the Privy Council. The Constitution should provide for a final Zambian Court of Appeal in line with our status as a Sovereign State. We accepted the idea that the Court of Appeal be vested with the power and discretion to give advisory opinions on legal matters without the parties involved resorting to litigation. We discussed the qualifications for appointment of Judges and came to the conclusion that it was now necessary to raise the qualifying period to ensure longer experience of persons appointed as judges. We also discussed suggestions made by some petitioners that chiefs should preside over local courts as was the practice before Independence. We appreciated that chiefs were the custodians of local customary law and that many people still approached them for guidance on customary matters. We came to the conclusion, however, that as chiefs were an extension of the administrative branch of Government and as their functions included implementing Government policies and the enforcement of law, they should not be allowed to act as Court Justices as this would be contrary to the principle of separating the judiciary from the administrative institutions of the State. We felt that the title of Local Court President be changed to bring it in line with the functions of the holders. In view of the vital role that customary law played in the lives of the majority of the Zambian people, we expressed the need for expediting the codification of customary law so that it could be incorporated into the statute books.

97. WE THEREFORE RECOMMEND—

- (1) that the present Court of Appeal becomes the Supreme Court of Zambia and that it be the final Court of Appeal in the Republic;

- (2) that a provision be made to the effect that any person, provided the Attorney-General is informed, or the Attorney-General himself after informing the Law Association, may ask the Supreme Court to make an advisory opinion on any issue without litigation;
- (3) that the minimum number of years of service for appointment to the post of judge be seven years;
- (4) that the title of Local Court President be changed to Senior Local Court Justice; and
- (5) that the retiring age for High Court Judges be raised to sixty-five.

#### FINANCE

98. Petitioners who spoke on financial control and arrangement restricted themselves to one aspect. They demanded that the recommendations contained in the Auditor-General's Report should be implemented, in particular, that officers responsible for embezzlement, misappropriation and irregular handling of public funds should be investigated and stern disciplinary action and/or prosecution be instituted. We shared the concern of petitioners on this matter. On examining the issues involved, we found out that there were a number of weaknesses in the auditing system which needed improvement. First of all we were of the opinion that the Auditor-General did not appear to have adequate staff to keep a constant check on the expenditure of public funds. In this respect it was important to strengthen the Auditor-General's Office. Secondly, we thought that there was not much Government Auditing going on now in Statutory organisations which received public funds voted by Parliament, and our view was that the Auditor-General's operations should be extended to all these organisations. Thirdly, we took note of the fact that the Auditor-General's Report did not always include all answers and explanations submitted by controlling officers. We felt that in all fairness the public should not be presented with a one-sided version particularly that some members of the public took seriously and without question whatever appeared in the Auditor-General's Report.

99. WE THEREFORE RECOMMEND—

- (1) that the Auditor-General be appointed by the President;
- (2) that the Auditor-General's operations be extended to organisations which receive funds voted by Parliament on the same basis as Government departments and that the accounts of these bodies be made public as required by law;
- (3) that the Auditor-General's Report includes all answers and explanations from Controlling Officers to the Auditor-General's inquiries;
- (4) that the Auditor-General's Office be adequately staffed to provide for regular effective auditing; and
- (5) that officers responsible for embezzlement, misappropriation and irregular handling of public funds be investigated and apart from being prosecuted be barred from holding public offices and any property so acquired be confiscated to make good such loss of public funds.

## PUBLIC SERVICE

100. We examined the position of the public service and noted that there were a number of Commissions such as the Civil Service Commission, the Local Government Service Commission and the Teaching Service Commission performing similar functions. Some petitioners submitted that Service Commissions had been subjected to outside interference in the recruitment of personnel and alleged that in some instances persons had been appointed to key public offices without regard to merit. We agreed with petitioners that merit should be the only criterion to be used in the appointment of staff. In order to prevent corrupt practices such as nepotism and tribalism, etc., one central body should deal with appointments, promotions and discipline in the public service and other bodies which are financed from public funds. We wish to emphasise that to ensure equal opportunities for all and to attract the best available manpower, a system of genuine advertisements, competitive examinations, among others, should be strictly observed.

101. WE THEREFORE RECOMMEND—

- (1) that a Common Services Commission for the entire public service and bodies financed from public funds of the Republic be established and appointed by the President taking into account that its membership be representative of various sections of the community;
- (2) that the Common Services Commission shall comprise the following divisions:
  - (a) Civil Service Division;
  - (b) Teaching Service Division;
  - (c) Foreign Service Division;
  - (d) Police Service Division;
  - (e) Prisons Service Division;
  - (f) Local Government Service Division;
  - (g) Para-statal and Statutory Boards Service Division; and
  - (h) any other divisions or sub-divisions as may be designated from time to time;
- (3) that the Common Services Commission be responsible for appointments, promotions and discipline of officers in the above-named Services; and
- (4) that a system of genuine advertisements, competitive examinations, among other things, be strictly observed.



### PART III

#### THE PRACTICES AND PROCEDURES OF THE GOVERNMENT OF THE REPUBLIC OF ZAMBIA

102. We discussed which practices and procedures of the Government "we should consider under this heading and came to the conclusion that we would discuss practices and procedures relating to the Civil Service; the Security Forces; i.e., the Army, Air Force, Police and Prisons; Provincial and District Administration; Local Government and other related matters.

#### CIVIL SERVICE

103. A good number of petitioners submitted that civil servants should participate fully and actively in politics although a few others submitted to the contrary. After examining the submissions, we came to the conclusion that it was desirable for civil servants to participate in politics to the extent of standing for elections. We did not think, however, that they should be permitted to hold party posts as party duties might not leave them with sufficient time to perform their civil service functions. We also felt that civil servants should be represented in the policy-making bodies of Government and the Party, as a way of enabling them to participate fully in the policies of the country.

104. We examined the present structure of the Civil Service and in line with our earlier recommendation to create the Office of the Prime Minister who would be responsible for government administration; we came to the conclusion that the Civil Service should be headed by a civil servant. A good number of petitioners submitted that there was no need to retain the office of Provincial Permanent Secretary because the holders appeared to have no executive powers in comparison to Lusaka-based Permanent Secretaries. We agreed with the petitioners on this issue and felt that the number of Permanent Secretaries should be limited. We also examined the various posts now existing in the Civil Service and came to the conclusion that the present post of Under-Secretary is not justified as holders appeared not to be fully utilised.

105. The majority of petitioners expressed grave concern about indiscipline in the Civil Service. We shared the petitioners' concern on this matter to a point. On examining the matter, however, we appreciated the difficulties that Permanent Secretaries faced in disciplining their staff. We came to the conclusion, therefore, that sterner disciplinary measures should be taken in the Civil Service and that Permanent Secretaries should be given more powers to take immediate disciplinary action.

106. Some of the petitioners submitted that there were too many reshuffles in the Civil Service resulting in uncertainty, instability and lack of continuity for all concerned. We agreed with this view but appreciated that some transfers were necessary. It was further noted that in some cases there had been misplacement of manpower and that this should be discouraged.

107. We also noted that salaries of civil servants with professional qualifications tended to be lower than of those in the administrative cadre. We were convinced that this was one of the major contributing factors which have made professional personnel leave the Civil Service for better paying jobs elsewhere.

108. WE THEREFORE RECOMMEND—

- (1) that civil servants be free to stand for parliamentary elections and that a civil servant wishing to stand for elections obtains leave and if he loses, he be allowed to return to his Civil Service post without loss of benefits; if elected he resigns from the Civil Service.
- (2) that the Civil Service be represented in Parliament and in policy-making bodies;
- (3) that a civil servant be free to belong to the Party as an ordinary member but should not hold a Party post;
- (4) that the post of Secretary to Cabinet be created and that he be appointed by the Prime Minister in consultation with the Common Services Commission to perform the following functions:
  - (a) to be responsible to the Prime Minister for securing the general efficiency of the public service;
  - (b) to take charge of the Cabinet Office and be responsible, in accordance with such instructions as may be given him by the Prime Minister, for arranging the business for and keeping the minutes of the Cabinet to the appropriate person or authority; and
  - (c) to perform such other functions as may be prescribed by Act of Parliament or as the Prime Minister may from time to time direct.
- (5) that the number of Permanent Secretaries should not be more than twenty;
- (6) that the Assistant Secretary be the next senior officer after the Permanent Secretary;
- (7) that Permanent Secretaries be empowered to take immediate disciplinary measures against all officers below them provided the officers are given the right to appeal to the Common Services Commission;
- (8) that Permanent Secretaries be empowered to terminate the appointment of scheduled personnel subject to right of appeal;
- (9) that the salary structure of professional officers such as doctors, economists, lawyers, etc., should be made more attractive than at present.

#### SECURITY FORCES

109. We discussed under this heading the practices in the organisation of the Army and Air Force, the Police and Prisons Services. We also discussed



the participation in politics by members of the Security Forces. The majority of petitioners who spoke on the participation in politics by members of the Army and *Air Force* did not favour the idea of involving members of the defence forces in active politics. They submitted that these forces had a strict discipline of their own which would be eroded if they were allowed to participate in any way in politics. Much as we shared the concern of the petitioners on this matter, we were of the opinion that it would be equally undesirable to isolate them completely from participation in the formulation of Government and Party policies and decisions. We came to the conclusion, therefore, that we should provide for their representation in policy-making bodies of the Government and Party. We examined the present organisation of the Army and Air Force and discussed in particular the possibility of amalgamating the two forces so as to reduce duplication and administrative costs. We realised that there might be difficulties in creating a unified command immediately and we therefore decided that the *status quo* should remain.

110. We discussed the petitioners' call to the effect that the Minister for Defence should be an Army Officer with relevant experience in matters pertaining to national defence. In line with our earlier recommendation that the President take charge of all matters relating to the defence and security of the State, we were of the opinion that the Ministry of Defence should be headed directly by the President assisted by a Defence Secretary who would be an Army Officer. In order to avoid isolating the Army and Air Force completely from the public we decided that the Defence Ministry Head quarters should be staffed by both Army and civilian officers. A few petitioners submitted that it was high time women were recruited into the Army so that they could serve side by side with their menfolk in the defence of their motherland. While appreciating the petitioners' views on this matter, we were of the opinion that we should leave this subject to be studied carefully by Government.

111. We discussed the question of participation in politics by members of the Police Force and came to the conclusion that our recommendation on the Army on this matter should be applicable to them. The majority of petitioners who spoke on the Police Force alleged that it was disorganised, undisciplined and did not appear to be performing the functions for which it was created and also that the inefficiency in the Police Force contributed to the high rate of crime now obtaining in the country. We shared some of the views expressed by the petitioners on this matter but on examination found that there were a number of factors which made it difficult for the police to carry out their functions effectively, such as the present Police Force was grossly understaffed in terms of the population growth since Independence; the unfavourable conditions of service which did not attract many Zambians of talent to join the force; the lack of co-operation from members of the public in the detection of crime and the lenient punishment meted out to law breakers. In this respect a large number of petitioners demanded that prisoners should be made to work on State farms and that those convicted of aggravated robbery, be publicly hanged. In order to make the Police Force more effective in prosecuting criminals we felt that the control of the Police Force should be transferred to the Ministry which dealt with this function. We came to the conclusion that other measures should be taken immediately to bring the Police Force to expected standards.

112. WE THEREFORE RECOMMEND—

- (1) that the defence forces become the direct responsibility of the **President**;
- (2) that a Defence Secretary, who shall be a regular defence officer and of a rank to be determined by the President, be the administrative head of the defence forces and that he be responsible to the President in this capacity;
- (3) that the present separate command of the Army and Air Force continues but that a study be conducted into the possibility of amalgamating the two forces;
- (4) that the staff at the Ministerial Defence Headquarters consist of regular defence force staff officers supported by some civilian officers;
- (5) that members of the security forces apart from being represented in Parliament and other policy-making bodies such as the National Council, should not be Party members but should be free to stand for elections provided they resigned from the service;
- (6) that the following measures be taken immediately to improve the image, efficiency and organisation of the Police Force:
  - (a) by drastically increasing its strength;
  - (b) by introducing better conditions of service;
  - (c) by providing separate training for senior police officers who would assist in tightening-up discipline within the Police Force;
  - (d) by placing the Police Force under the responsibility of the Attorney-General;
  - (e) by establishing a new post of Inspector-General who would be answerable to the Attorney-General on all functions of the Police Force; and
- (7) that stiffer sentences be imposed on criminals especially those convicted of aggravated robbery and similar offences.

FOREIGN SERVICE

113. A number of petitioners submitted that Zambia had too many diplomatic missions abroad and that these should be reduced. They were of the opinion that the retention of some of these missions and the number of diplomats contributed to the country's financial difficulties. We examined the number of the present diplomatic missions and considered the practicability of reducing the staff as well as closing some of the missions. It was found to be extremely difficult to suggest which of our missions should be closed down because of possible political implications which might arise considering that we have reciprocal representation with the majority of countries where we are represented. We decided therefore to leave this question for Government's further consideration. It was noted that Government had already reduced the staff serving in Zambian missions considerably

and felt that it was not practicable to reduce the present number further' without having to close down the missions themselves. Some of the petitioners had also submitted that Members of Parliament should not be appointed to diplomatic posts outside Zambia because this practice deprived their constituents of representation in the National Assembly. We appreciated the petitioners' concern on this matter and came to the conclusion that this practice should be discontinued. We discussed other matters relating to the foreign service and were of the opinion that all personnel serving in the foreign service should receive intensified training. In addition, we were of the opinion that it was high time a Career Foreign Service was established. We felt, however, that Heads of Missions should be appointed by the Head of State leaving all other foreign service posts below Head of Mission to be filled by the Common Services Commission.

114. We also considered the question of the composition of delegations to the United Nations and to other international conferences and seminars. We were of the opinion that all delegates to such conferences and seminars should be knowledgeable persons capable of contributing fully in the deliberations.

115. WE THEREFORE RECOMMEND—

- (1) that Government considers the possibility of reducing the number of missions;
- (2) that Members of Parliament resign on appointment to the foreign service;
- (3) that the Government should ensure that delegations to the United Nations and international conferences and seminars should be composed of knowledgeable persons;
- (4) that a Career Foreign Service be established;
- (5) that all appointments to diplomatic posts be made by the Common Services Commission with the exception of the Heads of Mission, who will continue to be appointed by the President.

#### PROVINCIAL AND DISTRICT GOVERNMENT

116. A substantial number of petitioners who spoke on this subject, submitted that the status quo should be maintained as they were satisfied with the present arrangement. However, quite a large number of petitioners were of the opinion that drastic changes should take place in the administration of districts and provinces. For instance, as indicated earlier, they submitted that the country should revert to the system of centralisation. We endorse the petitioners' view that lack of adequate executive-powers at provincial level worked against the system of decentralisation. However, we were convinced that a politician of a lower rank than that of the present Provincial Cabinet Minister would effectively head the province and co-ordinate the functions of the present Provincial Cabinet Minister and Minister of State provided he had a senior civil servant supporting him in government administration. The other arrangements in the province would remain unchanged except that there would be more co-ordination of work and wider representation on provincial committees.

117. A number of petitioners submitted that the powers of the head of the district should be spelt out as it was not clear where the final authority lay between the District Governor and the District Secretary. A large number submitted that there was no need for retaining the post of District Governor at all as the District Secretary was competent enough to run the district. Others questioned the calibre of some of the District Governors. At the same time they felt that there should be fewer leaders in a district 'because they claimed that the duties of the District Governor were a duplication of those performed by the Regional Secretary. We were of the opinion that a new post of District Chairman should be created to combine the duties of District Governor and those of District Secretary supported by assistants- His salary will be determined by the Government. Just as at provincial level, we felt that there should be more co-ordination of work of various organisations and wider representation on Government and Party administration.

118. WE THEREFORE RECOMMEND—

- ,(1) that a province be headed by a Resident Commissioner appointed by the President of the Republic and that he be of a rank lower than that of a Deputy Minister. He co-ordinates Government and Party functions, and presides over the Provincial Political Committee;
- (2) that the Provincial Development Committee whose membership includes heads of Government Departments, statutory and para-statal organisations, representatives of chiefs, Members of Parliament and representatives of interest groups such as trade unions, churches, commerce and industry, etc. The Committee shall elect its own Chairman;
- i(3) that a Resident Secretary of the rank of assistant Secretary be appointed by the Common Services Commission and that he assumes responsibility of Government administration and be answerable to the Resident Commissioner;
- (4) that the district be headed by a District Chairman appointed by the President and be answerable to the Resident Commissioner. In co-ordinating Government and Party administration, he presides over the Party Regional Committee and the District Political Committee. The membership of District Development Committee should include heads of departments, statutory and para-statal organisations, all chiefs and representatives of interest groups within the district. The Committee shall elect its own Chairman;
- (5) that the District Chairman be supported in running Government affairs by a number of assistants appointed by the Common Services Commission and in running Party affairs he will be assisted by a Regional Secretary appointed by the Party; and
- (6) that the powers, duties and functions of all involved in provincial and district administration be specified statutorily.

## LOCAL GOVERNMENT

119. Petitioners who spoke on the subject of local government "were very concerned about the lack of power on the part of local authorities to make decisions on local government matters. They submitted that the policy of decentralisation had been turned into a policy of centralisation in as far as the local authorities were concerned. They alleged that local authorities, were ruled by directive circulars from the Ministry of Local Government and Housing even to the extent of preventing them from filling vacancies of junior staff without the consent of the Ministry. They demanded therefore that local authorities be vested with a large measure of autonomy in accordance with their status so as to enable them to make decisions affecting local interests. We considered the subject of local government administration and came to the conclusion that appropriate powers be vested in local authorities in terms of their status. We felt strongly that since local government affected the daily lives of the local people more directly and immediately, it was important that local authorities, particularly City Councils which in our opinion were economically viable, should be given appropriate powers to make decisions on the spot and thereby make local government administration more effective and meaningful to the people. We were further of the opinion that in line with our recommendation to give more measure of autonomy to local authorities, the role of District Chairman in the district should reflect this recommendation. A good number of petitioners submitted that elections for local authorities should be open to all Zambians and that the power to choose candidates should be vested in the local people themselves. They also submitted that mayors, deputy mayors, chairmen and deputy chairmen of local authorities should be elected by councillors themselves, rather than be appointed by the Minister responsible for Local Government.

120. We were of the opinion that like in Parliamentary elections, people should be free to stand in any local government elections. We thought that mayors who were directly elected by councillors themselves would have a better chance of commanding respect of their fellow councillors. A good number of petitioners also spoke on the qualifications of councillors. Some submitted that councillors should be able to read and write in English while others suggested further that they should have at least a Grade III qualification. On this matter we came to the conclusion that there is a need for councillors to be literate. However, bearing in mind that the majority of the people in rural areas were not literate in English we thought it advisable that literacy in a local language may suffice. Commissioner Lavu Mulimba felt strongly that local authorities should be given power to retain all revenue from rates, tariffs and licences (including liquor licences) so as to enable them to be self-reliant and thus less dependent on the central Government.

121. WE THEREFORE RECOMMEND—

- (1) that viable local authorities such as City Councils be given autonomy to enable them to do the following:
  - (a) raise their own loans;
  - (b) provide social amenities such as day nurseries, local, transport, health and other social services;
  - (c) the Common Services Commission appoints all senior staff in local authorities and that local authorities appoint their junior staff;

- (2) that the qualifications for candidates for local government elections be as follows:
  - (a) literate in either English and/or the local language;
  - (b) pay a non-refundable election fee of K10;
  - (c) be supported by twenty sponsors; and
  - (d) be a member of the Party;
- (3) that mayors and deputy mayors be elected by councillors;
- (4) that the tenure of office of the mayor be one year and that for councillors be three years;
- (5) that local government elections be conducted on the same lines as parliamentary elections.

#### PARA-STATAL ORGANISATIONS

122. A number of petitioners submitted that Ministers and Permanent Secretaries should not be appointed chairmen of para-statal organisations and public corporations because these men were already too busy in their Ministries and therefore did not have sufficient time to administer the organisations. We accepted the petitioners' views on this matter but were of the opinion that chairmen and members of Boards should be appointed by Cabinet to ensure that Government policy was not disregarded in these organisations. We also agreed that people who have no relevant knowledge or experience required to contribute effectively to such boards should not be appointed. We came to the conclusion that as far as possible there should be a limit to the number of boards an individual may be appointed to and that Government representation on these boards or public corporations should not be to the exclusion of persons from various organisations with relevant knowledge and experience. A number of petitioners submitted that recruitment of personnel in para-statal organisations had been in some cases questionable and that appointing authorities tended to disregard the principle of merit. They called for action to ensure that para-statal organisations were not turned into tribal empires. Although we recommended that the Common Services Commission should appoint senior staff to these organisations, we were of the opinion that the appointment of junior staff should be the responsibility of the organisations. We also discussed the freedom of personnel in para-statal organisations and public corporations to stand for elections and came to the conclusion that the same recommendations we made in respect of civil servants participating in politics should also apply to personnel in these organisations.

123. WE THEREFORE RECOMMEND—

- (1) that chairmen and members of boards of para-statal organisations and public corporations be appointed by Cabinet;
- (2) that Board members elect their own vice-chairman from amongst themselves;
- (3) that Board chairmen be appointed on a part-time basis;
- (4) that administrative heads and other senior staff including managing directors of statutory organisations and public corporations be appointed by the Common Services Commission;

- (5) that Board members in Government employment should not exceed half the total number of the members; and
- (6) that persons convicted of dishonesty should not be eligible for appointments to any board.

#### RE-ORGANISATION OF MINISTRIES

124. A number of petitioners submitted that the Department of National Guidance in the Ministry of Development Planning and National Guidance was a duplication of effort in that its functions were being undertaken by the Party and a number of other institutions. We agreed with the petitioners' views on this matter but felt, however, that this department was playing a useful role in spreading the philosophy of Humanism and in instilling a spirit of patriotism and a sense of national pride. Some of the petitioners submitted that the Ministry of Rural Development was too large to deal effectively with agriculture as well. They argued that in view of the importance of agriculture to the nation, it should have a Ministry of its own. We agreed fully with the petitioners' views on this matter.

125. WE THEREFORE RECOMMEND—

- (1) that the functions of the Department of National Guidance be shared by the Party Headquarters and the Ministry of Information, Broadcasting and Tourism,
- (2) that Government considers creating a separate Ministry of Agriculture.

#### RESIGNATION FROM CONSTITUTIONAL POSTS

126. We discussed the method of affecting resignations for constitutional officers. We felt that there should be an opportunity for the appointing authority to communicate acceptance or non-acceptance of resignation.

127. WE THEREFORE RECOMMEND that no resignation from a constitutional post takes effect until acceptance and consent have been communicated by the appointing authority.

#### OFFICE OF THE INVESTIGATOR-GENERAL

128. A number of petitioners called for the establishment of the office of Ombudsman to investigate abuse of power and corruption in all its forms in the Republic. Some of these petitioners alleged that some individuals had acquired and accumulated considerable wealth and property through dubious means in so short a time since Independence. We considered the petitioners' views on this matter and came to the conclusion that there was a need to establish an office which would investigate such allegations and other related matters. In addition we were of the opinion that the establishment of such an office would have the following advantages:

- (1) the Ombudsman would be looked upon as an independent and impartial man;
- (2) complaints raised by aggrieved persons could be presented informally and without cost;

- (3) the Ombudsman might consider the whole field in which a complaint arose by allowing flexibility in investigating complaints; which is not possible with an ordinary court of law;
- (4) the Ombudsman would be of tremendous value to the administration—
  - (a) by informally advising, reminding and reproving;
  - (b) by soothing public feeling over reports of outrageous practices by the very fact that their complaints were receiving his attention;
  - (c) by rejecting unjustified complaints.

129. WE THEREFORE RECOMMEND—

- (1) that the Constitution provides for the creation of the office of" Ombudsman who shall be called Investigator-General;
- (2) that the Investigator-General shall have the same qualifications-as those of a High Court Judge and wide administrative experience;
- (3) that the Investigator-General be appointed by the President in consultation with the Judicial Service Commission;
- (4) that the Investigator-General be assisted in his work by three\* Commissioners, who together shall constitute an Investigation Commission;
- (5) that Commissioners be appointed by the President for a term of" three years which should not be renewable. The term of office of the first three Commissioners be men of high standing in society;
- (6) that the Investigator-General investigates any matter of individual injustice or administrative abuse of power or authority involving corruption, tribalism, nepotism intimidation and all other forms of discrimination taken by or on behalf of:
  - (a) any department or Ministry of Government;
  - (b) any statutory corporation set up entirely or partly out of public funds, or funds voted by Parliament, including, institutions of higher learning;
  - (c) any member of the Public Service;
  - (d) any officer of the Party;
  - (e) any officer in the security forces;
  - (f) any officer of any court of law;
  - (g) any other organisation within the Republic; and
  - (h) any other person being an action taken in the exercise of" the administrative functions of that department, Ministry,, corporation, Party, authority, organisation or person., since Independence;



- (7) that the Investigator-General shall not investigate;
- (a) any matter which is *sub judice*, and
  - (6) any matter relating to the exercise of the prerogative of mercy.
- {8) that subject to the provisions of the Constitution establishing the office of the Investigator-General, an Act of Parliament be enacted to:
- (a) specify the matters in detail which shall be subject to investigation by the Investigator-General;
  - (b) set out the procedures for the lodging of complaints in respect of:
    - (i) the furnishing of information and production of documents to the Investigator-General;
    - (ii) the attendance and examination of witnesses;
    - (iii) the institution of proceedings and the making of recommendations for appropriate remedies; and
  - (c) generally provide for the purposes of enabling the Investigator-General to perform the functions conferred upon him by the Constitution or any other law;
- 49) that the Investigator-General, among other things, submits an Annual Report to the President and the National Assembly, which shall contain a summary of the matters investigated and the action taken or recommended by him;

that Parliament initiate moves for the investigation of any allegations leading to the removal of the Investigator-General by two-thirds majority decision of all members followed by the establishment of a tribunal appointed by the Chief Justice, consisting of:

- (a) a chairman;
- (b) one member of the public;
- (c) a person who holds or has held high judicial office; and

that the report of the tribunal be presented to the President for action.



## PART IV

### THE CONSTITUTION OF THE UNITED NATIONAL INDEPENDENCE PARTY

#### PREAMBLE

130. We discussed the contents of the present preamble to the Party Constitution and agreed to make some basic changes.

131. WE THEREFORE RECOMMEND that the preamble be as follows:

'WHEREAS Zambia is now and forever a free, united, indivisible and independent Sovereign State due to the historic fact that the people of Zambia spearheaded by the Party launched and won a just and relentless struggle for national independence and liberation of the motherland under the banner of our motto "One Zambia, One Nation";

RECOGNISING that the Party shall continue to be a revolutionary mass organisation in which participatory democracy shall be rigidly and strictly maintained, welded together by patriotism and the voluntary acceptance of belonging to it;

DETERMINED to mould a new Zambia in which equality, justice, liberty, solidarity, peace, political, economic and social progress and prosperity for all shall reign, free from poverty, disease, ignorance, and exploitation;

ACCEPTING that the communal way of life is traditionally the way of life of the Zambian people as expressed in the philosophy of Humanism and that the Party shall bolster up and maintain this noble and worthy way of life;

PLEDGING that the land in Zambia and all its natural resources on, in, under and above the land belong to the people under the custody of the State, and that the Party shall continue to be the vanguard of the Zambian people shall guide the nation in the task of nation-building;

DECLARING that the Party recognise the inalienable rights of all people to self-determination and national independence and that they have a right to wage liberation struggles to this end; and further that the Party pledges its support for all people waging just struggles for national liberation from colonialism, neo-colonialism, imperialism and racism; and that the Party shall work to enhance the development of Pan-Africanism. African Unity and non-alignment.

WE ACCORDINGLY PROCLAIM AND GIVE TO OURSELVES THIS CONSTITUTION.'

#### NAME OF THE PARTY

132. A substantial number of petitioners had proposed that the name United National Independence Party (UNIP) should be changed and some

modifications made to the Party structure so as to attract members of minority parties and other people who did not belong to any political party and in this respect several names were suggested. We first of all considered whether we were competent to recommend a change in the name of UNIP and came to the conclusion that we were competent to consider any changes in the UNIP Constitution including changing the name of the Party. We considered the argument to the effect that unless the name of the Party was changed members of the minority political parties might feel unwelcome in UNIP. It was important to realise that the attainment of independence should not be attributed solely to one political party since it was a result of collective effort by all the people. Besides, the country was on the threshold of a new era and, therefore, there was a need to change the name of the Party. Moreover, such change should not be considered as a victory or defeat for any one party and in this regard it would be appreciated as a gesture of goodwill if the majority Party which had initiated the One-Party Democracy would consider changing its name. It was suggested that the name should either be the 'Zambia National Party' or the 'United National Democratic Party'.

133. The majority of petitioners, however, were of the opinion that the name of the Party in the One-Party State should remain UNIP because, they argued, UNIP was not only the majority Party but was also the Party that spearheaded the country to independence. We examined the implications of this proposal and an argument was advanced to the effect that a mere change in the name of the ruling party would not necessarily attract members of the minority parties since those who had left or not joined the Party had done so for various reasons other than because of the name of the Party. In this regard it was argued that instead of changing the name, we should identify those factors which alienated the people from the Party with a view to making the Constitution attractive enough to non-members. Fears were expressed, that if the name of the Party was changed or if the ruling Party was dissolved and a new Party formed, the majority of UNIP organisers would be apathetic to the new party with the result that the existence of the party would not be felt. It was pointed out that the possible reaction of the majority of UNIP supporters on this matter should be considered. Moreover, there was no need to change everything in the UNIP Constitution merely to accommodate non-members who might not even join the party after such changes had been made.

134. We proceeded to examine a proposal submitted by a few petitioners to the effect that all political parties should be abolished and no new party should be created at all. We also took note of the submission made by some of the petitioners in this group to the effect that after the abolition of all political parties, a new political party should be formed. We also examined the feasibility of this proposal and agreed that there was need for a party to maintain political stability in the country. A fear was also expressed that if UNIP was dissolved together with other political parties, the present UNIP and other officials of minority parties might be reluctant to organise for the new party with a possible consequence that the new party might not be a success. This would in turn affect the smooth introduction of the One-Party Participatory Democracy. Another proposal was advanced to meet this difficulty to the effect that the Government administrative machinery could be utilised to establish a new party; that is, people

wishing to join the new party would register within a certain period at government offices. After registration of members the Head of State could call for party elections at which office bearers from local to national levels could be elected.

135. After carefully examining the implications of each one of the foregoing proposals, we found that we did not accept any of them. On the change of the name of the Party, however, we were evenly divided and accordingly we made no recommendation.

#### POLICY AND OBJECTIVES OF THE PARTY

136. We discussed the provisions of these Articles and came to the conclusion that in addition to what is already provided for therein, the policy and party objectives of UNIP in a One-Party Participatory Democracy should emphasise the fact that the Party should be a revolutionary mass organisation which should aim at eliminating all forms of corruption and intimidation and that it must be the duty of the Party to create conditions designed to remove prejudices based on former political affiliations and/or on social and educational status. We also felt that one of the party objectives should be to place a duty on the Party to encourage full and effective participation of women in Party and Government affairs without hindrance.

137. WE THEREFORE RECOMMEND that Articles dealing with Party policy and objectives read as follows:

##### *Policy of the Party*

The Party shall pursue a policy of peace and development and shall be vigilant to safeguard Zambia's national sovereignty and Independence based on the principle of 'One Zambia, One Nation'.

##### *Party Objective\**

- (1) To promote Zambian Humanism.
- (2) To strive to raise the standard of living.
- (3) To ensure acceptance of the principles, of equal opportunity and treatment for all peoples in all walks of life.
- (4) To co-operate with any movement or organisation for the improvement of the conditions of the people and to secure the most efficient production and equitable distribution of the wealth of the nation in the best interests of the people.
- (5) To stamp out all forms of corruption and intimidation.
- (6) To create conditions designed to remove prejudices based on former political affiliations and on social and educational status.
- (7) To abolish all forms of discrimination and segregation based on tribe, clan, sex, colour or creed.
- (8) To promote and support worthy Zambian customs and cultures.

- (9) To protect, encourage and promote trade, commerce, industry and agriculture in the interest of the people by all means and encourage Zambians to participate in all sectors of the economy.
- (10) To organise and maintain in the country and in elected bodies support for the Party.
- (11) To give effect to the principles approved from time to time by the appropriate organs of the Party.
- (12) To ensure observance of the fundamental freedoms and human rights.
- (13) To inculcate and foster a vigorous consciousness of patriotism and a strong sense of national unity based on a common and undivided loyalty and devotion to Zambia and her national interest.
- (14) To co-operate locally and internationally with all progressive African and other nationalist movement and political parties which work for the complete eradication of all forms of colonialism, racialism, neo-colonialism, imperialism and discrimination and to strive for the attainment of African unity.
- (15) To carry on any other activities which in the opinion of the Party are conducive to the attainment of the aims and objectives of the Party and to do such things as are incidental to the attainment of the above objectives.

## CENTRAL COMMITTEE

### COMPOSITION, ELECTIONS AND QUALIFICATIONS

138. A good number of petitioners submitted that there should be equal provincial representation on the Central Committee, that is, two-representatives from each province. We discussed the implications such a composition might have and came to the conclusion that provincial representation might open the way to tribal pressures. We were conscious, however, of the need for the membership of the Central Committee to reflect a national outlook provided that this was not at the expense of merit, integrity and effective party leadership. We were of the opinion that a national outlook of the Central Committee could be achieved by allowing each province to elect one representative to the Central Committee through a Provincial Party Conference.

139. In examining what the total membership of the Central Committee should be, we took into consideration the need for a Central Committee which was not too large and cumbersome but effective enough and at the same time allowing for adequate representation of diverse interests. We were of the opinion that the present number of twenty-five members was reasonable. On these grounds we came to the conclusion that in addition to the eight members elected provincially the National Council should elect twelve members of the Central Committee and the President should nominate three members. The President would also appoint a Secretary-General of the Party from among members of the Central Committee. We agreed that both the President and Prime Minister would be members of the Central Committee.

140. We discussed what the qualifications of candidates for membership of the Central Committee should be. We were conscious of the need to have persons in the Central Committee who would be as knowledgeable and as qualified as their counterparts in Cabinet considering that the Central Committee would be expected to spearhead the formulation of general policy. We therefore came to the conclusion that the qualifications for candidates for election to the Central Committee should be the same as those for election to Parliament with the exception that there should be no deposits paid by candidates but, however, that candidates should be supported by at least ten sponsors. We felt that in addition to the disqualifications now provided for in the Party Constitution, the provisions for candidature for parliamentary elections should also apply. We were of the opinion that every paid-up member should be free to stand for election to the Central Committee. We also felt that the election to the Central Committee should continue to be supervised by the Electoral Commission.

141. WE THEREFORE RECOMMEND—

- (1) that the total membership of the Central Committee be as follows:
  - (a) the President of the Party;
  - (b) the Prime Minister;
  - (c) one member elected by each Provincial Party Conference ;
  - (d) twelve members elected by the National Council; and
  - (e) three nominated by the President;
- (2) that the President of the Party appoints a Secretary-General of the Party from among members of the Central Committee;
- (3) that a candidate for election to the Central Committee must have the following qualifications:
  - (a) must be a Zambian citizen;
  - (b) must be a paid-up member of the Party;
  - (c) must have attained the age of eighteen;
  - (d) must be literate and conversant with the official language;
  - (e) must be supported by at least ten sponsors;
  - (f) must be a disciplined person without a criminal record; and
  - (g) must be a registered voter for the purposes of parliamentary elections; and
- (4) that all the disqualifications recommended for parliamentary candidates should apply.

#### MEETINGS OF THE CENTRAL COMMITTEE

142. We were of the opinion that in the absence from Zambia of the President of the Party or in cases where he would be unable to preside over Central Committee meetings due to illness or any other cause, the Secretary-General should discharge the functions of the President.





- (a) Foreign Affairs, Defence and Security Committee,-
- (b) Social and Cultural Committee;
- (c) Economic and Finance Committee;
- (d) Political, Constitutional and Legal Affairs Committee -
- (e) Elections, Publicity and Strategy Committee; and
- (f) Appointments and Disciplinary Committee.

#### RELATIONSHIP WITH CABINET

148. We gave thought to what the relationship between the Central Committee and Cabinet should be. We were of the opinion that it was desirable to separate the membership of these bodies with the exception of the Prime Minister who would be an *ex-officio* member of the Central Committee. We appreciated the need, however, for close liaison between the two bodies and felt that they should meet as often as possible to resolve mutual problems. We felt that it was important to separate the policy formulation role of the Party from the policy execution role of the Government.

149. WE THEREFORE RECOMMEND—

- (1) except for the Prime Minister, no Minister be a member of the Central Committee;
- (2) that the Central Committee and the Cabinet be separate bodies but meet in joint sessions when need arises.

#### DUTIES OF REGIONAL OFFICIALS AND REGIONAL ANNUAL CONFERENCE

150. A number of petitioners submitted that regional officials should be elected by members of the Party within the region. We examined this submission and came to the conclusion that there was need for the Central Committee to continue appointing regional officials in the interests of effective party organisation at this level. A substantial number of petitioners also submitted that there was no longer any need for retaining the post of Youth Secretary. We examined the structure of the Party at the regional level and came to the conclusion that the present structure should be retained under the leadership of the District Chairman.

151. WE THEREFORE RECOMMEND—

- (1) that the composition of the Regional Committee be as follows-
  - (a) District Chairman (*Chairman*);
  - (b) Regional Secretary (*Secretary*);
  - (c) Regional Publicity Secretary;
  - (d) Regional Women's Secretary;
- (2) that the District Chairman be the chief representative of the Party within the region and that the Regional Secretary be responsible to him;

143. WE THEREFORE RECOMMEND that a provision be made in the Party Constitution to the effect that in case of the President being unable to preside over Central Committee meetings owing to absence from Zambia, illness or any other cause, the Secretary-General shall discharge the functions of the President until such date as the President resumes his duties.

#### EXECUTIVE OFFICERS AND THEIR DUTIES

144. We were of the opinion that the day-to-day administration of the Party including the work of research units should be done by full-time employees of the Party who should be appointed by the Secretary-General in consultation with the President. We were of the opinion that the Executive Officers specified in the Party Constitution including any other officers who might be added to that list should be appointed by the Central Committee. We agreed that the leadership of the Party should be vested in the President of the Republic, and that general administrative powers should be assigned to the Secretary-General of the Party. He shall have the power to convene and preside over administrative meetings of the Central Committee.

145. WE THEREFORE RECOMMEND that additional duties for the Secretary-General who replaces the Administrative Secretary be as follows:

- (a) convene and preside over administrative meetings of the Central Committee;
- (b) be responsible in accordance with such instructions as may be given to him by the President of the Party, for arranging the business for keeping the minutes of the Central Committee and for conveying the decisions of the Central Committee to the appropriate person or authority; and
- (c) Shall appoint the Chairmen of sub-Committees of the Central Committee in consultation with the President.

#### SUB-COMMITTEES OF THE CENTRAL COMMITTEE

146. We took note of the fact that the Central Committee already had a number of standing committees but expressed our concern that these Committees were not supported by research units to assist them in their work. We felt that the Central Committee should recommend policies to the National Council only after extensive research. We discussed the leadership and membership of the Standing Committees and came to the conclusion that members of the Central Committee should lead the Standing Committees but that membership should be drawn from members of the National Council as well as from ordinary members of the Party.

147. WE THEREFORE RECOMMEND—

- (1) that there be sub-committees of the Central Committee headed by members of the Central Committee appointed by the Secretary-General in consultation with the President of the Party;
- (2) that each committee be free to co-opt members of the National Council or any other members of the Party;
- (3) that research units be created at the Party Headquarters; and
- (4) that the following sub-committees of the Central Committee be established:

155. The other opinion given by petitioners was that all citizens should automatically become members of the Party at birth as there was going to be only one political party in the country. We felt that automatic membership was tantamount to a partyless State. In addition, this sort of membership might bring in many unwilling Party members. A substantial number of petitioners submitted that in a new spirit of give and take, all Zambians who wished to join the Party regardless of their past political affiliations, should feel free to do so. We favoured the idea of voluntary party membership as we felt that one aspect of participatory democracy was that people should be free to join and to belong to the only political party.

156. WE THEREFORE RECOMMEND that provisions on membership obligations and rights be as follows:

- (1) Membership of the Party shall be voluntary and open to any Zambian citizen who accepts the objectives and rules of the Party;
- (2) An applicant desiring to join the Party shall submit his application orally or in writing to the appropriate party officials at specified party offices;
- (3) There shall be two classes of members, namely—
  - (a) individual members ;
  - (b) affiliated members;
- (4) Individual members shall consist of persons of not less than eighteen years of age who subscribe to the conditions of membership, provided they are not members of organisations which in the opinion of the Party, are ineligible for affiliation to the Party;
- (5) Affiliated membership shall consist of organisations which in the opinion of the Party, have interests consistent with the objectives of the Party;
- (6) A member of the Party shall have the following obligations and duties:
  - (a) to fight for the unity of the country and the consolidation of a humanistic society;
  - (b) to safe-guard the Party and to study its ideas and ideals;
  - (c) to be loyal to the Party, to accept and uphold the agreed Party policies and to correctly carry them out;
  - (d) to regularly attend party meetings and actively take part in the discussions;
  - (e) to strengthen the bond between the people and the Party;
  - (f) to explain to the people constantly the policies of the Party; to be simple, cultured, modest and courteous in daily life, to live an industrious life without seeking after self-interest or fame and to be honest and frank with the Party;

- (g) to set an example at work, to do everything possible to be conversant with the work assigned to Party members, to raise the levels of technique and skill, to voluntarily observe labour discipline, to raise labour productivity and to take part in the management of enterprises, and to cherish and thriftily use the State and public property;
  - (h) to refrain from criticising publicly the Party or any member thereof in relation to his activities in the Party, but to report alleged short-comings to the appropriate committee of the Party to which the reported member will be entitled to answer the allegations in person;
  - (i) to observe Party discipline;
  - (j) to strictly guard the secrets of the Party and always and everywhere to maintain high political vigilance;
- (7) A member of the Party shall enjoy the following rights:
- (a) to elect and to be elected to any Party committee at all levels;
  - (b) to criticise any short-comings in the Party at Party meetings when there are due reasons and grounds;
  - (c) to attend in person at Party meetings that discuss and pass decisions on his activities at work;
  - (d) to request the Party committee at all levels up to and including the Central Committee to consider any questions or petitions; and
  - (e) to freely take part in discussions on Party work and policies.

#### YOUTH BRIGADE

157. A good number of petitioners submitted that they did not favour the continuation of youth wings of all political parties on the grounds that youth wings had instilled fear in the minds of some members of the public by indulging in acts of violence through card-checking campaigns and forcing people to attend political meetings. They also argued that youths had no specific functions and that since Independence they have played no useful role. This, they said, was due to ineffective organisation which at times resulted in some unscrupulous politicians manipulating the youth for their own selfish ends. Other petitioners, however, submitted that the youth had been useful in organising political parties when it came to requesting people to attend meetings, teaching and getting them to vote, urging Party members to renew their subscriptions and in many other ways. In addition they argued that youth wings of political parties provided youths with some training for future Party leadership. They further called for more powers for youths in the One-Party Participatory Democracy, e.g., by assisting the police provided the Party youths had some form of identification. We discussed in great detail the role played by youth wings of all political parties and observed that a good number of people had developed a pathological hatred for youth wings of all political parties. For these reasons, it was felt that the continued «existence of these wings would prejudice the smooth introduction of the

One-Party Participatory Democracy. We appreciated, however, that the youths could have a useful role to play in nation-building provided they were better organised.

158. We examined the present qualifying age for Party membership and considered whether it would be fair to prevent young people from participating actively in politics until they attained the age of eighteen. We came to the conclusion that all young people should participate in politics indirectly through the creation of a national body which would co-ordinate all youths' activities and be affiliated to the Party with representation in both Parliament and the National Council. We felt that a central agency to co-ordinate and plan for all youth activities should be created.

159. WE THEREFORE RECOMMEND—

- (1) that the role of the youth in a One-Party Participatory Democracy be changed;
- (2) that there be created a National Council for Youth to embrace all youth activities in the country;
- (3) that the National Council for Youth be represented in Parliament and on policy-making bodies such as the National Council of the Party;
- (4) that in addition to the National Service and other youth organisations, Government caters for all youths in the Republic.

#### WOMEN'S BRIGADE

160. Very few petitioners spoke about the Women's Brigade as such. Some in this group argued that this body had out-lived its usefulness with the attainment of Independence but the rest wanted this organisation to have more powers and responsibilities and to play a bigger role in the Party and in other national affairs. The majority of petitioners who spoke about women's affairs in general as indicated in our introduction to the composition of Parliament called for more female representation in Parliament and in other policy-making bodies such as Cabinet, the Central Committee, the National Council, etc. We considered women's affairs in detail. We appreciated the fact that prejudice had restricted women in the development of their full potential and therefore special needs and programmes for women were essential in some instances. However, we were of the opinion that the most effective ways of fighting this prejudice were through women themselves competing against men on an equal footing and organising themselves to be conscious of their rights and duties so as to help collectively in the solution of those problems which were particularly relevant to them. We also felt that women, regardless of their political affiliations and other positions in society, should make a greater effort to co-operate and unite in the national interest.

161. WE THEREFORE RECOMMEND—

- (1) that a National Women's Council to embrace all women's organisations be established and be affiliated to the Party; and
- (2) that the National Women's Council be represented in Parliament on policy-formulating bodies such as the National Council of the Party, etc.

THE NATIONAL COUNCIL : MEETINGS, POWERS,  
FUNCTIONS AND QUALIFICATIONS

162. A substantial number of petitioners submitted that the National Council should be enlarged to include representatives from institutions and organisations which exercised some influence in society so as to enrich the discussions of the Council. We shared the petitioners' sentiments on this matter as we thought that it was important for the supreme policy-making body of the Party to include within its membership representatives from as many institutions and interest groups as possible in line with the principles of One-Party Participatory Democracy. We discussed the composition of the National Council and felt that adjustments had to be made to the present membership in order to allow for a new national outlook. We considered what the qualifications of members of the National Council should be and came to the conclusion that with the exception of representatives of the Security Forces, all members should be paid-up members of the Party. We were of the opinion that the National Council should be assisted by a special committee in dealing with disciplinary matters referred to it by the Appointments and Disciplinary Committee of the Central Committee.

163. WE THEREFORE RECOMMEND—

(1) that the composition of the National Council of the Party be as follows:

(a) *Ex-Officio Members:*

(i) members of the Central Committee .. .. .	25	
(ii) members of Parliament .. .. .	135	
(iii) Resident Commissioners .. .. .	8	
(iv) District Chan-men .. .. .	53	
(v) District Representatives .. .. .		53

(b) *Institutional Representatives:*

(i) Security Forces (Army and Air Force, 5; Police and Prisons, 5) .. .. .	10	
(ii) Chiefs .....	8	
(iii) Churches .. .. .	5	
(iv) Civil Service .. .. .	10	
(v) Local Government Association/Authorities ..		5
(vi) Institutions of Higher Learning (University, 2; Technical and Vocational Colleges, 2) ..	4	
(vii) Public Corporations (ZIMCO and Bank of Zambia)		

4

(c) *Affiliated Organisations:*

(i) Zambia Congress of Trade Unions .. .. .	15	
(ii) Commerce and Industry .. .. .	10	
(iii) National Women's Council .. .. .	10	
(iv) National Youth Council of Zambia .. .. .	10	

(v) Farmers' Organisations	..	..	..	..	5
(vi) Co-operative Movement	..	..	..	..	2
(vii) Professional Societies	..	..	..	..	2

thus bringing the total membership of the National Council to 374;

- (2) that one of the provisions of the functions of the National Council read as follows:

'The National Council shall have power to suspend, discharge, dismiss or expel any Party Official, a Member of Parliament or any other member of the Party who has grossly contravened any provision of the Constitution or any rules made under it. An Appeals Board of the National Council should review disciplinary cases of this nature disposed of by the Appointments and Disciplinary Committee of the Central Committee';

- (3) that the National Council should have power to amend the Party Constitution; and
- (4) that with the exception of members of the Security Forces, all members of the National Council be paid-up members of the Party.

#### PARTY GENERAL CONFERENCE

164. Petitioners who spoke on this issue expressed satisfaction with the present provisions governing the Party General Conference. We held similar views with the petitioners on this matter. However, we felt that adjustments be made to the composition, selection of delegates and to the role and functions of the General Conference.

165. WE THEREFORE RECOMMEND—

- (1) that Article 34 (3) reads as follows:

'Delegates to the Party General Conference who must be Party members be as follows:

- (a) up to 600 members from each province selected by the Provincial Party Conference;
- (b) all members of the National Council; and
- (c) one delegate from each registered member of an affiliated organisation'; and

- (2) that the General Conference of the Party be empowered to consider, review or change any policy of the Party on any issue whatsoever with the exception of amending the Party Constitution.

#### PARTY FUNDS AND AUDIT

166. We considered the functions of the Party in a One-Party Democracy and the desirability of Government giving a grant or subsidy to the Party to enable it to meet its financial obligations. We felt that the Party should normally meet its financial obligations and only in cases of need should it resort to applying for a Government subsidy voted for by Parliament. It was also felt that for the Party to qualify for this subsidy

or grant, the Government should have access to the accounts of the Party. We agreed that whenever the Party obtained a Government grant or subsidy, the Auditor-General should audit the accounts of the Party.

167. WE THEREFORE RECOMMEND—

- (1) that the Party be eligible for a Government subsidy or grant approved by Parliament;
- (2) that the Party's accounts be audited by the Auditor-General of the Republic whenever the Party receives a Government subsidy or grant.

#### STANDING ORDERS

168. We discussed the contents of Standing Orders and were of the opinion that they should stand with minor amendments. We observed that the requirement that elections be by secret ballot conducted by an Electoral Officer, the discretion for a Chairman to cast a vote at the constituency level and the qualification for branch officials to be paid-up members of the Party, did not apply to any other levels. We were of the opinion that uniform provisions should be made to apply to all levels.

(169). WE THEREFORE RECOMMEND—

- (1) that the entrance fee be the same for all affiliated organisations but that annual subscriptions be based on the strength of membership of each organisation; and
- (2) that the provisions governing elections, voting procedure and qualifications for Party officials be extended to cover all Party elections, Party officers at all levels and chairmen of all Party committees.

#### THE CODE OF LEADERSHIP

170. The majority of petitioners who spoke on this subject generally accepted the idea that a code of rules to guide national leaders at various levels in society should be worked out and implemented in the One-Party Participatory Democracy. This, they argued, would eliminate corruption among leaders, ensure and maintain a high standard of discipline and portray an unquestionable rectitude as well as a high sense of duty and responsibility. Thus their public image would be protected from unnecessary attacks and insinuations. However, there were a few petitioners who did not favour the idea of having a Code of Leadership as they thought it would be difficult to implement.

171. In discussing this subject, we took note of various documents on related matters. The first one was a paper on the 'Exploitation of Man by Man' which was presented to the National Council of the United National Independence Party at Mulungushi Hall, Lusaka, by His Excellency the President of the Republic, Dr K. D. Kaunda, on 9th November, 1970. Among other issues presented in this paper the Code of Leadership was introduced in the following terms:

'For any measures to succeed in our endeavours to establish a society in which there is fair distribution of wealth and equal opportunity for all citizens, we need dedication and commitment to the



national goals by our leaders. We also need enlightened, determined, dedicated and hard working followers. To be a leader demands sacrifice; the nation must accept the responsibility in practical terms of assisting the leaders to prepare themselves to make the necessary sacrifice. It is, therefore, incumbent upon a society as stable as ours to guarantee the security of those whom the nation has called upon to serve. A man uncertain of his own future and that of his offspring will not find it easy to give his best or, indeed, to withstand corruption. Corruption is basically a child of insecurity and yet, as the Latin saying has it " The corruption of the best is the worst " or " The fallen saint is the worst kind of sinner ". Similarly, the fallen leader is the worst kind of failure. Leaders in the Party and Government have been conscious of this danger for a long time and hence they have directed their attention to the formation of policies designed to create secure conditions for all.'

172. This resulted in the drawing-up of qualities of good leadership and ten rules of the Code of Behaviour for leaders and the establishment of a committee to study the question and the implementation of the decisions. We also studied a pamphlet called 'The Nation Is You', which contained addresses to, and resolutions of, the National Council of UNIP held at Mulungushi Hall, Lusaka, from 4th-6th March, 1972. We found the following quoted resolution on the Code of Behaviour relevant:

'The National Council resolved that in view of the fact that Zambia is going through a significant metamorphosis that will lead to a One-Party State, the Central Committee should at its earliest convenience look at this question in order to produce tangible guidelines of what will be expected of the leaders in the new-look Zambia;

(b) That the guideline so produced should be such that the leaders are not placed in a doubtful position whether they themselves and their followers do not know what they should do or not do.'

Lastly we considered another pamphlet on 'Humanism in Zambia' being a guideline to the National Council of UNIP in Lusaka held on 26th April, 1967. Part II of Chapter 5 of this publication outlines the role of Party leaders on the following lines:

- ' (a) all Party leaders, that is all members of the Central Committee, Ministers, Members of Parliament and all officials, must openly declare their support for the principles of *Zambian Humanism*;
- (b) all Party leaders must work actively to promote the accepted principles of *Zambian Humanism*;
- (c) all Party leaders must abandon any practices or privileges which conform to capitalistic principles and not to the declared principles of *Zambian Humanism*.'

We also examined the provisions of the UNIP and Republican Constitutions as well as those of the Penal Code relevant to this matter.

173. We discussed the various aspects of whether or not to establish a Code of Leadership in great detail. The subject presented us with insurmountable difficulties in reaching a consensus. However, it was envisaged that the Code would not be restricted to economic aspects only but to political

and moral aspects as well. We examined the question whether there were socio-economic security measures guaranteed for leaders by the State in order to prevent them from resorting to under-hand or devious methods of securing such guarantees for themselves and their families. We were of the opinion that leaders holding posts of a political nature as against those holding permanent and pensionable posts would be prone to such fears. We were generally satisfied that such social services as free education and medical care for all, improved public transport facilities, etc., the establishment of the National Provident Fund and graduated income tax, should go a long way to allay such fears.

174. As this Code is intended for leaders only and not for the rest of society, we wondered whether some people might think that it would not be in keeping with our philosophy of Humanism. If such a charge were to be proved correct, the solution appeared to be either in eliminating all forms of private entrepreneurship so that the Code could affect everyone in the Republic or allowing the present economic structure to continue so that any capable person could become a leader. The first alternative implied a radical socialisation of the whole economy. We thought two dangers might be eminent:

- (a) that our economy would be left open to sabotage by foreign powers that have vested interests in it; and
- (6) that we would be coming up against a formidable force of resistance from Zambian nationals who already had property.

175. It was further felt that if leaders were forced to relinquish their posts in preference for retaining their private enterprises, we would be creating a separate but powerful class of property owners divorced from active participation in the affairs of the country. If uncontrolled, such a class of people might become a problem to the nation. The charge that the Code of Leadership would be an anti-humanistic move was dismissed as we were convinced that it was meant for leaders only. In addition, we were of the opinion that leadership involved many sacrifices which normally did not affect ordinary members of society and accepting the Code would be one of these.

176. Another problem we came up against was the definition of a leader who should be bound by the Code of Leadership. In our view leaders at different levels held spheres of influence and responsibility. For example, a national leader who held a Cabinet post or who was a Permanent Secretary in a Ministry and therefore whose national responsibility was very high and whose area of influence was much wider, should not in all cases be placed under the same obligations and duties as a member of a Village Productivity Committee or Ward Councillor whose office did not entail the same degree of responsibility. We also wondered whether to involve traditional leaders such as chiefs, churchmen, headmen, etc., in the Code of Leadership but in line with their new role as national leaders in the One-Party Participatory Democracy we decided in favour of the move

177. In reaching our conclusion after considering the political, economic and social aspects of the matter, the idea of establishing a Code of Leadership for national leaders was generally agreed to. Our cardinal principles in establishing this Code were thought to be:

- (1) clarity of the Code of rules so that it ensured that people became leaders knowing all the implications involved;
- (2) a firm guarantee of social security measures by the Party and State for leaders and their families so that they would have no excuse whatsoever for turning to corruption as a security measure;
- (3) a clear and fair definition of leadership in order to eliminate any confusion and to ensure that all leaders receiving salaries from public and Party funds were affected;
- (4) strong measures for implementing the Code such as:
  - (a) by the policy of declaring assets and interests by leaders;
  - (b) by the office of the Investigator-General who would investigate on his own initiative or on allegations made to him, all cases in which the infringement of the Code took place;
  - (c) by tightening-up all disciplinary rules contained in the Party and Republican Constitutions, Government regulations, Parliamentary Acts or any other rules by the appointing authorities and the provisions of the Penal Code;
  - (d) by ensuring that the onus of maintaining a good public image for leaders as well as ensuring that whenever they are involved in serious scandalous matters, they should voluntarily resign from their posts.

178. WE THEREFORE RECOMMEND—•

- (1) that a Code of Leadership be implemented to affect the following leaders:
  - (a) The President of the Republic;
  - (b) Prime Minister;
  - (c) Secretary-General to the Party;
  - (d) Members of the Central Committee;
  - (e) Ministers and Attorney-General;
  - (f) Chief Justice, Justices of Appeal, Judges, Senior Resident Magistrates and Magistrates;
  - (g) Speaker of the National Assembly and the Deputy Speaker;
  - (h) Members of Parliament;
  - (i) Ambassadors, High Commissioners and Counsellors of Zambian Missions abroad;
  - (j) Resident Commissioners;
  - (k) District Chairmen;
  - (l) Director of Public Prosecutions;
  - (TO) Senior Civil Servants in the Zambia Administrative Service or their equivalents;

- (n) Auditor-General;
- (o) Clerk of the National Assembly and Senior Members of staff;
- (p) Investigator-General and senior members of staff;
- (q) Senior Officers of the Zambia Police Force;
- (r) Senior officers of the Zambia Prisons Service;
- (s) Commissioned Officers of the Zambia Defence Forces;
- (t) Senior Local Authority Officers;
- (u) Full-time ZCTU and National Unions Officials at Headquarters ;
- (v) All senior employees of the Party from a Regional Official;
- (w) Chairmen, Managing Directors, General Managers and senior officers of Statutory Boards, Government Boards, State Companies in which the State has controlling interests;
- (x) Professors, Lecturers, and senior members of staff of the State educational institutions and colleges;
- (y) Members of Permanent Commissions on full-time basis;
- (z) Mayors and any other person or category of persons in similar positions.:

(2) that the following rules apply to the leaders:

- (a) no leader shall be associated in any way with practices of corruption and exploitation;
- (b) no leader who is in full-time employment and receiving a salary from party or public funds shall take a paid employment which would, in all, entitle him to two or more salaries from Party or public funds;
- (c) no leader shall put to his personal advantage materially or otherwise any information acquired by him during his term of office as a leader;
- (d) no leader, unless permission has been obtained from the appropriate authority, shall let a house owned by him whilst living in a house belonging to the State, Party, local authority or any other authority or employer in cases where such authority or employer receives public funds or funds appropriated by Parliament;
- (e) no leader shall ask for or receive any property or benefit of any kind for himself or any other person on account of anything already done or omitted to be done by him in the discharge of his duties; (/) no leaders shall give or confer or procure to, upon, or for any other leader or person any property or benefit of any kind on account of any act or omission on the part of the other leader or person so employed; (g) no leader shall directly or indirectly hold or acquire any right or interest under a prospecting licence or mining lease;

- (h) no leader shall incur a debt without any reasonable prospects or intention of paying back the debt;
  - (i) no leader shall seduce or attempt to seduce any other leader or any other person from owing his allegiance to the State and Head of State;
  - (j) no leader shall incite or attempt to incite any other leader or any other person to commit an act of mutiny or any treacherous or mutinous act;
  - (k) no leader shall without good and sufficient cause destroy or mutilate any official document or record or alter or erase any entry in an official document or record; and
  - (l) no leader shall do or direct to be done, in abuse of his office, any arbitrary act prejudicial to the rights of any other person;
  - (m) every leader shall swear an affidavit before a magistrate in which shall be declared all assets and properties owned by him, his wife and children (until they reach majority age or get married whichever happens earlier) within six months of taking office and such affidavit shall be published in the *Government Gazette*;
  - (n) no leader may sell property or goods to, or otherwise trade with, the State or Statutory Board, Government Board, State company or company in which the State has controlling interest unless permission to do has been granted by an appropriate authority;
  - (o) no leader receiving a salary from Party or public funds shall—
    - (i) hold directorship in any privately-owned company;
    - (ii) hold shares in a privately owned company except in Government-controlled financial institutions; and
    - (iii) engage in private trade or in commercial agriculture;
- (3) that the office of the Investigator-General investigates all cases in which the infringement of the Code has taken place;
  - (4) that the Penal Code provisions on corruption or misuse of public funds be amended to include all offices whose holders receive remuneration or salaries from Party or public funds;
  - (5) that the State and Party guarantee more long-term social security measures for leaders and their families; and
  - (6) that all leaders involved in serious scandalous cases voluntarily resign from their posts.

179. Commissioners Kasuka Mutukwa and David Phiri felt very strongly that the spirit contained in Section 2 (c) above will be a prohibition to the development of research, knowledge and the search for truth. They contend that it would be difficult to separate the complex role of a Lecturer/Researcher. Besides it is common knowledge if a University Lecturer is involved in a task where he is not supposed to use special 'information acquired by him' for his personal use, he would be bound by an oath.

## PART V

### THE ROLE OF THE LABOUR MOVEMENT AND OTHER SPECIALISED ORGANISATIONS

180. A substantial number of petitioners spoke on this subject. The majority of them submitted that the labour movement should continue to be independent, should not be interfered with by the Government, should be free from political interference and that it should be represented in the policy-formulating bodies of the Government and Party. Other petitioners submitted, however, that the labour movement was ineffective in that, for example, it did not control its members who indulged in illegal strikes. They argued therefore that there should be established a single centrally run national union which would incorporate the present national unions as branches only. Some in this group went further to suggest that the labour movement should be abolished altogether because it retarded the economic development of Zambia through incessant strikes. A few petitioners spoke on the role of other specialised organisations like the National Council for Commerce and Industry with regard to participation in the formulation of Party and Government policies.

181. We took note of the petitioners' views in examining the role and structure of the labour movement. We agreed that it was desirable for the labour movement to participate in the policy-making organs of the Party and Government at all levels and that it should be answerable to the Party and Government for the implementation of agreed policies and decisions. We observed, however, that the present structure of the Zambia Congress of Trade Unions (ZCTU) was both inadequate and did not have supporting staff to enable it to play such a role effectively. We were of the opinion that there should be more intensified training for trade union leaders at all levels.

182. We examined the feasibility of establishing a single national union which would exercise effective control over all the workers in the country. We were of the opinion that such a course of action was desirable but we took note of the possible difficulties in putting it into effect considering that the present law governing trade unions allowed for the existence of individual trade unions as independent units with separate leadership. We felt it was advisable that the ZCTU should have its powers increased to enable it to perform centrally a number of functions on behalf of the entire labour movement provided that adequate staff were found for the ZCTU Headquarters and its leadership was separated from that of individual affiliated unions. We also agreed that other specialised organisations affiliated to the Party should play a similar role to that played by the ZCTU in the formulation of Party and Government policies.

183. WE THEREFORE RECOMMEND—

- (1) that the ZCTU be represented in Parliament and other policy-making bodies such as the National Council, etc.;
- (2) that the ZCTU be answerable to the Government and Party on behalf of individual unions for the implementation of policies pertaining to labour matters in the country;

- (3) that Government considers examining the structure and role of the ZCTU with a view to centralising the exercise of decisions now taken by individual national unions on matters like the strike action, negotiation of recognition, joint industrial council constitutions and wage agreements in the interests of industrial relations and stability in the country;
- (4) that provisions be made in the ZCTU Constitution to the effect that office bearers resign their posts in their respective unions on assuming office in the ZCTU; and
- (5) that other specialised organisations affiliated to the Party play a similar role to that played by the ZCTU in Parliament and other policy-making bodies such as the National Council, etc.



## PART VI

### MISCELLANEOUS

184. A good number of petitioners spoke on various subjects which were completely outside our terms of reference. We were of the opinion, however, that some of the subjects raised by the petitioners were relevant to the establishment of a One-Party Participatory Democracy.

### POLITICAL RALLIES

185. A substantial number of petitioners submitted that it was unfair to close shops, bars and schools when leaders addressed political rallies in that it inconvenienced some residents in the area. A number of them submitted that they disliked being forced to attend rallies. It was appreciated that as many people as possible should gather to listen to the Head of State when he addressed a rally. We did not favour the habit of closing shops and bars especially those far from the vicinity of the site of the rally. It was also felt that children from far outlying schools should not line along routes or attend rallies as this system was not in the interest of the school children. We felt that schools within the vicinity of the rally sites or routes should themselves exercise their own discretion on this matter. We discussed the procedure for obtaining police permission for holding public meetings and concluded that people wishing to hold such meetings should notify the police within such period as might be determined by law and ensure that the police received their notification.

186. WE THEREFORE RECOMMEND—

- (1) that attendance at rallies and other public meetings be voluntary;
- (2) that when a national rally is addressed by the Head of State, police determine which bars and shops within the vicinity should be closed or controlled;
- (3) that schools within the vicinity of the rally site or routes should exercise their own discretion whether or not to attend;
- (4) that no public meeting takes place without the police being informed and that failure to inform them be an offence.

### LAND TENURE

187. Some petitioners called on the Government to give land titles to individuals wishing to develop land in rural areas in order to assist them to raise loans from financial institutions by using such titles as security. We examined the whole system of land tenure and after a lengthy debate it appeared that this matter had been covered by the Report of the Land Commission which was appointed to look into all matters relating to land. We discussed whether foreigners should continue to hold and sell land. After expressing our concern at the number of foreigners owning large tracts of land, we came to the conclusion that it was not in the interests of the nation to allow foreigners to hold freehold titles and that instead they hold leasehold titles. We discussed also whether there should be a limit to how

much land an individual or corporation could hold and utilise effectively. We had difficulties, however, in agreeing to what this limit should be and felt therefore that the present system should be maintained, considering that the laws of the State provide for the acquisition of land not effectively utilised. We noted with alarm the exorbitant prices of land charged by landlords in the country and had no hesitation in agreeing that Government should look into ways and means of controlling the price of land. We expressed a hope that Local Authorities would take the lead in reducing land prices.

188. WE THEREFORE RECOMMEND—

- (1) that aliens should not be allowed to hold freehold titles to land;  
and
- (2) that Government looks into ways and means of controlling the price of land.

#### PUBLIC HOLIDAYS

189. We expressed our concern at what we thought were too many public holidays observed in Zambia. We felt that in the interest of productivity it was not necessary to observe all of them. We felt too that the origin of some of the public holidays, such as that of Boxing Day, bore no relevance to the national sentiments or aspirations of Zambia.

190. WE THEREFORE RECOMMEND—

- (1) that the number of public holidays be reduced from thirteen to ten by:
  - (a) observing the Heroes and Unity holidays on a single day following Independence Day; and
  - (6) not observing Whit and Easter Mondays as public holidays;  
and
- (2) that Government considers renaming some of the public holidays, particularly Boxing Day, so as to reflect national sentiments, events or occasions.

#### GENERAL PROVISION

191. We envisaged that the recommendations in our Report, if approved, should not be retrospective except where otherwise specifically stated.

## PART VII

### ACKNOWLEDGMENTS

192. We would like to place on record our deep gratitude to Mr C. M. Sikazwe, the Secretary of the Commission, assisted by Mr B. Chabafimbi and the entire staff of the Secretariat who have worked tirelessly in assisting us in our work. Their devoted application to this mammoth task contributed effectively to the success of our mission. We would also like to record our thanks to the following:

Cabinet Office for making the administrative arrangements;  
Ministry of Defence for providing us with air transport;  
Ministry of Power, Transport and Works for providing us with road transport;  
Ministry of Education and Culture for the co-operation in providing venues for our meetings, receptions and meals;  
Ministry of Information, Broadcasting and Tourism and the Press for covering our work;  
Ministry of Development Planning and National Guidance and all the Interpreters for various translations into local languages;  
Document Reproduction Centre for reproducing the bulk of our documents;  
National Assembly for helping with transcribing and catering;  
Ministers in Charge of Provinces and Staff at Provincial Headquarters;  
District Governors, District Secretaries and other Party and Government Officials at District Headquarters;  
Members of Parliament in their respective constituencies; Mayors, Township and Rural Council Chairmen and other Councillors;  
Chiefs and Village Headmen;  
Church Leaders; Businessmen;  
Women's Organisations;  
Members of the Police Force.

193. We realise that the list of our benefactors is inexhaustible and that we may be guilty of an indefensible omission but most of all we would like to express our deep appreciation and sincere gratitude to all the petitioners who appeared before us or sent us written submissions. We found their response encouraging and their suggestions very useful. We thank all members of the public for their assistance and co-operation particularly those who filled the halls where our hearings were held for giving us and the

petitioners moral support. The success of our mission would never have been assured without the encouragement, co-operation and assistance of all the<sup>1</sup> people listed above.

M. MAINZA CHONA  
*(Chairman)*

HUMPHREY MULEMBA  
*(Vice-Chairman)*

FITZPATRICK CHUULA

CLEMENT MUMBA MWANANSHIKU

DANIEL MTJCHIWA LISULO

FRANK MACHARIOUS CHITAMBALA

TIMOTHY KANDEKE

LAVU MTJLIMBA

DAVID PHIRI

DANIEL KATUNGU

BENJAMIN NDABILA MIBENGE

KASUKA MUTUKWA

ELIAS MUTALE

JACKSON MWAPE

VALERIAN LAVTJ

LILY MONZE

PARAMOUNT CHIEF UNDI

CHIEF MUKUMBI

LUSAKA

15th October, 1972

## APPENDIX I

### FULL TEXT OF THE PRESIDENT'S SPEECH ON THE APPOINTMENT OF THE NATIONAL COMMISSION ON THE ESTABLISHMENT OF A ONE-PARTY PARTICIPATORY DEMOCRACY IN ZAMBIA

I have decided to meet you today to make public the decision of my Cabinet that Zambia should become a One-Party Participatory Democracy and that practical steps should now be taken to bring this about. The first of these steps is to appoint a National Commission to deal with the subject.

You know that since Independence there has been a constant demand for the establishment of a One-Party State in Zambia. The demands have increasingly become more and more widespread in all corners of Zambia.

In recent months I have received hundreds of messages and letters from organisations and individuals appealing to me to take concrete steps to bring about a One-Party System of Government. In the resolutions passed by almost every conference, whether political or non-political, unequivocal demands have been made for Government to introduce a One-Party System of Government.

The House of Chiefs last year joined the chorus of the overwhelming majority of the people. Indeed, the UNIP National Council sitting in Mulungushi Hall between the 1st and the 3rd October last year charged the Central Committee of the ruling Party 'to work towards the achievement of a One-Party Democracy in which the liberties and welfare of the common man will be paramount'. The Central Committee in its study of the subject noted that in this overwhelming public demand the objective for calling for a new system of Government is the fundamental need to preserve unity, strengthen peace and accelerate development in freedom and justice. Accordingly, the Central Committee decided in favour of a change in the Constitution and directed Government to take appropriate measures.

It is against this background, it is in the light of the loud and clear voice of the overwhelming majority of the people of this country that Government undertook an exhaustive consideration and examination of all the representations made both verbally and in writing demanding a change in the system of Government. A final decision has been made. Government has decided to appoint a National Commission on the establishment of a One-Party Democracy.

It is important to stress that this Commission is a National Commission which I have appointed after the closest examination of the facts.

The Commission will consist of the following:

His Honour the Vice-President, Mr Mainza Chona, MP, who is Chairman of the Commission. Hon. Humphrey Mulemba, MP, Minister of Mines and Mining Development who is Deputy Chairman.

The rest of the Commission will be constituted as follows:

*The United National Independence Party*

Hon. C. Mwananshiku, MP, Minister of State and Member of the Central Committee.

Mr D. M. Lisulo, Legal Practitioner and member of the Central Committee.

Mr F. M. Chitambala, Member of the Central Committee. Mr T. Kandeke, District Governor. *African National Congress*

Two representatives from the African National Congress have been approached. I have written to Mr Nkumbula and Mr Nalumino Mundia, both as members of Parliament and in their respective capacities of leader and



Therefore, in the execution of this task the Commission must pay due regard and adhere to these fundamental principles:

*First:* Zambia shall continue to be a Sovereign Republic.

*Second:* Zambia must continue to build a humanist society.

*Third:* All citizens of Zambia shall continue to enjoy complete equality.

*Fourth:* The supremacy of the rule of law and independence of the Judiciary shall continue to be maintained.

*Fifth:* The fundamental rights and freedoms of the individual shall be protected as now provided under Chapter III of the Constitution of the Republic of Zambia.

*Sixth:* The right of the individual to freely choose leaders and representatives to Parliament and many other democratic institutions, national and local, shall be fully preserved.

*Seventh:* Supreme power must be vested in the people and everything shall be done to ensure that power is exercised by them directly where possible, and indirectly through established democratic representative institutions. There shall, therefore, be complete freedom among the people to participate fully in the running of their affairs at local and national level through institutions under people's own control.

*Eighth:* Zambia is part and in the front-line of the continent-wide revolutionary movement which seeks to liberate Africa and rid the Continent of all forms of imperialism, colonialism, racism and foreign exploitation which have plagued the African people in the past. Zambia's geo-political position demands a strong and purposeful Government and a united nation if the Zambian revolution is to succeed. There can, therefore, be no room for complacency and for lofty ideas.

*Ninth:* Zambia is permanently opposed to exploitation of man by man and the people of Zambia will persist relentlessly in their struggle for self-reliance and the establishment of protective measures against possible exploitation by foreign and local economic interests. The people of Zambia will continue to fight relentlessly against the establishment of economic, social, political and cultural classes to guarantee the equality of all human beings in a humanist society. These principles must be regarded as cardinal, inviolable and built-in safeguards of participatory democracy in Zambia. The Commission will have many crucial issues for they must investigate, among other things:

- (a) The nature of the Presidency, methods of election including the important question of whether or not a Presidential candidate shall be eligible for re-election, and if so, after how many terms.
- (b) The nature and structure of Government in general including the relationship between Cabinet, Parliament and the Central Committee of the Party.
- (c) The nature and structure of Parliament itself and its relationship to, for example, the National Council of the Party.
- (d) The relationship between various political and administrative, elected and appointed bodies ranging from Village Productivity and Village Political/Section Committees to the Cabinet and the Central Committee of the Party.
- (e) The Code of Leadership for Parliamentarians and other leaders in order to qualify for various positions in which supreme power normally vested in the people is exercised by them indirectly on behalf of the people.
- (f) The supremacy of the Party vis-a-vis Government administration.
- (g) The amount of freedom of the people to form pressure groups based on tribal loyalties or for particular purposes.

- (h) The role of the Labour Movement und other specialised organisations in the Nation in the formulation of Government policies.
- (i) The participation of Public Servants in politics and Government,
- (j) The system of discipline in the Party, Government and Public Service.
- (k) lastly, the freedom of candidates to stand for flections at local or national level.

After the Commission has completed its work and the new Constitution put forward, it will be submitted to Parliament for approval.

A number of things are striking in this announcement:

*First:* The decision that Zambia should become a One-Party Democracy is firm.

*Second:* The Commission which has been appointed is a National Commission, its membership represents a very wide cross-section of the people of this country and their interest's, political, economic, religions, legal and traditional. All aspects of the life of the people of this country have been taken into account. The composition of the Commission will enable it to examine changes in every conceivable and relevant Held of life in order to help streamline Government structure and practices so as to maximise the efficiency and effectiveness of the administration both at local and national level.

The Commission will take both written and verbal evidence and will, no doubt, take full advantage of the knowledge and experience of many Zambians who will no doubt wish to contribute to the formulation of the new Constitution which will help put Zambia on a better road to unity, peace and development in freedom.

When I opened the current Session of Parliament in January this year, I emphasised, among other things, that we have many challenges ahead and we must all be pre-occupied in practical and positive terms, with activities designed to meet these challenges and to discharge our various responsibilities to this Nation. We have the machinery for making democracy practical in this country.

We have more than enough institutions, political, administrative, economic cultural and so forth, to give full expression to our wishes and desires and to work out our future in a free society. Them is plenty of room for putting forward opposing views and for criticism in this country. The freedom of our Press to criticise public and private institutions, including the Leadership, is almost without parallel in developing countries. The co-operation between the Church and the State gives morality a very high place in the development of the Nation. These are altogether vital considerations as we move forward towards greater unity, peace and development.

The decision which we have therefore made is crucial. The Commission has an historic and crucial mission and the Nation will await anxiously the submission of the new Constitution which the people of this country have asked for.



## APPENDIX II

### THE NATIONAL COMMISSION ON THE ESTABLISHMENT OF A ONE-PARTY PARTICIPATORY DEMOCRACY IN ZAMBIA

(Toun PROGRAMME)

CENTRAL PROVINCE	<i>District</i>
14th to 15th March, 1972	Lusaka
16th March, 1972. .	Lusaka
16th March, 1972.	Kafue
17th March, 1972..	Kabwe
18th March, 1972. .	.. Kabwe
18th March, 1972. .	Chibombo
19th March, 1972. .	Mkushi
20th March, 1972. .	Serenie
21st March, 1972	Mumbwa
COPPERBELT PROVINCE	
22nd March, 1972	..... Ndola
23rd March, 1972..	..... Ndola
24th March, 1972..	.. Ndola
24th March, 1972. .	... Kitwe
25th March, 1972. .	Kitwe
25th March, 1972. .	Kalulushi
26th March, 1972	Luanshya
27th March, 1972. .	Ndola Rural
28th March, 1972. .	Mufulira
29th March, 1972. .	Chingola
30th March, 1972. .	Chililabombwo
SOUTHERN PROVINCE	
10th April, 1972	Mazabuka
11th April, 1972	Monze
12th April, 1972	Gwembe
13th April, 1972	Choma
14th April, 1972	Namwala
15th April, 1972	Kalomo
17th April, 1972	Livingstone
18th April, 1972	Livingstone
WESTERN PROVINCE	
19th April, 1972	Sesheke
20th April, 1972	Mongu
21st April, 1972	Mongu
22nd April, 1972	Senanga
24th April, 1972	Lukulu
25th April, 1972	Kalabo
26th April, 1972	Kaoma

NORTH-WESTERN PBOVINCE	<i>District</i>
1st May, 1972 2nd May,	Solwezi
1972 3rd May, 1972 ..	Solwezi
4th May, 1972 5th May,	Mwinilunga
1972 6th May, 1972	Zambezi
LUAPULA PBOVINCE 8th	Kabompo
May, 1972 9th May,	Kasempa
1972 10th May, 1972	Mansa
11th May, 1972 ..	Mansa
12th May, 1972 13th	Samfya
May, 1972 ..	Mwense
NOBTHEBN PBOVINCE	Kawambwa
18th May, 1972	Nchelenge
19th May, 1972	Kasama
20th May, 1972	Kasama
21st May, 1972	Luwingu
22nd May, 1972	Kaputa
23rd May, 1972	Mpika
24th May, 1972	Chinsali
27th May, 1972	Mporokoso
28th May, 1972	Isoka
EASTBBN PBOVINCE 1st	Mbala
June, 1972 2nd June,	Chipata
1972 3rd June, 1972	Chipata
5th June, 1972 6th	Chadiza
June, 1972 .. 7th	Katete
June, 1972 8th June,	Lundazi
1972	Chama
CENTBAL PBOVINCE	Petauke
9th June, 1972	Feira
14th June, 1972	Lusaka
15th June, 1972	Lusaka
16th June, 1972	Lusaka