1959 No. 862

The Jamaica (Constitution) Order in Council, 1959

Made - - - -	13*th May*, 1959
Coming into Operation	
Sections 103, 104 (2), 106, 117 (3), 117 (4) *and* 120 (2) -	*Forthwith*
Remainder of Order -	4*th July*, 1959

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At the Court at Buckingham Palace, the 13th day of May, 1959

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the Jamaica Act, 1866(a), the enactments of the Legislature of Jamaica therein mentioned, or otherwise in Her vested, 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 it is otherwise provided or the context otherwise requires—

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

"the Broad Seal" means the Broad Seal of Jamaica;

"the Cabinet" means the Cabinet established by section 47 of this Order;

"chamber" means either the Legislative Council or the House of Representatives, as the context may require;

"the Clerk" and "the Deputy Clerk" mean, respectively, the Clerk and the Deputy Clerk of either chamber, as the context may require;

"the Consolidated Fund" means the Consolidated Fund established by section 92 of this Order;

"constituency" means an area of Jamaica having separate representation in the House of Representatives;

"the existing instruments" means the instruments set out in the First Schedule to this Order;

(a) 29 & 30 Vict. c. 12.

" the Federal Constitution " means the Constitution of the West Indies annexed to the West Indies (Federation) Order in Council, 1957(a) ;

" the Federal Legislature " means the Federal Legislature established by the Federal Constitution ;

" the Federation " means the Federation of The West Indies established by the West Indies (Federation) Order in Council, 1957(a) ;

" the financial year " means the twelve months ending on the 31st day of March in any year or on such other date as may from time to time be prescribed by a law enacted under this Order ;

" the Gazette " means the Jamaica Gazette ;

" the Governor " means the Captain-General and Governor-in-Chief of Jamaica ;

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

" Jamaica " means the Colony of Jamaica ;

" the Judicial Service Commission " means the Judicial Service Commission established by section 68 of this Order ;

" the Legislative Council " means the Legislative Council established by Part III of this Order ;

" the Legislature " means the Legislature established by Part III of this Order ;

" Minister " means a Minister appointed under section 48 of this Order and includes—

(*a*) the Premier ; and

(*b*) save for the purposes of sections 47, 48, 50 and 53 of this Order, a temporary Minister appointed under section 51 of this Order.

" Parliamentary Secretary " means a Parliamentary Secretary appointed under section 57 of this Order ;

" police officer " means a member of the Jamaica Constabulary Force (or any force, by whatever name called, for the time being succeeding to the functions of the Jamaica Constabulary Force) ;

" the Police Service Commission " means the Police Service Commission established by section 83 of this Order ;

" Premier " means a Premier appointed under section 48 of this Order ;

" the President " and " the Deputy President " mean, respectively, the President and Deputy President of the Legislative Council elected under section 20 of this Order ;

" the Privy Council " means the Privy Council established by section 60 of this Order ;

" 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 ;

(a) S.I. 1957/1364 (1957 I, p. 202).

" the public service " means the service of the Crown in a civil capacity in respect of the Government of Jamaica (including service as a member of the Judicial Service Commission, the Public Service Commission or the Police Service Commission) but does not include service on the personal staff of the Governor, or as the Clerk or Deputy Clerk of either chamber, or as a member of the Privy Council or as a Judge of the Supreme Court ;

"the Public Service Commission" means the Public Service Commission established by section 75 of this Order ;

" session " means, in relation to a chamber of the Legislature, the sittings of that chamber commencing when it first meets after this Order comes into force or after the prorogation or dissolution of the Legislature at any time and terminating when the Legislature is prorogued or is dissolved without having been prorogued ;

" sitting " means, in relation to a chamber of the Legislature, a period during which that chamber is sitting continuously without adjournment and includes any period during which the chamber is in committee ;

" the Speaker " and " the Deputy Speaker " mean respectively the Speaker and Deputy Speaker elected under section 21 of this Order ;

" the Supreme Court " means the Supreme Court established by section 64 of this Order.

(2) Save where this Order otherwise provides or the context otherwise requires—

(*a*) any reference in this Order to an appointment to any office shall be construed as including a reference to an appointment on promotion or transfer to that office and to the appointment of a person to perform the functions of that office during any period during which it is vacant or during which the holder thereof is unable (whether by reason of absence or infirmity of body or mind or any other cause) to perform those functions ; and

(*b*) any reference in this Order to the holder of an office by the term designating his office shall be construed as including a reference to any person for the time being lawfully performing the functions of that office.

(3) Where by this Order power is conferred on any person or authority to appoint a person to perform the functions of any office if the holder thereof is unable himself to perform its functions, any such appointment shall not be called in question on the ground that the holder of that office was not unable to perform those functions.

(4) For the purposes of this Order, the resignation of a member of any body or the holder of any office constituted by this Order that is required to be addressed to the Governor shall have effect from the time when it is accepted by the Governor (acting in each case in the manner prescribed by this Order in relation to the appointment of that member or of the holder of that office) and any such resignation that is required to be addressed to any other person shall have effect from the time when it is received by that person :

Provided that, subject to the provisions of paragraph (*a*) of subsection (4) of section 20 and paragraph (*a*) of subsection (4) of section 21 of

this Order, a resignation that is required to be addressed to the President or the Speaker shall, if the office of President or Speaker (as the case may be) is vacant, or the President or Speaker is absent from Jamaica, have effect from the time when it is received by the Deputy President or Deputy Speaker on behalf of the President or Speaker.

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

(6) If it is provided by any law for the time being in force in Jamaica that an office (not being an office constituted by this Order) shall not be a public office for the purposes of Part III of this Order, this Order shall have effect accordingly as if that provision of that law were enacted herein.

(7) For the purposes of this Order a person shall not be considered as holding a public office by reason only of the fact that he is in receipt of any remuneration or allowances (including a pension or other like allowance) in respect of his tenure of the office of President, Deputy President, Speaker, Deputy Speaker, Minister, Parliamentary Secretary, member of the Legislative Council or member of the House of Representatives.

(8) (*a*) Without prejudice to the provisions of subsection (2) of this section, when the holder of any office constituted by or under this Order is on leave of absence pending relinquishment of that office, the person or authority having power to make appointments to that office may appoint another person thereto.

(*b*) Where two or more persons are holding the same office by reason of an appointment made pursuant to the preceding paragraph, the person last appointed shall, in respect of any function conferred on the holder of that office, be deemed to be the sole holder of that office.

(9) Where any power is conferred by this Order to make any Proclamation or order or to give any directions, the power shall be construed as including a power exercisable in like manner to amend or revoke any such Proclamation, order or directions.

(10) Where a person is required by this Order to make an oath he shall be permitted, if he so desires, to comply with that requirement by making an affirmation.

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

(12) References in this Order to Her Majesty's dominions shall be construed as if they were references to all countries and territories within the Commonwealth.

(13) In this Order, unless it is otherwise provided or the context otherwise requires, references to the functions of the Governor shall be construed as references to his powers and duties in the exercise of the executive authority of Jamaica and to any other powers or duties conferred or imposed on him as Governor by or under this Order or any other law for the time being in force in Jamaica.

(14) Save as is in this Order otherwise provided or required by the context, the Interpretation Act, 1889(a), 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 Jamaica (Constitution) Order in Council, 1959, and, subject to the provisions of section 115 of this Order, shall, except where otherwise provided, come into operation on such day as the Governor may appoint by Proclamation published in the Gazette.

Revocation

3. The existing instruments are hereby revoked.

PART II.—THE GOVERNOR

The Governor

4.—(1) There shall be a Captain-General and Governor-in-Chief in and over Jamaica who shall be appointed by Her Majesty by Commission under Her Sign Manual and Signet and shall hold office during Her Majesty's pleasure.

(2) The Governor shall have such powers and duties as are conferred on him by or under this Order or any other law, and such other powers 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 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 and the performance of any duties 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:

Provided that the question whether or not the Governor has in any matter complied with any such instructions shall not be enquired into in any court.

(3) Before entering upon the duties of his office, the Governor shall make the oaths of allegiance and for the due execution of the office of Captain-General and Governor-in-Chief in the forms set out in the Second Schedule to this Order.

Acting Governor

5.—(1) During any period when the office of Governor is vacant or the Governor is absent from Jamaica or is for any other reason unable to perform the functions of his office, those functions shall, during Her Majesty's pleasure, be assumed and performed by—

(*a*) such person as Her Majesty may designate in that behalf by instructions given through a Secretary of State; or

(*b*) if there is no person in Jamaica so designated and able to perform those functions, such person as Her Majesty may appoint in that behalf by Commission under Her Sign Manual and Signet.

(2) Before assuming the functions of the office of Governor, any such person as aforesaid shall make the oaths directed by the preceding section to be made by the Governor.

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

(3) Any such person as aforesaid shall not continue to perform the functions of the office of Governor after the Governor or some other person having a prior right to perform them has notified him that he is about to assume or resume them.

(4) The Governor or any other person as aforesaid shall not, for the purposes of this section, be regarded as absent from Jamaica or as unable to perform the functions of the office of Governor—

(*a*) by reason only that he is in passage from one part of Jamaica to another, or

(*b*) by reason only that he is visiting the Cayman Islands or the Turks and Caicos Islands or is in passage between any one of those islands and another or between any one of those islands and Jamaica, or

(*c*) at any time when there is a subsisting appointment of a deputy under the following section.

Deputy to Governor

6.—(1) Whenever the Governor—

(*a*) has occasion to be absent from the seat of Government but not from Jamaica ; or

(*b*) has occasion to be absent from Jamaica for a period which he has reason to believe will be of short duration ; or

(*c*) has occasion to be absent from Jamaica for the purpose of visiting the Cayman Islands or the Turks and Caicos Islands ; or

(*d*) is suffering from an illness that he has reason to believe will be of short duration,

he may, in his discretion, by instrument under the Broad Seal, appoint any person in Jamaica to be his deputy during such absence or illness, and in that capacity to perform on his behalf such of the functions of the office of Governor as may be specified in that instrument.

(2) The power and authority of the Governor shall not be abridged, altered or in any way affected by the appointment of a deputy under this section, and a deputy shall conform to and observe all instructions that the Governor, acting in his discretion, may from time to time address to him:

Provided that the question whether or not a deputy has conformed to or observed any such instructions shall not be enquired into in any court.

(3) A person appointed as a deputy under this section shall hold that appointment for such period as may be specified in the instrument by which he is appointed, and his appointment may be revoked at any time by Her Majesty by instructions given through a Secretary of State or by the Governor acting in his discretion.

Salary and duty allowance of Governor and Acting Governor

7.—(1) The Governor shall receive such salary and (save when some other person is performing the functions of his office under section 5 of this Order) such duty allowance as the Legislature may from time to time by law provide.

(2) During any period when any person is performing the functions of the office of Governor under section 5 of this Order that person shall receive a salary calculated at the rate of nineteen-twentieths of

the salary of the Governor and such duty allowance as would otherwise be payable to the Governor and shall not be entitled to receive during that period any salary in respect of any other public office.

(3) The salary and duty allowance payable to the Governor or to any other person under this Order shall not be reduced during his continuance in the office of Governor or while he continues to perform the functions of that office, as the case may be, and shall be charged on and paid out of the Consolidated Fund.

Other expenditure and personal staff of Governor

8.—(1) The Legislature may from time to time, by law enacted under this Order, prescribe the offices that are to constitute the personal staff of the Governor, the salaries and allowances that are to be paid to the members of that staff and the other sums that are to be paid in respect of the expenditure attaching to the office of Governor.

(2) Any salaries or other sums prescribed under the preceding subsection shall be charged on and paid out of the Consolidated Fund.

(3) Subject to the provisions of the following subsection, the power to make appointments to the offices for the time being prescribed under subsection (1) of this section as offices that are to constitute the personal staff of the Governor, and to dismiss and to exercise disciplinary control over persons holding or acting in any such offices, shall vest in the Governor acting in his discretion.

(4) The Governor, acting in his discretion, may appoint to any of the offices prescribed under subsection (1) of this section such public officers as he may select from a list submitted by the Public Service Commission, but—

(*a*) the provisions of the preceding subsection shall apply in relation to an officer so appointed as respects his service on the personal staff of the Governor but not as respects his service as a public officer;

(*b*) an officer so appointed shall not, during his continuance on the personal staff of the Governor, perform the functions of any public office; and

(*c*) an officer so appointed may at any time be appointed by the Governor, if the Public Service Commission so recommend, to assume or resume the functions of a public office and he shall thereupon vacate his office on the personal staff of the Governor, but the Governor may, in his discretion, decline to release the officer for that appointment.

(5) All offices prescribed under subsection (1) of this section as offices that are to constitute the personal staff of the Governor shall, for the purposes of Part III and sections 68, 75, 83, 89, 90 and 91 of this Order, be deemed to be public offices.

Exercise of Governor's functions

9.—(1) The Governor shall consult with the Cabinet (or a Minister acting under the general authority of the Cabinet) in the exercise of all his functions other than—

(*a*) any function which is expressed (in whatever terms) to be exercisable by him 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 Cabinet; and

(*b*) any function which is expressed (in whatever terms) to be exercisable by him in his discretion.

(2) The Governor shall act in accordance with the advice of the Cabinet (or of the said Minister) in the exercise of any function in the exercise of which he is obliged by this section to consult with the Cabinet (or the said Minister).

(3) Where the Governor is directed by this Order to exercise any function on the recommendation of any person or authority, he shall exercise that function in accordance with such recommendation:

Provided that—

(*a*) before he acts in accordance therewith, he may, in his discretion, once refer that recommendation back for reconsideration by the person or authority concerned; and

(*b*) if that person or authority, having reconsidered the original recommendation under the preceding paragraph, substitutes therefor a different recommendation, the provisions of this subsection shall apply to that different recommendation as they apply to the original recommendation.

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

(5) Where the Governor is directed by this Order to exercise any function 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 function shall not be enquired into in any court.

(6) Subject to any instructions which Her Majesty may from time to time see fit to give him, the Governor shall, in the exercise of any function conferred on him by this Order which is expressed (in whatever terms) to be exercisable by him in his discretion, act, so far as may be, in accordance with any constitutional conventions applicable to the exercise of any similar function by Her Majesty in the United Kingdom:

Provided that the question whether he has so exercised that function shall not be enquired into in any court.

Disposal of land

10. Subject to the provisions of any law for the time being in force in Jamaica and to any instructions from time to time given to him by Her Majesty, the Governor, in Her Majesty's name and on Her Majesty's behalf, may, under the Broad Seal, make grants and dispositions of land or other immovable property in Jamaica which may lawfully be granted or disposed of by Her Majesty.

Appointment, etc. of officers

11. The Governor may, in the name of and on behalf of Her Majesty, constitute such offices for Jamaica as may lawfully be constituted by Her Majesty, and, subject to the provisions of this Order

and of any other law for the time being in force in Jamaica, the Governor may likewise—

(*a*) make appointments, to be held during pleasure, to any office so constituted; and

(*b*) dismiss any person so appointed or take such other disciplinary action in relation to him as the Governor may think fit.

Pardon

12.—(1) The Governor may, in Her Majesty's name and on Her Majesty's behalf—

(*a*) grant to any person concerned in or convicted of any offence to which this section applies a pardon, either free or subject to lawful conditions; or

(*b*) grant to any person a respite, either indefinite or for a specified period, from the execution of any sentence passed on that person for such an offence; or

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

(*d*) remit the whole or any part of any sentence passed for such an offence or any penalty or forfeiture otherwise due to Her Majesty on account of such an offence.

(2) The offences to which this section applies are offences against any law in force in Jamaica other than a law of the Federal Legislature.

(3) In the exercise of the powers conferred on him by this section, the Governor shall act in his discretion.

Broad Seal

13. The Governor shall keep and use the Broad Seal for sealing all things whatsoever that shall pass the said Seal.

PART III.—THE LEGISLATURE

Composition

Constitution of Legislature

14. There shall be a Legislature in and for Jamaica which shall consist of Her Majesty, a Legislative Council and a House of Representatives.

Legislative Council

15.—(1) The Legislative Council shall consist of persons who, being qualified for appointment as members in accordance with the provisions of this Order, have been so appointed in accordance with the provisions of this section.

(2) Not more than three nor less than two (as the Governor, acting in accordance with the advice of the Premier, may from time to time decide) of the members of the Legislative Council shall be persons who have been appointed by the Governor, acting as aforesaid, by instrument under the Broad Seal.

(3) The remaining members of the Legislative Council shall consist of eighteen persons who have been appointed by the Governor, by instrument under the Broad Seal, after consultation with such persons as, in his discretion, he considers can speak for the differing political points of view of groups represented in the House of Representatives.

House of Representatives

16.—(1) The House of Representatives shall consist of persons who, being qualified for election as members in accordance with the provisions of this Order, have been so elected in the manner provided by or under any law for the time being in force in Jamaica.

(2) There shall be one member of the House of Representatives for each constituency constituted in accordance with the provisions of section 45 or section 106 of this Order.

Qualifications for membership of Legislative Council and House of Representatives

17. Subject to the provisions of the following section, any person who, at the date of his appointment or nomination for election—

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

(*b*) has been ordinarily resident in Jamaica for the immediately preceding twelve months,

shall be qualified to be appointed as a member of the Legislative Council or elected as a member of the House of Representatives and no other person shall be so qualified.

Disqualifications for membership of Legislative Council and House of Representatives

18.—(1) No person shall be qualified for election as a member of the House of Representatives who—

(*a*) is a member of the Legislative Council;

(*b*) is disqualified for election by any law for the time being in force in Jamaica 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) No person shall be qualified to be appointed as a member of the Legislative Council or elected as a member of the House of Representatives 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 or in the office of Judge of the Supreme Court;

(*c*) is a party to, or a partner in a firm or a director or manager of a company which is a party to, any contract with the Government of Jamaica for or on account of the public service, and has not—

(i) in the case of appointment as a member of the Legislative Council, by informing the Governor; or

(ii) in the case of election as a member of the House of Representatives, by publishing a notice in the Gazette within one month before the day of election,

previously disclosed the nature of such contract and his interest, or the interest of such firm or company, therein;

(*d*) 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 is under such a sentence of imprisonment the execution of which is suspended;

(*e*) has been adjudged or otherwise declared bankrupt under any law in force in any part of Her Majesty's dominions and has not been discharged;

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

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

(3) For the purposes of paragraph (*d*) 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.

Tenure of office of members of Legislative Council and House of Representatives

19.—(1) The seat of a member of either chamber shall become vacant—

(*a*) upon the next dissolution of the Legislature after he has been appointed or elected;

(*b*) if he resigns his seat by writing under his hand addressed—

(i) in the case of a member of the Legislative Council, to the Governor; and

(ii) in the case of a member of the House of Representatives, to the Clerk;

(*c*) if he is absent from sittings of the chamber for such period and in such circumstances as may be prescribed in the Standing Orders of the chamber;

(*d*) if he ceases to be 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;

(*e*) if any circumstances arise that, if he were not a member of the chamber, would cause him to be disqualified for appointment or election as such by virtue of paragraphs (*b*), (*e*), (*f*) or (*g*) of subsection (2) of the preceding section; or

(*f*) if he becomes a party to any contract with the Government of Jamaica 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 the Governor (in the case of a member of the Legislative Council) or to the House of Representatives (in the case of a member of that chamber) to be just so to do, the Governor, acting in his discretion, or the House of Representatives (as the case may be) may exempt any member from vacating his seat under the provisions of this paragraph, if that 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 a partner in a firm or as a director or manager of a company) discloses to the Governor or to the House of Representatives (as the case may be) the nature of such contract and his interest, or the interest of such firm or company, therein.

(2) The seat of a member of the House of Representatives shall become vacant if—

(*a*) he is appointed as a member of the Legislative Council; or

(*b*) any circumstances arise that, if he were not a member of the House of Representatives, would cause him to be disqualified for election as such by virtue of paragraph (*b*) of subsection (1) of the preceding section.

(3) The seat of a member of the Legislative Council who was appointed as such in pursuance of subsection (2) of section 15 of this Order shall become vacant if the Governor, acting in accordance with the advice of the Premier, so declares by instrument under the Broad Seal.

(4) (*a*) Subject to the provisions of the following paragraph, if any member of either chamber is sentenced by a court in any part of Her Majesty's dominions to death or to imprisonment (by whatever name called) for a term of or exceeding six months, he shall forthwith cease to exercise any of his functions as a member and his seat in the chamber shall become vacant at the expiration of a period of thirty days thereafter:

Provided that the President or the Speaker, as the case may be, 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 extensions of time exceeding in the aggregate 330 days shall not be given without the approval, signified by resolution, of the chamber concerned.

(*b*) If at any time before the member vacates his seat he is granted 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 shall not become vacant under the preceding paragraph and he may resume the exercise of his functions as a member.

(*c*) For the purposes of this subsection—

(i) 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

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

President and Deputy President of Legislative Council

20.—(1) When the Legislative Council first meets after any general election to the House of Representatives, and before it proceeds to the despatch of any other business, it shall elect one of its members, not being a Minister or a Parliamentary Secretary, to be President; and whenever the office of President is vacant otherwise than by reason of a dissolution of the Legislature, the Legislative Council shall, not later than its second sitting after the vacancy has arisen, elect any other such member to fill that office.

(2) Upon the President's being elected and before he enters upon the duties of his office, he shall (unless he has already done so in accordance with the provisions of section 40 of this Order) make and subscribe before the Legislative Council the oath of allegiance in the form set out in the Second Schedule to this Order.

(3) When the Legislative Council first meets after any general election, it shall, as soon as practicable, elect one of its members, not being a Minister or a Parliamentary Secretary, to be Deputy President; and whenever the office of Deputy President becomes vacant, the Legislative Council shall, as soon as convenient, elect another such member to fill that office.

(4) A person shall vacate the office of President or Deputy President—

(*a*) if he announces the resignation of his office to the Legislative Council or if, by writing under his hand, addressed in the case of the President to the Clerk and in the case of the Deputy President to the President (or, if the office of President is vacant or the President is absent from Jamaica, to the Clerk), he resigns that office;

(*b*) if he ceases to be a member of the Legislative Council:

Provided that if the President ceases to be a member by reason of a dissolution of the Legislature, he shall be deemed to continue in office for the purposes of section 25 of this Order until he resigns his office or vacates it otherwise than by reason of a dissolution of the Legislature or until the office of President is filled;

(*c*) if, under the provisions of subsection (4) of the preceding section, he is required to cease to exercise any of his functions as a member of the Legislative Council;

(*d*) if he is appointed to be a Minister or a Parliamentary Secretary; or

(*e*) in the case of the Deputy President, if he is elected to be President.

Speaker and Deputy Speaker of House of Representatives

21.—(1) When the House of Representatives first meets after any general election, and before it proceeds to the despatch of any other business, it shall elect one of its members, not being a Minister or a Parliamentary Secretary, to be Speaker; and whenever the office of Speaker is vacant otherwise than by reason of a dissolution of the

Legislature, the House of Representatives shall, not later than its second sitting after the vacancy has arisen, elect another such member to fill that office.

(2) Upon the Speaker's being elected and before he enters upon the duties of his office, he shall (unless he has already done so in accordance with the provisions of section 40 of this Order) make and subscribe before the House of Representatives the oath of allegiance in the form set out in the Second Schedule to this Order.

(3) When the House of Representatives first meets after any general election it shall, as soon as practicable, elect one of its members, not being a Minister or a Parliamentary Secretary, to be Deputy Speaker; and whenever the office of Deputy Speaker becomes vacant, the House of Representatives shall, as soon as convenient, elect another such member to fill that office.

(4) A person shall vacate the office of Speaker or Deputy Speaker—

(*a*) if he announces the resignation of his office to the House of Representatives or if, by writing under his hand, addressed in the case of the Speaker to the Clerk and in the case of the Deputy Speaker to the Speaker (or, if the office of Speaker is vacant or the Speaker is absent from Jamaica, to the Clerk), he resigns that office;

(*b*) if he ceases to be a member of the House of Representatives:

Provided that if the Speaker ceases to be a member by reason of a dissolution of the Legislature, he shall be deemed to continue in office for the purposes of section 25 of this Order until he resigns his office or vacates it otherwise than by reason of a dissolution of the Legislature or until the office of Speaker is filled;

(*c*) if, under the provisions of subsection (4) of section 19 of this Order, he is required to cease to exercise any of his functions as a member of the House of Representatives;

(*d*) if he is appointed to be a Minister or a Parliamentary Secretary; or

(*e*) in the case of the Deputy Speaker, if he is elected to be Speaker.

Determination of questions as to membership

22.—(1) Any question whether—

(*a*) any person has been validly elected or appointed as a member of either chamber; or

(*b*) any member of either chamber has vacated his seat therein or is required, under the provisions of subsection (4) of section 19 of this Order, to cease to exercise any of his functions as a member;

shall be determined by the Supreme Court in accordance with the provisions of any law for the time being in force in Jamaica and, subject to any such law, in accordance with any directions given in that behalf by the Chief Justice.

(2) Proceedings for the determination of any question referred to in the preceding subsection may be instituted by any person (including the Attorney-General) and where such proceedings are instituted by a person other than the Attorney-General, the Attorney-General may intervene and (if he intervenes) may appear or be represented therein.

Notification of vacancies

23.—(1) Whenever it appears to the President that the seat of a member of the Legislative Council has become vacant (otherwise than by reason of a dissolution of the Legislature) he shall, by writing under his hand, so inform the Governor.

(2) Whenever it appears to the Speaker that the seat of a member of the House of Representatives has become vacant (otherwise than by reason of a dissolution of the Legislature) he shall, by writing under his hand, so inform the Governor.

Penalty for unauthorised person sitting or voting in Legislature

24.—(1) Any person who sits or votes in either chamber of the Legislature, knowing or having reasonable ground for knowing that he is not entitled to do so, shall be liable to a penalty not exceeding twenty pounds for each day upon which he so sits or votes.

(2) Any such penalty shall be recoverable by civil action in the Supreme Court at the suit of the Attorney-General.

Staff of Legislature

25.—(1) The offices of Clerk and Deputy Clerk of the Legislative Council are hereby constituted and appointments to those offices shall be made by the Governor, acting on the recommendation of the President.

(2) The offices of Clerk and Deputy Clerk of the House of Representatives are hereby constituted and appointments to those offices shall be made by the Governor, acting on the recommendation of the Speaker.

(3) Subject to the provisions of subsection (5) of this section the Clerk shall, unless he sooner resigns his office by writing under his hand addressed to the Governor, hold office until he attains the age of 65 years or such later age as may, in any particular case, be prescribed by the Commission appointed under subsection (7) of this section.

(4) Nothing done by the Clerk shall be invalid by reason only that he has attained the age at which he is required by this section to vacate office.

(5) The Clerk shall be removed from office by the Governor if, but shall not be so removed unless, the chamber, by a resolution which has received the affirmative vote of not less than two-thirds of all the members thereof, has resolved that he ought to be so removed for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(6) The provisions of subsections (3) to (5) inclusive of this section shall apply to the Deputy Clerk as they apply to the Clerk.

(7) Subject to the provisions of subsections (3), (5), (6) and (9) of this section, the terms of service (including salary and allowances) of the Clerk and Deputy Clerk shall be determined from time to time by a Commission consisting of the following persons, that is to say:—

(*a*) the Speaker, as Chairman;

(*b*) the President; and

(*c*) the Minister responsible for finance or a person nominated by that Minister to represent him at any meeting of the Commission.

(8) The salaries and allowances of the Clerk and Deputy Clerk shall be paid out of sums provided by the Legislature and no such salary shall be reduced during the continuance in office of the person to whom it is payable.

(9) The offices of Clerk and Deputy Clerk shall, for the purposes of Part III and sections 68, 75, 83, 89, 90 and 91 of this Order, be deemed to be public offices.

(10) A person who is a public officer may, without ceasing to hold office in the public service, be appointed, in accordance with the provisions of this section, to the office of Clerk or Deputy Clerk but—

(*a*) no such appointment shall be made except with the concurrence of the Governor, acting on the recommendation of the Public Service Commission;

(*b*) the provisions of subsections (3), (5) and (6) of this section shall, in relation to an officer so appointed, apply, subject to the provisions of paragraph (*d*) of this subsection, as respects his service as Clerk or Deputy Clerk but not as respects his service as a public officer;

(*c*) an officer so appointed shall not, during his continuance in the office of Clerk or Deputy Clerk perform the functions of any public office; and

(*d*) an officer so appointed may at any time be appointed by the Governor, acting on the recommendation of the Public Service Commission, to assume or resume the functions of a public office and he shall thereupon vacate his office as Clerk or Deputy Clerk, but no appointment under this paragraph shall be made without the concurrence of the President or the Speaker, as the case may be.

(11) The Governor, acting on the recommendation of the Minister responsible for finance after that Minister has consulted the Clerk, may from time to time prescribe, by notice published in the Gazette, the offices (other than the office of Deputy Clerk) which are to constitute the staff of the Clerk and may likewise prescribe which of those offices are subordinate offices.

(12) Power to make appointments to any office for the time being prescribed under the preceding subsection as a subordinate office on the staff of the Clerk and to dismiss and to exercise disciplinary control over persons holding or acting in any such offices is hereby vested in the Clerk.

(13) Before the Public Service Commission recommends to the Governor under subsection (1) of section 77 of this Order—

(*a*) that any person should be appointed to any office on the staff of the Clerk (other than the office of Deputy Clerk and any subordinate office thereon);

(*b*) that any person holding or acting in any such office should be appointed to any other public office; or

(*c*) that any person holding or acting in any such office should be dismissed or that any other penalty should be imposed on him by way of disciplinary control,

the Commission shall consult the Clerk.

(14) Nothing in this section shall be construed as preventing—

(*a*) the appointment of one person to the offices of Clerk of the Legislative Council and Clerk of the House of Representatives; or

(*b*) the appointment of one person to the offices of Deputy Clerk of the Legislative Council and Deputy Clerk of the House of Representatives; or

(*c*) the appointment of one person to any other office on the staff of the Clerk of the Legislative Council and any other office on the staff of the Clerk of the House of Representatives,

and where any person is so appointed to two offices, the foregoing provisions of this section shall apply in relation to him in respect of each such office separately.

(15) The functions conferred by this section on the President shall, if there is no person holding the office of President or if the President is absent from Jamaica or is otherwise unable to perform those functions, be performed by the Deputy President and the functions conferred by this section on the Speaker shall, if there is no person holding the office of Speaker or if the Speaker is absent from Jamaica or is otherwise unable to perform those functions, be performed by the Deputy Speaker.

Powers and Procedure

Power to make laws

26. Subject to the provisions of the West Indies (Federation) Order in Council, 1957(a), and of this Order, the Legislature shall have power to make laws for the peace, order and good government of Jamaica.

Standing Orders

27. Subject to the provisions of this Order, each chamber of the Legislature may from time to time make, amend or revoke Standing Orders for the regulation and orderly conduct of its own proceedings and the despatch of business.

Presiding in Legislative Council and House of Representatives

28.—(1) The President or, in his absence, the Deputy President or, if they are both absent, a member of the Legislative Council (not being a Minister or a Parliamentary Secretary) elected by the Legislative Council for that sitting shall preside at each sitting of the Legislative Council.

(2) The Speaker or, in his absence, the Deputy Speaker or, if they are both absent, a member of the House of Representatives (not being a Minister or a Parliamentary Secretary) elected by the House of Representatives for that sitting shall preside at each sitting of the House of Representatives.

(3) References in this section to circumstances in which the President, Deputy President, Speaker or Deputy Speaker is absent include references to circumstances in which the office of President, Deputy President, Speaker or Deputy Speaker is vacant.

(a) S.I. 1957/1364 (1957 I, p. 202).

Validity of proceedings

29. A chamber of the Legislature shall not be disqualified for the transaction of business by reason of any vacancy in the membership thereof (including any vacancy not filled when the chamber 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 chamber or otherwise took part in those proceedings.

Quorum

30.—(1) If at any time during a sitting of either chamber objection is taken by a member that there is not a quorum present and, after such interval as may be prescribed in the Standing Orders of that chamber, the person presiding ascertains that there is still not a quorum present, he shall thereupon adjourn the chamber.

(2) For the purposes of this section—

(*a*) a quorum of the Legislative Council shall consist of eight members besides the person presiding; and

(*b*) a quorum of the House of Representatives shall consist of sixteen members besides the person presiding.

Voting

31. Save as otherwise provided in this Order, all questions proposed for decision in either chamber of the Legislature shall be determined by a majority of the votes of the members thereof present and voting:

Provided that the person presiding shall not vote unless on any question the votes are equally divided, in which case he shall have and exercise a casting vote.

Introduction of Bills, etc.

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

(2) A Bill other than a Money Bill may be introduced in either chamber, but a Money Bill shall not be introduced in the Legislative Council.

(3) Except on the recommendation of the Governor signified by a Minister, the House of Representatives shall not—

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

(*b*) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding, 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, requests that provision be made for any of the purposes aforesaid.

(4) The Legislative Council shall not—

(*a*) proceed upon any Bill, other than a Bill sent from the House of Representatives, or upon any amendment to a Bill, which, in the opinion of the person presiding, makes provision for any of the following purposes, that is to say, for imposing or altering any tax, for imposing or altering any charge on the revenues or other funds of Jamaica, or for compounding or remitting any debt due to Jamaica ;

(*b*) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding, 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, requests that provision be made for any of the purposes aforesaid.

Restriction on powers of Legislative Council as to Money Bills

33.—(1) If a Money Bill, having been passed by the House of Representatives and sent to the Legislative Council at least one month before the end of the session, is not passed by the Legislative Council without amendment within one month after it is sent to that chamber, the Bill shall, unless the House of Representatives otherwise resolves, be presented to the Governor for his assent notwithstanding that the Legislative Council has not consented to the Bill.

(2) There shall be endorsed on every Money Bill when it is sent to the Legislative Council the certificate of the Speaker signed by him that it is a Money Bill ; and there shall be endorsed on any Money Bill that is presented to the Governor for assent in pursuance of the preceding subsection the certificate of the Speaker signed by him that it is a Money Bill and that the provisions of that subsection have been complied with.

Restriction on powers of Legislative Council as to Bills other than Money Bills

34.—(1) If any Bill other than a Money Bill is passed by the House of Representatives in two successive sessions (whether or not the Legislature is dissolved between those sessions) and, having been sent to the Legislative Council in each of those sessions at least one month before the end of the session, is rejected by the Legislative Council in each of those sessions, that Bill shall, on its rejection for the second time by the Legislative Council, unless the House of Representatives otherwise resolves, be presented to the Governor for assent notwithstanding that the Legislative Council has not consented to the Bill :

Provided that the foregoing provisions of this subsection shall not have effect unless at least seven months have elapsed between the date on which the Bill is passed by the House of Representatives in the first session and the date on which it is passed by that chamber in the second session.

(2) For the purposes of this section a Bill that is sent to the Legislative Council from the House of Representatives in any session shall be deemed to be the same Bill as a former Bill sent to the Legislative Council in the preceding session if, when it is sent to the Legislative Council, it is identical with the former Bill or contains only such alterations as are certified by the Speaker to be necessary owing to

the time that has elapsed since the date of the former Bill or to represent any amendments which have been made by the Legislative Council in the former Bill in the preceding session.

(3) The House of Representatives may, if it thinks fit, on the passage through that chamber of a Bill that is deemed to be the same Bill as a former Bill sent to the Legislative Council in the preceding session, suggest any amendments without inserting the amendments in the Bill, and any such amendments shall be considered by the Legislative Council, and, if agreed to by the Legislative Council, shall be treated as amendments made by the Legislative Council and agreed to by the House of Representatives; but the exercise of this power by the House of Representatives shall not affect the operation of this section in the event of the rejection of the Bill in the Legislative Council.

(4) There shall be inserted in any Bill that is presented to the Governor for assent in pursuance of this section any amendments that are certified by the Speaker to have been made in the Bill by the Legislative Council in the second session and agreed to by the House of Representatives.

(5) There shall be endorsed on any Bill that is presented to the Governor for assent in pursuance of this section the certificate of the Speaker signed by him that the provisions of this section have been complied with.

Provisions relating to sections 32, 33 *and* 34

35.—(1) In sections 32, 33 and 34 of this Order, "Money Bill" means a public Bill which, in the opinion of the Speaker, contains only provisions dealing with all or any of the following matters, namely, the imposition, repeal, remission, alteration or regulation of taxation; the imposition, for the payment of debt or other financial purposes, of charges on the Consolidated Fund or any other public funds or on moneys provided by the Legislature, or the variation or repeal of any such charges; the grant of money to the Crown or to any authority or person, or the variation or revocation of any such grant; the appropriation, receipt, custody, investment, issue or audit of accounts of public money; the raising or guarantee of any loan or the repayment thereof, or the establishment, alteration, administration of abolition of any sinking fund provided in connection with any such loan; or subordinate matters incidental to any of the matters aforesaid; and in this subsection the expressions "taxation," "debt," "public fund," "public money" and "loan" do not include any taxation imposed, debt incurred, fund or money provided or loan raised by any local authority or body for local purposes.

(2) For the purposes of the preceding section, a Bill shall be deemed to be rejected by the Legislative Council if—

(*a*) it is not passed by the Legislative Council without amendment; or

(*b*) it is passed by the Legislative Council with any amendment which is not agreed to by the House of Representatives.

(3) Where the office of Speaker is vacant or the Speaker is for any reason unable to perform any function conferred upon him by subsection (1) of this section or by sections 33 or 34 of this Order, that function may be performed by the Deputy Speaker.

(4) Any certificate of the Speaker or Deputy Speaker given under sections 33 or 34 of this Order shall be conclusive for all purposes and shall not be questioned in any court.

(5) Before giving any such certificate the Speaker or Deputy Speaker, as the case may be, shall, if practicable, consult the Attorney-General.

Restriction on powers of Legislative Council as to certain statutory instruments

36.—(1) Any statutory instrument to which this section applies and which, having been laid before the Legislative Council in any session at least one month before the end of the session, is not approved by the Legislative Council in that session shall, if it is again laid before the Legislative Council at least one month before the end of the next succeeding session (whether or not the Legislature has been dissolved between those two sessions), be deemed to have been approved by the Legislative Council at the end of the latter session if it has not earlier been so approved:

Provided that the foregoing provisions of this subsection shall not have effect unless at least seven months have elapsed between the date on which the statutory instrument is laid before the Legislative Council in the first session and the date on which it is so laid in the second session.

(2) In this section "statutory instrument" means any document by which the Governor, a Minister or any other executive authority has exercised a power to make, confirm or approve orders, rules, regulations or other subordinate legislation, being a power conferred by any law enacted (whether before or after the making of this Order) by any legislature in Jamaica, and the statutory instruments to which this section applies are all statutory instruments in respect of which it is provided (in whatever terms) that they may not come into force until approved by the Legislative Council.

(3) For the purposes of this section a statutory instrument that is laid before the Legislative Council in any session shall be deemed to be the same statutory instrument as a former statutory instrument laid before the Legislative Council in the preceding session if, when it is laid before the Legislative Council, it is identical with the former statutory instrument or contains only such alterations as are certified by the President to be necessary owing to the time that has elapsed since the date of the former statutory instrument.

(4) Where the office of President is vacant or the President is for any reason unable to perform the function conferred upon him by the preceding subsection that function may be performed by the Deputy President.

(5) Any certificate of the President or Deputy President given under subsection (3) of this section shall be conclusive for all purposes and shall not be questioned in any court.

Assent to Bills

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

(*a*) the Governor has assented thereto in Her Majesty's name and on Her Majesty's behalf and has signed it in token of such assent, or

(*b*) Her Majesty has given her assent thereto through a Secretary of State and the Governor has signified such assent by Proclamation published in the Gazette.

(2) A Bill shall be presented to the Governor for assent if, and (subject to the provisions of sections 33 and 34 of this Order) shall not be so presented unless, it has been approved by both chambers of the Legislature either without amendment or with such amendments only as are agreed to by both chambers.

(3) When a Bill is presented to the Governor for assent he shall declare that he assents or refuses assent thereto or that he reserves the Bill for the signification of Her Majesty's pleasure:

Provided that, unless he has been authorised by a Secretary of State to assent thereto, the Governor shall reserve for the signification of Her Majesty's pleasure any Bill—

(*a*) which appears to him, acting in his discretion—

(i) to be inconsistent with any obligation imposed on Her Majesty by any treaty, convention or agreement or arrangement relating to any country or international or similar organisation outside Jamaica; or

(ii) to be likely to prejudice the Royal prerogative; or

(*b*) which is in any way repugnant to or inconsistent with the provisions of this Order.

Words of enactment

38.—(1) In every Bill presented to the Governor for assent, other than a Bill presented under sections 33 or 34 of this Order, the words of enactment shall be as follows:—

"Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and House of Representatives of Jamaica, and by the authority of the same, as follows:—".

(2) In every Bill presented to the Governor for assent under sections 33 or 34 of this Order, the words of enactment shall be as follows:—

"Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the House of Representatives of Jamaica in accordance with the provisions of section 33 (*or section* 34, *as the case may be*) of the Jamaica (Constitution) Order in Council, 1959, and by the authority of the same, as follows:—".

(3) Any alteration of the words of enactment of a Bill made in consequence of the provisions of the preceding subsection shall not be deemed to be an amendment of the Bill.

Powers relating to Jamaican Government Stock

39.—(1) Any law of the Legislature which has been assented to by the Governor and which appears to Her Majesty's Government in the United Kingdom—

(*a*) to alter, to the injury of the stockholders, any of the provisions relating to any Jamaican Government stock, being securities in which a trustee may invest by virtue of section 2 of the Colonial Stock Act, 1900(a); or

(a) 63 & 64 Vict. c. 62.

(*b*) to involve a departure from the original contract in respect of any such stock,

may be disallowed by Her Majesty through a Secretary of State.

(2) Whenever any such 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 is 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 to the foregoing provisions of this subsection, the provisions of subsection (2) of section 38 of the Interpretation Act, 1889(a), shall apply in relation to such disallowance as they apply in relation to the repeal of an Act of Parliament.

(4) In this section "Jamaican Government stock" means stock forming the whole or part of the public debt of Jamaica.

Miscellaneous

Oath of allegiance

40. No member of either chamber shall take part in the proceedings thereof (other than proceedings necessary for the purpose of this section) until he has made and subscribed before that chamber the oath of allegiance in the form set out in the Second Schedule to this Order:

Provided that the election of a President or a Speaker (as the case may be) may take place before the members of the chamber have made and subscribed such oath.

Sessions of Legislative Council and House of Representatives

41.—(1) Subject to the provisions of this section, the sessions of each chamber shall be held in such place and shall begin at such time as the Governor may direct by Proclamation published in the Gazette.

(2) There shall be a session of each chamber from time to time so that a period of twelve months shall not intervene between the last sitting of that chamber in any one session and its first sitting in the next session.

Prorogation and dissolution

42.—(1) The Governor may at any time, by Proclamation published in the Gazette, prorogue the Legislature.

(2) The Governor, acting in his discretion, may at any time, by Proclamation published in the Gazette, dissolve the Legislature.

(3) The Governor shall dissolve the Legislature at the expiration of five years from the date when the House of Representatives first meets after any general election unless it has been sooner dissolved.

(4) If, between a dissolution of the Legislature and the next ensuing general election of members to the House of Representatives, an emergency arises of such a nature that, in the opinion of the Premier, it is necessary for the two chambers of the Legislature to be summoned before that general election can be held, the Governor, acting in accordance with the advice of the Premier, may, by Proclamation published

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

in the Gazette, summon the two chambers of the preceding Legislature and that Legislature shall thereupon be deemed (except for the purposes of the following section) not to have been dissolved but shall be deemed (except as aforesaid) to be dissolved on the date on which the next ensuing general election is held.

General elections and appointment of members of Legislative Council

43.—(1) A general election of members of the House of Representatives shall be held at such time within three months after every dissolution of the Legislature as the Governor shall appoint by Proclamation published in the Gazette.

(2) As soon as may be after every general election, the Governor shall proceed under section 15 of this Order to the appointment of members of the Legislative Council.

Privileges, etc. of chambers

44. The Legislature may by law determine and regulate the privileges, immunities and powers of the two chambers of the Legislature and the members thereof, but no such privileges, immunities or powers shall exceed those of the Commons' House of Parliament of the United Kingdom or of the members thereof.

PART IV.—DELIMITATION OF CONSTITUENCIES

Standing Committee of House of Representatives

45.—(1) Subject to the provisions of section 106 of this Order, Jamaica shall, for the purpose of the election of members to the House of Representatives, be divided into such number of constituencies, being not less than 45 nor more than 60, as may from time to time be provided by Order made by the Governor under this section.

(2) The House of Representatives shall, as soon as practicable after it first meets following any general election, appoint a Standing Committee, of which the Speaker shall be Chairman, for the purpose of the continuous review of—

(*a*) the number of constituencies into which Jamaica is to be divided, and

(*b*) the boundaries of such constituencies.

(3) Subject to the provisions of this section, the constitution and procedure of the Standing Committee shall be determined by the Standing Orders of the House of Representatives.

(4) The Standing Committee shall, in accordance with the provisions of the following subsection, submit to the House of Representatives reports either—

(*a*) showing the constituencies into which it recommends that Jamaica should be divided in order to give effect to the rules set out in the Third Schedule to this Order; or

(*b*) stating that, in the opinion of the Committee, no alteration is required in the existing number or boundaries of constituencies in order to give effect to the said rules.

(5) Reports under the preceding subsection shall be submitted by the Standing Committee—

(*a*) in the case of its first report after the appointed day, not less than three nor more than seven years from that day; and

(*b*) in the case of any subsequent report, not less than three nor more than seven years from the date of the submission of its last report:

Provided that a report made under paragraph (*b*) of the preceding subsection shall not be submitted less than six years from the appointed day or from the date of the submission of the last report of the Committee.

(6) Where the Standing Committee intends to consider making a report, it shall, by notice in writing, inform the Minister responsible for the conduct of elections (hereafter in this section called " the Minister ") accordingly, and a copy of that notice shall be published in the Gazette.

(7) As soon as may be after the Standing Committee has submitted a report to the House of Representatives under paragraph (*a*) of subsection (4) of this section, the Minister shall lay before the House of Representatives for its approval the draft of an Order by the Governor for giving effect, whether with or without modifications, to the recommendations contained in the report, and that draft may make provision for any matters which appear to the Minister to be incidental to or consequential upon the other provisions of the draft.

(8) Where any draft made under this section gives effect to any such recommendations with modifications, the Minister shall lay before the House of Representatives together with the draft a statement of the reasons for the modifications.

(9) If the motion for the approval of any draft made under this section is rejected by the House of Representatives, or is withdrawn by leave of that chamber, the Minister shall amend the draft and lay the amended draft before the House of Representatives.

(10) If any draft made under this section is approved by resolution of the House of Representatives, the Minister shall submit it to the Governor who shall make an Order (which shall be published in the Gazette) in terms of the draft; and that Order shall come into force on such day as may be specified therein and, until revoked by a further Order made by the Governor in accordance with the provisions of this section, shall have the force of law in Jamaica:

Provided that the coming into force of any such Order shall not affect any election to the House of Representatives until a proclamation is made by the Governor appointing the date for the holding of a general election of members to the House of Representatives or affect the constitution of the House of Representatives until the dissolution of the Legislature then in being.

(11) The question of the validity of any Order by the Governor purporting to be made under this section and reciting that a draft thereof has been approved by resolution of the House of Representatives shall not be enquired into in any court.

PART V.—THE EXECUTIVE

Executive authority of Jamaica

46.—(1) The executive authority of Jamaica shall be vested in Her Majesty.

(2) Subject to the provisions of this Order, the executive authority of Jamaica may be exercised on behalf of Her Majesty by the Governor, but nothing in this subsection shall operate so as to prejudice the

provisions of any law for the time being in force in Jamaica whereby functions are conferred on persons or authorities other than the Governor.

Cabinet

47.—(1) There shall be in and for Jamaica a Cabinet which shall consist of the Premier and not less than eleven other Ministers appointed in accordance with the provisions of the following section.

(2) The Cabinet shall be the principal instrument of policy and shall be charged with the general direction and control of the Government of Jamaica and shall be collectively responsible therefor to the Legislature.

Appointment of Ministers

48.—(1) The Governor, acting in his discretion, shall appoint as Premier the member of the House of Representatives who, in his judgment, is best able to command the confidence of a majority of the members of that chamber and shall, acting in accordance with the advice of the Premier, appoint the other Ministers from among the members of the two chambers of the Legislature.

(2) Not less than two nor more than three of the Ministers shall be persons who are members of the Legislative Council.

(3) If occasion arises for making an appointment while the Legislature is dissolved, a person who was a member of the House of Representatives immediately before the dissolution may be appointed Premier and a person who was a member of either chamber immediately before the dissolution may, subject to the provisions of the preceding subsection, be appointed as any other Minister as if, in each case, such person were still a member of the chamber in question, but any person so appointed shall vacate office at the beginning of the next session of that chamber if he is not then a member thereof.

(4) Appointments under this section shall be made by instrument under the Broad Seal.

Tenure of office of Ministers

49.—(1) The Premier 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 of Representatives otherwise than by reason of a dissolution of the Legislature;

(*c*) if, under the provisions of subsection (4) of section 19 of this Order, he is required to cease to exercise any of his functions as a member of the House of Representatives;

(*d*) if he is absent from Jamaica without having given the Governor prior notice of such absence; or

(*e*) if the Governor revokes his appointment as Premier in accordance with the provisions of the following subsection.

(2) If the House of Representatives, by a resolution which has received the affirmative vote of a majority of all the members thereof, has resolved that the appointment of the Premier ought to be revoked, the Governor shall, by instrument under the Broad Seal, revoke his appointment:

Provided that before so revoking the Premier's appointment, the Governor shall consult with the Premier and, if the Premier so requests, the Governor, acting in his discretion, may dissolve the Legislature instead of revoking the appointment.

(3) A Minister, other than the Premier, shall vacate his office—

(*a*) if the office of Premier becomes vacant;

(*b*) if his appointment to his office is revoked by the Governor, acting in accordance with the advice of the Premier, by instrument under the Broad Seal;

(*c*) if, for any reason other than a dissolution of the Legislature, he ceases to be a member of the chamber of which he was a member at the date of his appointment as a Minister;

(*d*) if, under the provisions of subsection (4) of section 19 of this Order, he is required to cease to exercise any of his functions as a member of either chamber;

(*e*) if he is absent from Jamaica without the written permission of the Governor, acting in accordance with the advice of the Premier; or

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

(4) The Premier or any other Minister shall not, for the purposes of this section, be regarded as absent from Jamaica at any time during his passage from one part of Jamaica to another.

Performance of functions of Premier in certain events

50.—(1) Whenever the Premier is unable, by reason of his illness or absence from Jamaica, to perform the functions of his office, the Governor may, by instrument under the Broad Seal, authorise any other Minister who is a member of the House of Representatives to perform the functions conferred on the Premier by this Order (other than the functions conferred on him by subsection (3) of this section).

(2) The Governor may, by instrument under the Broad Seal, revoke any authority given under this section.

(3) The power conferred on the Governor by this section shall be exercised by him acting in his discretion if in his opinion it is impracticable to obtain the advice of the Premier owing to the Premier's illness or absence, and in any other case shall be exercised by the Governor in accordance with the advice of the Premier.

Temporary Ministers

51.—(1) Whenever a Minister other than the Premier is unable, by reason of his illness or absence from Jamaica, to perform the functions of his office, the Governor may, by instrument under the Broad Seal, appoint a person who is a member of the same chamber as that Minister to be a temporary Minister:

Provided that if occasion arises for making an appointment while the Legislature is dissolved, a person who, immediately before the dissolution, was a member of the same chamber as the aforesaid Minister, may be appointed as a temporary Minister as if he were still a member of that chamber, but any person so appointed shall vacate office at the beginning of the next session of that chamber if he is not then a member thereof.

(2) Subject to the provisions of section 49 of this Order, a temporary Minister shall hold office until he is notified by the Governor, by instrument under the Broad Seal, that the Minister on account of whose inability to perform the functions of his office he was appointed is again able to perform those functions or until that Minister vacates his office.

(3) The powers conferred on the Governor by this section shall be exercised by him in accordance with the advice of the Premier.

Oaths

52. The Premier and every other Minister shall, before entering upon the duties of his office, make before the Governor the oath of allegiance and the appropriate oath for the due execution of his office in the forms set out in the Second Schedule to this Order.

Presiding in Cabinet

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

Provided that whenever the Governor is present at any meeting of the Cabinet which he has summoned under the provisions of the following section, he shall preside.

Summoning of Cabinet

54. The Governor, acting in his discretion may summon a special meeting of the Cabinet whenever he thinks fit, but, subject thereto, the Cabinet shall not be summoned except by the authority of the Premier.

Governor entitled to information

55. The Governor shall, for the due exercise of his functions, be entitled to all papers which are available to the Cabinet and to any other information concerning the government of Jamaica which is so available.

Assignment of responsibilities to Ministers

56.—(1) Subject to the provisions of this Order, the Governor, acting in accordance with the advice of the Premier, may, by directions in writing, charge any Minister who is a member of the House of Representatives with the responsibility for any subject or any department of government.

(2) Nothing in this section shall empower the Governor to confer on any Minister authority to exercise any power or to discharge any duty that is conferred or imposed by this Order or any other law on the Governor or any person or authority other than that Minister.

(3) Without prejudice to the generality of the preceding subsection, the charging of a Minister with responsibility for the department of the Attorney-General shall confer on that Minister responsibility only for submitting to the Cabinet questions relating to that department and for the conduct in the Legislature of Government business relating to that department.

Parliamentary Secretaries

57.—(1) The Governor, acting in accordance with the advice of the Premier, may, by instrument under the Broad Seal, appoint Parliamentary Secretaries from among the members of the two chambers of the Legislature to assist Ministers in the discharge of their functions.

(2) The number of Parliamentary Secretaries appointed from the members of the Legislative Council shall not at any time exceed three.

(3) If occasion arises for making an appointment to the office of Parliamentary Secretary while the Legislature is dissolved, a person who was a member of either chamber of the last Legislature may, subject to the provisions of the preceding subsection, be appointed as if he were still a member of that chamber but any person so appointed shall vacate office at the beginning of the next session of that chamber if he is not then a member thereof.

(4) The provisions of subsections (3) and (4) of section 49 and section 52 of this Order shall apply to Parliamentary Secretaries as they apply to Ministers.

Secretary to the Cabinet

58.—(1) There shall be a Secretary to the Cabinet who shall be appointed by the Governor, acting on the recommendation of the Premier, from a list of public officers submitted by the Public Service Commission.

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

Permanent Secretaries

59.—(1) Subject to the provisions of subsection (3) of section 56 of this Order, where any Minister has been charged with the responsibility for a subject or department of government, he shall exercise general direction and control over the work relating to that subject and over that department; and, subject as aforesaid and to such direction and control, the aforesaid work and the department shall be under the supervision of a Permanent Secretary appointed in accordance with the provisions of section 78 of this Order.

(2) A person may be a Permanent Secretary in respect of more than one department of government.

(3) The office of Financial Secretary is hereby constituted and, for the purposes of this section, he shall be deemed to be a Permanent Secretary.

Privy Council

60.—(1) There shall be in and for Jamaica a Privy Council which shall consist of such persons appointed in such manner as Her Majesty may direct by instructions given to the Governor from time to time under Her Sign Manual and Signet or through a Secretary of State.

(2) The members of the Privy Council shall hold their place therein during Her Majesty's pleasure and, subject thereto, in accordance with any such instructions as aforesaid.

(3) The Privy Council shall have such powers and duties as may be conferred or imposed upon it by or under this Order or any other law or any such instructions as aforesaid and, subject to the provisions

of this Order and of any law by which any such powers or duties are conferred or imposed, shall perform the same according to any such instructions as aforesaid.

(4) The question whether the Governor or any other person has in any matter complied with any such instructions as aforesaid shall not be enquired into in any court.

Attorney-General

61.—(1) There shall be in and for Jamaica an Attorney-General who shall be appointed by the Governor, acting in his discretion.

(2) If the office of Attorney-General is vacant or the Attorney-General is for any reason unable to perform the functions of his office, the Governor, acting in his discretion, may appoint a person to perform those functions, and any person so appointed shall, subject to the provisions of subsections (3) to (7) inclusive of the following section, continue to perform those functions until the office of Attorney-General is filled or until his appointment is revoked by the Governor, acting in his discretion:

Provided that he may at any time, by writing under his hand addressed to the Governor, resign his acting office.

(3) The Attorney-General shall receive such salary and allowances as may from time to time be prescribed by or under any law or by a resolution of the House of Representatives or by the Governor:

Provided that—

(*a*) no such resolution may reduce any salary or allowance for the time being prescribed by or under a law and the Governor may not reduce any salary or allowance for the time being prescribed by or under a law or by any such resolution; and

(*b*) the salary of the Attorney-General shall not be reduced during his continuance in office.

(4) The salary for the time being payable to the Attorney-General under this Order shall be charged on and paid out of the Consolidated Fund.

Tenure of office of Attorney-General

62.—(1) Subject to the provisions of subsections (3) to (7) inclusive of this section, the Attorney-General shall hold office until he attains the age of sixty years:

Provided that—

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

(*b*) the Governor, acting in his discretion, may permit an Attorney-General who has attained the age of sixty years to continue in office until he has attained such later age, not exceeding sixty-five years, as may (before the Attorney-General has attained the age of sixty years) have been agreed between them.

(2) Nothing done by the Attorney-General shall be invalid by reason only that he has attained the age at which he is required by this section to vacate his office.

(3) The Attorney-General may be removed from office only for inability to discharge the functions thereof (whether arising from

infirmity of body or mind or any other cause) or for misbehaviour, and shall not be so removed except in accordance with the provisions of the following subsection.

(4) The Attorney-General shall be removed from office by the Governor by instrument under the Broad Seal if the question of his removal from office has been referred to a tribunal appointed under the following subsection and the tribunal has recommended to the Governor that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(5) If the Governor, acting in his discretion, considers that the question of removing the Attorney-General from office for inability as aforesaid or for misbehaviour ought to be investigated, or if the Premier or the Chief Justice after consultation with the Premier represents to the Governor that that question ought to be investigated, then—

(*a*) the Governor shall appoint a tribunal, which shall consist of a Chairman and not less than two other members, selected by the Governor, acting in his discretion, 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 Her Majesty's dominions or a court having jurisdiction in appeals from any such court; and

(*b*) that tribunal shall enquire into the matter and report on the facts thereof to the Governor and recommend to the Governor whether the Attorney-General ought to be removed from office for inability as aforesaid or for misbehaviour.

(6) The provisions of the Commission of Inquiry Law(a) as in force immediately before the appointed day shall, subject to the provisions of this section and of the Fourth Schedule to this Order, apply as nearly as may be in relation to tribunals appointed under the preceding subsection or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Law, and for that purpose shall have effect as if they formed part of this Order.

(7) If the question of removing the Attorney-General from office has been referred to a tribunal under subsection (5) of this section, the Governor, acting in his discretion, may suspend the Attorney-General from performing the functions of his office and any such suspension may at any time be revoked by the Governor, acting in his discretion, and shall in any case cease to have effect if the tribunal recommends to the Governor that the Attorney-General should not be removed from office.

Powers of Attorney-General

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

(*a*) to institute and undertake criminal proceedings against any person before any civil court in and for Jamaica in respect of any offence alleged to have been committed by that person;

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

(a) 1953 Rev. Edn. Cap. 68.

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

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

(3) The powers conferred upon the Attorney-General under paragraphs (*b*) and (*c*) of subsection (1) of this section shall be vested in him to the exclusion of any other person:

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

(4) For the purposes of this section, any appeal from any determination in any criminal proceedings before any court, or any case stated or question of law reserved for the purpose of any such proceedings, to any other court in and for Jamaica or to any court constituted for the Federation or to the Judicial Committee of Her Majesty's Privy Council shall be deemed to be part of those proceedings.

(5) Nothing in this section shall be construed as affecting any power in relation to criminal proceedings vested in any person by or under the Federal Constitution or as affecting any criminal proceedings instituted or conducted by such a person by virtue of any power so vested.

(6) In the exercise of the powers conferred on him by this section, by subsection (2) of section 22 and by subsection (2) of section 24 of this Order, the Attorney-General shall not be subject to the direction or control of any other person.

PART VI.—THE JUDICATURE

The Supreme Court

Constitution of Supreme Court

64.—(1) There shall be in and for Jamaica a Supreme Court having such jurisdiction and powers as may be provided by any law for the time being in force in Jamaica and consisting of a Chief Justice, a Senior Puisne Judge and such other Puisne Judges as may from time to time be so provided:

Provided that the office of a Judge of the Supreme Court shall not, without his consent, be abolished during his continuance in office.

(2) The Chief Justice shall be a person qualified for appointment under subsection (4) of this section and appointed by the Governor, by instrument under the Broad Seal, after consultation with the Premier.

(3) The Puisne Judges of the Supreme Court shall be persons qualified as aforesaid and appointed by the Governor, by instrument under the Broad Seal, acting on the recommendation of the Judicial Service Commission.

(4) The qualifications for appointment as a Judge of the Supreme Court shall be such as may be prescribed by any law for the time being in force in Jamaica:

Provided that a person who has been appointed as a Judge of the Supreme Court may continue in office notwithstanding any subsequent variations in the qualifications so prescribed.

Acting Judges

65.—(1) If the office of Chief Justice is vacant or if the Chief Justice is for any reason unable to perform the functions of his office, then, until a person has been appointed to that office and assumed its functions or, as the case may be, until the Chief Justice has resumed those functions, they shall be performed by such other person, qualified under subsection (4) of the preceding section for appointment as a Judge, as the Governor, after consultation with the Premier, may appoint for that purpose by instrument under the Broad Seal.

(2) If the office of a Puisne Judge of the Supreme Court is vacant, or if any such Judge is appointed to act as Chief Justice, or is for any reason unable to perform the functions of his office, the Governor, acting on the recommendation of the Judicial Service Commission, may by instrument under the Broad Seal appoint a person qualified under subsection (4) of the preceding section for appointment as a Judge to act as a Judge of the Supreme Court, and any person so appointed shall, subject to the provisions of subsections (3) to (8) inclusive of the following section, continue to act for the period of his appointment, or if no such period is specified, until his appointment is revoked by the Governor acting on the recommendation of the Judicial Service Commission:

Provided that he may, at any time, by writing under his hand addressed to the Governor, resign his acting office.

(3) Any person appointed to act as a Judge under the provisions of this section may, notwithstanding that the period of his appointment has expired or his appointment has been revoked, sit as a Judge for the purpose of giving judgment or otherwise in relation to any proceeding heard by him while he was so acting.

Tenure of office of Judges of Supreme Court

66.—(1) Subject to the provisions of subsections (3) to (8) inclusive of this section, a Judge of the Supreme Court shall hold office until he attains the age of sixty-five years:

Provided that—

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

(*b*) the Governor, acting in his discretion, may permit a Judge who attains the age of sixty-five years to continue in office until he has attained such later age, not exceeding sixty-seven years, as may (before the Judge has attained the age of sixty-five years) have been agreed between them.

(2) Nothing done by a Judge of the Supreme Court shall be invalid by reason only that he has attained the age at which he is required by this section to vacate his office.

(3) A Judge of the Supreme Court may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

and shall not be so removed except in accordance with the provisions of the following subsection.

(4) A Judge of the Supreme Court shall be removed from office by the Governor by instrument under the Broad Seal if the question of the removal of that Judge from office has, at the request of the Governor made in pursuance of the 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 ought to be removed from office for inability as aforesaid or for misbehaviour.

(5) If the Premier (in the case of the Chief Justice) or the Chief Justice after consultation with the Premier (in the case of any other Judge) represents to the Governor that the question of removing a Judge of the Supreme Court from office for inability as aforesaid or for misbehaviour ought to be investigated, then—

(*a*) the Governor shall appoint a tribunal, which shall consist of a Chairman and not less than two other members selected by the Governor, acting in his discretion, 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 Her Majesty's dominions or a court having jurisdiction in appeals from any such court;

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

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

(6) The provisions of the Commissions of Inquiry Law(b) as in force immediately before the appointed day shall, subject to the provisions of this section and of the Fourth Schedule to this Order, apply as nearly as may be in relation to tribunals appointed under the preceding subsection or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Law, and for that purpose shall have effect as if they formed part of this Order.

(7) If the question of removing a Judge of the Supreme Court from office has been referred to a tribunal appointed under subsection (5) of this section, the Governor, acting in accordance with the advice of the Premier (in the case of the Chief Justice) or of the Chief Justice after the Chief Justice has consulted with the Premier (in the case of any other Judge), may suspend the Judge from performing the functions of his office.

(8) Any such suspension may at any time be revoked by the Governor, acting in accordance with the advice of the Premier or the Chief Justice (as the case may be), and shall in any case cease to have effect—

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

(a) 3 & 4 Will. 4. c. 41. (b) 1953 Rev. Edn. Cap. 68.

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

Remuneration of Judges of Supreme Court

67.—(1) The Judge of the Supreme Court shall receive such salaries and allowances as may from time to time be prescribed by or under any law or by a resolution of the House of Representatives or by the Governor :

Provided that—

(*a*) no such resolution may reduce any salary or allowance for the time being prescribed by or under a law and the Governor may not reduce any salary or allowance for the time being prescribed by or under a law or by any such resolution ; and

(*b*) the salary of a Judge of the Supreme Court shall not be reduced during his continuance in office.

(2) The salaries for the time being payable to the Judges of the Supreme Court under this Order shall be charged on and paid out of the Consolidated Fund.

The Judicial Service Commission

Composition of Judicial Service Commission

68.—(1) There shall be in and for Jamaica a Judicial Service Commission which shall consist of the following persons, that is to say—

(*a*) the Chief Justice, as Chairman ;

(*b*) the Chairman of the Public Service Commission or some other member of the Public Service Commission nominated by the Chairman of that Commission to represent him at any meeting of the Judicial Service Commission ;

(*c*) the Senior Puisne Judge ; and

(*d*) one other member (hereinafter called " the appointed member ") appointed in accordance with the provisions of the following subsection.

(2) The Governor, acting in his discretion, may by instrument under the Broad Seal, appoint to be a member of the Judicial Service Commission a person who is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of Her Majesty's dominions or a court having jurisdiction in appeals from any such court :

Provided that no person shall be appointed under this subsection who holds or is acting in any public office other than the office of member of the Public Service Commission or member of the Police Service Commission.

(3) The office of the appointed member of the Judicial Service Commission shall become vacant—

(*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 was appointed ;

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

(*c*) if he is appointed to the office of Chief Justice, Chairman of the Public Service Commission, Senior Puisne Judge or any public office except the office of member of the Public Service Commission or member of the Police Service Commission;

(*d*) if the Governor, acting in his discretion, directs that he shall be removed from office for inability to discharge the functions thereof (whether arising from infirmity of body or mind or any other cause) or for misbehaviour:

Provided that, if the appointed member is a Judge of the Supreme Court, he shall not be so removed unless, in accordance with the provisions of section 66 of this Order, he is removed from his office as a Judge.

(4) If the office of the appointed member is vacant or that member is for any reason unable to perform the functions of his office, the Governor, acting in his discretion, may, by instrument under the Broad Seal, appoint a person qualified for appointment as such a member to act as a member of the Commission and any person so appointed shall, subject to the provisions of the preceding subsection, continue to act until the office of the appointed member is filled or until his appointment is revoked by the Governor, acting in his discretion.

(5) The appointed member shall not, within a period of three years commencing with the date on which he last held or acted in the office of appointed member, be eligible for appointment to any office power to make appointments to which is vested by this Order in the Governor acting on the recommendation of the Judicial Service Commission:

Provided that nothing in this subsection shall prevent his being appointed to the office of Senior Puisne Judge or other Puisne Judge.

(6) The appointed member shall receive such salary and allowances as may from time to time be prescribed by or under any law or by a resolution of the House of Representatives or by the Governor:

Provided that—

(*a*) no such resolution may reduce any salary or allowance for the time being prescribed by or under a law and the Governor may not reduce any salary or allowance for the time being prescribed by or under a law or by any such resolution; and

(*b*) the salary of the appointed member shall not be reduced during his continuance in office.

(7) The salary for the time being payable to the appointed member under this Order shall be charged on and paid out of the Consolidated Fund.

(8) Nothing in subsection (6) of this section shall entitle the appointed member to any salary in respect of his office as such, if he is also a Judge of the Supreme Court.

(9) For the purposes of this section, "public office" does not include office as a member of any board, panel, committee or other similar body (whether incorporated or not) established by any law for the time being in force in Jamaica.

Proceedings of Judicial Service Commission

69. At any meeting of the Judicial Service Commission a quorum shall be constituted if there are present the Chairman of the Public

Service Commission (or the member of that Commission nominated to represent him at that meeting) and two other members; and if a quorum is present, the Commission shall not be disqualified for the transaction of business by reason of any vacancy among its members, and any proceeding of the Commission shall be valid notwithstanding that some person who was not entitled so to do took part therein.

Appointment, etc. of judicial officers

70.—(1) Power to make appointments to the offices to which this section applies and to dismiss and to exercise disciplinary control over persons holding or acting in such offices is hereby vested in the Governor acting on the recommendation of the Judicial Service Commission.

(2) This section applies to the offices of Resident Magistrate, Judge of the Traffic Court and Registrar of the Supreme Court and to such other offices connected with the courts of Jamaica as, subject to the provisions of this Order, may be prescribed by any law enacted by the Legislature.

Delegation of functions of Judicial Service Commission in relation to appointments

71. The Governor, acting on the recommendation of the Judicial Service Commission, may by instrument under the Broad Seal direct that, subject to such conditions as may be specified in that instrument, power to make appointments to such offices, being offices to which the preceding section applies, as may be so specified shall (without prejudice to the exercise of such power by the Governor acting on the recommendation of the Judicial Service Commission) be exercisable by such one or more members of the Commission or by such other authority or public officer as may be so specified, but in any case where the person to be appointed under this section holds or is acting in any office power to make appointments to which is vested by this Order in the Governor acting on the recommendation of the Public Service Commission or the Police Service Commission, the person or authority specified in the aforesaid instrument shall consult with the Public Service Commission or the Police Service Commission, as the case may be, before making such appointment.

Regulations regarding Judicial Service Commission

72. Subject to the provisions of this Order, the Governor, after consultation with the Judicial Service Commission, may make any regulations which he considers necessary or expedient for providing for all or any of the following matters, that is to say—

(*a*) consultation by the Commission with persons other than members of the Commission;

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

(*c*) the protection and privileges of members of the Commission in respect of the performance of their functions and the privilege of communications to and from the Commission and its members in the case of legal proceedings;

(*d*) the definition and trial of offences in relation to the functions of the Commission and the imposition of penalties for such offences:

Provided that any such penalty shall consist of a fine not exceeding five hundred pounds or imprisonment for a term not

exceeding two years or both such a fine and such imprisonment; and

(*f*) generally, for giving effect to the provisions of sections 68 to 71 inclusive of this Order.

Protection of Commission, etc. from legal proceedings

73. The question whether—

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

(*b*) any member of the Commission or any other authority or public officer has validly performed any function vested in such member or other authority or public officer under section 71 of this Order;

(*c*) any member of the Commission or any other authority or public officer has validly performed any other function in relation to the work of the Commission (or in relation to any such function as is referred to in the preceding paragraph) vested in such member or other authority or public officer under this Order

shall not be enquired into in any court.

PART VII.—THE PUBLIC SERVICE

Interpretation

74. For the purposes of this Part of this Order, "public office" does not include office as a member of any board, panel, committee or other similar body (whether incorporated or not) established by any law for the time being in force in Jamaica.

Public Service—General

Public Service Commission

75.—(1) There shall be in and for Jamaica a Public Service Commission which shall consist of a Chairman and such number of other members, being not less than three nor more than five, as the Governor, acting in his discretion, may from time to time decide.

(2) The members of the Public Service Commission shall be appointed by the Governor, acting in his discretion, by instrument under the Broad Seal:

Provided that one such member shall be so appointed by the Governor from a list of persons, not disqualified for appointment under this section, submitted by the Jamaica Civil Service Association (or any other body representing members of the public service which may from time to time, in the opinion of the Governor, acting in his discretion, have succeeded to the functions of that Association).

(3) No person shall be qualified to be appointed as a member of the Public Service Commission if he holds or is acting in any public office other than the office of member of the Judicial Service Commission or member of the Police Service Commission.

(4) A member of the Public Service Commission shall not, within a period of three years commencing with the date on which he last held or acted in that office, be eligible for appointment to any office

power to make appointments to which is vested by this Order in the Governor acting on the recommendation of the Public Service Commission.

(5) The office of a member of the Public Service Commission shall become vacant—

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

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

(*c*) if he is appointed to any public office other than the office of member of the Judicial Service Commission or member of the Police Service Commission; or

(*d*) if the Governor, acting in his discretion, directs that he shall be removed from office for inability to discharge the functions thereof (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(6) If the office of a member of the Public Service Commission is vacant or a member is for any reason unable to perform the functions of his office, the Governor, acting in his discretion, may appoint a person who is qualified for appointment as a member of the Commission to act as a member of the Commission, and any person so appointed shall, subject to the provisions of the preceding subsection, continue to act until the office of the member of the Commission is filled or until his appointment is revoked by the Governor acting in his discretion.

(7) The members of the Public Service Commission shall receive such salaries and allowances as may from time to time be prescribed by or under any law or by a resolution of the House of Representatives or by the Governor:

Provided that—

(*a*) no such resolution may reduce any salary or allowance for the time being prescribed by or under a law and the Governor may not reduce any salary or allowance for the time being prescribed by or under a law or by any such resolution; and

(*b*) the salary of a member of the Public Service Commission shall not be reduced during his continuance in office.

(8) The salaries for the time being payable to members of the Public Service Commission under this Order shall be charged on and paid out of the Consolidated Fund.

Proceedings of Public Service Commission

76. At any meeting of the Public Service Commission a quorum shall be constituted if three members are present, and if a quorum is present, the Commission shall not be disqualified for the transaction of business by reason of any vacancy among its members, and any proceeding of the Commission shall be valid notwithstanding that some person who was not entitled so to do took part therein.

Appointment, etc. of public officers

77.—(1) Subject to the provisions of this Order, power to make appointments to public offices and to dismiss and to exercise disciplinary

control over persons holding or acting in any such offices is hereby vested in the Governor acting on the recommendation of the Public Service Commission.

(2) Before the Public Service Commission recommends the appointment to any public office of any person holding or acting in any office power to make appointments to which is vested by this Order in the Governor acting on the recommendation of the Judicial Service Commission or the Police Service Commission, it shall consult with the Judicial Service Commission or the Police Service Commission, as the case may be.

(3) Before the Governor acts in accordance with any recommendation of the Public Service Commission that any public officer should be dismissed or that any other penalty should be imposed on him by way of disciplinary control, he shall inform the officer of that recommendation and if the officer then applies for the case to be referred to the Privy Council, the Governor shall not act in accordance with the recommendation but shall refer the case to the Privy Council accordingly:

Provided that the Governor, acting on the recommendation of the Commission, may nevertheless suspend that officer from the exercise of his office pending the determination of the reference to the Privy Council.

(4) Where a reference is made to the Privy Council under the provisions of the preceding subsection, the Privy Council shall consider the case and shall advise the Governor what action should be taken in respect of the officer, and the Governor shall then act in accordance with such advice.

Permanent Secretaries

78.—(1) Subject to the provisions of the following subsection, power to make appointments to the office of Permanent Secretary (other than appointments on transfer from another such office carrying the same salary) is hereby vested in the Governor acting on the recommendation of the Public Service Commission.

(2) Before the Governor acts in accordance with a recommendation of the Public Service Commission made under the preceding subsection, he shall consult the Premier who may once require that recommendation (hereafter in this subsection called the " original recommendation ") to be referred back to the Public Service Commission for reconsideration ; and if, upon such reconsideration, the Public Service Commission submits a different recommendation, the provisions of this subsection and of subsection (3) of section 9 of this Order shall apply thereto as they apply to an original recommendation.

(3) Power to make appointments to any office of Permanent Secretary on transfer from another such office carrying the same salary is hereby vested in the Governor acting on the recommendation of the Premier.

(4) For the purposes of this section the office of Financial Secretary shall be deemed to be the office of a Permanent Secretary.

Chief Secretary or Governor's Secretary

79.—(1) The office of Chief Secretary is hereby constituted.

(2) Power to make appointments to the office of Chief Secretary and to dismiss and to exercise disciplinary control over the Chief Secretary is hereby vested in the Governor, acting in his discretion.

(3) Before dismissing the Chief Secretary or imposing any other penalty on him by way of disciplinary control, the Governor shall inform the Chief Secretary of his intention so to do and, if the Chief Secretary so requests, shall then refer the case to the Privy Council and the provisions of subsection (4) of section 77 and of paragraph (*f*) of section 81 of this Order, shall apply in relation to such a reference as they apply in relation to a reference made under subsection (3) of section 77 of this Order:

Provided that the Governor, acting in his discretion, may nevertheless suspend the Chief Secretary from the exercise of his office pending the determination of the reference to the Privy Council.

(4) The Chief Secretary shall be charged with the responsibility for assisting the Governor in such matters as the Governor, acting in his discretion, may from time to time direct.

(5) In the discharge of the aforesaid responsibility the Chief Secretary shall act in accordance with such instructions as the Governor may from time to time give him and shall not be subject to the direction or control of any other person or authority.

(6) The Governor, acting in his discretion, may at any time abolish the office of Chief Secretary and replace it by the office of Governor's Secretary, and the provisions of this section shall then apply to the Governor's Secretary and to his office as they previously applied to the Chief Secretary and to the office of Chief Secretary respectively.

Delegation of functions of Public Service Commission

80.—(1) The Governor, acting on the recommendation of the Public Service Commission, may by instrument under the Broad Seal direct that, subject to such conditions as may be specified in that instrument, power to make appointments to such offices, being offices to which this section applies, as may be so specified and power to dismiss and power to exercise disciplinary control over persons holding or acting in those offices, or any of those powers, shall (without prejudice to the exercise of such power by the Governor acting on the recommendation of the Public Service Commission) be exercisable by such one or more members of the Public Service Commission or by such other authority or public officer as may be so specified.

(2) In relation to any power made exercisable under the preceding subsection by some person or authority other than the Governor acting on the recommendation of the Public Service Commission, the offices to which this section applies are all offices in respect of which that power is, apart from this section, vested by this Order in the Governor acting on such recommendation.

(3) In any case where an appointment is to be made by virtue of an instrument made under this section and the person to be appointed

holds or is acting in any office power to make appointments to which is vested by this Order in the Governor acting on the advice of the Judicial Service Commission or the Police Service Commission, the person or authority specified in the said instrument shall consult with the Judicial Service Commission or the Police Service Commission, as the case may be, before making the appointment.

(4) Where, by virtue of an instrument made under this section, the power to dismiss or to exercise disciplinary control over any officer has been exercised by a person or authority other than the Governor acting on the recommendation of the Public Service Commission, the officer in respect of whom it was so exercised may apply for the case to be referred to the Privy Council, and thereupon the action of the aforesaid person or authority shall cease to have effect and the case shall be referred to the Privy Council accordingly and the Governor shall then take such action in respect of that officer as the Privy Council may advise :

Provided that

(*a*) where the action of the aforesaid person or authority included the dismissal of that officer or his suspension from the exercise of his office, that person or authority may nevertheless suspend him from the exercise of his office pending the determination of the reference to the Privy Council ; and

(*b*) before advising the Governor under this subsection, the Privy Council shall consult with the Public Service Commission.

Regulations regarding Public Service Commission

81. Subject to the provisions of the Order, the Governor, after consultation with the Public Service Commission, may make any regulations which he considers necessary or expedient for providing for all or any of the following matters, that is to say—

(*a*) the exercise by the Commission of additional functions ;

(*b*) consultation by the Commission with persons other than members of the Commission ;

(*c*) the organisation of the work of the Commission ;

(*d*) the protection and privileges of members of the Commission in respect of the performance of their functions and the privilege of communications to and from the Commission and its members in the case of legal proceedings ;

(*e*) the definition and trial of offences in relation to the functions of the Commission and the imposition of penalties for such offences :

Provided that any such penalty shall consist of a fine not exceeding five hundred pounds or imprisonment for a term not exceeding two years or both such a fine and such imprisonment ;

(*f*) the time and manner of making application for a reference to the Privy Council under subsection (3) of section 77 or subsection (4) of section 80 of this Order and all matters incidental to such references ; and

(*g*) generally, for giving effect to the provisions of sections 75 to 80 inclusive of this Order.

Protection of Commission, etc. from legal proceedings

82. The question whether—

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

(*b*) any member of the Commission or any other authority or public officer has validly performed any function vested in such member or other authority or public officer under section 80 of this Order;

(*c*) any member of the Commission or any other authority or public officer has validly performed any other function in relation to the work of the Commission (or in relation to any such function as is referred to in the preceding paragraph) vested in such member or other authority or public officer under this Order

shall not be enquired into in any court.

Police

Police Service Commission

83.—(1) There shall be in and for Jamaica a Police Service Commission which shall consist of a Chairman and such number of other members, being not less than two or more than four, as the Governor, acting in his discretion, may from time to time decide.

(2) The members of the Police Service Commission shall be appointed by the Governor, acting in his discretion, by instrument under the Broad Seal.

(3) No person shall be qualified to be appointed as a member of the Police Service Commission if he holds or is acting in any public office other than the office of member of the Judicial Service Commission or member of the Public Service Commission.

(4) A member of the Police Service Commission shall not, within a period of three years commencing with the date on which he last held or acted in that office, be eligible for appointment to any office power to make appointments to which is vested by this Order in the Governor acting on the recommendation of the Police Service Commission.

(5) The office of a member of the Police Service Commission shall become vacant—

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

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

(*c*) if he is appointed to any public office other than the office of member of the Judicial Service Commission or member of the Public Service Commission;

(*d*) if the Governor, acting in his discretion, directs that he shall be removed from office for inability to discharge the functions thereof (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(6) If the office of a member of the Police Service Commission is vacant or a member is for any reason unable to perform the functions thereof, the Governor, acting in his discretion, may appoint a person

who is qualified for appointment as a member of the Commission to act as a member of the Commission, and any person so appointed shall, subject to the provisions of the preceding subsection, continue to act until the office of the member of the Commission is filled or until his appointment is revoked by the Governor, acting in his discretion.

(7) The members of the Police Service Commission shall receive such salaries and allowances as may from time to time be prescribed by or under any law or by a resolution of the House of Representatives or by the Governor:

Provided that—

(*a*) no such resolution may reduce any salary or allowance for the time being prescribed by or under a law and the Governor may not reduce any salary or allowance for the time being prescribed by or under a law or by any such resolution; and

(*b*) the salary of a member of the Police Service Commission shall not be reduced during his continuance in office.

(8) The salaries for the time being payable to members of the Police Service Commission under this Order shall be charged on and paid out of the Consolidated Fund.

Proceedings of Police Service Commission

84. At any meeting of the Police Service Commission a quorum shall be constituted if three members are present; and if a quorum is present, the Commission shall not be disqualified for the transaction of any business by reason of any vacancy among its members, and any proceeding of the Commission shall be valid notwithstanding that some person who was not entitled so to do took part therein.

Appointment, etc. of Police Officers

85. Section 77 of this Order (with the substitution therein of the words "the Police Service Commission" for the words "the Public Service Commission" wherever the same occur and of the words "the Public Service Commission" for the words "the Police Service Commission" in subsection (2) thereof) shall apply in relation to police officers as it applies in relation to other public officers.

Delegation of functions of Police Service Commission

86. The Governor, acting on the recommendation of the Police Service Commission, may by instrument under the Broad Seal direct that, subject to such conditions as may be specified in that instrument, power to make appointments to such offices, being offices to which this section applies, as may be so specified and power to dismiss and power to exercise disciplinary control over persons holding or acting in those offices, or any of those powers, shall (without prejudice to the exercise of such power by the Governor acting on the recommendation of the Police Service Commission) be exercisable by such one or more members of the Police Service Commission or by the Commissioner of Police as that instrument may specify.

(2) The offices to which this section applies are the offices of all police officers not above the rank of inspector.

(3) In any case where an appointment is to be made by virtue of an instrument made under this section and the person to be appointed holds or is acting in any office power to make appointments to which is vested by this Order in the Governor acting on the recommendation of the Judicial Service Commission or the Public Service Commission, the person or authority specified in the said instrument shall consult with the Judicial Service Commission or the Public Service Commission, as the case may be, before making the appointment.

(4) Where, by virtue of an instrument made under this section, the power to dismiss or to exercise disciplinary control over any officer has been exercised by a person or authority other than the Governor acting on the recommendation of the Police Service Commission, the officer in respect of whom it was so exercised may apply for the case to be referred to the Privy Council, and thereupon the action of the aforesaid person or authority shall cease to have effect and the case shall be referred to the Privy Council accordingly; and the Governor shall then take such action in respect of that officer as the Privy Council may advise:

Provided that—

(*a*) where the action of the aforesaid person or authority includes the dismissal of that officer or his suspension from the exercise of his office, that person or authority may nevertheless suspend him from the exercise of his office pending the determination of the reference to the Privy Council; and

(*b*) before advising the Governor under this subsection, the Privy Council shall consult with the Police Service Commission.

Regulations regarding Police Service Commission

87. Subject to the provisions of this Order, the Governor, after consultation with the Police Service Commission, may make any regulations which he considers necessary or expedient for providing for all or any of the following matters, that is to say—

(*a*) the exercise by the Commission of additional functions;

(*b*) consultation by the Commission with persons other than members of the Commission;

(*c*) the organisation of the work of the Commission;

(*d*) the protection and privileges of members of the Commission in respect of the performance of their functions and the privilege of communications to and from the Commission in the case of legal proceedings;

(*e*) the definition and trial of offences in relation to the functions of the Commission and the imposition of penalties for such offences:

Provided that any such penalty shall consist of a fine not exceeding five hundred pounds or imprisonment for a term not exceeding two years or both such a fine and such imprisonment;

(*f*) the time and manner of making application for a reference to the Privy Council under subsection (3) of section 77 (as applied by section 85) or under subsection (4) of section 86 of this Order, and all matters incidental to such references; and

(*g*) generally, for giving effect to the provisions of sections 83 to 86 inclusive of this Order.

Protection of Commission, etc. from legal proceedings

88. The question whether—

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

(*b*) any member of the Commission, or any other authority or public officer has validly performed any function vested in such member or other authority or public officer under section 86 of this Order;

(*c*) any member of the Commission or any other authority or public officer has validly performed any other function in relation to the work of the Commission (or in relation to any such function as is referred to in the preceding paragraph) vested in such member or other authority or public officer under this Order

shall not be enquired into in any court.

Pensions

Applicability of pensions law

89.—(1) Subject to the provisions of section 91 of this Order, the law applicable to the grant and payment to any officer, or to his widow, children, dependants or personal representatives, of any pension, gratuity or other like allowance (in this section and in sections 90 and 91 of this Order referred to as an "award") in respect of the service of that officer in a public office shall be that in force on the relevant day or any later law not less favourable to the person concerned.

(2) For the purposes of this section the relevant day is—

(*a*) in relation to an award granted before the appointed day, the day on which the award was granted;

(*b*) in relation to an award granted or to be granted on or after the appointed day to or in respect of a person who was a public officer before that day, the day immediately before that day;

(*c*) in relation to an award granted or to be granted to or in respect of a person who first becomes a public officer on or after the appointed day, the date on which he becomes a public officer.

(3) For the purposes of this section, in so far as the law applicable to an award depends on the option of the person to or in respect of whom it is granted or to be granted, the law for which he opts shall be taken to be more favourable to him than any other law for which he might have opted.

(4) For the purposes of this section and of sections 90 and 91 of this Order, service as a Judge of the Supreme Court shall be deemed to be public service.

Pensions, etc. to be charged on Consolidated Fund

90. Awards granted under any law for the time being in force in Jamaica in respect of the public service shall be charged on and paid out of the Consolidated Fund.

Grant and withholding of pensions, etc.

91.—(1) The power to grant any award under any pensions law for the time being in force in Jamaica (other than an award to which, under that law, the person to whom it is payable is entitled as of right) and, in accordance with any provisions in that behalf contained in any such

law, to withhold, reduce in amount or suspend any award payable under any such law is hereby vested in the Governor.

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

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

(i) a judge of the Supreme Court;

(ii) a member of the Judicial Service Commission, the Public Service Commission or the Police Service Commission;

(iii) Attorney-General;

(iv) Auditor-General;

(v) Clerk or Deputy Clerk of either chamber (other than a person so serving by virtue of subsection (10) of section 25 of this Order); or

(vi) a member of the personal staff of the Governor (other than a person so serving by virtue of subsection (4) of section 8 of this Order),

in his discretion;

(*b*) in the case of an award payable to a person who, having been a public officer, was, immediately before the date aforesaid, serving in any office to which subsection (3) of section 70 of this Order applies at the date of the exercise of the power, on the recommendation of the Judicial Service Commission;

(*c*) in the case of an award payable to a person who, having been a public officer, was, immediately before the date aforesaid, serving as a police officer, on the recommendation of the Police Service Commission; and

(*d*) in the case of an award payable to any other person, on the recommendation of the Public Service Commission.

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

PART VIII.—FINANCE

Consolidated Fund

92. There shall be in and for Jamaica a Consolidated Fund into which, subject to the provisions of any law for the time being in force in Jamaica, shall be paid all revenues of Jamaica.

Estimates

93.—(1) The Minister responsible for finance shall, before the end of each financial year, cause to be prepared annual estimates of revenue and expenditure for public services during the succeeding financial year, which shall be laid before the House of Representatives.

(2) The estimates of expenditure shall show separately the sums required to meet statutory expenditure (as defined in subsection (4)

of the following section) and the sums required to meet other expenditure proposed to be paid out of the Consolidated Fund.

Authorisation of expenditure

94.—(1) The Minister responsible for finance shall, in respect of each financial year, at the earliest convenient moment, introduce in the House of Representatives an Appropriation Bill containing, under appropriate heads for the several services required, the estimated aggregate sums which are proposed to be expended (otherwise than by way of statutory expenditure) during that financial year.

(2) Whenever—

(*a*) any monies are expended or are likely to be expended in any financial year on any services which are in excess of the sum provided for that service by the Appropriation law relating to that year, or

(*b*) any monies are expended or are likely to be expended (otherwise than by way of statutory expenditure) in any financial year upon any new service not provided for by the Appropriation law relating to that year,

statements of excess or, as the case may be, supplementary estimates shall be prepared by the Minister responsible for finance and shall be laid before and voted on by the House of Representatives ; in respect of all supplementary expenditure so voted the Minister responsible for finance may, at any time before the end of the financial year, introduce into the House of Representatives a Supplementary Appropriation Bill containing, under appropriate heads, the estimated aggregate sums so voted, and shall, as soon as possible after the end of each financial year, introduce into the House of Representatives a final Appropriation Bill containing any such sums which have not yet been included in any Appropriation Bill.

(3) That part of any estimate of expenditure laid before the House of Representatives which shows statutory expenditure shall not be voted on by the House of Representatives, and such expenditure shall, without further authority of the Legislature, be paid out of the Consolidated Fund.

(4) For the purposes of this section and the preceding section, " statutory expenditure " means—

(*a*) expenditure charged on the Consolidated Fund or on the general revenues and assets of Jamaica by virtue of any of the provisions of this Order or by virtue of the provisions of any other law for the time being in force in Jamaica ; and

(*b*) the interest on the public debt, sinking fund payments, redemption moneys, and the costs, charges and expenses incidental to the management of the public debt.

Meeting expenditure from Consolidated Fund

95.—(1) No sum shall be paid out of the Consolidated Fund except upon the authority of a warrant under the hand of the Minister responsible for finance.

(2) Subject to the provisions of subsections (3) and (4) of this section and section 96 of this Order, no such warrant shall be issued

except in respect of sums granted for the specified public services by the Appropriation law for the financial year during which the withdrawal is to take place or for service otherwise lawfully charged on the Consolidated Fund.

(3) The House of Representatives may, by resolution approving estimates containing a vote on account, authorise expenditure for part of any financial year before the passing of the Appropriation law for that year, but the aggregate sums so voted shall be included, under the appropriate heads, in the Appropriation Bill for that year.

(4) Where at any time the Legislature has been dissolved before any provision or any sufficient provision is made under this Part of this Order for the carrying-on of the government of Jamaica, the Minister responsible for finance may issue a warrant for the payment out of the Consolidated Fund of such sums as he may consider necessary for the continuance of the public services until the expiry of a period of three months commencing with the date on which the House of Representatives first meets after that dissolution, but a statement of the sums so authorised shall, as soon as practicable, be laid before and voted on by the House of Representatives and the aggregate sums so voted shall be included, under the appropriate heads, in the next Appropriation Bill.

Contingencies Fund

96.—(1) Any law for the time being in force in Jamaica may create or authorise the creation of a Contingencies Fund and may authorise the Minister responsible for finance to make advances from that fund if he is satisfied that there is an unforeseen need for expenditure for which no provision or no sufficient provision has been made by an Appropriation law.

(2) Where any advance is made by virtue of an authorisation conferred under the preceding subsection, a supplementary estimate of the sum required to replace the amount so advanced shall, as soon as practicable, be laid before and voted on by the House of Representatives and the sum so voted shall be included in a Supplementary Appropriation Bill or a Final Appropriation Bill.

Public debt

97. The public debt of Jamaica is hereby charged on the Consolidated Fund.

Auditor-General

98.—(1) There shall be in and for Jamaica an Auditor-General who shall be appointed by the Governor, by instrument under the Broad Seal, after consultation with the Premier and the Public Service Commission.

(2) If the office of Auditor-General is vacant or the Auditor-General is for any reason unable to perform the functions of his office, the Governor, after consultation with the Premier and the Public Service Commission, may appoint a person to act as Auditor-General, and any person so appointed shall, subject to the provisions of subsections (3) to (7) inclusive of the following section, continue to act until the office of Auditor-General is filled or until his appointment is revoked by the Governor, after consultation as aforesaid:

Provided that he may at any time, by writing under his hand addressed to the Governor, resign his acting office

(3) A person who has held the office of Auditor-General shall not be eligible for appointment to any other public office.

(4) The Auditor-General shall receive such salary and allowances as may from time to time be prescribed by or under any law or by a resolution of the House of Representatives or by the Governor:

Provided that—

(*a*) no such resolution may reduce any salary or allowance for the time being prescribed by or under a law and the Governor may not reduce any salary or allowance for the time being prescribed by or under a law or by any such resolution ; and

(*b*) the salary of the Auditor-General shall not be reduced during his continuance in office.

(5) The salary for the time being payable to the Auditor-General under this Order shall be charged on and paid out of the Consolidated Fund.

Tenure of office of Auditor-General

99.—(1) Subject to the provisions of subsections (3) to (7) inclusive of this section, the Auditor-General shall hold office until he attains the age of sixty years:

Provided that—

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

(*b*) the Governor, acting after consultation with the Premier and the Public Service Commission, may permit an Auditor-General who has attained the age of sixty years to remain in office until he has reached such later age, not exceeding sixty-five years, as may (before the Auditor-General has reached the age of sixty years) have been agreed between the Governor and the Auditor-General.

(2) Nothing done by the Auditor-General shall be invalid by reason only that he has attained the age at which he is required by this section to vacate his office.

(3) The Auditor-General may be removed from office only for inability to discharge the functions thereof (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and shall not be so removed except in accordance with the provisions of the following subsection.

(4) The Auditor-General shall be removed from office by the Governor by instrument under the Broad Seal if the question of his removal from office has been referred to a tribunal appointed under the following subsection and the tribunal has recommended to the Governor that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(5) If the Governor, acting in his discretion, considers that the question of removing the Auditor-General from office for inability as aforesaid or for misbehaviour ought to be investigated, or if the Premier

or the Chairman of the Public Service Commission represents to the Governor that that question ought to be investigated, then—

(*a*) the Governor shall appoint a tribunal which shall consist of a Chairman and not less than two other members selected by the Governor, acting in his discretion, from among persons who hold or have held the office of a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of Her Majesty's dominions or a court having jurisdiction in appeals from any such court; and

(*b*) that tribunal shall enquire into the matter and report on the facts thereof to the Governor and recommend to the Governor whether the Auditor-General ought to be removed from office for inability as aforesaid or for misbehaviour.

(6) The provisions of the Commissions of Inquiry Law(a) as in force immediately before the appointed day shall, subject to the provisions of this section and of the Fourth Schedule to this Order, apply as nearly as may be in relation to tribunals appointed under the preceding subsection or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Law, and for that purpose shall have effect as if they formed part of this Order.

(7) If the question of removing the Auditor-General from office has been referred to a tribunal under subsection (5) of this section, the Governor, acting in his discretion, may suspend the Auditor-General from performing the functions of his office and any such suspension may at any time be revoked by the Governor, acting in his discretion, and shall in any case cease to have effect if the tribunal recommends to the Governor that the Auditor-General should not be removed from office.

Functions of Auditor-General

100.—(1) The accounts of the Supreme Court, the accounts of the offices of the Clerks to the Legislative Council and the House of Representatives and the accounts of all departments and offices of the Government of Jamaica (including the offices of the Cabinet, the Judicial Service Commission, the Public Service Commission and the Police Service Commission but excluding the department of the Auditor-General) shall, at least once in every year, be audited and reported on by the Auditor-General who, with his subordinate staff, shall at all times be entitled to have access to all books, records, returns and reports relating to such accounts.

(2) The Auditor-General shall submit his reports made under the preceding subsection to the Speaker (or, if the office of Speaker is vacant or the Speaker is for any reason unable to perform the functions of his office, to the Deputy Speaker) who shall cause them to be laid before the House of Representatives.

(3) In the exercise of his functions under the provisions of subsections (1) and (2) of this section, the Auditor-General shall not be subject to the direction or control of any other person or authority.

(a) 1953 Rev. Edn. Cap. 68.

(4) The accounts of the department of the Auditor-General shall be audited and reported on by the Minister responsible for finance, and the provisions of subsections (1) and (2) of this section shall apply in relation to the exercise by that Minister of those functions as they apply in relation to audits and reports made by the Auditor-General.

(5) Nothing in this section shall prevent the performance by the Auditor-General of—

(*a*) such other functions in relation to the accounts of the Government of Jamaica and the accounts of other public authorities and other bodies administering public funds in Jamaica as may be prescribed by or under any law for the time being in force in Jamaica ; or

(*b*) such other functions in relation to the supervision and control of expenditure from public funds in Jamaica as may be so prescribed ; or

(*c*) such other functions in relation to the accounts of any other government as he may be empowered to perform by any authority competent in that behalf.

Part IX.—Temporary, Transitional and Miscellaneous Provisions

Interpretation

101. In this Part of this Order references to any body or to any office shall be construed, in relation to any period before the appointed day, as references to such body or such office as constituted by or under the existing instruments, and references to the holder of any office shall be similarly construed.

First Governor and remuneration of Governor

102.—(1) The person who, immediately before the appointed day, holds the office of Governor shall, as from that day, hold the like office as if he had been appointed thereto under section 4 of this Order, and the Commission under Her Majesty's Sign Manual and Signet by which he was appointed to the office of Governor shall, as from that day, have effect as if it had been granted in pursuance of that section.

(2) Until other provision is made under and in accordance with the provisions of section 7 of this Order, the salary and duty allowance of the Governor shall be the salary and duty allowance to which the Governor was entitled immediately before the appointed day.

Expenditure and personal staff of the Governor

103.—(1) At any time after this section comes into operation and before the appointed day, the Governor, acting with the concurrence of the Chief Minister, may, by notice published in the Gazette, prescribe in relation to the first Governor under this Order any matter which falls to be prescribed by a law enacted in pursuance of subsection (1) of section 8 of this Order.

(2) Any matter prescribed by a notice published under the preceding subsection shall, for the purposes of section 8 of this Order, be deemed as from the appointed day to have been prescribed by a law enacted

in pursuance of that section, and the provisions of any such notice may be amended or revoked by a further notice so published or by any law so enacted.

(3) Any person who, immediately before the appointed day, holds any office prescribed under subsection (1) of this section shall hold that office as from that day as if he had been appointed thereto under section 8 of this Order and if he is, immediately before that day, a public officer, shall so hold it as if he had been appointed thereto under subsection (4) of that section.

(4) This section shall come into operation forthwith.

Staff of Legislature

104.—(1) Any person who, immediately before the appointed day, holds office as Clerk or Deputy Clerk shall, as from that day, hold the like office as if he had been appointed thereto under section 25 of this Order, and shall, until other provision is made in accordance with the provisions of that section, hold office on the same terms of service as applied to him immediately before that day.

(2) At any time after this subsection comes into operation, the Governor, acting on the recommendation of the Minister responsible for finance after that Minister has consulted the Clerk, may by notice published in the Gazette, prescribe in relation to the first staff of the Clerk under this Order any matter which may be prescribed under subsection (11) of section 25 of this Order; any matter so prescribed shall, for the purposes of that section, be deemed, as from the appointed day, to have been prescribed thereunder and the provisions of any notice published under this subsection may be amended or revoked by a further notice so published or by a notice published under the said section 25.

(3) Any person who, immediately before the appointed day, holds any office prescribed under the preceding subsection shall hold that office as from that day as if he had been appointed thereto under section 25 of this Order.

(4) For the purposes of section 25 of this Order, the persons last holding office before the appointed day as President and Speaker shall be deemed to be the President and the Speaker respectively under this Order until immediately before the first sitting of the Legislative Council or the House of Representatives, as the case may be, under this Order.

(5) Subsection (2) of this section shall come into operation forthwith.

Standing Orders

105. The Standing Orders of the Legislative Council and the House of Representatives as in force immediately before the appointed day shall, with such adaptations and modifications as may be necessary to bring them into conformity with this Order, be the first Standing Orders of the Legislative Council and the House of Representatives established by this Order as if they had been made in pursuance of section 27 of this Order.

Establishment of first constituencies, etc.

106.—(1) Until otherwise provided by an Order made by the Governor under section 45 of this Order, Jamaica shall be divided into forty-five constituencies having the boundaries recommended in the Resolution approved by the House of Representatives on the 25th day of March, 1959.

(2) As soon as may be after this section comes into operation, the Governor, acting in his discretion, shall make an Order, which shall be published in the Gazette, for the purpose of giving effect to the aforesaid recommendations and for any matters which appear to him to be incidental thereto or consequential thereon, and that Order shall come into force on such date as may be specified in it and, until revoked by an Order made by the Governor under section 45 of this Order, shall have the force of law in Jamaica.

(3) The question of the validity of an Order made by the Governor reciting that it is made under the preceding subsection shall not be enquired into in any court.

(4) The powers and duties conferred or imposed on any officer by the Representation of the People Law(a) (as in force for the time being) in relation to matters preparatory to the holding of elections shall, at any time after the coming into force of the Order made by the Governor under subsection (2) of this section, be exercisable by that officer in relation to matters preparatory to the holding of the first general election under this Order, and—

(*a*) the provisions of that Law (as in force as aforesaid) shall, subject to the following paragraph, apply accordingly with such modifications and adaptations as are necessary to bring them into conformity with this Order; and

(*b*) the Governor may, by Order published in the Gazette, make such adaptations and modifications in the aforesaid Law or in any other law for the time being in force in Jamaica as he may consider necessary or expedient for the holding of such general election in conformity with this Order.

(5) Nothing in this section shall affect any election to the House of Representatives before the appointed day or affect the constitution of the House of Representatives before that day.

(6) In this section references to a law shall include references to any instrument made under any law.

(7) This section shall come into operation forthwith.

First general election and first session

107.—(1) The first general election of members to the House of Representatives shall be held at such time within six weeks of the appointed day as the Governor may appoint by Proclamation published in the Gazette.

(2) The first session of such chamber of the Legislature shall begin within three months after the appointed day.

(a) 1953 Rev. Edn. Cap. 342.

First Cabinet

108.—(1) The person who, immediately before the appointed day, holds the office of Chief Minister shall, as from that day, hold office as Premier as if he had been appointed thereto under Part V of this Order; the persons who, immediately before the appointed day, hold office as other Ministers shall, as from that day, similarly hold the like offices under this Order; and references in this Order to the Cabinet shall be construed accordingly.

(2) Where any Minister who holds office as from the appointed day under the provisions of the preceding subsection is, by virtue of a direction given under the existing instruments, charged immediately before that day with responsibility for any subject or department, he shall, subject to the provisions of subsections (2) and (3) of section 56 of this Order, be deemed as from that day to have been charged with the responsibility for the corresponding subject or department of government under subsection (1) of that section.

Secretary to Cabinet

109. The person who, immediately before the appointed day, holds office as Secretary to the Council of Ministers shall, as from that day, hold office as Secretary to the Cabinet as if he had been appointed thereto under the provisions of section 58 of this Order.

Remuneration of Attorney-General

110. Until other provision is made under and in accordance with the provisions of subsection (3) of section 61 of this Order, the salary and allowances of the Attorney-General shall be the salary and allowances to which the holder of that office was entitled immediately before the appointed day.

Supreme Court and Judges

111.—(1) The Supreme Court in existence immediately before the appointed day shall be the Supreme Court for the purposes of this Order, and the Chief Justice and other Judges of the Supreme Court holding office immediately before the appointed day shall, as from that day, continue to hold the like offices as if they had been appointed thereto under the provisions of Part VI of this Order.

(2) Until other provision is made under and in accordance with the provisions of section 67 of this Order, the salaries and allowances of the Judges of the Supreme Court shall be the salaries and allowances to which the holders of those offices were entitled immediately before the appointed day.

Remuneration of Auditor-General

112. Until provision is made under and in accordance with subsection (4) of section 98 of this Order, the salary and allowances of the Auditor-General shall be the salary and allowances to which the holder of that office was entitled immediately before the appointed day.

Public officers to continue in service

113. Subject to the provisions of this Order, every person who, immediately before the appointed day, holds a public office shall, as from that day, continue to hold the like office as if he had been appointed thereto in accordance with the provisions of this Order.

Regulations relating to retirement, etc. of certain officers serving before the appointed day

114.—(1) The Governor may, with the concurrence of the Secretary of State, make such provision, by regulations published in the Gazette, as appears to him to be necessary or expedient for the retirement from the public service or from service as a Judge of the Supreme Court of such persons or classes of persons holding office in that service or as a Judge immediately before the appointed day, as may be specified by or under those regulations and for the payment of compensation, pensions, gratuities and other like allowances in such cases.

(2) All sums payable by virtue of regulations made under the preceding subsection shall be charged on and paid out of the Consolidated Fund.

Operation of certain provisions relating to the public service

115.—(1) Until the regulations made by the Governor under the preceding section have come into operation, the provisions of this Order which are indicated in Part I of the Fifth Schedule hereto shall not have effect, the provisions which are indicated in the first column of Part II of that Schedule shall have effect subject to the respective modifications set out in the second column thereof, and for the provisions which are indicated in the first column of Part III of that Schedule there shall be substituted the respective provisions set out in the second column thereof.

(2) The Judicial Service Commission Law, 1957(a), the Public Service Commission Law(b) and Part V of the Constabulary Force Law(c) and the Third Schedule thereto shall, with such adaptations and modifications as may be necessary to bring them into conformity with the provisions of this Order then having effect, continue in force on and after the appointed day until the coming into operation of the aforesaid regulations and shall then be repealed.

(3) For the avoidance of doubt it is hereby expressly declared that, during the continuance in force under the preceding subsection of the laws therein referred to, all existing obligations regarding the exercise by the Governor of any function which, by virtue of any provision of this section or the Fifth Schedule to this Order, he is required to exercise in his discretion shall likewise continue in force.

(4) In this section—

(*a*) "existing obligation" means an obligation imposed on the Governor by or under an existing law to require an existing Commission to advise him or to consult with that Commission, and an obligation imposed on an existing Commission by or under any such law to advise the Governor;

(*b*) "an existing law" means any law in force in Jamaica immediately before the appointed day;

(*c*) "an existing Commission" means the Judicial Service Commission, the Public Service Commission or the Police Service Commission (as the case may be) constituted under the respective laws referred to in subsection (2) of this section; and

(*d*) references to a Law are references to that Law as in force immediately before the appointed day.

(a) No. 45 of 1957. (b) 1953 Rev. Edn. Cap. 326. (c) 1953 Rev. Edn. Cap. 72.

Waiver of necessity for taking oaths

116. Any person who, under the provisions of this Part of this Order, holds any office as from the appointed day by virtue of having been the holder of any office immediately before that day shall be deemed to have complied with the requirement of this Order or any other law for the time being in force in Jamaica relating to the taking of oaths on appointment to the first named office.

Existing law

117.—(1) Without prejudice to the provisions of section 3 and of subsection (2) of section 115 of this Order, all laws which are in force in Jamaica immediately before the appointed day shall (subject to amendment or repeal by the competent authority) continue in force as from that day, and all laws which have been made before that day but have not previously been brought into operation may (subject as aforesaid) be brought into force, in accordance with any provision in that behalf, on or after that day, but all such laws shall, subject to the provisions of this section, be construed, in relation to any period beginning on or after the appointed day, with such adaptations and modifications as may be necessary to bring them into conformity with the provisions of this Order then having effect.

(2) Without prejudice to the generality of the preceding subsection, in any law which continues in force as from the appointed day or which, having been made before that day, is brought into force on or after that day, unless the context otherwise requires—

(*a*) references to the Legislature, or to either chamber thereof, shall, in relation to any period beginning on or after the appointed day, be construed as references to the Legislature, or to the corresponding chamber thereof, established by this Order;

(*b*) references to any office (or to the person holding or acting in it) connected with either chamber of the Legislature shall, in relation to any such period as aforesaid, be construed as references to the corresponding office (or the person holding or acting in it) constituted by or under this Order;

(*c*) references to the Council of Ministers, to the Chief Minister or to any other Minister shall, in relation to any such period as aforesaid, be construed as references respectively to the Cabinet established by this Order, to the Premier appointed for the time being under this Order and to the corresponding Minister so appointed;

(*d*) references to the Secretary to the Council of Ministers shall, in relation to any such period as aforesaid, be construed as references to the Secretary to the Cabinet;

(*e*) references to the Judicial Service Commission, the Public Service Commission or the Police Service Commission, shall, in relation to any such period as aforesaid which ends not later than the day on which the regulations made by the Governor under section 114 of this Order have come into operation, be construed as references respectively to the Judicial Service Commission, the Public Service Commission or the Police Service Commission constituted under the laws referred to in subsection (2) of section 115 of this Order, but shall, in relation to any period beginning on or

after the last-mentioned day, be construed as references respectively to the Judicial Service Commission, the Public Service Commission or the Police Service Commission established by this Order;

(*f*) references to any other office (or to the person holding or acting in it) constituted by or under the existing instruments or to any other authority or body so constituted, shall, in relation to any period beginning on or after the appointed day, be construed as references respectively to the corresponding office (or to the person holding or acting in it) or the corresponding authority or body constituted by or under this Order.

(3) The Governor may, by Order published in the Gazette, declare—

(*a*) for the purposes of paragraphs (*b*) and (*f*) of the preceding subsection, what is the corresponding office, authority or body referred to in either of those paragraphs; and

(*b*) for the purposes of paragraph (*c*) of that subsection, who is the corresponding Minister referred to in that paragraph.

(4) (*a*) The Governor may, by Order made at any time within a period of two years commencing with the coming into operation of this subsection and published in the Gazette, make such adaptations and modifications in any law which continues in force in Jamaica as from the appointed day, or which, having been made before that day, is brought into force on or after that day, as appear to him to be necessary or expedient by reason of anything contained in this Order.

(*b*) An Order made by the Governor under this subsection shall have effect from such date, not earlier than the appointed day, as may be specified therein.

(5) Subsections (3) and (4) of this section shall come into operation forthwith.

(6) In this section references to a law shall include references to any instrument made under any law.

Finance

118. Without prejudice to the provisions of the preceding section and for the avoidance of doubt, it is hereby declared that any resolution of the House of Representatives passed before the appointed day and any law enacted by the Legislature before that day (whether such resolution was passed or such law enacted before or after the making of this Order) may have effect for the purposes of section 95 of this Order as if they were respectively a resolution of the House of Representatives established by this Order or a law enacted by the Legislature so established.

Remuneration of members of Legislature, etc.

119. Until other provision is made in that behalf, the salary and allowances payable to members of either chamber, the President, the Speaker and Ministers shall be those payable to the persons last holding those respective offices before the appointed day.

Removal of difficulties

120.—(1) If any difficulty arises in bringing into operation any of the provisions of this Order, or in giving effect to the purposes thereof, a Secretary of State may, by Order, make such provision as seems to him to be necessary or expedient for the purpose of removing the difficulty and may, by such Order, amend any of the provisions of this Order with effect from such date, not earlier than the appointed day, as may be specified in the Order:

Provided that no Order shall be made under this section after the expiry of a period of two years beginning with the appointed day.

(2) This section shall come into operation forthwith.

Officers and others to obey the Governor

121. All officers, civil and military, and all other inhabitants of Jamaica shall be obedient, aiding and assisting unto the Governor.

Reservation of power to amend or revoke this Order

122. Her Majesty hereby reserves to Herself the power, with the advice of Her Privy Council, to revoke, add to, suspend or amend this Order or any part thereof as may to Her seem fit.

W. G. Agnew.

SCHEDULES

Section 1 (1)

FIRST SCHEDULE

EXISTING INSTRUMENTS

The Jamaica (Constitution) Orders in Council, 1944 to 1957(a).

The Jamaica Letters Patent, 1944 and 1957(b).

Sections 4 (3), 5 (2), 20 (2), 21 (2), 40, 52 and 57 (4)

SECOND SCHEDULE

OATHS

Oath of Allegiance

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

Oath for the due execution of the office of Captain-General and Governor-in-Chief

I, ..., do swear that I will well and truly serve Her Majesty Queen Elizabeth II, Her Heirs and Successors, in the office of Captain-General and Governor-in-Chief. So help me God.

Oath for the due execution of the office of Premier or other Minister or Parliamentary Secretary

I, ..., being appointed *Premier/Minister/Parliamentary Secretary*, do swear that I will to the best of my judgment, at all times when so required, freely give my counsel and advice to the Governor

(a) S.R. & O. 1944/1215 (Rev. XI, p. 112: 1944 I, p. 378); S.I. 1949/1436, 2201, 1953/747, 1955/1214, 1956/1209, 1957/1744 (1949 I, pp. 2372, 2373; 1953 I, p. 910; 1955 I, p. 1038; 1956 I, p. 1105; 1957 I, p. 184).

(b) Rev. XI, p. 135: S.R. & O. 1944 I, p. 1108; S.I. 1957 II, p. 3070.

(or any other person for the time being lawfully performing the functions of that office) for the good management of the public affairs of Jamaica, and I do further swear that I will not on any account, at any time whatsoever, disclose the counsel, advice, opinion or vote of any particular Minister or Parliamentary Secretary and that I will not, except with the authority of the Cabinet and to such extent as may be required for the good management of the affairs of Jamaica, directly or indirectly reveal the business or proceedings of the Cabinet or the nature or contents of any documents communicated to me as a *Minister/Parliamentary Secretary* or any matter coming to my knowledge in my capacity as such and that in all things I will be a true and faithful *Premier/Minister/Parliamentary Secretary*. So help me God.

THIRD SCHEDULE

Section 45.

Number and Boundaries of Constituencies

1. The number of constituencies shall be such as will most conveniently permit the application of the following paragraph.

2. The electorate shall, so far as is practicable, be equal in all constituencies.

3. The Standing Committee may depart from the strict application of the preceding paragraph if it considers it desirable so to do having regard to—

(*a*) the varying physical features and transportation facilities within Jamaica;

(*b*) the difference between urban and rural areas in respect of density of population.

4. For the purposes of this Schedule—

(*a*) the electorate of a constituency means the number of persons whose names appear on the official lists of electors for the area comprised in that constituency in force on the enumeration date under the law for the time being regulating the conduct of elections;

(*b*) the enumeration date means, in relation to any report of the Standing Committee, the date on which the notice with respect of that report is published in accordance with subsection (6) of section 45 of this Order.

FOURTH SCHEDULE

Sections 62 (6), 66 (6) and 99 (6)

Provisions Relating to Applicability of Commissions of Inquiry Law(a) to Tribunals appointed under this Order

1. The following provisions of the Law shall not apply, that is to say:—

(*a*) section 2—whole section;

(*b*) section 3—so much of the section as follows the words "in his place";

(*c*) section 5—whole section;

(*d*) section 7—the words "after taking such oath or affirmation";

(*e*) section 15—whole section.

2. In section 13 there shall be substituted for the words "Such sums, so directed to be paid, shall be paid by the Accountant-General out of the ordinary cash balance in the Treasury", the words "Such sums, so directed to be paid, shall be charged on and paid out of the Consolidated Fund".

3. All powers and duties conferred or imposed on the Governor under the Law shall be exercised or performed by him, acting in his discretion.

FIFTH SCHEDULE

Section 115.

Suspended, Modified and Substituted Provisions

Part I

Suspended Provisions

Sections 68, 69, 73, 75, 76, 79 (3), 82, 83, 84, 88 and 91 (2).

(a) 1953 Rev. Edn. Cap. 68.

PART II

MODIFIED PROVISIONS

Column 1	*Column* 2
Section 8 (4)	The words "from a list submitted by the Public Service Commission" shall be omitted and for paragraph (*c*) there shall be substituted the following:— "(*c*) any officer so appointed may at any time be appointed by the Governor, acting in his discretion, to assume or resume the functions of a public office and shall thereupon vacate his office on the personal staff of the Governor.".
Section 25	For the words "on the recommendation of the Public Service Commission" in paragraphs (*a*) and (*d*) of subsection (10) there shall be substituted the words "in his discretion", and for subsection (13) there shall be substituted the following:— "(13) Before exercising his power under section 77 of the Order to appoint any person to any office on the staff of the Clerk (other than the office of Deputy Clerk and any subordinate office thereon), or to appoint any person holding or acting in any such office to any other public office, or to dismiss or impose any other penalty by way of disciplinary control on any person holding or acting in any such office, the Governor shall consult the Clerk."
Section 58 (1)	For the words "by the Public Service Commission" there shall be substituted the words "to the Premier, by the Governor, acting in his discretion".
Section 64 (3)	For the words "on the recommendation of the Judicial Service Commission" there shall be substituted the words "in his discretion".
Section 65 (2)	For the words "on the recommendation of the Judicial Service Commission" wherever they occur there shall be substituted the words "in his discretion".
Section 70 (1)	For the words "on the recommendation of the Judicial Service Commission" there shall be substituted the words "in his discretion".
Section 85	In this section the reference to section 77 of this Order shall be construed subject to the provisions of section 115 of this Order and this Schedule.
Section 91 (1)	The words "acting in his discretion" shall be added immediately after the words "the Governor".
Section 98 (1)	The words "and the Public Service Commission" shall be omitted.
Section 98 (2)	The words "and the Public Service Commission" shall be omitted.
Section 99 (1) (*b*) ...	The words "and the Public Service Commission" shall be omitted.
Section 99 (5)	The words "or the Chairman of the Public Service Commission" shall be omitted.
Section 100 (1) ...	The words "the Judicial Service Commission, the Public Service Commission and the Police Service Commission" shall be omitted.

PART III

SUBSTITUTED PROVISIONS

Column 1	*Column* 2
Section 71	71.—(1) The Governor, acting in his discretion, may by instrument under the Broad Seal direct that, subject to such conditions as may be specified in that instrument, power to make appointments to such offices, being offices to which the preceding section applies, as may be so specified and power to dismiss and power to exercise disciplinary control over persons holding or acting in those offices, or any of those powers, shall (without prejudice to the exercise of such power by the Governor, acting his discretion) be exercisable by such other authority or public officer as may be so specified. (2) Where by virtue of an instrument made under this section, the power to dismiss or to exercise disciplinary control over any officer has been exercised by a person or authority other than the Governor, the officer in respect of whom it was so exercised may apply for the case to be referred to the Governor; and thereupon the action of the aforesaid person or authority shall cease to have effect and the case shall be referred to the Governor who shall take such action in respect of that officer as, acting in his discretion, he sees fit: Provided that where the action of the aforesaid person or authority included the dismissal of that officer or his suspension from the exercise of his office, that person or authority may nevertheless suspend him from the exercise of his office pending the determination of the reference to the Governor.
Section 72	72. Subject to the provisions of this Order, the Governor, acting in his discretion, may make any regulations which he considers necessary or expedient for providing for the time and manner of making application for a reference to him under subsection (2) of the preceding section and, generally, for giving effect to the provisions of sections 70 and 71 of this Order.
Section 77	77. Subject to the provisions of this Order, power to make appointments to public offices and to dismiss and to exercise disciplinary control over persons holding or acting in any such offices is hereby vested in the Governor, acting in his discretion.
Section 78	78.—(1) Power to make appointments to the office of Permanent Secretary (other than appointments on transfer from another such office carrying the same salary) is hereby vested in the Governor acting after consultation with the Premier. (2) Power to make appointments to any office of Permanent Secretary on transfer from another such office carrying the same salary is hereby vested in the Governor acting on the recommendation of the Premier. (3) For the purposes of this section, the office of Financial Secretary shall be deemed to be the office of a Permanent Secretary.

Column 1	*Column* 2
Section 80	80.—(1) The Governor, acting in his discretion, may by instrument under the Broad Seal direct that, subject to such conditions as may be specified in that instrument, power to make appointments to such offices, being offices to which this section applies, as may be so specified and power to dismiss and power to exercise disciplinary control over persons holding or acting in those offices, or any of those powers, shall (without prejudice to the exercise of such power by the Governor, acting in his discretion) be exercisable by such other authority or public officer as may be so specified. (2) In relation to any power made exercisable under the preceding subsection by some person or authority other than the Governor, the offices to which this section applies are all offices in respect of which that power is, apart from this section and otherwise than by virtue of sections 79 and 85 of this Order, vested by this Part of this Order in the Governor acting in his discretion. (3) Where, by virtue of an instrument made under this section, the power to dismiss or to exercise disciplinary control over any officer has been exercised by a person or authority other than the Governor, the officer in respect of whom it was so exercised may apply for the case to be referred to the Governor, and thereupon the action of the aforesaid person or authority shall cease to have effect and the case shall be referred to the Governor who shall take such action in respect of that officer as, acting in his discretion, he shall see fit: Provided that where the action of the aforesaid person or authority included the dismissal of that officer or his suspension from the exercise of his office, that person or authority may nevertheless suspend him from the exercise of his office pending the determination of the reference to the Governor.
Section 81	81. Subject to the provisions of this Order, the Governor, acting in his discretion, may make any regulations which he considers necessary or expedient for providing for the time and manner of making application for a reference to him under subsection (3) of the preceding section and all matters incidental to such references, and, generally, for giving effect to the provisions of sections 77 to 80 inclusive of this Order.
Section 86	86.—(1) The Governor, acting in his discretion, may by instrument under the Broad Seal direct that, subject to such conditions as may be specified in that instrument, power to make appointments to such offices, being offices to which this section applies, as may be so specified and power to dismiss and power to exercise disciplinary control over persons holding or acting in those offices, or any of those powers, shall (without prejudice to the exercise of such power by the Governor, acting in his discretion) be exercisable by the Commissioner of Police. (2) The offices to which this section applies are the offices of all police officers not above the rank of inspector.

Column 1	*Column* 2
Section 86—*cont.*	(3) Where, by virtue of an instrument made under this section, the power to dismiss or to exercise disciplinary control over any officer has been exercised by the Commissioner of Police, the officer in respect of whom it was so exercised may apply for the case to be referred to the Governor, and thereupon the action of the Commissioner of Police shall cease to have effect and the case shall be referred to the Governor who shall take such action in respect of that officer as, acting in his discretion, he shall see fit: Provided that where the action of the Commissioner of Police included the dismissal of that officer or his suspension from the exercise of his office, the Commissioner of Police may nevertheless suspend him from the exercise of his office pending the determination of the reference to the Governor.
Section 87	87. Subject to the provisions of this Order the Governor, acting in his discretion, may make any regulations which he considers necessary or expedient for providing for the time and manner of making application for a reference to him under subsection (3) of the preceding section and all matters incidental to such references, and, generally, for giving effect to the provisions of sections 85 and 86 of this Order.

EXPLANATORY NOTE

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

The purpose of this Order is to provide a new Constitution for Jamaica, conferring full internal self-government within the framework of the Federation of The West Indies. It includes provision for the office of Governor, the Legislature, the Executive, the Judicature, the Public Service and Finance.

1959 No. 2202

The Jamaica (Constitution) (Amendment) Order in Council, 1959

Made - - - - 21*st December,* 1959

At the Court at Buckingham Palace, the 21st day of December, 1959

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the Jamaica Act, 1866(a), the enactments of the Legislature of Jamaica therein mentioned, or otherwise in Her vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation, construction and commencement

1.—(1) This Order may be cited as the Jamaica (Constitution) (Amendment) Order in Council, 1959, and this Order and the Jamaica

(a) 29 & 30 Vict. c. 12.