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Reserved Area: Barotseland of the 1964 Agreement

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As part of the independence constitutional arrangements for Northern Rhodesia, in May 1964 in London, Kenneth David Kaunda, then Prime Minister at the head of the Self Government of Northern Rhodesia signed the Barotseland Agreement with the Litunga of the Lozi people Sir Mwanawina Lewanika III. The Barotseland Agreement of 1964 recognised the Litunga of Barotseland (Bulozi) as the principal local authority for the government and administration of Barotseland, with powers to make laws of Barotseland in respect to matters such as land, natural resources and taxation. The Barotseland Agreement 1964 was abrogated and cancelled by the Zambian Republican Government (GRZ) through the Constitutional (Amendment) Act of October 1969. Some groups among the Lozi (activists) have been lobbying for the restoration of the Barotseland Agreement 1964 for over four decades. Some extreme elements have even called for secession. The Barotseland Agreement activists include among others the Movement of the Restoration of Barotseland Agreement (MOREBA), the Barotse Patriotic Front (BPF) and Linyunga Ndambo. On 23rd October 2010 and 14th January 2011, the activists were involved in violent disturbances, which rocked Mongu and surrounding areas. The 14th January riots resulted in fatalities, serious injuries, arrests and detentions. The state came down heavily on the activists who were arrested. Twenty-four detainees were charged with treason for seeking to secede Barotseland, now Western Province, from the Republic of Zambia, while others were charged with riotous behaviour or conduct likely to cause a breach of peace. The nation was shocked by the violence and deaths. Concerned nationals, civic and church organizations, scholars, lawyers, political leaders and analysts from all corners of the country and in the diaspora raised issues and concerns: What was the basis of the Litunga's power? Was secession a viable alternative? And what geographical area was to be excised from Zambia? etc. etc. This paper attempts to throw more light on the deep historical roots of the Barotseland Agreement 1964, going as far back as the 1900 Concessions/Treaties which were negotiated and signed by Lubosi Lewanika ruler of the Lozi, the British South Africa Chartered Company (BSA Co.) and the British Government.

Introduction

The Barotse Reserved Area was established through the 1900 Concessions of Lewanika, the British South Africa Chartered Company (BSACo.) and the British Government. It was extended in 1909.¹ The Reserved Area (Bulozi) was the central

¹The Barotse Concessions – Part II, T. W. Baxter – The Northern Rhodesia Journal Number IV December 1951 pp.38 – 43. The Concessions of Northern Rhodesia, T. W. Baxter Occasional Papers No. 1 June 1963. The National Archives of Rhodesia and Nyasaland pp. 13-23.

area of the Lozi Kingdom and the Lozi Kingship, centred on the Upper Zambezi Flood Plain and westward to the Angolan boundary. The Reserved Area was for the exclusive use of the Lozi people under their traditional ruler. Prospecting for minerals and white settlement were prohibited in the Reserved Area while land was inalienable.

It was the Reserved Area, which became the Barotse District under the British South Africa Company administration.² In 1935 the Governor of Northern Rhodesia, Hubert Winthrop Young, through Proclamation No. 5 of December 1934, divided Northern Rhodesia into five Provinces: The Barotse Province, Southern Province, Central Province, Northern Province and Eastern Province. The Barotse Province comprised six districts namely Lealui (later Mongu-Lealui), Senanga, Sesheshe, Mankoya, Kalabo and Balovale.³ The 1900 Reserved Area boundaries as extended in 1909, differed slightly from the boundaries of the 1935 Barotse Province in that Machile in the South was given to the Southern Province, and Dongwe in the north was given to the Central Province now North Western Province. Furthermore in 1941 Balovale District currently Zambezi District was removed from Barotse Province or the Reserved Area and joined to the then Central Province now North Western Province.⁴ During the Federation of Rhodesia and Nyasaland, Barotse Province became Barotseland Protectorate with a Resident Commissioner instead of a Provincial Commissioner. After independence Barotseland Protectorate became Barotse Province. In August 1969 the name Barotse Province was changed to Western Province.

This study will attempt to show that Barotseland or whatever of it survived, managed to make the transition into the colonial era mainly due to the Reserved Area and the privileges and rights which the Lewanika Concessions conferred. Furthermore, Barotseland developed isolationist tendencies due to their splendid isolation in their stagnated Reserve. The result was that all successive Lozi rulers from Lewanika (ruler 1878 to 1884, and 1885 to 1916) through to his three son-successors Litunga Yeta III (1916 to 1945 when he abdicated following a debilitating stroke), Litunga Imasiku Mwananono Imwiko (1945 to 1948), and Litunga Mwanawina III (1948 to 1968) all in their time petitioned for secession from Northern Rhodesia. The culture of separation evolved due to the separation of the Reserved Area with the rights and privileges that pertained to it, limited though they might have been. At the onset of nationalist politics and the struggle for independence the traditionalists were unaccommodating to the nationalists but in the end they were able to make the transition through another negotiated settlement. The Barotseland Agreement 1964 was signed on 18th May 1964 in London by Kenneth David Kaunda, then Prime Minister of Northern Rhodesia, on behalf of the Northern Rhodesia Government, and by Sir Mwanawina Lewanika III KBE, the Litunga of Barotseland, on behalf of the Lozi people and the Barotse Native Government. The Rt Hon. Duncan Sandys,

² The word 'District' was used in place of 'Province', see Your Friend Lewanika by Gervas Clay. Chatto & Windus 1968 London p.119.

³ Proclamation No. 5 of 1934. The Northern Rhodesia Order-in-Council 1924. Article 13. Establishment of Provinces. RC/1521 National Archives Zambia (NAZ)
See 4 maps attached to this paper.

⁴ Proclamation No. 5 of 1934. The Northern Rhodesia Order-in-Council 1924. Article 13. Establishment of Provinces. RC/1521 National Archives Zambia (NAZ)
See 4 maps attached to this paper.

MP, Secretary of State for Commonwealth Relations and for the Colonies signed 'Signifying the approval of Her Majesty's Government' in Britain.⁵

The purpose of the Agreement was (a) to ensure that Northern Rhodesia proceeded to independence as one country with Barotseland as an integral part of Zambia and that all its peoples were one nation. (b) 'To enter into arrangements concerning the position of Barotseland as part of the Republic of Zambia to take the place of the treaties and other agreements hitherto subsisting between Her Majesty the Queen and the Litunga of Barotseland.'⁶

The Litunga of Barotseland was accorded recognition by the Government of the Republic of Zambia under the Customary Law of Barotseland. Secondly, the Litunga was to be the principal local authority for the government and administration of Barotseland.⁷

In October 1969 however, the Zambian Government unilaterally abolished the Barotseland Agreement 1964 through the Constitution (Amendment) Act of 15th October 1969. Some traditionalists and activists have campaigned and struggled for the restoration of the Barotseland Agreement 1964 for over four decades. Some extremists have even demanded secession. Now, asking for the restoration of Barotseland Agreement 1964 is perceived as separatism, but secession is actual separation.

At this juncture, the study looks at how the Reserved Area, which was pegged and mapped, came about and how it shaped the survival of the Lozi kingship throughout the colonial period up to the time of the nationalist freedom struggle and independence. The paper will also look at the privileges and rights, which were conferred by the Lewanika Concessions as well as the changes and reforms, which came with the new colonial administration. In a separate paper, I have looked at the issue of Barotseland Agreement 1964 in great detail and how the struggle for the restoration of the Agreement has continued to highlight Barotseland's separation and isolationist tendencies up to present day.

Delineation of the Barotseland Western Boundary

Bulozi was caught up in rival European claims for territory in Central Africa during the last quarter of the 19th century. The Portuguese advancing from Angola in the West were attempting to establish their Sphere of Influence on the territory between their two colonies of Mozambique and Angola. They pointed to their historical attempts to open a transcontinental trade route between their two colonies.⁸ Similarly, the

⁵The Barotseland Agreement 1964. Presented to Parliament by the Secretary of State for Commonwealth Relations by Command of Her Majesty. May 1964. Her Majesty's Stationery Office. CMND 2366. London.

⁶Ibid

⁷Ibid

⁸Portuguese Africa. James Duffy. Harvard University Press Cambridge Massachusetts, 1968 - pp.213-224 - Portuguese Expeditions in Zambia. Richard Hall in A Short History of Zambia. Oxford University Press. Nairobi 1966 pp.128-134.

Germans who occupied South West Africa (Namibia) in 1883 were desirous to advance north through the no man's land between their possessions in East Africa and South West Africa. The British using the British South Africa Chartered Company of Cecil John Rhodes dismissed Portuguese claims pointing out that according to the Berlin Conference of November 1884 rules and regulations, 'Sphere of Influence' was based on effective occupation and having Treaties and Concessions with local rulers. The British argued that the Portuguese had not established effective occupation anywhere in the interior, and Britain would therefore not prevent expansion from her possessions in the south to parts, which Portugal claimed without legal basis.

Under the provisions of the 1889 Africa Order in Council of 15th October, the British Sphere of Influence was defined as North of Bechuanaland, North and West of the Transvaal and West of Mozambique. No western or northern geographical limit was set. The British claimed special interests in Khama's country, Lobengula's Matabeleland and Mashonaland, and Lake Nyasa through English missionaries. On 29th October 1889 the British South Africa Company was granted the Royal Charter by Queen Victoria. Through the Royal Charter, the British South Africa Company was granted powers, subject to the British Government's approval, to make Treaties and to acquire Concessions, and to maintain a police force. Initially the Chartered Company's sphere of operations was within the British Sphere of Influence as was defined in the 1889 Order in Council, but excluded Nyasa District which was declared a Protectorate of Her Majesty.

In 1891 the Chartered Company's sphere of operations was, through an Agreement between the British Government and the British South Africa Chartered Company, extended to territories north of the Zambezi River. In actual fact however, Cecil John Rhodes had extended the operations of the British South Africa Company across the Zambezi River long before that. On 23rd December 1889, C. J. Rhodes purchased on behalf of the British South Africa Company the Ware Concession by which Lewanika granted to Harry Ware the sole right of mining for precious stones, gold or other minerals in the Batoka country on 7th June 1889.⁹ And wishing to extend the Ware Concession further, as well as to forestall Portuguese and German expansion, Rhodes sent a Company representative, Frank Elliot Lochner to negotiate a much broader Treaty with the Lozi ruler. Before Lochner knew the terms and conditions of the Royal Charter, on 26th June 1890 Lewanika and the British South Africa Company representative signed the Lochner Treaty.¹⁰

Lewanika's choice was to be under the British imperial rule. On 8th January 1889, the Lozi ruler had written a letter through the missionary Francois Coillard to the Administrator of Bechuanaland, Sir Sidney Shippard, stating that he wished to be placed under British protection.¹¹ In February 1889 Lewanika had another letter written to the High Commissioner for South Africa, Sir Henry Brougham Loch, inquiring about British protection. In April 1890 Loch urged the British Government to include the Barotse country in the British Sphere of Influence. On 1st November 1890 Lewanika wrote to the Queen (Victoria) requesting the Queen's protection.¹²

⁹ The Concessions of Northern Rhodesia, T. W. Baxter. – Occasional Papers No. 1

June 1963. The National Archives of Rhodesia and Nyasaland. Salisbury, Southern Rhodesia, pp.6-7

¹⁰ Ibid pp. 8-10

¹¹ Coillard to Sir Sidney Shippard, Administrator of Bechuanaland, 8th January 1889 No. 115 Conf. 5918 Public Record Office London.

¹² Lewanika to the Queen. 1st November 1890 Enclosure 3 in Colonial Office to Foreign

Lewanika was given assurances that he was under the protection of the Queen.¹³

In November 1890 Portugal and Britain discussed the possibility of setting up a temporary boundary line, a *Modus Vivendi*, to separate Portuguese and British Spheres of Influence on the Upper Zambezi. In Article IV of the Treaty between Britain and Portugal of 11th June 1891 it was specified that the entire Barotse Kingdom would remain within the British Sphere and its limits to the West would constitute the international boundary between the British and the Portuguese Spheres of Influence.¹⁴ It was specified further that the limits to the west of Lewanika's kingdom would be decided by a joint Anglo-Portuguese Commission, and in case of differences there would be a right to appoint one umpire for purposes of arbitration.¹⁵

In June 1893 the *Modus Vivendi* was established setting up a temporary dividing line between the Portuguese and the British Spheres on the Upper Zambezi. The dividing line was the course of the Zambezi River from Katima Mulilo rapids to the confluence of the Zambezi River with the Kabompo River, and then up the course of the Kabompo River. The temporary boundary was originally intended as a two-year measure only but it was extended in January 1896 to July 1898, and it was in place until 1905.¹⁶ Lewanika and his Council (Kuta) frequently expressed their disappointment that the Queen's Government had not been able to come to any settlement with Portugal. The Lozi ruler complained that the Portuguese had encroached very rapidly into the heart of his country pushing their forts, and encouraging slave trade. Furthermore, the Lozi ruler wrote to both the British High Commissioner for South Africa and Queen Victoria in the United Kingdom, protesting against any division of his country between the Portuguese and the Germans.¹⁷

The unsatisfactory nature of the *Modus Vivendi* line was highlighted by the BSA Co. which saw the dividing line along the Zambezi River and the Kabompo River as depriving Great Britain of considerable and important territorial rights.¹⁸ Furthermore, the *Modus Vivendi* meant that the Lozi Chieftainship at Libonda in present Kalabo district, then under Lewanika's younger sister, Akatoka, fell under the Portuguese Sphere in Angola! Similarly Kaunga Mashi Lozi Chieftainship, then under Lewanika's nephew Litianyana, was also in the Portuguese Sphere! The western limits of Lewanika's Kingdom was to prove a subject of serious contention

Office. 3rd August 1891 No. 119 Conf. 6178 Public Record Office, London.

¹³ Knutsford to Sir H. Loch. 25th August 1891 Enclosure in C.O. to F.O. of 26th August 1891 No. 140 Conf. 6178 - Loch to Lewanika 18th September 1891 Enclosure 2 in C.O. to F.O. 14th March 1892 No. 50 Conf. 6337.

¹⁴ A History of Northern Rhodesia. Early Days to 1953. L. H. Gann. Chatto & Windus London 1964, p.65 - BSACo. to High Commissioner 2nd August 1894 Enclosure I in Rhodes to Kimberley 7th December 1894 No. 1 Conf. 6688.

¹⁵ A History of Northern Rhodesia. Early Days to 1953. L. H. Gann. Chatto & Windus London 1964, p.65. M.de.Castro to Salisbury. 7th September 1896 No. 56 Conf. 6911.

¹⁶ Foreign Office to R. T. Coryndon 8th April 1897 No. 101 Conf. 6968

¹⁷ Lewanika to the Queen. 22nd October 1896. Enclosure No. 3 in C.O. to F.O. 2nd April 1897 No. 96 Conf. 6968 Lewanika to H. Robinson, 22nd October 1896. Enclosure No. 2 in C.O. to F.O. 2nd April 1897 No. 96 Conf. 6968.

¹⁸ C. J. Rhodes to Kimberley 7th December 1894. No. 1 Conf. 6688 - Dr. Harris (BSA Co.) to High Commissioner. 2nd August 1893, Enclosure 2 in C.O. to. F. O. 4th September 1893 No. 179 Conf. 648.

between Britain and Portugal to the extent that the matter had to be referred for arbitration.¹⁹

The missionary Francois Coillard writing from Lealui on 27th June 1890 during the negotiations for the Lochner Treaty gave the frontiers of the Barotse Kingdom as defined in a Council held by the King Lewanika, his Councillors and the principal Headmen of the nation, held at Lealui on 25th June 1890. Coillard, before going into greater details of the boundary lines and a list of 23 tribes, recorded that the general boundary lines of the Barotse Kingdom were:

*On the South the Zambezi and Chobe Rivers; On the West the 20 longitude E; On the North the watershed of the Congo and the Zambezi Rivers; and on the East the Kafue River.*²⁰

In preparation for the delimitation of the permanent boundary between British and Portuguese territories, the British Government in 1896 sent out an expedition under Major Goold Adams in an effort to determine the 'Western limits' of Lewanika's kingdom.²¹ When Major Goold Adams asked King Lewanika to describe the boundaries of his kingdom, the Lozi ruler reportedly replied 'I do not know what you mean by kingdom, but I will tell you where my people live'. Lewanika then went on to list the tribes under his suzerainty. Ten of the seventeen tribes listed by the Lozi ruler occupied territory to the West of the *Modus Vivendi*. Major Goold Adams submitted his Report with a map showing the route he took through the country, and also showing the total area, which Lewanika had informed him, comprised his Kingdom.²² Goold Adams indicated that a large portion of Barotse country lay west of the Zambezi and Kabompo rivers and west of the provisional *Modus Vivendi* line of 31st May 1893. As a result of Major Goold Adams' Report the British Government declined to accept the line of the *Modus Vivendi* as definitive.²³ Furthermore, they requested the Portuguese Government that the area between the boundary of Major Goold Adams and the *Modus Vivendi* line be regarded as neutral territory between the two Governments until an award had been given by an Arbitrator. Major Goold Adams outlined what he considered to be the 'irreducible minimum' of Lozi territory in the West and North as: 'The Chobe River from its junction with the Zambezi to 14½ latitude south, to Luchazi country and east to the Cubangu river and up its source and north to the Lungwebungu and down this to the village of Dioma, to the source of the Lumbala river, down to its junction with the Zambezi and up the

¹⁹ Goold Adams to F.O. 10th October 1897 No. 54 Conf. 7010 -F.O to C.O. 20th October 1897. No. 56 Conf. 7010 - C.O. to F.O. 11th June 1898 No. 81 Conf. 7074.

²⁰ C.O. to F.O. 4th September 1893 No. 179. Conf. 6482 - Dr. Harris (BSACo.) to High Commissioner. 2nd August 1893, Enclosure 2 in C.O. to F.O. 4th September 1893 No. 179 Conf. 6482. Original Memorandum on Frontiers by Lewanika at full Pitso 26 June 1890 Enclosure 3 in C.O. to F.O. 4th September 1893 No. 179 Conf. 6482.

²¹ Major Goold Adams to Lord Rosemead. 21st October 1896 Enclosure 2 in C.O. to F.O. 6th February 1897 No. 38 Conf. 6968.

²² Goold Adams to Foreign Office 28th November 1896. No. 65, Conf. 6968 Goold Adams to Foreign Office, 24th August 1897 No. 35 Conf. 7010

²³ C.O. to F.O. 11th June 1898 No. 81. Conf. 7074 - F.O. to C.O. 1st July 1898 No. 1 Conf. 7143 - F.O. to C.O. 20th October 1897 No. 56. Conf. 7010.

Zambezi to the source.²⁴

Further investigations and reports followed that of Major Goold Adams after the British Government and the Portuguese Government failed to agree over Major Goold Adam's Report.²⁵ In 1898 the Expedition of Major A. St. H. Gibbons followed. The objectives of the 1898 Expedition included:

- (1) to determine the geographical limits of Lewanika's country, with which, in accordance with the Anglo-Portuguese Convention of 1891, the British boundary in the west is conterminous.
- (2) to define the Congo-Zambezi watershed, as representing the Treaty frontier between the British sphere and the Congo state.
- (3) to make a hydrographical and ethnographical survey of the whole of Lewanika's territory.

Major Gibbons pushed the boundaries of Lewanika's Kingdom further in the west and north to the Kwito River and Kasai River respectively.²⁶ Major Gibbons also produced a map of the Upper Zambezi Basin showing the distribution of tribes under the rule of the ruler of the Lozi people. The map was produced from surveys and exploration by Gibbons and others on his Expeditions 1895-96 and 1898-1900.²⁷

Later Reports in 1901 by Major Colin Harding and R. T. Coryndon came to conclusions very similar to those of Major Gibbons and his Party. Coryndon, who in 1897 had been the first resident representative of the British South Africa Company in Buluzi and who in 1901 was the Administrator for North-Western Rhodesia, claimed that Lewanika had not told the full extent of his Kingdom to Goold Adams.²⁸ Coryndon's own recommendations were that the western boundary should run from the Kwito River to its junction with the Okavango, to the junction with Cuanavare and up this to the source, the watershed dividing the Kwanza on the west from Lungwebungu in the east to the source of the Kasai to the Congo Free State border. (Democratic Republic of the Congo).²⁹

The Missionary Adolphe Jalla was in 1903 asked by the Administrator of North Western Rhodesia to make a statement on what was the state of affairs before June 1891. Jalla could not give a detailed report since he was on his way from leave and did not have any notes with him. He however gave the western boundary of Buluzi/Barotseland as the Luvala and Lunda countries in the present North Western Province of Zambia, to the source of the Zambezi in the north; Kwito River to the Okavango in the west; the Chobe to its confluence with the Zambezi and along the

²⁴ Major Goold Adams to the Foreign Office 10th October 1897. No. 54 Conf. 7010.

²⁵ Foreign Office to Colonial Office 11th June 1896 No. 139 Conf. 6851-BSACO. to Foreign Office 16th June 1896. No. 140 Conf. 6851.

²⁶ Africa from South to North through Marotseland. Volume I. Major A. St. H. Gibbons FRGS, RCI, John Lane London MDCCCIV p.4. See also Volume II for the whole account.

²⁷ See map showing the Lozi Kingdom at the end of the 19th Century by Major Gibbons et alia here attached.

²⁸ Coryndon to Salisbury. Lealui 29th December 1897 No. 40 Conf. 7074.

²⁹ Coryndon to Salisbury. Lealui 29th December 1897 No. 40 Conf. 7074.

Zambezi to the junction with the Kafue River in the south. Lewanika in an affidavit in June 1903 pointed out his boundary to the north as the Kasai River and the headwaters of the Zambezi River. He included the Luvale and Lunda countries. In the West, Lewanika stated that his kingdom extended to the Kwito River and the headwaters of the Lungwebungu River. He claimed the Mambunda country but excluded the Chokwe area. In the South, Lewanika pointed to the Okavango River and the area north of the Mangwe Kwanu River. The Lozi ruler went on to declare that Lozi representative Indunas in these areas, and Indunas of the indigenous tribes there could give evidence in support of his claim.³⁰

Finally, the Colonial Office in a letter dated 15th September 1903 requested the Director-General of Military Intelligence to draw up a map showing the whole of Lewanika's country 'with a certain margin of the surrounding territories on the scale 1:2,000,000'. The Colonial Office directed that the limits of Lewanika's country should be:

10^o South latitude on the North

18^o 25' South latitude on the South, being the Southern Limit of
Intelligence Divisions Map No. 1541

29^o East longitude on the East

17^o East longitude on the West.³¹

The Colonial Office directed further that the western limit of the Lozi kingdom should be the headwaters of the Quanza and its affluents; and the boundary in the east, between Barotseland North Western Rhodesia and North Eastern Rhodesia should also be shown on the map; the names of all the tribes mentioned in the Reports to be used were to be inserted on the map; and the Reports to be used were those of Major Goold Adams; Col. C. Harding and Major Gibbons and his companions. Mr. Coryndon and Col. Harding were to assist in the preparation of the case for border arbitration.³²

The international boundary between the British and the Portuguese Spheres was finally established on 23 June 1905, through the arbitration of the King of Italy, King Emmanuel III. The King of Italy did not base his arbitration on legitimacy claims. The area in dispute was simply divided into two equal parts between Britain and Portugal. The new boundary was defined as follows:

The straight line joining Katima Rapids on the Zambezi to the village of Andara on the Okavango as far as the point of intersection with the river, Kwando, the eastern bank of that river to the point of intersection with the twenty-second meridian then the twenty second meridian to its intersection with the thirteenth parallel, the thirteenth parallel to its intersection with the twenty-fourth meridian, thence the twenty-fourth meridian up to

³⁰ Reports on Lewanika's influence 1903-1904 A2/2/3 Tag. 312 Loc 59 NAZ.

³¹ Downing

Street, September 15, 1903 – In Annex to NRG Despatch of August 1964 Re. Mineral Rights (Unpublished) Maxwell Stamp Associates Ltd. Moor House London Wall London E.C.2 pp.152-156.

³² Ibid

*the frontier of the Congo Free State.*³³

Lewanika was disappointed by the decision,

*it is not quite a good boundary is only to make us much disappointed, how a boundary can go like a zig zag ... is not a boundary only a joke indeed... How shall we do Sir to be cutted half and half?*³⁴

The British Government declared their inability to do anything. The High Commissioner, Lord Selbourne wrote to Lewanika:

*The territory awarded to King Edward VII is less than you and His Majesty Government hoped to get, but His Majesty expects us to respect and loyally abide by the decision arrived at after much careful thought by an impartial King, a great friend of his to whose arbitration he was glad to leave the decision.*³⁵

The missionaries of the Paris Missionary Society in Buluzi were also upset by the decision.³⁶ They however felt that without the recommendations of Rev. Adolphe Jalla, who participated in the arbitration by the Italian King, the decision could have been worse. In 1935 Adolphe Jalla was decorated by Britain with the Commander of the British Empire (CBE) medal for his services to the country and for his contribution in the boundary dispute.³⁷

While the Portuguese saga was unfolding, the British and the Germans were similarly engaged in negotiations to resolve their rival claims to territory in East Africa and South West Africa. Through the Anglo-German Agreement of 1st July 1890 Article II the German and British Spheres of Influence in South West Africa were delimited. The British were determined to see that Germany did not cross to the East of the Zambezi River. A narrow strip of land, west of the Zambezi, the Caprivi Zipfel, was extended to bring South West Africa (Namibia) to the Zambezi River. This impacted on Buluzi to the extent that Litia (later Yeta III) Lewanika's eldest son whose chieftainship was centred at Kazungula at the confluence of Linyanti/Chobe River and the Zambezi River had to be resettled in Sesheke while his subjects were given the option to remain under Germany rule or move with Litia across the new southern boundary of Buluzi into Sesheke.³⁸ Lewanika was not party to the

³³ Award of Boundary Arbitrator, 23rd June 1905 HC/1/2/4 2173/05. NAZ

- See also Your Friend Lewanika-Litunga of Barotseland 1842-1916. Gervas Clay. Chatto and Windus London 1968 p.137.

³⁴ Lewanika to Coryndon 19th July 1905, Your Friend Lewanika, Gervas Clay, Chatto and Windus London 1968 p.137 also Note 15 p.180.

³⁵ High Commissioner to Lewanika. 24th July 1905. Your Friend Lewanika, Gervas Clay, Chatto and Windus London 1968 p.137 See also Note 16 p.180

³⁶ Your Friend Lewanika. Gervas Clay 1968 p.138

³⁷ The Spread of the Gospel in Barotseland. From the Paris Mission to the United Church of Zambia. A Chronological History. 1885-1965. Edited by Phillippe Burger, Francois Escande and André Honegger. DEFAP Paris 2010. p.34.

³⁸ Selous to Rhodes 6th December 1894 on Barotse authority in Chobe area. Enclosure 2 in Rhodes to Kimberly 7th December 1894 No. 1 Conf. 6688.

Africa from South to North Through Marotseland. Vol. 1 Major A. St. H. Gibbons FRGS, RCI John Lane London MDCCCIV p.110
The Caprivi Strip during the German Colonial Period 1890-1914 Maria Fisch Out of Africa Publishers Windhoek, Namibia 1999. pp.51-63

Anglo-Germany Agreement. At the outbreak of the First World War, Lewanika wrote to the King in England requesting to get his 'impis' to go into Caprivi to drive the Germans out. The reply came in the negative pointing out that it was a different kind of warfare. All the same Lewanika sent £200 as his contribution to the war effort.³⁹ Furthermore, in 1915 he sent 2000 men to transport food between the line of rail and the Tanganyika border.⁴⁰ After the defeat of Germany Lewanika was disappointed that the Caprivi Zipfel as part of South West Africa was handed over by Britain to the Union of South Africa as part of the mandated territory. Later Yeta III the son and successor to Lewanika petitioned the Imperial Government for return of the Caprivi Strip to Buluzi.

The 1890 Lewanika Concession and the Quest for a Resident

While these developments were unfolding along the borders of the Lozi Kingdom, parallel developments were going on inside Buluzi/Barotseland. As already seen on 26th June 1890 Lewanika and the British South Africa Company representative Frank Elliott Lochner signed the Lochner Treaty. Through the Lochner Treaty Lewanika gave to the British South Africa Company 'the sole, absolute, and exclusive and perpetual right and power to search for, dig, win and keep diamonds, gold, coal, oil and all other precious stones, minerals and substances over his entire kingdom including any future extension thereof, including all subject and dependent territory'.⁴¹

In return the Company was to appoint and maintain a British Resident to reside permanently with the king. There were also promises of development and a subsidy of £2,000 per annum. The Lochner Treaty was as required by the Charter submitted to the British Government for scrutiny before approval. The Treaty was found to have overlooked certain areas and to have overstepped in others. For example, under Section 26 of the Company's Charter the Company was not permitted to set up or grant any monopoly of trade, yet the Lochner Concession gave to the Company 'the sole absolute and exclusive and perpetual right and power to carry on any manufacturing, commercial or other trading business'. Secondly, the Lochner Treaty did not give the Company administrative powers, which according to the Charter had to be ceded to the Company by Treaty with Lewanika. The British Government did not therefore ratify the Lochner Treaty and none of its terms and conditions was ever fulfilled. Furthermore, Lewanika tried to repudiate the Lochner Treaty claiming

³⁹ NR HC-in letters-A2/3/1 NAZ. See also A1/1/16 Tag. 698 LOC 162 NAZ.

⁴⁰ *Ibid.*

The Spread of the Gospel in Barotseland: From the Paris Mission to the United Church of Zambia. A Chronological History 1885-1965 edit. Phillipe Burger, Francois Escande and Andre Honegger DEFA, Paris 2010. P.49

Your Friend Lewanika. Litunga of Barotseland 1842-1916 Gervas Clay, Chatto and Windus London 1968 pp.153-154

⁴¹ The Concessions of Northern Rhodesia. T. W. Baxter, Occasional Papers No. 1 June 1963. The National Archives of Rhodesia and Nyasaland. Pp.8-10

See also Lochner's Document Enclosure in Middleton (for Lewanika) to Lord Salisbury, Lealui. 27th October 1890 No. 158 Conf. 6178

that it was obtained by fraudulent means. The Lozi ruler protested that he did not know that Lochner was in fact a representative of a commercial company, and that he had granted a monopoly of the natural resources of his country to a commercial concern. Lewanika claimed that he thought he was dealing with a representative of the British Queen (Queen Victoria).⁴²

For nearly seven years after the signing of the Lochner Treaty, there was no sign of imperial or Company rule on the ground in Buluzi. Lewanika wrote to the Queen amid fears that he was not under the protection of Her Majesty Queen Victoria's Government. The missionary Coillard wrote to the High Commissioner pointing out the need to send a Resident to Barotseland.⁴³ Initially it was thought that Buluzi would be under the control of Harry Hamilton Johnston, Her Majesty's Commissioner and Consul-General for the territories under British influence north of the Zambezi who was stationed in Zomba in Nyasaland, present Malawi.⁴⁴ In a letter to the High Commissioner Loch dated 25th August 1891 Knutsford (C.O.) instructed Loch to inform Lewanika that Johnston the Queen's Commissioner to Central Africa would visit Barotseland to explain Her Majesty's wishes and feelings in regard to the Chief and his country. Knutsford went on to reveal that Mr. Johnston made arrangements between the Foreign Office and the British South Africa Company for administration of the territory. It followed therefore that Lewanika should communicate with Johnston in future on all problems affecting his country.⁴⁵

On 18th September 1891 Loch wrote to Lewanika to assure the Lozi ruler that he was under the protection of the Queen and that Johnston H. M. Commissioner in Central Africa would visit Barotseland. Furthermore he revealed that the Queen and the BSACO. had arranged that Johnston should take over the administration of the territory.⁴⁶

Lewanika replied that he was very pleased but had nothing to say till the arrival of Johnston before whom he would lay his complaints. Similarly Coillard declared that he would be very happy to welcome Johnston as H. M.'s Representative and introduce him to the king and the headmen of the nation.⁴⁷

On 19th August 1893 Johnston wrote to Rosebery to inform him that he had had consultations with Loch and Rhodes concerning his assignment with the Barotse King. He reported that Rhodes had left it to his discretion as to when and how he should proceed to take up the assignment in Barotseland. At the same time however Rhodes promised to place £5,000 annually to be spent on the development of

⁴² Lewanika to the Queen. Sefula 1st November 1890 Enclosure 3 in C.O. to F.O. 3rd August 1891 No. 119 Conf. 6178

Middleton (for Lewanika) to Lord Salisbury. Lealui 27th October 1890 No. 158 Conf. 6178

⁴³ Coillard to Loch 4th July 1895 Enclosure 2 in C.O. to F.O. 6th December 1895 No. 176 Conf. 6784

⁴⁴ C.O. to F.O. 3rd August 1891 No. 119 Conf. 6178

See also F.O. to C.O. 12th August 1891 No. 128 Conf. 6178.

⁴⁵ Knutsford to Sir H. Loch 25th August 1891. Enclosure in C.O. to F.O. 26th August 1891 No. 140 Conf. 6178.

⁴⁶ Loch to Lewanika 18th September 1891 Enclosure 2 in C.O. to F.O. 14th March 1892 No. 50 Conf. 6337.

⁴⁷ Coillard to Loch Sefula 13th November 1891 Enclosure 4 in C.O. to F.O. 14th March 1892 No. 50 Conf. 6337.

relations with the Barotse.⁴⁸ Johnston however felt he should not embark on such an expensive operation till the boundaries of Barotseland were defined. According to Johnston the lower portions of Barotseland were not worth opening up – marshy and exceedingly unhealthy.⁴⁹ In the end Johnston was unable to go to Barotseland and the arrangement fell through.

As already seen through the Treaty of 11th June 1891, Britain had claimed and Portugal had agreed that the entire Lozi kingdom belonged to British Sphere of Influence. Furthermore, Portugal had agreed that the western limits of Lewanika's kingdom would mark the international boundary between the British and Portuguese Spheres on the Upper Zambezi.⁵⁰

On 31st May 1894, the Foreign Office revealed that Johnston did not administer Barotseland since there was no ratified Treaty with the Lozi ruler under the Charter of the British South Africa Company.⁵¹ The Company was therefore requested to renegotiate the Lochner Treaty in order to make Lewanika confer on the British South Africa Chartered Company administrative powers in Buluzi. Furthermore, on 24th November 1894 an agreement was signed between the Foreign Office and Cecil John Rhodes for the Company to undertake the direct administration of the British Sphere of Influence north of the Zambezi over which its Charter had been extended in 1891. Thus the responsibility to administer Barotseland was transferred from Her Majesty's Commissioner and Consul General in Malawi who was in charge of British Sphere north of the Zambezi under the African Order in Council of 1889 to the British South Africa Chartered Company on the basis of the Agreement between the Company and the Foreign Office of 24th November 1894.⁵²

The Foreign Office then suggested that the High Commissioner at the Cape should confer with Rhodes as to the policy to be adopted towards Lewanika. The Company selected H. J. A. Hervey to go to Lewanika to renegotiate the Lochner Treaty to obtain administrative powers from the Lozi ruler. Hervey died of wounds received in the Matebele Rebellion of 1896 before he could start for Barotseland. Due to problems of the Matebele and the Shona resistance in present Zimbabwe then Southern Rhodesia and due to the Jameson Raid fiasco of 1895 the British Government chose to suspend the assumption by the Company of further

⁴⁸ Johnston to Rosebery 19th August 1893 No. 225 Conf. 6482.

⁴⁹ *Ibid.*

⁵⁰ A History of Northern Rhodesia. Early Days to 1953. L. H. Gann Chatto and Windus London 1964 p.65

Foreign Office to Mr. R. T. Coryndon 8th April 1897, No. 101 Conf. 6968.

⁵¹ Precis of Barotseland Correspondence Since 1889 – Enclosure 2 in C.O. to F.O. 16th January 1897 No. 17 Conf. 6968

See also F.O to BSACo. 14th April 1894 No. 117 Conf. 6537

⁵² Precis of Barotseland Correspondence since 1889 Enclosure 2 in C.O. to F.O. 16th January 1897 No. 17 Conf. 6968

The Concessions of Northern Rhodesia by T. W. Baxter. Occasional Papers No. 1 June 1963. The National Archives of Rhodesia and Nyasaland. p. 11.

administrative responsibilities.⁵³ But pressure from Lewanika and his missionary advisors was such that even before a new Treaty was negotiated, the Foreign Office in December 1896 asked the Chartered Company to nominate and send a 'Resident' to live in Barotseland and to assist Lewanika in maintaining order among persons who were subject to Her Majesty's jurisdiction i.e. white traders and concession seekers. The Resident to be nominated by the Company had to be approved by Her Majesty's Government. Secondly, the Government had to know and agree to instructions issued by the Company to him. Thirdly, the Resident would represent both Her Majesty's Government and the Company and he would go up to Barotseland with a suitable escort which would include a few policemen.⁵⁴ Thus in March 1897, Robert Thorne Coryndon, a South African born officer of the British South Africa police was nominated by the BSACo. and appointed by the Imperial Government the first resident with Lewanika.⁵⁵ Coryndon arrived in Lealui on 23rd October 1897, accompanied by his Secretary Frank Vigers Worthington and an escort of five European policemen.⁵⁶ As the 'Resident' initially Coryndon resided in the flood plain near Lealui but in 1898 he moved his residency to the present Mongu site. By February 1899 he had founded stations at Mongu, Kalomo, Kazungula and Monze.⁵⁷ At this juncture Coryndon was responsible to the Imperial Government through the Foreign Office as was stipulated under the 1889 Africa Order in Council relating to British Sphere of Influence.

The British South Africa Company Administration

In a bid to regularise the administration of British territories north of the Zambezi over which the Charter was extended, the British South Africa Chartered Company suggested and the British Government agreed that the country be divided into two administrative units:- Barotseland North Western Rhodesia and North Eastern Rhodesia.⁵⁸ This was because at that time the Eastern and Western sections of the territory had to be served by different routes from the coast, North Eastern via Zambezi and Shire; North Western via Bulawayo.

The Barotseland-North Western Rhodesia Order in Council of 28th November 1899 established and defined Barotseland North Western Rhodesia while the North Eastern Rhodesia Order in Council of 29th January 1900 established and defined North Eastern Rhodesia. The two Orders in Council superseded the 1889 Africa Order in Council. It was intended that the area covered by the 1899 Order in Council

⁵³ *Ibid.*

⁵⁴ C.O. to F.O. 16th January 1897. No. 17, Conf. 6968

⁵⁵ Foreign Office to R. T. Coryndon 8th April 1897, No. 101 Conf. 6968

The Barotse Concessions Part II, T. W. Baxter *The Northern Rhodesia Journal* Number IV December 1951 p. 38

⁵⁶ Coryndon to Salisbury. Lealui 25th November 1897. No. 12 Conf. 7074

⁵⁷ Africa from South to North through Marotseland, Vol. I. Major A. St. H. Gibbons, FRGS, John Lane London RCI MDCCCIV p.111

⁵⁸ B.S.A. Co. to F.O. 6th May 1898 No. 59, Conf. 7074

see also F.O. to C.O. 14th May 1898 No. 63 conf. 7074.

should be coterminous with lands which fell under Lewanika's suzerainty although the Western boundary was not yet determined.

The Barotseland-North Western Order in Council of 1899 in Section 3 defined Barotseland North Western Rhodesia or the limits of the Order as:

*... the parts of Africa bounded by the river Zambezi, the German South West African Protectorate, the Portuguese possessions, the Congo Free State and the Kafukwe (Kafue River) or Loengi river. Such limits further include so much of any territory belonging to the Mashukulumbwe tribe as may lie east of the Kafukwe or Loengi River. The territory within the limits of this Order, shall be known as Barotseland-North Western Rhodesia.*⁵⁹

Barotseland North Western Rhodesia was to be administered under the direct control of Her Majesty's High Commissioner for South Africa, acting under the directions of the Secretary of State for the Colonies in the United Kingdom. It was said that this was due to the fact that the frontier between North Western Rhodesia and Portuguese West Africa (Angola) was still not determined, and pending the boundary settlement Imperial authorities had to be closer. It could also be argued that after the crises the Company found itself in with the Matebele War of 1893 and the Shona and Ndebele rebellions of 1896, the British Government was hesitant in its dealings with the Company. North Eastern Rhodesia on the other hand was to be administered directly by the British South Africa Chartered Company officers under the control of Her Majesty's Commissioner at Zomba in Nyasaland (Malawi) acting under the directions of the Secretary of State for Foreign Affairs.⁶⁰

Through the Barotseland North Western Rhodesia Order-in-Council 1899 the British High Commissioner for South Africa at the Cape, had full powers over Barotseland North Western Rhodesia. He was empowered to make laws for Barotseland North Western Rhodesia by Proclamation, for raising revenue and generally for its government. The British South Africa Chartered Company was to pay for the administration of North Western Rhodesia; the Chartered Company could nominate administrative and judicial officials for appointment by the High Commissioner. In other words Company officials worked under the control of the High Commissioner in South Africa. As for Lewanika, the Colonial Office wrote to the British South Africa Chartered Company on 8th May 1900 that:

'The Queen's authority had already taken place of that of Lewanika, and the grants to be made by him will only be operative so far as they are ratified by Her Majesty or are not inconsistent with the Order in Council.'⁶¹

⁵⁹ Richard Goodle to the Administrator. Salisbury. 26th October 1921 – Barotse Sphere of Influence. Annex to NRG Despatch of August 1964 History of Mineral Rights of Northern Rhodesia - Maxwell Stamp Associates Ltd, Moor House London Wall London E.C. 2 (unpublished) January 1967 p.124

⁶⁰ Foreign Office to the British South Africa Company. 11th March 1899, No. 30 in Conf. 7310

⁶¹ Colonial Office to BSACo. 8th May 1900 Africa (South) 656 No. 65

The 1900 Lewanika Concessions and the Reserved Area

Meanwhile a new renegotiated Treaty with Lewanika was central to all these constitutional and administrative arrangements although the Treaty would have to be ratified by Her Majesty the Queen.⁶² The responsibility to negotiate a new Concession/Treaty with Lewanika was assigned to the newly appointed Resident. It is reported that Coryndon possessed 'all the attributes of a sound negotiator-skill, patience and tact'. The result was first the Lawley Concession of June 1898, so named after Captain Arthur Lawley the Administrator of Matebeleland, who had travelled to the Victoria Falls to represent the 'Chartered Company in negotiations with the Lozi ruler.'⁶³

After days of negotiations Lewanika did not sign the Concession and instead he wrote to Captain Lawley on 25th June 1898 at Victoria Falls, making an unprecedented request, saying that he would approve the proposed new Concession provided that part of his territory was excluded from prospecting and white settlement to be reserved for the exclusive use of his people under their traditional ruler.

I am writing you this letter which is to be attached to the new Concession which we have been talking about for the past few days. We are perfectly satisfied with everything that is written in the new concession, and ready to change it for the one which is known as the Lochner Concession, provided that a clause be added to the following effect, namely:-

'The British South Africa Company agrees to reserve from prospecting the whole area of the country within the following boundaries:-

Northern Boundary – from the headwaters of the Dongwe and Kabompo Rivers, to the junction of the Kabompo and Zambezi rivers.

Western and Southern Boundary – from the junction of Kabompo and Zambezi Rivers along the Zambezi Rivers (n.b. Modus Vivendi of 1893) to its junction with the Majili (Machile) River.

Eastern Boundary – from the junction of the Zambezi and Majili Rivers, along the Majili River to its headwaters, then northward, along the line of the watershed, to the headwaters of the Dongwe River, as per map attached.⁶⁴

Lewanika made one condition for the reservation to be withdrawn: if payable gold was not discovered in the conceded area outside the Reserved Area. Secondly, he stated that reservation did not imply the exclusion of traders and other travellers.⁶⁵

The British Government however wished to have the Concession put on hold

⁶² Foreign Office to BSACo. 14th April 1894. No. 117 Conf. 6537

⁶³ The Lawley Concession of 1898, Victoria Falls, 25th June 1898 – Enclosure 1 in B.S.A. Co. to F.O. 11th October 1898, No. 73 Conf. 7143.

⁶⁴ Lewanika to Lawley. 25th June 1898 Enclosure 2 in BSA Co. to F.O. 11th October 1898 No. 73, Conf. 7143.

⁶⁵ Ibid.

while the Imperial Government was preparing for the settlement of the matter of the administration of Barotseland. Moreover, there were concerns that the terms of the Concession should not be inconsistent with the proposed Barotseland-North Western Rhodesia Order in Council, which was finally issued as already seen, on 28th November 1899.

New and final Concessions with Lewanika comprising the Lawley Concession and the Coryndon Concession were both signed by Lewanika and the British South Africa Chartered Company on 17th October 1900. The British Government approved the Lawley Concession as Concession 'A' on 8th August 1901, and the Coryndon Concession as Concession 'B' on 23rd November 1901. Both the Lawley Concession and the Coryndon Concession included Lewanika's request to reserve from prospecting and white settlement the area which was specified in his letter of 25th June 1898 to Captain Lawley. Through the 1900 Concessions Lewanika succeeded in having the Central area of the Lozi kingdom centred on the Zambezi Flood Plain reserved for the exclusive possession and enjoyment of the Lozi people.⁶⁶ Due to delays in settling the international boundary between the Portuguese and The British Spheres of Influence, the Reserved Area was limited to the eastern side of the Zambezi River as was determined through the 1893 temporary *Modus Vivendi*. After the international border settlement the territory west of the Zambezi to the Angolan border was added in 1909 to the Reserved Area.⁶⁷

Through the 1900 Concessions Lewanika granted to the British South Africa Chartered Company

the sole absolute and exclusive perpetual right and power to do the following acts free of any royalty or deduction over the whole of the territory of the said Nation or any future extension thereof including all subject and dependent territory:

*To search for dig win and keep diamonds, gold, coal, oil and all other precious stones minerals or substances.*⁶⁸

In return and in addition to the Reserved Area, Lewanika through the 1900 Concessions/Treaties managed to win for himself and Buluzi terms and conditions which were more favourable than any other indigenous ruler in present Zambia was able to secure:

- A special Reserved Area (which was pegged and mapped), and inalienable land within the Reserve for the exclusive use of the Lozi people under their traditional ruler.
- Retention by Lewanika of Constitutional power or authority as Chief of the Barotse Nation.

⁶⁶ The Concessions of Northern Rhodesia. T. W. Baxter. Occasional Papers No. 1 June 1963. The National Archives of Rhodesia and Nyasaland. pp.15, 18

⁶⁷ The Concessions of Northern Rhodesia. T. W. Baxter. Occasional Papers No. 1 June 1963. The National Archives of Rhodesia and Nyasaland. pp. 22-23

The Barotse Concessions Part II, T. W. Baxter. Northern Rhodesia, Journal No. IV December 1951 p.42.

⁶⁸ The Concessions of Northern Rhodesia, T. W. Baxter. Occasional Papers No. 1 June 1963. The National Archives of Rhodesia and Nyasaland. p.13 (Concession A) p. 17 (Concession B).

Reserved Area: Barotseland of the 1964 Agreement

- Exclusive jurisdiction over cases between natives.
- All land (in North Western Rhodesia) other than that required by the British South Africa Chartered Company for mining and trading purposes or that granted as farms in Batoka and Mashukulumbwe countries.
- Certain named iron mines.
- Reservation of all elephants to the King as his exclusive property.
- Reservation to the use of the king and his people of all trees suitable for canoes on any rivers running from the east into the Zambezi between Kabompo River and Ngwezi River (30-40 miles above the Victoria Falls in the South).
- Unrestricted use of white granite for making anvils.
- The preservation (as far as the Company can) of all game in the Liuwa west of Lealui and the Zambezi and South of Lower Lungwebungi, certain named game on the Lower Luena River; certain other named game in the Barotse Valley Proper.
- Protection from interference (as far as the Company can) of natives on the Luanginga and Nyengo rivers (Western tributaries of the Zambezi) and those between the Machile and Luena rivers (eastern tributaries of the Zambezi) and those between the Zambezi and the 'Waggon Road' which runs west to the Zambezi from Kalomo and then north to Lealui.
- A subsidy to Lewanika of £850 per annum.⁶⁹

On 18th October 1900, a day after signing both the Lawley Concession and Coryndon Concession Lewanika while fully aware of the *Modus Vivendi*, wrote to the British South Africa Chartered Company requesting that that part of the country west of the Zambezi river and the *Modus Vivendi*, be reserved for the exclusive use of the king and his people:-

To the British South Africa Company,

*Lealui, Barotsiland
October 18, 1900*

We have seen Major Coryndon and we thank you for sending him. We signed the Concession, and we kindly ask a strip of country within these boundaries:-

From Lutembwe which is the tributary of Lungwebungo, along to Luanginga, from Luanginga along to the Loowe. From Loowe to Kutee, from Kutee to Kuando, and from Kuando down to Kazungula.

We kindly asks this strip of country for our own exclusive use.⁷⁰

⁶⁹ Ibid pp. 16-19 See also Lawley Concession. 25th June 1898 Victoria Falls. Enclosure 1 in BSACo. to F.O. 11th October 1898 No. 73 in Conf. 7143.

⁷⁰ Lewanika to the British South Africa Company, 18th October 1900, in Administrator; North West Rhodesia to the Secretary BSA Company, 24th June 1901. History of Mineral Rights of Northern Rhodesia Part II Appendices. Maxwell Stamp Associates Ltd. Moor House, London Wall, London E.C.2 (unpublished) January 1967 P.121

The Colonial Office in a letter dated 17th June 1901 to the British South Africa Chartered Company stated that 'no rights of any kind beyond the line fixed by Article V of the Agreement with Portugal of 1893, as the provisional boundary between the Spheres of Influence of Great Britain and Portugal, can be recognised by His Majesty's Government, pending a final settlement of the boundary question between His Majesty's Government and the Government of Portugal'.⁷¹

On 24th June 1901, Coryndon, then Administrator of Barotseland North Western Rhodesia wrote to the Secretary of the British South Africa Chartered Company pointing out that 'the great majority of this area is heavily populated and is in close communication with the numerous important kraals in the valley. From it the King and his Chief Indunas drive a large proportion of their animal tribute and many fine canoes ... several sorts of mats and household utensils which are extensively used in the valley. Furthermore the area supplied a large number of workers for work in the Barotse Valley'.⁷² On 23rd November 1901, when the Secretary of State confirmed the 17th October 1900 Lewanika Concessions, he stated that the area asked for by Lewanika on 18th October 1900 to be reserved for the sole and exclusive use of the King and his people would be shut to prospecting if it were eventually found within the British Sphere of Influence and not in that of the Portuguese.⁷³

As already seen above, the King of Italy settled the international boundary between Angola and Zambia in 1905 through arbitration. It was claimed however that in return for having the land west of the Zambezi to the Angolan border added to the Reserved Area Lewanika in 1909 agreed to give to the British South Africa Chartered Company all land within his territory outside the Reserved Area! Yeta III disputed this later.⁷⁴

The eastern limit of Barotseland as already seen was the Kafue River and the Mashukulumbwe (ILA) country. The Kafue River and the Mashukulumbwe (ILA) country therefore became the boundary/dividing line between Barotseland North West Rhodesia and North Eastern Rhodesia. It was the official policy of the Imperial Government and the British South Africa Chartered Company that the dividing line between Barotseland-North Western Rhodesia and North Eastern Rhodesia should be coterminous throughout its length with the eastern boundary/limit of Lewanika's kingdom and its subject territory. It therefore followed that whenever the boundaries of Barotseland-North, Western Rhodesia were altered and extended to cover new territory Lewanika's kingdom and the Lewanika Concessions were

⁷¹ Colonial Office to the British South Africa Company 17th June 1901. History of Mineral Rights of Northern Rhodesia Part II. Maxwell Stamp Associates Ltd. Moor House, London Wall London. E.C.2 (unpublished) January 1967. Pp.121 -122

⁷² Administrator, North Western Rhodesia to the Secretary, BSA Company 24th June 1901 paragraph 6 History of Mineral Rights of Northern Rhodesia Part II. Maxwell Stamp Associates Ltd. Moor House, London Wall London E.C.2 (unpublished) January 1967 p.119

⁷³ See Para. 5 in Conditions of Colonial Secretary's approval of Concession B. 23rd November 1901 in Appendix F in Your Friend Lewanika, Gervas Clay, Chatto & Windus. London. 1968.

⁷⁴ The Barotse Concessions Part II. T. W. Baxter. The Northern Rhodesia Journal No. IV December 1951, pp.42-43.

Yeta's Petition to Privy Council, 2nd July 1923. B1/2/8 220 LOC NAZ

Yeta's Petition to H. H. Prince Arthur of Connaught 1921. B1/2/6 Tag 862 LOC 220 NAZ

similarly 'extended' and Lewanika was required to sign supplementary treaties to the 1900 Concessions in order to cover the newly added strips of territory.⁷⁵

On 21st October 1903, the British South Africa Chartered Company wrote to the Colonial Office expressing dissatisfaction with the Barotseland-North Western Rhodesia and North Eastern Rhodesia boundary from the Kafue Hook to the East. It was said among other several reasons that the Kafue River divided a mineralised area and caused some mines to be in North Eastern Rhodesia and others to be in Barotseland-North Western Rhodesia. On 24th June 1904 the British South Africa Chartered Company wrote again to the Colonial Office asking for a further adjustment of the boundary to the Pedicle, the narrowest part of Northern Rhodesia between Mozambique and the present Congo D. R. The reasons for moving the boundary to the Pedicle were many and varied. First of all with the coming of the railway line from the South across the Victoria Falls, through Kalomo, Broken Hill to the Copperbelt, it was felt the territory along the rail line could be more easily and economically administered from Kalomo than from Fort Jameson (Chipata) in North Eastern Rhodesia. Secondly, the new boundary would be of minimum length, easy and cheaper to maintain. Thirdly, the new boundary would bring the principal mining properties under one administration and under the Lewanika Concessions. The Chartered Company would thus gain stronger economic rights "more easily susceptible of strict proof in case of need than the similar rights in North-Eastern Rhodesia."⁷⁶

On 29th September 1905, the adjustment of the boundary between Barotseland-North Western Rhodesia and North Eastern Rhodesia to the Pedicle was gazetted in the official Gazette of the High Commissioner for South Africa and in the London Gazette. The boundary line in the High Commissioner's Notice was defined as:

*a line drawn from the point where the Congo-Zambezi Watershed is cut by the meridian which passes through the point at which the Luapula River leaves Lake Bangweolo to the headwaters of the River Mlembo thence along the centre of the channel of the River Mlembo to the junction of that River with the River Lukasashi thence along the channel of the River Lukasashi to the junction of that River with the River Loangwa and thence along the centre of the channel of the River Loangwa to the junction of that River with the River Zambezi.*⁷⁷

The adjustment of the border to the Pedicle 'extended' the Lozi ruler's chieftainship over a vast area, in current terms, equal to the Western Province, North Western Province, the Copperbelt Province, Central Province, Lusaka Province and Southern Province, all put together! It is however necessary to point out that this

⁷⁵ The BSACo's claims to Mineral Royalties in Northern Rhodesia, Government Printers 1964 pp21-23).

⁷⁶ The Concessions of Northern Rhodesia. T. W. Baxter, Occasional Papers No. 1 June 1963 pp. 23-24.

The BSACo's Claims to Mineral Royalties in Northern Rhodesia Government Printer 1964 para. 47 p.20

⁷⁷ High Commissioner's Notice No. 88 of 1905. Johannesburg, 29th September 1905.

Signed C. H. Rodwell, Imperial Secretary – HC1/2/20 Tag 567 LOC123 NAZ

arrangement lasted only between 1905 and 1911. The 1911 Northern Rhodesia Order in Council repealed both the Barotse-North Western Rhodesia Order in Council of 1899 and the 1900 North Eastern Rhodesia Order in Council and created Northern Rhodesia. The dividing line was no longer applicable. On the other hand, Lewanika's rights and the BSACo.'s rights under the 1900 and 1909 Lewanika Concessions were recognised in the Order in Council.⁷⁸

The Lozi ruler received 10% of all the annual payment from the Native Tax Revenue of the entire North West Rhodesia up to the Pedicle in lieu of tribute.⁷⁹ The Native Hut/Poll Tax introduced in 1904 was by 1913 paid by all Africans in North Western Rhodesia. The Lozi share of the Native Tax was paid into the Barotse Trust Fund for the benefit of the King and the Lozi people.⁸⁰ On 21st September 1905 the High Commissioner for South Africa wrote to Lewanika:

It has been settled that every year a tenth part of the money collected shall be put on one side. The part which is set aside will be called the Commission ... Every year, after the Commission has been set aside, £1,200 will be taken from it and paid to you and you will keep this for yourself. This will be your share. I have made your share of £1,200 because this is the sum which it has been the custom to pay to the Paramount Chief in Basutoland.

In the following years I expect that the Commission will be more than £1,200 so that there will be some money left after you have received your share. The money, which is left over, will be spent for the benefit of your people, in building schools, or improving the villages, or making roads, or in any other way that is good and useful for the natives.⁸¹

In 1925 after Her Majesty's Government had taken over the administration of Northern Rhodesia from the British South Africa Chartered Company administration the 10% of native tax collected in North Western Rhodesia was converted into 30% of the native tax collected within the Barotse Province and paid by Lozi taxpayers everywhere. In December 1938 the Barotse Trust Fund was liquidated and £4,484.37 was paid into the Native Treasury Account following the introduction of the Barotse Native Authority and Native Courts Ordinances to Barotse.⁸²

⁷⁸ HC1/2/52 Tag 600 LOC133 - NAZ

⁷⁹ The Barotse Concessions Part II. T. W. Baxter Northern Rhodesia Journal No. IV December 1951 pp.43,44

Colonial Office to High Commissioner The Earl of Selbourne, 11th August 1905 HC1/2/20 Tag 567 LOC. 123 NAZ

⁸⁰ The Barotse Concessions Part II, T. W. Baxter. Northern Rhodesia Journal No. IV December 1951 p.44

The Barotse Trust Fund 1905 June 6 – June 24. A3/5 Tag 327 LOC 63 NAZ

⁸¹ The High Commissioner to Lewanika. 21st September 1905 in the Barotse Concessions Part II. T. W. Baxter, Northern Rhodesia Journal No. IV December 1951 p.44

⁸² 1938 Barotse Annual Report. Sec 2/71 Vol. 4B. NAZ

1933-36 Re-organisation of Barotse Trust. SEC2/360 NAZ

1936-38 Barotse Trust Fund and Barotse Native Treasuries matters and Proposed Merger SEC2/366 NAZ

Furthermore and in keeping with the 1900 Concessions, Lewanika had the right to Game in North Western Rhodesia. In 1924 this entitlement was commuted for cash payment of £350 annually. Similarly, the Lozi ruler had the right to the ground tusks of ivory found in North Western Rhodesia. In 1924 Litunga Yeta III gave up the right to the ivory in return for an annual payment of £500. Through the same arrangement in 1924 in return for voluntarily giving up the right to tribute in the form of free labour which Yeta III and his Indunas were entitled to exact, it was agreed that the Lozi ruler would be paid an annual sum of £2,500 to be shared with the Mulena Mukwae of Nalolo and Indunas. This however was considered to be inadequate by the recipients.

Areas of conflict between the Lozi rulers and the BSA Co. Administrators

The Company Officials were however, not happy with the Lozi ruler's continued authority and influence outside the Reserved Area. Contrary to the terms of the 1900 Concessions, in November 1904 Lewanika was persuaded to surrender powers of Civil and Criminal Jurisdiction over Africans in the area outside the Reserved Area. Furthermore, in a move calculated to diminish the Lozi ruler, in 1907 Lewanika was officially deprived of the title 'King' and came to be officially recognised as merely 'Paramount Chief'. The directive to withdraw the title of 'King' from Lewanika was sent to the District Commissioner, Mongu, on 3rd October 1907. The Secretary for Native Affairs wrote 'His Honour the Administrator directs that Lewanika shall be officially designated as the 'Paramount Chief of the Barotse Nation.' The title of 'King' as applied to Lewanika, and that of 'Prince' to Letia are to be discontinued and discountenanced.⁸³

The Company administration officials committed themselves to reducing the Lozi ruler's authority and influence in the territory outside the Reserved Area to the minimum. L. A. Wallace Administrator in Livingstone wrote on 21st November 1918 to the Magistrate, Mumbwa, who had earlier written to him to complain about Barotse interference in Native Affairs in Kafue District, that when he visited the Lozi ruler 'Litia asked what was his position outside the Barotse District with regard to Native Affairs. I told him that he had no position at all and that he must not interfere at all in any matter:

this is the attitude we have taken for some years and there is no doubt that the Khotla has been at the same time trying to maintain its influence especially in the Balla country. Their claim is based on the Agreement of 1900 where all Native Affairs are reserved for Lewanika. It is only by custom that we have confined him to the Barotse District and by passing laws we have confirmed the custom, but if he claimed his privileges under the Concession, I am inclined to think a great deal of trouble would arise and that we might need a Special Order in Council taking away his rights. We should hardly be likely to get this in face of the 1900 Agreement.⁸⁴

⁸³ Secretary for Native Affairs Livingstone. North Western Rhodesia to the District Commissioner, Barotse District Mongu. 3rd October 1907, KDE 2/34/17 NAZ

⁸⁴ Barotse interferences in native affairs in Kafue District 1909 March 20 - 1921

Another area of conflict between the Lozi ruler and the British South Africa Chartered Company administration concerned Land. In the 1900 Concessions with Lewanika immigration was only allowed if approved by the King, and there was no general provision for granting land to settlers. The Charter did not give power to the Company to make land grants unless they had such powers from the Lozi ruler.⁸⁵ The King on behalf of his people held all land. The British South Africa Chartered Company was however given the right to land for mining and trading purposes. The Company was also given the right to make grants of land for farming purposes in any portion of the Batoka or Mashukulumbwe country to white men approved by the King.⁸⁶

Subsequently, the Company pressed the Lozi ruler to give them more land through Land Concessions of 1904, 1905, 1906 and in 1909 reportedly in return for having the land west of the Zambezi river to the international boundary with Angola added to the 'Reserved Area', Lewanika gave to the British South Africa Company all land within his territory outside the Reserved Area. All the money realised from the sale of such land was to be treated as commercial income for the Company.⁸⁷

The Company acquired land for the railway, for the work of the mines, for plantations of the Company itself and for settlers, and the development of townships. The Company's land policy caused friction between Africans and Europeans as the former were removed from land intended for European settlement. The Company justified its position by arguing that 'it holds its land assets under valid concessions which it was authorised by its Charter to acquire and hold and which had been approved by a Secretary of State, that its title to these assets is wholly independent of its administrative position and that it has full rights of ownership.'⁸⁸

Thus Lewanika, knowingly or unknowingly, gave away the land and mineral rights in the whole of North Western Rhodesia outside the Barotse Reserved Area to the British South Africa Chartered Company. L.A. Wallace the Administrator for North Western Rhodesia commented "In reality I think that Lewanika and his Council have made up their minds for some time that the eastern part of North Western Rhodesia is nothing to them; they exercise no control, almost no influence outside the Barotse Valley."⁸⁹ Similarly, the High Commissioner of South Africa at the time, described the 1909 Lewanika Land Concession as practically abandoning all North Western Rhodesia outside Barotseland Proper to the Company.⁹⁰

October 26 – B2/1/4 Tag 545 LOC 116 NAZ

⁸⁵ C.O. to F.O. 29th September 1897 No. 49 Conf. 7010

⁸⁶ The Concessions of Northern Rhodesia. T. W. Baxter, Occasional Papers No. 1 June 1963 p.17

⁸⁷ The Barotse Concessions – Part II. T. W. Baxter, The Northern Rhodesia Journal No. IV December 1951 pp. 41 - 42.

See The Concessions of Northern Rhodesia, T. W. Baxter in Occasional Papers No. 1 June 1963. The National Archives of Rhodesia and Nyasaland pp.19-22

⁸⁸ Colonial Office to Law Officers 6th May 1920. Position of the BSA Co. regarding the ownership of Land and administrative deficits. Para.10 in A History of the Mineral Rights of Northern Rhodesia (unpublished) Part II Appendices. Maxwell Stamp Associates Ltd, Moor House, London Wall, London E.C.2 January 1967. P.294

⁸⁹ Wallace to High Commissioner, November 1909. HC1/2/9 NAZ
Your Friend Lewanika. Gervas Clay, Chatto & Windus London 1968 p.145

⁹⁰ C.O. to Law Officers 6th May 1920. Para. 7. In A History of the Mineral Rights of Northern Rhodesia (unpublished). Part II Appendices Maxwell Stamp Associates Ltd, Moor House London Wall. London E.C.2 January 1967 p.293

Soon, differences began to emerge between the Lozi on one hand, and the Company on the other as to the real meaning and significance of the Land Concessions given by Lewanika. In 1910 during consideration of the Draft 1911 Order in Council for the then proposed amalgamation of Barotseland-North Western Rhodesia and North Eastern Rhodesia, Lewanika and his Indunas explained that they did not allow the Company to sell land nor to own it.⁹¹ Furthermore, it was subsequently argued that the extension of the Reserved Area to the Angolan border could not be made a condition for obtaining the 1909 Land Concession, since the extension had been promised by the Secretary of State in Britain, when he confirmed and approved the 1900 Concession in 1901.⁹²

By 1909, the Lozi ruler had lost his title as King; he had lost his mineral rights; his rights of civil and criminal jurisdiction over natives which he surrendered in 1904; and rights over substantial territorial land in the area outside the Reserved Area. Lewanika's dissatisfaction with the British South Africa Chartered Company was such that on 18th November 1907 he had written to the Secretary of State for the Colonies stating that he did not want to be under the Chartered Company any more, but under the Imperial Government as a Protectorate Native State.⁹³ The High Commissioner of South Africa H. C. Selbourne proposed complete partition of the Reserved Area and the rest of North Western Rhodesia. He proposed direct imperial protection for the Barotse Reserved Area on the lines of Basutoland and other High Commission Protectorates. The British Government however turned down the proposal on grounds that the Company would not agree to the proposal, and due to questions of financial self-sufficiency.⁹⁴

When the issue of amalgamation of North Western Rhodesia and North Eastern Rhodesia was raised the Colonial Office stated that there was 'no question ... of establishing for the (Barotse) Reserve any other system of government than that provided for the rest of Northern Rhodesia by the Order in Council.' The Special Status of the Barotse Reserve under the 1900 Concessions was safeguarded by two clauses in the 1911 Order in Council. One clause provided for the non-alienation of the land in Barotseland. The second clause confirmed the rights and obligations of the Lozi ruler and the Lozi people under the Concessions/Treaties of 1900.⁹⁵

Lewanika died in 1916 and was succeeded by his son Litia who became Litunga Yeta III.⁹⁶ Yeta III was convinced that his father had been cheated into signing away

⁹¹ Administrator North Western Rhodesia to the Secretary BSACo. 9th December 1910 in History of the Mineral Rights of Northern Rhodesia (unpublished) Part II Maxwell Stamp Associates Ltd. Moor House, London Wall, London E.C.2 January 1967 pp.272-273

⁹² Yeta's Petition to the Privy Council. 2nd July 1923 Lealui Barotseland -B1/2/8 Tag. 862 LOC 220NAZ Yeta's Petition to the H H Prince Arthur of Connaught 1921 - B1/2/6 Tag 862 LOC 220 Conditions of Colonial Secretary's Approval of Concession B. at Appendix F in Your Friend Lewanika, Gervas Clay, Chatto & Windus London 1968

⁹³ Complaints by Lewanika against the BSACo. 1907-1908 HC1/2/30 Tag.578 LOC126 NAZ

⁹⁴ Selbourne to Secretary of State, 17th June 1907 - HC1/2/6 NAZ Barotseland: Survival of an African State. E. Stokes, The Zambesian Past edit. E. Stokes & R. Brown Manchester University Press 1966 pp. 289, 290

⁹⁵ 1911 Northern Rhodesia Order-in-Council - A1/1/13 NAZ
See also HC1/2/52 Tag 600 LOC 133NAZ

⁹⁶ B1/2/4 Tag. 860 LOC 219 NAZ
HC/1/3/29 Tag. 1115 LOC 277 NAZ

his rights through the use of documents, which he did not fully understand.⁹⁷ He expressed unhappiness with the British South Africa Chartered Company as a commercial concern and its preoccupation with the acquisition of minerals, and the sale of land. 'All our Concessions with the Company and Agreements with it should be repealed and new ones made with a perfect knowledge that we are dealing with a Commercial Company.'⁹⁸

As to the future administration of Barotseland, Litunga Yeta III petitioned that:

Whatever change of Government will take place, the territories defined as Barotseland-North Western Rhodesia in the Order in Council of 1899, as these territories had been put under the British Protection by neither conquest nor annexation but by the free will request of the Barotse people, should be put under the Direct Rule of His Majesty the King and His Imperial Government, as a Protectorate Native State with a British Resident Commissioner to reside permanently with the Paramount Chief.⁹⁹

The British Government did not accede to the request for the cancellation of the Lewanika Concessions. They notified the Lozi ruler that the British South Africa Chartered Company's administration of Northern Rhodesia would terminate from 1st April 1924. The Company would then cede to the Crown all rights and interests in land acquired by virtue of the Land Concessions with Lewanika. The Company would similarly cede to the Crown all administrative and commercial rights granted to the Company under Lewanika Concessions. The mineral rights which were granted to the Company under the same Lewanika Concessions would however neither be cancelled nor transferred, and the Company would continue to pay the annual subsidy of £850 to the Lozi ruler as was provided for in the 1900 Concession.¹⁰⁰

On 29th September 1923 just before the British South Africa Chartered Company's Government ceased, the British Government and the Company signed the Devonshire Agreement. The British Government reaffirmed the British South Africa Chartered Company's claim to mineral rights in Northern Rhodesia. Clause 3(G) of the Agreement provided that:

the Company shall retain and the Crown shall recognise the Company as the owner of the mineral rights acquired by the Company in virtue of the Concessions obtained from Lewanika in North Western Rhodesia.¹⁰¹

⁹⁷ Yeta's Petition to H H Prince Arthur of Connaught. 1921 - B1/2/6 Tag. 862LOC 220 NAZ

⁹⁸ Yeta's Petition to Prince Arthur of Connaught 1921- B1/2/6 Tag. 862LOC 220 NAZ

⁹⁹ Yeta's Petition to Prince Arthur of Connaught 1921-B1/2/6 Tag. 862 LOC 220

¹⁰⁰ Letter from the Secretary of State to the High Commissioner, South Africa. 20th

October 1923 in the History of the Mineral Rights of Northern Rhodesia Part II (unpublished) Maxwell Stamp Associates, Moor House London Wall, London E.C.2 January 1967 pp.315-316

¹⁰¹ The BSACo's claims to Mineral Royalties in Northern Rhodesia 1964 Government Printer. Lusaka Paragraph 62, p.26)

See Agreement between the Secretary of State for the Colonies and the British South Africa Company for the Settlement of outstanding questions relating to Southern and Northern Rhodesia dated 29th September 1923. Presented to Parliament by Command of His Majesty. November 1923. London. Published by His Majesty's Stationery Office. In Annex to NRG Despatch of August 1964 RE. Mineral Rights. Maxwell

Barotseland under Colonial Office Rule 1924 – 1964

The Northern Rhodesia Order in Council of 1924(a) 1924 No. 324 came into operation on 1st April 1924 and it revoked the 1911 Order in Council. The British South Africa Chartered Company's administration of Northern Rhodesia ceased and the Governor was put in charge of the territory on His Majesty's behalf. Northern Rhodesia became a Protectorate through the Colonial Office with a partly elected Legislative Council and an Executive Council of Senior Civil Servants responsible to the Governor. The special status of Barotseland within the Protectorate of Northern Rhodesia was recognised in Clause 41 of the Northern Rhodesia Order in Council of 1924:

Clause 41 (1) It shall not be lawful for any purpose whatever, except with the consent of the Chief of the Barotse and with the approval of the Secretary of State, to alienate from the chief and people of the Barotse, the territory reserved from prospecting by virtue of the Concession from Lewanika to the British South Africa Chartered Company, dated 17th day of October 1900 and the 11th day of August 1909.

(2) All rights reserved to or for the benefit of natives by the aforesaid Concessions as approved by the Secretary of State shall continue to have full force and effect.¹⁰²

In 1932 at the Colonial Office proposals were presented to the Governor of Northern Rhodesia Sir James C. Maxwell whether it was possible at that moment to make Barotseland a separate administrative unit, managing its own finances, making its own laws, and employing its own civil servants subject only to some such control being exercised by the Resident and the Governor as was exercised in Basutoland by the Resident and the High Commissioner for South Africa.¹⁰³ Sir James C. Maxwell felt the Barotse were at that moment unfitted to be entrusted with the financial responsibility which they would have to bear if Barotseland was immediately constituted into an independent native state, even with the assistance of European officers. He instead succeeded in persuading the Colonial Office officials to apply to Barotseland the Native Authority and Native Courts Ordinances 'modified in agreement with the Paramount Chief to suit the special circumstances of Barotseland.'¹⁰⁴ According to David Mulford in his book 'Zambia Politics of Independence 1957 – 1964', when in 1936 the Government established the Native Authority system, the Barotse Native Government was granted wider powers and a greater degree of local autonomy than the Territory's other Native Authorities.¹⁰⁵

Stamp Associates Ltd. Moor House London Wall London E.C.2 (unpublished) p.331

¹⁰² A1/1/52 NAZ

See also the Northern Rhodesia Order in Council 1924(a) 1924 No. 324 in A History of the Mineral Rights of Northern Rhodesia (unpublished) Part I. Maxwell Stamp Associates Ltd Moor House, London Wall, London E.C.2 January 1967 p.337

¹⁰³ RC/1243.NAZ

¹⁰⁴ RC/1243.NAZ

¹⁰⁵ Zambia Politics of Independence 1957 – 1964 David C. Mulford Oxford University

Barotse Province was initially excluded from Native Authority Ordinances for the territory reportedly due to essential differences and out of deference for the expressed wish of the Paramount Chief.

The Barotse Native Authority Ordinance No. 25 of 1936 was promulgated in November 1936, while the Barotse Native Courts Ordinance No. 26 of 1936 became law on 1st January 1937.¹⁰⁶ The introduction of the Ordinances recognising Native Authorities and Native Courts in Barotseland was a stipulation of the Agreement signed on 21st September 1936 between the British Crown and the Litunga Yeta III.¹⁰⁷ The Kuta at Lealui under the Paramount Chief became the Superior Native Authority for the Province. Seven Subordinate Authorities were appointed at Nalolo, Libonda, Mwandi, Sesheke, Kaunga, Nawinda in Balovale and Naliele in Mankoya. The seven Subordinate Authorities were appointed at Kutas, which were already in existence per Lozi tradition and under a chief or chieftainess in each of the six districts of the Province.

A Native Authority with the approval of the Governor could legislate and make Rules on any matter providing for the peace, good order and welfare of the natives. But such Rules were subordinate legislation only and could be held to be ultra vires unless they were reasonably necessary for peace good order and welfare of the natives.¹⁰⁸ Similarly a Native Authority or Subordinate Authority could make Orders for the purposes specified in sub-sections to Section 8 of the Ordinance. All Orders however had to be reported at the earliest possible time to the Native Authority to which it was subordinate as well as to the District Commissioner. The Provincial Commissioner or the District Commissioner could order an Order to be revoked or refrain a Native Authority from enforcing an Order. The Superior Native Authority at Lealui could make Rules and Orders for all districts in the Province.

The Barotse Native Courts Ordinance recognised the Paramount Chief's Court at Lealui as the first Superior Court and Nalolo as the second Superior Court. The District Kutas were recognised as First Class Courts and they were courts of first instance and appeal except for courts at Nawinda and Naliele, which had appellate jurisdiction only. This was to allow the local courts under indigenous chiefs (non Lozi) to hear cases in their respective areas and come to the District only on appeal. Second Class Courts were recognised at the Kutas of Silalo Indunas. The District Officer in his capacity as a holder of a Subordinate Court had wide powers of review in criminal cases. He could suspend, reduce, annul or modify any sentence or decision of a native court. In criminal cases appeals from the Superior Court at Lealui went to the Provincial Commissioner, while in civil cases appeals went to the High Court.

Authority to establish a Native Treasury was provided for in the Barotse Native Authority Ordinance. Therefore a Central Treasury was established at Lealui. Five Sub-Treasuries were established one in each of the Districts. (Mongu-Lealui did not

Press 1967 p.212

¹⁰⁶ SEC2/71 NAZ. Also SEC2/400 NAZ

¹⁰⁷ 1936 Annual Report, Barotse Province Sec 2/71 NAZ

¹⁰⁸ SEC 2/1268 NAZ

have a sub-Treasury until later). Sub-Treasuries received local revenue i.e. fines, fees, licences. They conducted the necessary local payments and all monies were accounted for to the Central Treasury at Lealui. The Central Treasury's main sources of revenue included: (a) 30% Native Tax collected from the Barotse nationals (b) Government Subsidy (c) Mineral Rights (£850) paid by the BSACo. (d) Timber Royalties (e) Fines, fees, various licences and rents.¹⁰⁹ The main items of Expenditure were: (a) Education including grants to Missions¹¹⁰ and the upkeep of the Barotse National School established in 1907 (b) Upkeep of Lealui and District Kutas (c) Personal emoluments to the Paramount Chief and allowances to his family.¹¹¹ The Native Treasury allocated revenue to particular public subheads and provided for the separation of the Litunga's personal income from public revenue.

The Provincial Commissioner initially supervised the Native Treasury. The Provincial Commissioner signed all vouchers for payments made by the Native Treasury, while cheques signed on behalf of the Native Treasury by the Paramount Chief and the Ngambela were countersigned by the Provincial Commissioner. A Native Treasury Clerk was attached to the Provincial Commissioner's Office where the European Chief Clerk taught him his work.¹¹²

The Quest for Local Autonomy

In 1948 the Barotse Native Government presented a petition to the Northern Rhodesia Government. It was pointed out that the Litunga's power as presented to him by the early Treaties had suffered a sharp and progressive decline with the introduction of such instruments as the Barotse Native Authority and the Barotse Native Courts Ordinances of 1936. The Litunga's prestige was affected through the influence exerted by Government on the manner the Native Treasury was conducted and its annual estimates settled. The Litunga was also unhappy about the control the Northern Rhodesia Government exercised over the appointments and dismissals of members of his courts. The Barotse Native Government petitioned that powers lost should be restored and rights and privileges should be reaffirmed. The Northern Rhodesia Government was quick to assure the Litunga and the Council that the status of Barotseland was enshrined in the Treaty of 1900 and in the Order in Council of 1924 and interests of Barotseland were fully protected.¹¹³

In July 1951 the Litunga, the Ngambela and two Indunas were invited to Government House in Lusaka to examine the grievances in the 1948 petition. The Government pointed out that it was impossible for Government to relinquish all supervisory control much as they wished to leave the Litunga completely unfettered, but where agreement could not be reached with the Paramount Chief, (Litunga) the matter was to be reported to the Governor.¹¹⁴ Richard Hall in his book 'Zambia'

¹⁰⁹ 1938 Annual Report, Barotse Province SEC 2/71/ NAZ

¹¹⁰ Four Missionary Societies in the Province were: The Paris Evangelical Mission, the Seventh Day Adventists, the Christian Missions in Many Lands and the Capuchin Fathers.

¹¹¹ 1938 Annual Report, Barotse Province, SEC 2/71 NAZ

¹¹² 1938 Annual Report Barotse Province. SEC 2/71 NAZ

¹¹³ 1951 Annual Report Barotse Province SEC2/71/NAZ

¹¹⁴ Ibid

recorded that on three occasions between 1945 and 1950 the British Government had given assurances that no constitutional changes affecting Barotseland would be made without full consultations with, and the prior consent of the Paramount Chief. Hall recorded further that in 1958 the Colonial Secretary, Lennox Boyd, gave a similar assurance.¹¹⁵

The Native Authority System was in place until 1965 when the United National Independence Party (UNIP) Government through the Local Government Act (No. 69), 15th October 1965 repealed the Native Authority Ordinance and established a new local government administrative structure based on Local Authorities directly under the control of the Central Government.

Barotseland's Special Status

Throughout the colonial period the British Government upheld the Special Status of Barotse Reserved Area as contained in the 1900 and 1909 Concessions with Lewanika. Where and when modifications were necessary the Litunga and his Kuta were usually consulted or informed. Thus in 1924 Sir Herbert Stanley the first Governor of Northern Rhodesia concluded Agreements with the Lozi ruler Yeta III that were confirmed by the Colonial Offices concerning Forced Labour, Game Licences and Ivory Trade (see above). Similarly on 1st September 1936 an Agreement was signed between His Majesty King Edward VIII, (the Governor Sir Hubert Young signed on behalf of His Majesty King Edward VIII) and the Lozi ruler Yeta III to provide for the recognition of Native Authorities and to bring Barotse Native Courts within the Judicial System of Northern Rhodesia. In 1954 an Agreement was entered into on 29th April between Her Majesty Queen Elizabeth II and Litunga Mwanawina III. The Agreement acknowledged and reaffirmed the traditional ruler's authority over the Barotse area's wildlife and natural resources. In respect of the registration of Africans the Agreement made it not obligatory for natives residing in Barotseland to apply for an identity card (Chitupa). In 1941 when the Lozi Kuta of Nawinda, which was established in Balovale in 1932 under Daniel Kufuna the eldest son of Litunga Yeta III, was wound up, and the Balovale District was removed from Lozi jurisdiction and transferred to the then Kaonde-Lunda Province (the present North Western Province) the Lozi received compensation. The Barotse Native Government was awarded £8,000 as compensation. The amount was broken down as follows: £6,000 for loss of rights to land, timber and minerals in Balovale District; and £2,000 for loss of rights to game, ivory and fish.¹¹⁶

Similarly, Lozi concern to safeguard the special status of Buluzi was evident during the debate of the proposed Amalgamation of Northern Rhodesia and Southern Rhodesia. The Lozi including Litunga Yeta III himself told the Bledisloe Commission of 1938-1939 that Buluzi should either secede and be made a full Protectorate or should continue in its special status within Northern Rhodesia under

¹¹⁵ Zambia. Richard Hall. Pall Mall Press London 1965 p.238

¹¹⁶ Balovale Dispute 1936 – 1940 KDE 2/3/1 NAZ

Separation of Balovale from Barotse Province. SEC2/361 NAZ

Balovale Settlement Compensation Fund uses SEC2/374 NAZ

the direct protection of the British Crown based on the 1900 Treaty.¹¹⁷ The Bledisloe Commission showed considerable sympathy for the Lozi position. In its report the Commission recalled and reaffirmed the British Crown's Treaty obligations to the Lozi ruler.¹¹⁸

Zambia's Struggle for Independence and Barotseland's Special Status

Meanwhile significant changes were taking place among the African population in Northern Rhodesia. The first political party was formed in 1948 when the conference of Welfare Societies met at Munali School and renamed the Federation of Welfare Societies as the Northern Rhodesia African Congress with Godwin Mbikusita Lewanika as President.¹¹⁹ In 1951 Harry Mwaanga Nkumbula was elected President of the Northern Rhodesia African Congress which in 1952 was renamed African National Congress. The African National Congress mounted a vigorous campaign to thwart the imposition of the Federation comprising Southern Rhodesia, Northern Rhodesia and Nyasaland but to no avail. In 1953 the Federation of Rhodesia and Nyasaland was imposed against the wishes of the majority of the African people especially in Northern Rhodesia and Nyasaland.¹²⁰ The Lozi declared that they would not object to the Federation provided:

- (a) Rights under the Lewanika Concessions were preserved by an appropriate provision in the Federal Constitution.
- (b) Buluzi or Barotseland should be styled or declared by Order in Council as the Barotseland Protectorate.¹²¹

The British Government's response to the Lozi demands was very sympathetic and supportive. In the Federation of Rhodesia and Nyasaland (Constitution) Order in Council of 1st August 1953, Article 33(2) repeated the provisions concerning the non-alienability of land in Buluzi as was contained in both the 1911 and 1924 Orders in Council. Article 44, is a provision binding the Federal Government to observe the terms of any Agreement affecting any of the three territories comprising the Federation by which Her Majesty's Government was bound. Furthermore when Litunga Mwanawina III was in the United Kingdom in May 1953 on the occasion of the coronation of Her Majesty Queen Elizabeth II, the Queen made an Order-in-Council, the Northern Rhodesia (Barotseland) Order-in-Council 1953, providing

¹¹⁷ A History of Northern Rhodesia. L. H. Gann, Chatto & Windus 1964 p.275
1935 - 52, Annual Reports on Native Affairs of the Barotse Province. SEC2/71 NAZ

¹¹⁸ A History of Northern Rhodesia. L. H. Gann, Chatto & Windus 1964 p.275.
The Elites of Barotseland 1878 - 1969. A Political History of Zambia's Western Province. Gerald L. Caplan, C. Hurst & Co. London 1970 p.155

¹¹⁹ Memoirs of Alexander Grey Zulu by A. G. Zulu. Times Printpak Zambia Limited, Ndola 2007 p.65, 66

¹²⁰ See Stiffening the Opposition to a white Federation by Simon Zukas in Chapter Five, Into Exile and Back. Bookworld Publishers, Lusaka 2002 pp.59-80
See also Zambia, Richard Hall Pall Mall Press, London 1965. Pp.153-159

¹²¹ 1935 - 1952 Annual Reports on Native Affairs of the Barotse Province. SEC2/71 NAZ, The Elites of Barotseland, Gerald L. Caplan 1970 p.177

The Politics of Independence 1957-1964 David C. Mulford, Oxford University Press 1967. p.19

that Barotseland be called the 'Barotseland Protectorate', while the Provincial Commissioner was given the new title of 'Resident Commissioner'.¹²²

The imposition of the Federation of Rhodesia and Nyasaland on the African majority in 1953 turned African nationalist movements into mass movements as they fought to dismantle the Federation. On 18th December 1958 in Accra Ghana while attending the All-African People's Conference, Mr. Harry Nkumbula of the African National Congress in Northern Rhodesia (Zambia), Mr. Joshua Nkomo of the African National Congress in Southern Rhodesia (Zimbabwe), Mr. Kenneth David Kaunda of the Zambia African National Congress in Northern Rhodesia, Dr. Hastings Banda of the Malawi African National Congress in Nyasaland (Malawi) and Gordon C. Chindele of the Northern Rhodesia Trades Union Council, signed what they called 'The Charter of Unity.' The declaration on the 'Charter of Unity' read:

*We, the representatives and leaders of organisations in our countries do here in Accra December 18th, 1958 declare that we are unalterably opposed to the Central African Federation a fraudulent and bogus scheme, imposed on us by the British Imperialist Government. On this issue we are all united. We have therefore agreed among ourselves to use this unity of purpose to establish a broad based united front linking up the various anti-colonialist organisations in our respective countries and also to coordinate our activities with those in East Africa to win Self Government and national independence for our people now.*¹²³

African nationalists pushed for constitutional advancement and more effective and larger representation. In the African National Congress Circular of 30th April 1956, party members, organisers and sympathisers were urged to speak of African Freedom and self-determination. In 1958, the Governor of Northern Rhodesia Sir Arthur E. T. Benson met African National Congress leaders to consider constitutional changes whereby eight seats were given to Africans, while Europeans were given 14 seats in the Legislative Council.¹²⁴ Radical elements in the African National Congress choose to boycott both the constitution and subsequent elections which were scheduled for 20th March 1959. The radicals in October 1958 split away from ANC to form the Zambia African National Congress (ZANC). The leadership of ZANC comprised Kenneth David Kaunda, President; Munukayumbwa Sipalo; General Secretary; and Simon Mwansa Kapwepwe as General Treasurer. ZANC mounted such a formidable campaign against the registration of voters for the 20th March 1959 elections that the government feared the nationalists would interfere with the actual elections. ZANC was banned on 11th March 1959 and all its leaders were arrested and sent into detention in remote rural districts.¹²⁵

The Barotse Native Government participated in the 20th March 1959 territorial elections, which were boycotted by the radical nationalists of ZANC. The candidate

¹²² A History of Northern Rhodesia. L. H. Gann. Chatto & Windus London 1964 p.439

¹²³ The Charter of Unity Published by Oxford University Press and Neczam. Printed by Associated Printers Ltd. Zambia

¹²⁴ According to the 1958 Census of Population, there were 72,000 Europeans and 2,220,000 Africans in the Northern Rhodesia territory

¹²⁵ Northern News. Friday 13th March 1959

See also Memoirs of Alexander Grey Zulu by A. G. Zulu. Times Printpak Ndola 2007 pp.105, 115-116.

of the Lozi traditionalists defeated two other candidates who stood as independents. That same year, the Litunga Mwanawina Lewanika III was included in the Queen's New Year Honours List. He was knighted and became Sir Mwanawina Lewanika III, KBE. The Governor Sir Evelyn Hone went to Limulunga, the Litunga's winter capital in May 1959 to present Mwanawina with the insignia of knighthood. When leaders of the banned ZANC came out of prison, Dr. Kenneth David Kaunda was elected President of the United National Independence Party (UNIP), which was the successor to ZANC. Dr. Kaunda recalled that in early 1960 soon after he was elected President of UNIP, he travelled to Mongu in the then Barotseland Protectorate with a large delegation of new UNIP leaders to pay a courtesy call on the Litunga Mwanawina Lewanika III, KBE. The Litunga did not only refuse to receive the UNIP delegation, but he invoked Order 8 of the Barotse Native Government Orders and Rules to ban the delegation from holding any public meetings.¹²⁶ Order 8 relating to Public Meetings stated that 'No person shall hold a public meeting of any kind whether for religious or other purposes unless such person has first obtained written permission from the Native Authority (District Kuta) to do so'. This particular Order was used by the Barotse Native Government to deport, arrest and imprison nationalists in Barotseland. In their isolation the Lozi traditionalists although suspicious of white settler politics and intentions did not make any effort to accommodate the nationalist forces.

In anticipation of the Federal Review Conference, which was due in December 1960, UNIP decided to boycott the Monckton Commission, which visited the Federation in early 1960. UNIP called for immediate self-government as a way of putting pressure on the colonial regime. The Federal Review Conference produced inconclusive results. The February 1961 Constitution which was drawn up when Iain Macleod was Secretary of State for the Colonies was modified in March 1962 following a violent campaign (Cha Cha Cha) by UNIP from July to October 1961. UNIP and ANC together with the UFP accepted the March 1962 Constitution and participated in the subsequent territorial elections of October 1962.

Faced with the prospect of the collapse of the Federation, in 1960 the Barotse Native Government asked Britain to allow Barotseland to secede from Northern Rhodesia and the Federation. They requested to be proclaimed a Protectorate directly under the British Government on the lines of the High Commission Territories.¹²⁷ In April 1961 Sir Mwanawina III flew to London to demand secession from the British Colonial Secretary Iain Macleod. The Ngambela Imasiku told Macleod that the Paramount Chief, the Barotse Native Government and the people were unanimous in demanding a separate state. Secession was denied but the British Government reaffirmed Britain's previous commitments and proposed to entrench the Lozi special rights in Orders in Council. It was also announced that the Lozi ruler would be officially styled the LITUNGA- 'Earth' i.e. owner of the land of the Barotseland

¹²⁶ Dr. Kenneth David Kaunda former President of the United National Independence Party 1960 - 2000, and the first President of the Republic of Zambia, 1964-1991. Interview at his Office in Kabulonga, Lusaka. 10th May 2007

¹²⁷ *The Elites of Barotseland. A Political History of Zambia's Western Province.* Gerald L. Caplan, C. Hurst and Co. London 1970 p.193

Protectorate.¹²⁸

The Barotse National Council accepted the new 1962 Northern Rhodesia Constitution but the Council decided to fight the October 1962 territorial elections on a separate ticket from that of the nationalists. The Lozi traditionalists created a traditionalist political party – the SICABA Party. The Sicaba Party reaffirmed the policy of separate existence and opposed the United National Independence Party (UNIP) on the grounds that UNIP threatened to destroy the Lozi kingship, depose the Indunas, and integrate Barotseland into Zambia. The Sicaba Party would free Barotseland from UNIP rule. UNIP on the other hand reassured the Lozi traditionalists that a UNIP Government would not interfere with the Litunga's personal position and with Barotseland's protectorate status, but Barotseland would remain within the new Republic of Zambia. Great economic benefits for Barotseland within the Republic were listed, and these included more schools, agricultural development centres, more and better roads including a railway line from Mongu to Lusaka.¹²⁹

In the October 1962 elections UNIP won 14 seats, ANC won 7 seats while the white settler dominated UFP won 16 seats. In Barotseland UNIP candidates defeated both the Sicaba Party and the African National Congress candidates. In December 1963 UNIP and ANC came together in a Coalition to form the first African Government. In January 1963 the ANC/UNIP coalition submitted to R. A. Butler, First Secretary of State who was also Minister in charge of the Central African Office in London when he visited Northern Rhodesia, a joint Memorandum requesting the dismantling of the Federation and demanding a new Constitution for Northern Rhodesia. On 19th December 1962 Nyasaland had been allowed the right to secede from the Federation.¹³⁰ The nationalists in Northern Rhodesia pressed for the right to secede for Northern Rhodesia. In March 1963 R. A. Butler invited a delegation from Northern Rhodesia to go to London for Constitutional talks and at the end of those talks Northern Rhodesia won the right to secede from the Federation of Rhodesia and Nyasaland. In June 1963 a Conference was held at the Victoria Falls on the reversion of Federal Government functions to territorial governments. On 5th November 1963 the Chief Secretary was authorised by the Secretary of State to make a ministerial statement in the Legislative Council concerning the new Constitution for Northern Rhodesia to proceed to internal Self Government. The new 1963 Constitution replaced the Executive Council with a Prime Minister and a Cabinet; an enlarged Legislative Assembly with seventy five members replaced the Legislative Council; the franchise was based on Universal Adult Suffrage; the new Constitution had a Bill of Rights, the Public Service Commission and the Police Service Commission.¹³¹

¹²⁸ Zambia. Richard Hall, Pall Mall London 1965 p.240

¹²⁹ UNIP Policy by UNIP Party. P. O. Box 302 Lusaka 1962

¹³⁰ Welensky's 4000 Days. The Life and Death of the Federation of Rhodesia and Nyasaland, Sir Roy Welensky. Collins London 1964 p.355

¹³¹ Zambia, A Generation of Struggle. Elijah Mudenda SAPES Books, Harare 1999 p.27-

The British Government was however anxious that before a new constitution for Northern Rhodesia to proceed to internal Self Government could be introduced the question of Barotseland's future had to be resolved. In January 1963 senior officials from the Central African Office in London had met with the Chief Secretary and the Minister of Native Affairs to discuss the Barotseland issue. On 26th January it was agreed that the ultimate aim was to integrate Barotseland into Northern Rhodesia.¹³²

Meanwhile the UNIP/ANC Coalition Government in order to make the Barotse Native Government more receptive to political change set in motion measures to reform it. The Katengo Kuta of the Barotse National Council with 25 seats was to become a wholly elected body. In the Katengo elections of 15th August 1963 UNIP won all the 25 seats with seven of them unopposed. In September 1963 the Litunga with a delegation of 13 Indunas, five of whom were elected, met with UNIP representatives comprising Mr. Arthur Wina and Mr. Simon Kapwepwe, at the Victoria Falls in an attempt to resolve the issue of the future of Barotseland. To the UNIP delegations' disappointment even the elected members of the Katengo Kuta in the Litunga's delegation refused to compromise on the question of Barotseland's special status! The Indunas wanted Barotseland to be 'part and parcel of Zambia' but with Barotseland's special status intact and enshrined in the Zambian Constitution.¹³³ In December 1963 the Barotse Native Government presented a memorandum to the Coalition Government in Lusaka setting out its ideas for the future relationship of Barotseland and Zambia. They requested that the traditional institutions of Barotseland should remain intact, and that Barotseland's special status should be written into the Zambian Constitution. Furthermore, they requested that the territorial Government should formally accept responsibility for the financial support and economic development of Barotseland.¹³⁴

The Federation of Rhodesia and Nyasaland was dissolved at the end of December 1963. Northern Rhodesia held territorial elections on 20th and 21st January 1964 under the new 1963 Constitution based on Universal Adult Suffrage. Three major political parties contested the elections – the United National Independence Party, the African National Congress and the National Progress Party the successor to the United Federal Party, which was disbanded when the Federation was dissolved. In the election campaign UNIP promised:– to abolish racial discrimination; to increase job opportunities; to improve wages; to provide more and better schools; more hospitals; cheaper food; and better living conditions after independence.¹³⁵

UNIP won a landslide victory with 55 seats, which included all the seven seats in Barotseland. ANC won 10 seats, while the NPP won 10 seats. Kenneth David Kaunda

¹³² Zambia Politics of Independence, David C. Mulford. Oxford University Press 1967 p.312

¹³³ The Elites of Barotseland. Gerald L. Caplan C. Hurst & Co. London 1970 pp.203-204

¹³⁴ The Elites of Barotseland, Gerald L. Caplan C. Hurst & Co. London 1970. Pp.204-205

¹³⁵ Teacher Politician Lawyer: My Autobiography. John Mwanakatwe. Bookworld Publishers Lusaka 2003 p.167. Mr.

Mwanakatwe was a UNIP candidate in the January 1964 Elections.

See also When UNIP becomes Government Publicity Bureau UNIP 1964

became the Prime Minister of Northern Rhodesia at the head of Self Government of Northern Rhodesia. Preparations were on for talks on the Constitution for independence. John Mwanakatwe in his autobiography wrote that at the beginning of 1964 the colonial government allowed the Northern Rhodesia Government to consult with leaders of major political parties and chiefs in the country to prepare a draft independence constitution. Leaders of major political parties then were Dr. Kenneth David Kaunda of the United National Independence Party; Mr. Harry Mwaanga Nkumbula of the African National Congress; and Mr. John Roberts of the National Progress Party the successor to the United Federal Party. The Governor set up a Committee of Colonial civil servants and members of the Legislative Assembly chaired by the Attorney General and supported by legal draughtsmen from the Ministry of Legal Affairs to draft a new independence Constitution for Northern Rhodesia. Each of the three political parties nominated two members from their representatives in the Legislative Council to sit on the Committee. Dr. Kaunda nominated Mr. James Skinner and Mr. John Mwanakatwe on the basis of their legal qualifications to represent UNIP on the Independence Constitution Committee.¹³⁶

Subsequently at the Independence Conference in London which began on 2nd May 1964, the Prime Minister of Northern Rhodesia, Kenneth Kaunda was able to state that "it is with considerable satisfaction, Mr. Chairman, that I am able to inform you that as a result of discussions that I and my colleagues have had in Lusaka with leaders of the African National Congress and of the National Progress Party, and with a Committee of the House of Chiefs, general agreement has been reached in the type of Independence Constitution we want for our country".¹³⁷ The Independence Constitution introduced a republican form of government in Zambia.¹³⁸

The Litunga Sir Mwanawina Lewanika III KBE found himself under pressure from both the traditionalists who were anxious to maintain Barotseland's special status, and the nationalists who wanted Barotseland to remain an integral part of the future independent Republic of Zambia. Traditionalists of the 'Barotse Patriots' and 'Barotse Democratic Party' were quick to warn the Litunga in March 1964 not to succumb to pressure from UNIP. In a letter dated 30th March 1964 to the Litunga they wrote:

Your Highness

As you have been reading in newspapers there will be constitutional talks in Lusaka between leaders of the three political parties and it is rumoured that your representative may be invited to come. As you are also aware Barotseland is a separate state under your leadership and your sending representatives to the so called constitutional talks is in fact curtailing your powers ...

¹³⁶ Teacher Politician Lawyer: My Autobiography. John Mwanakatwe. Bookworld Publishers Lusaka 2003 pp. 454 and 455

¹³⁷ Zambia Independence and Beyond. The Speeches of Kenneth Kaunda. Edited by Colin Legum-Thomas Nelson. London 1966 p.83

¹³⁸ Ibid pp.83-85

See also Zambia. Richard Hall. Pall Mall London 1965 pp.301-303

"We therefore suggest that instead of your sending representatives to Lusaka talks as being planned by UNIP, you should now arrange to have some unbiased Lozis chosen who will represent you only at London Constitutional talks. As UNIP will be fully represented, your representatives should only consist of traditionalists and members of such organisations as Barotse Patriots and Barotse Democratic Party or any other political party that may be formed ...

"The relationship between Barotseland and Britain must remain as it is now when Northern Rhodesia becomes independent. Barotseland's relationship with Northern Rhodesia must be on federal basis – Barotseland can send its representatives to Northern Rhodesia Parliament but she must keep her identity as a separate state ... This must be the stand of the Barotse representatives when in London at the Constitutional talks.

"It would appear from the various speeches of the governing party that they are bent on going into independence without any further elections. Barotseland will not be part and parcel to independent Northern Rhodesia unless elections under the new constitution are held so that Barotseland can send her representative ...¹³⁹

The Barotseland Agreement 1964

On 16th April 1964 Litunga Sir Mwanawina Lewanika III KBE and the Prime Minister of Northern Rhodesia Dr. Kenneth David Kaunda concluded a Provisional Agreement, under the chairmanship of the Governor, that Northern Rhodesia and Barotseland would go forward to independence as one country.¹⁴⁰

Secondly, while agreeing to recognise the special status of Barotseland the UNIP Government declined to incorporate this into the new Republican Constitution. It was proposed instead that a separate formal treaty would be drawn up and the British, the Lozi and the Northern Rhodesia Government would sign the treaty. In May 1964 the Litunga was invited by Duncan Sandys who had replaced R. A. Butler at the Central African Office in London to send a delegation to London to participate in the Independence Constitutional talks. The Government delegation led by Prime Minister Kenneth David Kaunda was already in London as were the delegations of the African National Congress led by Harry Nkumbula, and National Progress Party led by John Roberts. The Provisional Agreement of 16th April was replaced with a permanent agreement. The Barotseland Agreement of 1964 was signed at the

¹³⁹ To the Litunga of Barotseland Sir Mwanawina III KBE. Letter from Barotse Democratic Party and Barotse Patriots. BSE1/10/95 File No. 2/11/13 Vol. II LOC 5045, NAZ

¹⁴⁰ See Appendix the Barotseland Agreement 1964. Presented to Parliament by the Secretary of State for Commonwealth Relations by Command of Her Majesty. May 1964. Her Majesty's Stationery Office. CMND 2366.

Commonwealth Relations Office in London on 18th May 1964.¹⁴¹ The Litunga was recognised as the principal local authority for the government and administration of Barotseland.¹⁴²

On 24th October 1964 Northern Rhodesia became the independent Republic of Zambia. Soon after independence factors, which appeared to undermine the Barotseland Agreement 1964, began to appear. The Chiefs' Act of 4th October 1965 and the Local Government Act (No. 69) of 15th October 1965 directly affected the Litunga and the Barotse Native Government. The Chiefs' Act gave the President unilateral authority to recognise or withdraw recognition from any chief in Zambia. The Litunga of Barotseland was explicitly mentioned as falling under the provisions of this Act. The President was further empowered under the same Act to determine subsidies to be paid to any chief 'for the purposes of enabling him to maintain the status of his office and to discharge the traditional functions of his office ...' In Barotseland the President's Office became the source of the Litunga's own annual income of £10,000 and salaries of the royal family and the Litunga's household staff. The Local Government Act of 15th October 1965 on the other hand introduced the repeal of Native Authorities' Ordinances and the abolition of Native Treasuries. Through the Local Government Act of 1965 the Central Government established a new local government administrative structure with local authorities and District Councils under the control of the Central Government through the Minister of Local Government. In Barotse Province, district councils were established in Mongu, Senanga, Kalabo, Sesheke and Mankoya (now Kaoma). Funds held in the Barotse Native Treasury were transferred to the newly established Barotse Local Government Fund under the control of the Minister of Local Government. On 1st November 1965 the Barotse National Council was abolished as most of the functions of the National Council were transferred to the District Councils. The Barotse Royal Establishment and the traditionalists accused the Central Government of breaking the 1964 Barotseland Agreement.

On 26th August 1969 the President announced at a Press Conference that the name of Barotse Province was to be changed to Western Province, and its traditional rulers would have their authority over the area's wildlife and fishing rights terminated.¹⁴³ This was a direct negation of the Barotseland Agreement 1964. In October 1969 the Government unilaterally cancelled the Barotseland Agreement through the Constitution (Amendment) Act of 15th October 1969. Through the Act all the rights, liabilities, and obligations, which attached to the Barotseland Agreement 1964 were abolished. The Lozi Royal Establishment and traditionalists had unsuccessfully

¹⁴¹ The Barotseland Agreement 1964. Presented to Parliament by the Secretary of State for Commonwealth Relations by Command of Her Majesty. May 1964. Her Majesty's Stationery Office. CMND 2366.

¹⁴² The Appendix – The Barotseland Agreement 1964. Presented to Parliament by the Secretary of State for Commonwealth Relations by Command of Her Majesty. May 1964. Her Majesty's Stationery Office. CMND 2366.

Zambia Independence and Beyond. The Speeches of Kenneth Kaunda. Edited by Colin Leguin. Thomas Nelson. London 1966 p.90.

¹⁴³ Reforms in the Barotse Province. The Text of a Speech made by His Excellency the President Dr. K. D. Kaunda at a Press Conference held on Tuesday 26th August 1969.

petitioned the President personally to drop the Bill. On 15th October the Second Reading of the Bill was overwhelmingly passed by Parliament in which the ruling United National Independence Party had an inbuilt majority of 81 seats compared to 23 seats for the opposition African National Congress. Since 1969 however, some activists and traditionalists have campaigned and struggled for the restoration of the Barotseland Agreement 1964. In the encounter between activists for the restoration of Barotseland Agreement 1964 and security forces on 14th January 2011 there were violent disturbances, which rocked Mongu and surrounding areas. There were fatalities and serious injuries. The police used live ammunition. The nation was shocked and stunned by the violence and deaths.¹⁴⁴

On 15th January 2011 just before the 20:00 hours radio news broadcast the then Minister of Home Affairs Mr. Nkhondo M. Lungu delivered a short statement concerning what happened in Mongu. On 16th January 2011 the Head of State then Mr. Rupiah Bwezani Banda announced that he was saddened by loss of life in the Western Province during riots by activists for the restoration of Barotseland Agreement 1964. The Head of State went on to warn that no one should take advantage of the volatile mood in the Western Province. He cautioned 'friends and leaders' not to fish in troubled waters. He concluded by revealing that no negotiations were going on over the Barotseland Agreement 1964 'which was done a long time ago' although government was talking to the leaders and people in the province.¹⁴⁵

On 17th January 2011 the Minister of Home Affairs revealed further that more than 100 people were arrested in Mongu during the riot. Twenty-four of the arrested activists were charged with treason and these included the then 'ailing' 92 year old former Ngambela of Barotseland Mr. Maxwell Mututwa.¹⁴⁶

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¹⁴⁴ The Zambia National Broadcasting Corporation (ZNBC) Radio II. News Network carried the report on the same day, 14th January 2011 at both 13:15 hours and 20:00 hours.

¹⁴⁵ ZNBC Radio II News Network 13:15 hours. 16th January 2011.

¹⁴⁶ The full record and account of Barotseland Agreement 1964 activities and protests since 1969 is the subject of another paper already produced by Dr. Mutumba M. Bull.

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