WEST AFRICA

ADMINISTRATION GENERALLY

1960 No. 701

The Gambia (Constitution) Order in Council, 1960

Made - - - -	8*th April*, 1960
Laid before Parliament	14*th April*, 1960
Coming into Operation	19*th April*, 1960

At the Court at Buckingham Palace, the 8th day of April, 1960

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:—

PART I

Preliminary

Interpretation

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

"Head Chief" and "Sub-Chief" have the meanings assigned to them, respectively, in the Protectorate Ordinance(c);

"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 Order" means the Gambia (Constitution) Order in Council, 1954(d);

"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 House of Representatives" means the House of Representatives constituted under this Order;

(a) 50 & 51 Vict. c. 54 and 9 & 10 Geo. 6. c. 7. (b) 53 & 54 Vict. c. 37.
(c) Laws of the Gambia 1955, Cap. 47 (Vol. I, p. 546).
(d) S.I. 1954/1145 (1954 II, p. 2759).

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

" 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 ;

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

" sitting " means a period during which the House of Representatives is sitting continuously without adjournment, and includes any period during which the House is in Committee ;

" the Town of Bathurst " means the Town of Bathurst as defined in the Town of Bathurst Ordinance(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) Any reference in this Order to Her Majesty's dominions shall be construed as including a reference to all territories under Her Majesty's protection or in which Her Majesty has for the time being jurisdiction.

(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 House of Representatives, or is a Head Chief, a Sub-Chief or a Member of any District Authority or District Tribunal constituted by any law in force in the Gambia.

(a) Laws of the Gambia 1955, Cap. 99 (Vol. II, p. 1082).

(5) This Order shall be construed—

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

(*b*) as if subsection (2) of section 3 of the British Nationality Act, 1948(**b**) (as interpreted by subsection (1) of section 3 of the Ireland Act, 1949(**c**), 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; and

(*c*) as if in subsection (1) of section 1 of the Pakistan (Consequential Provision) Act, 1956(**d**), applied to it in the same way as that subsection applies to laws in force on the date mentioned in that subsection; and

(*d*) as if subsection (1) of section 2 of the Federation of Malaya Independence Act, 1957(**e**), applied to it in the same way as that subsection applies to existing laws as defined by subsection (4) of that section.

(6) For the avoidance of doubt it is hereby declared that any person who has vacated any office established by this Order may, if qualified, again be appointed to that office from time to time.

(7) Save as is in this Order otherwise provided, or required by the context, the Interpretation Act, 1889(**f**), 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, 1960, 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 Order is 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 Order.

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, and not more 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 Civil Secretary, the Attorney-General, the Financial Secretary and the Commissioner for Local Government.

(a) 12, 13 & 14 Geo. 6. c. 92.
(b) 11 & 12 Geo. 6. c. 56.
(c) 12, 13 & 14 Geo. 6. c. 41.
(d) 4 & 5 Eliz. 2. c. 31.
(e) 5 & 6 Eliz. 2. c. 60.
(f) 52 & 53 Vict. c. 63.

6.—(1) The Appointed Members of the Executive Council shall be persons who are Elected Members or Nominated Members of the House of Representatives and shall be appointed by the Governor by Instrument under the Public Seal after consultation with such of the Elected and Nominated Members of the House as are available for consultation.

(2) The Governor shall without delay report to Her Majesty through a Secretary of State every appointment made under subsection (1) of this section.

Tenure of office

7. 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 Member, as the case may be, of the House of Representatives:

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

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

Suspension and incapacity of Appointed Members

8.—(1) The Governor may, by Instrument under the Public Seal, declare any Appointed Member to be, by reason of illness, temporarily 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 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*) no person is lawfully discharging the functions of any one of such offices ; or

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

(*e*) an Appointed Member is, under section 8 of this Order, declared by the Governor to be temporarily incapable of discharging his functions as a Member or is suspended from the exercise of his functions as a Member ; or

(*f*) 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 :

Provided that he shall appoint a person who is a public officer in place of an *ex-officio* Member, and a person who is qualified for appointment as an Appointed Member in place of an Appointed Member.

(2) A person appointed under this section to be temporarily a Member of the Executive Council—

(*a*) shall hold office as such during Her Majesty's pleasure ;

(*b*) shall cease to hold office as such when he is notified by the Governor that the circumstances which gave rise to his appointment have ceased to exist.

(3) The Governor shall forthwith report to the Secretary of State any appointment made under this section.

(4) The provisions of section 8 of this Order shall apply in relation to a person appointed temporarily a Member of the Executive Council in place of an *ex-officio* Member.

(5) The provisions of sections 7 and 8 of this Order shall apply in relation to a person appointed temporarily a Member of the Executive Council in place of an Appointed Member.

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 Civil 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 subsection (2) of this section the Civil 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 subsection.

Exercise of Governor's powers in relation to Executive Council

14.—(1) The Governor shall, subject to the provisions of subsection (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 and 21 of this Order, " responsibility " for any matter means general responsibility for—

(*a*) conducting in the Executive Council business 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 House of Representatives 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 of this Order, such question shall be determined by the Governor, according to his discretion.

Not less than three Appointed Members to be charged with responsibility

19.—(1) The Governor shall, after consultation with such of the Elected and Nominated Members of the House of Representatives as are available for consultation, select from among the Appointed Members of the Executive Council not less 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 subsection (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 of the Executive Council such functions and responsibilities as he may think fit.

Ministers

20.—(1) 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.

(2) An Appointed Member of the Executive Council shall, while not charged with the responsibility for any matter under the provisions of section 19 of this Order, be styled a Minister without portfolio.

Temporary assignment of responsibility

21. 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

House of Representatives

Establishment of House of Representatives

22. There shall be a House of Representatives in and for the Gambia constituted in accordance with the provisions of this Order.

Constitution of House of Representatives

23. The House of Representatives shall consist of—

(*a*) the Governor, who shall be President;
(*b*) a Speaker;
(*c*) 4 *ex-officio* Members;
(*d*) not more than 3 Nominated Members;
(*e*) 27 Elected Members;
(*f*) such temporary Members, if any, as may be appointed under Section 36 of this Order.

Speaker

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

(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*

25. The *ex-officio* Members of the House of Representatives shall be the Civil Secretary, the Attorney-General, the Financial Secretary and the Commissioner for Local Government.

The Nominated Members

26.—(1) The Nominated Members of the House of Representatives shall be persons who are qualified for appointment as such under the provisions of this Order and shall be appointed by the Governor, by Instrument under the Public Seal, after consultation with such of the Elected Members of the House as are available for consultation.

(2) One of the Nominated Members of the House of Representatives 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

27.—(1) The Elected Members of the House of Representatives shall be persons qualified for election as such in accordance with the provisions of this Order and, shall be elected in accordance with the provisions of subsection (2) of this section.

(2) (*a*) Seven 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, five shall be elected for the Town of Bathurst and two for the Kombo Saint Mary Division.

(*b*) Twelve of the Elected Members shall be elected, in the manner provided by any law in force in the Gambia, to represent the Protectorate.

(*c*) Eight of the Elected Members shall be elected by the Head Chiefs, in the manner provided by any law in force in the Gambia, to represent the Protectorate.

Summoning of persons to assist House of Representatives

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

Tenure of office of Nominated and Elected Members

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

(2) Every Nominated or Elected Member of the House of Representatives shall in any case cease to be a Member at the next dissolution of the House 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

30.—(1) The Governor may, by Instrument under the Public Seal, declare any Nominated Member to be, by reason of illness, temporarily incapable of discharging his functions as a Member of the House of Representatives, and thereupon such Member shall not sit or vote in the House 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 House of Representatives.

Qualifications for Nominated and Elected Membership

31.—(1) Subject to the provisions of section 32 of this Order, any person who, at the date of his appointment or nomination for election—

(*a*) is of the age of twenty-one or upwards and is a British subject or a British protected person ; and

(*b*) is able to speak the English language with a degree of proficiency sufficient to enable him to take part in the proceedings of the House of Representatives ; and

(*c*) is, in the case of a person seeking to be elected to represent the Colony as provided in paragraph (*a*) of subsection (2) of section 27 of this Order, registered as a voter in any electoral district in the Gambia ; and

(*d*) is, in the case of a person seeking to be elected to represent the Protectorate as provided in paragraph (*b*) of subsection (2) of section 27 of this Order, registered as a voter in any electoral district in the Protectorate, or registered as a voter in any electoral district in the Gambia and has either been born in the Protectorate or is recognised by native law and custom as being a member of a Protectorate family,

shall be qualified to be appointed as a Nominated Member or elected as an Elected Member of the House of Representatives and no other person shall be so qualified.

(2) In this section any reference to a person registered as a voter means a person registered as a voter under the provisions of any law for the time being in force in the Gambia.

Disqualifications for Nominated and Elected Membership

32.—(1) No person shall be qualified to be appointed as a Nominated Member or elected as an Elected Member of the House of Representatives or, having been so appointed or elected shall sit or vote in the House, 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 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*) has been adjudged or otherwise declared a bankrupt under any law in force in any part of Her Majesty's dominions and has not been discharged; or

(*e*) subject to the provisions of the following subsection, is under sentence of death imposed on him by a court in any part of Her Majesty's dominions, or is serving a sentence of imprisonment (by whatever name called) of or exceeding six months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court; or

(*f*) 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 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, 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

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

(*h*) is disqualified for membership of the House of Representatives under any law for the time being in force in the Gambia relating to offences connected with elections; or

(*i*) in the case of an Elected Member, is disqualified for election by any law for the time being in force in the Gambia 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.

(2) For the purposes of paragraph (*e*) of the preceding subsection—

(*a*) where a person is serving two or more sentences of imprisonment that are required to be served consecutively he shall, throughout the whole time during which he so serves, be regarded as serving a sentence of or exceeding six months if (but not unless) any one of those sentences amounts to or exceeds that term; and

(*b*) no account shall be taken of a sentence of imprisonment imposed as an alternative to, or in default of, the payment of a fine.

Vacation of seats

33.—(1) The seat of a Nominated Member of an Elected Member of the House of Representatives shall become vacant—

(*a*) if, in the case of a Nominated Member, he is absent from two consecutive meetings of the House without having obtained from the Governor, before the termination of either of such meetings, permission to be or to remain absent therefrom; or

(*b*) if, in the case of an Elected Member, he is absent from two consecutive meetings of the House without having obtained from the Speaker, or in the absence of the Speaker the Member presiding, before the termination of either of such meetings, permission to be or to remain absent therefrom; or

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

(*d*) if he ceases to be a British subject, or ceases to be a British protected person without becoming a British subject or takes any oath, or makes any declaration or acknowledgment of allegiance, obedience or adherence to any foreign Power or State; or does, concurs in or adopts any act done with the intention that he shall become a subject or citizen of any foreign Power or State; or

(*e*) if any circumstances arise that, if he were not a Member of the House, would cause him to be disqualified for appointment or election as such by virtue of paragraphs (*d*), (*g*) or (*h*) of subsection (1) of section 32 of this Order; or

(*f*) if he becomes 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, becomes a party to any such contract, or if he becomes 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 appears to them or him to be just to do so, the House may by resolution exempt any Elected Member and the Governor may exempt any Nominated Member from vacating his seat under the provisions of this paragraph, if such Member, 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), discloses to the House 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

(*g*) if, being an Elected Member he becomes subject to any of the disqualifications specified in paragraph (i) of subsection (1) of section 32 of this Order; or

(*h*) if, being a Nominated Member, by writing under his hand addressed to the Governor, or, being an Elected Member, by writing under his hand addressed to the Speaker, he resigns his seat in the House ; or

(*i*) if, being an Elected Member, he is appointed to, or to act in, any public office ; or

(*j*) if, being a Nominated Member, he is appointed permanently to any such office ; or

(*k*) if, being an Elected Member, he is appointed Speaker ; or

(*l*) in the circumstances mentioned in the following section.

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

Vacation of seat on sentence

34.—(1) Subject to the provisions of subsection (2) of this section, if any circumstances arise that would cause any Nominated Member or Elected Member of the House of Representatives to be disqualified for appointment or election as such under paragraph (*e*) of subsection (1) of section 32 of this Order if he were not such a Member, he shall forthwith cease to exercise any of his functions as a Member and his seat in the House shall become vacant at the expiration of a period of thirty days from the date on which those circumstances first arose:

Provided that the Governor (in the case of a Nominated Member) or the Speaker (in the case of an Elected Member) or in the absence of the Speaker the person presiding, may at the request of the Member, from time to time extend that period for further periods of thirty days to enable the Member to pursue any appeal in respect of his conviction or sentence, so, however, that extension of time exceeding in the aggregate three hundred and thirty days shall not be given without the approval of the House signified by resolution.

(2) If at any time before the Member vacates his seat the circumstances referred to in the last preceding subsection cease to obtain, his seat shall not become vacant under the said subsection and he may resume the exercise of his functions as a Member.

(3) For the purposes of this section—

(*a*) where a person is sentenced to two or more terms of imprisonment that are required to be served consecutively, account shall be taken only of any of those terms that amounts to or exceeds six months ; and

(*b*) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.

Decision of questions as to membership

35.—(1) All questions which may arise as to the right of any person to be or remain the Speaker or a Member of the House of Representatives 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

36.—(1) Whenever there shall be a vacancy in the number of persons sitting as *ex officio* or Nominated Members of the House of Representatives 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 25 of this Order ; or

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

(*c*) a Nominated Member is, under section 30 of this Order, declared by the Governor to be temporarily incapable of discharging his functions as a Member or is suspended from the exercise of his functions as a Member ; or

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

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

(*f*) the seat of a Nominated Member is vacant for any cause other than the dissolution of the House ;

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

Provided that he shall appoint a person who is a public officer in place of an *ex-officio* Member, and a person who is qualified for appointment as a Nominated Member in place of a Nominated Member.

(2) A person appointed under this section to be temporarily a Member of the House of Representatives—

(*a*) shall hold office as such during Her Majesty's pleasure ;

(*b*) shall cease to hold office as such when he is notified by the Governor that the circumstances which gave rise to his appointment have ceased to exist.

(3) The Governor shall forthwith report to the Secretary of State any appointment made under this section.

(4) The provisions of section 30 of this Order shall apply in relation to a person appointed temporarily a Member of the House in place of an *ex-officio* Member.

(5) The provisions of sections 29, 30, 33 and 34 of this Order shall apply in relation to a person appointed temporarily a Member of the House in place of a Nominated Member.

Governor to notify Speaker of appointments and Speaker to report vacancies

37.—(1) The Governor shall notify the Speaker of every appointment of a person to be a Nominated Member of the House of Representatives.

(2) Whenever the seat of a Member of the House of Representatives becomes vacant under the provisions of subsection (1) of section 33 or section 34 of this Order, the Speaker shall, by writing under his hand, report such vacancy to the Governor.

First appointments and elections and first session

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

Laws as to elections of Elected Members

39. 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 House of Representatives, 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 establishment of electoral districts (by whatever name called) for the purpose of elections and the division of electoral districts for purposes connected with elections;

(*e*) the holding of elections;

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

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

(*h*) the disqualifications for election as Members of the House of persons holding, or acting in, any office the functions of which involve any responsibility for, or in connection with, the conduct of any election or the compilation or revision of any electoral register.

PART IV

Legislation and Procedure of Legislature

Power to make laws

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

Royal Instructions

41. Subject to the provisions of this Order, the Governor and the House of Representatives 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

42.—(1) Subect to the provisions of this Order and of any Instructions under Her Majesty's Sign Manual and Signet, the House of Representatives 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 Order as in force immediately before the appointed day, shall, with any necessary modifications and adaptations, be the Standing Rules and Orders of the House of Representatives; and the said Standing Rules and Orders may be amended or revoked by Standing Rules and Orders made under the preceding subsection.

Presiding in House of Representatives

43. The Speaker, or, in the absence of the Speaker, such Member of the House of Representatives 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 House elected by the House for the meeting shall preside at the meetings of the House:

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

Vacancies and Quorum

44.—(1) The House of Representatives shall not be disqualified for the transaction of business by reason of any vacancies in the membership of the said House, including any vacancies not filled when the House 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 House 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 House of Representatives if objection is taken by any Member present that there are less than eleven Members present besides the Governor, Speaker or other Member presiding.

Voting

45.—(1) Save as otherwise provided in this Order, all questions proposed for decision in the House of Representatives 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

46.—(1) Subject to the provisions of this Order and of the Standing Rules and Orders of the House of Representatives, any Member may introduce any Bill or propose any motion for debate in, or may present any petition to, the House, and the same shall be debated and disposed of according to the Standing Orders of the House.

(2) Except on the recommendation or with the consent of the Governor the House of Representatives shall not—

(*a*) proceed upon any Bill (including any amendment to a Bill) which, in the opinion of the Speaker or other Member presiding, makes provision for imposing or increasing any tax, for imposing or increasing any charge on the revenues or other funds of the Gambia or for altering any such charge otherwise than by reducing it, or for compounding or remitting any debt due to the Gambia;

(*b*) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the Speaker or other Member presiding, is that provision should be made for any of the purposes aforesaid; or

(*c*) receive any petition which, in the opinion of the Speaker or other Member presiding, requests that provision be made for any of the purposes aforesaid.

Governor's reserved power

47.—(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 House of Representatives should have effect, then, if the House 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 House declare that such Bill or motion shall have effect as if it had been passed or carried by the House 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 House 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 House of Representatives 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

48.—(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 House of Representatives 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

49.—(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 subsection (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

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

Provided that if, between the time when a person becomes a Member of the House and the time when the House next meets thereafter, a meeting takes place of any committee of the House 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 the Chief Justice 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 Chief Justice shall forthwith report to the House through the Speaker or as occasion may require, through the Clerk of the House that the person in question has taken and subscribed the said oath before him.

(2) For the purposes of subsection (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 subsection mentioned, make an affirmation in like terms.

Privileges of House of Representatives and Members

51. It shall be lawful, by any law enacted under this Order, to determine and regulate the privileges, immunities and powers of the House of Representatives, 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 House of Representatives

52.—(1) The sessions of the House of Representatives 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 House of Representatives once at least in every year, so that a period of twelve months shall not intervene between the last sitting of the House in one session and the first sitting thereof in the next session.

Prorogation and dissolution

53.—(1) The Governor may at any time, by Proclamation published in the Gazette, prorogue or dissolve the House of Representatives.

(2) On dissolution all Members of the House of Representatives shall vacate their seats, and the House 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 House of Representatives 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 V

The Public Service

Exercise of Governor's powers

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

Public officers

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

Public Service Commission

56.—(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 the Civil Secretary as Chairman, and of such other persons, appointed in such manner, as may be prescribed by regulations made under section 58 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 58 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 Member of the House of Representatives.

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

Functions of the Commission

57.—(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 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 the same day as sub-section (4) of section 56 of this section.

Regulations regarding the Commission

18. Subject to the provisions of this Order, the Governor may make regulations for giving effect to sections 56 and 57 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;

(*i*) requiring persons to attend before the Commission to answer questions relating to any enquiry held by the Commission or to any business or duties of the Commission.

PART VII

Miscellaneous and Transitional Provisions

Penalty for unqualified person sitting or voting

59.—(1) Any person who—

(*a*) having been appointed or elected a Member of the House of Representatives, 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 House; or

(*b*) shall sit or vote in the House 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 Colony at the suit of the Attorney-General.

Concurrent powers

60.—(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 subsection (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.

Transitional provision

61. Notwithstanding the revocation of the existing Order by this Order the Executive Council established by the existing Order shall continue to exist until such time as the Appointed Members have been appointed by the Governor under subsection (1) of section 6 of this Order, and the said Executive Council shall, until such time as aforesaid, perform its functions in accordance with the provisions of the existing Order.

Provisions relating to section 51

62. Until other provision is made in pursuance of section 51 of this Order, any laws made under section 56 of the existing Order and in force immediately before the appointed day—

(*a*) shall have effect as if they were laws enacted in pursuance of section 51 of this Order; and

(*b*) shall, for the purposes of this Order, be deemed to have been so enacted and shall be read and construed with such adaptations and modifications, if any, as may be necessary for the purposes of this Order and may be amended and revoked as if they were laws so enacted.

Powers reserved to Her Majesty

63.—(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.

Section

THE SCHEDULE

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 reconstitutes the Executive Council and the Legislative Council of the Gambia by removing the Official Member from each body, and by increasing the number of Elected Members in the Legislative Council, which is renamed the House of Representatives.