1962 No. 826

WEST AFRICA

The Gambia (Constitution) Order in Council, 1962

Made - - - -	18*th April*, 1962
Laid before Parliament	26*th April*, 1962
Coming into Operation	27*th April*, 1962

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FIRST SCHEDULE
INSTRUMENTS REVOKED

SECOND SCHEDULE
FORMS OF OATHS AND AFFIRMATIONS

At the Court at Windsor Castle, the 18th day of April, 1962

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

INTRODUCTORY

Citation and commencement.

1.—(1) This Order may be cited as the Gambia (Constitution) Order in Council, 1962.

(a) 50 & 51 Vict. c. 54 and 9 & 10 Geo. 6. c. 7. (b) 53 & 54 Vict. c. 37.

(2) This Order shall be published in the Gazette, and shall come into operation on such day (in this Order referred to as "the appointed day") as the Governor, in his discretion, by proclamation published in the Gazette shall appoint, which day shall not be earlier than the day when this Order is so published or than the day after that on which this Order is laid before both Houses of Parliament.

Interpretation.

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

"the Colony" means the Colony of the Gambia;

"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;

"the House" means the House of Representatives established by this Order;

"head chief" and "sub-chief" have the meanings assigned to them, respectively, in the Protectorate Ordinance(a);

"meeting" means any sitting or sittings of the House 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 Protectorate" means the Protectorate of the Gambia;

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

"public officer" means the holder of a public office or a person appointed to act in a public 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 sittings of the House 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 is sitting continuously without adjournment, and includes any period during which the House is in committee.

(2) In this Order, unless the context otherwise requires, a reference to the holder of an office by the term designating his office includes, to the extent of his authority, any person who is for the time being authorized to perform the functions of that office.

(3) For the purposes of this Order the resignation of a member of any body or a holder of any office that is required to be addressed to any person shall be deemed to have effect from the time at which it is received by that person.

(4) For the avoidance of doubt it is hereby declared that any person who has vacated his seat in any body, or has vacated any office, established by this Order may, if qualified, again be appointed or

(a) Laws of the Gambia, 1955, c. 47.

elected as a member of that body or to that office, as the case may be, from time to time.

(5) The Interpretation Act, 1889(a), shall apply, with the necessary adaptations, for the purpose of interpreting this Order and otherwise in relation thereto as it applies for the purpose of interpreting, and in relation to, Acts of Parliament of the United Kingdom.

Revocation.

3. The instruments set out in the First Schedule to this Order are revoked, without prejudice to anything lawfully done thereunder.

PART II

THE GOVERNOR AND DEPUTY GOVERNOR

The Governor.

4. There shall be a Governor and Commander-in-Chief of the Gambia who shall be appointed by Her Majesty by Commission under Her Sign Manual and Signet and shall hold office during Her Majesty's pleasure.

Governor's powers and duties.

5. The Governor shall have such powers and duties as are conferred or imposed upon him by or under this Order or any other law for the time being in force in the Gambia, and such other powers and duties as Her Majesty may from time to time be pleased to assign to him, and, subject to the provisions of this Order and of any other law by which any such powers or duties are conferred or imposed, shall do and execute all things that belong to his office (including the exercise of any powers with respect to which he is empowered by this Order to act in his discretion) according to such instructions, if any, as Her Majesty may from time to time see fit to give him; but the question whether he has in any matter complied with such instructions shall not be enquired into by any court.

Publication of Commission and making of oaths.

6. Every person appointed to the office of Governor shall, before assuming the functions of his office, cause the Commission appointing him to be Governor to be read and published in the presence of a judge of the Supreme Court of the Colony (if able to attend) and of such members of the Executive Council as can conveniently attend; and he shall make before them oaths or affirmations of allegiance and for the due execution of his office in the forms set out in the Second Schedule to this Order, which oaths or affirmations the said judge or, in his absence, the Deputy Governor or, in the absence of the Deputy Governor, the Attorney-General, shall administer.

The Deputy Governor.

7. There shall be a Deputy Governor of the Gambia who shall be appointed by the Governor in pursuance of instructions given by Her Majesty through a Secretary of State.

Acting Governor.

8.—(1) During any period when the office of Governor is vacant or the Governor is absent from the Gambia or is for any other reason unable to perform the functions of his office—

(*a*) the Deputy Governor, or

(*b*) if the office of Deputy Governor is vacant or the Deputy Governor is absent from the Gambia or is for any other reason unable to perform the functions of the office of Governor, such person as Her Majesty may designate by Instructions given under Her Sign Manual and Signet or through a Secretary of State,

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

shall, during Her Majesty's pleasure, assume and perform the functions of the office of Governor and administer the government of the Gambia accordingly.

(2) Before assuming the functions of the office of Governor any such person as aforesaid shall make the oaths or affirmations directed by section 6 of this Order to be made by the Governor.

(3) The Deputy Governor shall not continue to perform the functions of the office of Governor after the Governor has informed him that he is about to assume or resume those functions and the person designated under paragraph (*b*) of subsection (1) of this section shall not continue to perform those functions after the Governor or the Deputy Governor has so informed him.

(4) For the purposes of this section—

(*a*) the Governor or the Deputy Governor shall not be regarded as absent from the Gambia or as unable to perform the functions of the office of Governor by reason only that he is in passage from one part of the Gambia to another;

(*b*) the Governor shall not be regarded as absent from the Gambia or as unable to perform the functions of his office at any time when there is a subsisting authority given to the Deputy Governor under the next following section;

(*c*) when the Deputy Governor has assumed the functions of the office of Governor under subsection (1) of this section, he shall not be regarded as absent from the Gambia or as unable to perform those functions at any time when there is a subsisting authority given to a person acting as Deputy Governor under the next following section; and

(*d*) "the Governor" means the holder of the office of Governor and "the Deputy Governor" means the holder of the office of Deputy Governor.

Performance of Governor's functions by Deputy Governor.

9.—(1) The Governor, in his discretion, may, by writing under his hand, authorize the Deputy Governor to perform on his behalf, subject to such exceptions and conditions as the Governor, in his discretion, may from time to time specify, any or all of the functions of the office of Governor, other than any function conferred upon the Governor by any Act of Parliament or by any Order of Her Majesty in Council or other instrument made under any Act of Parliament other than this Order.

(2) The powers and authority of the Governor shall not be affected by any authority given to the Deputy Governor under this section otherwise than as Her Majesty by instructions given through a Secretary of State may from time to time think proper to direct, and the Deputy Governor shall comply with such instructions relating to the performance by him of any of the functions of the office of Governor as the Governor may from time to time address to him; but the question whether he has in any matter complied with such instructions shall not be enquired into by any court.

(3) Any authority given to the Deputy Governor under this section may at any time be varied or revoked by Her Majesty by instructions given through a Secretary of State or by the Governor, in his discretion, by writing under his hand.

(4) For the purposes of this section "the Governor" means the holder of the office of Governor or the person performing the functions of that office under the last foregoing section and "the Deputy Governor" means the holder of the office of Deputy Governor or the person acting as Deputy Governor.

Acting Deputy Governor.

10. During any period when the office of Deputy Governor is vacant or the holder of that office is performing the functions of the office of Governor under section 8 of this Order or is absent from the Gambia or is for any other reason unable to perform the functions of his office, the Governor, in his discretion, may, by writing under his hand, appoint a person to act as Deputy Governor, and any person so appointed shall continue to act until his appointment is revoked by the Governor, in his discretion.

PART III

EXECUTIVE COUNCIL

Executive Council.

11.—(1) There shall be an Executive Council for the Gambia which, subject to the provisions of this Order, shall consist of the Governor, who shall be President of the Council, a Premier, and not fewer than eight other Ministers.

(2) The Premier and the other Ministers shall be persons who are members of the House and shall be appointed from time to time in accordance with the provisions of section 14 of this Order.

(3) The Attorney-General, who shall be a person who is a public officer, shall attend meetings of the Executive Council for the purpose of giving advice.

Functions Executive Council.

12.—(1) The Executive Council shall be the principal instrument of policy and shall have such powers and duties as may from time to time be conferred or imposed upon the Council by or under this Order, any other Order of Her Majesty in Council, any Instructions given under Her Majesty's Sign Manual and Signet or, subject to the provisions of this Order and of such other Orders or Instructions as aforesaid, by or under any other law for the time being in force in the Gambia:

Provided that the Council shall not exercise any powers in relation to the matters specified in section 21 of this Order.

(2) The Premier and the other Ministers shall be collectively responsible to the House.

Exercise of Governor's powers.

13.—(1) The Governor shall consult with the Executive Council in exercising all his powers other than—

(*a*) any power which he is directed (in whatever terms) by this Order or by any other law for the time being in force in the Gambia to exercise on or in accordance with the recommendation or advice of, or with the concurrence of, or after consultation with, any person or authority other than the Council; or

(*b*) any power which he is so directed (in whatever terms) to exercise in his discretion.

(2) The Governor shall act in accordance with the advice of the Executive Council in exercising any power in the exercise of which he is obliged by this section to consult with the Council.

(3) Where the Governor is directed by this Order or by any other law for the time being in force in the Gambia to exercise any power on or in accordance with the recommendation or advice of, or with the concurrence of, any person or authority he shall exercise the power in accordance with that recommendation or advice, or with that concurrence :

Provided that he may, in his discretion, once refer back that recommendation or advice, or any different recommendation or advice submitted by the person or authority concerned.

(4) Where the Governor is directed by this Order or by any other law for the time being in force in the Gambia to exercise any power after consultation with any person or authority other than the Executive Council he shall not be obliged to exercise that power in accordance with the advice of that person or authority.

(5) Where the Governor is directed by this Order or by any other law for the time being in force in the Gambia to exercise any power in accordance with the recommendation or advice of, or with the concurrence of, or after consultation with, any person or authority, the question whether he has so exercised that power shall not be enquired into by any court.

(6) Notwithstanding the foregoing provisions of this section or the provisions of any other law for the time being in force in the Gambia which may direct the Governor to exercise any power on or in accordance with the recommendation or advice of, or with the concurrence of, the Executive Council or any person or authority other than the Council,—

(*a*) the Governor shall not be obliged to consult with the Council or that person or authority in any case in which, in his judgment,—

(i) the service of Her Majesty would sustain material prejudice thereby ;

(ii) the matters to be decided are too unimportant to require such consultation ; or

(iii) the matters to be decided are so urgent that it is necessary for him to act before that recommendation, advice or concurrence can be obtained ; and

(*b*) the Governor may exercise that power otherwise than in accordance with that recommendation or advice, or without that concurrence, in any case in which, in his judgment, it is expedient to do so 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 Commonwealth, and all matters pertaining to the creation or abolition of any public office or to the salary or other conditions of service of any public officer).

(7) In every case falling within paragraph (*b*) of the last foregoing subsection the Governor shall first obtain the approval of a Secretary of State unless, in his judgment, the matter is so urgent that it is necessary for him to act before obtaining such approval, in which case he shall forthwith report his action to a Secretary of State, with the reasons therefor.

Appointment of Ministers.

14.—(1) The Governor, in his discretion, as soon as conveniently may be after any general election of members to the House or after

the occurrence of a vacancy in the office of Premier, shall appoint as Premier—

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

(*b*) if it appears to him that that party has no undisputed leader in the House or that no party commands the support of such a majority, the elected member of the House who, in his judgment, is most likely to command such support.

(2) The Ministers other than the Premier shall be appointed by the Governor on the recommendation of the Premier.

(3) If occasion arises for appointing a Minister while the House is dissolved, the persons who were members of the House immediately before the dissolution shall be deemed to be still members of the House for the purposes of this section, but any person appointed as a Minister by virtue of the provisions of this subsection shall, subject to the provisions of the next following section, vacate his office at the beginning of the next session of the House.

(4) Appointments under this section shall be made by instrument under the public seal.

Tenure of office of Ministers.

15.—(1) Subject to the provisions of this section, the Premier shall hold office during Her Majesty's pleasure.

(2) When, after any general election of members to the House, the Governor appoints any person to be Premier, the office of Premier shall be deemed to have become vacant immediately before that appointment.

(3) The Premier or any other Minister shall vacate his office—

(*a*) if he resigns his office by writing under his hand addressed to the Governor;

(*b*) if he ceases to be a member of the House for any reason other than a dissolution thereof;

(*c*) if he absents himself from the Gambia without permission given, in the case of the Premier, by the Governor, in his discretion, or, in the case of any other Minister, by the Governor on the recommendation of the Premier; or

(*d*) if, in the case of a Minister other than the Premier, the Governor on the recommendation of the Premier so directs by instrument under the public seal.

(4) Whenever the Governor appoints any person to be Premier every other office of Minister which is not then vacant shall thereupon become vacant.

Acting Premier.

16.—(1) Whenever the Premier is unable, because he is ill, or absent from the Gambia, or for any other reason, to perform the functions of his office, the Governor may, by instrument under the public seal, appoint any other Minister to perform those functions (other than the function conferred upon the Premier by subsection (3) of this section).

(2) The Governor may, by instrument under the public seal, vary or revoke any instrument made under this section.

(3) The powers conferred upon the Governor by this section shall be exercised by him in his discretion if, in the Governor's opinion, it

is impracticable to obtain the advice of the Premier because of his illness or absence, and in any other case shall be exercised by the Governor on the recommendation of the Premier.

Oath or affirmation of Ministers.

17. Before assuming the functions of his office every Minister shall make before the Governor, or some person authorized in that behalf by the Governor, in his discretion, an oath or affirmation for the due execution of his office in the form set out in the Second Schedule to this Order.

Summoning of Executive Council.

18. The Executive Council shall not be summoned except by the authority of the Governor, acting in his discretion:

Provided that the Governor shall summon the Council if the Premier so recommends.

Proceedings in Executive Council.

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

(2) No business shall be transacted at any meeting of the Executive Council if there are fewer than four members of the Council present at the meeting and any member present has objected to the transaction of business on that account.

(3) Subject to the provisions of the last foregoing subsection, the Executive Council shall not be disqualified for the transaction of business by reason of any vacancy in the membership of the Council, and any proceedings in the Council shall be valid notwithstanding that some person who was not entitled to do so took part in those proceedings.

Assignment of responsibilities to Ministers.

20. Subject to the provisions of this Order and of any other law for the time being in force in the Gambia, the Governor, on the recommendation of the Premier, may, by directions in writing—

(*a*) assign to any Minister responsibility for any business of the Government of the Gambia, and charge that Minister with responsibility for any department of government; and

(*b*) vary or revoke any directions given under this section.

Governor to be responsible for certain matters.

21.—(1) The Governor, acting in his discretion, shall be responsible for the following matters:—

(*a*) external affairs;

(*b*) defence;

(*c*) the making of appointments (including appointments on promotion and transfer) to offices in the public service;

(*d*) the dismissal and disciplinary control of officers in the public service; and

(*e*) internal security (including the organization, use and operational control of the police).

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

The Attorney-General.

22.—(1) The Attorney-General shall be the legal adviser to the Government of the Gambia, and shall have the conduct of legal

affairs in that Government; and, for the due performance of his functions, he shall be entitled to be provided with all papers which are available to members of the Executive Council and to any other information concerning the government of the Gambia which is so available.

(2) The Attorney-General shall be solely responsible for the initiation, conduct and discontinuance of criminal proceedings.

The Financial Secretary.

23. The Governor, in his discretion, may summon the Financial Secretary to attend a meeting of the Executive Council.

Leave of absence.

24. The Governor, in his discretion, may grant leave of absence from his duties to the Premier and may, on the recommendation of the Premier, grant leave of absence from his duties to any other Minister.

PART IV

HOUSE OF REPRESENTATIVES

House of Representatives.

25. There shall be a House of Representatives for the Gambia which, subject to the provisions of this Order, shall consist of a Speaker, the Attorney-General (ex officio), thirty-six elected members, and not more than two nominated members.

The Speaker.

26.—(1) The House may, before proceeding to the despatch of any other business,—

(*a*) at its first meeting after a general election, or

(*b*) at its first meeting after the office of Speaker falls vacant otherwise than by reason of a dissolution of the House,

elect a person who is not a Minister and who does not hold any public office to be Speaker of the House; and the Attorney-General shall, unless the Standing Orders of the House otherwise provide, preside at the election.

(2) If the House does not elect a Speaker as aforesaid the Governor, in his discretion, shall, by instrument under the public seal, appoint a person to be Speaker, and a person so appointed shall, subject to the provisions of the next following subsection, hold his office during Her Majesty's pleasure.

(3) The Speaker shall vacate his office—

(*a*) on a dissolution of the House;

(*b*) if he resigns his office by writing under his hand addressed to the Governor;

(*c*) if he is appointed to be a Minister;

(*d*) if he accepts nomination as a candidate for election to the House or accepts appointment as a nominated member of the House;

(*e*) in the case of a Speaker appointed by the Governor, at such time as may be specified in the instrument by which he is appointed; or

(*f*) if he does or suffers any other thing which would, if he were an elected member or a nominated member of the House, cause him to vacate his seat as such a member.

The Deputy Speaker.

27.—(1) The House shall—

(*a*) at its first sitting in every session, and

(*b*) at its first sitting after the office of Deputy Speaker falls vacant, or as soon thereafter as may be convenient, elect one of its own members who is not a Minister to be Deputy Speaker of the House.

(2) The Deputy Speaker shall, unless he earlier vacates his office under the provisions of this Order, hold his office until some other person is elected under paragraph (*a*) of the last foregoing subsection.

(3) The Deputy Speaker shall vacate his office—

(*a*) if he resigns his office by writing under his hand addressed to the Speaker or, in the absence of the Speaker or if there is no Speaker, to the Clerk of the House;

(*b*) if he is appointed to be a Minister; or

(*c*) if he ceases to be a member of the House.

Elected members.

28.—(1) The elected members of the House shall be persons qualified for election as such in accordance with the provisions of this Order, and shall be elected in the manner provided by any law for the time being in force in the Gambia.

(2) Of the elected members of the House—

(*a*) seven shall be elected for electoral districts in the Colony;

(*b*) twenty-five shall be elected for electoral districts in the Protectorate; and

(*c*) four shall be elected by the head chiefs from among their number.

(3) The registers of voters which—

(*a*) were compiled in accordance with the provisions of the Colony Elections Ordinance(a), as amended, and the Protectorate Elections Ordinance, 1959(b), as amended;

(*b*) were revised by virtue of the provisions of the Gambia (Electoral Provisions) Order in Council, 1961(c); and

(*c*) were in force on the appointed day, or on such day as the Governor, in his discretion, by notice published in the Gazette may from time to time appoint,

shall be valid registers for the purpose of electing the elected members of the House until revised or replaced in accordance with a law enacted under this Order; and references in the said Ordinances to "the House of Representatives" shall have effect as if they were references to the House.

Nominated members.

29. The nominated members of the House shall be persons qualified for appointment as such in accordance with the provisions of this Order, and shall be appointed by the Governor, in his discretion, but after consultation with the Premier, by instrument under the public seal.

Qualifications for elected and nominated membership.

30. Subject to the provisions of the next following section, a person shall be qualified to be elected an elected member or appointed a

(a) Laws of the Gambia, 1955, c. 44. (b) Ordinance No. 6 of 1959.
(c) S.I. 1961/2035 (1961 III, p. 3705).

nominated member of the House if, and shall not be so qualified unless,—

(*a*) he is a British subject or a British protected person;

(*b*) he has attained the age of twenty-one years;

(*c*) he can speak English well enough to take an active part in the proceedings of the House; and

(*d*) save in the case of an elected member to be elected by the head chiefs from among their number, or in the case of a nominated member, he is qualified for registration and is registered as a voter in an electoral district for electing an elected member or elected members of the House.

Disqualifications for elected and nominated membership.

31.—(1) No person shall be qualified to be elected an elected member or appointed a nominated member of the House who—

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

(*b*) holds, or is acting in, any public office;

(*c*) 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 an elected member, has not, within one month before the day of the election, published in English in the Gazette and in a newspaper circulating in the electoral district for which he is a candidate, a notice setting out the nature of the contract and his interest, or the interest of the firm or company, therein; or

(ii) in the case of a nominated member, has not disclosed to the Governor the nature of the contract and his interest, or the interest of the firm or company, therein;

(*d*) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law for the time being in force in any part of the Commonwealth;

(*e*) is certified to be insane or otherwise adjudged to be of unsound mind under any law for the time being in force in the Gambia;

(*f*) is under sentence of death imposed on him by a court in any part of the Commonwealth, or is under a sentence of imprisonment (by whatever name called) for a term of or exceeding six months, other than a sentence in lieu of a fine, but including a suspended sentence, imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court;

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

(*h*) in the case of an elected member, holds, or is 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.

(2) For the purpose of paragraph (*f*) of the last foregoing subsection two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of those terms.

Vacation of seats of elected and nominated members.

32.—(1) A nominated member of the House shall hold his seat in the House during Her Majesty's pleasure.

(2) An elected member or a nominated member of the House shall vacate his seat—

(*a*) on a dissolution of the House ;

(*b*) if, being an elected member, he resigns his seat by writing under his hand addressed to the Speaker, or, being a nominated member, he resigns his seat by writing under his hand addressed to the Governor ;

(*c*) if he is elected or appointed to be Speaker ;

(*d*) if, being an elected member, he accepts appointment as a nominated member, or, being a nominated member, he accepts nomination as a candidate for election to the House, or, being a member elected for an electoral district, he is appointed to be a head chief ;

(*e*) if he is absent from two consecutive meetings of the House without having obtained before the termination of either meeting from the Speaker, or other person presiding, if he is an elected member, or from the Governor, if he is a nominated member, permission to be or to remain absent therefrom ;

(*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 to him to be just to do so, the House may by resolution exempt an elected member and the Governor, in his discretion, may exempt a nominated member from vacating his seat under the provisions of this paragraph, if the member, before becoming a party to the contract or before or as soon as practicable after becoming otherwise interested in the contract (whether as a partner in a firm or as a director or manager of a company), discloses to the House or to the Governor, as the case may be, the nature of the contract and his interest, or the interest of the firm or company, therein ;

(*g*) if any circumstance arises that, if he were not a member of the House, would cause him to be disqualified for election or appointment thereto by virtue of paragraph (*a*), (*b*), (*d*), (*e*), (*g*) or (*h*) of subsection (1) of the last foregoing section ; or

(*h*) in the circumstances mentioned in the next following section.

Vacation of seat on sentence.

33.—(1) Subject to the provisions of this section, if an elected member or a nominated member of the House is sentenced by a court in any part of the Commonwealth to death or to imprisonment (by whatever name called) for a term of or exceeding six months, he shall forthwith cease to perform his functions as a member of the House, and his seat in the House shall become vacant at the expiration of a period of thirty days thereafter:

Provided that the Speaker may, at the request of the member, from time to time extend that period for thirty days to enable the member to pursue any appeal in respect of his conviction or sentence, so however that extensions of time exceeding in the aggregate three hundred and thirty days shall not be granted without the approval of the House signified by resolution.

(2) If at any time before the member vacates his seat he receives a free pardon or his conviction is set aside or his sentence is reduced to a term of imprisonment of less than six months or a punishment other than imprisonment is substituted, his seat in the House shall not become vacant under the provisions of this section, and he may again perform his functions as a member of the House.

(3) For the purpose of this section two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of those terms.

Temporary members.

34.—(1) Whenever a nominated member of the House is unable, because he is ill, or absent from the Gambia, or for any other reason, to perform his functions as a member of the House, the Governor, in his discretion, may, by instrument under the public seal, appoint to be temporarily a member of the House a person qualified for appointment as a nominated member.

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

(*a*) shall hold his seat in the House during Her Majesty's pleasure;

(*b*) shall vacate his seat when he is informed by the Governor that the member in whose place he was appointed is again able to perform his functions as a member of the House, or when the seat of the member in whose place he was appointed becomes vacant.

(3) Subject to the provisions of this section, the provisions of this Order shall apply in relation to a person appointed to be temporarily a member of the House as they apply in relation to the nominated member in whose place he was appointed.

Determination of questions as to membership.

35.—(1) Any question whether—

(*a*) a person has been validly elected an elected member of the House; or

(*b*) an elected member of the House has vacated his seat therein or is required under section 33 of this Order to cease to perform his functions as a member,

shall be determined in accordance with any law for the time being in force in the Gambia.

(2) Any question whether—

(*a*) a person has been validly appointed a nominated member of the House; or

(*b*) a nominated member of the House has vacated his seat therein or is required under section 33 of this Order to cease to perform his functions as a member,

shall be determined by the Governor, in his discretion.

Persons not to be treated as holding public offices.

36.—(1) A person shall not be treated as holding, or acting in, a public office for the purposes of this Part of this Order—

(*a*) if he is on leave of absence pending relinquishment of a public office;

(*b*) by reason only that he is receiving a pension or other like allowance from the Crown or is receiving a salary or other emolument or any allowance in respect of his tenure of the office of Speaker, Deputy Speaker, Minister or member of the House; or

(*c*) by reason only that he is a head chief, a sub-chief, or a member of any district authority or district tribunal constituted under any law for the time being in force in the Gambia.

(2) A provision in any law for the time being in force in the Gambia that a person shall not be treated as holding, or acting in, a public office for all or any of the purposes of this Part of this Order shall have effect as if it were included in this Order.

Law as to elections.

37. Subject to the provisions of this Order, a law enacted under this Order may provide for the election of members of the House, and in particular, and without prejudice to the generality of the foregoing power, may provide for—

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

(*b*) the registration of voters;

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

(*d*) the establishment of electoral districts (by whatever name called) for the purpose of elections and the division of electoral districts for any purpose connected with elections;

(*e*) the holding of elections;

(*f*) the determination of any question whether any person has been validly elected a member of the House or whether a member of the House has vacated his seat therein; and

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

PART V

LEGISLATION AND PROCEDURE OF LEGISLATURE

Power to make laws.

38. Subject to the provisions of this Order, the Governor, with the advice and consent of the House, may make laws for the peace, order and good government of the Gambia.

Royal Instructions.

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

Standing Orders.

40.—(1) Subject to the provisions of this Order and of any Instructions given under Her Majesty's Sign Manual and Signet, the House may from time to time make, amend and revoke Standing Orders for the regulation and orderly conduct of its own 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 Standing Orders or amendment or revocation thereof shall have effect until they have been approved by the Governor, in his discretion.

(2) Until other provision is made under this section, the Standing Orders of the House shall be the Standing Orders of the House of Representatives established by the Gambia (Constitution) Order in Council, 1960(a), which were in force on the 1st day of January, 1962, and those Standing Orders 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 or revoked by the House under this section.

Privileges of the House and its members.

41.—(1) A law enacted under this Order may determine and regulate the privileges, immunities and powers of the House, 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 its members.

(2) Until other provision is made under this section, the privileges, immunities and powers of the House and of its members shall be the privileges, immunities and powers which were in force on the 1st day of January, 1962, of the House of Representatives established by the Gambia (Constitution) Order in Council, 1960, and of its members.

Oath or affirmation of allegiance.

42. No member of the House shall be permitted to take part in the proceedings of the House (other than proceedings necessary for the purpose of this section) until he has made before the House an oath or affirmation of allegiance in the form set out in the Second Schedule to this Order:

Provided that the election of the Speaker may take place before the members of the House have made such oath or affirmation.

Presiding in the House.

43. The person who shall preside at the sittings of the House shall be—

(*a*) the Speaker; or

(*b*) in his absence or if the office of Speaker is vacant, the Deputy Speaker; or

(*c*) in their absence or if the offices of Speaker and Deputy Speaker are both vacant or if one of such officers is absent and the office of the other is vacant, a member of the House (not being a Minister) elected by the House for the sitting.

(a) S.I. 1960/701 (1960 III, p. 3957).

Quorum.

44.—(1) A quorum of the House shall consist of fourteen members besides the person presiding at the sitting.

(2) If at any sitting of the House any member who is present draws the attention of the person presiding at the sitting to the absence of a quorum and, after such interval as may be prescribed in the Standing Orders of the House, the person presiding ascertains that a quorum of the House is still not present, the House shall be adjourned.

The House may transact business notwithstanding vacancies.

45. The House shall not be disqualified for the transaction of business by reason of any vacancy in the membership of the House; and any proceedings in the House shall be valid notwithstanding that some person who was not entitled to do so took part in those proceedings.

Voting.

46.—(1) Subject to the provisions of this section, all questions proposed for decision in the House shall be determined by a majority of the votes of the members present and voting.

(2) The Attorney-General and the nominated members of the House shall have no vote.

(3) The Speaker, or any other person, including the Deputy Speaker, when presiding in the House, shall have neither an original nor a casting vote.

(4) If upon any question before the House the votes are equally divided, the motion shall be declared lost.

Governor may address the House.

47. The Governor, in his discretion, may attend and address the House at any time, and may for that purpose require the attendance of members.

Introduction of Bills, etc.

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

(2) Except on the recommendation of the Governor, in his discretion, the House shall not—

(*a*) proceed upon any Bill (including any amendment to a Bill) which, in the opinion of the person presiding in the House or of the Attorney-General,—

(i) makes provision for imposing or increasing any tax, rate or duty, 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;

(ii) effects any alteration in the salary, allowances or conditions of service (including leave, passages and promotion) of any public officer or in the law, regulations or practice governing the payment of pensions, gratuities or other like benefits to any public officer or former public officer or his widow, children, dependants or personal representatives; or

(iii) affects any matter the responsibility for which is vested in the Governor under section 21 of this Order;

(*b*) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding in the House or of the Attorney-General, is that provision should be made for any of the purposes aforesaid ; or

(*c*) receive any petition which, in the opinion of the person presiding in the House or of the Attorney-General, requests that provision be made for any of the purposes aforesaid.

(3) The Governor, in his discretion, may—

(*a*) send by message to the Speaker the draft of any Bill or motion which he considers should be introduced or proposed in the House ; and

(*b*) in the same or a later message require that the Bill or motion shall be introduced or proposed not later than a date specified in the message ;

and if that requirement is not complied with, the Bill or motion shall be deemed for all purposes to have been introduced or proposed in the House on the date so specified.

Governor's reserved power.

49.—(1) If the Governor considers 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 Commonwealth, and all matters pertaining to the creation or abolition of any public office or to the salary or other conditions of service of any public officer), that any Bill introduced, or any motion proposed, in the House should have effect, then, if the House fails to pass the Bill or to carry the motion within such time and in such form as the Governor thinks reasonable and expedient, the Governor may, at any time he thinks fit, and notwithstanding any provisions of this Order or of any Standing Orders of the House, declare that the 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 introduced or proposed or with such amendments as the Governor thinks fit that have been moved or proposed in the House, including any committee thereof ; and the Bill or motion shall be deemed thereupon to have been so passed or carried, 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 not make any declaration under this section except in accordance with the following conditions :—

(*a*) the question whether the declaration should be made shall be submitted in writing by the Governor to the Executive Council, and if the Council advises that the declaration should be made, the Governor may make the declaration ;

(*b*) if, when the question is submitted to it, the Council does not within such time as the Governor may think reasonable and expedient, advise that the declaration should be made, then—

(i) the Governor may submit the question to a Secretary of State and, if the Secretary of State so authorizes him, may make the declaration ; or

(ii) the Governor may make the declaration without submitting the question to a Secretary of State if, in his judgment, urgent necessity requires him to make the declaration before he

can obtain the authority of a Secretary of State; in which case he shall, when he makes the declaration, so certify in writing.

(3) (*a*) Whenever the Governor, in accordance with the provisions of the last foregoing subsection, submits to a Secretary of State the question whether a declaration should be made, or makes a declaration without submitting the question to a Secretary of State, he shall inform the Executive Council in writing of his reasons for so doing.

(*b*) Whenever the Governor makes a declaration under this section, other than a declaration made with the authority of a Secretary of State, he shall forthwith report to a Secretary of State the making of, and the reasons for, the declaration and, in the case of a declaration made under sub-paragraph (ii) of paragraph (*b*) of the last foregoing subsection, the grounds of urgency.

(4) If any member of the House 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, if he furnishes a copy of that statement, and requests the Governor to do so, the Governor shall, as soon as practicable, forward the copy to a Secretary of State.

(5) Any declaration made under this section that relates to a motion may be revoked by a Secretary of State, and the Governor shall cause notice of the revocation to be published in the Gazette; and from the date of such publication any motion that is deemed to have been carried by virtue of the declaration shall cease to have effect and subsection (2) of section 38 of the Interpretation Act, 1889, shall apply to the revocation as it applies to the repeal of an Act of Parliament.

Assent to Bills.

50.—(1) A Bill shall not become a law until—

(*a*) the Governor has assented to it in Her Majesty's name and on Her Majesty's behalf and has signed it in token of his assent; or

(*b*) Her Majesty has given Her assent to it through a Secretary of State and the Governor has signified Her assent by proclamation published in the Gazette.

(2) When a Bill is presented to the Governor for his assent, he shall, in his discretion, but subject to the provisions of this Order and of any Instructions given under Her Majesty's Sign Manual and Signet or through a Secretary of State, declare that he assents, or refuses to assent, to it, 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—

(*a*) any Bill by which any provision of this Order is amended, revoked or replaced or which appears to the Governor, in his discretion, to be in any way repugnant to, or inconsistent with, the provisions of this Order; and

(*b*) any Bill which determines or regulates the privileges, immunities or powers of the House or of its members;

unless he has been authorized by a Secretary of State to assent to it.

Disallowance of laws.

51.—(1) Any law assented to by the Governor 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 the disallowance to be published in the Gazette, and the law shall be annulled with effect from the date of publication of the notice.

(3) Subsection (2) of section 38 of the Interpretation Act, 1889, shall apply to the annulment of any law under this section as it applies to the repeal of an Act of Parliament, save that any enactment amended or repealed by or in pursuance of that law shall have effect as from the date of the annulment as if that law had not been made.

Sessions.

52. The sessions of the House shall be held at such place and begin at such time as the Governor from time to time by proclamation published in the Gazette shall appoint; but a period of twelve months shall not elapse between the date when the House last sat in one session and the date appointed for its first sitting 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.

(2) The Governor shall dissolve the House at the expiration of five years from the date when the House first meets after any general election if it is not sooner dissolved.

General elections.

54. There shall be a general election at such time within three months after the appointed day, and thereafter within three months after every dissolution of the House, as the Governor by proclamation published in the Gazette shall appoint.

PART VI

OFFICES AND THE PUBLIC SERVICE

Governor's powers in this Part.

55. The powers conferred upon the Governor by this Part of this Order shall be exercised by him in his discretion.

Governor's powers to constitute and appoint to offices, etc.

56.—(1) Subject to the provisions of this Order and of any other law for the time being in force in the Gambia, the Governor, in the name and on behalf of Her Majesty,—

(*a*) may constitute such offices as may lawfully be constituted by Her Majesty and may abolish any office so constituted;

(*b*) may make appointments (including appointments on promotion and transfer) to any office so constituted; and

(*c*) may dismiss any person so appointed, or suspend him from performing the functions of his office, or take such other disciplinary action with respect to him as may be necessary.

(2) A person appointed to an office constituted under this section shall, unless it is otherwise provided by law, hold office during Her Majesty's pleasure.

Delegation of Governor's powers.

57.—(1) Subject to the provisions of this section, the Governor may delegate, in such manner and on such conditions as he may think fit, to any public officer, any power conferred upon him by the last foregoing section to make appointments to public offices or to dismiss or exercise disciplinary control over public officers.

(2) The Governor shall not—

(*a*) delegate any such power unless he has obtained the consent of a Secretary of State to do so;

(*b*) delegate any such power with respect to officers whose annual emoluments exceed such sum as may be prescribed by a Secretary of State.

(3) For the purposes of this section the emoluments of an officer (whether or not he is employed on terms that include eligibility for pension) shall include only such emoluments as, under the law for the time being in force in the Gambia relating to pensions, are taken into account in computing pensions.

(4) If any law or other instrument in force in the Gambia immediately before the appointed day confers upon any public officer any power to appoint, promote, transfer, dismiss, or exercise disciplinary control over, other officers in the public service, that power shall be deemed to have been delegated to that officer by the Governor under this section, and shall be exercisable by that officer until it is revoked by the Governor or until the provision conferring it has been repealed or revoked.

Public Service Commission.

58.—(1) There shall be for the Gambia a Public Service Commission, which shall consist of a chairman and five other members, who shall be appointed by the Governor by notice published in the Gazette.

(2) No person shall be qualified to be appointed as a member of the Public Service Commission if he is a member of, or a candidate for election to, the House, or if he holds, or is acting in, any public office.

(3) A member of the Public Service Commission shall vacate his office—

(*a*) at the expiration of three years from the date of his appointment or at such earlier time as may be specified in the instrument by which he is appointed;

(*b*) if he resigns his office by writing under his hand addressed to the Governor;

(*c*) if he becomes a member of, or a candidate for election to, the House;

(*d*) if he is appointed to hold, or to act in, any public office; or

(*e*) if the Governor directs that he shall be removed from office for inability to perform the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

(4) During any period when the office of a member of the Public Service Commission is vacant or a member is for any reason unable to perform the functions of his office, the Governor may by notice published in the Gazette appoint a person who is qualified for appointment as a member of the Commission to act as a member, and any person so appointed shall, subject to the provisions of the last foregoing subsection, continue to act until the office of the member is filled or until his appointment is revoked by the Governor.

(5) The remuneration of a member of the Public Service Commission, or of any person appointed to act as a member,—

(*a*) shall be such as the Governor may prescribe by order under his hand, and shall be a charge on and paid out of the revenues of the Gambia; and

(*b*) shall not be reduced during his continuance in office.

Public Service Commission to advise Governor.

59.—(1) The Governor, either generally or specially and in whatever manner he thinks fit, may refer to the Public Service Commission for their advice any question which relates to the appointment, promotion, transfer, dismissal or disciplinary control of public officers, and any other question which, in his opinion, affects the public service:

Provided that a judge or magistrate shall not, for the purposes of this section, be regarded as a public officer.

(2) It shall be the duty of the Public Service Commission to advise the Governor on any question which he refers to them under this section, but the Governor shall not be obliged to act in accordance with their advice.

Public Service Commission to advise other officers.

60.—(1) The Governor, in whatever manner he thinks fit, may require or permit any public officer to whom he delegates, or is deemed to have delegated, any power under section 57 of this Order, to refer to the Public Service Commission for their advice, on such conditions as he may prescribe, any question relating to the exercise of that power.

(2) It shall be the duty of the Public Service Commission to advise any public officer on any question which he refers to them in accordance with the provisions of this section; and, in any case in which he is required by the Governor to refer any question to the Commission for their advice, he shall act in accordance with the advice given to him by the Commission unless the Governor authorizes him to act otherwise.

Regulations regarding Public Service Commission.

61. Subject to the provisions of this Order, the Governor may make regulations for giving effect to the foregoing provisions of this Part of this Order, and in particular and without prejudice to the generality of the foregoing power, may by such regulations provide for all or any of the following matters relating to the Public Service Commission:—

(*a*) the appointment, tenure of office and terms of service of staff to assist the Commission in performing their functions;

(*b*) the organization of the work of the Commission;

(*c*) consultation by the Commission with other persons or authorities;

(*d*) the delegation to any member of the Commission of all or any of the functions of the Commission;

(*e*) the protection and privileges of members of the Commission in performing their functions, and the privilege in legal proceedings of communications to and from the Commission or members of the Commission;

(*f*) the attendance of persons for the purpose of answering questions at any enquiry held by the Commission; and

(*g*) 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

JUDGES

Meaning of "judge".

62. In this Part of this Order "judge" means the holder of the office of judge of the Supreme Court of the Colony or of the High Court of the Protectorate.

Retirement and resignation of judges.

63.—(1) Subject to the provisions of this Part of this Order, a judge shall hold office until he attains the age of sixty-two years:

Provided that the Governor, in his discretion, may permit a judge to continue in office until he has attained an age not exceeding sixty-five years.

(2) A judge may at any time resign his office by writing under his hand addressed to the Governor.

Removal of judges.

64.—(1) A judge may be removed from office only for inability to perform the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour, and shall not be removed except in accordance with the provisions of the next following subsection.

(2) A judge shall be removed from office by the Governor by order under the public seal if the question of removing him from office has, at the request of the Governor, made in pursuance of the next following subsection, been referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under section 4 of the Judicial Committee Act, 1833(a), or any other enactment enabling Her Majesty in that behalf, and the Judicial Committee has advised Her Majesty that the judge should be removed from office for inability as aforesaid or for misbehaviour.

(3) If the Governor considers that the question of removing a judge from office for inability as aforesaid or for misbehaviour should be investigated, then—

(*a*) the Governor shall by order under the public seal (which he may amend or revoke by another such order) appoint a tribunal, which shall consist of a chairman and not less than two other members, selected by the Governor from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court;

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

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

(a) 3 & 4 Will. 4. c. 41.

(4) Subject to the provisions of the last foregoing subsection, the provisions of the Commissions of Inquiry Ordinance(a), as in force on the 1st day of January, 1962, shall apply in relation to a tribunal appointed by an order made under that subsection as if the tribunal were commissioners appointed by a commission issued under the Ordinance, and references in the Ordinance to commissioners and a commission shall be construed accordingly.

(5) If the question of removing a judge from office has been referred to a tribunal under subsection (3) of this section the Governor may suspend the judge from performing the functions of his office, and any such suspension may at any time be revoked by the Governor, and shall in any case cease to have effect—

(*a*) if the tribunal recommends to the Governor that he should not request that the question of removing the judge from office should be referred by Her Majesty to the Judicial Committee ; or

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

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

Salary, etc. of judges.

65.—(1) The salary and allowances of a judge shall be such as the Governor, in his discretion, may prescribe by order under his hand, and shall be a charge on and paid out of the revenues of the Gambia.

(2) (*a*) The salary and allowances of a judge shall not be reduced, nor shall his pension rights and other conditions of service be made less favourable to him, during his continuance in office ; and, for the purpose of this subsection, if he elects that one of two or more laws shall apply to him, that law shall be deemed to be more favourable than the other law or laws.

(*b*) This subsection shall not apply to allowances which, under the law for the time being in force in the Gambia relating to pensions, are not taken into account in computing pensions.

PART VIII

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

Boundaries of Colony and Protectorate.

66.—(1) The Colony shall, until an Order of Her Majesty in Council otherwise provides, comprise all places, settlements and territories which may at any time constitute part of Her dominions in West Africa, between the twelfth and fifteenth degrees of north latitude, and lying to the westward of the tenth degree of west longitude.

(2) The Protectorate shall comprise the territories in West Africa, excluding the Colony, which are bounded on the west by the Atlantic Ocean and on the north, south and east by the line of the frontier between the Protectorate and the Republic of Senegal.

Governor's powers with respect to land.

67.—(1) Subject to the provisions of any law for the time being in force in the Gambia and of any Instructions given under Her Majesty's Sign Manual and Signet or through a Secretary of State, the Governor may make under the public seal grants and other dispositions of land or other immovable property in the Gambia which may lawfully be granted or disposed of by Her Majesty.

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

(2) (*a*) The powers conferred upon the Governor by this section may be exercised on behalf of the Governor by any person so authorized, whether by name or by reference to an office, by the Governor by notice published in the Gazette.

(*b*) Any such authority shall be subject to such conditions and restrictions (if any) as may be specified in the notice by which it is conferred, and may be varied or revoked by the Governor by notice published in the Gazette.

Public seal.

68. The Governor shall keep and use the public seal for sealing all things whatsoever that shall pass the said seal.

Governor's powers of pardon, etc.

69. Subject to the provisions of any Instructions given under Her Majesty's Sign Manual and Signet, the Governor, in his discretion, may, in Her Majesty's name and on Her Majesty's behalf—

(*a*) grant to any person concerned in the commission of any offence for which he may be tried in the Gambia or to any person convicted of an offence in any court in the Gambia a pardon, either free or subject to lawful conditions;

(*b*) grant to any person a respite, either indefinite or for a specified period, of the execution of any sentence passed on that person in any court in the Gambia;

(*c*) substitute a less severe form of punishment for that imposed by any sentence of any such court; or

(*d*) remit the whole or any part of any such sentence or of any penalty or forfeiture otherwise due to Her Majesty on account of any offence in respect of which a person has been convicted by any court in the Gambia.

Concurrent appointments.

70. Whenever the holder of any office constituted by or under this Order or under the instruments set out in the First Schedule to this Order, or any public office otherwise constituted, is on leave of absence pending relinquishment of his office—

(*a*) another person may be appointed substantively to that office; and

(*b*) that person shall, for the purpose of any function of that office, be deemed to be the sole holder of that office.

Executive Council.

71. Notwithstanding the revocation by this Order of the Gambia (Constitution) Order in Council, 1960, the Executive Council established by that Order—

(*a*) shall continue to exist until such time as the Executive Council established by this Order has been constituted; and

(*b*) shall, until that time, perform its functions and be consulted by the Governor in accordance with the provisions of that Order.

Existing officers.

72.—(1) Subject to the provisions of this Order, any person who, immediately before the appointed day, holds or is acting in the office of Governor or any office constituted under the instruments set out in the First Schedule to this Order, or any public office otherwise constituted, shall, on and after that day, continue to hold or to act in his office as if he had been appointed to it in accordance with the provisions of this Order.

(2) Any person to whom the last foregoing subsection applies who, before the appointed day, has made any oath or affirmation required to be made by him before assuming the functions of his office, shall not, by reason only of that subsection, be required to make a like oath or affirmation under this Order, or under any other law in force in the Gambia.

Existing laws.

73.—(1) The continued operation of the laws in force in the Gambia immediately before the appointed day shall not be affected by reason only of the revocation of the instruments set out in the First Schedule to this Order, but, for the avoidance of doubt, it is hereby declared that the provisions of those laws shall have effect on and after the appointed day only to such extent as they are consistent with the provisions of this Order.

(2) (*a*) The Governor may, by order published in the Gazette, at any time within twelve months after the appointed day, provide that an existing law shall be read and construed with such adaptations and modifications as may appear to him to be necessary or expedient for bringing that law into conformity with the provisions of this Order or otherwise for giving effect or enabling effect to be given to those provisions; and in particular and without prejudice to the generality of the foregoing power the Governor may by an order made under this section provide for the transfer of powers and duties conferred or imposed by an existing law upon any person or authority to such other person or authority as may be specified in the order.

(*b*) In this subsection "an existing law" means a law enacted by any legislature in the Gambia, or an instrument made in exercise of a power conferred by a law so enacted, that is in force in the Gambia immediately before the appointed day.

(3) An order made under this section—

(*a*) may be given retrospective effect to a day not earlier than the appointed day; and

(*b*) may be amended, revoked or replaced by a further order so made or, in relation to any law or instrument affected thereby, by the authority having power to amend, repeal or revoke that law or instrument.

Power reserved to Her Majesty.

74. 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.

FIRST SCHEDULE

Sections 3, 70, 72 (1) and 73 (1)

INSTRUMENTS REVOKED

The Gambia (Constitution) Order in Council, 1960(a).

The Gambia Protectorate Orders in Council, 1954 and 1960(b).

The Gambia (Electoral Provisions) Order in Council, 1959(c).

The Gambia (Electoral Provisions) Order in Council, 1961(d).

The Gambia Colony Letters Patent, 1954 and 1960(e).

SECOND SCHEDULE

Sections 6, 8 (2), 17 and 42

FORMS OF OATHS AND AFFIRMATIONS

1. *Oath of Allegiance*

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.

2. *Affirmation of Allegiance*

I ..... do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law.

3. *Oath for due execution of office*

I ..... do swear that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, in the office of (*here insert the description of the office*). So help me God.

4. *Affirmation for due execution of office*

I ..... do solemnly and sincerely affirm and declare that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, in the office of (*here insert the description of the office*).

EXPLANATORY NOTE

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

This Order provides for a new Constitution for the Gambia based on the Report of the Gambia Constitutional Conference, 1961 (Cmnd. 1469). It makes new provision with respect to the Governor, the Executive Council and the House of Representatives. It also provides for the public service, an advisory Public Service Commission and the tenure of office of judges. Finally, it contains certain miscellaneous and transitional provisions.

(a) S.I. 1960/701 (1960 III, p. 3957).

(b) S.I. 1954/1144, 1960/702 (1954 II, p. 2786; 1960 III, p. 3979).

(c) S.I. 1959/1771 (1959 II, p. 3187). (d) S.I. 1961/2035 (1961 III, p. 3705).

(e) 1954 II, p. 3002 ; 1960 III, p. 4215.