Amendment of section 3 of principal Order

3. For subsection (2) of section 3 of the principal Order there shall be substituted the following:—

"(2) The Authority shall consist of the following members:—

(*a*) the Officer administering the Government of Nigeria, as President;

(*b*) the Chief Secretary, West African Inter-Territorial Secretariat;

(*c*) a person to be nominated by the Officer administering the Government of Nigeria;

(*d*) a person to be nominated by the Officer administering the Government of the Gold Coast;

(*e*) a person to be nominated by the Officer administering the Government of Sierra Leone; and

(*f*) a person to be nominated by the Officer administering the Government of the Gambia,

acting, save when specifically otherwise provided herein, jointly or in conference."

Power reserved to Her Majesty

4. Her Majesty hereby reserves to Herself power, with the advice of Her Privy Council, to amend or revoke this Order.

W. G. Agnew.

EXPLANATORY NOTE

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

This Order amends the West African Territories (Air Transport) Order in Council, 1946, and reconstructs the West African Air Transport Authority.

GAMBIA

1954 No. 1145

The Gambia (Constitution) Order in Council, 1954

Made - - - -	30*th August*, 1954
Laid before Parliament	3*rd September*, 1954
Coming into Operation	*On a date to be appointed by the Governor under section 2.**

At the Court at Balmoral, the 30th day of August, 1954

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

* Date appointed, 8.9.54.

(**a**) 50 & 51 Vict. c. 54 and 9 & 10 Geo. 6. c. 7.

Jurisdiction Act, 1890(a), 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:—

PART I

PRELIMINARY

Interpretation

1.—(1) In this Order, unless the context otherwise requires—

"a Chief" means a Head Chief as defined in the Protectorate Ordinance, 1935(b), and includes a Sub-Chief as defined in that Ordinance;

"the appointed day" means the day appointed under section 2 of this Order;

"the Colony" means the Colony of the Gambia;

"the Executive Council" means the Executive Council constituted under this Order;

"the existing Instructions" means the Instructions passed under the Royal Sign Manual and Signet to the Governor and Commander-in-Chief of the Colony of the Gambia dated the twenty-ninth day of November, 1946, as amended by Additional Instructions dated the twenty-sixth day of November, 1947;

"the existing Letters Patent" means the Gambia Letters Patent, 1946;

"the existing Orders" means the Orders in Council mentioned in the First Schedule to this Order;

"the Gambia" means the Colony and Protectorate of the Gambia;

"the Gazette" means the Official Gazette of the Gambia;

"the Governor" means the Governor and Commander-in-Chief of the Gambia and includes any officer for the time being administering the Government and, to the extent to which a Deputy for the Governor is authorised to act, that Deputy;

"the Legislative Council" means the Legislative Council constituted under this Order;

"meeting" means any sitting or sittings of the Legislative Council commencing when the Legislative Council first meets after being summoned at any time, and terminating when the Legislative Council is adjourned *sine die*, or at the conclusion of a session;

"Nominated Member" means, in relation to the Legislative Council, the Nominated Official Member or a Nominated Unofficial Member of that Council;

"the Kombo Saint Mary Division" means the Kombo Saint Mary Division as from time to time defined by or under any law in force in the Gambia;

"prescribed" means prescribed by law or by regulations made under this Order;

"the Protectorate" means the Protectorate of the Gambia as from time to time defined by any Order of Her Majesty in Council;

(a) 53 & 54 Vict. c. 37. (b) Cap. 99.

"public office" means any office of emolument in the public service;

"public officer" means the holder of any public office and includes any person appointed to act in any such office;

"the Public Seal" means the Public Seal of the Gambia;

"the public service" means the service of the Crown in respect of the Government of the Gambia;

"session" means the meetings of the Legislative Council commencing when the Legislative Council first meets after being constituted under this Order, or after its prorogation or dissolution at any time, and terminating when the Legislative Council is prorogued or is dissolved without having been prorogued;

"sitting" means a period during which the Legislative Council is sitting continuously without adjournment, and includes any period during which the Legislative Council is in Committee;

"the Speaker" means the Speaker of the Legislative Council;

"the Town of Bathurst" means the Town of Bathurst as defined in the Town of Bathurst Ordinance, 1912(a), or any Ordinance replacing that Ordinance.

(2) Where in this Order reference is made to any public officer by the term designating his office, such reference shall be construed as a reference to the officer for the time being lawfully discharging the functions of that office.

(3) References in this Order to Her Majesty's dominions shall have effect as if they included references to all British Protectorates and British Protected States and to all territories administered by the Government of any part of Her Majesty's dominions under the trusteeship system of the United Nations.

(4) (*a*) For the purposes of this Order, a person shall not be considered to hold a public office if he is on leave of absence pending relinquishment of such office or by reason only that he is in receipt of a pension or other like allowance in respect of service in any such office; and if it shall be declared by any law in force in the Gambia that an office shall not be a public office for all or any of the purposes of this Order, this Order shall have effect accordingly as if such law were enacted therein.

(*b*) For the purposes of this Order a person shall not be considered to be a public officer by reason of the fact that he is in receipt of a salary or other emolument or any allowance in respect of his tenure of the office of Speaker, Minister, Member of the Executive Council, Member of the Legislative Council, or is a Chief, or a Member of any Native Authority or Native Tribunal constituted by any law in force in the Gambia.

(5) This Order shall be construed—

(*a*) as if subsection (1) of section 1 of the India (Consequential Provision) Act, 1949(b), applied to it in the same way as that subsection applies to laws in force on the date mentioned in that subsection; and

(a) Cap. 137.

(b) 12, 13 & 14 Geo. 6. c. 92.

(*b*) as if subsection (2) of section 3 of the British Nationality Act, 1948(**a**) (as interpreted by subsection (1) of section 3 of the Ireland Act, 1949(**b**),) and subsection (2) of section 3 of the Ireland Act, 1949, applied to it as those subsections apply to laws in force at the dates of the commencement of those Acts respectively.

(6) Save as is in this Order otherwise provided, or required by the context, the Interpretation Act, 1889(**c**), shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

Citation and commencement

2. This Order may be cited as the Gambia (Constitution) Order in Council, 1954, and, save as otherwise provided in this Order, shall come into operation on a date to be appointed by the Governor by Proclamation in the Gazette which date shall not be earlier than the day after the day upon which this Order shall have been laid before both Houses of Parliament.*

Revocation

3.—(1) The existing Orders are hereby revoked, but without prejudice to anything lawfully done thereunder.

(2) The continued operation of any law in force in the Gambia immediately before the appointed day shall not be affected by reason only of the revocation of the existing Orders.

PART II

EXECUTIVE COUNCIL

Executive Council

4. There shall be an Executive Council in and for the Gambia which shall consist of four *ex-officio* Members, one Official Member and not less than six Appointed Members, and such temporary Members, if any, as may be appointed under section 10 of this Order.

Ex-officio Members

5. The *ex-officio* Members of the Executive Council shall be the Colonial Secretary, the Attorney-General, the Financial Secretary and the Senior Commissioner.

Official Member and Appointed Members

6.—(1) The Official Member of the Executive Council shall be the person who is the Nominated Official Member of the Legislative Council:

Provided that when the person who is the Nominated Official Member of the Legislative Council vacates his seat in the Legislative Council by reason of a dissolution of the Legislative Council he shall, notwithstanding that he has vacated that seat, continue to be the Official Member of the Executive Council until the date when the Legislative Council first meets after that dissolution.

(2) The Appointed Members of the Executive Council shall be persons who are Elected Members or Nominated Unofficial Members of the Legislative Council and shall be appointed by the Governor by

(a) 11 & 12 Geo. 6. c. 56. (b) 12, 13 & 14 Geo. 6. c. 41.
(c) 52 & 53 Vict. c. 63. * Date appointed, 8.9.54.

Instrument under the Public Seal after consultation with such of the Elected and Nominated Unofficial Members of the Legislative Council as are available for consultation.

(3) The Governor shall without delay report to Her Majesty through a Secretary of State every appointment made under subsection (2) of this section.

Tenure of office

7.—(1) Subject to the provisions of this Order, the Appointed Members shall hold their seats in the Executive Council during Her Majesty's pleasure, and subject thereto the seat of such a Member shall become vacant—

(*a*) if he shall by writing under his hand addressed to the Governor resign his seat in the Executive Council ; or

(*b*) if he shall cease to be an Elected Member or a Nominated Unofficial Member, as the case may be, of the Legislative Council:

Provided that, if such a Member vacates his seat in the Legislative Council by reason of the dissolution of that Council, he shall not on that account vacate his seat in the Executive Council until the date of the first sitting of the Legislative Council after such dissolution ; or

(*c*) if without the written permission of the Governor, he shall be absent from the Gambia.

(2) Any person vacating a seat as an Appointed Member of the Executive Council, may, if qualified, again be appointed from time to time.

Suspension and incapacity of Official Member and Appointed Members

8.—(1) The Governor may, by Instrument under the Public Seal, declare the Official Member or any Appointed Member to be incapable of discharging his functions as a Member of the Executive Council, and thereupon such Member shall not sit in or take part in the proceedings of the Executive Council, until he is declared, in manner aforesaid, again to be capable of discharging his said functions.

(2) (*a*) The Governor may, by Instrument under the Public Seal, suspend the Official Member or any Appointed Member of the Executive Council from the exercise of his functions as such, and thereupon such Member shall not sit in, or take part in the proceedings of, the Executive Council so long as his suspension remains in force.

(*b*) Every such suspension shall forthwith be reported by the Governor to Her Majesty through a Secretary of State, and shall remain in force until it shall be removed by the Governor by Instrument under the Public Seal or by Her Majesty through a Secretary of State, or until the person suspended ceases to be a Member of the Executive Council.

Decision of questions as to membership

9. All questions which may arise as to the right of any person to be or to remain a Member of the Executive Council shall be referred to the Governor and shall be determined by the Governor, according to his discretion.

Temporary appointments

10.—(1) Whenever there shall be a vacancy in the number of persons sitting in the Executive Council by reason of the fact that—

(*a*) an *ex-officio* Member is administering the Government of the Gambia ; or

(*b*) one person is lawfully discharging the functions of more than one of the offices the holders of which are specified in section 5 of this Order ; or

(*c*) the Official Member is lawfully discharging the functions of one of those offices ; or

(*d*) no person is lawfully discharging the functions of any one of such offices ; or

(*e*) the seat of the Official Member or an Appointed Member is vacant from any cause ; or

(*f*) the Official Member or an Appointed Member is declared by the Governor, as provided in this Order, to be incapable of discharging his functions as a Member ; or

(*g*) the Official Member or an Appointed Member is unable to sit in the Executive Council in consequence of his suspension as provided in this Order ; or

(*h*) a Member is absent from the Gambia ;

the Governor may, by Instrument under the Public Seal, appoint a person to be a temporary Member for the period of such vacancy.

(2) The said person—

(*a*) in the case of a vacancy in the number of persons sitting in the Executive Council as *ex-officio* Members, shall be a person who is a public officer ;

(*b*) in the case of a vacancy in respect of the person sitting in the Executive Council as the Official Member, shall be a person who is qualified for appointment as Nominated Official Member of the Legislative Council ; and

(*c*) in the case of a vacancy in respect of the persons sitting in the Executive Council as Appointed Members, shall be a person who is qualified for appointment as an Appointed Member.

(3) A person appointed under this section shall hold his appointment during Her Majesty's pleasure and any such appointment shall in any case cease to have effect when the Governor notifies the person appointed that the vacancy in respect of which he has been appointed has ceased to exist.

(4) (*a*) The provisions of section 8 of this Order shall apply in relation to a person appointed in the case of any such vacancy as is referred to in paragraph (*a*) or (*b*) of sub-section (2) of this section as they apply in relation to the Official Member of the Executive Council.

(*b*) The provisions of sections 7 and 8 of this Order shall apply in relation to any person appointed in the case of any such vacancy as is referred to in paragraph (*c*) of sub-section (2) of this section as they apply in relation to an Appointed Member of the Executive Council.

Summoning and quorum

11.—(1) The Executive Council shall not be summoned except by the authority of the Governor, acting according to his discretion.

(2) No business except that of adjournment shall be transacted in the Executive Council if objection is taken by any Member present that there are less than five Members present besides the Governor or other Member presiding.

Executive Council may transact business notwithstanding vacancies

12. The Executive Council shall not be disqualified for the transaction of business by reason of any vacancies in the membership of the said Council, including any vacancies not filled when the said Council is first constituted or is reconstituted at any time; and any proceedings therein shall be valid notwithstanding that some person, who was not entitled so to do, sat or voted in the Council or otherwise took part in the proceedings.

Governor to attend and preside

13.—(1) The Governor shall, so far as is practicable, attend and preside at all meetings of the Executive Council.

(2) In the absence of the Governor there shall preside at any meeting of the Executive Council such member as the Governor, according to his discretion, may appoint, or, in the absence of such member or if no member be so appointed, the senior among the following members who is present shall preside, that is to say, the Colonial Secretary, the person holding the substantive appointment of Attorney-General, and the person holding the substantive appointment of Financial Secretary.

(3) For the purposes of sub-section (2) of this section the Colonial Secretary, the person holding the substantive appointment of Attorney-General and the person holding the substantive appointment of Financial Secretary shall take seniority in the order in which they are referred to in that sub-section.

Exercise of Governor's powers in relation to Executive Council

14.—(1) The Governor shall, subject to the provisions of sub-section (2) of this section, consult with the Executive Council in the exercise of the powers conferred upon him by this Order or any other law for the time being in force in the Gambia, except—

(*a*) any power conferred upon the Governor by this Order that is expressed to be exercisable by the Governor according to his discretion;

(*b*) any power conferred upon the Governor by any existing law (other than a power expressed, in whatever terms, to be exercisable by the Governor in Council) as long as such power continues to be exercisable by virtue of such law;

(*c*) any other power conferred upon the Governor in respect of which it is provided either expressly or by implication, that he shall not be obliged to consult with the Executive Council in the exercise thereof, including any power conferred by this Order in the exercise of which it is provided that the Governor shall consult any body of persons other than the Executive Council.

(2) The Governor shall not be obliged to consult with the Executive Council in the exercise of any power conferred upon him in any case—

(*a*) which is of such a nature that, in his judgment, the service of Her Majesty would sustain material prejudice by consulting the Council thereon, or

(*b*) if the matters to be decided are, in his judgment, too unimportant to require the advice of the Executive Council thereon, or

(*c*) if the matters to be decided are, in his judgment, too urgent to admit of the advice of the Executive Council being given by the time within which it may be necessary for him to act.

In every case falling within sub-paragraph (*c*) of this sub-section the Governor shall as soon as practicable communicate to the Executive Council the measures which he shall have adopted, with the reasons therefor.

(3) In this section—

(*a*) " existing law " means any Ordinance in force in the Gambia at the commencement of this Order ;

(*b*) " Ordinance " includes any Instrument made under an Ordinance ;

(*c*) " law " means any Ordinance, Order of Her Majesty in Council, or Letters Patent under the Great Seal of the United Kingdom.

Governor to propose questions

15. The Governor shall alone be entitled to submit questions to the Executive Council ; but if the Governor shall decline to submit any question to the Executive Council when requested in writing by any Member so to do, it shall be competent to such Member to require that there be recorded upon the Minutes his written application, together with the answer returned by the Governor thereto.

Governor may act in opposition to Executive Council

16.—(1) The Governor may act in opposition to the advice given to him by the Members of the Executive Council, if he shall in any case deem it right to do so ; but in any such case he shall report the matter to Her Majesty through a Secretary of State, at the first convenient opportunity, with the reasons for his action.

(2) Whenever the Governor shall so act against the advice of the Executive Council, it shall be competent to any Member of the Council to require—

(*a*) that there be recorded upon the Minutes any advice or opinion he may give upon the question with the reasons therefor ; and

(*b*) that his advice or opinion, as recorded, upon such question be transmitted to a Secretary of State.

Responsibility defined

17. In sections 18, 19, 20, 21 and 22 of this Order, " responsibility " for any matter means general responsibility for—

(*a*) submitting to the Executive Council questions relating to such matter ;

(*b*) ensuring, in association with the appropriate public officer, that effect is given to decisions taken by the Governor in the Executive Council relating to such matter ; and

(*c*) conducting in the Legislative Council government business relating to such matter.

Ascertainment of appropriate public officer

18. If, with respect to the responsibility of any Minister for any matter, there shall arise any question as to which officer is the appropriate public officer, within the meaning of paragraph (*b*) of section 17 or section 21 of this Order, such question shall be determined by the Governor, according to his discretion.

Two or three Appointed Members to be charged with responsibility

19.—(1) The Governor shall, after consultation with such of the Elected and Nominated Unofficial Members of the Legislative Council as are available for consultation, select from among the Appointed Members of the Executive Council not less than two nor more than three persons whom he considers suitable to be charged with responsibility for any matter.

(2) The Governor, according to his discretion,—

(*a*) shall, by directions in writing, charge the persons selected under the provisions of sub-section (1) of this section with responsibility for such matters as may be prescribed by such directions ;

(*b*) may by further directions in writing revoke or vary any directions given under this subsection.

(3) Nothing in this section shall preclude the Governor, according to his discretion, from assigning to *ex-officio* Members or the Official Member of the Executive Council such functions and responsibilities as he may think fit.

Ministers

20. An Appointed Member of the Executive Council shall, while charged with the responsibility for any matter under the provisions of section 19 of this Order, be styled a Minister.

Advisory committees

21.—(1) Each Minister shall be assisted in the exercise of his responsibility for any matter by an advisory committee, consisting of the appropriate public officer and such other persons as the Governor may appoint.

(2) Each Minister in exercising his responsibility for any matter shall do so with the advice of the advisory committee appointed to assist him, but not necessarily in accordance with that advice nor necessarily in such committee assembled:

Provided that where the Minister exercises his responsibility in any matter contrary to the advice of the appropriate public officer, the Minister shall, if such public officer requests him to do so, refer such matter to the Governor for a decision.

Temporary assignment of responsibility

22. If it shall be decided by the Governor, according to his discretion, that a Member of the Executive Council is for any cause temporarily unable to exercise the responsibility for any matter with which he

is charged, then the Governor, according to his discretion, may, by directions in writing, charge any other Member of the Executive Council with the responsibility for that matter until such time as the said Member is declared by the Governor, according to his discretion, again to be able to exercise such responsibility.

The Governor, according to his discretion, may from time to time add to, revoke or vary any such directions.

PART III

COMMENCEMENT OF PART II—TRANSITIONAL PROVISIONS FOR EXERCISE OF GOVERNOR'S POWERS

Commencement of Part II

23. Part II of this Order shall come into operation on such day after the appointed day as the Governor shall by order appoint, and thereupon the Executive Council established by the existing Letters Patent (hereinafter in this Part called " the existing Executive Council ") shall cease to exist.

Governor's powers

24. Whenever the Governor shall have occasion, before the commencement of Part II of this Order, to exercise any power conferred upon him by any other Part of this Order, then, unless the power is one which he is by this Order directed or empowered to exercise according to his discretion, he shall, in the exercise of the power, consult with the existing Executive Council in such circumstances, and on such conditions, as may be prescribed by such provisions of the existing Instructions as may at that time have effect.

PART IV

LEGISLATIVE COUNCIL

Establishment of Legislative Council

25. There shall be a Legislative Council in and for the Gambia constituted in accordance with the provisions of this Order.

Constitution of Legislative Council

26. The Legislative Council shall consist of—

(*a*) the Governor, who shall be President;

(*b*) a Speaker;

(*c*) 4 *ex-officio* Members;

(*d*) 1 Nominated Official Member;

(*e*) 2 Nominated Unofficial Members;

(*f*) 14 Elected Members;

(*g*) such temporary Members, if any, as may be appointed under Section 39 of this Order.

Speaker

27.—(1) The Governor may, after consultation with such Members of the Legislative Council as are available for consultation, by Instrument under the Public Seal, appoint a person to be the Speaker of the Legislative Council.

(2) The Speaker shall hold office during Her Majesty's pleasure, and, subject thereto, for such period as may be specified in the Instrument by which he is appointed:

Provided that—

(*a*) the Speaker may, by writing under his hand addressed to the Governor at any time, resign his office; and

(*b*) any appointment under this section may at any time be revoked by the Governor by Instrument under the Public Seal,

and upon receipt of such resignation by the Governor, or upon revocation of such appointment by the Governor, as the case may be, the office of Speaker shall become vacant.

(3) The Governor may grant leave of absence from his duties to the Speaker.

Ex-officio Members

28. The *ex-officio* Members of the Legislative Council shall be the Colonial Secretary, the Attorney-General, the Financial Secretary and the Senior Commissioner.

The Nominated Official Member

29.—(1) (*a*) The Nominated Official Member of the Legislative Council shall be a person who is a public officer and who belongs to the Gambia, and shall be appointed by the Governor by Instrument under the Public Seal.

(*b*) For the purposes of this sub-section a person shall be deemed to belong to the Gambia if he or she 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 or her birth were ordinarily resident in the Gambia; or

(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 Her Majesty's dominions or in India; or

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

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

(2) The Governor shall forthwith report to Her Majesty through a Secretary of State every appointment of any person to be a Nominated Member.

The Nominated Unofficial Members

30.—(1) The Nominated Unofficial Members of the Legislative Council shall be persons who are qualified for appointment as such under the provisions of this Order and shall be appointed by the

(**a**) 4 & 5 Geo. 5. c. 17.

Governor, by Instrument under the Public Seal, after consultation with such of the Elected Members of the Legislative Council as are available for consultation.

(2) One of the Nominated Unofficial Members of the Legislative Council shall be a person in respect of whom the Governor is satisfied that he is experienced in commerce and is, at the time of his appointment as such a Member, engaged in commerce in the Gambia.

Elected Members

31.—(1) The Elected Members of the Legislative Council shall be persons qualified for election as such in accordance with the provisions of this Order and, subject to the provisions of sub-sections (3) and (4) of this section, shall be elected in accordance with the provisions of sub-section (2) of this section.

(2) (*a*) Four of the Elected Members shall be elected, in the manner provided by any law in force in the Colony, to represent the Colony:

Provided that of such Members, three shall be elected for the town of Bathurst, and one for the Kombo Saint Mary Division.

(*b*) Four of the Elected Members shall, in the manner provided by regulations made under section 44 of this Order, be elected to represent the Protectorate by the Divisional Councils from among persons nominated for such election by the District Authorities.

(*c*) Three of the Elected Members shall, in the manner provided by regulations made under section 44 of this Order, be elected to represent the Protectorate by the Head Chiefs.

(*d*) Three of the Elected Members shall, in the manner provided by regulations made under section 44 of this Order, be elected by the Members referred to in paragraphs (*a*), (*b*) and (*c*) of this sub-section;

Provided that the said three Members shall be so elected from among nine candidates, of whom—

(i) six shall be nominated by the Bathurst Town Council and shall not include more than two persons who at the time of such nomination are Members of that Council; and

(ii) three shall be nominated by the Kombo Saint Mary Rural Authority and shall not include more than one person who at the time of such nomination is a Member of that Authority.

(3) If the seat of any Elected Member of the Legislative Council referred to in paragraphs (*b*), (*c*) or (*d*) of sub-section (2) of this section becomes vacant for any reason other than a dissolution of the Council then, notwithstanding anything contained in any of those paragraphs, a person may be elected to fill that vacancy in any manner that may be provided by regulations made under section 44 of this Order and any person so elected shall be deemed to have been elected in accordance with the provisions of the said paragraph (*b*), (*c*) or (*d*) as the case may be.

(4) (*a*) When the seat of any such Elected Member as is referred to in paragraph (*b*), (*c*) or (*d*) of sub-section (2) of this section is vacant (whether by reason of a dissolution of the Legislative Council or for

any other cause) and an election has been held to fill that vacancy, then, if the Governor is satisfied—

(i) that at that election no person has been elected to fill the vacancy in accordance with the provisions of this Order and of any regulations made under section 44 of this Order that apply in relation to that election ; and

(ii) that there is no reasonable prospect that a person will be elected to fill the vacancy in accordance with the provisions of this Order and of any such regulations within a time which the Governor considers reasonable ;

the Governor may, by instrument under the Public Seal, appoint to fill the vacancy a person who is qualified, in accordance with sections 35 and 36 of this Order, for appointment as a Nominated Unofficial Member of the Legislative Council.

(*b*) Any person appointed under the provisions of this sub-section to fill a vacancy among the Elected Members referred to in paragraph (*b*), (*c*) or (*d*) of sub-section (2) of this section shall be deemed to have been elected as a Member of the Legislative Council in accordance with the provisions of the said paragraph (*b*), (*c*) or (*d*) as the case may be:

Provided that the provisions of sections 33, 34 37, 38 and 39 of this Order shall apply in relation to such a person as they apply in relation to a Nominated Unofficial Member of the Legislative Council.

(5) In this section—

" Head Chief " means a Head Chief duly appointed under the provisions of a Protectorate Ordinance, 1935(**a**), to exercise authority over a District ;

" the Bathurst Town Council " means the Bathurst Town Council constituted under the provisions of the Local Government (Bathurst) Ordinance, 1946(**b**) ;

" the Divisional Councils " means such bodies of persons as are for the time being recognised by the Governor as the Divisional Councils for the purposes of this section ;

" the District Authorities " means such bodies of persons as are for the time being recognised by the Governor as the District Authorities for the purposes of this section ;

" the Kombo Saint Mary Rural Authority " means the Kombo Saint Mary Rural Authority constituted under the provisions of the Kombo Saint Mary Division Ordinance, 1946(**c**).

Summoning of persons to assist Legislative Council

32. The Governor, the Speaker, or the Member presiding, may summon any person to the Legislative Council notwithstanding that such person is not a Member of the Legislative Council when, in the opinion of the Governor, the Speaker, or the Member presiding, as the case may be, the business before the Legislative Council renders the presence of such person desirable. Any person so summoned shall be entitled to take part in the proceedings of the Legislative Council relating to the matters in respect of which he was summoned as if he were a Member of the Legislative Council except that he shall not have the right to vote in the Legislative Council.

(a) Cap. 99. (b) No. 1 of 1946. (c) No. 15 of 1946.

Tenure of office of Nominated and Elected Members

33.—(1) Subject to the provisions of this Order, every Nominated Member of the Legislative Council shall hold his seat in the said Council during Her Majesty's pleasure.

(2) Every Nominated or Elected Member of the Legislative Council shall in any case cease to be a Member at the next dissolution of the Legislative Council after his appointment or election, or previously thereto if his seat shall become vacant under the provisions of this Order.

Suspension and incapacity of Nominated Members

34.—(1) The Governor may, by Instrument under the Public Seal, declare any Nominated Member to be incapable of discharging his functions as a Member of the Legislative Council, and thereupon such Member shall not sit or vote in the Legislative Council until he is declared, in manner aforesaid, again to be capable of discharging his said functions.

(2) The Governor may, by Instrument under the Public Seal, suspend any Nominated Member from the exercise of his functions as such. Every such suspension shall forthwith be reported by the Governor to Her Majesty through a Secretary of State, and shall remain in force, unless and until it shall be removed by the Governor by Instrument under the Public Seal or by Her Majesty through a Secretary of State, or the person suspended ceases to be a Member of the Legislative Council.

Qualifications for Nominated and Elected Membership

35. Subject to the provisions of section 36 of this Order, any person of the age of twenty-five years or upwards who is a British subject or a British protected person shall be qualified to be appointed as a Nominated Unofficial Member or elected as an Elected Member of the Legislative Council, and no other person shall be qualified to be so appointed or elected or, having been so appointed or elected, shall sit or vote in the Legislative Council.

Disqualifications for Nominated Unofficial and Elected Membership

36. No person shall be qualified to be appointed as a Nominated Unofficial Member or elected as an Elected Member of the Legislative Council, or, having been so appointed or elected shall sit or vote in the Legislative Council, who at the time of his appointment or election—

(*a*) is, by virtue of his own act, under any acknowledgment of allegiance, obedience, or adherence to a foreign Power or State; or

(*b*) (i) in the case of a Nominated Unofficial Member, holds any public office, or

(ii) in the case of an Elected Member, holds or is acting in, any such office; or

(*c*) in the case of an Elected Member, holds the office of Speaker; or

(*d*) is an undischarged bankrupt, having been adjudged or otherwise declared a bankrupt under any law in force in any part of Her Majesty's dominions; or

(*e*) is under sentence of death or is serving, or has within the immediately preceding ten years completed the serving of, a sentence of imprisonment (by whatever name called) of or exceeding six months imposed in any part of Her Majesty's dominions and has not received a free pardon ; or

(*f*) being a person possessed of professional qualifications, is disqualified (otherwise than at his own request) in any part of Her Majesty's dominions from practising his profession by the order of any competent authority made in respect of him personally ; or

(*g*) is a party to, or is a partner in a firm, or a director or manager of a company, which is a party to, any subsisting contract (the amount or value of the consideration for which exceeds one hundred pounds, or which forms part of a larger transaction or series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration exceeds one hundred pounds) with the Government of the Gambia for or on account of the public service and—

(i) in the case of a Nominated Unofficial Member, has not disclosed to the Governor the nature of such contract and his interest, or the interest of any such firm or company, therein ; or

(ii) in the case of an Elected Member referred to in paragraph (*a*) of subsection (2) of section 31 of this Order, has not published, within one month before the day of election, in the English language in the Gazette and in some newspaper circulating in the Gambia, a notice setting out the nature of such contract and his interest, or the interest of any such firm or company, therein ; or

(iii) in the case of any other Elected Member has not disclosed the nature of such contract and his interest, or the interest of any such firm or company, therein, to the body electing him ; or

(*h*) is a person adjudged to be of unsound mind or detained as a criminal lunatic under any law for the time being in force in the Gambia ; or

(*i*) is disqualified for membership of the Legislative Council under any law for the time being in force in the Gambia relating to offences connected with the election of Members ; or

(*j*) in the case of an Elected Member referred to in paragraph (*a*) of sub-section (2) of section 31 of this Order, is not qualified to be registered as a voter under the provisions of any law for the time being in force in the Gambia ; or

(*k*) in the case of an Elected Member referred to in paragraph (*a*) of sub-section (2) of section 31 of this Order, is disqualified for election by any law for the time being in force in the Colony by reason of his holding, or acting in, any office the functions of which involve any responsibility for, or in connection with, the conduct of any election, or any responsibility for the compilation or revision of any electoral register.

Vacation of seats

37.—(1) The seat of a Nominated Unofficial Member or an Elected Member of the Legislative Council shall become vacant—

(*a*) upon his death ; or

(*b*) if he shall be absent from two consecutive meetings of the Legislative Council, without having obtained from the Governor, before the termination of either of such meetings, permission to be or to remain absent therefrom ; or

(*c*) if, being a Nominated Unofficial Member, he is nominated as a candidate in any election of a Member of the Legislative Council or, being an Elected Member, is appointed as a Nominated Unofficial Member of the Legislative Council ; or

(*d*) if he shall cease to be a British subject, or shall cease to be a British protected person without becoming a British subject or shall take any oath, or make any declaration or acknowledgment of allegiance, obedience or adherence to any foreign Power or State ; or shall do, concur in or adopt any act done with the intention that he shall become a subject or citizen of any foreign Power or State ; or

(*e*) if he shall be adjudged or otherwise declared a bankrupt under any law in force in any part of Her Majesty's dominions ; or

(*f*) if in any part of Her Majesty's dominions he shall be sentenced to death or to imprisonment (by whatever name called) for a term of or exceeding six months ; or

(*g*) if he shall become subject to any of the disqualifications specified in paragraph (*f*), (*h*) or (*i*) of section 36 of this Order ; or

(*h*) if he shall become a party to any contract (the amount or value of the consideration for which exceeds one hundred pounds or which forms part of a larger transaction or series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration exceeds one hundred pounds) with the Government of the Gambia for or on account of the public service, or if any firm in which he is a partner, or any company of which he is a director or manager, shall become a party to any such contract, or if he shall become a partner in a firm, or a director or manager of a company, which is a party to any such contract:

Provided that, if in the circumstances it shall appear to them or him to be just to do so, the Legislative Council may by resolution exempt any Elected Member and the Governor may exempt any Nominated Unofficial Member from vacating his seat under the provisions of this paragraph, if such Member shall, before becoming a party to such contract as aforesaid or before, or as soon as practicable after, becoming otherwise interested in such contract (whether as partner in a firm or as director or manager of a company), disclose to the Legislative Council or to the Governor, as the case may be, the nature of such contract and his interest, or the interest of any such firm or company, therein ; or

(*i*) if, being an Elected Member referred to in paragraph (*a*) of subsection (2) of section 31 of this Order, he shall become subject to any of the disqualifications specified in paragraph (*k*) of section 36 of this Order ; or

(*j*) if he shall by writing under his hand addressed to the Governor resign his seat in the Legislative Council ; or

(*k*) if, being an Elected Member, he shall be appointed to, or to act in, any public office ; or

(*l*) if, being a Nominated Unofficial Member, he shall be appointed permanently to any such office ; or

(*m*) if, being an Elected Member, he shall be appointed Speaker.

(2) If any Nominated Unofficial Member shall be appointed temporarily to, or to act in, any public office, he shall not sit or vote in the Legislative Council by virtue of his appointment as a Nominated Unofficial Member so long as he continues to hold, or to act in, that office.

(3) A person whose seat in the Legislative Council has become vacant may, if qualified, again be appointed or elected as a Member of the Legislative Council from time to time.

Decision of questions as to membership

38.—(1) All questions which may arise as to the right of any person to be or remain the Speaker or a Member of the Legislative Council other than an Elected Member shall be referred to and shall be determined by the Governor, according to his discretion.

(2) All questions which may arise as to the right of any person to be or remain an Elected Member shall be determined in the prescribed manner.

Temporary appointments

39.—(1) Whenever there shall be a vacancy in the number of persons sitting as *ex-officio* or Nominated Members of the Legislative Council by reason of the fact that—

(*a*) one person is lawfully discharging the functions of more than one of the offices the holders of which are specified in section 28 of this Order ; or

(*b*) no person is lawfully discharging the functions of any one of such offices ; or

(*c*) the Nominated Official Member is lawfully discharging the functions of one of those offices ; or

(*d*) a Nominated Member is declared by the Governor, as provided in this Order, to be incapable of discharging his functions as a Member ; or

(*e*) a Nominated Member is suspended from the exercise of his functions as a Member under the provisions of this Order ; or

(*f*) an *ex-officio* or Nominated Member is absent from the Gambia ; or

(*g*) a Nominated Unofficial Member is temporarily appointed to, or to act in, a public office ; or

(*h*) the seat of a Nominated Member is vacant for any cause other than the dissolution of the Legislative Council ;

a person may be appointed by the Governor by Instrument under the Public Seal as a temporary Member for the period of such vacancy.

(2) (*a*) If the vacancy is in the number of persons sitting in the Legislative Council as *ex-officio* Members, the person appointed shall be a person holding public office.

(*b*) If the vacancy is in respect of the person sitting in the Legislative Council as the Nominated Official Member, the person appointed shall be a person qualified for appointment as a Nominated Official Member.

(*c*) If the vacancy is in the number of persons sitting in the Legislative Council as Nominated Unofficial Members, the person appointed shall be a person qualified in accordance with sections 35 and 36 of this Order for appointment as a Nominated Unofficial Member.

(3) A person appointed under this section shall hold his appointment during Her Majesty's pleasure and any such appointment shall in any case cease to have effect when the Governor notifies the person appointed that the vacancy in respect of which he has been appointed has ceased to exist.

(4) (*a*) The provisions of section 34 of this Order shall apply in relation to a person appointed in the case of any such vacancy as is referred to in paragraphs (*a*) or (*b*) of sub-section (2) of this section as they apply in relation to the Nominated Official Member of the Legislative Council.

(*b*) The provisions of sections 33, 34 and 37 of this Order shall apply in relation to any person appointed in the case of any such vacancy as is referred to in paragraph (*c*) of sub-section (2) of this section as they apply in relation to a Nominated Unofficial Member of the Legislative Council.

Governor to notify Speaker of appointments and Speaker to report vacancies

40.—(1) The Governor shall notify the Speaker of every appointment of a person to be a Nominated Member of the Legislative Council.

(2) Whenever the seat of a Member of the Legislative Council becomes vacant under the provisions of sub-section (1) of section 37 of this Order, the Speaker shall, by writing under his hand, report such vacancy to the Governor.

First appointments and elections and first session

41. The first appointments and elections of Members to the Legislative Council shall be held and made not later than three months after the appointed day, and the first session of the Legislative Council shall commence not later than four months after that day.

Laws as to elections of Elected Members for the Colony

42.—(1) Subject to the provisions of this Order, provision may be made, by or in pursuance of any law enacted under this Order, for the election of Elected Members of the Legislative Council, including (without prejudice to the generality of the foregoing power) the following matters, that is to say:—

(*a*) the qualifications and disqualifications of voters ;

(*b*) the ascertainment of the qualifications of voters and of candidates for election ;

(*c*) the registration of voters ;

(*d*) the holding of elections ;

(*e*) the determination of all questions which may arise as to the right of any person to be or remain an Elected Member of the Legislative Council ;

(*f*) the definition and trial of offences in relation to such elections and the imposition of penalties therefor, including disqualification for election to the Legislative Council, or for registration as a voter, or for voting at elections, of any person concerned in any such offence.

(2) Until it is otherwise provided by law enacted under this Order, elections of Elected Members of the Legislative Council shall be held, qualifications and registration of voters for the election of such Members shall be ascertained and effected, and the other matters referred to in sub-section (1) of this section shall be regulated, by the Colony Elections Ordinance, 1954(a), and any regulations made under section 43 of this Order.

(3) In this section and in section 43 of this Order, the references to Elected Members of the Legislative Council and to elections are references to the Elected Members referred to in paragraph (*a*) of sub-section (2) of section 31 of this Order and to elections of such Members.

Provisions to give effect to this Order

43.—(1) At any time before the date of the first sitting of the Legislative Council constituted by this Order, the Governor may by regulations make such provision as appears to him to be necessary or expedient for giving effect to the provisions of this Order; and in particular, and without prejudice to the generality of the foregoing power, the Governor may by such regulations modify and adapt the Colony Elections Ordinance, 1954, in such manner as may appear to him to be necessary or expedient in order to enable that Ordinance to be applied for the purposes referred to in sub-section (2) of section 42 of this Order.

(2) For the avoidance of doubt it is hereby declared that the Governor may by regulations made under this section—

(*a*) provide that any register of voters, whether made before or after the date when this section comes into operation, shall be a valid register for the purposes of the election of Elected Members of the Legislative Council;

(*b*) provide that writs for the election of Elected Members of the Legislative Council may be issued at any time after this section comes into operation.

(3) The expressions "any law in force in the Gambia" and "any law in force in the Colony", wherever they occur in this Order, shall (unless the context otherwise requires) be construed as including a reference to regulations made under this section.

(4) This section shall come into operation on the day after the day on which this Order shall have been laid before both Houses of Parliament.

Regulations for certain elections

44.—(1) Subject to the provisions of this Order, the Governor may by regulations make provision for the election of the Elected Members of the Legislative Council referred to in paragraphs (*b*), (*c*) and (*d*) of sub-section (2) of section 31 of this Order, including the election of persons to fill such vacancies among these Members as are referred to in sub-section (3) of that section.

(a) No. 1 of 1954.

(2) Without prejudice to the generality of the foregoing power, regulations made under this section may include provision for the following matters, that is to say:—

(*a*) the qualifications and disqualifications of electors;

(*b*) the ascertainment of the qualifications of electors and of candidates for election;

(*c*) the holding of elections, direct or indirect;

(*d*) the determination of all questions which may arise as to the right of any person to be or remain an Elected Member of the Legislative Council other than an Elected Member referred to in paragraph (*a*) of sub-section (2) of section 31 of this Order; and

(*e*) the definition and trial of offences relating to such elections and the imposition of penalties therefor, including disqualification for membership of the Legislative Council, or as an elector, of any person concerned in any such offence.

(3) This section shall come into operation on the day after the day on which this Order shall have been laid before both Houses of Parliament.

PART V

Legislation and Procedure of Legislature

Power to make laws

45. Subject to the provisions of this Order, it shall be lawful for the Governor, with the advice and consent of the Legislative Council, to make laws for the peace, order and good government of the Gambia.

Royal Instructions

46. Subject to the provisions of this Order, the Governor and the Legislative Council shall, in the transaction of business and the making of laws, conform as nearly as may be to the directions contained in any Instructions under Her Majesty's Sign Manual and Signet which may from time to time be addressed to the Governor in that behalf.

Standing Rules and Orders

47.—(1) Subject to the provisions of this Order and of any Instructions under Her Majesty's Sign Manual and Signet, the Legislative Council may, from time to time, make, amend and revoke Standing Rules and Orders for the regulation and orderly conduct of their proceedings and the despatch of business, and for the passing, intituling and numbering of Bills and for the presentation thereof to the Governor for assent; but no such Rules or Orders, or amendment or revocation thereof, shall have effect unless and until they shall have been approved by the Governor.

(2) Until other provision is made under this section, the Standing Rules and Orders of the Legislative Council constituted under the existing Orders as in force immediately before the appointed day, shall, with any necessary modifications and adaptations, be the Standing Rules and Orders of the Legislative Council; and the said Standing Rules and Orders may be amended or revoked by Standing Rules and Orders made under the preceding sub-section.

Presiding in Legislative Council

48. The Speaker, or, in the absence of the Speaker, such Member of the Legislative Council as the Governor may from time to time appoint or, in default of such appointment or in the absence of the Member so appointed a Member of the Legislative Council elected by the Legislative Council for the meeting shall preside at the meetings of the Legislative Council.

Provided that if the Governor should have occasion to be present at any meetings he shall preside at such meeting.

Vacancies and Quorum

49.—(1) The Legislative Council shall not be disqualified for the transaction of business by reason of any vacancies in the membership of the said Council, including any vacancies not filled when the Council is first constituted or is reconstituted at any time; and any proceedings therein shall be valid notwithstanding that some person sat or voted in the said Council or otherwise took part in the proceedings thereof who was not entitled so to do.

(2) No business except that of adjournment shall be transacted in the Legislative Council if objection is taken by any Member present that there are less than seven Members present besides the Governor, Speaker or other Member presiding.

Voting

50.—(1) Save as otherwise provided in this Order, all questions proposed for decision in the Legislative Council shall be determined by a majority of the votes of the Members present and voting.

(2) Neither the Governor nor the Speaker shall have an original vote, but if upon any question the votes shall be equally divided, the Governor, or, in the absence of the Governor, the Speaker, shall have a casting vote.

(3) In the absence of the Governor and the Speaker, the Member presiding shall retain his original vote and, if upon any question the votes shall be equally divided, he shall also have a casting vote.

(4) If on any question the votes are equally divided and the Governor, Speaker or the Member presiding does not exercise his casting vote, the motion shall be lost.

Introduction of Bills, etc.

51. Subject to the provisions of this Order and of the Standing Rules and Orders of the Legislative Council, any Member may introduce any Bill or propose any motion for debate in, or may present any petition to, the Legislative Council, and the same shall be debated and disposed of according to the Standing Rules and Orders of the Legislative Council:

Provided that except with the recommendation or with the sanction of the Governor signified thereto, the Legislative Council shall not proceed upon any Bill, amendment, motion or petition which, in the opinion of the Speaker or the Member presiding, would dispose of or charge any public revenue or public funds of the Gambia or revoke or alter any disposition thereof or charge thereon, or impose, alter or repeal any rate, tax or duty.

Governor's reserved power

52.—(1) If the Governor shall consider that it is expedient in the interests of public order, public faith or good government (which expressions shall, without prejudice to their generality, include the responsibility of the Gambia as a territory within the British Commonwealth of Nations, and all matters pertaining to the creation or abolition of any public office or to the appointment, salary or other conditions of service of any public officer) that any Bill introduced, or any motion proposed in the Legislative Council should have effect, then, if the Legislative Council fail to pass such Bill or motion within such time and in such form as the Governor may think reasonable and expedient, the Governor, at any time that he thinks fit, may, notwithstanding any provisions of this Order or of any Standing Rules and Orders of the Legislative Council, declare that such Bill or motion shall have effect as if it had been passed or carried by the Legislative Council, either in the form in which it was so introduced or proposed or with such amendments as the Governor shall think fit that have been moved or proposed in the Legislative Council including any committee thereof; and thereupon the said Bill or motion shall be deemed to have been so passed or carried at the time when such declaration shall have been made, and the provisions of this Order, and in particular the provisions relating to assent to Bills and disallowance of laws, shall have effect accordingly.

(2) The Governor shall forthwith report to a Secretary of State every case in which he shall make any such declaration and the reasons therefor.

(3) If any Member of the Legislative Council objects to any declaration made under this section, he may, within seven days of the making thereof, submit to the Governor a statement in writing of his reasons for so objecting, and a copy of such statement shall, if furnished by such Member, be forwarded by the Governor as soon as practicable to a Secretary of State.

(4) Any such declaration relating to a motion may be revoked by a Secretary of State, and the Governor shall cause notice of such revocation to be published in the Gazette; and from the date of such publication any motion which shall have been deemed to have been carried by virtue of the declaration revoked shall cease to have effect; and the provisions of subsection (2) of section 38 of the Interpretation Act, 1889, shall apply to such revocation as they apply to the repeal of an Act of Parliament.

(5) The powers conferred by this section on the Governor shall be exercised by him according to his discretion.

Assent to Bills

53.—(1) No Bill shall become law until either the Governor shall have assented thereto in Her Majesty's name and on Her Majesty's behalf and shall have signed the same in token of such assent, or Her Majesty shall have given Her assent thereto through a Secretary of State.

(2) When a Bill is presented to the Governor for his assent, he shall, according to his discretion, but subject to the provisions of this Order and of any Instructions addressed to him under Her Majesty's Sign

Manual and Signet or through a Secretary of State, declare that he assents, or refuses his assent, thereto, or that he reserves the Bill for the signification of Her Majesty's pleasure:

Provided that the Governor shall reserve for the signification of Her Majesty's pleasure any Bill which determines or regulates the privileges, immunities or powers of the Legislative Council or of its Members, unless he shall have been authorised by a Secretary of State to assent thereto.

(3) A law assented to by the Governor shall come into operation on the date of its publication in the Gazette, or, if it shall be enacted, either in such law or in some other law (including any law in force on the appointed day) that it shall come into operation on some other date, on that date.

(4) A Bill reserved for the signification of Her Majesty's pleasure shall become a law so soon as Her Majesty shall have given Her assent thereto through a Secretary of State, and the Governor shall have signified such consent by Proclamation published in the Gazette. Every such law shall come into operation on the date of such Proclamation or, if it shall be enacted either in such law or in some other law (including any law in force on the appointed day) that it shall come into operation on some other date, on that date.

Disallowance of laws

54.—(1) Any law to which the Governor shall have given his assent may be disallowed by Her Majesty through a Secretary of State.

(2) Whenever any law has been disallowed by Her Majesty, the Governor shall cause notice of such disallowance to be published in the Gazette.

(3) Every law so disallowed shall cease to have effect as soon as notice of such disallowance shall be published as aforesaid, and thereupon any enactment repealed or amended by or in pursuance of the law disallowed shall have effect as if such law had not been made. Subject as aforesaid, the provisions of sub-section (2) of section 38 of the Interpretation Act, 1889, shall apply to such disallowance as they apply to the repeal of an Act of Parliament.

Oath of allegiance

55.—(1) Except for the purpose of enabling this section to be complied with, no Member of the Legislative Council shall sit or vote therein unless or until he shall have taken and subscribed before the Legislative Council the Oath of Allegiance in the form set out in the Second Schedule to this Order:

Provided that if, between the time when a person becomes a Member of the Legislative Council and the time when the Legislative Council next meets thereafter, a meeting takes place of any committee of the Legislative Council of which such person is a Member, such person may, in order to enable him to attend the meeting, and take part in the proceedings, of the committee, take and subscribe the said oath before a Judge of the Supreme Court of the Gambia; and the taking and subscribing of the oath in such manner shall suffice for all purposes of this section. In any such case the Judge shall forthwith report to the Legislative Council through the Speaker or, as occasion may

require, through the Clerk of the Legislative Council that the person in question has taken and subscribed the said oath before him.

(2) For the purposes of sub-section (1) of this section, every person authorised by any law in force in the Gambia to make an affirmation instead of taking an oath in legal proceedings may, instead of taking the oath in that sub-section mentioned, make an affirmation in like terms.

Privileges of Legislative Council and Members

56. It shall be lawful, by any law enacted under this Order, to determine and regulate the privileges, immunities and powers of the Legislative Council and its Members, but no such privileges, immunities or powers shall exceed those of the Commons' House of Parliament of the United Kingdom of Great Britain and Northern Ireland or of the Members thereof.

Sessions of the Legislative Council

57.—(1) The sessions of the Legislative Council shall be held at such times and places as the Governor shall from time to time by Proclamation or notice appoint.

(2) There shall be a session of the Legislative Council once at least in every year, so that a period of twelve months shall not intervene between the last sitting of the Legislative Council in one session and the first sitting thereof in the next session.

Prorogation and dissolution

58.—(1) The Governor may at any time, by Proclamation published in the Gazette, prorogue or dissolve the Legislative Council.

(2) On dissolution all Members of the Legislative Council shall vacate their seats, and the Council shall be reconstituted by election and appointment in accordance with the provisions of this Order at such time, within three months of every dissolution, as the Governor shall by Proclamation appoint.

(3) The Governor shall dissolve the Legislative Council at the expiration of five years from the date of the return of the first writ at the last preceding general election, if it shall not have been sooner dissolved.

PART VI

THE PUBLIC SERVICE

Exercise of Governor's powers

59. The powers conferred on the Governor by this Part shall be exercised by him according to his discretion.

Public officers

60. The appointment, promotion, transfer, dismissal and disciplinary control of public officers is hereby vested in the Governor.

Public Service Commission

61.—(1) There shall be in and for the Gambia a Public Service Commission (in this Part of this Order referred to as " the Commission ") and, subject to the provisions of sub-section (3) of this section, the

Commission shall consist of such persons, appointed in such manner, as may be prescribed by regulations made under section 63 of this Order.

(2) The Governor may terminate the appointment of any Member of the Commission and, subject as aforesaid, the Members of the Commission shall hold office upon such terms and conditions as may be prescribed by regulations made under section 63 of this Order.

(3) No person shall be appointed as, or shall remain, a Member of the Commission if he is or becomes an Elected or Nominated Unofficial Member of the Legislative Council.

(4) This section shall come into operation on such day as the Governor may appoint, being a day not later than twelve months after the appointed day.

Functions of the Commission

62.—(1) The Governor may refer to the Public Service Commission for their advice any question relating to the appointment (including promotion and transfer) or to the dismissal or other disciplinary control of public officers, or of any public officer, or to any other matter which, in his opinion, affects the public service:

Provided that no judge or magistrate shall be regarded, for the purposes of this section, as a public officer.

(2) It shall be the duty of the Commission to advise the Governor on any question which he shall refer to it in accordance with the provisions of this section, but the Governor shall not be required to act in accordance with the advice given to him by the Commission.

(3) This section shall come into operation on such day as the Governor may appoint, being a day not later than twelve months after the appointed day.

Regulations regarding the Commission

63. Subject to the provisions of this Order, the Governor may make regulations for giving effect to sections 61 and 62 of this Order, and in particular and without prejudice to the generality of the foregoing power may by such regulations make provision for all or any of the following matters, that is to say:—

(*a*) the membership of the Commission;

(*b*) the appointment, tenure of office and terms of service of Members of the Commission;

(*c*) the organisation of the work of the Commission and the manner in which the Commission shall perform its functions;

(*d*) consultation by the Commission with persons other than Members of the Commission;

(*e*) the appointment, tenure of office and terms of service of staff to assist the Commission in the performance of its functions;

(*f*) the delegation to any Member of the Commission of all or any of the powers or duties of the Commission;

(*g*) the protection and privilege of Members of the Commission in respect of the performance of its duties and the privilege of communications to and from the Commission or its Members in case of legal proceedings;

(*h*) the definition and trial of offences connected with the functions of the Commission and the imposition of penalties for such offences:

Provided that no such penalty shall exceed a fine of two hundred pounds and imprisonment for a term of one year.

PART VII

MISCELLANEOUS

Penalty for unqualified person sitting or voting

64.—(1) Any person who—

(*a*) having been appointed or elected a Member of the Legislative Council, but not having been at the time of such appointment or election qualified to be so appointed or elected, shall sit or vote in the Legislative Council; or

(*b*) shall sit or vote in the Legislative Council after his seat therein has become vacant or he has become disqualified from sitting or voting therein;

knowing, or having reasonable grounds for knowing, that he was so disqualified, or that his seat has become vacant, as the case may be, shall be liable to a penalty not exceeding twenty pounds for every day upon which he so sits or votes.

(2) The said penalty shall be recoverable by action in the Supreme Court of the Gambia at the suit of the Attorney-General.

Concurrent powers

65.—(1) When a holder of any office constituted by or under this Order is on leave of absence pending relinquishment of his office it shall be lawful for another person to be appointed substantively to the same office.

(2) When two or more persons are holding the same office by reason of an appointment made pursuant to sub-section (1) of this section, then for the purpose of any function conferred upon the holder of that office by this Order the person last appointed to the office shall be deemed to be the holder of the office.

Removal of difficulties

66.—(1) If any difficulty shall arise in bringing into operation any of the provisions of this Order or in giving effect to the purposes thereof, a Secretary of State may, by Order, make such provision as seems to him necessary or expedient for the purpose of removing the difficulty and may by such Order amend or add to any provision of this Order:

Provided that no Order shall be made under this section later than the 31st day of August, 1955.

(2) Any Order made under this section may be amended or revoked by a further Order, and may be given retrospective effect to a date not earlier than the date of this Order.

(3) This section shall come into operation on the day after the day on which this Order shall have been laid before both Houses of Parliament.

Powers reserved to Her Majesty

67.—(1) Her Majesty hereby reserves to Herself, power, with the advice of Her Privy Council to revoke or amend this Order.

(2) Nothing in this Order shall affect the power of Her Majesty in Council to make laws from time to time for the peace, order and good government of the Gambia.

W. G. Agnew.

THE FIRST SCHEDULE

Section 1

The Gambia (Legislative Council) Order in Council, 1946(a).

The Gambia (Legislative Council) (Amendment) Order in Council, 1947(b).

The Gambia (Legislative Council) (Amendment) Order in Council, 1948(c).

The Gambia (Legislative Council) (Amendment) Order in Council, 1951(d).

THE SECOND SCHEDULE

Section 55

I, , do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law. So help me God.

EXPLANATORY NOTE

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

This Order in Council establishes an Executive Council and a Legislative Council for the Gambia.

The Executive Council consists of four *ex-officio* Members, one Official Member and six Appointed Members.

The Legislative Council consists of the Governor, a Speaker, four *ex-officio* Members, one Nominated Official Member, two Nominated Unofficial Members, four Members elected to represent the Colony, seven Members elected to represent the Protectorate, and three other Elected Members.

The Order also establishes a Public Service Commission to be constituted in accordance with regulations made by the Governor.

(a) S.R. & O. 1946/2084 (Rev. IX, p. 561: 1946 I, p. 629).
(b) S.R. & O. 1947/2580 (Rev. IX, p. 561: 1947 I, p. 804).
(c) S.I. 1948/2060 (Rev. IX, p. 561: 1948 I, p. 1339).
(d) S.I. 1951/1169 (1951 I, p. 782).