1959 No. 1772

The Nigeria (Constitution) (Amendment No. 3) Order in Council, 1959

Made - - - -	*19th October*, 1959
Laid before Parliament	*23rd October*, 1959
Coming into Operation	*24th October*, 1959

At the Court at Buckingham Palace, the 19th day of October, 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 Foreign Jurisdiction Act, 1890(a), or otherwise in Her Majesty 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 Nigeria (Constitution) (Amendment No. 3) Order in Council, 1959, and shall be construed as one with the Nigeria (Constitution) Orders in Council, 1954 to 1958(b), the Nigeria (Constitution) (Amendment) Order in Council, 1959(c), and the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1959(d).

(2) The Nigeria (Constitution) Orders in Council, 1954 to 1958, the Nigeria (Constitution) (Amendment) Order in Council, 1959, the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1959, and this Order may be cited together as the Nigeria (Constitution) Orders in Council, 1954 to 1959.

(3) Section 1 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1959, is amended by the deletion of subsection (2).

(4) This Order shall come into operation on the twenty-fourth day of October, 1959:

Provided that—

(*a*) sections 2, 4, 5 to 16, 24, 25, 27, 29 to 38, subsection (1) of section 39, 40 to 53, 62, 64, 66, 67 and 72 shall come into operation immediately after the next dissolution of the House of Representatives after that date;

(*b*) section 18 shall come into operation immediately after the next dissolution of the Legislative Houses of the Western Region after that date;

(*c*) section 21 shall come into operation immediately after the next dissolution of the Legislative Houses of the Eastern Region after that date;

(*d*) section 19 shall be deemed to have come into operation on the twentieth day of June, 1959; and

(a) 53 & 54 Vict. c. 37. (b) S.I. 1954/1146, 1955/432, 1956/836, 1957/1363, 1530, 1958/429, 1257, 1522, 1958 (1954 II, p. 2829; 1955 II, p. 3163; 1956 II, p. 2953; 1957 II, pp. 3028, 3030; 1958 II, pp. 2757, 2811, 2822, 2825).
(c) S.I. 1959/368 (Pt. II, p. 3195 of this vol.).
(d) S.I. 1959/1049 (Pt. II, p. 3215, of this vol.).

(*e*) subsection (2) of section 3 and sections 20, 54, 55 and 65 shall be deemed to have come into operation on the first day of April, 1959.

Revocation

2. The Nigeria (Electoral Provisions) Order in Council, 1958(**a**), is revoked.

Amendment of Order of 1954

3.—(1) Section 2 of the Nigeria (Constitution) Order in Council, 1954(**b**), (hereinafter called "the principal Order") (as amended by section 2 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957(**c**), subsection (1) of section 3 of the Nigeria (Constitution) (Amendment) Order in Council, 1958(**d**), section 2 of the Nigeria (Constitution) (Amendment No. 3) Order in Council, 1958(**e**), subsection (1) of section 2 of the Nigeria (Constitution) (Amendment No. 4) Order in Council, 1958(**f**), section 2 of the Nigeria (Constitution) (Amendment) Order in Council, 1959, and section 2 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1959) is amended—

(*a*) by the insertion in subsection (1) after the definition of "Exclusive Legislative List" of the following definition—

'"Federal Legislative House" means the Senate or the House of Representatives;';

(*b*) by the deletion from subsection (1) of the words "House of Representatives," in the definition of "Legislative House" and the substitution of the words "a Federal Legislative House";

(*c*) by the insertion in subsection (2) after paragraph (*a*) of the following paragraphs:—

"(*b*) references to the territorial waters of Nigeria or the territorial waters of a Region, the Southern Cameroons or Lagos, as the case may be are references to such parts of the sea adjacent to Nigeria as are declared by the Governor-General, acting in his discretion, to constitute such territorial waters;

(*c*) references to Nigeria or to a Region or the Southern Cameroons or Lagos include references to the internal and territorial waters thereof;

(*d*) references to the continental shelf of Nigeria are references to such parts of the continental shelf of Africa as appertain to Nigeria under international law; and

(*e*) references to the continental shelf of a Region or the Southern Cameroons or Lagos are references to such parts of the continental shelf of Nigeria as would appertain thereto under international law if each Region, the Southern Cameroons and Lagos were separate states."; and

(*d*) by the deletion from subsection (4) of the words "member of the House of Representatives" in sub-paragraph (iii) of paragraph (*b*) and the substitution of the words "member of a Federal Legislative House".

(2) Section 2 of the principal Order is further amended by the insertion in subsection (4) after the words "Northern Region" in sub-paragraph (iv) of the words "and any offices to which section 180K of this Order applies".

(**a**) S.I. 1958/915 (1958 II, p. 2829).
(**b**) S.I. 1954/1146 (1954 II, p. 2829).
(**c**) S.I. 1957/1530 (1957 II, p. 3030).
(**d**) S.I. 1958/429 (1958 II, p. 2757).
(**e**) S.I. 1958/1522 (1958 II, p. 2822).
(**f**) S.I. 1958/1958 (1958 II, p. 2825).

4. Section 4 of the principal Order (as amended by section 3 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957, and section 3 of the Nigeria (Constitution) (Amendment) Order in Council, 1959) is amended by the deletion from subsection (1) of paragraph (*a*) and the proviso to paragraph (*b*).

5. Section 5 of the principal Order is amended by the deletion of subsection (1) and the substitution of the following subsection:—

"(1) There shall be, for the Federation, two Legislative Houses, which shall be styled respectively the Senate and the House of Representatives".

6.—(1) The principal Order is amended by the insertion after section 5 of the following sections:—

"Composition of Senate.

5A.—(1) The members of the Senate shall be—

(*a*) forty-eight Senators, of whom twelve shall be appointed in accordance with subsection (1) of section 5C of this Order to represent each Region and twelve shall be appointed in accordance with subsection (2) of that section to represent the Southern Cameroons;

(*b*) two Senators who are Chiefs from Lagos, namely—

(i) the Oba of Lagos; and

(ii) a Chief elected from among their own number by the White Cap Chiefs and War Chiefs of Lagos in accordance with regulations made by the Governor-General;

(*c*) two Senators appointed in accordance with subsection (3) of section 5C of this Order to represent Lagos;

(*d*) four Senators appointed by the Governor-General, acting in his discretion, by Instrument under the Public Seal; and

(*e*) those members of the Council of Ministers who have been appointed as such from among the members of the House of Representatives.

(2) A person appointed President of the Senate in pursuance of paragraph (*b*) of subsection (1) of section 5B of this Order shall be deemed to be a member of the Senate.

President and Deputy President of Senate.

5B.—(1) When the Senate first sits after any dissolution thereof, and before it proceeds to the despatch of any other business, the members thereof shall elect to be President of the Senate—

(*a*) one of the members of the Senate mentioned in paragraphs (*a*), (*b*), (*c*) and (*d*) of subsection (1) of section 5A of this Order; or

(*b*) a person who is not a member of the Senate.

(2) When the Senate first sits after any dissolution thereof, and before it proceeds to the despatch of any other business except the election of a President, the members thereof shall elect to be Deputy President of the Senate one of the members of the Senate mentioned in paragraphs (*a*), (*b*), (*c*) and (*d*) of subsection (1) of section 5A of this Order.

(3) As often as the office of President or Deputy President falls vacant otherwise than when the Senate first sits after a dissolution thereof, the members shall as soon as practicable elect a person to that office in like manner as is provided in subsection (1) or (2) of this section, as the case may be.

(4) The office of the President or the Deputy President of the Senate shall become vacant—

(*a*) when the Senate first sits after any dissolution thereof; or

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

(*c*) in the case of a person elected to be President in pursuance of paragraph (*a*) of subsection (1) of this section or in the case of a person elected as Deputy President, if—

(i) he ceases to be a member of the Senate otherwise than by reason of a dissolution thereof; or

(ii) he becomes a Minister or a Parliamentary Secretary to a Minister.

Appointment of Senators to represent Regions, the Southern Cameroons and Lagos.

5C.—(1) Senators representing a Region shall be appointed by the Governor by Instrument under the Public Seal from among persons who have been selected for that purpose in accordance with regulations made by the Governor and whose selection has been approved by a resolution passed by a joint sitting of the Legislative Houses of the Region in accordance with such Standing Orders as the Governor may make in that behalf.

(2) Senators representing the Southern Cameroons shall be appointed by the Commissioner of the Cameroons by writing under his hand from among persons who have been selected for that purpose in accordance with regulations made by the Commissioner and whose selection has been approved by a resolution of the House of Assembly of the Southern Cameroons.

(3) Senators representing Lagos shall be appointed by the Governor-General by Instrument under the Public Seal from among persons selected for that purpose in accordance with regulations made by the Governor-General and in the making of such appointments the Governor-General shall have regard to the composition of the Lagos Town Council.

5D—(1) No person shall be qualified for selection as a Senator under section 5C of this Order unless he has attained the age of forty years; subject as aforesaid, the provisions of sections 9 and 10 of this Order shall apply in relation to the selection of persons as Senators to represent a Region, the Southern Cameroons or Lagos as they apply in relation to the election in that Region, the Southern Cameroons or Lagos, as the case may be, of persons as Representative Members of the House of Representatives.

(2) The provisions of sections 9 and 10 of this Order shall apply in relation to the election of persons as Senators under

sub-paragraph (ii) of paragraph (*b*) of subsection (1) of section 5A of this Order as they apply in relation to the election in Lagos of persons as Representative Members of the House of Representatives.

Tenure of seats by Senators.

5B—(1) The seat in the Senate of a Senator other than the Oba of Lagos or a Senator appointed under paragraph (*d*) of subsection (1) of section 5A of this Order shall become vacant—

(*a*) upon a dissolution of the Senate ; or

(*b*) if he resigns his seat in the Senate by writing under his hand addressed to the President of the Senate ; or

(*c*) if he is absent from two consecutive meetings of the Senate and the President of the Senate does not, by writing under his hand, excuse his absence within one month after the end of the second meeting ; or

(*d*) if he becomes a member of the House of Representatives, a Regional Legislative House, the House of Assembly of the Southern Cameroons or the House of Chiefs of the Southern Cameroons ; or

(*e*) if he ceases to be a British subject, or ceases to be a British protected person without becoming a British subject ; or

(*f*) if any circumstances arise that, if he were not a Senator, would cause him to be disqualified for selection or election to the seat held by him under paragraphs (*a*), (*b*), (*c*), (*d*), (*e*) or (*h*) of subsection (1) of section 10 of this Order, as it applies in relation to such selection or election.

(2) A Senator appointed under paragraph (*d*) of subsection (1) of section 5A of this Order shall hold his seat in the Senate during Her Majesty's pleasure :

Provided that his seat shall in any case become vacant—

(*a*) upon a dissolution of the Senate ;

(*b*) if he resigns his seat in the Senate by writing under his hand addressed to the Governor-General ; or

(*c*) if he is absent from two consecutive meetings of the Senate and the President does not, by writing under his hand, excuse his absence within one month after the end of the second meeting."

(2) For the purposes of section 5B of the principal Order, as set out in subsection (1) of this section, the first sitting of the Senate after the commencement of this Order shall be deemed to be the first sitting after a dissolution.

7. Section 6 of the principal Order (as amended by section 4 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957) is amended—

(*a*) by the deletion of paragraph (*c*) and the substitution of the following paragraph :—

" and

(*c*) three hundred and twenty Representative Members elected in accordance with regulations made under section 8 of this Order." ; and

(*b*) by the deletion of paragraphs (*d*) and (*e*).

8. Section 7 of the principal Order (as amended by section 5 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957, and section 2 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1958(**a**)) is amended—

(*a*) by the deletion from subsection (1) of the words "one of the members of the House mentioned in paragraphs (*c*), (*d*) and (*e*) of section 6 of this Order" and the substitution of the words "a Representative Member of the House"; and

(*b*) by the deletion from subsection (2) of the words "one of the members of the House mentioned in paragraphs (*c*) and (*d*) of section 6 of this Order" and the substitution of the words "a Representative Member of the House".

9.—(1) The principal Order is amended by the insertion after section 7 of the following sections:—

"Establishment of Electoral Commission.

7A.—(1) There shall be for the Federation an Electoral Commission.

(2) The members of the Electoral Commission of the Federation shall be—

(*a*) a Chief Electoral Commissioner, who shall be Chairman; and

(*b*) four other members, or such greater number of members as the Governor-General, acting in his discretion, may from time to time prescribe, of whom one shall represent each Region and one shall represent the Southern Cameroons.

(3) The members of the Electoral Commission of the Federation shall be appointed by the Governor-General, acting in his discretion, by Instrument under the Public Seal.

(4) A person shall not be qualified for appointment as a member of the Electoral Commission of the Federation if he is a member of a Legislative House or if he holds or is acting in any office of emolument under the Crown other than the office of member of the Public Service Commission of the Federation, the Police Service Commission of the Federation or the Public Service Commission or the Judicial Service Commission of a Region or (unless the Governor-General, acting in his discretion, otherwise directs) if he is a party to, or is a partner in a firm that is a party to, or is a director or manager of a company that is a party to, any contract on account of public services with the Government of the Federation:

Provided that the Governor-General may appoint a person who is not an officer in the public service of the Federation or the public service of a Region to be a member of the Commission other than the Chief Electoral Commissioner or the member representing a Region or the Southern Cameroons notwithstanding that he holds or is acting in an office of emolument under the Crown if he is satisfied that he will be required to perform only part-time duties as a member of the Commission.

(**a**) S.I. 1958/1257 (1958 II, p. 2811).

(5) The office of a member of the Electoral Commission of the Federation shall become vacant—

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

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

(*c*) if he becomes a member of a Legislative House; or

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

(6) If the office of a member of the Electoral Commission of the Federation is vacant or a member is for any reason unable to perform the functions of his office, the Governor-General, 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 continue to act until his appointment is revoked by the Governor-General, acting in his discretion.

(7) The Governor-General may make regulations providing for the salaries and allowances to be paid to members of the Electoral Commission of the Federation:

Provided that the salary of a member of the Commission and his conditions of service other than allowances shall not be altered to his disadvantage during his continuance in office.

(8) The salaries and allowances of the members of the Electoral Commission of the Federation shall be a charge on the Consolidated Revenue Fund of the Federation.

Electoral Districts.

7B. Nigeria shall be divided into three hundred and twenty electoral districts in such manner as the Governor-General, acting on the recommendation of the Electoral Commission of the Federation, may prescribe by Proclamation published in the Official Gazette of the Federation.

Directions to Electoral Commission.

7C.—(1) The Governor-General, acting in his discretion, may by writing under his hand give directions to the members of the Electoral Commission of the Federation for the purpose of ensuring the impartial discharge of their functions as such.

(2) The members of the Electoral Commission of the Federation shall comply with any directions given to them under this section or shall cause them to be complied with."

(2) Any Proclamation made by the Governor-General under section 4 of the Nigeria (Electoral Provisions) Order in Council, 1958, and in force immediately before the commencement of this section shall have effect as if it were a Proclamation made under section 7B of this

Order, as set out in subsection (1) of this section, and, subject to the provisions of subsection (3) of this section, may be amended or revoked accordingly.

(3) The boundaries of the electoral districts established immediately after the commencement of this section by virtue of subsection (2) of this section, shall, notwithstanding the provisions of subsection (7) of section 2 of the principal Order, as amended, not be subject to variation during the period beginning at such commencement and ending on the fourteenth day of July, 1963.

10.—(1) Section 8 of the principal Order is revoked and the following section is substituted—

"Election of Representative Members.

8.—(1) Subject to the provisions of this Order, the Governor-General may by regulation make provision for the election of persons as Representative Members of the House of Representatives, including (without prejudice to the generality of the foregoing power) the following matters—

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

(*b*) the registration of electors;

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

(*d*) the division of electoral districts for any purpose connected with elections;

(*e*) the holding of elections.

(2) Regulations made under this section shall provide—

(*a*) that each of the electoral districts into which Nigeria is divided in pursuance of section 7B of this Order shall return one Representative Member to the House of Representatives; and

(*b*) that the registration of electors and the conduct of elections shall be subject to the direction and supervision of the Electoral Commission of the Federation in such manner as may be provided for in those regulations.

(3) The Governor-General may by regulation make provision for—

(*a*) the disqualification of any person for membership of the House of Representatives by reason of his holding or acting in, any office the functions of which involve—

(i) any responsibility for, or in connection with, the conduct of any election; or

(ii) any responsibility for, or in connection with, the compilation or revision of any electoral register;

(*b*) the definition and trial of offences relating to elections and the imposition of penalties for such offences, including disqualification for membership of the House of Representatives or for registration as an elector, or for voting at elections, of any person concerned in any such offence; and

(*c*) the definition and trial of offences connected with the functions of the Electoral Commission of the Federation (including, without prejudice to the generality of this paragraph, offences relating to the bringing of improper influence on the Commission and misconduct by members of the Commission) and the imposition of penalties for such offences.

(2) Any regulations made by the Governor-General under section 5 of the Nigeria (Electoral Provisions) Order in Council, 1958, and in force immediately before the commencement of this section shall have effect as if they were regulations made under section 8 of the principal Order, as set out in subsection (1) of this section, and may be amended or revoked accordingly.

11. Section 9 of the principal Order (as amended by section 2 of the Nigeria (Constitution) (Amendment) Order in Council, 1955(a)) is revoked and the following section is substituted—

"Qualifications for representative membership of House of Representatives.

9. Subject to the provisions of section 10 of this Order, a person shall be qualified to be elected as a Representative Member of the House of Representatives if—

(*a*) he is a British subject or a British protected person of the age of twenty-one years or more and, in the case of a person who seeks election in the Northern Region, is a male person; and

(*b*) (i) he was born in Nigeria, or his father was born in Nigeria; or

(ii) he has resided in Nigeria for a continuous period immediately before the date of election of at least three years.".

12. Section 10 of the principal Order (as amended by subsection (1) of section 6 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957) is amended by the insertion in subsection (1) after paragraph (*e*) of the following paragraph:—

"(*ea*) is a member of the Senate:".

13. Sections 11, 12 and 13 of the principal Order are revoked.

14. Section 14 of the principal Order (as amended by section 5 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the deletion of paragraph (*d*) and the substitution of the following paragraph:—

"(*d*) if he becomes a member of the Senate (other than one of the members mentioned in paragraph (*e*) of subsection (1) of section 5A of this Order) or a member of a Regional Legislative House, the House of Assembly of the Southern Cameroons or the House of Chiefs of the Southern Cameroons;".

15. Section 15 of the principal Order is revoked.

(a) S.I. 1955/432 (1955 II, p. 3163).

16. Section 16 of the principal Order is revoked and the following section is substituted:—

"Determination of questions relating to membership of Federal Legislative Houses.

16.—(1) The Governor-General may by regulation make provision for determining whether—

(*a*) any person has become a member of a Federal Legislative House; or

(*b*) the seat of any member of a Federal Legislative House has become vacant.

(2) Subject to the provisions of this Order, regulations made under subsection (1) of this section may (without prejudice to the generality of that subsection) include provision with respect to the jurisdiction, powers, practice and procedure of the courts."

17. Section 24 of the principal Order is amended by the deletion from subsection (1) of the words "who are" in paragraph (*b*) and the substitution of the words "who have been appointed as such from among the".

18. Section 29 of the principal Order (as amended by section 12 of the Nigeria (Constitution) (Amendment) Order in Council, 1958, and section 5 of the Nigeria (Constitution) (Amendment No. 2) Order in Council 1959 is amended by the deletion in subsection (1) of the words "eighty Elected Members" in paragraph (*a*) and the substitution of the words "one hundred and twenty-four Elected Members".

19. Section 31D of the principal Order (as set out in subsection (1) of section 6 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1959) is amended by the insertion in subsection (4) after the words "Eastern Region" in sub-paragraph (ii) of paragraph (*c*) of the words "Provincial Commissioner of the Eastern Region".

20. Section 33 of the principal Order (as set out in section 8 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1958) is amended by the insertion in subsection (4) after the words "Eastern Region" in sub-paragraph (ii) of paragraph (*c*) of the words "Provincial Commissioner of the Eastern Region".

21. Section 32 of the principal Order (as amended by section 7 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1958, and section 7 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1959) is amended by the deletion from subsection (1) of the words "eighty-four Elected Members" in paragraph (*a*) and the substitution of the words "one hundred and forty-six Elected Members".

22.—(1) The principal Order is amended by the insertion after section 36 of the following sections:—

"Electoral Commissions in Regions.

36A.—(1) There shall be for each Region an Electoral Commission.

(2) The members of the Electoral Commission of a Region shall be—

(*a*) the Chairman of the Electoral Commission of the Federation, who shall be Chairman;

(*b*) the member of the Electoral Commission of the Federation representing the Region ; and

(*c*) two other members, or such greater number of members as the Governor, after consultation with the Premier, may prescribe.

(3) The members of the Electoral Commission of a Region mentioned in paragraph (*c*) of subsection (2) of this section shall be appointed by the Governor after consultation with the Premier.

(4) A person shall not be qualified for appointment as a member of the Electoral Commission of a Region if he is a member of a Legislative House or if he holds or is acting in any office of emolument under the Crown other than the office of member of the Public Service Commission of the Federation, the Police Service Commission of the Federation or the Public Service Commission or the Judicial Service Commission of a Region or (unless the Governor, acting in his discretion, otherwise directs) if he is a party to, or is a partner in a firm that is a party to, or is a director or manager of a company that is a party to, any contract on account of public services with the Government of the Region :

Provided that the Governor may appoint a person who is not an officer in the public service of the Federation or the public service of a Region to be a member of the Commission notwithstanding that he holds or is acting in an office of emolument under the Crown if he is satisfied that he will be required to perform only part-time duties as a member of the Commission.

(5) The office of a member of the Electoral Commission of a Region shall become vacant—

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

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

(*c*) if he becomes a member of a Legislative House ; or

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

(6) If the office of a member of the Electoral Commission of a Region 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 continue to act until his appointment is revoked by the Governor, acting in his discretion.

(7) The Governor may make regulations providing for the salaries and allowances to be paid to members of the Electoral Commission of a Region:

Provided that the salary of a member of the Commission and his conditions of service other than allowances shall not be altered to his disadvantage during his continuance in office.

(8) The salaries and allowances of the members of the Electoral Commission of a Region shall be a charge on the Consolidated Revenue Fund of the Region.

(9) The foregoing provisions of this section shall apply in relation to the Southern Cameroons as they apply in relation to a Region, and for that purpose references to a Region and the Governor shall be construed as if they were references to the Southern Cameroons and the High Commissioner for the Southern Cameroons.

Electoral districts.

36B.—(1) The Northern Region shall be divided into one hundred and seventy-four electoral districts in such manner as the Governor, acting on the recommendation of the Electoral Commission of the Region, may prescribe by Proclamation published in the Official Gazette of the Region.

(2) The Western Region shall be divided into one hundred and twenty-four electoral districts in such manner as the Governor, acting on the recommendation of the Electoral Commission of the Region, may prescribe by Proclamation published in the Official Gazette of the Region.

(3) The Eastern Region shall be divided into one hundred and forty-six electoral districts in such manner as the Governor, acting on the recommendation of the Electoral Commission of the Region, may prescribe by Proclamation published in the Official Gazette of the Region.

(4) The Southern Cameroons shall be divided into twenty-six electoral districts in such manner as the High Commissioner for the Southern Cameroons, acting on the recommendation of the Electoral Commission of the Southern Cameroons, may prescribe by Proclamation published in the Official Gazette of the Southern Cameroons.

Directions to Regional Electoral Commissions.

36C.—(1) The Governor, after consultation with the Premier, may by writing under his hand give directions to the members of the Electoral Commission of a Region for the purpose of ensuring the impartial discharge of their functions as such.

(2) The members of the Electoral Commission of a Region shall comply with any directions given to them under this section or shall cause them to be complied with.

(3) The foregoing provisions of this section shall apply in relation to the Southern Cameroons as they apply in relation to a Region, and for that purpose references to a Region and the Governor shall be construed as if they were references to the Southern Cameroons and the High Commissioner for the Southern Cameroons.".

(2) The provisions of subsection (1) of this section shall come into operation in relation to each Region immediately after the next dissolution of the Legislative Houses of that Region after the commencement of this Order or on such earlier date (if any) as may be fixed by the Governor by notice published in the Official Gazette of the Region :

Provided that until the House of Assembly of that Region first sits after that dissolution section 36B of the principal Order, as set out in subsection (1) of this section, shall have effect in relation to that Region as if the words " acting on the recommendation of the Electoral Commission of the Region " in subsection (1), subsection (2) or subsection (3), as the case may be, were omitted and the words " acting on the recommendation of such authority as the Governor, after consultation with the Premier, may appoint in that behalf " were substituted.

(3) Subsection (2) of this section shall apply in relation to the Southern Cameroons as it applies in relation to a Region, and for that purpose references to a Region and the Governor shall be construed as if they were references to the Southern Cameroons and the High Commissioner for the Southern Cameroons and that subsection shall have effect as if the words " subsection (4) " were substituted for the words " subsection (1), subsection (2) or subsection (3), as the case may be ".

23.—(1) Section 37 of the principal Order is amended—

(*a*) by the deletion of subsection (1) and the substitution of the following subsection:—

" (1) Subject to the provisions of this Order, the Governor may by regulation make provision for the election of persons as Elected Members of the House of Assembly of a Region, including (without prejudice to the generality of the foregoing power) the following matters—

(*a*) the registration of electors ;

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

(*c*) the division of electoral districts for any purpose connected with elections ;

(*d*) the holding of elections,

and any regulations made under this subsection may provide for different methods of election in respect of different parts of the Region.";

(*b*) by the insertion in subsection (2) after paragraph (*b*) of the following paragraph—

" (*c*) the definition and trial of offences connected with the functions of the Electoral Commission of the Region (including, without prejudice to the generality of this paragraph, offences relating to the bringing of improper influence on the Commission and misconduct by members of the Commission) and the imposition of penalties for such offences.".

(*c*) by the deletion of subsection (3) and the substitution of the following subsection:—

"(3) Regulations made under this section in respect of a Region shall provide—

(*a*) that each of the electoral districts into which the Region is divided in pursuance of section 36B of this Order shall return one Elected Member to the House of Assembly of the Region;

(*b*) that the registration of electors and the conduct of elections to the House of Assembly of the Region shall be subject to the direction and supervision of the Electoral Commission of the Region in such manner as may be provided in such regulations; and

(*c*) that a person shall be qualified to vote at an election to the House of Assembly of the Region if he would be qualified to vote in the Region at an election to the House of Representatives were such an election held on the same date as the election to that House of Assembly:

Provided that any such regulations may provide that registers prepared for the purposes of elections in the Region to the House of Representatives shall be used for the purposes of elections to the House of Assembly of the Region"; and

(*d*) by the deletion of subsections (4) and (5).

(2) Any regulations made in relation to a Region or the Southern Cameroons under section 37 of the principal Order and in force immediately before the commencement of this Order shall continue in force until the next dissolution of the Legislative Houses of that Region or the House of Assembly of the Southern Cameroons, as the case may be, as if this Order had not been made and may be amended or revoked accordingly; and no elections shall be held in a Region or the Southern Cameroons under regulations made under that section, as amended by subsection (1) of this section, until after such a dissolution of the Legislative Houses of that Region or the House of Assembly of the Southern Cameroons, as the case may be.

24. Section 39 of the principal Order (as amended by subsection (1) of section 8 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957, and subsection (1) of section 21 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the insertion in subsection (1) after the words "a member of" in paragraph (*f*) of the words "the Senate,".

25. Section 47 of the principal Order (as amended by section 25 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the deletion of the words "member of the House of Representatives" in paragraph (*d*) and the substitution of the words "member of a Federal Legislative House".

26. (1) Section 49 of the principal Order (as amended by section 27 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended—

(*a*) by the deletion of subsection (3) and the substitution of the following subsection:—

"(3) The Governor may by regulation make provision for determining whether—

(*a*) any person has become an Elected Member of the House of Assembly of a Region; or

(*b*) the seat of an Elected Member of the House of Assembly of a Region has become vacant"; and

(*b*) by the insertion after subsection (3) of the following subsections:—

"(4) Subject to the provisions of this Order, regulations made under subsection (3) of this section may (without prejudice to the generality of that subsection) include provision with respect to the jurisdiction, powers, practice and procedure of the courts.

(5) The provisions of subsections (3) and (4) of this section shall apply in relation to the Southern Cameroons as they apply in relation to a Region, and for that purpose the references in subsection (3) to the Governor and the House of Assembly of a Region shall have effect as if they were references to the High Commissioner for the Southern Cameroons and the House of Assembly of the Southern Cameroons."

(2) The provisions of this section shall come into operation in relation to a Region or the Southern Cameroons immediately after the next dissolution of the Legislative Houses of that Region or the Southern Cameroons, as the case may be, after the commencement of this Order.

27. Section 51 of the principal Order (as amended by section 29 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the deletion from subsections (1) and (2) of the words "House of Representatives" and the substitution of the words "Federal Legislative Houses".

28. The principal Order is amended by the insertion after section 56D (as set out in section 7 of the Nigeria (Constitution) (Amendment) Order in Council, 1959(**a**)) of the following section:—

"Legislatures may provide for certain matters for which provision may be made by regulation.

56E.—(1) Subject to the provisions of this Order, a law enacted by the Federal Legislature may make provision for any of the matters for which provision may be made by regulation under sub-paragraph (ii) of paragraph (*b*) of subsection (1) of section 5A, subsection (3) of section 5C, subsection (7) of section 7A, section 8, section 16, subsection (3) of section 158, subsection (4) of section 161, section 170, section 171 or subsection (5) of section 243 of this Order or head (*b*) of the proviso to sub-paragraph (3) of paragraph 5 of the Sixth Schedule to this Order.

(2) Subject to the provisions of this Order, a law enacted by the Legislature of a Region may make provision for any of the matters for which provision may be made in relation to that Region by regulation made under subsection (1) of section 5C, section 18, section 31B, subsection (7) of section 36A, section 37 or section 49 of this Order, as the case may be

(a) S.I. 1959/368 (Pt. II, p. 3195, of this vol.).

(3) Subject to the provisions of this Order, a law enacted by the Legislature of the Southern Cameroons may make provision for any of the matters for which provision may be made in relation to the Southern Cameroons by regulation made under subsection (2) of section 5c, subsection (9) of section 36, section 37 or section 49 of this Order.

(4) If there is any inconsistency between the provisions of any law enacted under this section and any regulations made under the provisions of this Order referred to in this section, the provisions of the law shall prevail.

(5) References in this Order to regulations made under the provisions of this Order referred to in this section shall include references to laws enacted under this section."

29. Section 60 of the principal Order (as amended by section 14 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957, section 35 of the Nigeria (Constitution) (Amendment) Order in Council, 1958, section 9 of the Nigeria (Constitution) (Amendment) Order in Council, 1959, and section 12 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1959) is amended—

(*a*) by the deletion from subsection (2) of paragraph (*a*) and the substitution of the following paragraph:—

"(*a*) A Bill other than a money Bill may be introduced in any Legislative House, but a money Bill shall not be introduced in the Senate or in the House of Chiefs of a Region.";

(*b*) by the deletion from subsection (2) of paragraph (*b*); and

(*c*) by the deletion from subsection (2) of the words "in relation to the Legislative Houses of a Region a Bill that in the opinion of the Speaker of the House of Assembly of the Region" in paragraph (*c*) and the substitution of the words "a Bill that in the opinion of the Speaker of the House of Representatives or the House of Assembly of the Region (as the case may be)".

30. Section 61 of the principal Order (as set out in section 12 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1958) is amended—

(*a*) by the deletion of the words "the House of Representatives" wherever they occur and the substitution of the words "a Federal Legislative House"; and

(*b*) by the deletion from subsection (1) of the words "the Speaker" wherever they occur and the substitution of the words "the President or Speaker".

31. Section 62 of the principal Order (as set out in section 15 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957) is amended—

(*a*) by the deletion of the words "the House of Representatives" wherever they occur and the substitution of the words "a Federal Legislative House"; and

(*b*) by the deletion of words "the Speaker" wherever they occur and the substitution of the words "the President or Speaker".

32. Section 62A of the principal Order (as set out in section 10 of the Nigeria (Constitution) (Amendment) Order in Council, 1959) is amended by the deletion of the words "the House of Representatives" and the substitution of the words "a Federal Legislative House".

33. Section 64 of the principal Order (as amended by section 39 of the Nigeria (Constitution) (Amendment) Order in Council, 1958, and section 11 of the Nigeria (Constitution) (Amendment) Order in Council, 1959) is amended—

(*a*) by the deletion from subsection (1) of the words "the House of Representatives should have effect" and the substitution of the words "a Federal Legislative House should have effect";

(*b*) by the deletion from subsection (1) of the words "passed or carried by the House of Representatives" and the substitution of the words "passed or carried by that House";

(*c*) by the deletion from subsection (1) of the words "moved or proposed in the House of Representatives" and the substitution of the words "moved or proposed in that House";

(*d*) by the deletion from subsection (3) of the words "If any member of the House of Representatives objects to any declaration made under this section" and the substitution of the words "If any member of a Federal Legislative House in respect of which a declaration has been made under this section objects to such declaration"; and

(*e*) by the deletion from subsections (6) and (7) of the words "the House of Representatives" and the substitution of the words "a Federal Legislative House".

34. Section 65 of the principal Order (as amended by section 40 of the Nigeria (Constitution) (Amendment) Order in Council, 1958, and section 12 of the Nigeria (Constitution) (Amendment) Order in Council, 1959) is amended—

(*a*) by the deletion of the words "the House of Representatives" wherever they occur and the substitution of the words "the Federal Legislative Houses"; and

(*b*) by the insertion in subsection (6) after the words "passed by" in paragraph (*a*) of the words "the Federal Legislative Houses or".

35. Section 66A of the principal Order (as set out in section 17 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957) is amended—

(*a*) by the deletion from subsection (1) of the words "the Speaker of the House of Representatives" in paragraph (*a*) and the substitution of the words "the President or Speaker of a Federal Legislative House";

(*b*) by the insertion in subsection (2) after the word "made" of the words "to the President or Speaker of a Federal Legislative House"; and

(*c*) by the deletion from subsection (2) of the words "the House of Representatives" and the substitution of the words "that House".

36. The principal Order is amended by the insertion after section 66A (as set out in section 17 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957) of the following sections—

"Restriction of powers of Senate as to Bills other than money Bills.

66B.—(1) If a money Bill, having been passed by the House of Representatives and sent to the Senate at least one month before the end of the session, is not passed by the Senate within one month after it is so sent, the Bill, with any amendments that are certified by the Speaker to

have been made by the Senate and agreed to by the House of Representatives, shall, unless the House of Representatives otherwise resolves, be deemed thereupon to have been passed by both Houses of the Federal Legislature and the provisions of this Order, and in particular the provisions relating to assent to Bills and disallowance of laws, shall have effect accordingly.

(2) There shall be endorsed on every money Bill when it is sent to the Senate from the House of Representatives 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-General for his assent in pursuance of subsection (1) of this section the certificate of the Speaker signed by him that it is a money Bill and the provisions of that subsection have been complied with.

(3) In this section the expression "money Bill" has the meaning assigned to it by section 60 of this Order.

Restriction of powers of Senate as to Bills other than money Bills.

66c.—(1) If any Bill other than a money Bill is passed by the House of Representatives in two successive sessions (whether or not the Federal Legislative Houses are dissolved between those sessions) and, having been sent to the Senate at least one month before the end of the session, is rejected by the Senate in each of those sessions, the Bill shall, on its rejection for the second time by the Senate, unless the House of Representatives otherwise resolves, be deemed to have been passed by both the Federal Legislative Houses, and the provisions of this Order, and in particular the provisions relating to assent to Bills and disallowance of laws, shall have effect accordingly:

Provided that the foregoing provisions of this paragraph shall not have effect unless six months has 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 House in the second session.

(2) For the purposes of this section a Bill that is sent to the Senate from the House of Representatives in any session shall be deemed to be the same Bill as a former Bill sent to the Senate in the preceding session if, when it is sent to the Senate, 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 that have been made by the Senate in the former Bill in the preceding session.

(3) The House of Representatives may, if it thinks fit, on the passage through the House of a Bill that is deemed to be a former Bill sent to the Senate in the preceding session, suggest any amendments without inserting the amendments in the Bill, and any such suggested amendments shall be considered by the Senate, and, if agreed to by the Senate, shall be treated as amendments made by the Senate 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 by the Senate.

(4) There shall be inserted in any Bill that is presented to the Governor-General for assent in pursuance of subsection (1) of this section any amendments that are certified by the Speaker and have been made by the Senate 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-General for assent in pursuance of subsection (1) of this section the certificate of the Speaker signed by him, that the provisions of this section have been complied with.

(6) In this section the expression "money Bill" has the meaning assigned to it by section 60 of this Order.

Provisions relating to ss. 66B and 66C.

66D.—(1) For the purposes of section 66C of this Order, a Bill shall be deemed to be rejected by the Senate if—

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

(*b*) it is passed by the Senate with any amendment that is not agreed to by the House of Representatives.

(2) A certificate of the Speaker of the House of Representatives under section 66B or 66C of this Order shall be conclusive for all purposes and shall not be questioned in any Court.

(3) Before giving any certificate under section 66B or 66C of this Order, the Speaker shall consult the Attorney-General of the Federation, or if the Attorney-General is absent from the seat of government of the Federation, such member of the Attorney-General's staff as the Attorney-General may designate for that purpose.".

37. Section 71 of the principal Order (as amended by section 46 of the Nigeria (Constitution) (Amendment) Order in Council, 1958, and section 14 of the Nigeria (Constitution) (Amendment) Order in Council, 1959) is amended by the deletion of the words "House of Representatives" wherever they occur and the substitution of the words "a Federal Legislative House".

38. Section 72 of the principal Order (as amended by section 47 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended—

(*a*) by the deletion from subsection (1) of the words "the House of Representatives" and the substitution of the words "a Federal Legislative House";

(*b*) by the deletion from subsection (1) of the word "Speaker" wherever it occurs and the substitution of the words "President or Speaker"; and

(*c*) by the deletion from subsection (1) of the words "Deputy Speaker" wherever they occur and the substitution of the words "Deputy President or Deputy Speaker".

39.—(1) Section 74 of the principal Order is amended—

(*a*) by the deletion of paragraph (*a*) and the substitution of the following paragraph:—

"(*a*) fifteen members, in the case of the Senate;"; and

(*b*) by the insertion after paragraph (*a*) of the following paragraph:—

"(*aa*) seventy-five members, in the case of the House of Representatives;".

(2) Section 74 of the principal Order is further amended by the deletion of the word "twenty-five" in paragraph (*c*) and the substitution of the word "thirty-five".

(3) The provisions of subsection (2) of this section shall come into operation in relation to each Region immediately after the next dissolution of the Legislative Houses of that Region after the commencement of this Order.

40. Section 75 of the principal Order (as amended by section 4 of the Nigeria (Constitution) (Amendment) Order in Council, 1956(a), section 48 of the Nigeria (Constitution) (Amendment) Order in Council, 1958, section 13 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1958, and section 17 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1959) is amended by the insertion before the words "the members of the Northern House of Chiefs" in paragraph (ii) of the proviso to paragraph (*a*) of the words "the members of the Senate mentioned in paragraph (*e*) of subsection (1) of section 5A of this Order,".

41. Section 76 of the principal Order (as amended by section 49 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended—

(*a*) by the deletion of the words "the House of Representatives" wherever they appear and the substitution of the words "a Federal Legislative House"; and

(*b*) by the deletion from subsection (2) of the word "Speaker" and the substitution of the words "President or Speaker".

42. Section 77 of the principal Order (as amended by section 2 of the Nigeria (Constitution) (Amendment) Order in Council, 1955) is amended by the deletion of the words "the House of Representatives" wherever they appear and the substitution of the words "the Federal Legislative Houses".

43. Section 78 of the principal Order is amended by the deletion from subsection (1) of the words "the House of Representatives" and the substitution of the words "the Federal Legislative Houses".

44. Section 79 of the principal Order is amended by the deletion from subsection (2) of the words "the House of Representatives" and the substitution of the words "a Federal Legislative House".

45. Section 80 of the principal Order (as amended by section 50 of the Nigeria (Constitution) (Amendment) Order in Council, 1958 and section 14 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1958) is amended by the deletion of the words "the House of Representatives" wherever they occur and the substitution of the words "the Federal Legislative Houses".

(a) S.I. 1956/836 (1956 II, p. 2953).

46. Section 81 of the principal Order (as amended by section 51 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the deletion from subsection (1) of the words " the House of Representatives " and the substitution of the words " either Federal Legislative House or both such Houses assembled together ".

47. Section 82 of the principal Order is amended by the deletion of subsection (1) and the substitution of the following subsection:—

" (1) The Governor-General may at any time by Proclamation published in the Official Gazette of the Federation—

(*a*) prorogue the Federal Legislative Houses or either of them; or

(*b*) dissolve the Federal Legislative Houses:

Provided that, unless they have been sooner dissolved, he shall in any case dissolve the Federal Legislative Houses at the expiration of five years from the date of the first sitting of either of those Houses after any dissolution."

48. Section 88A of the principal Order (as set out in section 19 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957, and as amended by section 21 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1959) is amended—

(*a*) by the deletion of subsection (1) and the substitution of the following subsection:—

" (1) Every Minister shall be appointed by Instrument under the Public Seal from among the members of the Senate or the members of the House of Representatives "; and

(*b*) by the addition to subsection (2) of the following proviso:—

" Provided that if the Prime Minister is appointed from among the members of the House of Representatives not less than one and not more than three of the other Ministers shall be appointed from among the members of the Senate, and if the Prime Minister is not so appointed not less than one and not more than two of the other Ministers shall be appointed from among the members of the Senate.".

49. Section 90 of the principal Order (as set out in section 21 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957) is amended by the deletion of paragraph (*b*) of the proviso and the substitution of the following paragraph—

" (*b*) if he ceases to be a member of the Federal Legislative House from among the members of which he was appointed for any reason other than the dissolution of that House; or ".

50. Section 91 of the principal Order (as substituted by the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957) is amended by the deletion of paragraph (*b*) of the proviso and the substitution of the following paragraph:—

" (*b*) if he ceases to be a member of the Federal Legislative House from among the members of which he was appointed for any reason other than the dissolution of that House; or ".

51. Section 92 of the principal Order (as set out in section 4 of the Nigeria (Constitution) (Amendment No. 3) Order in Council, 1958) is amended by the deletion of subsection (1) and the substitution of the following subsection:—

"(1) Whenever a Minister is ill or absent from Nigeria, the Governor-General, acting on the recommendation of the Prime Minister, may, by Instrument under the Public Seal, appoint a person from among the members of the Senate other than the President or the Deputy President or the members of the House of Representatives other than the Speaker or the Deputy Speaker to be temporarily a member of the Council of Ministers."

52. Section 98 of the principal Order (as set out in section 28 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957, and as amended by section 54 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the deletion of the words "the House of Representatives" and the substitution of the words "the Federal Legislative Houses".

53. Section 99 of the principal Order (as amended by section 30 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957, and section 55 of the Nigeria (Constitution) (Amendment) Order in Council, 1958), is amended—

(*a*) by the deletion in subsection (1) of the words "the Representative Members and Special Members of the House of Representatives" and the substitution of the words "the members of the Senate mentioned in paragraphs (*a*), (*b*) and (*c*) of section 5A of this Order and the Representative Members of the House of Representatives"; and

(*b*) by the deletion in subsection (2) of paragraph (*b*) and the substitution of the following paragraph—

"(*b*) if he ceases to be a member of the Federal Legislative House from among the members of which he was appointed for any reason other than the dissolution of that House; or"

54. Section 122 of the principal Order is amended

(*a*) by the insertion after the words "of a Region" of the words "as a Provincial Commissioner of the Eastern Region"; and

(*b*) by the deletion of the words "except in the case of the Governor";

55. Section 123 of the principal Order (as set out in section 40 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957, section 63 of the Nigeria (Constitution) (Amendment) Order in Council, 1958, and section 24 of the Nigeria (Constitution) (Amendment) Order in Council, 1959) is amended by the insertion in subsection (2) after the words "Premier and to" of the words "a Provincial Commissioner of the Eastern Region appointed under section 180K of this Order or".

56. Section 142 of the principal Order (as set out in section 28 of the Nigeria (Constitution) (Amendment) Order in Council, 1959) is revoked and the following section is substituted:—

"Federal Legislature may establish courts.

142. A law enacted by the Federal Legislature may establish courts of justice for Nigeria or any part thereof in addition to the Federal Supreme Court, the High Courts established by section 142A of this Order and the courts established under section 142D or 143 of this Order."

57. Section 147 of the principal Order (as amended by section 2 of the Nigeria (Constitution) (Amendment) Order in Council, 1955) is revoked and the following section is substituted :—

'Appellate jurisdiction of Federal Supreme Court.

147.—(1) The Federal Supreme Court shall have jurisdiction, to the exclusion of any other court in Nigeria, to hear and determine appeals from the High Court of a Region.

(2) An appeal shall lie from decisions of the High Court of a Region to the Federal Supreme Court as of right in the following cases—

(*a*) decisions on questions as to the interpretation of this Order, the Nigeria (Offices of Governor-General and Governors) Order in Council, 1954(**a**), the Nigeria (Retirement Benefits) Order in Council, 1958(**b**), the Emergency Powers Order in Council, 1939(**c**), or any Order in Council amending any of those Orders ;

(*b*) decisions on questions regarding the provisions of the Sixth Schedule to this Order in their application to the Region ;

(*c*) decisions in any criminal proceedings in which any person has been sentenced to death by any court in the Region ;

(*d*) final decisions in any civil proceedings before the High Court sitting at first instance ;

(*e*) where the ground of appeal involves questions of law alone, decisions in any criminal proceedings before the High Court sitting at first instance ; and

(*f*) such other cases as may be prescribed by any law in force in the Region :

Provided that nothing in paragraph (*d*) of this subsection shall confer any right of appeal—

(*a*) from any order made *ex parte* ;

(*b*) from any order relating only to costs ;

(*c*) from any order made with the consent of the parties ; or

(*d*) in the case of a party to proceedings for dissolution or nullity of marriage who, having had time and opportunity to appeal from any decree *nisi* in such proceedings, has not so appealed, from any decree absolute founded upon such a decree *nisi*.

(3) Subject to the provisions of subsection (2) of this section, an appeal shall lie from decisions of the High Court of a Region to the Federal Supreme Court with the leave of the High Court or the Federal Supreme Court in the following cases—

(*a*) where the ground of appeal involves questions of fact, mixed law and fact or *quantum* of sentence, decisions in any criminal proceedings before the High Court sitting at first instance ;

(**a**) S.I. 1954/1147 (1954 II, p. 2829). (**b**) S.I. 1958/1523 (1958 II, p. 2832).
(**c**) *See* S.I. 1952 I, at p. 621.

(*b*) any case in which, but for the terms of the proviso to subsection (2) of this section, an appeal would lie as of right to the Federal Supreme Court by virtue of paragraph (*d*) of that subsection;

(*c*) decisions in any civil or criminal proceedings in which an appeal has been brought to the High Court from some other court; and

(*d*) such other cases as may be prescribed by any law in force in the Region.

(4) The Federal Supreme Court may dispose of any application for leave to appeal from any decision of the High Court of a Region in respect of any civil or criminal proceedings in which an appeal has been brought to the High Court from some other court of the Region upon consideration of the record of the proceedings if the Federal Supreme Court is of opinion that the interests of justice do not require an oral hearing of the application.

(5) Any right of appeal to the Federal Supreme Court from the decisions of the High Court of a Region conferred by this section—

(*a*) shall be exercisable in the case of civil proceedings at the instance of a party thereto or, with the leave of the High Court or the Federal Supreme Court, at the instance of any other person having an interest in the matter and in the case of criminal proceedings at the instance of an accused person or, subject to the provisions of sections 231 and 233 of this Order, at the instance of such other persons or authorities as may be prescribed by any law in force in the Region; and

(*b*) shall be exercised in accordance with any laws and rules of court for the time being in force in the Region regulating the powers, practice and procedure of the Federal Supreme Court.

(6) In this section—

"decision" means, in relation to the High Court of a Region, any determination of that High Court and includes (without prejudice to the generality of the foregoing) a judgment, decree, order, conviction, sentence (other than a sentence fixed by law) or recommendation;

"Region" includes the Southern Cameroons and Lagos.'

58. Section 148 of the principal Order is revoked and the following section is substituted:—

'Appellate jurisdiction of High Courts.

148.—(1) An appeal shall lie from decisions of a subordinate court of a Region to the High Court of the Region as of right or, if it is provided by any law in force in the Region that an appeal as of right shall lie from that subordinate court to another subordinate court of the Region, an appeal shall thereafter lie to the High Court as of right in the following cases—

(*a*) decisions from which, if they were decisions of the High Court, an appeal would lie to the Federal

Supreme Court by virtue of paragraph (*a*), paragraph (*b*) or paragraph (*c*) of subsection (2) of section 147 of this Order;

(*b*) where the matter in dispute on the appeal amounts to or is of the value of fifty pounds or upwards or where the appeal involves, directly or indirectly, some claim to or question respecting property or some civil right amounting to or of the value of fifty pounds or upwards, final decisions in any civil proceedings;

(*c*) where the ground of appeal involves questions of law alone, decisions in any criminal proceedings in which any person has been sentenced to imprisonment for a term exceeding three months or corporal punishment exceeding six strokes or a fine or forfeiture exceeding twenty-five pounds;

(*d*) decisions in any other criminal proceedings before the subordinate court sitting at first instance from which no appeal lies as of right to any other subordinate court of the Region; and

(*e*) such other cases as may be prescribed by any law in force in the Region.

(2) An appeal shall lie from decisions of a subordinate court of a Region to the High Court of the Region with the leave of the High Court or, if it is provided by any law in force in the Region that an appeal shall lie from that subordinate court to another subordinate court of the Region, an appeal shall thereafter lie to the High Court with the leave of the High Court in the following cases—

(*a*) decisions in any criminal proceedings from which no appeal lies as of right to the High Court; or

(*b*) such other cases in which no appeal lies as of right to the High Court as may be prescribed by any law in force in the Region.

(3) Any right of appeal from decisions of a subordinate court of a Region to the High Court of the Region conferred by this section—

(*a*) shall be exercisable in the case of civil proceedings at the instance of a party thereto or, with the leave of the High Court, at the instance of any other person having an interest in the matter and in the case of criminal proceedings at the instance of the accused person or, subject to the provisions of sections 231 and 233 of this Order, at the instance of such other persons or authorities as may be prescribed by any law in force in the Region; and

(*b*) shall be exercised in accordance with any laws and rules of court for the time being in force in the Region regulating the powers, practice and procedure of the High Court.

(4) In this section—

"decision" means, in relation to a subordinate court, any determination of that court and includes (without prejudice to the generality of the foregoing) a judgment, decree, order, conviction, sentence (other than a sentence fixed by law) or recommendation;

"Region" includes the Southern Cameroons and Lagos;

"subordinate court" means, in relation to a Region, any court in the Region other than the High Court of the Region or a court-martial.'

(2) During the period beginning at the commencement of this Order and ending on such date as may be fixed by the Governor of the Northern Region by notice published in the Official Gazette of the Region, the references in section 148 of the principal Order (as set out in subsection (1) of this section) to the decisions of a subordinate court of a Region shall not include references to such decisions of subordinate courts of the Northern Region as may be prescribed by the Governor by order published in the Official Gazette of the Region.

59. Section 150 of the principal Order (as amended by section 2 of the Nigeria (Constitution) (Amendment) Order in Council, 1955) is amended by the deletion of subsections (3), (4) and (5).

60. Section 151 of the principal Order (as amended by section 2 of the Nigeria (Constitution) (Amendment) Order in Council, 1955, and section 44 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957) is amended by the insertion in subsection (1) after the words "any other law" of the words "and in particular (without prejudice to the generality of the foregoing) may empower the Court to make such orders and give such directions as may appear to be necessary or desirable to enable any appeal to be determined."

61. Section 152 of the principal Order is revoked.

62. Section 154E of the principal Order (as set out in subsection (1) of section 77 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended—

(*a*) by the insertion in subsection (1) after the word "Clerk" of the words "to the Senate, Clerk"; and

(*b*) by the deletion from subsection (1) of the words "before the House of Representatives" and the substitution of the words "before the Federal Legislative Houses".

63. Section 161 of the principal Order (as amended by section 84 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the insertion after subsection (5) of the following subsection:—

"(6) For the purposes of this section the continental shelf of a Region shall be deemed to be part of that Region."

64. Section 180C of the principal Order (as set out in subsection (1) of section 99 of the Nigeria (Constitution) (Amendment) Order in Council, 1958, and as amended by subsection (1) of section 52 of the

Nigeria (Constitution) (Amendment) Order in Council, 1959) is amended by the insertion in subsection (3) after the words " the Public Service Commission of any other Region or " of the words " the Electoral Commission of the Federation or a Region or ".

65. The principal Order is amended by the insertion after section 180J (as set out in subsection (1) of section 99 of the Nigeria (Constitution) (Amendment) Order in Council, 1959) of the following section :—

"Appointment etc. of Provincial Commissioners in Eastern Region.

180K.—(1) Subject to the provisions of subsection (2) of this section, power to make appointments to the offices to which this section applies shall vest in the Governor of the Eastern Region acting on the recommendation of the Premier.

(2) No person shall be appointed to an office to which this section applies unless he is a member of the Eastern House of Assembly or a member of the Eastern House of Chiefs ; and any person so appointed shall cease to hold that office—

(*a*) if he becomes a Regional Minister, Attorney-General of the Eastern Region or a Parliamentary Secretary to a Regional Minister ; or

(*b*) if any circumstances arise which, if he were a Regional Minister of the Eastern Region other than the Premier, would cause him to vacate his seat in the Executive Council of that Region.

(3) This section applies to any office of Provincial Commissioner that may be constituted in respect of any province of the Eastern Region by any law enacted by the Legislature of that Region.

Provided that it shall not apply to any such office if it is declared in any such law that the provisions of section 180A of this Order shall apply to that office."

66. The principal Order is amended by the insertion after section 212 (as amended by section 30 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1958) of the following section :—

" Further provision relating to s. 71.

212A. Any Standing Orders made under section 71 of this Order in respect of the House of Representatives and in force on the first day of January, 1960, shall also have effect as if they were Standing Orders made under that section in respect of the Senate, and shall be read and construed with such adaptations and modifications as may be necessary for that purpose, and may be amended and revoked accordingly."

67. Section 213 of the principal Order (as amended by section 31 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1958), is amended—

(*a*) by the deletion from subsection (2) of the words " the House of Representatives and the members thereof " in paragraph (*a*) and the substitution of the words " the Federal Legislative Houses and the members thereof " ; and

(*b*) by the deletion from subsection (3) of the words "the Federal Legislature" and the substitution of the words "the Federal Legislative Houses".

68. Section 223 of the principal Order (as set out in subsection (1) of section 106 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the deletion from subsection (1) of paragraph (*c*).

69. The principal Order is amended by the insertion after section 243 (as set out in section 29 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1959) of the following sections:—

"Fundamental rights.

244.—(1) Subject to the provisions of this section, the provisions contained in the Sixth Schedule to this Order shall have effect throughout Nigeria.

(2) At any time when—

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

(*b*) there is in force a Proclamation made by the Governor-General and published in the Official Gazette of the Federation declaring that a state of public emergency exists; or

(*c*) there is in force a resolution of each Federal Legislative House in favour of which there were cast the votes of not less than two-thirds of all the members of the House declaring that democratic institutions in Nigeria are threatened by subversion,

measures may be taken in accordance with such provision as may be made in that behalf by a law enacted by the Federal Legislature (being either a specific law enacted with reference to a particular situation or a general law enacted in anticipation of situations that might arise thereafter) or by regulations made under the Emergency Powers Order in Council, 1939, as amended, derogating from the provisions of the Sixth Schedule to this Order to such extent as may be reasonably justifiable in order to deal with the situation:

Provided that nothing in this subsection shall authorize a derogation from the provisions of paragraph 1 of that Schedule except in respect of deaths resulting from lawful acts of war or from the provisions of paragraph 2 or 3 or sub-paragraph (7) of paragraph 5 of that Schedule.

(3) A resolution passed by a Federal Legislative House for the purposes of subsection (2) of this section shall remain in force for two years or such shorter period as may be specified therein:

Provided that any such resolution may be revoked at any time or may be extended from time to time for a further period not exceeding two years by resolution passed in like manner.

Enforcement of fundamental rights.

245.—(1) Any question regarding the provisions of the Sixth Schedule to this Order in their application to a Region shall be heard and determined by the High Court of the Region, and the High Court shall have power to

make such orders, issue such writs and give such directions as it may think fit for the purposes of enforcing those provisions within the Region.

(2) If any question regarding the provisions of the Sixth Schedule to this Order in their application to a Region arises in the course of proceedings before any court other than the High Court of the Region that court may hear and determine that question.

(3) Nothing in this section shall prevent any court established for a Region other than the High Court from exercising jurisdiction in respect of any or all of the matters referred to in subsection (1) of this section in accordance with any provision in that behalf in any law in force in the Region.

(4) A law enacted by the Federal Legislature or the Legislature of a Region may confer upon the High Court of that Region such additional or supplementary powers as may appear to be necessary or desirable for enabling the Court more effectively to exercise the jurisdiction conferred upon it by subsection (1) of this section and may make provision with respect to the practice and procedure of the the Court while exercising that jurisdiction.

(5) In this section "Region" includes the Southern Cameroons and Lagos.

(6) The provisions of this section shall have effect subject to the provisions of sections 144, 145, 146, 147 and 148 of this Order.

Reference to tribunal in certain cases.

246.—(1) Where—

(*a*) any person is detained in pursuance of provisions made in derogation from the provisions of paragraph 4 of the Sixth Schedule to this Order by virtue of subsection (2) of section 244 of this Order ; or

(*b*) the movements or residence within Nigeria of any person to whom paragraph 10 of that Schedule applies are restricted otherwise than by order of a court in in the interest of defence, public safety, public order, public morality or public health or in pursuance of provisions made in derogation from the provisions of that paragraph by virtue of that subsection,

that person shall be entitled to require that his case should be referred within one month of the beginning of the period of detention or restriction and thereafter during that period at intervals of not more than six months to a tribunal established by law, and that tribunal may make recommendations concerning the necessity or expediency of continuing the detention or restriction to the authority that has ordered it:

Provided that such authority shall not, unless the Governor-General otherwise directs, be obliged to act in accordance with any such recommendation.

(2) A tribunal established for the purposes of this section shall be constituted in such manner as to ensure its independence and impartiality and its Chairman shall be appointed by the Chief Justice of the Federation from among the persons qualified to practise in Nigeria as barristers or solicitors.

Review of certain provisions in Sixth Schedule.

247. The provisions of sub-paragraph (3) of paragraph 10 and heads (*b*) and (*c*) of sub-paragraph (2) of paragraph 11 of the Sixth Schedule to this Order shall be reviewed by the Governments of Nigeria at the expiration of five years from the date on which this section comes into operation and, so long as those provisions remain in force, at the expiration of every subsequent period of five years."

70. The First Schedule to the principal Order (as amended by section 2 of the Nigeria (Constitution) (Amendment) Order in Council, 1955, section 16 of the Nigeria (Constitution) (Amendment) Order in Council, 1956, section 50 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957, section 107 of the Nigeria (Constitution) (Amendment) Order in Council, 1958, section 9 of the Nigeria (Constitution) (Amendment No. 4) Order in Council, 1958, section 73 of the Nigeria (Constitution) (Amendment) Order in Council, 1959, and section 30 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1959) is amended by the insertion in Part IV after paragraph (*a*) of the following paragraph:—

"(*aa*) the jurisdiction, powers, practice and procedure of the courts with respect to any of those matters;"

71.—(1) The principal Order is amended by the insertion after the Fifth Schedule (as set out in the Schedule to the Nigeria (Constitution) (Amendment) Order in Council, 1958) of the provisions set out in the Schedule to this Order.

(2) In its application to the Northern Region, the Sixth Schedule to the principal Order (as set out in the Schedule to this Order) shall have effect as if sub-paragraph (10) of paragraph 5 were omitted.

(3) Subsection (2) of this section shall cease to have effect on such date as may be fixed by the Governor of the Northern Region by Proclamation published in the Official Gazette of the Region.

Transitional provisions relating to Southern Cameroons

72. Until such date as may be fixed by the High Commissioner for the Southern Cameroons by notice published in the Official Gazette of the Federation and the Official Gazette of the Southern Cameroons, the provisions of the principal Order, as amended, shall have effect as follows:—

(*a*) as if the following paragraph was substituted for paragraph (*a*) of subsection (1) of section 5A:—

"(*a*) thirty-six Senators, of whom twelve shall be appointed in accordance with subsection (1) of section 5C of this Order to represent each Region;";

(*b*) as if subsection (2) of section 5C were omitted;

(*c*) as if the words "the Southern Cameroons" wherever they occur in subsection (1) of section 5D were omitted;

(*d*) as if the words " and one shall represent the Southern Cameroons " in paragraph (*b*) of subsection (2) of section 7A and the words " or the Southern Cameroons " in the proviso to subsection (4) of that section were omitted ;

(*e*) as if the words " Nigeria shall be divided into three hundred and twenty electoral districts " in section 7B were omitted and the words " Nigeria (apart from the Southern Cameroons) shall be divided into three hundred and twelve electoral districts " were substituted ;

(*f*) as if the following proviso were added to subsection (9) of section 36A:—

" Provided that subsection (2) shall have effect as if the words " representing the Region " in paragraph (*b*) were omitted." ; and

(*g*) as if the words " subsection (2) of section 5C " were omitted from subsection (3) of section 56E.

Adaptation of laws

73.—(1) The Governor-General may, by Order published in the Official Gazette of the Federation, at any time within six months after the commencement of this Order provide that any existing law shall be read and construed with such adaptations and modifications as may appear to the Governor-General to be necessary or expedient for bringing the provisions of that law into conformity with any of the provisions of the principal Order, the Nigeria (Offices of Governor-General and Governors) Order in Council, 1954(a), the Nigeria (Retirement Benefits) Order in Council, 1958, or any Order in Council amending any of those Orders or otherwise for giving effect or enabling effect to be given to the provision; and any such law shall have effect accordingly from such date as may be specified in the Order, not being a date earlier than the commencement of this Order.

(2) In this section " existing law " means a law in force or having effect immediately before the commencement of this Order that was enacted by any legislature in Nigeria and includes any instrument made in pursuance of any such law.

W. G. Agnew.

(a) S.I. 1954/1147 (1954 II, p. 2939).

THE SCHEDULE

Section 244. PROVISIONS TO BE INSERTED AS SIXTH SCHEDULE TO NIGERIA (CONSTITUTION) ORDER IN COUNCIL, 1954

'SIXTH SCHEDULE

FUNDAMENTAL RIGHTS

Deprivation of life.

1.—(1) No person shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty.

(2) A person shall not be regarded as having been deprived of his life in contravention of sub-paragraph (1) of this paragraph if he dies as the result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably justifiable—

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

(ii) in order to effect an arrest or to prevent the escape of a person detained;

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

(iv) in order to prevent the commission by that person of a criminal offence.

(3) The use of force in any part of Nigeria in circumstances in which and to the extent to which it would be authorized in that part on the first day of November, 1959, by the Code of Criminal Law established by the Criminal Code Ordinance(a), as amended, shall be regarded as reasonably justifiable for the purposes of sub-paragraph (2) of this paragraph.

Inhuman treatment.

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

(2) Nothing in this paragraph shall invalidate any law by reason only that it authorizes the infliction in any part of Nigeria of any punishment that is lawful and customary in that part on the first day of November, 1959.

Slavery and forced labour.

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

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

(3) For the purposes of this paragraph "forced labour" does not include—

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

(*b*) any labour required of members of the armed forces of the Crown in pursuance of their duties as such or, in the case of persons who have conscientious objections to military service, any labour required instead of such service;

(*c*) any labour required in the event of an emergency or calamity threatening the life or well-being of the community; or

(*d*) any labour that forms part of normal communal or other civil obligations.

Deprivation of personal liberty.

4.—(1) No person shall be deprived of his personal liberty save in the following cases and in accordance with a procedure permitted by law—

(*a*) in execution of the sentence or order of a court in respect of a criminal offence of which he has been found guilty or in consequence of his unfitness to plead to a criminal charge;

(a) Laws of Nigeria, Rev. 1948, Chapter 42.

(*b*) by reason of his failure to comply with the order of a court or in order to secure the fulfilment of any obligation imposed upon him by law;

(*c*) for the purpose of bringing him before a court in execution of the order of a court or upon reasonable suspicion of his having committed a criminal offence or to such extent as may be reasonably necessary to prevent his committing a criminal offence;

(*d*) in the case of a minor, for the purpose of his education or welfare;

(*e*) in the case of persons suffering from infectious or contagious disease, persons of unsound mind, persons addicted to drugs or alcohol or vagrants, for the purpose of their care or treatment or the protection of the community; or

(*f*) for the purpose of preventing the unlawful entry of any person into Nigeria or for the purpose of effecting the expulsion, extradition or other lawful removal from Nigeria of any person or the taking of proceedings relating thereto.

(2) Any person who is arrested or detained shall be promptly informed of the reasons for his arrest or detention and given particulars of any criminal offence with which he is charged.

(3) Any person who is arrested or detained in accordance with head (*c*) of sub-paragraph (1) of this paragraph shall be brought before a court without undue delay, and if he is not tried within a reasonable time he shall (without prejudice to any further proceedings that may be brought against him) be released either unconditionally or upon such conditions as are reasonably necessary to ensure that he appears for trial at a later date.

(4) Any person who is unlawfully arrested or detained shall be entitled to compensation.

(5) Nothing in this paragraph shall invalidate any law by reason only that it authorizes the detention for a period not exceeding three months of a member of the armed forces of the Crown or a member of a police force in execution of a sentence imposed by an officer of the armed forces of the Crown or a police force, as the case may be, in respect of an offence of which he has been found guilty and which is punishable by such detention.

Determination of rights.

5.—(1) In the determination of his civil rights and obligations a person shall be entitled to a fair hearing within a reasonable time by a court or other tribunal established by law and constituted in such manner as to secure its independence and impartiality:

Provided that nothing in this sub-paragraph shall invalidate any law by reason only that it confers on any person or authority power to determine questions arising in the administration of a law that affect or may affect the civil rights and obligations of any person.

(2) Whenever any person is charged with a criminal offence, he shall, unless the charge is withdrawn, be entitled to a fair hearing within a reasonable time by a court.

(3) The proceedings of a court or the proceedings of any tribunal relating to the matters mentioned in sub-paragraph (1) of this paragraph (including the announcement of the decisions of the court or tribunal) shall be held in public:

Provided that—

(*a*) a court or such a tribunal may exclude from its proceedings persons other than the parties thereto in the interest of defence, public safety, public order, public morality, the welfare of minors, the protection of

the private lives of the parties, or to such extent as it may consider necessary by reason of special circumstances in which publicity would be contrary to the interests of justice; and

(*b*) if in any proceedings before a court or such a tribunal, the Governor-General or (in the case of proceedings in a court or tribunal in a Region or the Southern Cameroons) the Governor or the Commissioner of the Cameroons, as the case may be, certifies that it would not be in the public interest for any matter to be publicly disclosed, the court or tribunal shall make arrangements for evidence relating to that matter to be heard *in camera* and shall take such other action as may be necessary or expedient to prevent the disclosure of the matter, including (without prejudice to the generality of the foregoing) such action for that purpose as the Governor-General may by regulation prescribe.

(4) Every person who is charged with a criminal offence shall be presumed to be innocent until he is proved guilty:

Provided that nothing in this sub-paragraph shall invalidate any law by reason only that it imposes upon any such person the burden of proving particular facts.

(5) Every person who is charged with a criminal offence shall be entitled—

(*a*) to be informed promptly, in language that he understands and in detail, of the nature of the offence;

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

(*c*) to defend himself in person or by legal representatives of his own choice;

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

(*e*) to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the offence:

Provided that nothing in this sub-paragraph shall invalidate any law by reason only that it prohibits legal representation in native courts.

(6) When any person is tried for any criminal offence, the court shall keep a record of the proceedings, and the accused person or any person authorized by him in that behalf shall be entitled to obtain copies of the record within a reasonable time upon payment of such fee as may be prescribed by law.

(7) No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence heavier than the penalty in force at the time the offence was committed.

(8) No person who shows that he has been tried by any competent court for a criminal offence and either convicted or acquitted shall again be tried for that offence or for a criminal offence having the same ingredients as that offence save upon the order of a superior court; and no person who shows that he has been pardoned for a criminal offence shall again be tried for that offence.

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

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

Private and family life.

6.—(1) Every person shall be entitled to respect for his private and family life, his home and his correspondence.

(2) Nothing in this paragraph shall invalidate any law that is reasonably justifiable in a democratic society—

(*a*) in the interest of defence, public safety, public order, public morality, public health or the economic well-being of the community ; or

(*b*) for the purpose of protecting the rights and freedom of other persons.

Freedom of conscience.

7.—(1) Every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief and freedom, either alone or in community with others and in public or in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.

(2) No person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observances if such instruction, ceremony or observances relate to a religion other than his own.

(3) No religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any place of education maintained wholly by that community or denomination.

(4) Nothing in this paragraph shall invalidate any law that is reasonably justifiable in a democratic society—

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

(*b*) for the purpose of protecting the rights and freedom of other persons, including their rights and freedom to observe and practice their religions without the unsolicited interference of members of other religions.

Freedom of expression.

8.—(1) Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference.

(2) Nothing in this paragraph shall invalidate any law that is reasonably justifiable in a democratic society—

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

(*b*) for the purpose of protecting the rights, reputations and freedom of other persons, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, or regulating telephony, wireless broadcasting, television, or the exhibition of cinematograph films ; or

(*c*) imposing restrictions upon persons holding office under the Crown, members of the armed forces of the Crown or members of a police force.

Peaceful assembly and association.

9.—(1) Every person shall be entitled to assemble freely and associate with other persons and in particular he may form or belong to trade unions and other associations for the protection of his interests.

(2) Nothing in this paragraph shall invalidate any law containing any provisions that are reasonably justifiable in a democratic society—

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

(*b*) for the purpose of protecting the rights and freedoms of other persons; or

(*c*) imposing restrictions upon persons holding office under the Crown, members of the armed forces of the Crown or members of a police force.

Freedom of movement.

10.—(1) Every person to whom this paragraph applies is entitled to move freely throughout Nigeria and to reside in any part thereof; and no such person shall be expelled from Nigeria or refused entry thereto.

(2) Nothing in this paragraph shall invalidate any law that is reasonably justifiable in a democratic society—

(*a*) restricting the movements or residence of any person within Nigeria in the interest of defence, public safety, public order, public morality or public health; or

(*b*) for the removal of persons from Nigeria to be tried outside Nigeria for criminal offences or to undergo imprisonment outside Nigeria in execution of the sentences of courts in respect of criminal offences of which they have been found guilty.

(3) Nothing in this paragraph shall invalidate any law by reason only that it imposes restrictions with respect to the acquisition by any person of land or other property in Nigeria or any part thereof.

(4) This paragraph applies to any person who belongs to Nigeria.

(5) For the purposes of this paragraph a person shall be deemed to belong to Nigeria if he is a British subject or a British protected person and—

(*a*) was born in Nigeria or of parents who at the time of his birth were ordinarily resident in Nigeria; or

(*b*) has been ordinarily resident in Nigeria continuously for a period of seven years or more and since the completion of such period of residence has not been ordinarily resident continuously for a period of seven years or more in any other part of Her Majesty's dominions; or

(*c*) has obtained the status of a British subject by reason of the grant by the Governor of Nigeria or the Governor-General of a certificate of naturalization under the British Nationality and Status of Aliens Act, 1914(**a**), the Naturalization of Aliens Ordinance(**b**), or the British Nationality Act, 1948(**c**); or

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

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

Freedom from discrimination.

11.—(1) A person of a particular community, tribe, place of origin, religion or political opinion shall not, by reason only that he is such a person—

(*a*) be subjected either expressly by, or in the practical application of, any law or any executive or administrative action of any Government in Nigeria to disabilities or restrictions to which persons of other communities, tribes, places of origin, religions or political opinions are not made subject; or

(**a**) 4 & 5 Geo. 5. c. 17. (**b**) Laws of Nigeria, Rev. 1948, Chapter 146.
(**c**) 11 & 12 Geo. 6. c. 56.

(*b*) be accorded either expressly by, or in the practical application of, any law or any such executive or administrative action any privilege or advantage that is not conferred on persons of other communities, tribes, places of origin, religions or political opinions.

(2) Nothing in this paragraph shall invalidate any law by reason only that—

(*a*) it prescribes qualifications for service in an office under the Crown or as a member of the armed forces of the Crown or a member of a police force or for the service of a body corporate directly established by any law enacted by any legislature in Nigeria;

(*b*) it imposes restrictions with respect to the appointment of any person to an office under the Crown or as a member of the armed forces of the Crown or a member of a police force or to an office in the service of a body corporate directly established by any law enacted by any legislature in Nigeria;

(*c*) it imposes restrictions with respect to the acquisition by any person of land or other property in Nigeria or any part thereof;

(*d*) it imposes restrictions upon the employment, movements or residence within Nigeria of persons to whom paragraph 10 of this Schedule does not apply or provides for the expulsion of such persons from Nigeria or the refusal to allow them to enter Nigeria; or

(*e*) it imposes any disability or restriction or accords any privilege or advantage that, having regard to its nature and to special circumstances pertaining to the persons to whom it applies, is reasonably justifiable in a democratic society.

Interpretation.

12. In this Schedule, unless it is otherwise expressly provided or required by the context—

"court" means the Federal Supreme Court, the High Court of a Region or the Southern Cameroons or Lagos or a court established under section 142, 142D or 143 of this Order (other than a court-martial), and includes the Judicial Committee of Her Majesty's Privy Council:

Provided that, in relation to a member of the armed forces of the Crown, it also includes a court-martial;

"law" includes an unwritten rule of law;

"member of the armed forces of the Crown" includes any person who is subject to military law;

"member of a police force" includes a person who is subject to any law relating to the discipline of a police force;

"minor" means a person who has not attained the age of general legal capacity under any law in force in Nigeria;

"native court" means a court established by or under the Native Courts Law, 1956, or the Moslem Court of Appeal Law, 1956, of the Northern Region(**a**), the Customary Courts Law, 1957, of the Western Region(**b**), the Customary Courts Law, 1956, of the Eastern Region(**c**), or the Customary Courts Law, 1956, of the Southern Cameroons(**d**), as amended, or any law replacing any of those laws.'

EXPLANATORY NOTE

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

This Order amends the Nigeria (Constitution) Order in Council, 1954, as amended, in order to establish a new Federal Legislative House styled the Senate. It also amends the provisions of that Order relating to the House of Representatives and the Western and Eastern Houses of Assembly, and inserts in that Order provisions with respect to fundamental human rights, appellate jurisdiction, the continental shelf of Nigeria and Provincial Commissioners in the Eastern Region.

(**a**) Laws No. 6 and 10 of 1956. (**b**) Law No. 26 of 1957. (**c**) Law No. 21 of 1956. (**d**) Law No. 9 of 1956.