1963 No. 1629

AFRICA

The Gambia (Constitution) (Amendment) Order in Council 1963

Made - - - -	*27th September* 1963
Laid before Parliament	*3rd October* 1963
Coming into Operation—	
Section 13	*As provided in section* 21
Section 14	*On a day to be appointed by the Governor under section* 22
Section 15	*On a day to be appointed by the Governor under section* 23
Remainder	*4th October* 1963

At the Court at Balmoral, the 27th day of September 1963

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers vested in Her by the British Settlements Acts 1887 and 1945(a) and by the Foreign Jurisdiction Act 1890(b) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation, commencement and revocation.

1.—(1) This Order may be cited as the Gambia (Constitution) (Amendment) Order in Council 1963 and shall be construed as one with the Gambia (Constitution) Order in Council 1962(c), which Order is hereinafter referred to as " the principal Order ".

(2) The Gambia (Constitution) Order in Council 1962 and this Order may be cited together as the Gambia (Constitution) Orders in Council 1962 and 1963.

(3) Subject to the provisions of sections 21, 22, 23 and 24 of this Order, the provisions of this Order shall come into operation on 4th October 1963.

(4) The Gambia (Constitution) (Amendment) Order in Council 1962(d) is revoked.

(a) 50 & 51 Vict. c. 54 and 9 & 10 Geo. 6. c. 7. (b) 53 & 54 Vict. c. 37.
(c) S.I. 1962/826 (1962 I, p. 876). (d) S.I. 1962/1871 (1962 II, p. 2189).

2. Section 2 of the principal Order is amended as follows:— Amendment of section 2 of principal Order.

(*a*) in subsection (1) the definition of " public service " is amended by the insertion of the words " subject to the provisions of subsections (6) and (7) of this section " immediately after the word " means " ;

(*b*) the following new subsections are added immediately after subsection (5)—

" (6) In this Order, unless the context otherwise requires, references to offices in the public service shall be construed as including references to the offices of judges of the Supreme Court of the Gambia and references to the offices of members of the Gambia Police Force.

(7) In this Order, unless the context otherwise requires, references to an office in the public service shall not be construed as including references to the office of the Speaker or Deputy Speaker of the House, the Prime Minister, a Parliamentary Secretary, a member of the House or a member of the Public Service Commission.

(8) For the purposes of this Order, a person shall not be considered as holding a public office by reason only of the fact that he is in receipt of a pension or other like allowance in respect of service under the Crown.

(9) References in this Order to the power to remove a public officer from his office shall be construed as including references to any power conferred by any law to require or permit that officer to retire from the public service:

Provided that nothing in this subsection shall be construed as conferring on any person or authority power to require a judge of the Supreme Court, the Attorney-General, the Director of Audit or the Commissioner of Police to retire from the public service.

(10) Any provision in this Order that vests in any person or authority power to remove any public officer from his office shall be without prejudice to the power of any person or authority to abolish any office or to any law providing for the compulsory retirement of public officers generally or any class of public officer on attaining any age specified therein.

(11) Where power is vested by this Order in any person or authority to appoint any person to act in or perform the functions of any office if the holder thereof is himself unable to perform those functions, no such appointment shall be called in question on the ground that the holder of the office was not unable to perform those functions.

(12) Where any power is conferred by this Order to make any order or rule, pass any resolution or give any direction, the power shall be construed as including the power, exercisable in like manner, to amend or revoke any such order, rule, resolution or direction."

Insertion of new Part in principal Order.

3. The following new Part is inserted in the principal Order immediately after Part I—

"PART IA

PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL

Fundamental rights and freedoms of the individual.

3A. Whereas every person in the Gambia is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely—

(*a*) life, liberty, security of the person and the protection of the law;

(*b*) freedom of conscience, of expression and of assembly and association; and

(*c*) protection for the privacy of his home and other property and from deprivation of property without compensation,

the provisions of this Part shall have effect for the purpose of affording protection to those rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.

Protection of right to life.

3B.—(1) No person shall be deprived of his life intentionally save in execution of the sentence of a court in respect of a criminal offence under the law in force in the Gambia of which he has been convicted.

(2) Without prejudice to any liability for a contravention of any other law with respect to the use of force in such cases as are hereinafter mentioned, a person shall not be regarded as having been deprived of his life in contravention of this section if he dies as the result of the use of force to such extent as is reasonably justifiable in the circumstances of the case—

(*a*) for the defence of any person from violence or for the defence of property;

(*b*) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;

(*c*) for the purpose of suppressing a riot, insurrection or mutiny; or

(*d*) in order to prevent the commission by that person of a criminal offence,

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

Protection of right to personal liberty.

3C.—(1) No person shall be deprived of his personal liberty save as may be authorized by law in any of the following cases, that is to say—

(*a*) in execution of the sentence or order of a court, whether established for the Gambia or some other country, in respect of a criminal offence of which he has been convicted;

(*b*) in execution of the order of a court of record punishing him for contempt of that court or of a court inferior to it;

(*c*) in execution of the order of a court made to secure the fulfilment of any obligation imposed on him by law;

(*d*) for the purpose of bringing him before a court in execution of the order of a court;

(*e*) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under the law in force in the Gambia;

(*f*) under the order of a court or with the consent of his parent or guardian, for his education or welfare during any period ending not later than the date when he attains the age of eighteen years;

(*g*) for the purpose of preventing the spread of an infectious or contagious disease;

(*h*) in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his care or treatment or the protection of the community;

(*i*) for the purpose of preventing the unlawful entry of that person into the Gambia, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from the Gambia or for the purpose of restricting that person while he is being conveyed through the Gambia in the course of his extradition or removal as a convicted prisoner from one country to another; or

(*j*) to such extent as may be necessary in the execution of a lawful order requiring that person to remain within a specified area within the Gambia, or prohibiting him from being within such an area, or to such extent as may be reasonably justifiable for the taking of proceedings against that person relating to the making of any such order, or to such extent as may be reasonably justifiable for restraining that person during any visit that he is permitted to make to any part of the Gambia in which, in consequence of any such order, his presence would otherwise be unlawful.

(2) Any person who is arrested or detained shall be informed as soon as reasonably practicable, in a language that he understands, of the reasons for his arrest or detention.

(3) Any person who is arrested or detained—

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

(*b*) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under the law in force in the Gambia,

and who is not released, shall be brought without undue delay before a court; and if any person arrested or

detained as mentioned in paragraph (*b*) of this subsection is not tried within a reasonable time, then, without prejudice to any further proceedings that may be brought against him, he shall be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.

(4) Any person who is unlawfully arrested or detained by any other person shall be entitled to compensation therefor from that other person.

Protection from slavery and forced labour.

3D.—(1) No person shall be held in slavery or servitude.

(2) No person shall be required to perform forced labour.

(3) For the purposes of this section, the expression " forced labour " does not include—

(*a*) any labour required in consequence of the sentence or order of a court;

(*b*) labour required of any person while he is lawfully detained that, though not required in consequence of the sentence or order of a court, is reasonably necessary in the interests of hygiene or for the maintenance of the place at which he is detained;

(*c*) any labour required of a member of a disciplined force in pursuance of his duties as such or, in the case of a person who has conscientious objections to service as a member of a naval, military or air force, any labour that that person is required by law to perform in place of such service;

(*d*) any labour required during any period of public emergency or in the event of any other emergency or calamity that threatens the life and well-being of the community, to the extent that the requiring of such labour is reasonably justifiable in the circumstances of any situation arising or existing during that period or as a result of that other emergency or calamity, for the purpose of dealing with that situation; or

(*e*) any labour reasonably required as part of reasonable and normal communal or other civic obligations.

Protection from inhuman treatment.

3E.—(1) No person shall be subjected to torture or to inhuman or degrading punishment or other treatment.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question authorizes the infliction of any description of punishment that was lawful in the Gambia immediately before the coming into operation of this Order.

Protection from deprivation of property.

3F.—(1) No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily

acquired, except where the following conditions are satisfied, that is to say—

(*a*) the taking of possession or acquisition is necessary or expedient—

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

(ii) in order to secure the development or utilisation of that, or other, property for a purpose beneficial to the community; and

(*b*) provision is made by a law applicable to that taking of possession or acquisition—

(i) for the prompt payment of adequate compensation; and

(ii) securing to any person having an interest in or right over the property a right of access to a court or other authority for the determination of his interest or right, the legality of the taking of possession or acquisition of the property, interest or right, and the amount of any compensation to which he is entitled, and for the purpose of obtaining prompt payment of that compensation.

(2) No person who is entitled to compensation under this section shall be prevented from remitting, within a reasonable time after he has received any amount of that compensation, the whole of that amount (free from any deduction, charge or tax made or levied in respect of its remission) to any country of his choice outside the Gambia.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (2) of this section to the extent that the law in question authorises—

(*a*) the attachment, by order of a court, of any amount of compensation to which a person is entitled in satisfaction of the judgment of a court or pending the determination of civil proceedings to which he is a party; or

(*b*) the imposition of reasonable restrictions on the manner in which any amount of compensation is to be remitted.

(4) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (1) of this section—

(*a*) to the extent that the law in question makes provision for the taking of possession or acquisition of any property—

(i) in satisfaction of any tax, rate or due;

(ii) by way of penalty for breach of the law, whether under civil process or after conviction of a

criminal offence under the law in force in the Gambia;

(iii) as an incident of a lease, tenancy, mortgage, charge, bill of sale, pledge or contract;

(iv) in the execution of judgments or orders of a court in proceedings for the determination of civil rights or obligations;

(v) in circumstances where it is reasonably necessary so to do because the property is in a dangerous state or injurious to the health of human beings, animals or plants;

(vi) in consequence of any law with respect to the limitation of actions; or

(vii) for so long only as may be necessary for the purposes of any examination, investigation, trial or inquiry or, in the case of land, for the purposes of the carrying out thereon of work of soil conservation or the conservation of other natural resources or work relating to agricultural development or improvement (being work relating to such development or improvement that the owner or occupier of the land has been required, and has without reasonable excuse refused or failed, to carry out),

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

(*b*) to the extent that the law in question makes provision for the taking of possession or acquisition of—

(i) enemy property;

(ii) property of a deceased person, a person of unsound mind or a person who has not attained the age of eighteen years, for the purpose of its administration for the benefit of the persons entitled to the beneficial interest therein;

(iii) property of a person adjudged bankrupt or a body corporate in liquidation, for the purpose of its administration for the benefit of the creditors of the bankrupt or body corporate and, subject thereto, for the benefit of other persons entitled to the beneficial interest in the property; or

(iv) property subject to a trust, for the purpose of vesting the property in persons appointed as trustees under the instrument creating the trust or by a court or, by order of a court, for the purpose of giving effect to the trust.

(5) Nothing in this section shall be construed as affecting the making or operation of any law for the compulsory taking of possession in the public interest of any property, or the compulsory acquisition in the public interest of any interest in or right over property, where that property,

interest or right is held by a body corporate established by law for public purposes in which no moneys have been invested other than moneys provided by the Legislature of the Gambia.

Protection for privacy of home and other property.

3G.—(1) Except with his own consent, no person shall be subjected to the search of his person or his property or the entry by others on his premises.

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

(*a*) that is reasonably required in the interests of defence, public safety, public order, public morality, public health, town and country planning, the development and utilisation of mineral resources, or in order to secure the development or utilisation of any property for a purpose beneficial to the community;

(*b*) that is reasonably required for the purpose of protecting the rights or freedoms of other persons;

(*c*) that authorizes an officer or agent of the Government of the Gambia, a local government authority or a body corporate established by law for a public purpose to enter on the premises of any person in order to inspect those premises or anything thereon for the purpose of any tax, rate or due or in order to carry out work connected with any property that is lawfully on those premises and that belongs to that Government, authority or body corporate, as the case may be;

(*d*) that authorizes, for the purpose of enforcing the judgment or order of a court in any civil proceedings, the search of any person or property by order of a court or entry upon any premises by such order,

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

Provisions to secure protection of law.

3H.—(1) If any person is charged with a criminal offence, then, unless the charge is withdrawn, the case shall be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.

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

(*a*) shall be presumed to be innocent until he is proved or has pleaded guilty;

(*b*) shall be informed as soon as reasonably practicable, in a language that he understands and in detail, of the nature of the offence charged;

(*c*) shall be given adequate time and facilities for the preparation of his defence;

(*d*) shall be permitted to defend himself before the court in person or, at his own expense, by a legal representative of his own choice;

(*e*) shall be afforded facilities to examine in person or by his legal representative the witnesses called by the prosecution before the court, and to obtain the attendance and carry out the examination of witnesses to testify on his behalf before the court on the same conditions as those applying to witnesses called by the prosecution ; and

(*f*) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the charge,

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

(3) When a person is tried for any criminal offence, the accused person or any person authorized by him in that behalf shall, if he so requires and subject to payment of such reasonable fee as may be prescribed by law, be given within a reasonable time after judgment a copy for the use of the accused person of any record of the proceedings made by or on behalf of the court.

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

(5) No person who shows that he has been tried by a competent court for a criminal offence and either convicted or acquitted shall again be tried for that offence or for any other criminal offence of which he could have been convicted at the trial for that offence, save upon the order of a superior court in the course of appeal or review proceedings relating to the conviction or acquittal.

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

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

(8) No person shall be convicted of a criminal offence unless that offence is defined and the penalty therefor is prescribed in a written law:

Provided that nothing in this subsection shall prevent a court of record from punishing any person for contempt of itself notwithstanding that the act or omission constituting the contempt is not defined in a written law and the penalty therefor is not so prescribed.

(9) Any court or other adjudicating authority prescribed by law for the determination of the existence or extent of any civil right or obligation shall be established by law and shall be independent and impartial ; and where proceedings for such a determination are instituted by

any person before such a court or other adjudicating authority, the case shall be given a fair hearing within a reasonable time.

(10) Except with the agreement of all the parties thereto, all proceedings of every court and proceedings for the determination of the existence or extent of any civil right or obligation before any other adjudicating authority, including the announcement of the decision of the court or other authority, shall be held in public.

(11) Nothing in the last foregoing subsection shall prevent the court or other adjudicating authority from excluding from the proceedings persons other than the parties thereto and their legal representatives to such extent as the court or other authority—

(*a*) may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice or in interlocutory proceedings; or

(*b*) may be empowered by law to do so in the interests of defence, public safety, public order, public morality, the welfare of persons under the age of eighteen years or the protection of the private lives of persons concerned in the proceedings.

(12) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of—

(*a*) subsection (2)(*a*) of this section to the extent that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts;

(*b*) subsection (2)(*d*) of this section to the extent that the law in question prohibits legal representation in a court established by or under the District Tribunals Ordinance(a);

(*c*) subsection (2)(*e*) of this section to the extent that the law in question imposes reasonable conditions that must be satisfied if witnesses called to testify on behalf of an accused person are to be paid their expenses out of public funds;

(*d*) subsection (5) of this section to the extent that the law in question authorizes a court to try a member of a disciplined force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of that force, so, however, that any court so trying such a member and convicting him shall in sentencing him to any punishment take into account any punishment awarded him under that disciplinary law.

(13) In the case of any person who is held in lawful detention the provisions of subsection (1), subsection (2)(*d*) and (*e*) and subsection (3) of this section shall not apply

(a) Laws of the Gambia, 1955, c. 49.

in relation to his trial for a criminal offence under the law regulating the discipline of persons held in such detention.

(14) In this section—

"criminal offence" means a criminal offence under the law in force in the Gambia;

"legal representative" means a person entitled to practise in the Gambia as a barrister or solicitor.

Protection of freedom of conscience.

3I.—(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this section the said freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.

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

(3) No religious community or denomination shall be prevented from providing religious instruction for persons of that community or denomination in the course of any education provided by that community or denomination.

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

(5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision which is reasonably required—

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

(*b*) for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practise any religion without the unsolicited intervention of members of any other religion,

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

Protection of freedom of expression.

3J.—(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression, including freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference (whether the communication be to the public generally or to any person or class of persons) and freedom from interference with his correspondence.

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

(*a*) that is reasonably required in the interests of defence, public safety, public order, public morality or public health; or

(*b*) that is reasonably required for the purpose of protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, regulating educational institutions in the interests of persons receiving instruction therein, or regulating telephony, telegraphy, posts, wireless broadcasting, television, public exhibitions or public entertainments; or

(*c*) that imposes restrictions upon public officers,

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

Protection of freedom of assembly and association.

3K.—(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to trade unions or other associations for the protection of his interests.

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

(*a*) that is reasonably required in the interests of defence, public safety, public order, public morality or public health; or

(*b*) that is reasonably required for the purpose of protecting the rights or freedoms of other persons; or

(*c*) that imposes restrictions upon public officers,

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

Protection of freedom of movement.

3L.—(1) No person shall be deprived of his freedom of movement, and for the purposes of this section the said freedom means the right to move freely throughout the Gambia, the right to reside in any part of the Gambia, the right to enter the Gambia and immunity from expulsion from the Gambia.

(2) Any restriction on a person's freedom of movement that is involved in his lawful detention shall not be held to be inconsistent with or in contravention of this section.

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

(*a*) for the imposition of restrictions that are reasonably required in the interests of defence, public safety, public order, public morality, or public health or the imposition of restrictions on the acquisition or use by any person of land or other property in the Gambia, and except so far as that provision or, as the case may be, the thing done under the authority thereof, is shown not to be reasonably justifiable in a democratic society;

(*b*) for the imposition of restrictions on the freedom of movement of any person who does not belong to the Gambia;

(*c*) for the imposition of restrictions upon the movement or residence within the Gambia of public officers; or

(*d*) for the removal of a person from the Gambia to be tried outside the Gambia for a criminal offence or to undergo imprisonment in some other country in execution of the sentence of a court in respect of a criminal offence under the law in force in the Gambia of which he has been convicted.

(4) If any person whose freedom of movement has been restricted by virtue of such a provision as is referred to in subsection (3)(*a*) of this section so requests at any time during the period of that restriction not earlier than six months after the order was made or six months after he last made such request, as the case may be, his case shall be reviewed by an independent and impartial tribunal presided over by a person, qualified to be enrolled an as advocate in the Gambia, appointed by the Chief Justice:

Provided that a person whose freedom of movement has been restricted by virtue of a restriction which is applicable to persons generally or to general classes of persons shall not make a request under this subsection unless he has first obtained the consent of the Supreme Court.

(5) On any review by a tribunal in pursuance of this section of the case of a person whose freedom of movement has been restricted, the tribunal may make recommendations, concerning the necessity or expediency of continuing the restriction, to the authority by which it was ordered but, unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with any such recommendations.

Protection from discrimination on the grounds of race, etc.

3M.—(1) Subject to the provisions of subsections (4), (5) and (7) of this section, no law shall make any provision that is discriminatory either of itself or in its effect.

(2) Subject to the provisions of subsections (6), (7) and (8) of this section, no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

(3) In this section, the expression, "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, tribe, place of origin, political opinions, colour or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

(4) Subsection (1) of this section shall not apply to any law so far as that law makes provision—

(*a*) for the appropriation of public revenues or other public funds;

(*b*) with respect to persons who do not belong to the Gambia;

(*c*) with respect to adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law;

(*d*) for the application in the case of members of a particular race or tribe of customary law with respect to any matter to the exclusion of any law with respect to that matter which is applicable in the case of other persons; or

(*e*) whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society.

(5) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) of this section to the extent that it makes reasonable provision with respect to qualifications for service as a public officer or as a member of a disciplined force or for the service of a local government authority or a body corporate established directly by any law.

(6) Subsection (2) of this section shall not apply to anything which is expressly or by necessary implication authorized to be done by any such provision of law as is referred to in subsection (4) or (5) of this section.

(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any restriction on the rights and freedoms guaranteed by sections 3G, 3I, 3J, 3K and 3L of this Order, being such a restriction as is authorized by section 3G(2), 3I(5), 3J(2), 3K(2) or 3L(3), as the case may be.

(8) Nothing in subsection (2) of this section shall affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under this Order or any other law.

Provisions for periods of public emergency.

3N.—(1) Nothing contained in or done under the authority of any regulation made under the Emergency Powers Order in Council 1939(a), as amended, shall be held to be inconsistent with or in contravention of section 3C, 3D(2), 3G, 3I, 3J, 3K, 3L or 3M of this Order to the extent that the regulation in question makes in relation to any period of public emergency provision, or authorizes the doing during any such period of anything, that is reasonably justifiable in the circumstances of any situation arising or existing during that period for the purpose of dealing with that situation.

(2) Where any person who is lawfully detained in pursuance only of such a regulation as is referred to in subsection (1) of this section so requests at any time during the period of that detention not earlier than six months after he last made such a request during that period, his case shall be reviewed by an independent and impartial tribunal established by law and presided over by a person, qualified to be enrolled as an advocate in the Gambia, appointed by the Chief Justice.

(3) On any review by a tribunal in pursuance of this section of the case of a detained person, the tribunal may make recommendations concerning the necessity or expediency of continuing his detention to the authority by which it was ordered but, unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with any such recommendations.

Enforcement of protective provisions.

3O.—(1) Subject to the provisions of subsection (6) of this section, if any person alleges that any of the provisions of sections 3A to 3N (inclusive) of this Order has been, is being or is likely to be contravened in relation to him, then, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the Supreme Court for redress.

(2) The Supreme Court shall have original jurisdiction—

(*a*) to hear and determine any application made by any person in pursuance of subsection (1) of this section;

(*b*) to determine any question arising in the case of any person which is referred to it in pursuance of subsection (3) of this section,

and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of any of the provisions of section 3A to 3N (inclusive) of this Order:

(a) *See* S.I. 1952 I, at p. 621.

Provided that the Supreme Court shall not exercise its powers under this subsection if it is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned under any other law.

(3) If in any proceedings in any court subordinate to the Supreme Court any question arises as to the contravention of any of the provisions of sections 1 to 14 (inclusive) of this Order, the person presiding in that court may, and shall if any party to the proceedings so requests, refer the question to the Supreme Court unless, in his opinion, the raising of the question is merely frivolous or vexatious.

(4) The Legislature of the Gambia may confer upon the Supreme Court such powers in addition to those conferred by this section as may appear to be necessary or desirable for the purpose of enabling that court more effectively to exercise the jurisdiction conferred upon it by this section.

(5) Rules of court making provision with respect to the practice and procedure of the Supreme Court for the purpose of this section may be made by the person or authority for the time being having power to make rules of court with respect to the practice and procedure of that court generally.

Interpretation and savings.

3P.—(1) In this Part, unless the context otherwise requires—

"contravention", in relation to any requirement, includes a failure to comply with that requirement, and cognate expressions shall be construed accordingly;

"court" means any court of law having jurisdiction in the Gambia other than a court established by a disciplinary law, and includes Her Majesty in Council and in sections 3B and 3D of this Order a court established by a disciplinary law;

"disciplinary law" means a law regulating the discipline of any disciplined force;

"disciplined force" means—

(*a*) a naval, military or air force;

(*b*) the Gambia Police Force; or

(*c*) any other police force established by law enacted by the Legislature of the Gambia;

"member", in relation to a disciplined force, includes any person who, under the law regulating the discipline of that force, is subject to that discipline.

(2) In this Part "a period of public emergency" means any period during which—

(*a*) Her Majesty is at war; or

(*b*) Part II of the Emergency Powers Order in Council 1939, as amended, is in force in the Gambia or any part thereof.

(3) For the purposes of this Part a person shall be deemed to belong to the Gambia if he is a British subject or a British protected person and—

(i) was born in the Gambia or of parents who at the time of his birth were ordinarily resident in the Gambia ;

(ii) has been ordinarily resident in the Gambia continuously for a period of seven years or more and since the completion of such period of residence has not been ordinarily resident continuously for a period of seven years or more in any other part of the Commonwealth ;

(iii) has obtained the status of a British subject by reason of the grant by the Governor of the Gambia of a certificate of naturalization under the British Nationality and Status of Aliens Act 1914(a) or the British Nationality Act 1948(b) ;

(iv) is the wife of a person to whom any of the foregoing subparagraphs applies not living apart from such person under a decree of court or a deed of separation ; or

(v) is the child, stepchild, or child adopted in a manner recognised by law under the age of eighteen years of a person to whom any of the foregoing subparagraphs applies.

(4) In relation to any person who is a member of a disciplined force raised under a law enacted by the Legislature of the Gambia, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Part other than sections 3B, 3D and 3E.

(5) In relation to any person who is a member of a disciplined force raised otherwise than as aforesaid and lawfully present in the Gambia, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Part.".

Replacement of Part III of principal Order.

4. For Part III of the principal Order there is substituted the following Part—

(a) 4 & 5 Geo. 5. c. 17. (b) 11 & 12 Geo. 6. c. 56.

"PART III

THE EXECUTIVE

Executive authority of the Gambia.

11.—(1) The executive authority of the Gambia shall vest in Her Majesty.

(2) Subject to the provisions of this Order, the executive authority of the Gambia may be exercised on behalf of Her Majesty by the Governor, either directly or through officers subordinate to him.

(3) Nothing in this section shall prevent the Legislature of the Gambia from conferring functions on persons or authorities other than the Governor.

Cabinet of Ministers.

12.—(1) There shall be a Cabinet of Ministers in and for the Gambia which shall consist of the Prime Minister and other Ministers.

(2) There shall be, in addition to the office of the Prime Minister, such other offices of Minister of the Government of the Gambia as may be established by the Legislature of the Gambia or, subject to the provisions of any law enacted by that Legislature, by the Governor, acting in accordance with the advice of the Prime Minister:

Provided that the number of such other Ministers shall not be less than six.

(3) Subject to the provisions of this Order, the Cabinet of Ministers shall have the general direction and control of the Government of the Gambia and shall be collectively responsible therefor to the Legislature.

(4) The Prime Minister and the other Ministers shall be persons who are members of the House and shall be appointed in accordance with the provisions of section 13 of this Order.

Appointment of Ministers.

13.—(1) Whenever there shall be occasion for the appointment of a Prime Minister, the Governor, acting in his discretion, shall appoint as Prime Minister—

(*a*) the elected member of the House who appears to him to be the leader of the party which commands the support of the majority of the members of the House, or

(*b*) if it appears to him that that party does not have an undisputed leader in the House or that no party commands the support of such a majority, the elected member of the House who, in his judgment, is most likely to command such support.

(2) The Ministers other than the Prime Minister shall be appointed by the Governor in accordance with the advice of the Prime Minister.

(3) If occasion arises for making an appointment to the office of Prime Minister or any other Minister while the

House is dissolved, a person who was a member of the House immediately before the dissolution may be appointed as Prime Minister or any other Minister.

Tenure of office of Ministers.

14.—(1) The Governor, acting in his discretion, may remove the Prime Minister from office—

(*a*) if a vote of no confidence in the Government of the Gambia is passed by the House ; or

(*b*) if at any time between the holding of a general election and the first sitting of the House thereafter the Governor considers that, in consequence of changes in the membership of the House resulting from that election, the Prime Minister will not be able to command the support of a majority of the members of the House:

Provided that the Governor shall not remove the Prime Minister from office when a vote of no confidence has been passed by the House unless three days have elapsed since that vote was passed and the Governor has decided not to dissolve the House under paragraph (*b*) of the proviso to section 53(2) of this Order.

(2) The office of any Minister shall become vacant—

(*a*) if the holder of the office ceases to be a member of the House otherwise than by reason of a dissolution of the House ; or

(*b*) if, at the first sitting of the House after a general election, the holder of the office is not a member of the House.

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

(*a*) if the Governor, acting in accordance with the advice of the Prime Minister, so directs ;

(*b*) if the Prime Minister resigns from office within three days after the passage by the House of a resolution of no confidence in the Government or is removed from office under subsection (1) of this section ; or

(*c*) upon the appointment of any person to the office of Prime Minister.

Performance of function of Prime Minister during absence or illness.

15.—(1) Whenever the Prime Minister is absent from the Gambia or is by reason of illness unable to perform the functions conferred on him by this Order, the Governor may authorise some other Minister to perform those functions (other than the functions conferred by this section) and that Minister may perform those functions until his authority is revoked by the Governor.

(2) The powers of the Governor under this section shall be exercised by him in accordance with the advice of the Prime Minister:

Provided that if the Governor considers that it is impracticable to obtain the advice of the Prime Minister owing to his absence or illness he may exercise those powers in his discretion.

Oaths to be taken by Ministers etc.

16. A Minister or a Parliamentary Secretary shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as in the form set out in the Second Schedule to this Order.

Summoning of Cabinet.

17. The Cabinet shall be summoned by the Prime Minister or, in the absence of the Prime Minister, by such Minister as the Prime Minister shall appoint:

Provided that the Governor, in his discretion, may summon a special meeting of the Cabinet whenever he shall think fit.

Presiding in Cabinet.

18. The Prime Minister shall, so far as is practicable, attend and preside at all meetings of the Cabinet and in his absence such Minister shall preside as the Prime Minister shall appoint:

Provided that whenever the Governor has summoned a special meeting of the Cabinet under the provisions of section 17 of this Order he shall preside.

Allocation of Portfolios to Ministers.

19. The Governor, acting in accordance with the advice of the Prime Minister, may, by directions in writing, assign to the Prime Minister or any other Minister responsibility for any business of the Government of the Gambia, including the administration of any department of Government:

Provided that—

(*a*) except for the purpose of conducting business in the House and subject to the provisions of section 20 of this Order (which relates to matters for which the Governor has special responsibility) a Minister shall not be given responsibility for any matter specified in that section; and

(*b*) a Minister shall not be given responsibility for the department of the Attorney-General.

Governor's special responsibilities.

20.—(1) Subject to the provisions of this Order, the Governor, acting in his discretion, shall be responsible for the following matters—

(*a*) external affairs;

(*b*) defence; and

(*c*) internal security, including the Police Force.

(2) The Governor, acting in his discretion, may by directions in writing assign to the Prime Minister or any other Minister designated by the Prime Minister such responsibility with respect to any matter referred to in subsection (1) of this section as he may think fit, upon such conditions as he may think fit.

(3) In this section " defence " includes, without prejudice to its generality, the organisation, discipline, control and use of the armed forces of the Crown, and the control and use of any establishments, installations and equipment pertaining thereto.

Exercise of Governor's functions.

21.—(1) In the exercise of his functions under this Order or any other law the Governor shall obtain, and act in accordance with, the advice of the Cabinet or a Minister acting under the general authority of the Cabinet.

(2) The provisions of subsection (1) of this section shall not apply in relation to the exercise by the Governor of—

(*a*) any function conferred upon him by this Order that is expressed to be exercisable by him in his discretion or in accordance with the advice of or after consultation with any person or authority other than the Cabinet; or

(*b*) any function conferred upon him by this Order or any other law with respect to any matter specified in section 20(1) of this Order (which relates to matters for which the Governor has special responsibilities); or

(*c*) any function conferred upon him by any other law that is expressed to be exercisable by him in his discretion or that he is otherwise authorised by such law to exercise without obtaining the advice of the Cabinet.

(3) Where the Governor is directed by this Order to exercise any function after consultation with any person or authority other than the Cabinet, he shall not be obliged to exercise that function in accordance with the advice of that person or authority.

(4) Where the Governor has obtained the advice of the Cabinet or a Minister for the purposes of subsection (1) of this section, he may act otherwise than in accordance with that advice if in his judgment it is necessary or expedient so to act for the purposes of a matter for which the Governor is responsible under section 20 of this Order.

(5) Where any function is vested by any law other than this Order in any person or authority other than the Governor (not being a court of law), the Governor may exercise that function in such circumstances and to such extent as he may consider necessary or expedient for the purposes of any matter that is specified in section 20(1) of this Order.

(6) Where the Governor is required by this Order to act in accordance with the advice of or after consultation with any person or authority the question whether he has in any matter so acted shall not be called in question in any court of law.

Governor to be kept informed of matters of government.

22. The Prime Minister shall keep the Governor fully informed concerning the general conduct of the Government of the Gambia and shall furnish him with such information as he may require in respect to any particular matter relating to the Government of the Gambia.

Parliamentary Secretaries.

23.—(1) The Governor, acting in accordance with the advice of the Prime Minister, may appoint Parliamentary Secretaries from among the elected members of the House to assist Ministers in the performance of their duties:

Provided that, if occasion arises for making appointments while the House is dissolved, a person who was a member of the House immediately before the dissolution may be appointed as a Parliamentary Secretary.

(2) The office of a Parliamentary Secretary shall become vacant—

(*a*) if the Governor, acting in accordance with the advice of the Prime Minister, so directs;

(*b*) if the Prime Minister resigns from office within three days after the passage by the House of a resolution of no confidence in the Government of the Gambia or is removed from office under subsection (1) of section 14 of this Order;

(*c*) upon the appointment of a person to the office of Prime Minister;

(*d*) if the holder of the office ceases to be a member of the House otherwise than by reason of a dissolution of the House; or

(*e*) if, at the first sitting of the House after a general election, the holder of the office is not a member of the House.

Secretaries to the Ministries.

24. Where any Minister has been charged with responsibility for any department of government, he shall exercise general direction and control over that department and, subject to such direction and control, the department shall be under the supervision of the Secretary to the Ministry, whose office shall be a public office.

Secretary to Cabinet.

24A.—(1) There shall be a Secretary to the Cabinet whose office shall be a public office.

(2) The Secretary to the Cabinet shall have charge of the Cabinet office and shall be responsible, in accordance with such instructions as may be given to him by the Prime Minister, for arranging the business for, and keeping the minutes of, the Cabinet and for conveying the decisions of the Cabinet to the appropriate person or authority, and shall have such other functions as the Prime Minister may direct.

Attorney-General.

24B.—(1) There shall be an Attorney-General whose office shall be a public office.

(2) The Attorney-General shall be the principal legal adviser to the Government of the Gambia.

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

(*a*) to institute and undertake criminal proceedings against any person before any court (other than a court-martial) in respect of any offence alleged to have been committed by that person;

(*b*) to take over and continue any such criminal proceedings that have been instituted or undertaken by any other person or authority; and

(*c*) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.

(4) The powers of the Attorney-General under subsection (3) of this section may be exercised by him in person or by officers subordinate to him acting in accordance with his general or special instructions.

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

Provided that where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance of that person or authority and with the leave of the court.

(6) For the purposes of this section, any appeal from any judgment in any criminal proceedings before any court, or any case stated or question of law reserved for the purpose of any such proceedings, to any other court (including the Judicial Committee of Her Majesty's Privy Council) shall be deemed to be part of those proceedings:

Provided that the power conferred on the Attorney-General by subsection (3)(*c*) of this section shall not be exercised in relation to any appeal by a person convicted in any criminal proceedings or to any case stated or question of law reserved at the instance of such a person.

(7) In the exercise of the functions vested in him by subsection (3) of this section the Attorney-General shall not be subject to the direction and control of any other person or authority.

Director of Audit.

24C.—(1) There shall be a Director of Audit for the Gambia, whose office shall be a public office.

(2) The public accounts of the Gambia and of all officers, courts and authorities of the Government of the Gambia shall be audited and reported on by the Director of Audit and for that purpose the Director of Audit or any person authorized by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.

(3) The Director of Audit shall submit his reports to the Minister responsible for finance, who shall cause them to be laid before the House.

(4) In the exercise of his functions under this Order the Director of Audit shall not be subject to the direction or control of any other person or authority.

Constitution of offices.

24D. Subject to the provisions of this Order and of any other law, the Governor may constitute offices for the Gambia, and may abolish such offices and may make appointments to any such office so constituted and terminate any such appointment.".

Amendment of sections 26 and 27 of principal Order.

5. Sections 26 and 27 of the principal Order are amended by the insertion after the word "Minister" in subsections (1) and (3) of each of those sections of the words "or a Parliamentary Secretary".

Amendment of section 36 of principal Order.

6. Section 36 of the principal Order is amended by the insertion of the words "Parliamentary Secretary" immediately after the word "Minister" in subsection (1) (*b*).

Insertion of new section in principal Order.

7. The following new section is inserted immediately after section 36 of the principal Order—

"Unqualified person sitting or voting.

36A. Any person who sits or votes in the House knowing or having reasonable grounds for knowing that he is not entitled to do so shall be liable to a penalty not exceeding twenty pounds or such other sum as may be prescribed by any law for the time being in force in the Gambia for each day on which he so sits or votes in the House, which shall be recoverable by action in the appropriate court in the Gambia at the suit of the Attorney-General.".

Amendment of section 48 of principal Order.

8. Section 48 of the principal Order is amended—

(*a*) in subsection (2) by the substitution of the words "signified by a Minister" for the words "in his discretion";

(*b*) by the deletion of subsection (3).

Replacement of section 49 of principal Order.

9. The following section is substituted for section 49 of the principal Order—

"Governor's reserved powers.

49.—(1) If the Governor considers that any Bill or motion that is before the House or any committee thereof affects his responsibility for external affairs, defence, or internal security, he may give notice thereof to the House or committee concerned and no further proceedings shall then be taken upon the Bill or motion without his consent.

(2) The Governor may send by message to the House a draft of any Bill or motion which, in pursuance of his responsibility for external affairs, defence, or internal security, he considers should be introduced or proposed in the House and may (whether in the same or a later message) request that the Bill or motion be so introduced or proposed not later than a date specified in such message.

(3) If a request made by the Governor under subsection (2) of this section is not complied with by the date specified, the Bill or motion to which it relates shall be deemed to have been introduced or proposed in the House on that date.

(4) If the House fails to pass the Bill or carry the motion within such time as the Governor considers reasonable and in such form as he considers expedient, he may, by writing under his hand, declare that it shall have effect as if, on the date of such declaration, it had been passed or carried by the House either in the form in which it was introduced or proposed (or is deemed to have been introduced or proposed) or (as the declaration shall specify) with such amendments as the Governor thinks fit that have been moved or proposed in the House or any committee thereof; and the Bill or motion shall be deemed thereupon to have been passed or carried in the form specified in the declaration and on the date thereof, and the provisions of this Order shall have effect accordingly.

(5) Any notice or consent given or message sent by the Governor under this section may be given or sent in such manner as the Governor thinks fit and, in the case of a notice or consent given or a message sent to the House, may be given or sent either to the Speaker of the House (whether or not he is presiding over the House) or to any other person who is presiding over the House and, in the case of a notice or consent given to a committee of the House, may be given either to the Speaker of the House (whether or not he is presiding over that committee) or to any other person who is presiding over that committee.

(6) The powers vested in the Governor by this section shall be exercised by him in his discretion.".

Amendment of section 50 of principal Order.

10. Section 50 of the principal Order is amended by the substitution of the following subsections for subsection (2)—

"(2) When a Bill is presented to the Governor for assent, he shall signify that he assents or that he withholds assent or that he reserves the Bill for the signification of Her Majesty's pleasure:

Provided that, unless he has been authorized by a Secretary of State to assent thereto, and subject to the provisions of subsection (3) of this section, the Governor shall reserve for the signification of Her Majesty's pleasure any Bill that appears, to him, acting in his discretion—

(*a*) to be inconsistent with any obligation imposed on Her Majesty by any treaty, convention or agreement with or arrangement relating to any country or any international or similar organization outside the Gambia; or

(*b*) to be likely to prejudice the Royal prerogative.

(3) The Governor, acting in his discretion, may refuse his assent to any Bill which appears to him to affect his responsibility for external affairs, defence, or internal security or may reserve any such Bill for the signification of Her Majesty's pleasure.

(4) The Governor, after a Bill has been assented to, shall cause it to be published as a law.

(5) A Bill duly passed shall become law on being assented to in accordance with this Order but no law shall come into force until it has been published, without prejudice, however, to the power of the Legislature of the Gambia to postpone the operation of any law or to make laws with retrospective effect.".

Replacement of section 51 of principal Order.

11. For section 51 of the principal Order there is substituted the following section—

"Disallowance of laws.

51.—(1) Any law enacted by the Legislature of the Gambia that has been assented to by the Governor and that appears to Her Majesty to alter, to the injury of the stockholders, any provision relating to the stock to which this section applies or to involve a departure from the original contract in respect of any such stock may be disallowed by Her Majesty through a Secretary of State.

(2) Whenever such a law has been disallowed by Her Majesty the Governor shall cause notice of such disallowance to be published in the Gazette and the law shall be annulled with effect from the date of publication of that notice.

(3) On the annulment of any law under this section any enactment repealed or amended by or in pursuance of that law shall have effect as from the date of the annulment as if that law had not been made; but save as provided in the foregoing provisions of this subsection the provisions of subsection (2) of section 38 of the Interpretation Act 1889(a) shall apply to that annulment as they apply to the repeal of an Act of Parliament.

(4) The stock to which this section applies is stock forming the whole or part of the public debt of the Gambia by the conditions of issue of which it is provided that this section shall apply to it."

Replacement of section 53 of the principal Order.

12. For section 53 of the principal Order there is substituted the following section—

"Prorogation and dissolution.

53.—(1) The Governor may at any time prorogue the House.

(2) The Governor, acting in accordance with the advice of the Prime Minister, may at any time dissolve the House:

Provided that—

(*a*) if the Prime Minister advises a dissolution and the Governor, acting in his discretion, considers that the government of the Gambia can be carried on without a dissolution and that a dissolution would not be in the interests of the Gambia, he may, acting in his discretion, refuse to dissolve the House;

(a) 52 & 53 Vict. c. 63.

(*b*) if the House passes a resolution of no confidence in the government of the Gambia and the Prime Minister does not within three days either resign from his office or advise a dissolution, the Governor, acting in his discretion, may dissolve the House; and

(*c*) if the office of Prime Minister is vacant and the Governor, acting in his discretion, considers that there is no prospect of his being able within a reasonable time to appoint to that office a person who can command the support of a majority of the members of the House, he shall, dissolve the House.

(3) The House, unless sooner dissolved, shall continue for five years from the date of its first sitting after any dissolution and shall then stand dissolved."

Replacement of Part VI of principal Order.

13. For Part VI of the principal Order there is substituted the following new Part—

"PART VI

THE PUBLIC SERVICE

Public Service Commission.

55.—(1) There shall be in and for the Gambia a Public Service Commission which shall consist of a Chairman, a deputy Chairman, and such number of other members, not being less than two nor more than four, as the Governor, acting after consultation with the Prime Minister, may from time to time decide.

(2) The members of the Public Service Commission shall be appointed by the Governor, acting after consultation with the Prime Minister.

(3) A person shall not be qualified for appointment as a member of the Public Service Commission if he is a member of the House, or if he holds, or is acting in, any public office other than the office of head chief.

(4) Subject to the provisions of this section, the office of a member of the Public Service Commission shall become vacant—

(*a*) at the expiration of three years from the date of his appointment; or

(*b*) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(5) A member of the Public Service Commission may be removed from office by the Governor, acting after consultation with the Prime Minister, but he may be removed only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(6) If the office of a member of the Public Service Commission is vacant or a member is for any reason unable to perform the functions of his office, the Governor, acting after consultation with the Prime Minister, may appoint a person who is qualified for appointment as a

member of the Commission to act as a member of the Commission, and any person so appointed shall, subject to the provisions of subsection (4) of this section, continue to act until he is notified by the Governor, acting after consultation with the Prime Minister, that the circumstances giving rise to the appointment have ceased to exist.

Appointment, etc. of public officers.

56.—(1) Subject to the provisions of this Order, power to appoint persons to hold or act in any offices in the public service of the Gambia (including power to confirm appointments), to exercise disciplinary control over persons holding or acting in such offices and to remove such persons from office shall vest in the Governor acting on the advice of the Public Service Commission.

(2) The provisions of this section shall not apply in relation to—

(*a*) the offices of a judge of the Supreme Court, Attorney-General, Financial Secretary, Commissioner of Police, Director of Audit or Magistrate;

(*b*) so far only as concerns the appointment of persons thereto or to act therein, the office of the Secretary to the Cabinet and the offices of Ministerial Secretaries;

(*c*) any head chief or sub chief; or

(*d*) subject to the provision of section 60 of this Order, any officer in the Gambia Police Force being of the rank of Chief Inspector or below.

(3) No person shall be appointed under this section to or to act in any office on the personal staff of the Governor except with the concurrence of the Governor, acting in his discretion.

(4) The offices that are to constitute the personal staff of the Governor for the purposes of this section shall be such offices in the public service as the Governor, acting after consultation with the Prime Minister, may by order prescribe.

Delegation of Governor's powers.

57.—(1) The Governor, acting on the advice of the Public Service Commission, may, by order or regulation direct that, subject to such conditions as may be specified in that order or regulation, power to make appointments to such offices, being offices to which this section applies, as may be specified in that order or regulation and power to exercise disciplinary control over persons holding or acting in those offices, and power to remove such persons from such offices, or any of those powers, shall (without prejudice to the exercise of such powers by the Governor acting on the advice of the Public Service Commission) be exercisable by the Chairman of the Commission or by such public officer as may be so specified.

(2) The offices to which this section applies are offices in respect of which the Governor has power to make appointments under the last foregoing section.

Appointments, etc. of Magistrates.

58.—(1) Power to appoint persons to hold or act in an office to which this section applies (including power to confirm appointments), to exercise disciplinary control over persons holding or acting in any such office and to remove such persons from office shall vest in the Governor, acting in his discretion.

(2) The office to which this section applies is the office of Magistrate.

(3) In this section references to the office of Magistrate do not include references to any administrative office the holders of which are, under the provisions of any law for the time being in force in the Gambia, entitled by virtue of that office to hold a subordinate court.

Appointment of Commissioner of Police.

59. Power to appoint a person to hold or act in the office of Commissioner of Police shall vest in the Governor, acting after consultation with the Prime Minister.

Appointment, etc. of junior police officers.

60.—(1) Power to appoint persons to hold or act in any office in the Gambia Police Force (including power to confirm appointments) of the rank of Chief Inspector and below and to exercise disciplinary control over persons holding or acting in such offices and to remove such persons from office shall vest in the Commissioner of Police.

(2) The Commissioner of Police may, subject to such conditions as he thinks fit, delegate any of his powers under this section, by directions in writing, to any other officer of the Gambia Police Force.

(3) The Governor shall act on the advice of the Public Service Commission in cases of appeals made to him by officers of the Gambia Police Force of the rank of Chief Inspector or below against the decision of the Commissioner of Police in matters of disciplinary control or removal from office in so far as any law for the time being in force in the Gambia confers a right of appeal to the Governor from a decision of the Commissioner of Police in such matters.

Reconsideration by Commission.

61. Before acting on any recommendation made to him by the Public Service Commission the Governor, acting in his discretion, may refer the recommendation back to the Commission once for reconsideration.

Performance of functions of Commissions.

62.—(1) The Governor, acting after consultation with the Public Service Commission, may by regulation make provision for regulating and facilitating the performance by the Commission of its functions under this Order, and for the protection and privileges of members of the Commission in the performance of its functions and for matters incidental thereto.

(2) Any decision of the Public Service Commission shall require the concurrence of a majority of all the members

(a) Laws of the Gambia, 1955, c. 7.

thereof and, subject as aforesaid, the Commission may act notwithstanding the absence of any member:

Provided that either the Chairman or the Deputy Chairman shall be present.

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

Protection of Commission from legal proceedings.

63. The question whether—

(*a*) the Public Service Commission has validly performed any function vested in it by or under this Order;

(*b*) the Chairman of the Commission or any public officer has validly performed any function vested in him under section 57 of this Order,

shall not be enquired into in any court.

The Attorney-General.

64.—(1) The Attorney-General shall be appointed by the Governor, acting after consultation with the Prime Minister.

(2) A person shall not be qualified to be appointed Attorney-General unless—

(*a*) he is qualified to practise as an advocate in a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or in the Republic of Ireland, or a court having jurisdiction in appeals from any such court; or

(*b*) he has been qualified for not less than seven years to practise as an advocate or solicitor in such a court.

(3) If the office of Attorney-General is vacant or the Attorney-General is for any reason unable to perform the functions of his office, the Governor, after consultation with the Prime Minister, may appoint a person to perform those functions, and any person so appointed shall, subject to the provisions of section 65A of this Order, continue to perform those functions until he is notified by the Governor, acting in his discretion, that the circumstances giving rise to the appointment have ceased to exist.

The Financial Secretary.

65.—(1) There shall be a Financial Secretary who shall be the secretary to the Ministry of Finance.

(2) The Financial Secretary shall be appointed by the Governor acting after consultation with the Prime Minister and the Public Service Commission.

(3) The Financial Secretary shall hold his office at the pleasure of the Governor, acting in his discretion.

Tenure of office of certain public officers.

65A.—(1) The provisions of this section shall apply in relation to persons holding the offices of Attorney-General, Commissioner of Police and Director of Audit.

(2) Subject to the provisions of this section, a person to whom this section applies shall vacate his office when he attains the age of fifty-five or such other age as may be prescribed by the Legislature of the Gambia.

(3) A person to whom this section applies may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of

body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(4) A person to whom this section applies shall be removed from office by the Governor if the question of his removal from office has been referred to a tribunal appointed under subsection (5) of this section and the tribunal has recommended to the Governor that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(5) If the Prime Minister represents to the Governor that the question of removing a person to whom this section applies ought to be investigated, then—

(*a*) the Governor, acting in his discretion, shall appoint a tribunal, which shall consist of a Chairman who is a person who holds or has held office as a judge of a court having unlimited jurisdiction in civil or criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court, and not less than two other members; and

(*b*) that tribunal shall enquire into the matter and report on the facts thereof to the Governor and recommend to the Governor whether the person ought to be removed under this section.

(6) If the question of removing a person to whom this section applies has been referred to a tribunal under this section, the Governor, acting in his discretion, may suspend the person from performing the functions of his office and any such suspension may at any time be revoked by the Governor, acting in his discretion, and shall in any case cease to have effect if the tribunal recommends to the Governor that the person should not be removed.

(7) The provisions of sections 6 and 8, section 9 (other than the words "not inconsistent with their commission" and "subject only to the terms of their commission"), sections 10 to 16 inclusive and section 18 of the Commissions of Inquiry Ordinance(a), as in force immediately before 4th October 1963, shall apply in relation to a tribunal appointed under this section as they apply in relation to Commissioners appointed under that Ordinance, and for that purpose those provisions shall have effect as if they formed part of this Order.

Appointment of Secretaries to Ministries, etc.

65B.—(1) Power to appoint persons to hold or act in the offices to which this section applies shall vest in the Governor, acting after consultation with the Prime Minister and the Public Service Commission:

Provided that appointments to any such office upon transfer from any other such office carrying the same emoluments shall be made by the Governor in accordance with the advice of the Prime Minister.

(a) Laws of the Gambia, 1955, c. 40.

(2) The offices to which this section applies are the office of any secretary to a Ministry, other than the Secretary to the Ministry of Finance, or the Secretary to the Cabinet.

Pension laws and protection of pension rights.

65C.—(1) The law to be applied with respect to any pensions benefits that were granted to any person before 4th October 1963 shall be the law that was in force at the date on which those benefits were granted or any law in force at a later date that is not less favourable to that person.

(2) The law to be applied with respect to any pensions benefits (not being benefits to which subsection (1) of this section applies) shall—

(*a*) in so far as those benefits are wholly in respect of a period of service as a public officer that commenced before 4th October 1963, be the law that was in force immediately before that date; and

(*b*) in so far as those benefits are wholly or partly in respect of a period of service as a public officer that commenced after 4th October 1963, be the law in force on the date on which that period of service commenced,

or any law in force at a later date is not less favourable to that person.

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

(4) All pensions benefits shall (except to the extent to which, in the case of benefits under the Non Pensionable Employee's Provident Fund Ordinance(**a**) and the Widows' and Orphans' Pensions Ordinance(**b**) or under any law amending or replacing either of those Ordinances they are a charge on a fund established by either of those Ordinances or by any such law and have been duly paid out of that fund to the person or authority to whom payment is due) be a charge on the revenues of the Gambia.

(5) In this section "pensions benefits" means any pensions, compensation, gratuities or other like allowances for persons in respect of their service as public officers or for the widows, children, dependants or personal representatives of such persons in respect of such service.

(6) References in this section to the law with respect to pensions benefits include (without prejudice to their generality) references to the law regulating the circumstances in which such benefits may be granted or in which the grant of such benefits may be refused, the law regulating the circumstances in which any such benefits that have been granted may be withheld, reduced in amount

(**a**) Laws of the Gambia, 1955, c. 65. (**b**) Laws of the Gambia, 1955, c. 66.

or suspended and the law regulating the amount of any such benefits.

Grant and withholding of pensions, etc.

65D.—(1) The power to grant any award under any pensions law for the time being in force in the Gambia (other than an award to which, under that law, the person to whom it is payable is entitled as of right) and in accordance with any provisions in that behalf contained in any such law, to withhold, reduce in amount or suspend any award payable under any such law shall vest in the Governor.

(2) The power vested in the Governor by the preceding subsection shall be exercised by him—

(*a*) in the case of an award payable in respect of the services of any person who, having been a public officer, was, immediately before the date on which he ceased to hold public office, serving as—

(i) Chief Justice;

(ii) Attorney-General;

(iii) Director of Audit;

(iv) Commissioner of Police; or

(v) Magistrate,

in his discretion;

(*b*) in the case of an award payable in respect of the services of any other person, in accordance with the advice of the Public Service Commission.

(3) In this section, "pensions law" means any law relating to the grant to any person, or to the widow, children, dependants or personal representatives of that person, of an award in respect of the services of that person in a public office, and includes any instrument made under any such law.".

Replacement of Part VII of principal Order.

14. For Part VII of the principal Order there is substituted the following new Part—

"PART VII

THE JUDICATURE

Establishment of Supreme Court.

65E.—(1) There shall be for the Gambia a Supreme Court which shall have unlimited original jurisdiction to hear and determine any civil or criminal proceedings under any law and such jurisdiction and powers as may be conferred on it by this Order or any other law.

(2) The judges of the Supreme Court shall be the Chief Justice and such other judges as may be appointed under section 65G of this Order.

(3) The Supreme Court shall be a superior court of record and, save as otherwise provided by the legislature of the Gambia, shall have all the powers of such a court.

(4) The Supreme Court shall sit in such places as the Chief Justice may appoint.

Appointment of Chief Justice.

65F.—(1) The Chief Justice shall be appointed by the Governor, acting after consultation with the Prime Minister.

(2) (*a*) A person shall not be qualified for appointment as Chief Justice unless—

(i) he is, or has been, a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or in the Republic of Ireland, or a court having jurisdiction in appeals from any such court; or

(ii) he is entitled to practise as an advocate in such a court and has been entitled for not less than seven years to practise as an advocate in such a court.

(*b*) For the purposes of this subsection, a person shall be regarded as entitled to practise as an advocate if he has been called, enrolled or otherwise admitted as such (and has not subsequently been disbarred or removed from the roll of advocates) notwithstanding that—

(i) he holds or acts in any office the holder of which is, by reason of his office, precluded from practising in a court; or

(ii) he does not hold a practising certificate or has not satisfied any other like condition to his being permitted to practise.

Acting judge.

65G.—(1) If the office of Chief Justice is vacant or if the Chief Justice is for any reason unable to perform the functions of his office, or if the Chief Justice advises the Governor that the state of business in the Supreme Court so requires, the Governor, acting in his discretion, may appoint a person qualified for appointment as Chief Justice, to act as Chief Justice or as an additional judge of that Court:

Provided that any such person may act as a judge of the Court notwithstanding that he has attained the age prescribed for the purposes of subsection (1) of the next following section.

(2) Any person appointed under subsection (1) of this section to act as a judge of the Court shall, subject to the provisions of section 65H of this Order continue to act for the period of his appointment or, if no such period is specified, until his appointment is revoked by the Governor, acting in his discretion:

Provided that, notwithstanding the expiration of the period of his appointment or the revocation of his appointment, he may thereafter continue to act as a judge of the court for so long as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him previously thereto.

Tenure of office of judges of Supreme Court.

65H.—(1) Subject to the provisions of this section, a person holding the office of Chief Justice shall vacate that office on attaining the age of sixty-two years or such other age as may be prescribed by the Legislature of the Gambia.

(2) Notwithstanding that he has attained the age at which he is required by the provisions of this section to vacate his office, a person holding the office of Chief Justice may continue in office for so long after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

(3) A judge of the Supreme Court may be removed from office only for inability to perform the function of his office (whether arising from infirmity of body or mind or from any other cause) or for misbehaviour, and shall not be so removed except in accordance with the provisions of this section.

(4) A judge of the Supreme Court shall be removed from office by the Governor if the question of his removal has, at the request of the Governor, made in pursuance of subsection (5) of this section, been referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under any enactment enabling Her Majesty in that behalf and the Judicial Committee has advised Her Majesty that the judge ought to be removed from office for inability as aforesaid or for misbehaviour.

(5) If the Governor, acting in his discretion, considers that the question of removing a judge under this section ought to be investigated, then—

(*a*) the Governor shall appoint a tribunal, which shall consist of a Chairman who shall be a person who holds or has held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court, and not less than two other members, selected by the Governor, acting in his discretion ;

(*b*) the tribunal shall enquire into the matter and report on the facts thereof to the Governor and recommend to the Governor whether he should request that the question of the removal of that judge from office should be referred by Her Majesty to the Judicial Committee ; and

(*c*) if the tribunal so recommends, the Governor shall request that the question should be referred accordingly.

(6) If the question of removing a judge from office has been referred to a tribunal under subsection (5) of this section, the Governor, acting in his discretion, may suspend the judge from performing the functions of his office, and any such suspension may at any time be revoked by the Governor, acting in his discretion, and shall in any case cease to have effect—

(*a*) if the tribunal recommends to the Governor that he should not request that the question of the removal

of the judge from office should be referred by Her Majesty to the Judicial Committee ; or

(*b*) if the Judicial Committee advises Her Majesty that the judge ought not to be removed from office.

(7) The provisions of sections 6 and 8, section 9 (other than the words " not inconsistent with their commission " and " subject only to the terms of their commission "), sections 10 to 16 inclusive and section 18 of the Commission of Inquiry Ordinance, as in force immediately before the 4th October 1963, shall apply in relation to a tribunal appointed under this section as they apply in relation to Commissioners appointed under that Ordinance, and for that purpose those provisions shall have effect as if they formed part of this Order.

Oaths to be taken by judges of Supreme Court.

65I. A judge of the Supreme Court shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by any law.".

15. The following new Part is inserted in the principal Order immediately after Part VII— Insertion of new Part in principal Order.

" PART VIIA

FINANCE

Establishment of Consolidated Revenue Fund.

65J.—(1) All revenues or other moneys raised or received by the Gambia (not being revenues or other moneys payable under this Order or any other law into some other public fund of the Gambia established for a specific purpose) shall be paid into and form one Consolidated Revenue Fund.

(2) No moneys shall be withdrawn from the Consolidated Revenue Fund of the Gambia except to meet expenditure that is charged upon the Fund by this Order or any other law or where the issue of those moneys has been authorised by an appropriation Ordinance or an Ordinance passed in pursuance of section 65L of this Order.

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

(4) No moneys shall be withdrawn from the Consolidated Revenue Fund or any other public fund of the Gambia except in the manner prescribed by the Legislature of the Gambia.

Authorisation of expenditure from Consolidated Revenue Fund.

65K.—(1) The Minister responsible for finance shall cause to be prepared and laid before the House in each financial year estimates of the revenues and expenditure of the Gambia for the next following financial year.

(2) The heads of expenditure contained in the estimates (other than expenditure charged upon the Consolidated Revenue Fund by this Order or any other law) shall be

included in a Bill, to be known as an Appropriation Bill, providing for the issue from the Consolidated Revenue Fund of the Gambia of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

(3) If in respect of any financial year it is found—

(*a*) that the amount appropriated by the appropriation Ordinance for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Ordinance ; or

(*b*) that any moneys have been expended for any purpose in excess of the amount appropriated for the purpose by the appropriation Ordinance or for a purpose for which no amount has been appropriated by the Ordinance,

a supplementary estimate showing the sums required or spent shall be laid before the House and the heads of any such expenditure shall be included in a supplementary Appropriation Bill.

Authorisation of expenditure in advance of appropriation.

65L. The Legislature of the Gambia may make provision under which, if the appropriation Ordinance in respect of any financial year has not come into operation by the beginning of that financial year, the Minister responsible for finance may authorise the withdrawal of moneys from the Consolidated Revenue Fund for the purpose of meeting expenditure necessary to carry on the services of the Government until the expiration of four months from the beginning of that financial year or the coming into operation of the Ordinance, whichever is the earlier.

Contingencies Fund.

65M.—(1) The Legislature of the Gambia may provide for the establishment of a Contingencies Fund for the Gambia and for authorising the Minister responsible for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Fund to meet that need.

(2) Where any advance is made in accordance with subsection (1) of this section a supplementary estimate shall be presented and a supplementary Appropriation Bill shall be introduced as soon as possible for the purpose of replacing the amount so advanced.

Public debt.

65N.—(1) There shall be charged on the Consolidated Revenue Fund all debt charges for which the Gambia is liable.

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

The Director of Audit.

65O. The Director of Audit shall be appointed by the Governor acting after consultation with the Prime Minister and the Director-General of the Overseas Audit Service.

(2) If the office of Director of Audit is vacant or the Director of Audit is for any reason unable to perform the functions of his office, the Governor acting after consultation with the Prime Minister and the Director-General of the Overseas Audit Service, may appoint a person to act as the Director of Audit, and any person so appointed shall, subject to the provisions of section 65A of this Order, continue to act until he is notified by the Governor, acting in his discretion, that the circumstances giving rise to his appointment have ceased to exist.

Remuneration of certain officers.

65P.—(1) There shall be paid to the holders of the offices to which this section applies such salary and such allowances as may be prescribed by the Legislature of the Gambia.

(2) The salaries and any allowances payable to the holders of the offices to which this section applies shall be charged on the revenues of the Gambia.

(3) The salary payable to the holder of any office to which this section applies and his terms of office, other than allowances, shall not be altered to his disadvantage after his appointment.

(4) Where a person's salary or terms of office depend upon his option, the salary or terms for which he opts shall, for the purposes of subsection (3) of this section, be deemed to be more advantageous to him than any others for which he might have opted.

(5) This section applies to the offices of the Governor, the Deputy Governor, a judge of the Supreme Court, the Attorney-General, a member of the Public Service Commission, the Director of Audit and the Commissioner of Police.

Interpretation of provisions regarding finance.

65Q. In this Part of this Order—

" financial year " means the twelve months ending on the thirty-first day of December in any year or on such other date as may from time to time be prescribed by any law of the Legislature of the Gambia."

Insertion of new section in principal Order.

16. There is inserted in the principal Order immediately after section 70 the following new section—

"Resignations.

70A.—(1) Subject to the provisions of this Order, any person who is appointed or elected to any office established by this Order may resign from that office by writing under his hand addressed to the person or authority by whom he was appointed or elected.

(2) The resignation of any person from any office established by this Order shall take effect when the writing signifying the resignation is received by the person or authority to whom it is addressed or by any person authorized by that person or authority to receive it.

Adaptation of existing laws.

17.—(1) The Governor may by order published in the Gazette at any time within twelve months after the commencement of this Order make such amendments to any existing law as may appear to him to be necessary or expedient for bringing that law into conformity with the provisions of the principal Order as amended by this Order or otherwise for giving effect or enabling effect to be given to those provisions.

(2) The provisions of this section shall be without prejudice to any powers conferred by this Order upon any person or authority to make provision for any matter, including the amendment or repeal of any existing law.

(3) For the purposes of this section, the expression " any existing law " means any Ordinance, law, rule, regulation, order or other instrument made in pursuance of, or kept in force by, the principal Order, and having effect as part of the law of the Gambia immediately before the commencement of this Order.

Existing Ministers and Parliamentary Secretaries.

18.—(1) The person who, immediately before the date of the commencement of this Order, was the Premier of the Gambia shall be deemed to have been appointed on that date as Prime Minister in accordance with the provisions of section 13 of the principal Order as enacted by this Order.

(2) The persons who, immediately before the date of the commencement of this Order, were Ministers (other than the Premier) under the provisions of the principal Order shall be deemed to have been appointed on that date as Ministers in accordance with the provisions of section 13 of the principal Order as enacted by this Order.

(3) Any person appointed to be a Parliamentary Secretary under the provisions of section 23A of the principal Order, as amended by the Gambia (Constitution) (Amendment) Order in Council 1962, and holding that office immediately before the date of the commencement of this Order, shall be deemed to have been appointed to that office under the provisions of section 23 of the principal Order as enacted by this Order.

Existing offices.

19. Where any office is constituted by any provision of the principal Order as amended by this Order, the person who, immediately before that provision comes into operation, was holding any corresponding office constituted by the principal Order shall be deemed to have been appointed to the office first mentioned and to have made any oath or affirmation required by or under the principal Order.

Supreme Court.

20. All proceedings commenced or pending, immediately before the date of the coming into operation of section 14 of this Order, before the High Court of the Protectorate or the Supreme Court of the Colony, shall be carried on before the Supreme Court as established by the principal Order as amended by this Order.

Provisions relating to retirement, etc. of certain public officers.

21.—(1) Section 13 of this Order shall come into operation on such day after 4th October 1963 (in this section referred to as " the relevant day ") as the Governor, acting in his discretion, may by notice published in the Gazette declare to be the day on which a compensation scheme has been introduced into the Gambia.

(2) Until the relevant day—

(*a*) section 20(1) of the principal Order (which relates to matters for which the Governor has special responsibilities) as enacted by this Order shall have effect as if the following paragraphs were included as paragraphs (*d*) and (*e*)—

"(*d*) the making of appointments (including power to confirm appointments) to officers in the public service;

(*e*) the disciplinary control and removal of officers in the public service.";

(*b*) section 24D of the principal Order as enacted by this Order shall be of no effect;

(*c*) subsection (2) of section 49 of the principal Order (which relates to the Governor's reserved powers) as re-enacted by this Order shall have effect as if there were inserted immediately after the words "defence or internal security" the words "or for the purpose of securing or maintaining satisfactory terms and conditions of service (including leave and passages) for public officers".;

(*d*) subsection (2) of section 50 of the principal Order (which relates to assent to Bills) as re-enacted by this Order shall have effect as if the following paragraph were included as paragraph (*c*) of the proviso thereto—

"(*c*) to affect prejudicially the salary, allowances or conditions of service (including leave and passages) of any public officer".

(3) In this section "a compensation scheme" means a scheme for the retirement from the public service of such persons or classes of persons holding office in that service immediately before the relevant day, as may be specified in that scheme and for the payment of compensation, pensions, gratuities and other like allowances in such cases.

Commencement of section 14 of this Order.

22. Section 14 of this Order shall come into operation on such day, after 4th October 1963, as the Governor, acting in his discretion, may by notice published in the Gazette appoint.

Commencement of section 15 of this Order.

23. Section 15 of this Order shall come into operation on such day after 4th October 1963 (being a day not later than the day on which section 13 of this Order comes into operation) as the Governor, acting in his discretion, may by notice published in the Gazette appoint.

Commencement of section 3H (8) of principal Order.

24. Until 4th October 1965 subsection (8) of section 3H of the principal Order as enacted by this Order shall be of no effect.

W. G. Agnew.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order makes fresh constitutional provision for the Gambia conferring internal self government. It contains provisions with respect to fundamental rights, the Cabinet, the Judiciary, the Public Service and finance.