NIGERIA

1960 No. 1652

The Nigeria (Constitution) Order in Council, 1960

Made - - - -	*12th September*, 1960
Laid before Parliament	*16th September*, 1960
Coming into Operation	*1st October*, 1960

ARRANGEMENT OF ORDER

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THE SECOND SCHEDULE

THE CONSTITUTION OF THE FEDERATION OF NIGERIA.

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THE CONSTITUTION OF NORTHERN NIGERIA.

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THE CONSTITUTION OF WESTERN NIGERIA.

THE FIFTH SCHEDULE

THE CONSTITUTION OF EASTERN NIGERIA.

At the Court at Balmoral, the 12th day of September, 1960

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, commencement, interpretation and revocations

1.—(1) This Order may be cited as the Nigeria (Constitution) Order in Council, 1960.

(2) This Order shall come into operation on the first day of October, 1960:

Provided that where by or under this Order the Governor-General of the Federation of Nigeria or the Governor of a Region of the Federation has power to make any appointment, to make any order or to do any other thing for the purposes of this Order that power may be exercised by the Governor-General of the Federation of Nigeria established by the Orders revoked by this Order or the Governor of a Region so established, as the case may be, at any time after the sixteenth day of September, 1960, to such extent as may, in his opinion, be necessary or expedient to enable the constitutions established by this Order to function as from the first day of October, 1960.

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

(4) The Orders in Council specified in the First Schedule to this Order are revoked in so far as they apply to Nigeria.

(5) Sections 3 and 4 of the Nigeria (Appeals to Privy Council) Order in Council, 1955(c), are revoked in so far as they apply to Nigeria.

Establishment of constitutions

2. Subject to the provisions of this Order, the Constitution of the Federation of Nigeria set out in the Second Schedule to this Order and the Constitutions of Northern Nigeria, Western Nigeria and Eastern Nigeria respectively set out in the Third, Fourth and Fifth Schedules to this Order shall come into effect in Nigeria at the commencement of this Order.

Existing laws

3.—(1) Subject to the provisions of this section, the existing laws shall, notwithstanding the revocation of the Orders specified in the First Schedule to this Order, have effect after the commencement of this Order as if they had been made in pursuance of this Order and shall be read and construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Order.

(2) The Governor-General of the Federation of Nigeria may by order at any time within six months after the commencement of this Order make such amendments to any existing law, to the extent that it relates to any matter with respect to which the Parliament of the Federation

(a) 53 & 54 Vict. c. 37. (b) 52 & 53 Vict. c. 63.
(c) S.I. 1955/706 (1955 I, p. 1040).

has power to make laws, as may appear to the Governor-General to be necessary or expedient—

(*a*) for bringing that law into conformity with the provisions of this Order or otherwise for giving effect or enabling effect to be given to those provisions; or

(*b*) for giving effect or enabling effect to be given to the provisions of any agreement between Her Majesty's Government in the United Kingdom and Her Majesty's Government of the Federation of Nigeria made for the purpose of facilitating the administration of the Southern Cameroons or the Northern Cameroons after the commencement of this Order.

(3) The Governor of a Region of the Federation of Nigeria may by order at any time within six months after the commencement of this Order make such amendments to any existing law, to the extent to which it relates to any matter with respect to which the legislature of that Region has power to make laws, as may appear to the Governor to be necessary or expedient—

(*a*) for bringing that law into conformity with the provisions of this Order or otherwise for giving effect or enabling effect to be given to those provisions; or

(*b*) for giving effect or enabling effect to be given to the provisions of any agreement between Her Majesty's Government in the United Kingdom and Her Majesty's Government of the Federation of Nigeria made for the purpose of facilitating the administration of the Southern Cameroons or the Northern Cameroons after the commencement of this Order.

(4) The provisions of this section shall be without prejudice to any powers conferred by this Order upon any person or authority to make provision for any matter, including the amendment or repeal of any existing law.

(5) Where any matter falls to be prescribed under this Order by the Parliament of the Federation of Nigeria, the legislature of a Region of the Federation or any other person or authority that matter shall be regarded as being so prescribed if it is prescribed by any existing law, as amended under this section or otherwise to such extent, if any, as may be necessary or expedient to meet the circumstances of the case.

(6) Any existing law enacted before the first day of October, 1954, that relates to a matter with respect to which both the Parliament of the Federation of Nigeria and the legislatures of the Regions of the Federation have power to make laws and that immediately before the commencement of this Order had effect by virtue of the Orders revoked by this Order as if it had been enacted by the Legislature of the Federation of Nigeria shall have effect after the commencement of this Order as if it were an Act of Parliament.

(7) For the purposes of this section "the existing laws" mean all Ordinances, Laws, rules, regulations, orders and other instruments having the effect of law made or having effect as if they had been made in pursuance of the Orders in Council revoked by this Order and having effect as part of the law of the Colony and Protectorate of Nigeria or any part thereof immediately before the commencement of this Order.

Existing offices, courts and authorities

4.—(1) Subject to the provisions of this section, all offices, courts of law and authorities established under the Orders in Council revoked by this Order for the Colony and Protectorate of Nigeria and existing immediately before the commencement of this Order shall, so far as is consistent with the provisions of this Order, continue after the commencement of this Order as if they were offices, courts and authorities established under this Order for Nigeria; and all persons who immediately before the commencement of this Order are holding or acting in offices established by or under the Orders revoked by this Order for the Colony and Protectorate or are members of the courts and authorities established by or under those Orders for the Colony and Protectorate shall, so far as is consistent with the provisions of this Order, continue in office as if they had been appointed, elected or otherwise selected thereto under this Order in the manner prescribed by this Order and had taken any necessary oaths under this Order:

Provided that—

(*a*) any member of a legislative house who has been appointed, elected or otherwise selected to represent any area that after the commencement of this Order is wholly outside Nigeria shall vacate his seat in that house at the commencement of this Order;

(*b*) any member of any authority who would have been required to vacate his office at the expiration of any period or upon his attainment of any age prescribed by or under the Orders revoked by this Order shall vacate his office accordingly;

(*c*) no person who was a member of any legislative house or President, Deputy President, Speaker or Deputy Speaker thereof immediately before the commencement of this Order shall be regarded as disqualified by this Order from continuing as a member of that house or as President, Deputy President, Speaker or Deputy Speaker, as the case may be, until the next dissolution of that house by reason only that he also continues to hold any other office by virtue of any appointment made before the commencement of this Order; and

(*d*) the legislative houses shall, unless sooner dissolved, stand dissolved on the respective dates on which they would have been required to be dissolved by the Orders revoked by this Order.

(2) The provisions of this section shall be without prejudice to any powers conferred by this Order upon any person or authority to make provision for any matter, including the establishment and abolition of offices, courts of law and authorities and the appointment, election or selection of persons to hold or act in any office or to be members of any court or authority and their removal from office.

Pending legal proceedings

5.—(1) Any proceedings pending immediately before the commencement of this Order before any court of law established by the Orders revoked by this Order for the Colony and Protectorate of Nigeria may be continued before the courts established by this Order for Nigeria having jurisdiction in relation to the matter to which those proceedings relate as if they had been initiated before those courts after the commencement of this Order.

(2) Any proceedings pending immediately before the commencement of this Order before Her Majesty in Council or any court of law established by or under the Orders revoked by this Order for the

Colony and Protectorate of Nigeria may be continued after the commencement of this Order notwithstanding that, by reason of the terms of this Order, no such proceedings could be initiated after the commencement of this Order.

Emergency Powers Orders in Council, 1939 to 1959

6. The Emergency Powers Orders in Council, 1939 to 1959(a), shall cease to have effect as part of the law of Nigeria on the thirtieth day of March, 1961, or such earlier date as may be prescribed by the Parliament of the Federation of Nigeria.

Cyprus

7. Unless the Governor-General by order otherwise directs, section 13 of the Constitution of the Federation of Nigeria set out in the Second Schedule to this Order shall have effect as if a reference to the Republic of Cyprus were inserted in subsection (3).

Determination of rights

8.—(1) Section 21 of the Constitution of the Federation of Nigeria set out in the Second Schedule to this Order shall have effect in its application to Northern Nigeria as if subsection (10) were omitted.

(2) This section shall cease to have effect on the thirtieth day of September, 1961, or such earlier date as may be prescribed by the Governor of Northern Nigeria by order.

Special powers relating to membership of legislative houses and functions of Commissions

9.—(1) The Governor-General of the Federation of Nigeria may by order at any time within six months after the commencement of this Order make provision—

(*a*) for any of the matters for which the Parliament of the Federation may make provision under sections 40 and 44 of the Constitution of the Federation set out in the Second Schedule to this Order; or

(*b*) for the definition and trial of offences connected with the functions of any Commission established by the Constitution of the Federation and the imposition of penalties for such offences.

(2) The Governor of a Region of the Federation of Nigeria may by order at any time within six months after the commencement of this Order—

(*a*) make provision for any of the matters for which the Legislature of that Region may make provision under section 9 or 13 of the Constitution of Northern Nigeria set out in the Third Schedule to this Order, section 8 or 12 of the Constitution of Western Nigeria set out in the Fourth Schedule to this Order or section 8 or 12 of the Constitution of Eastern Nigeria set out in the Fifth Schedule to this Order, as the case may be; and

(*b*) for the definition and trial of offences connected with the functions of any Commission established by the Constitution of Northern Nigeria, Western Nigeria or Eastern Nigeria, as the case may be, and the imposition of penalties for such offences.

(3) The provisions of this section shall be without prejudice to any powers conferred by this Order upon any person or authority to make provision for any matter.

(a) S.I. 1952/2031, 1956/731 and 1959/1310 (1952 I, at p. 621; 1956 I, p. 512; 1959 II, p. 1996).

Income tax

10.—(1) The Parliament of the Federation of Nigeria may make laws for the peace, order and good government of any Region of the Federation with respect to taxes on income and profits, not being taxes on the income or profits accruing in, or derived from, that Region, of Africans resident in that Region and African communities in that Region.

(2) The powers conferred upon the Parliament of the Federation of Nigeria by this section shall be without prejudice to the powers conferred thereon by the Constitution of the Federation set out in the Second Schedule to this Order.

(3) The provisions of this section shall cease to have effect in relation to each Region of the Federation on the thirty-first day of March, 1961, or such later date as may with the consent of the Government of that Region be prescribed by the Governor-General by order.

Composition of House of Assembly of Northern Nigeria

11. Until the next dissolution of the legislative houses of Northern Nigeria after the commencement of this Order, section 7 of the Constitution of Northern Nigeria set out in the Third Schedule to this Order shall have effect as if paragraph (*a*) were omitted and the following paragraph were substituted :—

" (*a*) one hundred and sixty-seven elected members ; and ".

Voting in House of Assembly of Northern Nigeria

12.—(1) A person holding the office of Attorney-General of Northern Nigeria who is not a member of the House of Chiefs or the House of Assembly of Northern Nigeria may vote in the House of Assembly and in any committee of that House of which he is a member.

(2) This section shall cease to have effect on such date as may be fixed by the Governor of Northern Nigeria by order.

Deputy Governor of Eastern Nigeria

13.—(1) The office of Deputy Governor of Eastern Nigeria shall be deemed to have been established at the commencement of this Order under section 43 of the Constitution of Eastern Nigeria set out in the Fifth Schedule to this Order and the person holding the office of Deputy Governor of the Eastern Region of the Federation of Nigeria immediately before the commencement of this Order shall be deemed to have been appointed to the office of Deputy Governor of Eastern Nigeria at the commencement of this Order under section 64 of that Constitution.

(2) The person for the time being discharging the functions of the office of Deputy Governor of Eastern Nigeria shall be deemed to have been appointed by Her Majesty at the commencement of this Order to perform the functions conferred upon the Governor by the Constitution of Eastern Nigeria set out in the Fifth Schedule to this Order under section 3 of that Constitution.

(3) The provisions of this section shall be without prejudice to the provisions of section 4 of this Order or to any powers conferred by this Order upon any person or authority to make provision for any matter, including the establishment and abolition of the office of Deputy Governor of Eastern Nigeria, the appointment of persons to hold or act in that office and their removal from office and the appointment of persons to discharge the functions of the office of Governor of Eastern Nigeria.

Niger Delta Development Board

14.—(1) There shall be for the Niger Delta a board, which shall be styled the Niger Delta Development Board.

(2) The members of the Niger Delta Development Board shall be—

(*a*) a person appointed by the Governor-General of the Federation of Nigeria, who shall be chairman;

(*b*) a person appointed by the Governor of Western Nigeria;

(*c*) a person appointed by the Governor of Eastern Nigeria; and

(*d*) such other persons as may be appointed in such manner as may be prescribed by the Parliament of the Federation of Nigeria to represent the inhabitants of the Niger Delta.

(3) A member of the Niger Delta Development Board shall vacate his office in such circumstances as may be prescribed by the Parliament of the Federation of Nigeria.

(4) The Niger Delta Development Board shall be responsible for advising the Government of the Federation of Nigeria and the Governments of Western Nigeria and Eastern Nigeria with respect to the physical development of the Niger Delta and in order to discharge that responsibility the Board shall—

(*a*) cause the Niger Delta to be surveyed in order to ascertain what measures are required to promote its physical development;

(*b*) prepare schemes designed to promote the physical development of the Niger Delta, together with estimates of the costs of putting such schemes into effect;

(*c*) submit to the Government of the Federation and the Governments of Western Nigeria and Eastern Nigeria an initial report describing the survey of the Niger Delta and the measures that appear to the Board to be desirable in order to promote the physical development thereof, having regard to the information derived from the survey, and subsequent annual reports describing the work of the Board and the measures taken in pursuance of its advice.

(5) The Parliament of the Federation of Nigeria may make such provision as may appear to be necessary or desirable for enabling the Niger Delta Development Board to discharge its functions under this section.

(6) In this section "the Niger Delta" means such parts of Nigeria as on the thirtieth day of September, 1960, were comprised in the Niger Delta as defined for the purposes of section 243 of the Nigeria (Constitution) Order in Council, 1954(a), as set out in section 29 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1959(b).

(7) This section shall cease to have effect on the first day of July, 1969, or such later date as may be prescribed by the Parliament of the Federation of Nigeria.

Jurisdiction of Federal Supreme Court in respect of Southern and Northern Cameroons

15. The Federal Supreme Court of Nigeria shall have such jurisdiction in respect of the Southern Cameroons and the Northern Cameroons

(a) S.I. 1954/1146 (1954 II, p. 2829). (b) S.I. 1959/1049 (1959 II, p. 3215).

as may be conferred upon it by any Order of Her Majesty in Council and may for the purposes of exercising that jurisdiction sit either in Nigeria or the Southern Cameroons or the Northern Cameroons, as the case may be.

Special power to alter constitutions

16.—(1) The Parliament of the Federation of Nigeria may alter any of the provisions of the Constitution of the Federation set out in the Second Schedule to this Order for the purpose of giving effect to any agreement between Her Majesty's Government in the United Kingdom and Her Majesty's Government of the Federation providing for the admission of the Southern Cameroons or the Northern Cameroons to the Federation.

(2) The legislature of Northern Nigeria may alter any of the provisions of the Constitution of Northern Nigeria set out in the Third Schedule to this Order for the purpose of giving effect to any agreement between Her Majesty's Government in the United Kingdom and Her Majesty's Government of the Federation of Nigeria providing for the incorporation of the Northern Cameroons in Northern Nigeria.

(3) Any law enacted under this section shall be valid notwithstanding that the provisions of section 4 or section 5, as the case may be, of the Constitution of the Federation of Nigeria set out in the Second Schedule to this Order have not been complied with.

Outstanding debts

17. Any debt of the Federation that immediately before the commencement of this Order was by the Orders revoked by this Order charged on the Consolidated Revenue Funds of the Regions of the Federation of Nigeria as well as on the Consolidated Revenue Fund of the Federation shall after the commencement of this Order be secured on the revenues and assets of the Regions as well as the revenues and assets of the Federation.

Alteration of this Order

18. The Parliament of the Federation of Nigeria may alter any of the foregoing provisions of this Order or any of the provisions of this section or the First Schedule to this Order but no Act of Parliament providing for any such alteration shall come into operation unless the Governor of each Region has signified consent to its having effect.

W. G. Agnew.

THE FIRST SCHEDULE

Section 1.

ORDERS IN COUNCIL REVOKED BY THIS ORDER

The Nigeria (Constitution) Order in Council, 1954(a).

The Nigeria (Offices of Governor-General and Governors) Order in Council, 1954(b).

The Nigeria (Offices of Governor-General and Governors) (Amendment) Order in Council, 1955(c).

The Nigeria (Constitution) (Amendment) Order in Council, 1955(d).

The Nigeria (Constitution) (Amendment) Order in Council, 1956(e).

The Nigeria (Tribunals of Inquiry) Order in Council, 1956(f).

The Nigeria (Constitution) (Amendment) Order in Council, 1957(g).

The Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957(h).

The Nigeria (Offices of Governor-General and Governors) (Amendment) Order in Council, 1957(i).

The Nigeria (Constitution) (Amendment) Order in Council, 1958(j).

The Nigeria (Offices of Governor-General and Governors) (Amendment) Order in Council, 1958(k).

The Nigeria (Constitution) (Amendment No. 2) Order in Council, 1958(l).

The Nigeria (Offices of Governor-General and Governors) (Amendment No. 2) Order in Council, 1958(m).

The Nigeria (Constitution) (Amendment No. 3) Order in Council, 1958(n).

The Nigeria (Constitution) (Amendment No. 4) Order in Council, 1958(o).

The Nigeria (Constitution) (Amendment) Order in Council, 1959(p).

The Nigeria (Offices of Governor-General and Governors) (Amendment) Order in Council, 1959(q).

The Nigeria (Constitution) (Amendment No. 2) Order in Council, 1959(r).

The Nigeria (Offices of Governor-General and Governors) (Amendment No. 2) Order in Council, 1959(s).

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

The Nigeria (Constitution) (Amendment No. 4) Order in Council, 1959(u).

(a) S.I. 1954/1146 (1954 II, p. 2829).
(b) S.I. 1954/1147 (1954 II, p. 2939).
(c) S.I. 1955/431 (1955 II, p. 3167).
(d) S.I. 1955/432 (1955 II, p. 3163).
(e) S.I. 1956/836 (1956 II, p. 2953).
(f) S.I. 1956/1210 (1954 II, p. 2958).
(g) S.I. 1957/1363 (1957 II, p. 3028).
(h) S.I. 1957/1530 (1957 II, p. 3030).
(i) S.I. 1957/1531 (1957 II, p. 3053).
(j) S.I. 1958/429 (1958 II, p. 2757).
(k) S.I. 1958/430 (1958 II, p. 2749).
(l) S.I. 1958/1257 (1958 II, p. 2811).
(m) S.I. 1958/1258 (1958 II, p. 2755).
(n) S.I. 1958/1522 (1958 II, p. 2822).
(o) S.I. 1958/1958 (1958 II, p. 2825).
(p) S.I. 1959/368 (1959 II, p. 3195).
(q) S.I. 1959/369 (1959 II, p. 3189).
(r) S.I. 1959/1049 (1959 II, p. 3215).
(s) S.I. 1959/1050 (1959 II, p. 3191).
(t) S.I. 1959/1772 (1959 II, p. 3229).
(u) S.I. 1959/1981 (1959 II, p. 3266).

The Nigeria (Offices of Governor-General and Governors) (Amendment No. 3) Order in Council, 1959(a).

The Nigeria (Constitution) (Amendment) Order in Council, 1960(b).

The Nigeria (Offices of Governor-General and Governors) (Amendment) Order in Council, 1960(c).

The Nigeria (Constitution) (Amendment No. 2) Order in Council, 1960(d).

(a) S.I. 1959/1982 (1959 II, p. 3192). (b) S.I. 1960/203. (c) S.I. 1960/704. (d) S.I. 1960/1290.

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THE CONSTITUTION OF THE FEDERATION OF NIGERIA

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Effect of this Constitution

1. This Constitution shall have the force of law throughout Nigeria and, subject to the provisions of section 4 of this Constitution, if any other law (including the constitution of a Region) is inconsistent with this Constitution, this Constitution shall prevail and the other law shall, to the extent of the inconsistency, be void.

Establishment of the Federation

2. The Federation of Nigeria shall consist of Regions and a Federal territory.

Territories of the Federation

3.—(1) There shall be three Regions, that is to say, Northern Nigeria, Western Nigeria and Eastern Nigeria.

(2) Northern Nigeria shall comprise those parts of the former Protectorate of Nigeria that on the thirtieth day of September, 1960, were comprised in the Northern Region of Nigeria.

(3) Western Nigeria shall comprise those parts of the former Colony and Protectorate of Nigeria that on the thirtieth day of September, 1960, were comprised in the Western Region of Nigeria.

(4) Eastern Nigeria shall comprise those parts of the former Protectorate of Nigeria that on the thirtieth day of September, 1960, were comprised in the Eastern Region of Nigeria.

(5) The Federal territory shall comprise those parts of the former Colony of Nigeria that on the thirtieth day of September, 1960, were comprised in the Federal Territory of Lagos.

Alteration of this Constitution

4.—(1) Parliament may alter any of the provisions of this Constitution or (in so far as it forms part of the law of Nigeria) any of the provisions of the Nigeria Independence Act, 1960(a):

(a) 8 & 9 Eliz. 2. c. 55.

Provided that, in so far as it alters any of the provisions of this section, sections 1, 2, 5, 6, 17 to 33 inclusive, 36, 37, 38, 45, 46, 47, 57, 62 to 87 inclusive, 97 to 106 inclusive, 108, 110, 112, 114 to 118 inclusive, 120, 121, 123, 124, 127 to 141 inclusive, 145, 146, 148, 150 and the Schedule to this Constitution or (in so far as they apply to any of those provisions) sections 61 and 154 of this Constitution or any of the provisions of the Nigeria Independence Act, 1960, an Act of Parliament shall not come into operation unless each legislative house of at least two Regions has passed a resolution signifying consent to it having effect.

(2) A bill for an Act of Parliament under this section, not being an Act to which subsection (3) of this section applies, shall not be passed in either House of Parliament unless it has been supported on second and third readings by the votes of not less than two-thirds of all the members of that House.

(3) Alterations to section 3 of this Constitution for the purpose of establishing new Regions out of other territories shall be effected only in accordance with the following procedure—

(*a*) a proposal for the alteration shall be submitted to each House of Parliament and, if that proposal is approved by a resolution of each of those Houses supported by the votes of at least two-thirds of all the members of that House, the proposal shall then be submitted to the legislative houses of all the Regions; and

(*b*) if the proposal is approved—

(i) by a resolution of each legislative house of a majority of all the Regions; or

(ii) by a resolution of each legislative house of at least two Regions, including any Region comprising any part of Nigeria that would be transferred to the new Region under the proposal,

Parliament may provide for the alteration.

(4) Alterations to section 3 of this Constitution for the purpose of altering the boundaries of territories by the transfer of any part of one territory to another territory shall be effected only in accordance with the following procedure—

(*a*) a proposal for the alteration shall be submitted to each House of Parliament and, if that proposal is approved by a resolution of each of those Houses supported by the votes of at least two-thirds of all the members of that House, the proposal shall then be submitted to the legislative houses of all the Regions; and

(*b*) if the proposal is approved—

(i) by a resolution of each legislative house of a majority of all the Regions, including any Region to which any part of Nigeria comprised in another territory would be transferred under the proposal; or

(ii) by a resolution of each legislative house of each Region comprising any part of Nigeria that would be transferred either to or from that Region under the proposal,

Parliament may provide for the alteration:

Provided that the procedure described in paragraphs (*a*) and (*b*) of this subsection need not be followed if the alteration is for the purpose of transferring an area of not more than one thousand square miles inhabited by not more than one hundred thousand persons from one Region to another Region or Regions.

(5) An Act of Parliament passed for the purposes of subsection (3) of this section or an Act of Parliament passed for the purposes of subsection (4) of this section, being an Act to effect an alteration in respect of which the procedure described in paragraphs (*a*) and (*b*) thereof is required to be followed, shall not come into operation unless—

(*a*) a resolution has been passed by each legislative house of at least two Regions signifying consent to its having effect; and

(*b*) a referendum upon the question whether the Act should have effect has been held in pursuance of provision made in that behalf by Parliament in every part of Nigeria that would be comprised in a new Region or transferred from one territory to another, as the case may be, at which the persons entitled to vote were the persons who at the date of the referendum were entitled to vote in any constituency in that part of Nigeria established under section 46 of this Constitution and at which at least three-fifths of all the persons who were entitled to vote at the referendum voted in favour of the Act.

(6) An Act of Parliament passed for the purposes of subsection (4) of this section, being an Act to effect an alteration in respect of which the procedure described in paragraphs (*a*) and (*b*) thereof is not required to be followed, shall not come into operation unless a resolution has been passed by each legislative house of each Region whose boundaries are affected by the Act signifying consent to its having effect.

(7) An Act of Parliament altering section 37 of this Constitution in relation to any Region in such a manner that that Region would be represented in the Senate by less than the appropriate proportion of Senators shall not come into operation unless a resolution has been passed by each legislative house of that Region signifying consent to its having effect.

(8) An Act of Parliament altering section 38, 46 or 47 of this Constitution in relation to any Region in such a manner that the number of members of the House of Representatives to be elected in that Region would be less than the appropriate proportion for that Region shall not come into operation unless a resolution has been passed by each legislative house of that Region signifying consent to its having effect.

(9) An Act of Parliament altering section 38, 46 or 47 of this Constitution in relation to the Federal territory in such a manner that the number of members of the House of Representatives to be elected in that territory would be less than the appropriate proportion for that territory shall not come into operation unless a resolution supported by a majority of the members of that House who represent that territory has been passed by each House of Parliament signifying consent to its having effect.

(10) The provisions of this Constitution or (in so far as it forms part of the law of Nigeria) the Nigeria Independence Act, 1960, shall not be altered except in accordance with the provisions of this section.

(11) "The appropriate proportion"—

(*a*) for the purposes of subsection (7) of this section, means the number obtained by dividing the total number of Senators representing the Regions by the total number of Regions; and

(*b*) for the purposes of subsections (8) and (9) of this section, means, in relation to a territory, such proportion of the total number of members of the House of Representatives as corresponds most nearly to the proportion borne by the number of inhabitants of that territory to the total number of inhabitants of Nigeria.

(12) For the purposes of this section the number of inhabitants of Nigeria or a territory shall be ascertained by reference to the latest census of the population of Nigeria held in pursuance of an Act of Parliament.

Provisions relating to Regional constitutions

5.—(1) Subject to the provisions of this Constitution and the Nigeria Independence Act, 1960, the constitution of each Region shall have the force of law throughout that Region and if any other law is inconsistent with that constitution, the provisions of that constitution shall prevail and the other law shall, to the extent of the inconsistency, be void.

(2) Subject to the provisions of this Constitution, the constitution of a Region may be altered only by a law enacted by the legislature of that Region.

(3) A bill for a law to be enacted by the legislature of a Region altering any of the provisions of the constitution of that Region shall not be passed in any legislative house of that Region unless it has been supported on second and third readings by the votes of not less than two-thirds of all the members of that legislative house and shall not be presented to the Governor of the Region for assent unless it has been passed by each legislative house of the Region.

(4) No law enacted by the legislature of a Region, to the extent that it alters any provision of the constitution of that Region to which this subsection applies, shall have effect unless a resolution supported by the votes of at least two-thirds of all the members of that House is passed by each House of Parliament signifying consent to its having effect.

(5) Where a new Region is established out of other territories or parts of other territories, Parliament may make laws for the peace, order and good government of that Region with respect to matters not included in the Legislative Lists (including provision for the constitution of that Region) for a period of six months after the establishment of that Region but thereafter Parliament shall have only such powers to make laws for that Region as it has in relation to the other Regions:

Provided that nothing in this section shall preclude the legislature of that Region from making laws in accordance with the provisions of this Constitution and the constitution of the Region.

(6) Subsection (4) of this section applies to any provision of the constitution of a Region relating to—

(*a*) the establishment of any of the following, that is to say, the office of Governor, a legislative house, a legislature, an executive council, the office of any Minister of the Government, a High Court, an electoral commission, a public service commission, a judicial service commission, the office of a Director of Audit and the office of a Director of Public Prosecutions;

(*b*) the manner in which the Governor's functions are to be exercised;

(*c*) the appointment, tenure of office and the terms of service of any of the following, that is to say, the Governor, the judges of the High Court, the members of the commissions referred to in

paragraph (*a*) of this subsection, the Director of Audit and the Director of Public Prosecutions;

(*d*) the functions of any of the following, that is to say, the executive council, the commissions referred to in paragraph (*a*) of this subsection, the Director of Audit and the Director of Public Prosecutions;

(*e*) the appointment and tenure of office of Ministers of the Government and the allocation of portfolios;

(*f*) the summoning, sessions, prorogation and dissolution of the legislative houses;

(*g*) the establishment of a Consolidated Revenue Fund and other public funds, the authorization of expenditure therefrom and the imposition of charges upon any public fund or upon the revenues and assets of the Region;

(*h*) appeals to the High Court from subordinate courts; and

(*i*) the procedure of the commissions referred to in paragraph (*a*) of this subsection.

Interpretation

6. In this Chapter—

(*a*) references to any of the provisions of this Constitution, the Nigeria Independence Act, 1960, or the constitution of a Region include references to any law, or instrument made under a law, that amends, modifies, re-enacts with or without amendment or modification or makes different provision in lieu of, that provision; and

(*b*) references to the alteration of any of the provisions of this Constitution, the Nigeria Independence Act, 1960, or the constitution of a Region include references to the amendment, modification or re-enactment, with or without amendment or modification, of that provision, the suspension or repeal of that provision and the making of different provision in lieu of that provision.

CHAPTER II

CITIZENSHIP

Persons who become citizens on 1st October, 1960

7.—(1) Every person who, having been born in the former Colony or Protectorate of Nigeria, was on the thirtieth day of September, 1960, a citizen of the United Kingdom and Colonies or a British protected person shall become a citizen of Nigeria on the first day of October, 1960:

Provided that a person shall not become a citizen of Nigeria by virtue of this subsection if neither of his parents nor any of his grandparents was born in the former Colony or Protectorate of Nigeria.

(2) Every person who, having been born outside the former Colony and Protectorate of Nigeria, was on the thirtieth day of September, 1960, a citizen of the United Kingdom and Colonies or a British protected person shall, if his father was born in the former Colony or Protectorate and was a citizen of the United Kingdom and Colonies or a British protected person on the thirtieth day of September, 1960, (or, if he died before that date, was such a citizen or person at the date of his death or would have become such a citizen or person but for his death) become a citizen of Nigeria on the first day of October, 1960.

Persons entitled to be registered as citizens

8.—(1) Any person who, but for the proviso to subsection (1) of section 7 of this Constitution, would be a citizen of Nigeria by virtue of that subsection shall be entitled, upon making application before the first day of October, 1962, in such manner as may be prescribed by Parliament, to be registered as a citizen of Nigeria:

Provided that a person who has not attained the age of twenty-one years (other than a woman who is or has been married) may not make an application under this subsection himself but an application may be made on his behalf by his parent or guardian.

(2) Any woman, who on the thirtieth day of September, 1960, was a citizen of the United Kingdom and Colonies or a British protected person and who is or has been married to a person—

(*a*) who becomes a citizen of Nigeria by virtue of section 7 of this Constitution; or

(*b*) who, having died before the first day of October, 1960, would, but for his death, have become a citizen of Nigeria by virtue of that section,

shall be entitled, upon making application in such manner as may be prescribed by Parliament, to be registered as a citizen of Nigeria.

(3) Any woman who is or has been married to a person who becomes a citizen of Nigeria by registration under subsection (1) of this section and is at the date of such registration a citizen of the United Kingdom and Colonies or a British protected person shall be entitled, upon making application within such time and in such manner as may be prescribed by Parliament, to be registered as a citizen of Nigeria.

(4) Any woman who on the thirtieth day of September, 1960, was a citizen of the United Kingdom and Colonies or a British protected person and who has been married to a person who, having died before the first day of October, 1960, would, but for his death, be entitled to be registered as a citizen of Nigeria under subsection (1) of this section, shall be entitled, upon making application before the first day of October, 1962, in such manner as may be prescribed by Parliament, to be registered as a citizen of Nigeria.

(5) The provisions of subsections (2), (3) and (4) of this section shall be without prejudice to the provisions of section 7 of this Constitution.

Persons naturalized or registered before 1st October, 1960

9. Any person who on the thirtieth day of September, 1960, was a citizen of the United Kingdom and Colonies—

(*a*) having become such a citizen under the British Nationality Act, 1948(a), by virtue of his having been naturalized in the former Colony or Protectorate of Nigeria as a British subject before that Act came into force; or

(*b*) having become such a citizen by virtue of his having been naturalized or registered in the former Colony or Protectorate of Nigeria under that Act,

shall be entitled, upon making application before the first day of October, 1962, in such manner as may be prescribed by Parliament, to be registered as a citizen of Nigeria:

Provided that a person who has not attained the age of twenty-one years (other than a woman who is or has been married) may not make

(a) 11 & 12 Geo. 6. c. 56.

an application under this subsection himself but an application may be made on his behalf by his parent or guardian.

Persons born in Nigeria after 30th September, 1960

10. Every person born in Nigeria after the thirtieth day of September, 1960, shall become a citizen of Nigeria at the date of his birth :

Provided that a person shall not become a citizen of Nigeria by virtue of this section if at the time of his birth—

(*a*) neither of his parents was a citizen of Nigeria and his father possessed such immunity from suit and legal process as is accorded to an envoy of a foreign sovereign power accredited to the Federation ; or

(*b*) his father was an enemy alien and the birth occurred in a place then under occupation by the enemy.

Persons born outside Nigeria after 30th September, 1960

11. A person born outside Nigeria after the thirtieth day of September, 1960, shall become a citizen of Nigeria at the date of his birth if at that date his father is a citizen of Nigeria otherwise than by virtue of this section or subsection (2) of section 7 of this Constitution.

Dual citizenship

12. Any person who, upon his attainment of the age of twenty-one years, was a citizen of Nigeria and also a citizen of some country other than Nigeria shall cease to be a citizen of Nigeria upon his attainment of the age of twenty-two years (or, in the case of a person of unsound mind, at such later date as may be prescribed by Parliament) unless he has renounced his citizenship of that other country, taken the oath of allegiance and, in the case of a person who is a citizen of Nigeria by virtue of subsection (2) of section 7 of this Constitution, has made such declaration of his intentions concerning residence or employment as may be prescribed by Parliament:

Provided that where a person cannot renounce his citizenship of the other country under the law of that country he may instead make such declaration concerning that citizenship as may be prescribed by Parliament.

Commonwealth citizens

13.—(1) Every person who under this Constitution or any Act of Parliament is a citizen of Nigeria or under any enactment for the time being in force in any country to which this section applies is a citizen of that country shall, by virtue of that citizenship, have the status of a Commonwealth citizen.

(2) Every person who is a British subject without citizenship under the British Nationality Act, 1948, or who continues to be a British subject under section 2 of that Act shall by virtue of that status have the status of a Commonwealth citizen.

(3) The countries to which this section applies are the United Kingdom and Colonies, Canada, Australia, New Zealand, the Union of South Africa, India, Pakistan, the Federation of Rhodesia and Nyasaland, Ceylon, Ghana, the Federation of Malaya, the State of Singapore and such other countries as may be prescribed by Parliament.

Criminal liability of Commonwealth citizens

14.—(1) A Commonwealth citizen who is not a citizen of Nigeria or a citizen of the Republic of Ireland who is not a citizen of Nigeria shall not be guilty of an offence against any law in force in Nigeria by reason of anything done or omitted in any part of the Commonwealth other than Nigeria or in the Republic of Ireland or in any foreign country unless—

(*a*) the act or omission would be an offence if he were an alien ; and

(*b*) in the case of an act or omission in any part of the Commonwealth or in the Republic of Ireland, it would be an offence if the country in which the act was done or the omission made were a foreign country.

(2) In this section " foreign country " means a country (other than the Republic of Ireland) that is not part of the Commonwealth.

Powers of Parliament

15. Parliament may make provision—

(*a*) for the acquisition of citizenship of Nigeria by persons who do not become citizens of Nigeria by virtue of the provisions of this Chapter ;

(*b*) for depriving of his citizenship of Nigeria any person who is a citizen of Nigeria otherwise than by virtue of subsection (1) of section 7 or section 10 of this Constitution ; or

(*c*) for the renunciation by any person of his citizenship of Nigeria.

Interpretation

16.—(1) In this Chapter—

" alien " means a person who is not a citizen of Nigeria, a Commonwealth citizen other than a citizen of Nigeria, a British protected person or a citizen of the Republic of Ireland ;

" British protected person " means a person who is a British protected person for the purposes of the British Nationality Act, 1948.

(2) For the purposes of this Chapter a person born in a ship or aircraft registered in Nigeria or belonging to the Government of the Federation shall be deemed to have been born in Nigeria.

(3) Any reference in this Chapter to the national status of the father of a person at the time of that person's birth shall, in relation to a person born after the death of his father, be construed as a reference to the national status of the father at the time of his father's death ; and where that death occurred before the first day of October, 1960, and the birth occurred after the thirtieth day of September, 1960, the national status that the father would have had if he had died on the first day of October, 1960, shall be deemed to be his national status at the time of his death.

CHAPTER III

FUNDAMENTAL RIGHTS

Deprivation of life

17.—(1) No person shall be deprived intentionally ot 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 this section 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—

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

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

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

(*d*) 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 have been 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 this section.

Inhuman treatment

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

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

Slavery and forced labour

19.—(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 section "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 service in the armed forces, 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

20.—(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 consequence of his unfitness to plead to a criminal charge, 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 the execution of the order of a court of record punishing him for contempt of itself;

(*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

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

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 person who has not attained the age of twenty-one years, 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, in language that he understands, of the reasons for his arrest or detention.

(3) Any person who is arrested or detained in accordance with paragraph (*c*) of subsection (1) of this section 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 section 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 punishable by such detention of which he has been found guilty.

Determination of rights

21.—(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 subsection 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 subsection (1) of this section (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 interests of defence, public safety, public order, public morality, the welfare of persons who have not attained the age of twenty-one years, 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 a Minister of the Government of the Federation or a Minister of the Government of a Region 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.

(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 section shall invalidate any law by reason only that the law 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 representatives 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; and

(*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 subsection shall invalidate any law by reason only that the law prohibits legal representation in a court established by or under the Native Courts Law, 1956, the Sharia Court of Appeal Law, 1960, or the Court of Resolution Law, 1960, of Northern Nigeria(**a**), the Customary Courts Law, 1957, of Western Nigeria(**b**), or the Customary Courts Law, 1956, of Eastern Nigeria(**c**), as amended, or any law replacing any of those laws.

(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

(**a**) Laws No. 6 of 1956 and Nos. 16 and 17 of 1960. (**b**) Law No. 26 of 1957.
(**c**) Law No. 21 of 1956.

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:

Provided that nothing in this subsection shall prevent a court of record from punishing any person for contempt of itself notwithstanding that the act or omission constituting the contempt is not defined in a written law and the penalty therefor is not so prescribed.

Private and family life

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

(2) Nothing in this section 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

23.—(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 section 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 practise their religions without the unsolicited intervention of members of other religions.

Freedom of expression

24.—(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 section 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

25.—(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 section 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 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

26.—(1) Every citizen of Nigeria is entitled to move freely throughout Nigeria and to reside in any part thereof ; and no citizen of Nigeria shall be expelled from Nigeria or refused entry thereto.

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

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

(*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 ;

(*c*) imposing restrictions upon the movement or residence within Nigeria of members of the public service of the Federation or the public service of a Region, members of the armed forces of the Crown or members of a police force.

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

Freedom from discrimination

27.—(1) A citizen of Nigeria 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 in force in Nigeria or any executive or administrative action of the Government of the Federation or the Government of a Region to disabilities or restrictions to which citizens of Nigeria of other communities, tribes, places of origin, religions or political opinions are not made subject ; or

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

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

(*a*) 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 established directly by any law in force in Nigeria;

(*b*) 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 established directly by any law in force in Nigeria ;

(*c*) imposes restrictions with respect to the acquisition or use by any person of land or other property ; or

(*d*) 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.

Derogations from fundamental rights

28.—(1) An Act of Parliament shall not be invalid by reason only that it provides for the taking, during periods of emergency, of measures that derogate from the provisions of section 17, 20, 21 or 27 of this Constitution but no such measures shall be taken in pursuance of any such Act during any period of emergency save to the extent that those measures are reasonably justifiable for the purpose of dealing with the situation that exists during that period of emergency:

Provided that nothing in this section shall authorize any derogation from the provisions of section 17 of this Constitution except in respect of deaths resulting from acts of war or any derogation from the provisions of subsection (7) of section 21 of this Constitution.

(2) In this section "period of emergency" means a period of emergency for the purposes of section 65 of this Constitution.

Reference to tribunal in certain cases

29.—(1) Where—

(*a*) any person is detained in pursuance of an Act of Parliament derogating from the provisions of section 20 of this Constitution ; or

(*b*) the movement or residence of any person within Nigeria who is a citizen of Nigeria is lawfully restricted (otherwise than by order of a court) in the interest of defence, public safety, public order, public morality or public health,

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, unless it is otherwise provided by law, shall not 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 advocates or solicitors.

Compulsory acquisition of property

30.—(1) No property, movable or immovable, shall be taken possession of compulsorily and no right over or interest in any such property shall be acquired compulsorily in any part of Nigeria except by or under the provisions of a law that—

(*a*) requires the payment of adequate compensation therefor; and

(*b*) gives to any person claiming such compensation a right of access, for the determination of his interest in the property and the amount of compensation, to the High Court having jurisdiction in that part of Nigeria.

(2) Nothing in this section shall affect the operation of any law in force on the thirty-first day of March, 1958, or any law made after that date that amends or replaces any such law and does not—

(*a*) add to the kinds of property that may be taken possession of or the rights over and interests in property that may be acquired;

(*b*) add to the purposes for which or circumstances in which such property may be taken possession of or acquired;

(*c*) make the conditions governing entitlement to any compensation or the amount thereof less favourable to any person owning or interested in the property; or

(*d*) deprive any person of any such right as is mentioned in paragraph (*b*) of subsection (1) of this section.

(3) Nothing in this section shall be construed as affecting any general law—

(*a*) for the imposition or enforcement of any tax, rate or due;

(*b*) for the imposition of penalties or forfeitures for breach of the law, whether under civil process or after conviction of an offence;

(*c*) relating to leases, tenancies, mortgages, charges, bills of sale or any other rights or obligations arising out of contracts;

(*d*) relating to the vesting and administration of the property of persons adjudged or otherwise declared bankrupt or insolvent, of persons of unsound mind, of deceased persons and of companies, other bodies corporate and unincorporate societies in the course of being wound up;

(*e*) relating to the execution of judgments or orders of courts;

(*f*) providing for the taking of possession of property that is in a dangerous state or is injurious to the health of human beings, plants or animals;

(*g*) relating to enemy property;

(*h*) relating to trusts and trustees;

(*i*) relating to the limitation of actions;

(*j*) relating to property vested in bodies corporate directly established by any law in force in Nigeria;

(*k*) relating to the temporary taking of possession of property for the purposes of any examination, investigation or enquiry; or

(*l*) providing for the carrying out of work on land for the purpose of soil-conservation.

(4) The provisions of this section shall apply in relation to the compulsory taking of possession of property, movable or immovable, and the compulsory acquisition of rights over and interests in such property by or on behalf of the Crown.

Special jurisdiction of High Courts in relation to this Chapter

31.—(1) Any person who alleges that any of the provisions of this Chapter has been contravened in any territory in relation to him may apply to the High Court of that territory for redress.

(2) Subject to the provisions of section 108 of this Constitution, the High Court of a territory shall have original jurisdiction to hear and determine any application made to it in pursuance of this section and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing, or securing the enforcement, within that territory of any rights to which the person who makes the application may be entitled under this Chapter.

(3) Parliament may make provision with respect to the practice and procedure of the High Courts of the territories for the purposes of this section and may confer upon those courts such powers in addition to those conferred by this section as may appear to be necessary or desirable for the purpose of enabling those courts more effectively to exercise the jurisdiction conferred upon them by this section.

Interpretation

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

"court" means any court of law in Nigeria (other than a court-martial) and includes Her Majesty in 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 naval, military or air-force law;

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

CHAPTER IV
THE GOVERNOR-GENERAL

Establishment of office of Governor-General

33.—(1) There shall be a Governor-General and Commander-in-Chief of the Federation, who shall be appointed by Her Majesty and shall hold office during Her Majesty's pleasure and who shall be Her Majesty's representative in the Federation.

(2) The Prime Minister shall consult the Premier of each Region before tendering any advice to Her Majesty for the purposes of this section.

Oaths to be taken by Governor-General

34. A person appointed to the office of Governor-General shall, before entering upon the duties of that office, take and subscribe the

oath of allegiance and such oath for the due execution of his office as may be prescribed by Parliament.

Discharge of Governor-General's functions during vacancy, etc.

35. Whenever the office of Governor-General is vacant or the holder of the office is absent from Nigeria or is for any reason unable to perform the functions conferred upon him by this Constitution, those functions shall be performed by such person as Her Majesty may appoint or, if there is no person in Nigeria so appointed and able to perform those functions, by the Chief Justice of the Federation:

Provided that nothing in this section shall preclude the Governor-General from performing any of those functions at any time when he is absent from Nigeria.

CHAPTER V

PARLIAMENT

Part I

Composition of Parliament

Establishment of Parliament

36. There shall be a Parliament of the Federation, which shall consist of Her Majesty, a Senate and a House of Representatives.

Composition of Senate

37.—(1) The Senate shall consist of—

(*a*) twelve Senators representing each Region, who shall be selected at a joint sitting of the legislative houses of that Region from among persons nominated by the Governor;

(*b*) four Senators representing the Federal territory; and

(*c*) four Senators selected by the Governor-General, acting in accordance with the advice of the Prime Minister.

(2) The Senators representing the Federal territory shall be—

(*a*) the Oba of Lagos, who shall be an *ex-officio* member of the Senate;

(*b*) a Chief selected in such manner as may be prescribed by Parliament by the White-Cap Chiefs and War Chiefs of Lagos from among their own number; and

(*c*) two other persons selected for that purpose in such manner as may be prescribed by Parliament.

(3) A joint sitting of the legislative houses of a Region may regulate its own procedure for the purposes of this section.

Composition of House of Representatives

38. The House of Representatives shall consist of three hundred and five members.

Qualifications for membership of Parliament

39. Subject to the provisions of section 40 of this Constitution—

(*a*) a person shall be qualified for selection as a Senator representing a territory if he is a citizen of Nigeria and has attained the age of forty years;

(*b*) a person shall be qualified for selection as a Senator by the Governor-General (whether or not he is a citizen of Nigeria) if he has attained the age of twenty-one years; and

(*c*) a person shall be qualified for election as a member of the House of Representatives if he is a citizen of Nigeria and has attained the age of twenty-one years and, in the case of a person who stands for election in Northern Nigeria, is a male person.

Disqualifications for membership of Parliament, etc.

40.—(1) No person shall be qualified for selection as a Senator or election to the House of Representatives—

(*a*) save for the purposes of selection as a Senator by the Governor-General, if he has voluntarily acquired citizenship of a country other than Nigeria or has made a declaration of allegiance to such a country ;

(*b*) if under any law in force in any part of Nigeria he is adjudged to be a lunatic or otherwise declared to be of unsound mind ;

(*c*) if he is under a sentence of death imposed on him by any court of law in Nigeria or a sentence of imprisonment (by whatever name called) exceeding six months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court ;

(*d*) if he is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of Nigeria ;

(*e*) save as otherwise provided by Parliament, if he is a member of the public service of the Federation or the public service of a Region, a member of the armed forces of the Crown or the holder of any other office of emolument under the Crown ; or

(*f*) if he is an *ex-officio* member of the Senate or a legislative house of a Region.

(2) Parliament may provide that a person shall not be qualified for selection as a Senator or election to the House of Representatives for such period (not exceeding five years) as may be prescribed if he is convicted by any court of law in Nigeria of such offences connected with the selection or election of members of a House of Parliament or a legislative house of a Region as may be prescribed.

(3) Parliament may provide that a person disqualified under paragraph (*c*) of subsection (1) of this section by reason of his being under a sentence of imprisonment exceeding six months for any such offence (being an offence that appears to Parliament to involve dishonesty) as may be prescribed or by reason of his being under sentences of imprisonment that include such a sentence for any such offence shall not be qualified for selection as a Senator or election to the House of Representatives for such period from the date on which he ceases to be disqualified under that paragraph (not exceeding five years) as may be prescribed.

(4) Parliament may provide that a person who is the holder of any office the functions of which involve responsibility for, or in connection with, the conduct of any election to the House of Representatives or the compilation of any register of voters for the purposes of such an election shall not be qualified for election to that House.

(5) Parliament may, in order to permit any person who has been adjudged to be a lunatic, declared to be of unsound mind, sentenced to death or imprisonment or adjudged or declared bankrupt to appeal against the decision in accordance with any law in force in Nigeria, provide that, subject to such conditions as may be prescribed, the decision shall not have effect for the purposes of subsection (1) of this section until such time as may be prescribed.

(6) For the purposes of paragraph (*c*) of subsection (1) of this section two or more sentences of imprisonment that are required to be served

consecutively shall be regarded as separate sentences if none of those sentences exceeds six months but if any one of those sentences exceeds that term they shall be regarded as one sentence.

(7) For the purposes of paragraph (*e*) of subsection (1) of this section—

(*a*) a person shall not be regarded as holding an office of emolument under the Crown by reason only that he is in receipt of a pension or other like benefit in respect of service in an office under the Crown; and

(*b*) the office of the President or the Deputy President of the Senate, a Senator, the Speaker or the Deputy Speaker of the House of Representatives, a member of the House of Representatives, a Minister of the Government of the Federation, a Parliamentary Secretary to such a Minister, a member of the Council of Ministers, the President, the Speaker, the Deputy President or the Deputy Speaker of a legislative house of a Region, a member of such a legislative house, a Minister of the Government of a Region, a Parliamentary Secretary to such a Minister, a member of the Executive Council of a Region, a member of the Council of Chiefs of Northern Nigeria, a member of the Minority Council of a Minority Area in Western Nigeria or Eastern Nigeria or a member of any such body corporate as is referred to in the proviso to subsection (10) of this section shall not be regarded as an office of emolument under the Crown.

(8) Save as otherwise provided by Parliament, a person shall not be regarded as disqualified for selection as a Senator or election as a member of the House of Representatives under paragraph (*e*) of subsection (1) of this section by reason only that he holds office as a member of a statutory corporation.

(9) If any person who holds the office of a member of any statutory corporation is selected as a Senator or elected as a member of the House of Representatives he shall, unless it is otherwise provided by Parliament, thereupon cease to hold office as a member of that corporation.

(10) In this section "statutory corporation" means any body corporate established directly by any law in force in Nigeria:

Provided that it does not include any body corporate established by or under the Native Authority Law, 1954, of Northern Nigeria(**a**), the Western Region Local Government Law, 1952, or the Local Government Law, 1957, of Western Nigeria(**b**) or the Eastern Region Local Government Law, 1960, of Eastern Nigeria (**c**), as amended, or any law replacing any of those laws.

President of Senate

41.—(1) There shall be a President of the Senate, who shall be elected by the members of the Senate.

(2) No person shall be elected as President of the Senate unless he is a Senator or a person who is qualified for selection as a Senator.

(3) The President of the Senate shall vacate his office—

(*a*) if, having been elected from among the Senators, he ceases to be a Senator otherwise than by reason of a dissolution of Parliament;

(**a**) Law No. 4 of 1954.
(**b**) Laws No. 1 of 1953 and 12 of 1957.
(**c**) Law No. 17 of 1960.

(*b*) if, having been elected from outside the Senate, any circumstances arise (other than a dissolution of Parliament) that if he were a Senator would cause him to vacate his seat as such;

(*c*) when the Senate first sits after any dissolution of Parliament;

(*d*) if he becomes a Minister of the Government of the Federation or a Parliamentary Secretary to such a Minister; or

(*e*) if he is removed from office by a resolution of the Senate supported by the votes of two-thirds of all the members of that House.

(4) No business shall be transacted in the Senate (other than an election to the office of President) at any time when the office of President is vacant.

Speaker of House of Representatives

42.—(1) There shall be a Speaker of the House of Representatives, who shall be elected by the members of that House.

(2) No person shall be elected as Speaker of the House of Representatives unless he is a member of the House or a person who is qualified for election in some part of Nigeria as a member of the House.

(3) The Speaker of the House of Representatives shall vacate his office—

(*a*) if, having been elected from among the members of the House, he ceases to be a member otherwise than by reason of a dissolution of Parliament;

(*b*) if, having been elected from outside the House, any circumstances arise (other than a dissolution of Parliament) that if he were a member of the House would cause him to vacate his seat as such;

(*c*) when the House first sits after any dissolution of Parliament;

(*d*) if he becomes a Minister of the Government of the Federation or a Parliamentary Secretary to such a Minister; or

(*e*) if he is removed from office by a resolution of the House supported by the votes of two-thirds of all the members of the House.

(4) No business shall be transacted in the House of Representatives (other than an election to the office of Speaker) at any time when the office of Speaker is vacant.

Right of attendance of Ministers

43.—(1) A Minister of the Government of the Federation may attend and take part in the proceedings of either House of Parliament notwithstanding that he is not a member of that House.

(2) Nothing in this section shall entitle any person who is not a member of a House of Parliament to vote in that House or any of its committees.

Tenure of seats of members of Parliament

44.—(1) A Senator (other than the Oba of Lagos) or a member of the House of Representatives shall vacate his seat in the House of which he is a member—

(*a*) if he becomes a member of the other House of Parliament or a legislative house of a Region;

(*b*) if any other circumstances arise that, if he were not a member of that House, would cause him to be disqualified for selection or

election as such under subsection (1) or (2) of section 40 of this Constitution;

(*c*) if he ceases to be a citizen of Nigeria;

(*d*) if he becomes a Minister of the Government of a Region;

(*e*) save as otherwise provided by Parliament, if he becomes a member of any statutory corporation; or

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

(2) Parliament may, in order to permit any Senator or member of the House of Representatives who has been adjudged to be a lunatic, declared to be of unsound mind, sentenced to death or imprisonment or adjudged or declared bankrupt to appeal against the decision in accordance with any law in force in Nigeria, provide that, subject to such conditions as may be prescribed, the decision shall not have effect for the purposes of this section until such time as may be prescribed.

(3) In this section the expression "statutory corporation" has the meaning assigned to it for the purposes of section 40 of this Constitution.

Establishment of Electoral Commission

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

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

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

(*b*) a member representing each territory.

(3) The members of the Electoral Commission of the Federation shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister.

(4) Before tendering any advice for the purposes of this section in relation to the appointment of the member of the Electoral Commission of the Federation representing a Region, the Prime Minister shall consult the Premier of that Region.

(5) A person shall not be qualified to hold the office of a member of the Electoral Commission of the Federation if he is a member of either House of Parliament, a member of a legislative house of a Region, a Minister of the Government of the Federation, a Minister of the Government of a Region or a member of the public service of the Federation or the public service of a Region.

(6) Subject to the provisions of this section, a member of the Electoral Commission of the Federation shall vacate his office—

(*a*) at the expiration of five years from the date of his appointment; or

(*b*) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(7) A member of the Electoral Commission of the Federation may be removed from office by the Governor-General, acting in accordance with the advice of the Prime Minister, for inability to discharge the

functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

(8) A member of the Electoral Commission of the Federation shall not be removed from office except in accordance with the provisions of this section.

(9) In the exercise of its functions under this Constitution the Electoral Commission of the Federation shall not be subject to the direction or control of any other person or authority.

Constituencies

46.—(1) Nigeria shall be divided into as many constituencies as there are members of the House of Representatives in such manner as the competent authority, acting with the approval of each House of Parliament signified by resolution, may prescribe.

(2) No constituency shall form part of more than one territory and the boundaries of each constituency shall be such that the number of inhabitants thereof is as nearly equal to the population quota as is reasonably practicable:

Provided that the number of inhabitants of a constituency may be greater or less than the population quota in order to take account of means of communication, geographical features, the distribution of different communities and the boundaries of the territories.

(3) The competent authority shall review the division of Nigeria into constituencies at intervals of not less than eight and not more than ten years and may alter the constituencies in accordance with the provisions of this section to such extent as it may consider desirable in the light of the review:

Provided that that authority may at any time carry out such a review and alter the constituencies in accordance with the provisions of this section to such extent as it considers necessary in consequence of any amendment to section 3 or 38 of this Constitution or any provision replacing either of those sections or by reason of the holding of a census of the population of Nigeria in pursuance of an Act of Parliament.

(4) Where the boundaries of any constituency established under this section are altered in accordance with the provisions of this section, that alteration shall come into effect upon the next dissolution of Parliament after the alteration has been approved by both Houses of Parliament.

(5) In this section "population quota" means the number obtained by dividing the number of the inhabitants of Nigeria by the number of constituencies into which Nigeria is divided under this section.

(6) For the purposes of this section the number of inhabitants of Nigeria or any part thereof shall be ascertained by reference to the latest census of the population of Nigeria held in pursuance of an Act of Parliament.

(7) In this section "the competent authority" means the Electoral Commission of the Federation or such other authority consisting of a chairman appointed by the Governor-General, acting in accordance with the advice of the Prime Minister, and of members appointed in like manner to represent the territories (each territory being equally represented) as may be established in that behalf by Parliament.

Elections

47.—(1) Every constituency established under section 46 of this Constitution shall return to the House of Representatives one member who shall be directly elected in such manner as may be prescribed by Parliament.

(2) The registration of voters and the conduct of elections shall be subject to the direction and supervision of the Electoral Commission of the Federation.

Determination of questions respecting membership of Parliament

48.—(1) Subject to the provisions of section 108 of this Constitution, the competent High Court shall have original jurisdiction to hear and determine any question whether—

(*a*) any person has been validly selected as a Senator or elected as a member of the House of Representatives ; or

(*b*) the seat in the Senate of a Senator or the seat in the House of Representatives of a member of that House has become vacant.

(2) Parliament may make provision with respect to—

(*a*) the persons who may apply to the competent High Court for the determination of any question under this section ;

(*b*) the circumstances and manner in which, and the conditions upon which, any such application may be made ; and

(*c*) the powers, practice and procedure of the competent High Court in relation to any such application.

(3) In this section " the competent High Court " means, in relation to a person who has been selected as a Senator to represent a Region or elected a member of the House of Representatives in a Region, the High Court of that Region and, in relation to any other person, the High Court of the Federal territory.

Clerks to Houses of Parliament and their staffs

49.—(1) There shall be a Clerk to the Senate and a Clerk to the House of Representatives:

Provided that the offices of Clerk to the Senate and Clerk to the House of Representatives may be held by the same person.

(2) Subject to the provisions of any Act of Parliament, the office of the Clerk of each House of Parliament and the members of his staff shall be offices in the public service of the Federation.

Part 2

Procedure in Parliament

Oaths to be taken by members of Parliament

50.—(1) Every member of either House of Parliament shall, before taking his seat in that House, take and subscribe before the House the oath of allegiance but a member may before taking that oath take part in the election of a President of the Senate or a Speaker of the House of Representatives, as the case may be:

Provided that if a House of Parliament is not sitting a member of that House may take and subscribe the oath of allegiance before a judge of the High Court of a territory.

(2) Any person elected to the office of President of the Senate who is not a Senator and any person elected to the office of Speaker of

the House of Representatives who is not a member of that House shall, before entering upon the duties of his office, take and subscribe the oath of allegiance before the Senate or the House of Representatives, as the case may be.

Presiding in Senate

51.—(1) There shall preside at any sitting of the Senate—

(*a*) the President; or

(*b*) in the absence of the President, the Deputy President; or

(*c*) in the absence of the President and the Deputy President, such Senator as the Senate may elect for that purpose.

(2) The Senate may from time to time elect a Senator to be Deputy President and any person so elected shall hold office as such until he ceases to be a Senator or is removed from office by the Senate.

Presiding in House of Representatives

52.—(1) There shall preside at any sitting of the House of Representatives—

(*a*) the Speaker; or

(*b*) in the absence of the Speaker, the Deputy Speaker; or

(*c*) in the absence of the Speaker and the Deputy Speaker, such member of the House as the House may elect for that purpose.

(2) The House of Representatives may from time to time elect a member of the House to be Deputy Speaker and any person so elected shall hold office as such until he ceases to be a member of the House or is removed from office by the House.

Quorum in Houses of Parliament

53. If objection is taken by any member of a House of Parliament present that there are present in that House (besides the person presiding) fewer than one-sixth of all the members of that House and, after such interval as may be prescribed in the rules of procedure of the House, the person presiding ascertains that the number of members present is still less than one-sixth of all the members of the House, he shall thereupon adjourn the House.

Use of English in Parliament

54. The business of Parliament shall be conducted in English.

Voting in Parliament

55.—(1) Any question proposed for decision in a House of Parliament shall be determined by the required majority of the members present and voting; and the person presiding shall cast a vote whenever necessary to avoid an equality of votes but shall not vote in any other case.

(2) Save as otherwise provided in this Constitution, the required majority for the purposes of determining any question shall be a simple majority.

(3) The rules of procedure of a House of Parliament may provide that the vote of a member upon a question in which he has a direct pecuniary interest shall be disallowed.

Unqualified persons sitting or voting

56. Any person who sits or votes in either House of Parliament knowing or having reasonable ground for knowing that he is not entitled to do so shall be liable to a penalty not exceeding twenty pounds or

such other sum as may be prescribed by Parliament for each day on which he sits or votes in that House, which shall be recoverable by action in the High Court of Lagos at the suit of the Attorney-General of the Federation.

Mode of exercising legislative power

57.—(1) The power of Parliament to make laws shall be exercised by bills passed by both Houses (or in the cases mentioned in section 59 of this Constitution the House of Representatives) and assented to by the Governor-General on behalf of Her Majesty.

(2) A bill other than a money bill may originate in either House of Parliament but a money bill may originate only in the House of Representatives.

(3) When a bill has been passed by the House of Parliament in which it originated, it shall be sent to the other House ; and it shall be presented to the Governor-General for assent—

(*a*) when it has been passed by the other House and agreement has been reached between the two Houses on any amendments made in it ; or

(*b*) when it is required to be so presented under section 59 of this Constitution.

(4) When a bill is presented to the Governor-General for assent, he shall signify that he assents or that he withholds assent.

(5) A bill shall not become law unless it has been duly passed and assented to in accordance with this Constitution.

Restrictions with regard to certain financial measures

58.—(1) The Senate shall not—

(*a*) proceed upon any bill, other than a bill sent from the House of Representatives, that, in the opinion of the person presiding, makes provision for any of the following purposes—

(i) for the imposition, repeal or alteration of taxation ;

(ii) for the imposition of any charge upon the Consolidated Revenue Fund or any other public fund of the Federation ;

(iii) for the payment, issue or withdrawal from the Consolidated Revenue Fund or any other public fund of the Federation of any moneys not charged thereon or any alteration in the amount of such a payment, issue or withdrawal ; or

(iv) for the composition or remission of any debt due to the Federation ;

(*b*) proceed upon any amendment to any bill that in the opinion of the person presiding makes provision for any of those purposes ;

(*c*) proceed upon any motion (including any amendment to a motion), the effect of which, in the opinion of the person presiding, would be to make provision for any of those purposes ; or

(*d*) receive any petition that, in the opinion of the person presiding, requests that provision be made for any of those purposes.

(2) Except upon the recommendation of the Governor-General signified by a Minister of the Government of the Federation, the House of Representatives shall not—

(*a*) proceed upon any bill (including any amendment to a bill) that, in the opinion of the person presiding, makes provision for any of the following purposes—

(i) for the imposition of taxation or the alteration of taxation otherwise than by reduction :

(ii) for the imposition of any charge upon the Consolidated Revenue Fund or any other public fund of the Federation or the alteration of any such charge otherwise than by reduction ;

(iii) for the payment, issue or withdrawal from the Consolidated Revenue Fund or any other public fund of the Federation of any moneys not charged thereon or any increase in the amount of such a payment, issue or withdrawal ; or

(iv) for the composition or remission of any debt due to the Federation ;

(*b*) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding, would be to make provision for any of those purposes ; or

(*c*) receive any petition that, in the opinion of the person presiding, requests that provision be made for any of those purposes.

Limitation of powers of Senate

59.—(1) Where a money bill is passed by the House of Representatives and, having been sent to the Senate at least one month before the end of the session, is not passed by the Senate without amendment within one month after it is so sent, the bill shall, unless the House of Representatives otherwise resolves, be presented to the Governor-General for his assent.

(2) Where—

(*a*) a bill that is not a money bill is passed by the House of Representatives and, having been sent to the Senate at least one month before the end of the session, is not passed by the Senate before the end of the session or is passed by the Senate with amendments to which the House of Representatives does not before the end of the session agree ; and

(*b*) in the following session (whether of the same Parliament or not) but not earlier than six months after it was first passed by the House of Representatives the same bill, with no other alterations than those mentioned in subsection (4) of this section, is passed again by the House of Representatives and sent to the Senate at least one month before the end of the session and is not passed by the Senate before the end of the session or is passed by the Senate with amendments to which the House of Representatives does not before the end of the session agree,

the bill shall, unless the House of Representatives otherwise resolves, be presented to the Governor-General for his assent with such amendments, if any, as may have been agreed to by both Houses.

(3) The House of Representatives may, on the passage of a bill for the purposes of paragraph (*b*) of subsection (2) of this section, 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 agreed to by both Houses ; but the exercise of this power by the House of Representatives shall not affect the operation of this section if the bill is not passed by the Senate or is passed by the Senate with amendments to which the House of Representatives does not agree.

(4) The alterations referred to in subsection (2) of this section are alterations certified by the Speaker of the House of Representatives

to be necessary owing to the time that has elapsed since the bill was passed in the earlier session or to represent amendments made in that session by the Senate.

(5) When a money bill is sent to the Senate from the House of Representatives it shall bear a certificate of the Speaker of the House of Representatives that it is a money bill.

(6) When a bill is presented to the Governor-General in pursuance of this section it shall bear a certificate of the Speaker of the House of Representatives that this section has been complied with and that certificate shall be conclusive for all purposes and shall not be questioned in any court of law.

(7) This section does not apply to any bill for the purposes of section 4 of this Constitution.

Regulation of procedure in Houses of Parliament

60.—(1) Subject to the provisions of this Constitution, each House of Parliament may regulate its own procedure.

(2) Each House of Parliament may act notwithstanding any vacancy in its membership (including any vacancy not filled when the House first meets after any dissolution of Parliament) and the presence or participation of any person not entitled to be present at or to participate in the proceedings of the House shall not invalidate those proceedings.

Interpretation

61. In this Part of this Chapter "money bill" means a bill that in the opinion of the Speaker of the House of Representatives contains only provisions dealing with—

(*a*) the imposition, repeal, remission, alteration or regulation of taxation;

(*b*) the imposition for the payment of debt or other financial purposes of charges on the Consolidated Revenue Fund or any other public fund of the Federation or the variation or repeal of any such charges;

(*c*) the grant of money to the Crown or to any other person or authority or the variation or revocation of any such grant;

(*d*) the appropriation, receipt, custody, investment, issue or audit of accounts of public money;

(*e*) the raising or guarantee of any loan or the repayment thereof; or

(*f*) subordinate matters incidental to any of those matters:

Provided that the expressions "taxation", "public money" and "loan" do not include any taxation, money or loan raised by local authorities or bodies for public purposes.

Part 3

Summoning, prorogation and dissolution

Sessions of Parliament

62. Each session of Parliament shall be held at such place within Nigeria and shall begin at such time (not being later than twelve months from the end of the preceding session if Parliament has been prorogued or three months from the end of that session if Parliament has been dissolved) as the Governor-General shall appoint.

Prorogation and dissolution of Parliament

63.—(1) The Governor-General may at any time prorogue or dissolve Parliament.

(2) Subject to the provisions of subsection (3) of this section, Parliament, unless sooner dissolved, shall continue for five years from the date of its first sitting after any dissolution and shall then stand dissolved.

(3) At any time when the Federation is at war, Parliament may from time to time extend the period of five years specified in subsection (2) of this section for not more than twelve months at a time:

Provided that the life of Parliament shall not be extended under this subsection for more than five years.

(4) In the exercise of his powers to dissolve Parliament, the Governor-General shall act in accordance with the advice of the Prime Minister:

Provided that—

(*a*) if the Prime Minister recommends a dissolution and the Governor-General considers that the government of the Federation can be carried on without a dissolution and that a dissolution would not be in the interests of the Federation he may refuse to dissolve Parliament;

(*b*) if the House of Representatives passes a resolution that it has no confidence in the Government of the Federation and the Prime Minister does not within three days either resign or advise a dissolution, the Governor-General may dissolve Parliament; and

(*c*) if the office of Prime Minister is vacant and the Governor-General considers that there is no prospect of his being able to appoint a person who can command the support of the majority of the members of the House of Representatives to that office within a reasonable time, the Governor-General may dissolve Parliament.

Part 4

Legislative powers

Powers of Parliament to make laws

64.—(1) Parliament shall have power to make laws—

(*a*) for the peace, order and good government of Nigeria (other than the Federal territory) or any part thereof with respect to any matter included in the Legislative Lists; and

(*b*) for the peace, order and good government of the Federal territory with respect to any matter, whether or not it is included in the Legislative Lists.

(2) The power of Parliament to make laws for the peace, order and good government of the Regions with respect to any matter included in the Exclusive Legislative List shall (save as provided in section 72 of this Constitution) be to the exclusion of the legislatures of the Regions:

Provided that nothing in this subsection shall preclude the legislature of a Region from making provision for grants or loans from or the imposition of charges upon any of the public funds of that Region or the imposition of charges upon the revenues and assets of that Region for any purpose notwithstanding that it relates to a matter included in the Exclusive Legislative List.

(3) In addition and without prejudice to the powers conferred by subsection (1) of this section, Parliament shall have the powers to make laws conferred by sections 5, 65 to 69, 74 to 77 and 119 of this Constitution (which relate to matters not included in the Legislative Lists).

(4) If any law enacted by the legislature of a Region is inconsistent with any law validly made by Parliament, the law made by Parliament shall prevail and the Regional law shall, to the extent of the inconsistency, be void.

(5) Subject to the provisions of subsection (4) of this section, nothing in this section shall preclude the legislature of a Region from making laws with respect to any matter that is not included in the Exclusive Legislative List.

Special powers of Parliament in relation to emergencies

65.—(1) Parliament may at any time make such laws for Nigeria or any part thereof with respect to matters not included in the Legislative Lists as may appear to Parliament to be necessary or expedient for the purpose of maintaining or securing peace, order and good government during any period of emergency.

(2) Any provision of law enacted in pursuance of this section shall have effect only during a period of emergency:

Provided that the termination of a period of emergency shall not affect the operation of such a provision of law during that period, the validity of any action taken thereunder during that period, any penalty or punishment incurred in respect of any contravention thereof or failure to comply therewith during that period or any proceeding or remedy in respect of any such penalty or punishment.

(3) In this section "period of emergency" means any period during which—

(*a*) the Federation is at war;

(*b*) there is in force a resolution passed by each House of Parliament declaring that a state of public emergency exists; or

(*c*) there is in force a resolution of each House of Parliament supported by 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.

(4) A resolution passed by a House of Parliament for the purposes of this section shall remain in force for twelve months 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 twelve months by resolution passed in like manner.

Special powers of Parliament when s. 80 of this Constitution has been contravened

66.—(1) During any period in which there is in force a resolution of each House of Parliament supported by the votes of not less than two-thirds of all the members of that House declaring that the executive authority of a Region is being exercised in contravention of section 80 of this Constitution, Parliament may make laws for that Region with respect to matters not included in the Legislative Lists to such extent as may appear to Parliament to be necessary for securing compliance with the provisions of that section.

(2) A resolution passed by a House of Parliament for the purposes of this section shall remain in force for twelve months 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 twelve months by resolution passed in like manner.

(3) Upon the expiration of any period during which there were in force resolutions of both Houses of Parliament passed for the purposes of this section, any provision of law enacted in pursuance of this section shall cease to have effect:

Provided that the termination of any such period shall not affect the operation of such a provision of law during that period, the validity of any action taken thereunder during that period, any penalty or punishment incurred in respect of any contravention thereof or failure to comply therewith during that period or any proceeding or remedy in respect of any such penalty or punishment.

Powers of Parliament conferred by Regional law

67.—(1) Parliament may at any time when there is in force a law enacted by the legislature of a Region conferring authority upon Parliament to do so make laws for that Region with respect to a matter not included in the Legislative Lists.

(2) If any law enacted by the legislature of a Region conferring authority upon Parliament for the purposes of this section ceases to have effect, then any provision of law enacted by Parliament, to the extent to which it was enacted in pursuance of that authority, shall thereafter have effect as if it had been enacted by the legislature of that Region and may be amended or repealed accordingly.

Power to make grants of money, etc., for any purpose

68. Parliament may make provision for grants and loans from and the imposition of charges upon the Consolidated Revenue Fund or any other public fund of the Federation or for the imposition of charges upon the revenues and assets of the Federation for any purpose, notwithstanding that it relates to a matter not included in the Legislative Lists.

Implementation of treaties, etc.

69. Parliament may make laws for Nigeria or any part thereof with respect to matters not included in the Legislative Lists for the purpose of implementing any treaty, convention or agreement between the Federation and any other country or any arrangement with or decision of an international organization of which the Federation is a member:

Provided that any provision of law enacted in pursuance of this section shall not come into operation in a Region unless the Governor of that Region has consented to its having effect.

Income tax and estate duty

70.—(1) Parliament may make laws for Nigeria or any part thereof with respect to taxes on the income and profits of companies.

(2) Parliament may make laws for Nigeria or any part thereof with respect to taxes on income and profits other than the income and profits of companies for the purpose of—

(*a*) implementing any treaty, convention or agreement between the Federation and any other country or any arrangement with or decision of an international organization of which the Federation is a member with respect to taxes on income and profits;

(*b*) securing uniform principles for the taxation of income and profits accruing to persons in Nigeria from countries other than Nigeria and of income and profits derived from Nigeria by persons outside Nigeria;

(*c*) securing uniform principles for the computation of income and profits of all persons (including members of partnerships) for purposes of assessment of tax and for the treatment of losses, depreciation of assets and contributions to pension or provident funds or schemes;

(*d*) regulating the liability to tax of persons within Nigeria by reference to their places of residence or otherwise for the purpose of ensuring that any income or profit does not bear tax under the laws of more than one territory;

(*e*) providing, in pursuance of any arrangement in that behalf subsisting between the Government of the Federation and the Government of a Region, for the exemption from liability to tax in respect of all or part of the income or profits of any person or class of persons;

(*f*) obtaining information with respect to income or profits from any source and providing for the exchange of information between different tax authorities; and

(*g*) providing, in pursuance of any arrangement in that behalf subsisting between the Government of the Federation and the Government of a Region, for the establishment and regulation of authorities empowered to promote uniformity of taxation and to discharge such other functions relating to the taxation of income and profits as may be conferred upon them in pursuance of any such agreement.

(3) Parliament may make laws for Nigeria or any part thereof with respect to taxes on the estates of deceased persons and the succession to their property for the purpose of ensuring that any estate or part thereof does not bear tax under the laws of more than one territory.

(4) The powers conferred upon Parliament by subsections (2) and (3) of this section shall not extend to the imposition of any tax or penalty or the prescribing of rates of tax or personal allowances and reliefs.

(5) Nothing in subsections (2) and (3) of this section shall preclude the legislature of a Region from making laws with respect to the matters referred to in those subsections.

(6) In this section references to the income and profits of companies are references to the income and profits of any company or other corporation (other than a corporation sole) established by or under any law in force in Nigeria or elsewhere but do not include references—

(*a*) to the income and profits of any body corporate established by or under the Native Authority Law, 1954, of Northern Nigeria, the Western Regional Local Government Law, 1952, or the Local Government Law, 1957, of Western Nigeria or the Eastern Region Local Government Law, 1960, of Eastern Nigeria, as amended, or any law replacing any of those laws;

(*b*) to the income and profits of any purchasing authority established by the legislature of a Region and empowered to acquire any commodity in that Region for export from Nigeria derived from the purchase and sale (whether for purposes of export or otherwise) of that commodity; or

(*c*) to the income or profits of any corporation established by the legislature of a Region for the purpose of fostering the economic development of that Region, not being income or profits derived from a trade or business carried on by that corporation or from

any share or other interest possessed by that corporation in a trade or business in Nigeria carried on by some other person or authority.

Trade and commerce

71.—(1) Parliament may make laws for Nigeria or any part thereof with respect to trade and commerce between Nigeria and other countries and trade and commerce among the territories, including (without prejudice to the generality of the foregoing power) the export of commodities from Nigeria, the import of commodities into Nigeria, the establishment and enforcement of grades and standards of quality for commodities to be exported from Nigeria and the preservation of freedom of trade and commerce among the territories.

(2) For the purposes of this section, Parliament may—

(*a*) confer on any person or authority exclusive power to acquire from a purchasing authority established for a Region by the legislature of that Region any commodity for export from Nigeria, to export any commodity from Nigeria or to sell any commodity outside Nigeria ; or

(*b*) make provision for the inspection of commodities to be exported from Nigeria at the port of shipment from Nigeria and for the enforcement of grades and standards of quality in respect of commodities so inspected.

(3) The powers conferred upon Parliament by this section shall not include powers—

(*a*) to establish a purchasing authority for a Region ;

(*b*) to confer on any person or authority power to acquire in a Region any commodity for export from Nigeria from any person or authority in that Region other than a purchasing authority established for that Region by the legislature of a Region ;

(*c*) to regulate the prices to be paid by a purchasing authority established by the legislature of a Region for commodities for export ;

(*d*) to regulate or prohibit in a Region any processing of a commodity to be exported or any dealing with such a commodity other than its export from Nigeria ; or

(*e*) to make provision for the enforcement in a Region of any grades or standards of quality for commodities to be exported from Nigeria that may be established by Parliament.

(4) Nothing in this section shall be construed as precluding the legislature of a Region—

(*a*) from making provision for any of the matters referred to in subsection (3) of this section ; or

(*b*) from conferring upon any purchasing authority of the Region power to acquire any commodity in the Region for purposes other than export from Nigeria.

(5) In this section " purchasing authority " means, in relation to a Region, any person or authority empowered to purchase commodities for export in that Region.

Banks and banking

72.—(1) Parliament may make laws for Nigeria or any part thereof with respect to banks and banking.

(2) Nothing in this section shall preclude the legislature of a Region from establishing an authority for the purpose of carrying on (subject to and in compliance with any Act of Parliament for the time being in force and in particular any Act relating to banks and banking) the business of banking in Nigeria or elsewhere or from making such provision for the constitution of that authority and regulating the performance by that authority of its functions as is consistent with any Act of Parliament.

Electricity and gas

73.—(1) Parliament may make laws for Nigeria or any part thereof with respect to electricity or gas:

Provided that nothing in this subsection shall preclude the legislature of a Region from making laws for that Region with respect to those matters.

(2) The powers conferred on Parliament by this section shall not include powers—

(*a*) to prohibit or restrict the establishment by or on behalf of the Government of a Region of an agency for the manufacture, distribution or supply of electricity or gas in that Region; or

(*b*) to regulate the production, distribution or supply of electricity or gas by the Government of a Region or any such agency.

(3) In this section "gas" does not include natural gas.

Authorities empowered to administer trusts and estates

74. Parliament may make laws for Nigeria or any part thereof establishing and regulating authorities for the Federation with power—

(*a*) to administer trusts; or

(*b*) to apply for grants of representation in respect of the estates of deceased persons and to administer such estates:

Provided that nothing in this section shall preclude the legislature of a Region from making provision for similar authorities for that Region.

Exhibition of cinematograph films

75. Parliament may make laws for Nigeria or any part thereof establishing and regulating authorities for the Federation with power to carry out censorship of cinematograph films and to prohibit or restrict the exhibition of such films:

Provided that nothing in this section shall preclude the legislature of a Region from making provision for similar authorities for that Region.

Exemption from Regional taxes with respect to mining

76. Parliament may, for the purpose of implementing any agreement between the Government of the Federation and any person relating to mining or matters connected therewith, provide for exempting that person in whole or in part from liability for any tax or rate imposed by or under a law enacted by the legislature of a Region with respect to any matter not included in the Legislative Lists:

Provided that no person shall be granted any exemption in pursuance of this section without prior consultation between the Government of the Federation and the Government of the Region concerned.

Evidence

77. Parliament may make laws for Nigeria or any part thereof with respect to evidence in regard to matters not included in the Legislative Lists:

Provided that an Act of Parliament enacted in pursuance of this section shall have effect in relation to any Region only to the extent that provision in that behalf is not made by the legislature of that Region.

CHAPTER VI

EXECUTIVE POWERS

Exercise of executive authority of Federation

78.—(1) The executive authority of the Federation shall be vested in Her Majesty.

(2) Subject to the provisions of this Constitution, the executive authority of the Federation may be exercised on behalf of Her Majesty by the Governor-General, either directly or through officers subordinate to him.

(3) Nothing in this section shall prevent Parliament from conferring functions on persons or authorities other than the Governor-General.

Extent of executive authority of Federation

79. The executive authority of the Federation shall extend to the execution and maintenance of this Constitution and to all matters with respect to which Parliament has for the time being power to make laws.

Executive authority of Regions

80. The executive authority of a Region shall extend to the execution and maintenance of the constitution of the Region and to all matters with respect to which the legislature of the Region has for the time being power to make laws but shall be so exercised as not to impede or prejudice the exercise of the executive authority of the Federation or to endanger the continuance of federal government in Nigeria.

Ministers of Government of Federation

81.—(1) There shall be a Prime Minister of the Federation, who shall be appointed by the Governor-General.

(2) Whenever the Governor-General has occasion to appoint a Prime Minister he shall appoint a member of the House of Representatives who appears to him likely to command the support of the majority of the members of the House.

(3) There shall be, in addition to the office of Prime Minister, such other offices of Minister of the Government of the Federation as may be established by Parliament or, subject to the provisions of any Act of Parliament, by the Governor-General, acting in accordance with the advice of the Prime Minister.

(4) Appointments to the office of Minister of the Government of the Federation other than the office of Prime Minister shall be made by the Governor-General, acting in accordance with the advice of the Prime Minister.

(5) A person shall not hold office at the same time both as a Minister of the Government of the Federation and as a Minister of the Government of a Region.

(6) Subject to the provisions of subsection (11) of this section, a person who holds office as a Minister of the Government of the Federation for any period of four consecutive months without also being a Senator or a member of the House of Representatives shall cease to be a Minister at the expiration of that period or, if that period expires at a time when Parliament is dissolved and he does not in the meantime become a Senator or a member of the House of Representatives, at the date on which Parliament first meets after that dissolution.

(7) Subject to the provisions of subsection (11) of this section, a person who holds office as a Minister of the Government of the Federation and who is at no time while holding that office also a Senator or a member of the House of Representatives shall not be qualified for reappointment as such a Minister before Parliament is next dissolved after he ceases to hold that office, unless in the meantime he has become a Senator or a member of the House of Representatives.

(8) The office of the Prime Minister shall become vacant—

(*a*) when, after any dissolution of the House of Representatives, the Prime Minister is informed by the Governor-General that the Governor-General is about to re-appoint him as Prime Minister or to appoint another person as Prime Minister; or

(*b*) if he ceases to be a member of the House of Representatives otherwise than by reason of a dissolution of Parliament.

(9) The office of a Minister of the Government of the Federation other than the Prime Minister shall become vacant if the office of Prime Minister becomes vacant.

(10) Subject to the provisions of subsections (8) and (9) of this section, the Ministers of the Government of the Federation shall hold office during the Governor-General's pleasure:

Provided that—

(*a*) the Governor-General shall not remove the Prime Minister from office unless it appears to him that the Prime Minister no longer commands the support of a majority of the members of the House of Representatives; and

(*b*) the Governor-General shall not remove a Minister other than the Prime Minister from office except in accordance with the advice of the Prime Minister.

(11) The office of the Attorney-General of the Federation shall be that of a Minister of the Government of the Federation:

Provided that—

(*a*) the provisions of subsections (6) and (7) of this section shall not apply in relation to a person holding that office;

(*b*) if the person holding that office is for any reason unable to perform the functions conferred upon him by this Constitution or any other law, those functions may be performed by such other person (whether or not that person is a Minister) as may from time to time be designated in that behalf by the Governor-General acting in accordance with the advice of the Prime Minister; and

(*c*) a person shall not be qualified to hold that office or to perform the functions conferred upon the person holding that office by this Constitution or any other law unless he is qualified for admission

as an advocate in Nigeria and has been so qualified for at least ten years.

Establishment of Council of Ministers

82.—(1) There shall be a Council of Ministers for the Federation, whose function shall be to advise the Governor-General in the government of the Federation and which shall consist of the Prime Minister and such other persons, being Ministers of the Government of the Federation, as the Governor-General, acting in accordance with the advice of the Prime Minister, may from time to time appoint.

(2) A person appointed as a member of the Council of Ministers shall vacate his seat in the Council if he ceases to be a Minister of the Government of the Federation or if the Governor-General, acting in accordance with the advice of the Prime Minister, so directs.

Collective responsibility

83.—(1) The Council of Ministers shall be collectively responsible to Parliament for any advice given to the Governor-General by or under the general authority of the Council and for all things done by or under the authority of any Minister of the Government of the Federation in the execution of his office.

(2) The provisions of this section shall not apply in relation to—

(*a*) the appointment and removal from office of Ministers of the Government of the Federation, members of the Council of Ministers and Parliamentary Secretaries to Ministers, the assignment of portfolios to Ministers or the authorization of another member of the Council of Ministers to perform the functions of the Prime Minister during absence or illness;

(*b*) the dissolution of Parliament; or

(*c*) the matters referred to in section 94 of this Constitution (which relates to the prerogative of mercy).

Allocation of portfolios to Ministers

84. The Governor-General, acting in accordance with the advice of the Prime Minister, may assign to the Prime Minister or any other Minister of the Government of the Federation responsibility for any business of the Government of the Federation, including the administration of any department of government.

Performance of functions of Prime Minister during absence or illness

85.—(1) Whenever the Prime Minister is absent from Nigeria or is by reason of illness unable to perform the functions conferred upon him by this Constitution the Governor-General may authorize some other member of the Council of Ministers of the Federation to perform those functions (other than the functions conferred by this section) and that member may perform those functions until his authority is revoked by the Governor-General.

(2) The powers of the Governor-General under this section shall be exercised by him in accordance with the advice of the Prime Minister:

Provided that if the Governor-General considers that it is impracticable to obtain the advice of the Prime Minister owing to his absence or illness he may exercise those powers without that advice.

Exercise of Governor-General's powers

86.—(1) In the exercise of his functions under this Constitution or any other law the Governor-General shall act in accordance with the

advice of the Council of Ministers or a Minister of the Government of the Federation acting under the general authority of the Council of Ministers except in cases where by this Constitution he is required to act in accordance with the advice of any person or authority other than the Council of Ministers:

Provided that the Governor-General shall act in accordance with his own deliberate judgment in the performance of the following functions—

(*a*) in the exercise of the powers relating to the dissolution of Parliament conferred upon him by the proviso to subsection (4) of section 63 of this Constitution;

(*b*) in the exercise of the power to appoint the Prime Minister conferred upon him by subsection (2) of section 81 of this Constitution;

(*c*) in the exercise of the powers conferred upon him by section 85 of this Constitution (which relates to the performance of the functions of the Prime Minister during absence or illness) in the circumstances described in the proviso to subsection (2) of that section; and

(*d*) in signifying his approval for the purposes of section 141 of this Constitution of an appointment to an office on his personal staff.

(2) Where by this Constitution the Governor-General is required to act in accordance with the advice of any person or authority, the question whether he has in any case received, or acted in accordance with, such advice shall not be enquired into in any court of law.

Governor-General to be informed concerning matters of government

87. The Prime Minister shall keep the Governor-General fully informed concerning the general conduct of the government of the Federation and shall furnish the Governor-General with such information as he may request with respect to any particular matter relating to the government of the Federation.

Parliamentary Secretaries

88.—(1) The Governor-General, acting in accordance with the advice of the Prime Minister, may appoint Parliamentary Secretaries from among the Senators and the members of the House of Representatives to assist Ministers of the Government of the Federation in the performance of their duties.

(2) The office of a Parliamentary Secretary shall become vacant—

(*a*) if he ceases to be a member of one or other House of Parliament otherwise than by reason of a dissolution of Parliament;

(*b*) if the office of Prime Minister becomes vacant; or

(*c*) if the Governor-General, acting in accordance with the advice of the Prime Minister, so directs.

Oaths to be taken by Ministers, etc.

89. A member of the Council of Ministers, Minister of the Government of the Federation or Parliamentary Secretary to such a Minister shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by Parliament.

Permanent secretaries

90. Where any Minister of the Government of the Federation has been charged with responsibility for any department of government, he

shall exercise general direction and control over that department; and, subject to such direction and control, the department shall be under the supervision of a permanent secretary, whose office shall be an office in the public service of the Federation:

Provided that two or more government departments may be placed under the supervision of one permanent secretary.

Constitution of offices for Federation, etc.

91. Subject to the provisions of this Constitution and of any Act of Parliament, the Governor-General, in Her Majesty's name and on Her Majesty's behalf, may constitute offices for the Federation, make appointments to any such office and terminate any such appointment.

Delegation of executive authority of Federation

92.—(1) The Governor-General may, with the consent of the Governor of a Region, entrust either conditionally or unconditionally to the Governor or to any officer or authority of that Region functions in relation to any matter to which the executive authority of the Federation extends falling to be performed within that Region:

Provided that the consent of the Governor shall not be required during any such period as is referred to in section 65 or 66 of this Constitution.

(2) An Act of Parliament may include provision conferring powers or imposing duties, or authorizing the conferring of powers or the imposition of duties, upon the Governor of a Region or any officer or authority of a Region:

Provided that, save during any such period as is referred to in section 65 or 66 of this Constitution, no provision made in pursuance of this section shall have effect in relation to any Region unless the Governor has consented to its having effect.

Delegation of executive authority of Region

93.—(1) The Governor of a Region may, with the consent of the Governor-General, entrust either conditionally or unconditionally to the Governor-General or to any officer or authority of the Federation functions in relation to any matter to which the executive authority of the Region extends.

(2) A law enacted by the legislature of a Region may include provision conferring powers or imposing duties, or authorizing the conferring of powers or the imposition of duties, upon the Governor-General or any officer or authority of the Federation:

Provided that no provision made in pursuance of this subsection shall have effect unless the Governor-General has consented to its having effect.

Prerogative of mercy

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

(*a*) grant to any person concerned in or convicted of any offence created by or under an Act of Parliament a pardon, either free or subject to lawful conditions;

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

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

(*d*) remit the whole or any part of any punishment imposed on that person for such an offence or of any penalty or forfeiture otherwise due to the Crown on account of such an offence.

(2) Subject to the provisions of subsection (3) of this section, the powers of the Governor-General under subsection (1) of this section shall be exercised by him in accordance with the advice of such member of the Council of Ministers as may from time to time be designated in that behalf by the Governor-General, acting in accordance with the advice of the Prime Minister.

(3) In relation to persons concerned in offences against naval, military or air-force law or convicted or sentenced by courts-martial, the Governor-General, acting in accordance with the advice of the Prime Minister, may designate a member of the Council of Ministers other than the member designated for the purposes of subsection (2) of this section and at any time when there is another member so designated the powers of the Governor-General under subsection (1) of this section shall, in relation to such persons, be exercised in accordance with the advice of that other member.

(4) The provisions of this section shall apply—

(*a*) in relation to any offence created by or under any law in force in the Federal territory, not being an offence created by or under an Act of Parliament ; and

(*b*) in relation to any offence created by or under any law in force in a Region relating to any matter included in the Exclusive Legislative List or the Concurrent Legislative List, not being an offence created by or under an Act of Parliament or a law made by the Legislature of that Region,

as they apply in relation to an offence created by or under an Act of Parliament.

Establishment of Advisory Council on Prerogative of Mercy

95.—(1) There shall be for the Federation an Advisory Council on the Prerogative of Mercy, which shall consist of—

(*a*) such member of the Council of Ministers of the Federation as may for the time being be designated under subsection (2) of section 94 of this Constitution, who shall be chairman ;

(*b*) where the chairman is a Minister other than the Attorney-General of the Federation, the Attorney-General ; and

(*c*) not less than five and not more than seven other members, who shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister, of whom at least one shall be a person who is qualified to practise as a medical practitioner in Nigeria.

(2) A person shall not be qualified for appointment by the Governor-General as a member of the Advisory Council if he is a member of either House of Parliament, a member of a legislative house of a Region, a Minister of the Government of the Federation or a Minister of the Government of a Region.

(3) A member of the Advisory Council appointed by the Governor-General shall hold office for three years :

Provided that his seat on the Council shall become vacant—

(*a*) if any circumstances arises that, if he were not a member of the Council, would cause him to be disqualified for appointment as such ; or

(*b*) if he is removed from office by the Governor-General, acting in accordance with the advice of the Prime Minister, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

Functions of Advisory Council

96.—(1) Where any person has been sentenced to death by any court of law in Nigeria other than a court-martial for any offence created by or under an Act of Parliament the member of the Council of Ministers designated under subsection (2) of section 94 of this Constitution shall cause a written report of the case from the trial judge, together with such other information derived from the record of the case or elsewhere as the member may require, to be taken into consideration at a meeting of the Advisory Council ; and after obtaining the advice of the Council the member shall decide in his own deliberate judgment whether to recommend to the Governor-General that he should exercise any of his powers under that section in relation to that person.

(2) The member of the Council of Ministers designated under subsection (2) of section 94 of this Constitution may consult with the Advisory Council before making any recommendation to the Governor-General under that subsection in any case not falling within subsection (1) of this section but he shall not be obliged to act in accordance with the advice of the Council.

(3) The Advisory Council may regulate its own procedure.

Public prosecutions

97.—(1) There shall be a Director of Public Prosecutions for the Federation, whose office shall be an office in the public service of the Federation.

(2) The Director of Public Prosecutions of the Federation shall have power in any case in which he considers it desirable so to do—

(*a*) to institute and undertake criminal proceedings against any person before any court of law in Nigeria other than a court-martial in respect of any offence created by or under any Act of Parliament ;

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

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

(3) The powers of the Director of Public Prosecutions of the Federation under subsection (2) of this section may be exercised by him in person or through members of his staff acting under and in accordance with his general or special instructions.

(4) The Director of Public Prosecutions of the Federation may confer a general or special authority upon the Director of Public Prosecutions of a Region to exercise, subject to such conditions and exceptions as he may think fit, any of the powers conferred upon him by subsection (2) of this section in relation to prosecutions in that Region and may vary or revoke any such authority.

(5) The powers conferred upon the Director of Public Prosecutions of the Federation by paragraphs (*b*) and (*c*) of subsection (2) of this section shall be vested in him to the exclusion of any other person or authority:

Provided that, where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance of that person or authority at any stage before the person against whom the proceedings have been instituted has been charged before the court.

(6) In the exercise of the powers conferred upon him by this section the Director of Public Prosecutions of the Federation shall not be subject to the direction or control of any other person or authority.

(7) For the purposes of this section any appeal from any determination in any criminal proceedings before any court of law or any case stated or question of law reserved for the purposes of any such proceedings to any other court or to Her Majesty in Council shall be deemed to be part of those proceedings.

(8) The provisions of this section shall apply—

(*a*) in relation to any offence created by or under any law in force in the Federal territory, not being an offence created by or under an Act of Parliament; and

(*b*) in relation to any offence created by or under any law in force in a Region relating to any matter included in the Exclusive Legislative List or the Concurrent Legislative List, not being an offence created by or under an Act of Parliament or a law made by the Legislature of that Region,

as they apply in relation to an offence created by or under an Act of Parliament.

CHAPTER VII

POLICE

Establishment of Nigeria Police Force

98.—(1) There shall be a police force for Nigeria, which shall be styled the Nigeria Police Force.

(2) Subject to the provisions of this Constitution, the Nigeria Police Force shall be organized and administered in accordance with such provision as may be made in that behalf by Parliament.

(3) Subject to the provisions of this Constitution, the members of the Nigeria Police Force shall have such powers and duties as may be conferred upon them by any law in force in Nigeria.

(4) Subject to the provisions of this section, no police forces other than the Nigeria Police Force shall be established for Nigeria or any part thereof.

(5) Parliament may make provision for police forces forming part of the armed forces of the Crown or for the protection of harbours, waterways, railways and airfields.

(6) Parliament may make provision for the maintenance by any local authority within the Federal territory of a police force for employment within the Federal territory.

(7) Nothing in this section shall prevent the legislature of a Region from making provision for the maintenance by any native authority or local-government authority established for a province or any part of a province of a police force for employment within that province.

(8) In this section "province" means any area that was a province on the thirtieth day of September, 1954.

Control of Nigeria Police Force

99.—(1) There shall be an Inspector-General of the Nigeria Police and a Commissioner of Police for each Region, whose offices shall be offices in the public service of the Federation.

(2) The Nigeria Police Force shall be under the command of the Inspector-General of the Nigeria Police and any contingents of the Nigeria Police Force stationed in a Region shall, subject to the authority of the Inspector-General of the Nigeria Police, be under the command of the Commissioner of Police of that Region.

(3) The Prime Minister or such other Minister of the Government of the Federation as may be authorized in that behalf by the Prime Minister may give to the Inspector-General of the Nigeria Police such directions with respect to the maintaining and securing of public safety and public order as he may consider necessary and the Inspector-General shall comply with those directions or cause them to be complied with.

(4) Subject to the provisions of subsection (3) of this section, the Commissioner of Police of a Region shall comply with the directions of the Premier of the Region or such other Minister of the Government of the Region as may be authorized in that behalf by the Premier with respect to the maintaining and securing of public safety and public order within the Region or cause them to be complied with:

Provided that before carrying out any such directions the Commissioner may request that the matter should be referred to the Prime Minister or such other Minister of the Government of the Federation as may be authorized in that behalf by the Prime Minister for his directions.

(5) The question whether any, and if so what, directions have been given under subsection (3) of this section shall not be enquired into in any court.

Establishment of Nigeria Police Council

100.—(1) There shall be a Nigeria Police Council, which shall consist of—

(*a*) such Minister of the Government of the Federation, who shall be chairman, as may for the time being be designated in that behalf by the Governor-General, acting in accordance with the advice of the Prime Minister;

(*b*) such Minister of the Government of each Region as may for the time being be designated in that behalf by the Governor of that Region; and

(*c*) the chairman of the Police Service Commission of the Federation.

(2) The Inspector-General of the Nigeria Police or such other officer of the Nigeria Police Force as he may designate shall attend the meetings of the Nigeria Police Council and, save for the purpose of voting, may take part in the proceedings of the Council.

Functions of Nigeria Police Council

101.—(1) The organization and administration of the Nigeria Police Force and all other matters relating thereto (not being matters relating to the use and operational control of the force or the appointment,

disciplinary control and dismissal of members of the force) shall be under the general supervision of the Nigeria Police Council.

(2) The Prime Minister shall cause the Nigeria Police Council to be kept fully informed concerning the matters under its supervision and shall cause the Council to be furnished with such information as the Council may require with respect to any particular matter under its supervision.

(3) The Nigeria Police Council may make recommendations to the Government of the Federation with respect to any matter under its supervision; and if in any case the Government acts otherwise than in accordance with any such recommendation, it shall cause a statement containing that recommendation and its reasons for acting otherwise than in accordance with that recommendation to be laid before both Houses of Parliament.

Establishment of Police Service Commission

102.—(1) There shall be a Police Service Commission for the Federation, which shall consist of a chairman and not less than two and not more than four other members.

(2) The members of the Police Service Commission of the Federation shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister.

(3) A person shall not be qualified to hold the office of a member of the Police Service Commission of the Federation if he is a member of either House of Parliament, a member of a legislative house of a Region, a Minister of the Government of the Federation, a Minister of the Government of a Region or a member of the public service of the Federation or the public service of a Region:

Provided that a judge of the High Court of a territory may be appointed as a member of the Commission.

(4) Subject to the provisions of this section, a member of the Police Service Commission of the Federation shall vacate his office—

(*a*) at the expiration of five years from the date of his appointment; or

(*b*) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(5) A member of the Police Service Commission of the Federation may be removed from office by the Governor-General, acting in accordance with the advice of the Prime Minister, 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) A member of the Police Service Commission of the Federation shall not be removed from office except in accordance with the provisions of this section.

Appointments to Nigeria Police Force, etc.

103.—(1) Power to appoint persons to hold or act in offices in the Nigeria Police Force (including power to make appointments on promotion and transfer and to confirm appointments) and to dismiss and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Police Service Commission of the Federation:

Provided that the Commission may, with the approval of the Prime Minister and subject to such conditions as it may think fit, delegate

any of its powers under this section to any of its members or to the Inspector-General of the Nigeria Police or any other member of the Nigeria Police Force.

(2) Before making any appointment to the office of Inspector-General of the Nigeria Police or removing the Inspector-General from office, the Police Service Commission of the Federation shall consult the Prime Minister and before making any appointment to the office of Commissioner of Police of a Region or removing the Commissioner from office the Commission shall consult the Premier of that Region.

CHAPTER VIII

COURTS

Part 1

The Federal Supreme Court

Establishment of Federal Supreme Court

104.—(1) There shall be a Federal Supreme Court.

(2) The judges of the Federal Supreme Court shall be—

(*a*) the Chief Justice of the Federation;

(*b*) such number of Federal Justices (not being less than three) as may be prescribed by Parliament; and

(*c*) the Chief Justice of each territory.

(3) The Federal Supreme Court shall be a superior court of record and, save as otherwise provided by Parliament, shall have all the powers of such a court.

(4) The Federal Supreme Court shall sit in the Federal territory and in such other places in Nigeria as the Chief Justice of the Federation may appoint.

Appointment of Chief Justice of Federation and Federal Justices

105.—(1) The Chief Justice of the Federation shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister.

(2) The Federal Justices shall be appointed by the Governor-General, acting in accordance with the advice of the Judicial Service Commission of the Federation.

(3) A person shall not be qualified to hold the office of Chief Justice of the Federation or a Federal Justice unless—

(*a*) he is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; or

(*b*) he is qualified for admission as an advocate in Nigeria and he has been so qualified for not less than ten years:

Provided that in computing the period during which any person has been qualified as an advocate any period during which he has held office as a judge or magistrate after becoming so qualified shall be included.

(4) If the office of Chief Justice of the Federation is vacant or if the person holding the office is for any reason unable to perform the functions of the office, then, until a person has been appointed to and has assumed the functions of that office or until the person

holding the office has resumed those functions, as the case may be, those functions shall be performed by such one of the other judges of the Federal Supreme Court as may from time to time be designated in that behalf by the Governor-General, acting in accordance with the advice of the Prime Minister.

(5) If the office of any Federal Justice is vacant or if the person holding the office is acting as Chief Justice of the Federation or is for any reason unable to perform the functions of his office, the Governor-General, acting in accordance with the advice of the Judicial Service Commission of the Federation, may appoint a person qualified to hold the office of a Federal Justice to act in the office of a Federal Justice and any person so appointed shall continue to act for the period of the appointment or if no period is specified until his appointment is revoked by the Governor-General, acting in accordance with the advice of the Commission:

Provided that a person may act as a Federal Justice notwithstanding that he has attained the age prescribed for the purposes of subsection (1) of section 106 of this Constitution.

Tenure of office of Chief Justice of Federation and Federal Justices

106.—(1) Subject to the provisions of this section, a person holding the office of Chief Justice of the Federation or a Federal Justice shall vacate that office when he attains such age as may be prescribed by Parliament:

Provided that the Governor-General, acting in accordance with the advice of the Prime Minister, may permit a judge to continue in office for such period after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

(2) A person holding the office of Chief Justice of the Federation or a Federal Justice may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and shall not be so removed except in accordance with the provisions of this section.

(3) A person holding the office of Chief Justice of the Federation or a Federal Justice shall be removed from office by the Governor-General if the question of the removal of that judge from office has, at the request of the Governor-General made in pursuance of subsection (4) of this section, been referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under any enactment enabling Her Majesty in that behalf and the Judicial Committee has advised Her Majesty that the judge ought to be removed from office for inability or misbehaviour.

(4) If the Prime Minister represents to the Governor-General that the question of removing a judge of the Federal Supreme Court under this section ought to be investigated, then—

(*a*) the Governor-General shall appoint a tribunal consisting of a chairman and not less than two other members selected by the Governor-General, acting in accordance with the advice of the Prime Minister, from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court;

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

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

(5) If the question of removing a judge of the Federal Supreme Court from office has been referred to a tribunal under this section, the Governor-General, acting in accordance with the advice of the Prime Minister, may suspend the judge from performing the functions of his office and any such suspension may at any time be revoked by the Governor-General, acting in accordance with the advice of the Prime Minister, and shall in any case cease to have effect—

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

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

(6) This section shall apply to any person appointed to act in the office of a Federal Justice as it applies to a person holding the office of a Federal Justice, but without prejudice to the provisions of section 105 of this Constitution relating to the revocation of his appointment by the Governor-General.

Original jurisdiction of Federal Supreme Court

107.—(1) The Federal Supreme Court shall, to the exclusion of any other court, have original jurisdiction in any dispute between the Federation and a Region or between Regions if and in so far as that dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends.

(2) In addition to the jurisdiction conferred upon it by subsection (1) of this section, the Federal Supreme Court shall have such original jurisdiction as may be conferred upon it by any Act of Parliament:

Provided that no original jurisdiction shall be conferred upon the Federal Supreme Court with respect to any criminal matter.

Questions as to interpretation of this Constitution

108.—(1) Where any question as to the interpretation of this Constitution or the constitution of a Region arises in any proceedings in any court of law in any part of Nigeria (other than the Federal Supreme Court, the High Court of a territory or a court-martial) and the court is of opinion that the question involves a substantial question of law, the court may, and shall if any party to the proceedings so requests, refer the question to the High Court having jurisdiction in that part of Nigeria and the High Court shall—

(*a*) if it is of opinion that the question involves a substantial question of law, refer the question to the Federal Supreme Court; or

(*b*) if it is of opinion that the question does not involve a substantial question of law, remit the question to the court that made the reference to be disposed of in accordance with such directions as the High Court may think fit to give.

(2) Where any question as to the interpretation of this Constitution or the constitution of a Region arises in any proceedings in the High Court of a territory and the court is of opinion that the question involves a substantial question of law, the court may, and shall if any party to the proceedings so requests, refer the question to the Federal Supreme Court.

(3) Where any question is referred to the Federal Supreme Court in pursuance of this section, the Federal Supreme Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision.

Advisory jurisdiction of Federal Supreme Court

109. Parliament may confer jurisdiction upon the Federal Supreme Court—

(*a*) to consider and advise upon any question upon which the Governor-General desires the assistance of the court for the purpose of deciding whether or not any of the powers vested in him by section 94 of this Constitution (which relates to the prerogative of mercy) should be exercised; or

(*b*) to consider and advise upon any question upon which the Governor of a Region desires the assistance of the court for the purpose of deciding whether or not any of the powers vested in him by the constitution of that Region with respect to the exercise of the prerogative of mercy should be exercised.

Appeals to Federal Supreme Court from High Courts

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

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

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

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

(*c*) decisions in any civil or criminal proceedings on questions as to the interpretation of this Constitution or the constitution of a Region;

(*d*) decisions in any civil or criminal proceedings on questions as to whether any of the provisions of Chapter III of this Constitution has been contravened in relation to any person;

(*e*) decisions in any criminal proceedings in which any person has been sentenced to death by the High Court or in which the High Court has affirmed a sentence of death imposed by some other court; and

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

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

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

(ii) from any order relating only to costs;

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

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

(*a*) decisions on any such question as is referred to in section 48 of this Constitution; or

(*b*) decisions on any question whether any person has been validly selected or elected as a member of a legislative house of a Region or the seat in a legislative house of a Region of any member of that house has become vacant,

and the decision of the Federal Supreme Court upon any such question shall be final.

(4) Subject to the provisions of subsections (2) and (3) of this section, an appeal shall lie from decisions of the High Court of a territory 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;

(*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 (*a*) 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 territory.

(5) The Federal Supreme Court may dispose of any application for leave to appeal from any decision of the High Court of a territory 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 territory 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.

(6) Any right of appeal to the Federal Supreme Court from the decisions of the High Court of a territory 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 section 97 of this Constitution or any powers of the Director of Public Prosecutions of a Region to take over and continue or to discontinue such proceedings, at the instance of such other persons or authorities as may be prescribed by any law in force in the territory; and

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

(7) In this section " decision " means, in relation to the High Court of a territory, 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.

Appeals to Federal Supreme Court from other Federal courts, etc.

111. Parliament may confer jurisdiction upon the Federal Supreme Court to hear and determine appeals from any decision of any court of law or tribunal established by Parliament.

Appeals to Federal Supreme Court from Sharia Court of Appeal and Court of Resolution

112.—(1) An appeal shall lie from decisions of the Sharia Court of Appeal to the Federal Supreme Court as of right in the following cases—

(*a*) decisions on questions as to the interpretation of this Constitution or the constitution of a Region ;

(*b*) decisions on questions as to whether any of the provisions of Chapter III of this Constitution has been contravened in relation to any person ; and

(*c*) such other cases as may be prescribed by any law in force in Northern Nigeria:

Provided that nothing in paragraph (*a*) or (*b*) of this subsection (in so far as it applies to civil proceedings) shall confer any right of appeal with respect to any question relating to the respective jurisdiction of the High Court of Northern Nigeria and the Sharia Court of Appeal that the Court of Resolution is competent to determine.

(2) Subject to the provisions of subsection (I) of this section, an appeal shall lie from decisions of the Sharia Court of Appeal or the Court of Resolution to the Federal Supreme Court with the leave of the Federal Supreme Court in such cases as may be prescribed by any law in force in Northern Nigeria.

(3) Any right of appeal to the Federal Supreme Court from the decisions of the Sharia Court of Appeal conferred by this section—

(*a*) shall be exercisable at the instance of a party thereto or, with the leave of the Sharia Court of Appeal or the Federal Supreme Court, at the instance of any other person having an interest in the matter ; and

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

(4) The Federal Supreme Court may dispose of any application for leave to appeal from any decision of the Sharia Court of Appeal or the Court of Resolution 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) In this section—

" the Court of Resolution " means the Court of Resolution established by the Court of Resolution Law, 1960, of Northern Nigeria, as amended, or any law replacing that law ;

" decision " means, in relation to the Sharia Court of Appeal or the Court of Resolution, any determination of that court in any

civil proceedings and includes (without prejudice to the generality of the foregoing) a judgment, decree, order or recommendation;

"the Sharia Court of Appeal" means the Sharia Court of Appeal established by the Sharia Court of Appeal Law, 1960, of Northern Nigeria, as amended, or any law replacing that law.

Powers, practice and procedure of Federal Supreme Court

113.—(1) The decisions of the Federal Supreme Court shall be enforced in any part of Nigeria by the High Court having jurisdiction in that part of Nigeria and by all persons, authorities and other courts of law in that part as if they were decisions of that High Court.

(2) Subject to the provisions of any Act of Parliament, the Federal Supreme Court may make rules for regulating the practice and procedure of the court.

(3) Parliament may make provision with respect to the practice and procedure of the Federal Supreme Court (including the service and execution of all civil and criminal processes of the Court) and may confer upon the Court such powers additional to those conferred by this section as may appear to be necessary or desirable for enabling the court more effectively to exercise its jurisdiction.

(4) Rules made under this section may fix the minimum number of judges who may sit for any purpose, so however that no matter shall be finally determined by less than three judges:

Provided that nothing in this subsection shall preclude a judge who does not concur in the opinion of the other judges from delivering a dissenting opinion.

Part 2

Appeals to Her Majesty in Council

Appeals from Federal Supreme Court to Her Majesty in Council

114.—(1) Subject to the provisions of this Constitution, an appeal shall lie from decisions of the Federal Supreme Court to Her Majesty in Council as of right in the following cases—

(*a*) where the matter in dispute on the appeal to Her Majesty in Council is of the value of five hundred pounds or upwards or where the appeal involves directly or indirectly a claim to or question respecting property or a right of the value of five hundred pounds or upwards, final decisions in any civil proceedings;

(*b*) final decisions in proceedings for dissolution or nullity of marriage;

(*c*) final decisions in any civil or criminal proceedings on questions as to the interpretation of this Constitution or the constitution of a Region; and

(*d*) such other cases as may be prescribed by Parliament.

(2) Subject to the provisions of this Constitution, an appeal shall lie from decisions of the Federal Supreme Court to Her Majesty in Council with the leave of the Federal Supreme Court in the following cases—

(*a*) where in the opinion of the Federal Supreme Court the question involved in the appeal is one that, by reason of its great general or public importance or otherwise, ought to be submitted to Her Majesty in Council, decisions in any civil proceedings; and

(*b*) in such other cases as may be prescribed by Parliament.

(3) Nothing in this section shall affect any right of Her Majesty to grant special leave to appeal from decisions of the Federal Supreme Court to Her Majesty in Council in any civil or criminal matter.

Part 3

The High Court of the Federal Territory

Establishment of High Court of Lagos

115.—(1) There shall be a High Court for the Federal territory, which shall be styled the High Court of Lagos.

(2) The judges of the High Court of Lagos shall be—

(*a*) the Chief Justice of Lagos ; and

(*b*) such number of other judges (not being less than five) as may be prescribed by Parliament.

(3) The High Court of Lagos shall be a superior court of record and, save as otherwise provided by Parliament, shall have all the powers of such a court.

Appointment of judges of High Court of Lagos

116.—(1) The Chief Justice of Lagos shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister.

(2) The judges of the High Court of Lagos other than the Chief Justice shall be appointed by the Governor-General, acting in accordance with the advice of the Judicial Service Commission of the Federation.

(3) A person shall not be qualified to hold the office of a judge of the High Court of Lagos unless—

(*a*) he is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court ; or

(*b*) he is qualified for admission as an advocate in Nigeria and he has been so qualified for not less than ten years:

Provided that in computing the period during which any person has been qualified to practise as an advocate any period during which he has held office as a judge or magistrate after becoming so qualified shall be included.

(4) If the office of Chief Justice of Lagos is vacant or if the person holding the office is for any reason unable to perform the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding the office has resumed those functions, as the case may be, those functions shall be performed by such one of the other judges of the High Court of Lagos as may from time to time be designated in that behalf by the Governor-General, acting in accordance with the advice of the Prime Minister.

(5) If the office of any judge of the High Court of Lagos other than the Chief Justice is vacant or if the person holding the office is acting as Chief Justice or is for any reason unable to perform the functions of his office, the Governor-General, acting in accordance with the advice of the Judicial Service Commission of the Federation, may appoint a person with such qualifications as may be prescribed by Parliament to act in the office of a judge of the High Court and

any person so appointed shall continue to act for the period of the appointment or if no period is specified until his appointment is revoked by the Governor-General, acting in accordance with the advice of the Commission.

Tenure of office of judges of High Court of Lagos

117.—(1) Subject to the provisions of this section, a person holding the office of Chief Justice of Lagos or any other judge of the High Court of Lagos shall vacate his office when he attains such age as may be prescribed by Parliament:

Provided that the Governor-General, acting in accordance with the advice of the Prime Minister, may permit a judge to continue in office for such period after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

(2) A person holding the office of a judge of the High Court of Lagos may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(3) A person holding the office of a judge of the High Court of Lagos shall be removed from office by the Governor-General if the question of the removal of that judge from office has, at the request of the Governor-General made in pursuance of subsection (4) of this section, been referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under any enactment enabling Her Majesty in that behalf and the Judicial Committee has advised Her Majesty that the judge ought to be removed from office for inability or misbehaviour.

(4) If the Prime Minister represents to the Governor-General that the question of removing a judge of the High Court of Lagos under this section ought to be investigated, then—

(*a*) the Governor-General shall appoint a tribunal consisting of a chairman and not less than two other members selected by the Governor-General, acting in accordance with the advice of the Prime Minister, from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court;

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

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

(5) If the question of removing a judge of the High Court of Lagos from office has been referred to a tribunal under this section, the Governor-General, acting in accordance with the advice of the Prime Minister, may suspend the judge from performing the functions of his office and any such suspension may at any time be revoked by the Governor-General, acting in accordance with the advice of the Prime Minister, and shall in any case cease to have effect—

(*a*) if the tribunal recommends to the Governor-General that he should not request that the question of the removal of the judge

from office should be referred by Her Majesty to the Judicial Committee ; or

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

(6) This section shall apply to any person appointed to act in the office of a judge of the High Court as it applies to a person holding the office of a judge of the High Court, but without prejudice to the provisions of section 116 of this Constitution relating to the revocation of his appointment by the Governor-General.

Appeals to High Court of Lagos from subordinate courts

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

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

(*b*) where the ground of appeal to the High Court 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 by the subordinate court from which the appeal lies to the High Court or that subordinate court has affirmed or substituted such a sentence ;

(*c*) decisions in any civil or criminal proceedings on questions as to the interpretation of this Constitution or the constitution of a Region ;

(*d*) decisions in any civil or criminal proceedings on questions as to whether any of the provisions of Chapter III of this Constitution has been contravened in relation to any person ;

(*e*) decisions in any criminal proceedings in which any person has been sentenced to death by the subordinate court from which the appeal lies to the High Court or in which that subordinate court has affirmed a sentence of death ;

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

(*g*) such other cases as may be prescribed by Parliament:

Provided that no appeal shall lie from decisions of a subordinate court established under section 119 of this Constitution to the High Court in any case in which an appeal lies as of right to the Federal Supreme Court by virtue of any Act of Parliament enacted in pursuance of section 111 of this Constitution.

(2) An appeal shall lie from decisions of a subordinate court to the High Court of Lagos with the leave of the High Court or, if it is provided by Parliament that an appeal shall lie from that subordinate court to another subordinate court, 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; and

(*b*) such other cases in which no appeal lies as of right to the High Court as may be prescribed by Parliament:

Provided that no appeal shall lie under paragraph (*a*) of this subsection from decisions of a subordinate court established under section 119 of this Constitution to the High Court in any case in which an appeal lies to the Federal Supreme Court (whether as of right or with the leave of the Federal Supreme Court) by virtue of an Act of Parliament enacted under section 111 of this Constitution.

(3) Any right of appeal from decisions of a subordinate court to the High Court of Lagos 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 section 97 of this Constitution, at the instance of such other persons or authorities as may be prescribed by Parliament; and

(*b*) shall be exercised in accordance with any laws and rules of court for the time being in force 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;

"subordinate court" means any court of law in the Federal territory other than the Federal Supreme Court, the High Court of the territory or a court-martial.

Part 4
General

Establishment of courts

119. Parliament may establish courts of law for the Federation in addition to the Federal Supreme Court:

Provided that nothing in this section shall—

(*a*) preclude the legislature of a Region from establishing courts of law for that Region; or

(*b*) confer upon Parliament powers to make provision with respect to the jurisdiction of any court established under this section additional to those conferred by the other provisions of this Constitution.

Establishment of Judicial Service Commission

120.—(1) There shall be a Judicial Service Commission for the Federation.

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

(*a*) the Chief Justice of the Federation, who shall be chairman;

(*b*) the Chief Justice of each territory;

(*c*) the chairman of the Public Service Commission of the Federation; and

(*d*) one other member, who shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister.

(3) The Chief Justices of the Regions shall not take part in the business of the Judicial Service Commission of the Federation relating to the appointment of judges of the High Court of Lagos or members of any other court established for the Federal territory or any office connected with any such court and the member of the Commission appointed by the Governor-General and any person acting in the office of Chief Justice of a territory shall not take part in the business of the Commission relating to the appointment of Federal Justices.

(4) The following provisions shall apply in relation to the member of the Judicial Service Commission of the Federation appointed by the Governor-General—

(*a*) a person shall not be qualified for appointment as such unless he is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court;

(*b*) subject to the provisions of this subsection, a person appointed as such shall vacate his office at the expiration of five years from the date of his appointment;

(*c*) a person appointed as such may be removed from office by the Governor-General, acting in accordance with the advice of the Prime Minister, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour;

(*d*) a person appointed as such shall not be removed from office except in accordance with the provisions of this subsection.

Appointment of officers connected with courts of Federation or Federal territory

121.—(1) Power to appoint persons to hold or act in the offices to which this section applies (including power to make appointments on promotion and transfer and to confirm appointments) and to dismiss and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Judicial Service Commission of the Federation:

Provided that the Commission may, with the approval of the Prime Minister and subject to such conditions as it may think fit, delegate any of its powers under this section to any of its members, to any judge or to the holder of any office to which this section applies.

(2) The offices to which this section applies are the offices of members of any court of law established by Parliament for the Federation or the Federal territory (other than a court-martial) and such offices connected with the Federal Supreme Court, the High Court of Lagos or any court of law established by Parliament for the Federation or the Federal territory as may be prescribed by Parliament.

Oaths to be taken by judges

122. A judge of the Federal Supreme Court or the High Court of Lagos shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by Parliament.

CHAPTER IX
FINANCE
Part 1
Public funds of the Federation

Establishment of Consolidated Revenue Fund

123.—(1) All revenues or other moneys raised or received by the Federation (not being revenues or other moneys payable under this Constitution or any Act of Parliament into some other public fund of the Federation established for a specific purpose) shall be paid into and form one Consolidated Revenue Fund.

(2) No moneys shall be withdrawn from the Consolidated Revenue Fund of the Federation except to meet expenditure that is charged upon the Fund by this Constitution or any Act of Parliament or where the issue of those moneys has been authorized by an appropriation Act or an Act passed in pursuance of section 125 of this Constitution.

(3) No moneys shall be withdrawn from any public fund of the Federation other than the Consolidated Revenue Fund unless the issue of those moneys has been authorized by an Act of Parliament.

(4) No moneys shall be withdrawn from the Consolidated Revenue Fund or any other public fund of the Federation except in the manner prescribed by Parliament.

Authorization of expenditure from Consolidated Revenue Fund

124.—(1) The Minister of the Government of the Federation responsible for finance shall cause to be prepared and laid before both Houses of Parliament in each financial year estimates of the revenues and expenditure of the Federation for the next following financial year.

(2) The heads of expenditure contained in the estimates (other than expenditure charged upon the Consolidated Revenue Fund by this Constitution or any Act of Parliament) shall be included in a bill, to be known as an appropriation bill, providing for the issue from the Consolidated Revenue Fund of the Federation of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

(3) If in respect of any financial year it is found—

(*a*) that the amount appropriated by the appropriation Act for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Act; or

(*b*) that any moneys have been expended for any purpose in excess of the amount appropriated for the purpose by the appropriation Act or for a purpose for which no amount has been appropriated by the Act,

a supplementary estimate showing the sums required or spent shall be laid before both Houses of Parliament and the heads of any such expenditure shall be included in a supplementary appropriation bill.

Authorization of expenditure in advance of appropriation

125. Parliament may make provision under which, if the appropriation Act in respect of any financial year has not come into operation by the beginning of that financial year, the Minister of

the Government of the Federation responsible for finance may authorize the withdrawal of moneys from the Consolidated Revenue Fund of the Federation for the purpose of meeting expenditure necessary to carry on the services of the Government until the expiration of four months from the beginning of that financial year or the coming into operation of the Act, whichever is the earlier.

Contingencies Fund

126.—(1) Parliament may provide for the establishment of a Contingencies Fund for the Federation and for authorizing the Minister of the Government of the Federation responsible for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Fund to meet that need.

(2) Where any advance is made in accordance with subsection (1) of this section a supplementary estimate shall be presented and a supplementary appropriation bill shall be introduced as soon as possible for the purpose of replacing the amount so advanced.

Remuneration of Governor-General and certain other officers

127.—(1) There shall be paid to the holders of the offices to which this section applies such salary as may be prescribed by Parliament.

(2) The salary and allowances payable to the holders of the offices to which this section applies shall be a charge on the Consolidated Revenue Fund of the Federation.

(3) The salary payable to the holder of any office to which this section applies and his terms of office other than allowances shall not be altered to his disadvantage after his appointment.

(4) This section applies to the office of Governor-General, Chief Justice of the Federation, Federal Justice, Chief Justice or other judge of the High Court of Lagos, member of the Electoral Commission of the Federation, appointed member of the Judicial Service Commission of the Federation, member of the Public Service Commission of the Federation, member of the Police Service Commission of the Federation, Director of Public Prosecutions of the Federation and Director of Audit of the Federation.

Audit of public accounts

128.—(1) There shall be a Director of Audit for the Federation, whose office shall be an office in the public service of the Federation.

(2) The public accounts of the Federation and of all officers, courts and authorities of the Federation shall be audited and reported on by the Director of Audit of the Federation and for that purpose the Director or any person authorized by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.

(3) The Director of Audit of the Federation shall submit his reports to the Minister of the Government of the Federation responsible for finance, who shall cause them to be laid before both Houses of Parliament.

(4) In the exercise of his functions under this Constitution the Director of Audit of the Federation shall not be subject to the direction or control of any other person or authority.

Public debt

129.—(1) The public debt of the Federation shall be secured on the revenues and assets of the Federation.

(2) In this section references to the public debt of the Federation include references to the interest on that debt, sinking fund payments in respect of that debt and the costs, charges and expenses incidental to the management of that debt.

Part 2

Allocation of Revenue

Import duties on certain commodities

130.—(1) Where under any Act of Parliament a duty is levied in respect of the import into Nigeria of any commodity other than motor spirit, diesel oil, tobacco, wine, potable spirits or beer, the Federation shall, in respect of each quarter, credit to a special account, maintained by the Federation and referred to in this Constitution as " the Distributable Pool Account ", a sum equal to thirty *per cent.* of the proceeds of that duty for that quarter.

(2) For the purposes of this section the proceeds of a duty for a quarter shall be the amount remaining from the receipts from that duty that are collected in that quarter after any drawbacks, refunds or other repayments relating to those receipts have been made or allowed for.

Import duties on motor spirit and tobacco

131.—(1) (*a*) Where under any Act of Parliament a duty is levied in respect of the import into Nigeria of motor spirit or diesel oil, or of any particular class, variety or description of motor spirit or diesel oil, there shall be paid by the Federation to the Regions in respect of each quarter a sum equal to the proceeds of that duty for that quarter.

(*b*) When under paragraph (*a*) of this subsection any sum is payable by the Federation to the Regions in respect of any quarter, payment of the said sum shall be made in such manner that the sum is divided among the Regions in shares proportionate to the respective amounts of motor spirit or diesel oil, or of motor spirit or diesel oil of the particular class, variety or description in question, as the case may be, that have been distributed for consumption in the several Regions in the immediately preceding quarter.

(2) (*a*) Where under any Act of Parliament a duty is levied in respect of the import into Nigeria of tobacco, or of any particular class, variety or description of tobacco, there shall be paid by the Federation to the Regions in respect of each quarter such sum as is equal to the proceeds of that duty for that quarter.

(*b*) When under paragraph (*a*) of this subsection any sum is payable by the Federation to the Regions in respect of any quarter, payment of the said sum shall be made in such manner that the sum is divided among the Regions in shares proportionate to the respective amounts of tobacco, or of tobacco of the particular class, variety or description in question, as the case may be, that have been distributed for consumption in the several Regions in the immediately preceding quarter.

(3) For the purposes of this section the proceeds of a duty for a quarter levied on any commodity, or any particular class, variety or

description of commodity, shall be the amount remaining from the receipts from that duty that are collected in that quarter after any drawbacks, refunds or other repayments relating to those receipts have been made or allowed for less the part of that amount that is attributable to quantities of that commodity or that class, variety or description of commodity distributed, or intended to be distributed, in the Federal territory.

Excise duties

132.—(1) Where under any Act of Parliament an excise duty is levied on tobacco, or on any particular class, variety or description of tobacco, there shall be paid by the Federation to the Regions in respect of each quarter a sum equal to the proceeds of that duty for that quarter.

(2) Where under subsection (1) of this section any sum is payable by the Federation to the Regions in respect of any quarter, payment of the said sum shall be made in such manner that the sum is divided among the Regions in shares proportionate to the respective amounts of the commodity in question that have been distributed for consumption in the several Regions in the immediately preceding quarter.

(3) For the purposes of this section the proceeds for a quarter of a duty levied on tobacco or any particular class, variety or description of tobacco, shall be the amount remaining from the receipts from that duty that are collected in that quarter after any drawbacks, refunds or other repayments relating to those receipts have been made or allowed for, less the part of that amount that is attributable to quantities of tobacco or that particular class, variety or description of tobacco, distributed, or intended to be distributed, for consumption in the Federal territory.

Export duties

133.—(1) Where under any Act of Parliament duty is levied in respect of the export from Nigeria of produce, hides or skins there shall be paid by the Federation to each Region in respect of each quarter a sum equal to the appropriate percentage of the proceeds of that duty for that quarter.

(2) For the purposes of subsection (1) of this section—

(*a*) the proceeds for a quarter of a duty levied on a commodity shall be the amount remaining from such of the receipts from that duty as relate to exports of that commodity during that quarter after any drawbacks, refunds or other repayments relating to those receipts have been made or allowed for;

(*b*) the appropriate percentage of the proceeds for a quarter of a duty levied on a commodity shall, in relation to any Region, be whichever of the following percentages is prescribed by Parliament in that behalf, that is to say, either—

(i) the percentage of those proceeds that is attributable to exports of that commodity that were derived from that Region;

(ii) the percentage of those proceeds that is attributable to exports of that commodity that were purchased in that Region;

(iii) the percentage of those proceeds that bears the same proportion to the total amount of those proceeds as the amount of that commodity that was purchased for export in that Region

during the quarter immediately preceding that quarter bears to that total amount of that commodity that was so purchased in all the Regions during that immediately preceding quarter; or

(iv) the percentage of proceeds that bears the same proportion to the total amount of those proceeds as the amount of that commodity that was purchased for export in that Region during the period of twelve months commencing three months before the commencement of the financial year in which that quarter falls bears to the total amount of that commodity that was so purchased in all the Regions during the period of twelve months.

(3) Parliament may designate, or make provision for designating, any class, variety or description of any commodity as a separate commodity for the purposes of this section, and any such class, variety or description that is so designated shall be regarded as a separate commodity for those purposes.

(4) For the purposes of this section any amount of a commodity that is derived from the Federal territory shall be deemed to be derived from Western Nigeria and any amount of a commodity that is purchased in the Federal territory shall be deemed to be purchased in Western Nigeria.

Mining royalties and rents

134.—(1) There shall be paid by the Federation to each Region a sum equal to fifty *per cent.* of—

(*a*) the proceeds of any royalty received by the Federation in respect of any minerals extracted in that Region; and

(*b*) any mining rents derived by the Federation during that year from within that Region.

(2) The Federation shall credit to the Distributable Pool Account a sum equal to thirty *per cent.* of—

(*a*) the proceeds of any royalty received by the Federation in respect of minerals extracted in any Region; and

(*b*) any mining rents derived by the Federation from within any Region.

(3) For the purposes of this section the proceeds of a royalty shall be the amount remaining from the receipts of that royalty after any refunds or other repayments relating to those receipts have been deducted therefrom or allowed for.

(4) Parliament may prescribe the periods in relation to which the proceeds of any royalty or mining rents shall be calculated for the purposes of this section.

(5) In this section "minerals" includes mineral oil.

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

Distribution of funds in Distributable Pool Account

135. There shall be paid by the Federation to the Regions at the end of each quarter sums equal to the following fractions of the amount standing to the credit of the Distributable Pool Account at that date, that is to say—

(*a*) to Northern Nigeria, forty ninety-fifths;

(*b*) to Western Nigeria, twenty-four ninety-fifths ;

(*c*) to Eastern Nigeria, thirty-one ninety-fifths.

Regions to contribute towards costs of administration

136. Each Region shall in respect of each financial year pay to the Federation an amount equal to such part of the expenditure incurred by the Federation during that financial year in respect of the department of customs and excise of the Government of the Federation for the purpose of collecting the duties referred to in sections 130, 131, 132 and 133 of this Constitution as is proportionate to the share of the proceeds of those duties received by that Region under those sections in respect of that financial year.

Set-off

137.—(1) Any sum that is required by this Chapter to be paid by the Federation to a Region may be set off by the Federation in or towards the payment of any sum that is due from that Region to the Federation in respect of any loan made by the Federation to that Region.

(2) The right of set-off conferred by subsection (1) of this section shall be without prejudice to any other right of the Federation to obtain payment of any sum due to the Federation in respect of any loan.

Sums charged on Consolidated Revenue Funds

138. Any payments that are required by this Chapter to be made by the Federation to a Region shall be a charge on the Consolidated Revenue Fund of the Federation and any payments that are so required to be made by a Region to the Federation shall be a charge on the Consolidated Revenue Fund of that Region.

Provisions with regard to payments

139.—(1) Where any payment falls to be made under this Part of this Chapter, the amount payable shall be certified by the Director of Audit of the Federation:

Provided that a provisional payment may be made before the Director has given his certificate.

(2) Parliament may make provision as to time and manner in which any payment falling to be made under this Part of this Chapter shall be effected and for the making of adjustments and provisional payments.

CHAPTER X

THE PUBLIC SERVICE OF THE FEDERATION

Establishment of Public Service Commission

140.—(1) There shall be a Public Service Commission for the Federation, which shall consist of a chairman and not less than two or more than four other members.

(2) The members of the Public Service Commission of the Federation shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister.

(3) A person shall not be qualified to hold the office of a member of the Public Service Commission of the Federation if he is a member of either House of Parliament, a member of a legislative house of a Region, a Minister of the Government of the Federation, a Minister of

the Government of a Region or the holder of an office in the public service of the Federation or the public service of a Region.

(4) Subject to the provisions of this section, a member of the Public Service Commission of the Federation shall vacate his office—

(*a*) at the expiration of five years from the date of his appointment; or

(*b*) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(5) A member of the Public Service Commission of the Federation may be removed from office by the Governor-General, acting in accordance with the advice of the Prime Minister, 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) A member of the Public Service Commission of the Federation shall not be removed from office except in accordance with the provisions of this section.

(7) A person who has been appointed to be a member of the Public Service Commission of the Federation shall not thereafter be eligible for appointment to any office in the public service of the Federation.

Appointment, etc. of officers in public service

141.—(1) Power to appoint persons to hold or act in offices in the public service of the Federation (including power to make appointments on promotion and transfer and to confirm appointments) and to dismiss and exercise disciplinary control over persons holding or acting in such offices shall vest in the Public Service Commission of the Federation:

Provided that the Commission may, with the approval of the Prime Minister and subject to such conditions as it may think fit, delegate any of its powers under this section to any of its members or to any officer in the public service of the Federation.

(2) This section shall not apply in relation to any of the following offices—

(*a*) the office of any judge of the Federal Supreme Court or the High Court of Lagos;

(*b*) except for the purposes of making appointments thereto, the office of the Director of Audit of the Federation or the Director of Public Prosecutions of the Federation;

(*c*) any office in the Nigeria Police Force;

(*d*) any office to which section 121 of this Constitution (which relates to offices within the jurisdiction of the Judicial Service Commission of the Federation) applies; or

(*e*) any office to which section 142 of this Constitution (which relates to the offices of the principal representatives of the Federation abroad) applies.

(3) The provisions of this section shall be subject to the provisions of section 143 of this Constitution (which relates to permanent secretaries).

(4) No appointment shall be made under this section to any office on the personal staff of the Governor-General unless the Governor-General signifies his approval of the appointment.

Appointment, etc. of principal representatives of Federation abroad

142.—(1) Power to appoint persons to hold or act in the offices to which this section applies (including power to make appointments on promotion and transfer) and to remove persons so appointed from any such office shall vest in the Governor-General, acting in accordance with the advice of the Prime Minister.

(2) Before tendering any advice for the purposes of this section in relation to any person who holds any office in the public service of the Federation other than an office to which this section applies, the Prime Minister shall consult the Public Service Commission of the Federation.

(3) The offices to which this section applies are the offices of any Ambassador, High Commissioner or other principal representative of the Federation in countries other than Nigeria.

Appointment, etc. of permanent secretaries

143.—(1) Power to appoint persons to hold or act in the office of permanent secretary to any department of government of the Federation and to remove persons so appointed from that office shall vest in the Governor-General, acting in accordance with the advice of the Prime Minister.

(2) Before tendering any advice for the purposes of this section the Prime Minister shall consult the Public Service Commission of the Federation.

Qualifications of Director of Public Prosecutions

144. A person shall not be qualified to hold or act in the office of Director of Public Prosecutions of the Federation unless he is qualified for admission as an advocate in Nigeria and has been so qualified for at least ten years.

Tenure of office of Director of Public Prosecutions

145.—(1) Subject to the provisions of this section, a person holding the office of Director of Public Prosecutions of the Federation shall vacate that office when he attains such age as may be prescribed by Parliament.

(2) A person holding the office of Director of Public Prosecutions of the Federation may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(3) A person holding the office of Director of Public Prosecutions of the Federation shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed under subsection (4) of this section and the tribunal has recommended to the Governor-General that he ought to be removed from office for inability or misbehaviour.

(4) If the Prime Minister represents to the Governor-General that the question of removing the Director of Public Prosecutions of the Federation under this section ought to be investigated then—

(*a*) the Governor-General, acting in accordance with the advice of the Prime Minister, shall appoint a tribunal, which shall consist

of a chairman and not less than two other members, the chairman and half of the other members being persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court ; and

(*b*) that tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to the Governor-General whether the Director ought to be removed under this section.

(5) If the question of removing the Director of Public Prosecutions of the Federation has been referred to a tribunal under this section, the Governor-General, acting in accordance with the advice of the Prime Minister, may suspend the Director from performing the functions of his office and any such suspension may at any time be revoked by the Governor-General, acting in accordance with the advice of the Prime Minister, and shall in any case cease to have effect if the tribunal recommends to the Governor-General that the Director should not be removed.

Appointment and tenure of office of Director of Audit

146.—(1) Before appointing any person to hold the office of Director of Audit of the Federation the Public Service Commission of the Federation shall consult the Prime Minister.

(2) Subject to the provisions of this section, a person holding the office of Director of Audit of the Federation shall vacate that office when he attains such age as may be prescribed by Parliament.

(3) A person holding the office of Director of Audit of the Federation shall be removed from office by the Governor-General if a resolution is passed by each House of Parliament recommending his removal from office for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(4) A person holding the office of Director of Audit of the Federation shall not be removed from office except in accordance with the provisions of this section.

(5) If the office of Director of Audit of the Federation is vacant or the holder of the office is for any reason unable to perform the functions of the office, the Public Service Commission of the Federation, acting after consultation with the Prime Minister, may appoint a person to act in the office and any person so appointed shall continue to act until his appointment is revoked by the Commission acting after consultation with the Prime Minister.

Powers relating to Clerks of Houses of Parliament

147. Before exercising any of its powers in relation to the Clerk to the Senate the Public Service Commission of the Federation shall consult the President of the Senate and before exercising any of its powers in relation to the Clerk to the House of Representatives the Commission shall consult the Speaker of that House.

Protection of pension rights

148.—(1) The law applicable to any benefits to which this section applies shall, in relation to any person who has been granted, or who is eligible for, such benefits, be that in force on the relevant date or any later law that is not less favourable to that person.

(2) In this section "the relevant date" means—

(*a*) in relation to any benefits granted before this Constitution came into operation, the date on which those benefits were granted;

(*b*) in relation to any benefits granted after this Constitution came into operation to or in respect of any person who was a member of the public service of the Federation, the former public service of Nigeria, or the public service of a Region before this Constitution came into operation or any benefits for which any such person may be eligible, the thirtieth day of September, 1960; and

(*c*) in relation to any benefits granted to or in respect of any person who first becomes a member of the public service of the Federation or the public service of a Region after this Constitution came into operation or any benefits for which any such person may be eligible, the date on which he first became such a member.

(3) Where a person is entitled to exercise an option whichever one of two or more laws shall apply in his case, the law specified by him in exercising the option shall, for the purposes of this section, be deemed to be more favourable to him than the other law or laws.

(4) Any benefit to which this section applies that is payable by the Federation (not being a benefit that is a charge upon some other public fund of the Federation) shall be a charge upon the Consolidated Revenue Fund of the Federation and any such benefit that is payable by a Region (not being a benefit that is a charge upon some other public fund of that Region) shall be a charge upon the Consolidated Revenue Fund of that Region.

(5) This section applies to any benefits payable under any law in force in Nigeria or any part thereof providing for the grant of pensions, gratuities or compensation to persons who are or have been members of the public service of the Federation, the former public service of Nigeria or the public service of a Region in respect of their service in any of those public services or to the widows, children, dependants or personal representatives of such persons in respect of such service.

Powers of Commissions in relation to grant of pensions, etc.

149.—(1) Where any benefits to which this section applies can be withheld, reduced in amount or suspended by any person or authority under any Act of Parliament, those benefits shall not be so withheld, reduced in amount or suspended—

(*a*) in the case of benefits that have been granted in respect of the service in the public service of the Federation of any person who at the time when he ceased to be a member of that public service was subject to the jurisdiction of the Judicial Service Commission of the Federation or for which any person may be eligible in respect of such service, without the approval of that Commission;

(*b*) in the case of benefits that have been granted in respect of the service in the public service of the Federation of any person who at the time when he ceased to be a member of that public service was subject to the jurisdiction of the Police Service Commission of the Federation or for which any person may be eligible in respect of such service, without the approval of that Commission; or

(*c*) in any other case, without the approval of the Public Service Commission of the Federation.

(2) No benefits to which this section applies that have been granted to any person who holds or has held the office of a judge of the Federal Supreme Court or the High Court of Lagos or for which any such person may be eligible shall be withheld, reduced or suspended on the ground that that person has been guilty of misbehaviour while holding that office unless that person has been removed from that office by reason of such misbehaviour.

(3) This section applies to any benefits payable under any Act of Parliament providing for the grant of pensions, gratuities or compensation to persons who are or have been members of the public service of the Federation or the former public service of Nigeria in respect of their service in that public service or to the widows, children, dependants or personal representatives of such persons in respect of such service.

CHAPTER XI

MISCELLANEOUS

Powers and procedure of Federal Commissions

150.—(1) Any Commission established by this Constitution may, with the consent of the Prime Minister or such other Minister of the Government of the Federation as may be authorized in that behalf by the Prime Minister, by regulation or otherwise regulate its own procedure or confer powers and impose duties on any officer or authority of the Federation for the purpose of discharging its functions.

(2) Subject to its rules of procedure, any Commission established by this Constitution may act notwithstanding any vacancy in its membership or the absence of any member:

Provided that any decision of the Commission shall require the concurrence of a majority of all the members thereof or, in the case of the Judicial Service Commission of the Federation, a majority of all the members thereof who are entitled to take part in the business to which the decision relates.

Resignations

151.—(1) Any person who is appointed, elected or otherwise selected to any office established by this Constitution may resign from that office by writing under his hand addressed to the person or authority by whom he was appointed, elected or selected:

Provided that in the case of a member of a House of Parliament who holds office as President or Speaker of the House his resignation from the House or that office shall be addressed to the House and in the case of any other member of the House his resignation from the House shall be addressed to the President or Speaker of the House.

(2) The resignation of any person from any office established by this Constitution shall take effect when the writing signifying the resignation is received by the person or authority to whom it is addressed or by any person authorized by that person or authority to receive it.

Re-appointments, etc.

152.—(1) Where any person has vacated any office constituted by this Constitution, he may, if qualified, again be appointed, elected or otherwise selected to hold that office in accordance with the provisions of this Constitution.

(2) Where by this Constitution a power is conferred upon any person or authority to make any appointment to any office in the public service of the Federation, a person may be appointed to that office notwithstanding that some other person may be holding that office, when that other person is on leave of absence pending relinquishment of the office; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this subsection, then for the purposes of any function conferred upon the holder of that office the person last appointed shall be deemed to be the sole holder of the office.

Review of ss. 134 *and* 135 *of this Constitution*

153. The Government of the Federation, acting after consultation with the Governments of the Regions, shall from time to time appoint a Commission to review and make recommendations with respect to the provisions of sections 134 and 135 of this Constitution.

Interpretation

154.—(1) In this Constitution, unless it is otherwise expressly provided or required by the context—

"Act of Parliament" means any law made by Parliament;

"the Advisory Council" means the Advisory Council on the Prerogative of Mercy of the Federation;

"the Commonwealth" means Nigeria, any country to which section 13 of this Constitution applies and any dependency of any such country;

"the Concurrent Legislative List" means the list in Part II of the Schedule to this Constitution;

"the Exclusive Legislative List" means the list in Part I of the Schedule to this Constitution;

"financial year" means any period of twelve months beginning on the first day of April in any year or such other date as Parliament may prescribe;

"the Legislative Lists" means the Exclusive Legislative List and the Concurrent Legislative List;

"oath" includes affirmation;

"the oath of allegiance" means such oath of allegiance as may be prescribed by Parliament;

"Parliament" means the Parliament of the Federation;

"produce" means such animal or vegetable products, whether processed or in a natural state (other than tobacco, hides or skins) as may with the consent of the Governments of the Regions be designated by the Governor-General by order;

"the public service of the Federation" means the service of the Crown in a civil capacity in respect of the government of the Federation;

"territory" means a Region or the Federal territory;

"quarter" means a quarter of a financial year.

(2) In this Constitution, unless it is otherwise expressly provided or required by the context—

(*a*) references to persons holding offices in the public service of the Federation or the public service of a Region include references to persons acting in those offices; and

(*b*) references to offices in the public service of the Federation include references to the offices of the judges of the Federal Supreme Court and the High Court of Lagos and references to the offices of members of all other courts of law established by Parliament (other than courts-martial), being offices the emoluments attaching to which are paid out of the Consolidated Revenue Fund or any other public fund of the Federation, and references to the offices of members of the Nigeria Police Force.

(3) For the purposes of this Constitution, the office of the President or the Deputy President of the Senate, a Senator, the Speaker or the Deputy Speaker of the House of Representatives, a member of the House of Representatives, a Minister of the Government of the Federation, a Parliamentary Secretary to such a Minister or a member of the Council of Ministers, the Nigeria Police Council, any Commission established by this Constitution or the Advisory Council shall not be regarded as an office in the public service of the Federation.

(4) The Interpretation Act, 1889(a), as in force on the first day of October, 1960, shall apply, with the necessary adaptations, for the purpose of interpreting this Constitution and otherwise in relation thereto as it applies for the purposes of interpreting, and in relation to, Acts of the Parliament of the United Kingdom.

(5) No provision of this Constitution that any person or authority shall not be subject to the direction or control of any other person or authority in exercising any functions under this Constitution shall be construed as precluding a court of law from exercising jurisdiction in relation to any question whether that person or authority has performed those functions in accordance with this Constitution or any other law.

Section 154.

THE SCHEDULE

THE LEGISLATIVE LISTS

Part I

The Exclusive Legislative List

Item

1. Accounts of the Government of the Federation and officers, courts and authorities thereof, including audit of those accounts.
2. Archives, other than the public records of the Governments of the Regions since the twenty-third day of January, 1952.
3. Aviation, including airports, safety of aircraft and ancillary transport and other services.
4. Bills of exchange and promissory notes.
5. Borrowing of moneys outside Nigeria for the purposes of the Federation or of any Region other than borrowing by the Government of a Region for a period not exceeding twelve months on the security of any funds or assets of that government held outside Nigeria.
6. Borrowing of moneys within Nigeria for the purposes of the Federation.
7. Control of capital issues.
8. Copyright.
9. Currency, coinage and legal tender.
10. Customs and excise duties, including export duties.
11. Defence.
12. Deportation; compulsory removal of persons from one territory to another.
13. Designation of securities in which trust funds may be invested.

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

Item

14. Exchange control.
15. External affairs.
16. Extradition.
17. The following higher educational institutions, that is to say—
    The University College at Ibadan.
    The University College Teaching Hospital.
    The Nigerian College of Arts, Science and Technology.
    The West African Institute of Social and Economic Research.
    The Pharmacy School at Yaba.
    The Forest School at Ibadan.
    The Veterinary School at Vom.
18. Immigration into and emigration from Nigeria.
19. Incorporation, regulation and winding-up of bodies corporate, other than co-operative societies, native authorities, local-government authorities and bodies corporate established directly by any law enacted by the legislature of a Region.
20. Insurance other than insurance undertaken by the Government of a Region but including any insurance undertaken by the Government of a Region that extends beyond the limits of that Region.
21. Legal proceedings between the Government of the Federation and any other person or authority or between the Governments of Regions.
22. Maritime shipping and navigation, including—
    (*a*) shipping and navigation on tidal waters;
    (*b*) shipping and navigation on the River Niger and its affluents and on any such other inland waterway as may be declared by Parliament to be an international waterway or to be an inter-Regional waterway;
    (*c*) lighthouses, lightships, beacons and other provisions for the safety of shipping and navigation;
    (*d*) such ports as may be declared by Parliament to be Federal ports (including the constitution and powers of port authorities for Federal ports).
23. Marriages other than marriages under Moslem law or other customary law; annulment and dissolution of, and other matrimonial causes relating to, marriages other than marriages under Moslem law or other customary law.
24. Meteorology.
25. Mines and minerals, including oilfields, oil mining, geological surveys and natural gas.
26. Museums of the Federation, that is to say—
    The Jos Museum.
    The Oron Museum.
    The House of Images at Esie.
    Any other museums established by the Government of the Federation.
27. Naval, military and air forces.
28. Nuclear energy.
29. Passports and visas.
30. Patents, trade marks, designs and merchandise marks.
31. Pensions, gratuities and other like benefits payable out of the Consolidated Revenue Fund or any other public fund of the Federation.
32. Posts, telegraphs and telephones, including post office savings banks.
33. Powers, privileges and immunities of each House of Parliament and its members.

Item

34. The public debt of the Federation.
35. Public relations of the Federation.
36. The public service of the Federation, including the settlement of disputes between the Federation and officers in the public service of the Federation.
37. Railways, including ancillary transport and other services.
38. Taxes on amounts paid or payable on the sale or purchase of commodities except—
    (*a*) produce;
    (*b*) hides and skins;
    (*c*) motor spirit;
    (*d*) diesel oil sold or purchased for use in road vehicles;
    (*e*) diesel oil sold or purchased for other than industrial purposes.
39. Trunk roads, that is to say, the construction, alteration and maintenance of such roads as may be declared by Parliament to be Federal trunk roads.
40. Water from such sources as may be declared by Parliament to be sources affecting more than one territory.
41. Weights and measures.
42. Wireless, broadcasting and television other than broadcasting and television provided by the Government of a Region; allocation of wavelengths for wireless, broadcasting and television transmission.
43. The matters with respect to which Parliament is empowered to make provision by sections 4, 8, 9, 12, 15, 31, 34, 37, 40, 44, 47, 63, subsection (1) of section 70, sections 71, 72, 81, 89, subsections (2) and (5) of section 98 and sections 104, 106, 109, 111, 113, 114, 121, 122, 125, 126, 127, 133, 134, 139, 145, 146 and 154 of this Constitution.
44. Any matter that is incidental or supplementary—
    (*a*) to any matter referred to elsewhere in this list; or
    (*b*) to the discharge by the Government of the Federation or any officer, court or authority of the Federation of any function conferred by this Constitution.

Part II

The Concurrent Legislative List

1. Antiquities.
2. Arms and ammunition.
3. Bankruptcy and insolvency.
4. Census.
5. Chemical services, including analytical services.
6. Commercial and industrial monopolies, combines and trusts.
7. Control of the voluntary movement of persons between territories.
8. Such drugs and poisons as may with the consent of the governments of the Regions be designated by the Governor-General by order.
9. Fingerprints, identification and criminal records.
10. Higher education, that is to say, institutions and other bodies offering courses or conducting examinations of a university, technological or of a professional character, other than the institutions referred to in Item 17 of Part I of this Schedule.
11. Industrial development.

Item

12. Labour, that is to say, conditions of labour, industrial relations, trade unions and welfare of labour.
13. The legal and medical professions and such other professional occupations as may with the consent of the governments of the Regions be designated by the Governor-General by order.
14. National monuments, that is to say, such monuments in a Region as may with the consent of the Government of that Region be designated by the Governor-General by order as national monuments.
15. National parks, that is to say, the control of such areas in a Region as may with the consent of the Government of that Region be designated by the Governor-General by order as national parks.
16. Prisons and other institutions for the treatment of offenders.
17. Promotion of tourist traffic.
18. The maintaining and securing of public safety and public order; the providing, maintaining and securing of such supplies and services as may be designated by the Governor-General by order as essential supplies and services.
19. Quarantine.
20. Registration of business names.
21. Scientific and industrial research.
22. Service and execution in a Region of the civil and criminal processes, judgments, decrees, orders and other decisions of any court of law outside Nigeria or any court of law in Nigeria other than the Federal Supreme Court, the High Court of that Region or any court of law established by the legislature of that Region.
23. Statistics.
24. Traffic on Federal trunk roads.
25. Trigonometrical, cadastral and topographical surveys.
26. Water-power.
27. The matters with respect to which Parliament is empowered to make provision by subsections (2) and (3) of section 70 and section 73 of this Constitution.
28. Any matter that is incidental or supplementary to any matter referred to in this list.

Part III

Interpretation

1. In this Schedule references to incidental and supplementary matters include, without prejudice to their generality—

(*a*) offences;

(*b*) the jurisdiction, powers, practice and procedure of courts of law;

(*c*) the compulsory acquisition and tenure of land; and

(*d*) the establishment and regulation of tribunals of enquiry.

2. Where by this Schedule Parliament is empowered to make any declaration that declaration may be made by resolutions passed by both Houses of Parliament instead of by Act of Parliament.

THE THIRD SCHEDULE Section 2.

THE CONSTITUTION OF NORTHERN NIGERIA

ARRANGEMENT OF SECTIONS

CHAPTER I

THE GOVERNOR

Section
1. Establishment of office of Governor.
2. Oaths to be taken by Governor.
3. Discharge of Governor's functions during vacancy, etc

CHAPTER II

THE LEGISLATURE OF THE REGION

Part 1

Composition of Legislature

4. Establishment of Legislature.
5. Composition of House of Chiefs.
6. Adviser on Moslem law.
7. Composition of House of Assembly.
8. Qualifications for membership of House of Assembly.
9. Disqualifications for membership of House of Assembly.
10. President of House of Chiefs.
11. Speaker of House of Assembly.
12. Right of attendance of Ministers.
13. Tenure of seats of members of House of Assembly.
14. Establishment of Electoral Commission.
15. Constituencies.
16. Elections.
17. Determination of questions of membership of Legislative Houses.
18. Clerks to Legislative Houses and their staffs.

Part 2

Procedure in Legislative Houses

19. Oaths to be taken by members of Legislative Houses.
20. Presiding in House of Chiefs.
21. Presiding in House of Assembly.
22. Quorum in Legislative Houses.
23. Languages of Legislative Houses.
24. Voting in Legislative Houses.
25. Unqualified persons sitting or voting.
26. Mode of exercising legislative power.
27. Restrictions with regard to certain financial measures.
28. Special procedure where Legislative Houses disagree.
29. Regulation of procedure in Legislative Houses.
30. Interpretation.

Part 3

Summoning, prorogation and dissolution

31. Sessions of Legislative Houses.
32. Prorogation and dissolution of Legislative Houses.

CHAPTER III

EXECUTIVE POWERS

Section
33. Exercise of executive authority of Region.
34. Ministers of Government of Region.
35. Establishment of Executive Council.
36. Collective responsibility.
37. Allocation of portfolios to Ministers.
38. Performance of functions of Premier during absence or illness.
39. Exercise of Governor's powers.
40. Governor to be informed concerning matters of government.
41. Parliamentary Secretaries.
42. Oaths to be taken by Ministers, etc.
43. Permanent secretaries.
44. Constitution of offices for Region, etc.
45. Prerogative of mercy.
46. Establishment of Advisory Committee on Prerogative of Mercy.
47. Functions of Advisory Committee.
48. Public prosecutions.

CHAPTER IV

COURTS

49. Establishment of High Court.
50. Appointment of judges of High Court.
51. Tenure of offices of judges of High Court.
52. Appeals to High Court from subordinate Courts.
53. Establishment of Judicial Service Commission.
54. Appointment of officers connected with courts.
55. Oaths to be taken by judges.

CHAPTER V

FINANCE

56. Establishment of Consolidated Revenue Fund.
57. Authorization of expenditure from Consolidated Revenue Fund.
58. Authorization of expenditure in advance of appropriation.
59. Contingencies fund.
60. Remuneration of Governor and certain other officers.
61. Audit of public accounts.
62. Public debt.

CHAPTER VI

THE PUBLIC SERVICE OF THE REGION

63. Establishment of Public Service Commission.
64. Appointment, etc. of officers in public service.
65. Appointment, etc. of Agent-General in U.K.
66. Appointment, etc. of permanent secretaries.
67. Qualifications of Director of Public Prosecutions.
68. Tenure of office of Director of Public Prosecutions.
69. Appointment and tenure of office of Director of Audit.
70. Powers relating to Clerks of Legislative Houses.
71. Powers of Commissions in relation to grant of pensions, etc.

CHAPTER VII

MISCELLANEOUS

Section
72. Powers and procedure of Commissions.
73. Establishment of Provincial Administrations.
74. Council of Chiefs.
75. Resignations.
76. Re-appointments, etc.
77. Interpretation.

Whereas Northern Nigeria is a Region of the Federation of Nigeria:

And whereas it is expedient to make provision, subject to the provisions of the Constitution of the Federation, for a Constitution for Northern Nigeria (hereinafter referred to as " the Region "):

Now, therefore, the Constitution of the Region shall be as follows :—

CHAPTER I

THE GOVERNOR

Establishment of office of Governor

1.—(1) There shall be a Governor of the Region, who shall be appointed by Her Majesty and shall hold office during Her Majesty's pleasure, and who shall be Her Majesty's representative in the Region.

(2) The Premier shall consult the Prime Minister of the Federation before tendering any advice to Her Majesty for the purposes of this section.

Oaths to be taken by Governor

2. A person appointed to the office of Governor shall, before entering upon the duties of that office, take and subscribe the oath of allegiance and such oath for the due execution of the office as may be prescribed by the Legislature of the Region.

Discharge of Governor's functions during vacancy, etc.

3. Whenever the office of Governor is vacant or the holder of the office is absent from Nigeria or is for any reason unable to perform the functions conferred upon him by this Constitution, those functions shall be performed by such person as Her Majesty may appoint or, if there is no person in the Region so appointed and able to perform those functions, by the President of the House of Chiefs:

Provided that nothing in this section shall preclude the Governor from performing any of those functions at any time when he is absent from Nigeria.

CHAPTER II

THE LEGISLATURE

Part I

Composition of Legislature

Establishment of Legislature

4. There shall be a Legislature for the Region, which shall consist of Her Majesty, a House of Chiefs and a House of Assembly and which shall have power to make laws for the peace, order and good government of the Region.

Composition of House of Chiefs

5.—(1) The House of Chiefs shall consist of—

(*a*) all first-class Chiefs, who shall be *ex-officio* members of the House;

(*b*) ninety-five Chiefs having such qualifications and selected in such manner as may be prescribed by the Legislature of the Region; and

(*c*) an adviser on Moslem law.

(2) The seat in the House of Chiefs of a Chief other than a first-class Chief shall become vacant in such circumstances as may be prescribed by the Legislature of the Region.

(3) In this section—

"Chief" means any person who is for the time being recognized by the Governor as a Chief;

"first-class Chief" means any Chief whose office is for the time being graded as that of a first-class Chief under any law in force in the Region.

Adviser on Moslem law

6.—(1) The adviser on Moslem law shall be appointed by the Governor, acting in accordance with the advice of the Premier.

(2) A person holding the office of adviser on Moslem law may be removed from office by the Governor, acting in accordance with the advice of the Premier.

(3) If the office of the adviser on Moslem law is vacant or if the holder of the office is for any reason unable to perform the functions of his office, the Governor, acting in accordance with the advice of the Premier, may appoint a person to act in the office, and any person so appointed shall continue to act until his appointment is revoked by the Governor, acting in accordance with the advice of the Premier.

(4) The references in sections 10, 20, 22, 24, 28, 34, 41 and 74 of this Constitution to a member of the House of Chiefs do not include references to the adviser on Moslem law.

Composition of House of Assembly

7. The House of Assembly shall consist of—

(*a*) one hundred and seventy elected members; and

(*b*) such special members (not exceeding five) as may be appointed by the Governor, acting in accordance with the advice of the Premier, to represent interests or communities that in his opinion are not adequately represented in the House.

Qualifications for membership of House of Assembly

8. Subject to the provisions of section 9 of this Constitution, a person shall be qualified to be a member of the House of Assembly if he is a citizen of Nigeria who is a male person of the age of twenty-one years or more and—

(*a*) who was born in the Region; or

(*b*) whose father was born in the Region; or

(*c*) who has resided in the Region for a continuous period of at least three years immediately before the date of the election:

Provided that a person may be appointed to be a special member of the House whether or not he is a citizen of Nigeria.

Disqualifications for membership of House of Assembly

9.—(1) No person shall be qualified for election or appointment to the House of Assembly—

(*a*) if he has voluntarily acquired citizenship of a country other than Nigeria or has made a declaration of allegiance to such a country;

(*b*) if under any law in force in any part of Nigeria he is adjudged to be a lunatic or otherwise declared to be of unsound mind;

(*c*) if he is under a sentence of death imposed on him by any court of law in Nigeria or a sentence of imprisonment (by whatever name called) exceeding six months imposed upon him by such a court or substituted by competent authority for some other sentence imposed upon him by such a court;

(*d*) if he is an undischarged bankrupt, having been adjudged or otherwise declared to be bankrupt under any law in force in any part of Nigeria;

(*e*) save as otherwise provided by the Legislature of the Region, if he is a member of the public service of the Region, the public service of the Federation or the public service of another Region, a member of the armed forces of the Crown or the holder of any other office of emolument under the Crown; or

(*f*) if he is a member of the House of Chiefs, an *ex-officio* member of the Senate or a member of a legislative house of another Region.

(2) The Legislature of the Region may provide that a person shall not be qualified for membership of the House of Assembly for such period (not exceeding five years) as may be prescribed if he is convicted by any court of law in Nigeria of such offences connected with the selection or election of members of a Legislative House of the Region, a House of Parliament or a legislative house of another Region as may be prescribed.

(3) The Legislature of the Region may prescribe that a person disqualified under paragraph (*c*) of subsection (1) of this section by reason of his being under a sentence of imprisonment exceeding six months for any such offence (being an offence that appears to that Legislature to involve dishonesty) as may be prescribed or by reason of his being under sentences of imprisonment that include such a sentence for any such offence shall not be qualified for membership of the House of Assembly for such period from the date on which he ceases to be disqualified under that paragraph (not exceeding five years) as may be prescribed.

(4) The Legislature of the Region may provide that a person who is the holder of any office the functions of which involve responsibility for, on in connection with, the conduct of any election to the House of Assembly or the compilation of any register of voters for the purposes of such an election shall not be qualified for election to that House.

(5) The Legislature of the Region may, in order to permit any person who has been adjudged to be a lunatic, declared to be of unsound mind, sentenced to death or imprisonment or adjudged or declared bankrupt to appeal against the decision in accordance with any law in force in Nigeria, provide that, subject to such conditions as may be prescribed,

the decision shall not have effect for the purposes of subsection (1) of this section for such time as may be prescribed.

(6) For the purposes of paragraph (*c*) of subsection (1) of this section two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds six months but if any one of those sentences exceeds that term they shall be regarded as one sentence.

(7) For the purposes of paragraph (*e*) of subsection (1) of this section—

(*a*) a person shall not be regarded as holding an office of emolument under the Crown by reason only that he is in receipt of a pension or other like benefit in respect of service in an office under the Crown ; and

(*b*) the office of the Speaker or the Deputy Speaker of the House of Assembly, the President, Deputy President, Speaker or Deputy Speaker or a member of a House of Parliament or a legislative house of another Region, a Minister of the Government of the Region, a Minister of the Government of the Federation, a Minister of the Government of another Region, a Parliamentary Secretary to any such Minister, a member of the Executive Council of the Region, a member of the Council of Ministers, a member of the Executive Council of another Region, a member of the Council of Chiefs of the Region, a member of the Minority Council of a Minority Area in Western Nigeria or Eastern Nigeria or a member of any such body corporate as is referred to in the proviso to subsection (10) of this section shall not be regarded as an office of emolument under the Crown.

(8) Save as otherwise provided by the Legislature of the Region, a person shall not be regarded as disqualified for membership of the House of Assembly by reason only that he holds office as a member of a statutory corporation.

(9) If a person who holds the office of a member of any statutory corporation becomes a member of the House of Assembly, he shall, unless it is otherwise provided by the Legislature of the Region, thereupon cease to hold office as a member of that corporation.

(10) In this section "statutory corporation" means any body corporate established directly by any law in force in Nigeria :

Provided that it does not include any body corporate established by or under the Native Authority Law, 1954, of the Region(a), as amended, or any law replacing that law.

President of House of Chiefs

10.—(1) There shall be a President of the House of Chiefs, who shall be elected by the members of that House from among their own number.

(2) The President of the House of Chiefs shall vacate his office—

(*a*) if he ceases to be a member of the House otherwise than by reason of a dissolution of the Legislative Houses of the Region ;

(*b*) when the House first sits after any dissolution ;

(*c*) if he becomes a Minister of the Government of the Region, a Parliamentary Secretary to such a Minister, a Minister of the

(a) Law No. 4 of 1954.

Government of the Federation or a Minister of the Government of another Region ; or

(*d*) if he is removed from office by a resolution of the House supported by the votes of two-thirds of all the members of the House.

(3) No business shall be transacted in the House of Chiefs (other than an election to the office of President) at any time when the office of President is vacant.

Speaker of House of Assembly

11.—(1) There shall be a Speaker of the House of Assembly, who shall be elected by the members of that House.

(2) No person shall be elected as Speaker of the House of Assembly unless he is a member of the House or a person qualified to be a member of the House.

(3) The Speaker of the House of Assembly shall vacate his office—

(*a*) if, having been elected from among the members of the House, he ceases to be a member otherwise than by reason of a dissolution of the Legislative Houses of the Region ;

(*b*) if, having been elected from outside the House, any circumstances arise (other than a dissolution of the Legislative House) that if he were a member of the House would cause him to vacate his seat as such ;

(*c*) when the House first sits after any dissolution ;

(*d*) if he becomes a Minister of the Government of the Region, a Parliamentary Secretary to such a Minister, a Minister of the Government of the Federation or a Minister of the Government of another Region ; or

(*e*) if he is removed from office by a resolution of the House supported by the votes of two-thirds of all the members of the House.

(4) No business shall be transacted in the House of Assembly (other than an election to the office of Speaker) at any time when the office of Speaker is vacant.

Right of attendance of Ministers

12.—(1) A Minister of the Government of the Region may attend and take part in the proceedings of either Legislative House of the Region notwithstanding that he is not a member of that House.

(2) Nothing in this section shall entitle any person who is not a member of a Legislative House of the Region to vote in that House or any of its committees.

Tenure of seats of members of House of Assembly

13.—(1) A member of the House of Assembly shall vacate his seat in the House—

(*a*) if he becomes a member of the House of Chiefs, a House of Parliament or a legislative house of another Region ;

(*b*) if any other circumstances arise that, if he were not a member of the House, would cause him to be disqualified for election as such under subsection (1) or (2) of section 9 of this Constitution ;

(*c*) if he ceases to be a citizen of Nigeria ;

(*d*) if he becomes a Minister of the Government of the Federation or a Minister of the Government of another Region ;

(*e*) save as otherwise provided by the Legislature of the Region, if he becomes a member of any statutory corporation ; or

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

(2) The Legislature of the Region may, in order to permit any member of the House of Assembly who has been adjudged to be a lunatic, declared to be of unsound mind, sentenced to death or imprisonment or adjudged or declared bankrupt to appeal against the decision in accordance with any law in force in Nigeria, provide that, subject to such conditions as may be prescribed, the decision shall not have effect for the purposes of this section until such time as may be prescribed.

(3) In this section the expression "statutory corporation" has the meaning assigned to it for the purposes of section 9 of this Constitution.

Establishment of Electoral Commission

14.—(1) There shall be an Electoral Commission for the Region.

(2) The members of the Electoral Commission of the 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 may be appointed by the Governor, acting in accordance with the advice of the Premier.

(3) A person shall not be qualified for appointment as a member of the Electoral Commission of the Region if he is a member of either Legislative House of the Region, a member of either House of Parliament or a member of a legislative house of another Region, a Minister of the Government of the Region, a Minister of the Government of the Federation, a Minister of the Government of another Region or a member of the public service of the Region, the public service of the Federation or the public service of another Region.

(4) Subject to the provisions of this section, a member of the Electoral Commission of the Region appointed by the Governor shall vacate his office—

(*a*) at the expiration of five years from the date of his appointment ; or

(*b*) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(5) A member of the Electoral Commission of the Region appointed by the Governor may be removed from office by the Governor, acting in accordance with the advice of the Premier, 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) A member of the Electoral Commission of the Region appointed by the Government shall not be removed from office except in accordance with the provisions of this section.

(7) In the exercise of its functions under this Constitution the Electoral Commission of the Region shall not be subject to the direction or control of any other person or authority.

Constituencies

15.—(1) The Region shall be divided into as many constituencies as there are elected members of the House of Assembly in such manner as the competent authority, acting with the approval of each Legislative House of the Region signified by resolution, may prescribe.

(2) The boundaries of each constituency shall be such that the number of inhabitants thereof is as nearly equal to the population quota as is reasonably practicable:

Provided that the number of inhabitants of a constituency may be greater or less than the population quota in order to take account of means of communication, geographical features and the distribution of different communities.

(3) The competent authority shall review the division of the Region into constituencies at intervals of not less than eight and not more than ten years and may alter the constituencies in accordance with the provisions of this section to such extent as it may consider desirable in the light of the review:

Provided that that authority may at any time carry out such a review and alter the constituencies in accordance with the provisions of this section to such extent as it considers necessary in consequence of any alteration of the boundaries of the Region or by reason of the holding of a census of the population of the Region in pursuance of any law in force in the Region.

(4) Where the boundaries of any constituency established under this section are altered in accordance with the provisions of this section, that alteration shall come into effect upon the next dissolution of the Legislative Houses of the Region after the alteration has been approved by those Houses.

(5) In this section " population quota " means the number obtained by dividing the number of the inhabitants of the Region by the number of constituencies into which the Region is divided under this section.

(6) For the purposes of this section the number of inhabitants of the Region shall be ascertained by reference to the latest census of the population of the Region held in pursuance of any law in force in the Region.

(7) In this section " the competent authority " means the Electoral Commission of the Region or such other authority consisting of persons appointed by the Governor, acting in accordance with the advice of the Premier, as may be established in that behalf by the Legislature of the Region

Elections

16.—(1) Every constituency established under section 15 of this Constitution shall return to the House of Assembly one member who shall be directly elected in such manner as may be prescribed by the Legislature of the Region.

(2) The registration of voters at elections to the House of Assembly and the conduct of such elections shall be subject to the direction and supervision of the Electoral Commission of the Region.

Determination of questions of membership of Houses of Legislature

17.—(1) The High Court of the Region shall have original jurisdiction to hear and determine any question whether—

(*a*) any person has been validly appointed, selected or elected as a member of a Legislative House of the Region; or

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

(2) The Legislature of the Region may make provision with respect to—

(*a*) the persons who may apply to the High Court of the Region for the determination of any question under this section;

(*b*) the circumstances and manner in which, and the conditions upon which, any such application may be made; and

(*c*) the powers, practice and procedure of the High Court in relation to any such application.

Clerks to Legislative Houses and their staffs

18.—(1) There shall be a Clerk to the House of Chiefs and a Clerk to the House of Assembly:

Provided that the offices of Clerk to the House of Chiefs and Clerk to the House of Assembly may be held by the same person.

(2) Subject to the provisions of any Regional law, the office of the Clerk of each Legislative House of the Region and the members of his staff shall be offices in the public service of the Region.

Part 2

Procedure in Legislative Houses

Oaths to be taken by members of Legislative Houses

19.—(1) Every member of either Legislative House of the Region shall, before taking his seat in that House, take and subscribe before the House the oath of allegiance, but a member may before taking that oath take part in the election of a President of the House of Chiefs or a Speaker of the House of Assembly, as the case may be:

Provided that if a Legislative House is not sitting a member of that House may take and subscribe the oath of allegiance before a judge of the High Court of the Region.

(2) Any person elected to the office of Speaker of the House of Assembly who is not a member of that House shall, before entering upon the duties of his office, take and subscribe the oath of allegiance before the House.

Presiding in House of Chiefs

20.—(1) There shall preside at any sitting of the House of Chiefs—

(*a*) the President; or

(*b*) in the absence of the President, the Deputy President; or

(*c*) in the absence of the President and the Deputy President, such member of the House as the House may elect for that purpose.

(2) The House of Chiefs may from time to time elect a member of the House to be Deputy President and any person so elected shall hold office as such until he ceases to be a member of the House or is removed from office by the House.

Presiding in House of Assembly

21.—(1) There shall preside at any sitting of the House of Assembly—

(*a*) the Speaker ; or

(*b*) in the absence of the Speaker, the Deputy Speaker ; or

(*c*) in the absence of the Speaker and the Deputy Speaker, such member of the House as the House may elect for that purpose.

(2) The House of Assembly may from time to time elect a member of the House to be Deputy Speaker and any person so elected shall hold office as such until he ceases to be a member of the House or is removed from office by the House.

Quorum in Legislative Houses

22. If objection is taken by any member of a Legislative House of the Region present that there are present in that House (besides the person presiding) fewer than one-sixth of all the members of that House and, after such interval as may be prescribed in the rules of procedure of the House, the person presiding ascertains that the number of members present is still less than one-sixth of all the members of the House, he shall thereupon adjourn the House.

Languages of Legislative Houses

23. The business of the Legislative Houses of the Region shall be conducted in English and Hausa :

Provided that all bills introduced in either House and all laws made by the Legislature of the Region shall be printed in English and, if any such bill or law is also printed in Hausa, the English text shall prevail in the case of a conflict between the two texts.

Voting in Legislative Houses

24.—(1) Any question proposed for decision in a Legislative House of the Region shall be determined by the required majority of the members present and voting ; and the person presiding shall cast a vote whenever necessary to avoid an equality of votes, but shall not vote in any other case.

(2) Save as otherwise provided in this Constitution, the required majority for the purposes of determining any question shall be a simple majority.

(3) The rules of procedure of a Legislative House of the Region may provide that the vote of a member upon a question in which he has a direct pecuniary interest shall be disallowed.

Unqualified persons sitting or voting

25. Any person who sits or votes in either Legislative House of the Region knowing or having reasonable ground for knowing that he is not entitled to do so shall be liable to a penalty not exceeding twenty pounds or such other sum as may be prescribed by the Legislature of the Region for each day on which he sits or votes in that House, which shall be recoverable by action in the High Court of the Region at the suit of the Attorney-General of the Region.

Mode of exercising legislative power

26.—(1) The power of the Legislature of the Region to make laws shall be exercised by bills passed by both Legislative Houses of the Region (or in the cases mentioned in section 28 of this Constitution by bills passed in accordance with the special procedure prescribed by

that section) and assented to by the Governor on behalf of Her Majesty.

(2) A bill other than a money bill may originate in either Legislative House of the Region but a money bill may originate only in the House of Assembly.

(3) When a bill has been passed by the Legislative House of the Region in which it originated, it shall be sent to the other House; and it shall be presented to the Governor for assent—

(*a*) when it has been passed by the other House and agreement has been reached between the two Houses on any amendments made in it; or

(*b*) when it is required to be so presented under section 28 of this Constitution.

(4) When a bill is presented to the Governor for assent, he shall signify that he assents or that he withholds assent.

(5) A bill shall not become law unless it has been duly passed and assented to in accordance with this Constitution.

Restrictions with regard to certain financial measures

27.—(1) The House of Chiefs shall not—

(*a*) proceed upon any bill, other than a bill sent from the House of Assembly, that, in the opinion of the person presiding, makes provision for any of the following purposes—

(i) for the imposition, repeal or alteration of taxation;

(ii) for the imposition of any charge upon the Consolidated Revenue Fund or any other public fund of the Region;

(iii) for the payment, issue or withdrawal from the Consolidated Revenue Fund or any other public fund of the Region of any moneys not charged thereon or any alteration in the amount of such a payment, issue or withdrawal; or

(iv) for the composition or remission of any debt due to the Region;

(*b*) proceed upon any amendment to any bill that in the opinion of the person presiding makes provision for any of those purposes;

(*c*) proceed upon any motion (including any amendment to a motion), the effect of which, in the opinion of the person presiding, would be to make provision for any of those purposes; or

(*d*) receive any petition that, in the opinion of the person presiding, requests that provision be made for any of those purposes.

(2) Except upon the recommendation of the Governor signified by a Minister of the Government of the Region, the House of Assembly shall not—

(*a*) proceed upon any bill (including any amendment to a bill) that, in the opinion of the person presiding, makes provision for any of the following purposes—

(i) for the imposition of taxation or the alteration of taxation otherwise than by reduction;

(ii) for the imposition of any charge upon the Consolidated Revenue Fund or any other public fund of the Region or the alteration of any such charge otherwise than by reduction;

(iii) for the payment, issue or withdrawal from the Consolidated Revenue Fund or any other public fund of the Region of any moneys not charged thereon or any increase in the amount of such a payment, issue or withdrawal; or

(iv) for the composition or remission of any debt due to the Region;

(*b*) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding, would be to make provision for any of those purposes; or

(*c*) receive any petition that, in the opinion of the person presiding, requests that provision be made for any of those purposes.

Special procedure where Legislative Houses disagree

28.—(1) Where a money bill is passed by the House of Assembly and, having been sent to the House of Chiefs at least one month before the end of the session, is not passed by the House of Chiefs without amendment within one month after it is so sent, the bill shall become liable to the special procedure prescribed by this section.

(2) Where a bill that is not a money bill is passed by a Legislative House of the Region and, having been sent to the other Legislative House of the Region at least one month before the end of the session, is not passed by that other House within a period of six months from the date on which the bill is sent to the other House or is passed by the other House with amendments to which the House in which the bill originated does not before the end of that period agree, the bill shall, unless the Legislative Houses are dissolved, become liable to the special procedure prescribed by this section.

(3) Where a bill has become liable to the special procedure prescribed by this section, the Governor may, at any time before the next dissolution of the Legislative Houses of the Region—

(*a*) give notice to both Legislative Houses of his intention to summon a joint sitting of representatives of both Houses for the purpose of deliberating and voting on the bill; and

(*b*) require each House to elect representatives for that purpose within such period as may be specified in the notice.

(4) When the Governor has given notice under subsection (3) of this section with respect to any bill—

(*a*) neither Legislative House of the Region shall proceed further with the bill;

(*b*) each House may, within the period prescribed in the notice but before the next dissolution of the Legislative Houses, elect not more than twenty of its members as delegates for the purpose of deliberating and voting upon the bill at a joint sitting of representatives of both Legislative Houses:

Provided that the House of Chiefs shall not so elect the President or the Deputy President of the House; and

(*c*) the Governor may summon such delegates as may have been elected by each Legislative House to meet together in a joint sitting to deliberate and vote upon the bill at any time after the period specified in the notice but before the next dissolution of the Legislative Houses and, if he does so, the delegates shall meet accordingly.

(5) The following provisions shall apply in relation to a joint sitting under this section—

(*a*) the President of the House of Chiefs or, in his absence, the Deputy President of the House shall preside at the joint session ;

(*b*) no delegate shall sit or vote at the joint sitting if he has, since his election as a delegate, ceased to be a member of the Legislative House by which he was elected ;

(*c*) any question as to the right of any person to sit or vote at the joint sitting shall be determined by the person presiding at the joint sitting ;

(*d*) the joint sitting may act notwithstanding that any delegate is absent or that a Legislative House has failed to elect delegates in accordance with the provisions of this section and the presence or participation of a person not entitled to be present at or to participate in the proceedings of the joint sitting shall not invalidate its proceedings ;

(*e*) any question proposed for decision at the joint sitting shall be determined by a simple majority of the delegates present and voting ; and the person presiding shall cast a vote whenever necessary to avoid an equality of votes, but shall not vote in any other case ; and

(*f*) subject to the provisions of this section, the joint sitting may regulate its own procedure.

(6) The delegates present at a joint sitting held under this section in relation to any bill may deliberate and vote together upon the bill as last proposed by the Legislative House in which the bill originated and upon such admissible amendments thereto as may be proposed in the joint sitting ; and if the bill, with such admissible amendments, if any, as are agreed by the joint sitting, is passed by the joint sitting, the bill as so passed shall be presented to the Governor for his assent.

(7) For the purposes of subsection (6) of this section—

(*a*) if a bill, having been passed by one Legislative House of the Region, is not passed by the other Legislative House of the Region and returned to the House in which it originated, there shall be admissible only such amendments, if any, as are necessary owing to the time that has elapsed since the bill was so passed ; and

(*b*) if a bill has been so passed and returned, there shall be admissible only such amendments, if any, as are necessary owing to the time that has elapsed since the bill was so passed and such other amendments as are relevant to the matters with respect to which the Legislative Houses have not agreed,

and the decision of the person presiding as to the amendments that are so admissible shall be final.

(8) When a money bill is sent to the House of Chiefs from the House of Assembly, it shall bear a certificate of the Speaker of the House of Assembly that it is a money bill.

(9) When a bill is presented to the Governor in pursuance of this section it shall bear a certificate of the President of the House of Chiefs that this section has been complied with, and that certificate shall be conclusive for all purposes and shall not be questioned in any court of law.

(10) This section does not apply to any bill for the purposes of section 5 of the Constitution of the Federation.

Regulation of procedure in Legislative Houses

29.—(1) Subject to the provisions of this Constitution, each Legislative House of the Region may regulate its own procedure.

(2) Each Legislative House of the Region may act notwithstanding any vacancy in its membership (including any vacancy not filled when the House first meets after any dissolution) and the presence or participation of any person not entitled to be present at or to participate in the proceedings of the House shall not invalidate those proceedings.

Interpretation

30. In this Part of this Chapter "money bill" means a bill that in the opinion of the Speaker of the House of Assembly contains only provisions dealing with—

(*a*) the imposition, repeal, remission, alteration or regulation of taxation;

(*b*) the imposition for the payment of debt or other financial purposes of charges on the Consolidated Revenue Fund or any other public fund of the Region or the variation or repeal of any such charges;

(*c*) the grant of money to the Crown or to any other person or authority or the variation or revocation of any such grant;

(*d*) the appropriation, receipt, custody, investment, issue or audit of accounts of public money;

(*e*) the raising or guarantee of any loan or the repayment thereof; or

(*f*) subordinate matters incidental to any of those matters:

Provided that the expressions "taxation", "public money" and "loan" do not include any taxation, money or loan raised by local authorities or bodies for public purposes.

Part 3

Summoning, prorogation and dissolution

Sessions of Legislative Houses

31. Each session of the Legislative Houses of the Region shall be held at such place within the Region and shall begin at such time (not being later than twelve months from the end of the preceding session if those Houses have been prorogued or three months from the end of that session if those Houses have been dissolved) as the Governor shall appoint.

Prorogation and dissolution of Legislative Houses

32.—(1) The Governor may at any time prorogue or dissolve the Legislative Houses of the Region.

(2) Subject to the provisions of subsection (3) of this section, the Legislative Houses of the Region, unless sooner dissolved, shall continue for five years from the date of their first sitting after any dissolution and shall then stand dissolved.

(3) At any time when the Federation is at war, the Legislature of the Region may from time to time extend the period of five years specified in subsection (2) of this section for not more than twelve months at a time:

Provided that the life of the Legislative Houses of the Region shall not be extended under this subsection for more than five years.

(4) In the exercise of his powers to dissolve the Legislative Houses of the Region, the Governor shall act in accordance with the advice of the Premier:

Provided that—

(*a*) if the Premier recommends a dissolution and the Governor considers that the government of the Region can be carried on without a dissolution and that a dissolution would not be in the interests of the Region he may refuse to dissolve the Legislative Houses;

(*b*) if the House of Assembly passes a resolution that it has no confidence in the Government of the Region and the Premier does not within three days either resign or advise a dissolution, the Governor may dissolve the Legislative Houses; and

(*c*) if the office of Premier is vacant and the Governor considers that there is no prospect of his being able to appoint a person who can command the support of the majority of the members of the House of Assembly to that office within a reasonable time, the Governor may dissolve the Legislative Houses.

CHAPTER III

EXECUTIVE POWERS

Exercise of executive authority of Region

33.—(1) The executive authority of the Region shall be vested in Her Majesty.

(2) Subject to the provisions of this Constitution, the executive authority of the Region may be exercised on behalf of Her Majesty by the Governor, either directly or through officers subordinate to him.

(3) Nothing in this section shall prevent the Legislature of the Region from conferring functions on persons or authorities other than the Governor.

Ministers of Government of Region

34.—(1) There shall be a Premier of the Region, who shall be appointed by the Governor.

(2) Whenever the Governor has occasion to appoint a Premier he shall appoint a member of one or other of the Legislative Houses of the Region who appears to him likely to command the support of the majority of the members of the House of Assembly.

(3) There shall be, in addition to the office of Premier, such other offices of Minister of the Government of the Region (not being less than thirteen) as may be established by the Legislature of the Region or, subject to the provisions of any Regional law, by the Governor, acting in accordance with the advice of the Premier.

(4) Appointments to the office of Minister of the Government of the Region other than the office of Premier shall be made by the Governor, acting in accordance with the advice of the Premier:

Provided that at least two Ministers shall be appointed from among the members of the House of Chiefs and at least eleven shall be appointed from among the members of the House of Assembly.

(5) A person shall not hold office at the same time both as a Minister of the Government of the Region and as a Minister of the Government of another Region.

(6) Subject to the provisions of subsection (11) of this section, a person who holds office as a Minister of the Government of the Region for any period of six consecutive months without also being a member of a Legislative House of the Region shall cease to be a Minister at the expiration of that period or, if that period expires at a time when the Legislative Houses are dissolved and he does not in the meantime became a member of a Legislative House, at the date on which the Legislative Houses first meet after that dissolution.

(7) Subject to the provisions of subsection (11) of this section, a person who holds office as a Minister of the Government of the Region and who is at no time while holding that office also a member of a Legislative House of the Region shall not be qualified for reappointment as such a Minister before the Legislative Houses are next dissolved after he ceases to hold that office, unless in the meantime he has become a member of a Legislative House.

(8) The office of the Premier shall become vacant—

(*a*) when, after any dissolution of the Legislative Houses of the Region, the Premier is informed by the Governor that the Governor is about to re-appoint him as Premier or to appoint another person as Premier; or

(*b*) if he ceases to be a member of one or other of the Legislative Houses otherwise than by reason of a dissolution of the Legislative Houses.

(9) The office of a Minister of the Government of the Region other than the Premier shall become vacant if the office of Premier becomes vacant.

(10) Subject to the provisions of subsections (8) and (9) of this section, the Ministers of the Government of the Region shall hold office during the Governor's pleasure:

Provided that—

(*a*) the Governor shall not remove the Premier from office unless it appears to him that the Premier no longer commands the support of a majority of the members of the House of Assembly; and

(*b*) the Governor shall not remove a Minister other than the Premier from office except in accordance with the advice of the Premier.

(11) The office of the Attorney-General of the Region shall be that of a Minister of the Government of the Region:

Provided that—

(*a*) the provisions of subsections (6) and (7) of this section shall not apply in relation to a person holding that office;

(*b*) if the person holding that office is for any reason unable to perform the functions conferred upon him by this Constitution or any other law, those functions may be performed by such other person (whether or not that person is a Minister) as may from time to time be designated in that behalf by the Governor acting in accordance with the advice of the Premier; and

(*c*) a person shall not be qualified to hold that office or to perform the functions conferred upon the person holding that office by this Constitution or any other law unless he is qualified for admission as an advocate in Nigeria and has been so qualified for at least ten years.

Establishment of Executive Council

35.—(1) There shall be an Executive Council for the Region, whose function shall be to advise the Governor in the government of the Region and which shall consist of the Premier and such other persons, being Ministers of the Government of the Region, as the Governor, acting in accordance with the advice of the Premier, may from time to time appoint.

(2) A person appointed as a member of the Executive Council shall vacate his seat in the Council if he ceases to be a Minister of the Government of the Region or if the Governor, acting in accordance with the advice of the Premier, so directs.

Collective responsibility

36.—(1) The Executive Council shall be collectively responsible to the Legislative Houses of the Region for any advice given to the Governor by or under the general authority of the Council and for all things done by or under the authority of any Minister of the Government of the Region in the execution of his office.

(2) The provisions of this section shall not apply in relation to—

(*a*) the appointment and removal from office of Ministers of the Government of the Region, members of the Executive Council and Parliamentary Secretaries to Ministers, the assignment of portfolios to Ministers or the authorization of another member of the Executive Council to perform the functions of the Premier during absence or illness;

(*b*) the dissolution of the Legislative Houses of the Region; or

(*c*) the matters referred to in section 45 of this Constitution (which relates to the prerogative of mercy).

Allocation of portfolios to Ministers

37. The Governor, acting in accordance with the advice of the Premier, may assign to the Premier or any other Minister of the Government of the Region responsibility for any business of the Government of the Region, including the administration of any department of government.

Performance of functions of Premier during absence or illness

38.—(1) Whenever the Premier is absent from Nigeria or is by reason of illness unable to perform the functions conferred upon him by this Constitution the Governor may authorize some other member of the Executive Council of the Region to perform those functions (other than the functions conferred by this section) and that member may perform those functions until his authority is revoked by the Governor.

(2) The powers of the Governor under this section shall be exercised by him in accordance with the advice of the Premier:

Provided that if the Governor considers that it is impracticable to obtain the advice of the Premier owing to his absence or illness he may exercise those powers without that advice.

Exercise of Governor's powers

39.—(1) In the exercise of his functions under this Constitution, the Constitution of the Federation or any other law the Governor shall act in accordance with the advice of the Executive Council or a Minister of the Government of the Region acting under the general authority of the Executive Council except in cases where by this Constitution he

is required to act in accordance with the advice of any person or authority other than the Executive Council:

Provided that the Governor shall act in accordance with his own deliberate judgment in the performance of the following functions—

(*a*) in the exercise of the powers relating to the dissolution of the Legislative Houses of the Region conferred upon him by the proviso to subsection (4) of section 32 of this Constitution;

(*b*) in the exercise of the power to appoint the Premier conferred upon him by subsection (2) of section 34 of this Constitution;

(*c*) in the exercise of the powers conferred upon him by section 38 of this Constitution (which relates to the performance of the functions of the Premier during absence or illness) in the circumstances described in the proviso to subsection (2) of that section; and

(*d*) in signifying his approval for the purposes of section 64 of this Constitution of an appointment to an office on his personal staff.

(2) Where by this Constitution the Governor is required to act in accordance with the advice of any person or authority, the question whether he has in any case received, or acted in accordance with, such advice shall not be enquired into in any court of law.

Governor to be informed concerning matters of government

40. The Premier shall keep the Governor fully informed concerning the general conduct of the government of the Region and shall furnish the Governor with such information as he may request with respect to any particular matter relating to the government of the Region.

Parliamentary Secretaries

41.—(1) The Governor, acting in accordance with the advice of the Premier, may appoint Parliamentary Secretaries from among the members of the Legislative Houses of the Regions to assist Ministers of the Government of the Region in the performance of their duties.

(2) The office of a Parliamentary Secretary shall become vacant—

(*a*) if he ceases to be a member of one or other of the Legislative Houses of the Region otherwise than by reason of a dissolution of those Houses;

(*b*) if the office of Premier becomes vacant; or

(*c*) if the Governor, acting in accordance with the advice of the Premier, so directs.

Oaths to be taken by Ministers, etc.

42. A member of the Executive Council, Minister of the Government of the Region or Parliamentary Secretary to such a Minister shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by the Legislature of the Region.

Permanent secretaries

43. Where any Minister of the Government of the Region has been charged with responsibility for any department of government, he shall exercise general direction and control over that department; and, subject to such direction and control, the department shall be under the supervision of a permanent secretary, whose office shall be an office in the public service of the Region:

Provided that two or more government departments may be placed under the supervision of one permanent secretary.

Constitution of offices for Region, etc.

44. Subject to the provisions of this Constitution and of any Regional law, the Governor, in Her Majesty's name and on Her Majesty's behalf, may constitute offices for the Region, make appointments to any such office and terminate any such appointment.

Prerogative of mercy

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

(*a*) grant to any person concerned in or convicted of any offence created by or under a Regional law a pardon, either free or subject to lawful conditions;

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

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

(*d*) remit the whole or any part of any punishment imposed on that person for such an offence or of any penalty or forfeiture otherwise due to the Crown on account of such an offence.

(2) The powers of the Governor under subsection (1) of this section shall be exercised by him in accordance with the advice of such member of the Executive Council as may from time to time be designated in that behalf by the Governor, acting in accordance with the advice of the Premier.

(3) The provisions of this section shall apply in relation to any offence created by or under any law in force in the Region relating to any matter not included in the Legislative Lists set out in the Schedule to the Constitution of the Federation (other than an offence created by or under an Act of Parliament or a Regional law) as they apply in relation to an offence created by or under a Regional law.

Establishment of Advisory Council on Prerogative of Mercy

46.—(1) There shall be for the Region an Advisory Council on the Prerogative of Mercy, which shall consist of—

(*a*) such member of the Executive Council as may for the time being be designated under subsection (2) of section 45 of this Constitution, who shall be chairman;

(*b*) where the chairman is a Minister other than the Attorney-General of the Region, the Attorney-General; and

(*c*) not less than five and not more than seven other members, who shall be appointed by the Governor, acting in accordance with the advice of the Premier, of whom at least one shall be a person who is qualified to practise as a medical practitioner in Nigeria.

(2) A person shall not be qualified for appointment by the Governor as a member of the Advisory Council if he is a member of a Legislative House of the Region, a member of either House of Parliament, a member of a legislative house of another Region, a Minister of the Government of the Region, a Minister of the Government of the Federation or a Minister of the Government of another Region.

(3) A member of the Advisory Council appointed by the Governor shall hold office for three years:

Provided that his seat on the Council shall become vacant—

(*a*) if any circumstances arise that, if he were not a member of the Council, would cause him to be disqualified for appointment as such; or

(*b*) if he is removed from office by the Governor, acting in accordance with the advice of the Premier, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

Functions of Advisory Council

47.—(1) Where any person has been sentenced to death by any court of law in Nigeria for any offence created by or under a Regional law the member of the Executive Council of the Region designated under subsection (2) of section 45 of this Constitution shall cause a written report of the case from the trial judge, together with such other information derived from the record of the case or elsewhere as the member may require, to be taken into consideration at a meeting of the Advisory Council; and after obtaining the advice of the Council the member shall decide in his own deliberate judgment whether to recommend to the Governor that he should exercise any of his powers under that section in relation to that person.

(2) The member of the Executive Council designated under subsection (2) of section 45 of this Constitution may consult with the Advisory Council before making any recommendation to the Governor under that subsection in any case not falling within subsection (1) of this section, but he shall not be obliged to act in accordance with the advice of the Council.

(3) The Advisory Council may regulate its own procedure.

Public prosecutions

48.—(1) There shall be a Director of Public Prosecutions for the Region, whose office shall be an office in the public service of the Region.

(2) The Director of Public Prosecutions of the Region shall have power in any case in which he considers it desirable so to do—

(*a*) to institute and undertake criminal proceedings against any person before any court of law in the Region in respect of any offence created by or under any Regional law;

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

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

(3) The powers of the Director of Public Prosecutions of the Region under subsection (2) of this section may be exercised by him in person or through members of his staff acting under and in accordance with his general or special instructions.

(4) The Director of Public Prosecutions of the Region may confer a general or special authority upon the Director of Public Prosecutions of the Federation to exercise, subject to such conditions and exceptions as he may think fit, any of the powers conferred upon him by subsection (2) of this section, and may vary or revoke any such authority.

(5) The powers conferred upon the Director of Public Prosecutions of the Region by paragraphs (*b*) and (*c*) of subsection (2) of this section shall be vested in him to the exclusion of any other person or authority:

Provided that, where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance of that person or authority at any stage before the person against whom the proceedings have been instituted has been charged before the court.

(6) In the exercise of the powers conferred upon him by this section the Director of Public Prosecutions of the Region shall not be subject to the direction or control of any other person or authority.

(7) For the purposes of this section any appeal from any determination in any criminal proceedings before any court of law in the Region or any case stated or question of law reserved for the purposes of any such proceedings to any other court in Nigeria or to Her Majesty in Council shall be deemed to be part of those proceedings.

(8) The provisions of this section shall apply in relation to any offence created by or under any law in force in the Region relating to any matter not included in the Legislative Lists set out in the Schedule to the Constitution of the Federation (other than an offence created by or under an Act of Parliament or a Regional law) as they apply in relation to an offence created by or under a Regional law.

Chapter IV
Courts

Establishment of High Court

49.—(1) There shall be a High Court for the Region.

(2) The judges of the High Court of the Region shall be—

(*a*) the Chief Justice of the Region; and

(*b*) such number of other judges (not being less than six) as may be prescribed by the Legislature of the Region.

(3) The High Court of the Region shall be a superior court of record and, save as otherwise provided by any law in force in the Region, shall have all the powers of such a court.

Appointment of judges of High Court

50.—(1) The Chief Justice of the Region shall be appointed by the Governor, acting in accordance with the advice of the Premier.

(2) The judges of the High Court of the Region other than the Chief Justice shall be appointed by the Governor, acting in accordance with the advice of the Judicial Service Commission of the Region.

(3) A person shall not be qualified to hold the office of a judge of the High Court of the Region unless—

(*a*) he is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; or

(*b*) he is qualified for admission as an advocate in Nigeria and he has been so qualified for not less than ten years:

Provided that in computing the period during which any person has been qualified to practise as an advocate any period during which

he has held office as a judge or magistrate (including a district judge) after becoming so qualified shall be included.

(4) If the office of Chief Justice of the Region is vacant or if the person holding the office is for any reason unable to perform the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding the office has resumed those functions, as the case may be, those functions shall be performed by such one of the other judges of the High Court of the Region as may from time to time be designated in that behalf by the Governor, acting in accordance with the advice of the Premier.

(5) If the office of any judge of the High Court of the Region other than the Chief Justice is vacant or if the person holding the office is acting as Chief Justice or is for any reason unable to perform the functions of his office, the Governor, acting in accordance with the advice of the Judicial Service Commission of the Region, may appoint a person with such qualifications as may be prescribed by the Legislature of the Region to act in the office of a judge of the High Court and any person so appointed shall continue to act for the period of his appointment or if no period is specified until his appointment is revoked by the Governor, acting in accordance with the advice of the Commission.

Tenure of offices of judges of High Court

51.—(1) Subject to the provisions of this section, a person holding the office of Chief Justice of the Region or any other judge of the High Court of the Region shall vacate his office when he attains such age as may be prescribed by the Legislature of the Region:

Provided that the Governor, acting in accordance with the advice of the Premier, may permit a judge to continue in office for such period after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

(2) A person holding the office of a judge of the High Court of the Region may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(3) A person holding the office of a judge of the High Court of the Region shall be removed from office by the Governor if the question of the removal of that judge from office has, at the request of the Governor made in pursuance of subsection (4) of this section, been referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under any enactment enabling Her Majesty in that behalf and the Judicial Committee has advised Her Majesty that the judge ought to be removed from office for inability or misbehaviour.

(4) If the Premier represents to the Governor that the question of removing a judge of the High Court of the Region under this section ought to be investigated, then—

(*a*) the Governor shall appoint a tribunal consisting of a chairman and not less than two other members selected by the Governor, acting in accordance with the advice of the Premier, from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part

of the Commonwealth or a court having jurisdiction in appeals from any such court;

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

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

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

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

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

(6) This section shall apply to any person appointed to act the office of a judge of the High Court of the Region as it applies to a person holding the office of a judge of the High Court, but without prejudice to the provisions of section 50 of this Constitution relating to the revocation of his appointment by the Governor.

Appeals to High Court from subordinate courts

52.—(1) An appeal shall lie from decisions of a subordinate court 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, an appeal shall thereafter lie to the High Court as of right in the following cases—

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

(*b*) where the ground of appeal to the High Court 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 by the subordinate court from which the appeal lies to the High Court or that subordinate court has affirmed or substituted such a sentence;

(*c*) decisions in any civil or criminal proceedings on questions as to the interpretation of this Constitution, the Constitution of the Federation or the Constitution of another Region;

(*d*) decisions in any civil or criminal proceedings on questions as to whether any of the provisions of Chapter III of the Constitution of the Federation has been contravened in relation to any person;

(*e*) decisions in any criminal proceedings in which any person has been sentenced to death by the subordinate court from which the

appeal lies to the High Court or in which that subordinate court has affirmed a sentence of death ;

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

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

Provided that no appeal shall lie from decisions of a subordinate court established under section 119 of the Constitution of the Federation to the High Court in any case in which an appeal lies as of right to the Federal Supreme Court by virtue of any Act of Parliament enacted in pursuance of section 111 of that Constitution.

(2) Nothing in paragraph (*a*) of subsection (1) of this section shall confer any right of appeal—

(*a*) from any decision of a subordinate court on a question relating to Moslem matters in any case in which it is provided by any Regional law that an appeal shall lie as of right to the Sharia Court of Appeal ;

(*b*) from any decision of the Sharia Court of Appeal on any such question ; or

(*c*) from any decision of the Court of Resolution on any question relating to the respective jurisdictions of the High Court of the Region and the Sharia Court of Appeal.

(3) An appeal shall lie from decisions of a subordinate court 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, 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 ; and

(*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:

Provided that no appeal shall lie under paragraph (*a*) of this subsection from decisions of a subordinate court established under section 119 of the Constitution of the Federation to the High Court in any case in which an appeal lies to the Federal Supreme Court (whether as of right or with the leave of the Federal Supreme Court) by virtue of an Act of Parliament enacted under section 111 of that Constitution.

(4) Any right of appeal from decisions of a subordinate court 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 section 48 of this Constitution, 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 regulating the powers, practice and procedure of the High Court.

(5) In this section—

"the Court of Resolution" means the Court of Resolution established by the Court of Resolution Law, 1960, of the Region(a), as amended, or any law replacing that law;

"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;

"Moslem law" means such system of Moslem law as may be prescribed in any Regional law, as applied subject to the provisions of any such law;

"question relating to Moslem matters" means—

(*a*) any question of Moslem law regarding a marriage concluded in accordance with that law, including a question relating to the dissolution of such a marriage or a question that depends on such a marriage relating to family relationship or the guardianship of an infant;

(*b*) where all the parties to the proceedings are Moslems, any question of Moslem law regarding a marriage, including the dissolution of that marriage, or regarding family relationship, a foundling or the guardianship of an infant;

(*c*) any question of Moslem law regarding a wakf, gift, will or succession where the endower, donor, testator or deceased person is a Moslem;

(*d*) any question of Moslem law regarding an infant, prodigal or person of unsound mind who is a Moslem or the maintenance or guardianship of a Moslem who is physically or mentally infirm; or

(*e*) where all the parties to the proceedings (whether or not they are Moslems) have by writing under their hand requested the court that hears the case in the first instance to determine that case in accordance with Moslem law, any other question;

"the Sharia Court of Appeal" means the Sharia Court of Appeal established by the Sharia Court of Appeal Law, 1960, of the Region(b), as amended, or any law replacing that law;

"subordinate court" means any court of law in the Region other than the Federal Supreme Court, the High Court of the Region or a court-martial.

Establishment of Judicial Service Commission

53.—(1) There shall be a Judicial Service Commission for the Region.

(2) The members of the Judicial Service Commission of the Region shall be—

(*a*) the Chief Justice of the Region, who shall be chairman;

(*b*) such other judge of the High Court of the Region as may be designated by the Governor, acting in accordance with the advice of the Premier;

(*c*) the Grand Kadi of the Region; and

(*d*) the chairman of the Public Service Commission of the Region:

Provided that the Governor, acting in accordance with the advice of the Premier, may appoint one other member.

(3) The following provisions shall apply in relation to a member of the Judicial Service Commission of the Region appointed by the Governor—

(a) Law No. 17 of 1960. (b) Law No. 16 of 1960.

(*a*) a person shall not be qualified for appointment as such unless he is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court;

(*b*) subject to the provisions of this subsection, a person appointed as such shall vacate his office at the expiration of five years from the date of his appointment;

(*c*) a person appointed as such may be removed from office by the Governor, acting in accordance with the advice of the Premier, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour; and

(*d*) a person appointed as such shall not be removed from office except in accordance with the provisions of this subsection.

Appointment of officers connected with courts

54.—(1) Power to appoint persons to hold or act in the offices to which this section applies (including power to make appointments on promotion and transfer and to confirm appointments) and to dismiss and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Judicial Service Commission of the Region:

Provided that the Commission may, with the approval of the Premier and subject to such conditions as it may think fit, delegate any of its powers under this section to any of its members, to any judge or to the holder of any office to which this section applies.

(2) The offices to which this section applies are the offices of members of any court of law established by the Legislature of the Region, being offices the emoluments attaching to which are payable out of the Consolidated Revenue Fund or any other public fund of the Region, the office of Chief Registrar or Registrar of the High Court, the office of Registrar of any Magistrate's Court established by the Legislature of the Region, any office of Justice of the Peace established by that Legislature and such other such offices connected with the High Court of the Region or any court of law established by that Legislature as may be prescribed by that Legislature.

Oaths to be taken by judges

55. A judge of the High Court of the Region shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by the Legislature of the Region.

CHAPTER V

FINANCE

Establishment of Consolidated Revenue Fund

56.—(1) All revenues or other moneys raised or received by the Region (not being revenues or other moneys payable under this Constitution or any Regional law into some other public fund of the Region established for a specific purpose) shall be paid into and form one Consolidated Revenue Fund.

(2) No moneys shall be withdrawn from the Consolidated Revenue Fund of the Region except to meet expenditure that is charged upon the Fund by this Constitution, the Constitution of the Federation or any Regional law or where the issue of those moneys has been authorized by an appropriation law or a law made in pursuance of section 58 of this Constitution.

(3) No moneys shall be withdrawn from any public fund of the Region other than the Consolidated Revenue Fund unless the issue of those moneys has been authorized by a Regional law.

(4) No moneys shall be withdrawn from the Consolidated Revenue Fund or any other public fund of the Region except in the manner prescribed by the Legislature of the Region.

Authorisation of expenditure from Consolidated Revenue Fund

57.—(1) The Minister of the Government of the Region responsible for finance shall cause to be prepared and laid before both Legislative Houses of the Region in each financial year estimates of the revenues and expenditure of the Region for the next following financial year.

(2) The heads of expenditure contained in the estimates (other than expenditure charged upon the Consolidated Revenue Fund by this Constitution, the Constitution of the Federation or any Regional law) shall be included in a bill, to be known as an appropriation bill, providing for the issue from the Consolidated Revenue Fund of the Region of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

(3) If in respect of any financial year it is found—

(*a*) that the amount appropriated by the appropriation law for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the law ; or

(*b*) that any moneys have been expended for any purpose in excess of the amount appropriated for the purpose by the appropriation law or for a purpose for which no amount has been appropriated by the law,

a supplementary estimate showing the sums required or spent shall be laid before both Legislative Houses of the Region and the heads of any such expenditure shall be included in a supplementary appropriation bill.

Authorisation of expenditure in advance of appropriation

58. The Legislature of the Region may make provision under which, if the appropriation law in respect of any financial year has not come into operation by the beginning of that financial year, the Minister of the Government of the Region responsible for finance may authorize the withdrawal of moneys from the Consolidated Revenue Fund of the Region for the purpose of meeting expenditure necessary to carry on the services of the Government until the expiration of four months from the beginning of that financial year or the coming into operation of the appropriation law, whichever is the earlier.

Contingencies fund

59.—(1) The Legislature of the Region may provide for the establishment of a Contingencies Fund for the Region and for authorizing the Minister of the Government of the Region responsible for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Fund to meet that need.

(2) Where any advance is made in accordance with subsection (1) of this section a supplementary estimate shall be presented and a supplementary appropriation bill shall be introduced as soon as possible for the purpose of replacing the amount so advanced.

Remuneration of Governor and certain other officers

60.—(1) There shall be paid to the holders of the offices to which this section applies such salary as may be prescribed by the Legislature of the Region.

(2) The salary and allowances payable to the holders of the offices to which this section applies shall be a charge on the Consolidated Revenue Fund of the Region.

(3) The salary payable to the holder of any office to which this section applies and his terms of office other than allowances shall not be altered to his disadvantage after his appointment.

(4) This section applies to the office of Governor, Chief Justice or other judge of the High Court of the Region, member of the Electoral Commission of the Region, appointed member of the Judicial Service Commission of the Region, member of the Public Service Commission of the Region, Director of Public Prosecutions of the Region and Director of Audit of the Region.

Audit of public accounts

61.—(1) There shall be a Director of Audit for the Region, whose office shall be an office in the public service of the Region.

(2) The public accounts of the Region and of all officers, courts and authorities of the Region shall be audited and reported on by the Director of Audit of the Region and for that purpose the Director or any person authorized by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.

(3) The Director of Audit of the Region shall submit his reports to the Minister of the Government of the Region responsible for finance, who shall cause them to be laid before both Legislative Houses of the Region.

(4) In the exercise of his functions under this Constitution the Director of Audit of the Region shall not be subject to the direction or control of any other person or authority.

Public debt

62.—(1) The public debt of the Region shall be secured on the revenues and assets of the Region.

(2) In this section references to the public debt of the Region include references to the interest on that debt, sinking fund payments in respect of that debt and the costs, charges and expenses incidental to the management of that debt.

CHAPTER VI

THE PUBLIC SERVICE OF THE REGION

Establishment of Public Service Commission

63.—(1) There shall be a Public Service Commission for the Region, which shall consist of a chairman and not less than two or more than four other members.

(2) The members of the Public Service Commission of the Region shall be appointed by the Governor, acting in accordance with the advice of the Premier.

(3) A person shall not be qualified to hold the office of a member of the Public Service Commission of the Region if he is a member

of a Legislative House of the Region, a member of a House of Parliament, a member of a legislative house of another Region, a Minister of the Government of the Region, a Minister of the Government of the Federation, a Minister of the Government of another Region or a member of the public service of the Region, the public service of the Federation or the public service of another Region.

(4) Subject to the provisions of this section, a member of the Public Service Commission of the Region shall vacate his office—

(*a*) at the expiration of five years from the date of his appointment; or

(*b*) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(5) A member of the Public Service Commission of the Region may be removed from office by the Governor, acting in accordance with the advice of the Premier, 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) A member of the Public Service Commission of the Region shall not be removed from office except in accordance with the provisions of this section.

(7) A person who has been appointed to be a member of the Public Service Commission of the Region shall not thereafter be eligible for appointment to any office in the public service of the Region.

Appointment, etc. of officers in public service

64.—(1) Power to appoint persons to hold or act in offices in the public service of the Region (including power to make appointments on promotion and transfer and to confirm appointments) and to dismiss and exercise disciplinary control over persons holding or acting in such offices shall vest in the Public Service Commission of the Region:

Provided that the Commission may, with the approval of the Premier and subject to such conditions as it may think fit, delegate any of its powers under this section to any of its members or to any officer in the public service of the Region.

(2) This section shall not apply in relation to any of the following offices—

(*a*) the office of any judge of the High Court of the Region;

(*b*) except for the purposes of making appointments thereto, the office of the Director of Audit of the Region or the Director of Public Prosecutions of the Region;

(*c*) any office to which section 54 of this Constitution (which relates to offices within the jurisdiction of the Judicial Service Commission of the Region) applies;

(*d*) any office to which section 65 of this Constitution (which relates to the office of the principal representative of the Region in the United Kingdom) applies.

(3) The provisions of this section shall be subject to the provisions of section 66 of this Constitution (which relates to permanent secretaries).

(4) No appointment shall be made under this section to any office on the personal staff of the Governor unless the Governor signifies his approval of the appointment.

Appointment, etc. of Agent-General in U.K.

65.—(1) Power to appoint persons to hold or act in the office of the Agent-General of the Region in the United Kingdom (including power to make appointments on promotion and transfer) and to remove persons so appointed from that office shall vest in the Governor, acting in accordance with the advice of the Premier.

(2) Before tendering any advice for the purposes of this section in relation to any person who holds any office in the public service of the Region other than an office to which this section applies, the Premier shall consult the Public Service Commission of the Region.

Appointment, etc. of permanent secretaries

66.—(1) Power to appoint persons to hold or act in the office of permanent secretary to any department of government of the Region and to remove persons so appointed from that office shall vest in the Governor, acting in accordance with the advice of the Premier.

(2) Before tendering any advice for the purposes of this section the Premier shall consult the Public Service Commission of the Region.

Qualifications of Director of Public Prosecutions

67. A person shall not be qualified to hold or act in the office of Director of Public Prosecutions of the Region unless he is qualified for admission as an advocate in Nigeria and has been so qualified for at least ten years.

Tenure of office of Director of Public Prosecutions

68.—(1) Subject to the provisions of this section, a person holding the office of Director of Public Prosecutions of the Region shall vacate that office when he attains such age as may be prescribed by the Legislature of the Region.

(2) A person holding the office of Director of Public Prosecutions of the Region may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(3) A person holding the office of Director of Public Prosecutions of the Region shall be removed from office by the Governor if the question of his removal from office has been referred to a tribunal appointed under subsection (4) of this section and the tribunal has recommended to the Governor that he ought to be removed from office for inability or misbehaviour.

(4) If the Premier represents to the Governor that the question of removing the Director of Public Prosecutions of the Region under this section ought to be investigated then—

(*a*) the Governor, acting in accordance with the advice of the Premier, shall appoint a tribunal, which shall consist of a chairman and not less than two other members, the chairman and half of the other members being persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; and

(*b*) that tribunal shall enquire into the matter and report on the facts thereof to the Governor and recommend to the Governor whether the Director ought to be removed under this section.

(5) If the question of removing the Director of Public Prosecutions of the Region has been referred to a tribunal under this section, the Governor, acting in accordance with the advice of the Premier, may suspend the Director from performing the functions of his office and any such suspension may at any time be revoked by the Governor, acting in accordance with the advice of the Premier, and shall in any case cease to have effect if the tribunal recommends to the Governor that the Director should not be removed.

Appointment and tenure of office of Director of Audit

69.—(1) Before appointing any person to hold the office of Director of Audit of the Region the Public Service Commission of the Region shall consult the Premier.

(2) Subject to the provisions of this section, a person holding the office of Director of Audit of the Region shall vacate that office when he attains such age as may be prescribed by the Legislature of the Region.

(3) A person holding the office of Director of Audit of the Region shall be removed from office by the Governor if a resolution is passed by each Legislative House of the Region recommending his removal from office for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(4) Any person holding the office of Director of Audit of the Region shall not be removed from office except in accordance with the provisions of this section.

(5) If the office of Director of Audit of the Region is vacant or the holder of the office is for any reason unable to perform the functions of the office, the Public Service Commission of the Region, acting after consultation with the Premier, may appoint a person to act in the office and any person so appointed shall continue to act until his appointment is revoked by the Commission, acting after consultation with the Premier.

Powers relating to Clerks of Legislative Houses

70. Before exercising any of its powers in relation to the Clerk to the House of Chiefs the Public Service Commission of the Region shall consult the President of that House and before exercising any of its powers in relation to the Clerk to the House of Assembly the Commission shall consult the Speaker of that House.

Powers of Commissions in relation to grant of pensions, etc.

71.—(1) Where any benefits to which this section applies can be withheld, reduced in amount or suspended by any person or authority under any Regional law, those benefits shall not be so withheld, reduced in amount or suspended—

(*a*) in the case of benefits that have been granted in respect of the service in the public service of the Region of any person who at the time when he ceased to be a member of that public service was subject to the jurisdiction of the Judicial Service Commission of the Region or for which any person may be eligible in respect of such service, without the approval of that Commission; or

(*b*) in any other case, without the approval of the Public Service Commission of the Region.

(2) No benefits to which this section applies that have been granted to any person who holds or has held the office of judge of the High Court of the Region or for which any such person may be eligible shall be withheld, reduced or suspended on the ground that that person has been guilty of misbehaviour while holding that office unless that person has been removed from that office by reason of such misbehaviour.

(3) This section applies to any benefits payable under any Regional law providing for the grant of pensions, gratuities or compensation to persons who are or have been members of the public service of the Region in respect of their service in that public service, or to the widows, children, dependants or personal representatives of such persons in respect of such service.

CHAPTER VII

MISCELLANEOUS

Powers and procedure of Commissions

72.—(1) Any Commission established by this Constitution may, with the consent of the Premier or such other Minister of the Government of the Region as may be authorized in that behalf by the Premier, by regulation or otherwise regulate its own procedure or confer powers and impose duties on any officer or authority of the Region for the purpose of discharging its functions.

(2) Subject to its rules of procedure, any Commission established by this Constitution may act notwithstanding any vacancy in its membership or the absence of any member:

Provided that any decision of the Commission shall require the concurrence of a majority of all the members thereof.

Establishment of Provincial Administrations

73.—(1) The Governor may by instrument in writing establish for any Province of the Region a Provincial Administration.

(2) A Provincial Administration established under this section shall have such functions as may be prescribed by the Governor or by or under any law in force in the Region and shall consist of—

(*a*) a Provincial Administrator, whose office shall be an office in the public service of the Region;

(*b*) a Provincial Authority, which shall consist of the Provincial Administrator, who shall be chairman, and such other members as may be prescribed by the Governor;

(*c*) a Provincial Council, which shall consist of such members as may be prescribed by the Governor.

(3) The provisions of this section shall be without prejudice to the powers of the Legislature of the Region to establish a Provincial Administration for any Province of the Region or otherwise to make provision for the administration of that Province.

Council of Chiefs

74.—(1) There shall be a Council of Chiefs for the Region, which shall consist of—

(*a*) the Premier, who shall be chairman;

(*b*) those Ministers of the Government of the Region who have been appointed as such from among the members of the House of Chiefs ;

(*c*) the persons for the time being co-opted as members of the Council in accordance with subsection (2) of this section.

(2) Whenever any matter is proposed for discussion in the Council of Chiefs of the Region, the Premier may co-opt four persons from among the members of the House of Chiefs to be members of the Council for the purpose of discussing that matter.

(3) The Governor shall act in accordance with the advice of the Council of Chiefs of the Region in the exercise of all powers conferred upon him with respect to—

(*a*) the appointment, approval of the appointment or recognition of a person as a Chief ;

(*b*) the grading of a Chief ;

(*c*) the deposition of a Chief ;

(*d*) the removal of a Chief or a person who was formerly a Chief from any part of the Region ; or

(*e*) the exclusion of a Chief or any person who was formerly a Chief from any part of the Region.

(4) The Council of Chiefs of the Region may regulate its own procedure.

Resignations

75.—(1) Any person who is appointed, elected or otherwise selected to any office established by this Constitution may resign from that office by writing under his hand addressed to the person or authority by whom he is appointed, elected or selected :

Provided that in the case of a member of a Legislative House of the Region who holds office as President or Speaker of the House his resignation from the House or that office shall be addressed to the House and in the case of any other member of the House his resignation from the House shall be addressed to the President or Speaker of the House.

(2) The resignation of any person from any office established by this Constitution shall take effect when the writing signifying the resignation is received by the person or authority to whom it is addressed or by any person authorized by that person or authority to receive it.

Re-appointments, etc.

76.—(1) Where any person has vacated any office constituted by this Constitution, he may, if qualified, again be appointed, elected or otherwise selected to hold that office in accordance with the provisions of this Constitution.

(2) Where by this Constitution a power is conferred upon any person or authority to make any appointment to any office in the public service of the Region, a person may be appointed to that office notwithstanding that some other person may be holding that office, when that other person is on leave of absence pending relinquishment of his office ; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this subsection, then for the purposes of any function conferred upon the holder of that office,

the person last appointed shall be deemed to be the sole holder of the office.

Interpretation

77.—(1) In this Constitution, unless it is otherwise expressly provided or required by the context—

"Act of Parliament" means any law made by Parliament;

"the Advisory Council" means the Advisory Council on the Prerogative of Mercy of the Region;

"the Commonwealth" means Nigeria, any country to which section 13 of the Constitution of the Federation applies and any dependency of any such country;

"financial year" means any period of twelve months beginning on the first day of April in any year or such other date as the Legislature of the Region may prescribe;

"oath" includes affirmation;

"the oath of allegiance" means such oath of allegiance as may be prescribed by Parliament;

"Parliament" means the Parliament of the Federation;

"the public service of the Region" means the service of the Crown in a civil capacity in respect of the government of the Region;

"Regional law" means any law made by the Legislature of the Region.

(2) In this Constitution, unless it is otherwise expressly provided or required by the context—

(*a*) references to persons holding offices in the public service of the Federation or the public service of a Region include references to persons acting in those offices; and

(*b*) references to offices in the public service of the Region include references to the offices of the judges of the High Court of the Region and references to the offices of members of all other courts of law established by the Legislature of the Region, being offices the emoluments attaching to which are paid out of the Consolidated Revenue Fund or any other public fund of the Region.

(3) For the purposes of this Constitution, the office of the President or the Deputy President of the House of Chiefs, a member of the House of Chiefs, the Speaker or the Deputy Speaker of the House of Assembly, a member of the House of Assembly, a Minister of the Government of the Region, a Parliamentary Secretary to such a Minister or a member of the Executive Council, any Commission established by this Constitution, the Advisory Council or the Council of Chiefs of the Region shall not be regarded as an office in the public service of the Region.

(4) The Interpretation Act, 1889(**a**), as in force on the first day of October, 1960, shall apply, with the necessary adaptations, for the purpose of interpreting this Constitution and otherwise in relation thereto as it applies for the purposes of interpreting, and in relation to, Acts of the Parliament of the United Kingdom.

(5) No provision of this Constitution that any person or authority shall not be subject to the direction or control of any other person or authority in exercising any functions under this Constitution shall be construed as precluding a court of law from exercising jurisdiction in relation to any question whether that person or authority has performed those functions in accordance with this Constitution or any other law.

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

THE FOURTH SCHEDULE Section 2

THE CONSTITUTION OF WESTERN NIGERIA

ARRANGEMENT OF SECTIONS

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Whereas Western Nigeria is a Region of the Federation of Nigeria:

And whereas it is expedient to make provision, subject to the provisions of the Constitution of the Federation, for a Constitution for Western Nigeria (hereinafter referred to as " the Region "):

Now, therefore, the Constitution of the Region shall be as follows:—

CHAPTER I
THE GOVERNOR

Establishment of office of Governor

1.—(1) There shall be a Governor of the Region, who shall be appointed by Her Majesty and shall hold office during Her Majesty's pleasure and who shall be Her Majesty's representative in the Region.

(2) The Premier shall consult the Prime Minister of the Federation before tendering any advice to Her Majesty for the purposes of this section.

Oaths to be taken by Governor

2. A person appointed to the office of Governor shall, before entering upon the duties of that office, take and subscribe the oath of allegiance and such oath for the due execution of the office as may be prescribed by the Legislature of the Region.

Discharge of Governor's functions during vacancy, etc.

3. Whenever the office of Governor is vacant or the holder of the office is absent from Nigeria or is for any reason unable to perform the functions conferred upon him by this Constitution, those functions shall be performed by such person as Her Majesty may appoint or, if there is no person in the Region so appointed and able to perform those functions, by the Chief Justice of the Region:

Provided that nothing in this section shall preclude the Governor from performing any of those functions at any time when he is absent from Nigeria.

CHAPTER II
THE LEGISLATURE
Part I
Composition of Legislature

Establishment of Legislature

4. There shall be a Legislature for the Region, which shall consist of Her Majesty, a House of Chiefs and a House of Assembly and which shall have power to make laws for the peace, order and good government of the Region.

Composition of House of Chiefs

5.—(1) The House of Chiefs shall consist of—

(*a*) the persons for the time being holding such Chieftaincies as may be prescribed by the Governor, who shall be *ex-officio* members of the House;

(*b*) one hundred and fifteen Chiefs having such qualifications and selected in such manner as may be prescribed by the Legislature of the Region; and

(*c*) such other Chiefs (not exceeding four) having such qualifications as may be prescribed by the Legislature of the Region as may be selected by the Governor, acting in accordance with the advice of the Premier.

(2) The seat in the House of Chiefs of a member other than an *ex-officio* member shall become vacant in such circumstances as may be prescribed by the Legislature of the Region.

(3) In this section—

"Chief" means any person who is for the time being recognized as a Chief under any law in force in the Region.

Composition of House of Assembly

6. The House of Assembly shall consist of one hundred and twenty-four members.

Qualifications for membership of House of Assembly

7. Subject to the provisions of section 8 of this Constitution, a person shall be qualified to be a member of the House of Assembly if he is a citizen of Nigeria who has attained the age of twenty-one years and—

(*a*) who was born in the Region; or

(*b*) whose father was born in the Region; or

(*c*) who has resided in the Region for a continuous period of at least one year immediately before the date of the election.

Disqualifications for membership of House of Assembly, etc.

8.—(1) No person shall be qualified for election to the House of Assembly—

(*a*) if he has voluntarily acquired citizenship of a country other than Nigeria or has made a declaration of allegiance to such a country;

(*b*) if under any law in force in any part of Nigeria he is adjudged to be a lunatic or otherwise declared to be of unsound mind;

(*c*) if he is under a sentence of death imposed on him by any court of law in Nigeria or a sentence of imprisonment (by whatever name called) exceeding six months imposed upon him by such a court or substituted by competent authority for some other sentence imposed upon him by such a court;

(*d*) if he is an undischarged bankrupt, having been adjudged or otherwise declared to be bankrupt under any law in force in any part of Nigeria;

(*e*) save as otherwise provided by the Legislature of the Region, if he is a member of the public service of the Region, the public service of the Federation or the public service of another Region, a member of the armed forces of the Crown or the holder of any other office of emolument under the Crown; or

(*f*) if he is a member of the House of Chiefs, an *ex-officio* member of the Senate or a member of a legislative house of another Region.

(2) The Legislature of the Region may provide that a person shall not be qualified for membership of the House of Assembly for such period (not exceeding five years) as may be prescribed if he is convicted by any court of law in Nigeria of such offences connected with the selection or election of members of a Legislative House of the Region, a House of Parliament or a legislative house of another Region as may be prescribed.

(3) The Legislature of the Region may prescribe that a person disqualified under paragraph (*c*) of subsection (1) of this section by reason of his being under a sentence of imprisonment exceeding six months for any such offence (being an offence that appears to that

Legislature to involve dishonesty) as may be prescribed or by reason of his being under sentences of imprisonment that include such a sentence for any such offence shall not be qualified for membership of the House of Assembly for such period from the date on which he ceases to be disqualified under that paragraph (not exceeding five years) as may be prescribed.

(4) The Legislature of the Region may provide that a person who is the holder of any office the functions of which involve responsibility for, or in connection with, the conduct of any election to the House of Assembly or the compilation of any register of voters for the purposes of such an election shall not be qualified for election to that House.

(5) The Legislature of the Region may, in order to permit any person who has been adjudged to be a lunatic, declared to be of unsound mind, sentenced to death or imprisonment or adjudged or declared bankrupt to appeal against the decision in accordance with any law in force in Nigeria, provide that, subject to such conditions as may be prescribed, the decision shall not have effect for the purposes of subsection (1) of this section for such time as may be prescribed.

(6) For the purposes of paragraph (*c*) of subsection (1) of this section two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds six months but if any one of those sentences exceeds that term they shall be regarded as one sentence.

(7) For the purposes of paragraph (*e*) of subsection (1) of this section—

(*a*) a person shall not be regarded as holding an office of emolument under the Crown by reason only that he is in receipt of a pension or other like benefit in respect of service in an office under the Crown ; and

(*b*) the office of the Speaker or the Deputy Speaker of the House of Assembly, the President, Deputy President, Speaker or Deputy Speaker or a member of a House of Parliament or a legislative house of another Region, a Minister of the Government of the Region, a Minister of the Government of the Federation, a Minister of the Government of another Region, a Parliamentary Secretary to any such Minister, a member of the Executive Council of the Region, a member of the Council of Ministers, a member of the Executive Council of another Region, a member of the Council of Chiefs of the Northern Region, a member of the Minority Council of a Minority Area in the Region or Eastern Nigeria or a member of any such body corporate as is referred to in the proviso to subsection (10) of this section shall not be regarded as an office of emolument under the Crown.

(8) Save as otherwise provided by the Legislature of the Region, a person shall not be regarded as disqualified for membership of the House of Assembly by reason only that he holds office as a member of a statutory corporation.

(9) If a person who holds the office of a member of any statutory corporation becomes a member of the House of Assembly, he shall, unless it is otherwise provided by the Legislature of the Region, thereupon cease to hold office as a member of that corporation.

(10) In this section "statutory corporation" means any body corporate established directly by any law in force in Nigeria :

Provided that it does not include any body corporate established by or under the Western Region Local Government Law, 1952, or the Local Government Law, 1957, of the Region(a), as amended, or any law replacing either of those laws.

President of House of Chiefs

9.—(1) There shall be a President of the House of Chiefs, who shall be elected by the members of that House.

(2) No person shall be elected as President of the House of Chiefs unless he is a member of the House or a Chief qualified for selection as a member of the House.

(3) The President of the House of Chiefs shall vacate his office—

(*a*) if, having been elected from among the members of the House, he ceases to be a member of the House otherwise than by reason of a dissolution of the Legislative Houses of the Region;

(*b*) if, having been elected from outside the House, any circumstances arise (other than a dissolution of the Legislative Houses) that if he were a member of the House other than an *ex-officio* member would cause him to vacate his seat as such;

(*c*) when the House first sits after any dissolution;

(*d*) if he becomes a Minister of the Government of the Region, a Parliamentary Secretary to such a Minister, a Minister of the Government of the Federation or a Minister of the Government of another Region; or

(*e*) if he is removed from office by a resolution of the House supported by the votes of two-thirds of all the members of the House.

(4) No business shall be transacted in the House of Chiefs (other than an election to the office of President) at any time when the office of President is vacant.

Speaker of House of Assembly

10.—(1) There shall be a Speaker of the House of Assembly, who shall be elected by the members of that House.

(2) No person shall be elected as Speaker of the House of Assembly unless he is a member of the House or a person qualified to be a member of the House.

(3) The Speaker of the House of Assembly shall vacate his office—

(*a*) if, having been elected from among the members of the House, he ceases to be a member otherwise than by reason of a dissolution of the Legislative Houses of the Region;

(*b*) if, having been elected from outside the House, any circumstances arise (other than a dissolution of the Legislative Houses) that if he were a member of the House would cause him to vacate his seat as such;

(*c*) when the House first sits after any dissolution;

(*d*) if he becomes a Minister of the Government of the Region, a Parliamentary Secretary to such a Minister, a Minister of the Government of the Federation or a Minister of the Government of another Region; or

(a) Laws No. 1 of 1953 and 12 of 1957.

(*e*) if he is removed from office by a resolution of the House supported by the votes of two-thirds of all the members of the House.

(4) No business shall be transacted in the House of Assembly (other than an election to the office of Speaker) at any time when the office of Speaker is vacant.

Right of attendance of Ministers

11.—(1) A Minister of the Government of the Region may attend and take part in the proceedings of either Legislative House of the Region notwithstanding that he is not a member of that House.

(2) Nothing in this section shall entitle any person who is not a member of a Legislative House of the Region to vote in that House or any of its committees.

Tenure of seats of members of House of Assembly

12.—(1) A member of the House of Assembly shall vacate his seat in the House—

(*a*) if he becomes a member of the House of Chiefs, a House of Parliament or a legislative house of another Region;

(*b*) if any other circumstances arise that, if he were not a member of the House, would cause him to be disqualified for election as such under subsection (1) or (2) of section 8 of this Constitution;

(*c*) if he ceases to be a citizen of Nigeria;

(*d*) if he becomes a Minister of the Government of the Federation or a Minister of the Government of another Region;

(*e*) save as otherwise provided by the Legislature of the Region, if he becomes a member of any statutory corporation; or

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

(2) The Legislature of the Region may, in order to permit any member of the House of Assembly who has been adjudged to be a lunatic, declared to be of unsound mind, sentenced to death or imprisonment or adjudged or declared bankrupt to appeal against the decision in accordance with any law in force in Nigeria, provide that, subject to such conditions as may be prescribed, the decision shall not have effect for the purposes of this section until such time as may be prescribed.

(3) In this section the expression "statutory corporation" has the meaning assigned to it for the purposes of section 8 of this Constitution.

Establishment of Electoral Commission

13.—(1) There shall be an Electoral Commission for the Region.

(2) The members of the Electoral Commission of the 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 may be appointed by the Governor, acting in accordance with the advice of the Premier.

(3) A person shall not be qualified for appointment as a member of the Electoral Commission of the Region if he is a member of either Legislative House of the Region, a member of either House of Parliament or a member of a legislative house of another Region, a Minister of the Government of the Region, a Minister of the Government of the Federation, a Minister of the Government of another Region or a member of the public service of the Region, the public service of the Federation or the public service of another Region.

(4) Subject to the provisions of this section, a member of the Electoral Commission of the Region appointed by the Governor shall vacate his office—

(*a*) at the expiration of five years from the date of his appointment; or

(*b*) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(5) A member of the Electoral Commission of the Region appointed by the Governor may be removed from office by the Governor, acting in accordance with the advice of the Premier, 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) A member of the Electoral Commission of the Region appointed by the Governor shall not be removed from office except in accordance with the provisions of this section.

(7) In the exercise of its functions under this Constitution the Electoral Commission of the Region shall not be subject to the direction or control of any other person or authority.

Constituencies

14.—(1) The Region shall be divided into as many constituencies as there are members of the House of Assembly in such manner as the competent authority, acting with the approval of each Legislative House of the Region signified by resolution, may prescribe.

(2) The boundaries of each constituency shall be such that the number of inhabitants thereof is as nearly equal to the population quota as is reasonably practicable:

Provided that the number of inhabitants of a constituency may be greater or less than the population quota in order to take account of means of communication, geographical features and the distribution of different communities.

(3) The competent authority shall review the division of the Region into constituencies at intervals of not less than eight and not more than ten years and may alter the constituencies in accordance with the provisions of this section to such extent as it may consider desirable in the light of the review:

Provided that that authority may at any time carry out such a review and alter the constituencies in accordance with the provisions of this section to such extent as it considers necessary in consequence of any alteration of the boundaries of the Region or by reason of the holding of a census of the population of the Region in pursuance of any law in force in the Region.

(4) Where the boundaries of any constituency established under this section are altered in accordance with the provisions of this

section, that alteration shall come into effect upon the next dissolution of the Legislative Houses of the Region after the alteration has been approved by those Houses.

(5) In this section "population quota" means the number obtained by dividing the number of the inhabitants of the Region by the number of constituencies into which the Region is divided under this section.

(6) For the purposes of this section the number of inhabitants of the Region shall be ascertained by reference to the latest census of the population of the Region held in pursuance of any law in force in the Region.

(7) In this section "the competent authority" means the Electoral Commission of the Region or such other authority consisting of persons appointed by the Governor, acting in accordance with the advice of the Premier, as may be established in that behalf by the Legislature of the Region.

Elections

15.—(1) Every constituency established under section 14 of this Constitution shall return to the House of Assembly one member who shall be directly elected in such manner as may be prescribed by the Legislature of the Region.

(2) The registration of voters at elections to the House of Assembly and the conduct of such elections shall be subject to the direction and supervision of the Electoral Commission of the Region.

Determination of questions of membership of Legislative Houses

16.—(1) The High Court of the Region shall have original jurisdiction to hear and determine any question whether—

(*a*) any person has been validly selected or elected as a member of a Legislative House of the Region; or

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

(2) The Legislature of the Region may make provision with respect to—

(*a*) the persons who may apply to the High Court of the Region for the determination of any question under this section;

(*b*) the circumstances and manner in which, and the conditions upon which, any such application may be made; and

(*c*) the powers, practice and procedure of the High Court in relation to any such application.

Clerks to Legislative Houses and their staffs

17.—(1) There shall be a Clerk to the House of Chiefs and a Clerk to the House of Assembly:

Provided that the offices of Clerk to the House of Chiefs and Clerk to the House of Assembly may be held by the same person.

(2) Subject to the provisions of any Regional law, the office of the Clerk of each Legislative House of the Region and the members of his staff shall be offices in the public service of the Region.

Part 2

Procedure in Legislative Houses

Oaths to be taken by members of Legislative Houses

18.—(1) Every member of either Legislative House of the Region shall, before taking his seat in that House, take and subscribe before the House the oath of allegiance but a member may before taking that oath take part in the election of a President of the House of Chiefs or a Speaker of the House of Assembly, as the case may be:

Provided that if a Legislative House is not sitting a member of that House may take and subscribe the oath of allegiance before a judge of the High Court of the Region.

(2) Any person elected to the office of President or Speaker of a Legislative House of the Region who is not a member of that House shall, before entering upon the duties of his office, take and subscribe the oath of allegiance before the House.

Presiding in House of Chiefs

19.—(1) There shall preside at any sitting of the House of Chiefs—

(*a*) the President; or

(*b*) in the absence of the President, the Deputy President; or

(*c*) in the absence of the President and the Deputy President, such member of the House as the House may elect for that purpose.

(2) The House of Chiefs may from time to time elect a member of the House to be Deputy President and any person so elected shall hold office as such until he ceases to be a member of the House or is removed from office by the House.

Presiding in House of Assembly

20.—(1) There shall preside at any sitting of the House of Assembly—

(*a*) the Speaker; or

(*b*) in the absence of the Speaker, the Deputy Speaker; or

(*c*) in the absence of the Speaker and the Deputy Speaker, such member of the House as the House may elect for that purpose.

(2) The House of Assembly may from time to time elect a member of the House to be Deputy Speaker and any person so elected shall hold office as such until he ceases to be a member of the House or is removed from office by the House.

Quorum in Legislative Houses

21. If objection is taken by any member of a Legislative House of the Region present that there are present in that House (besides the person presiding) fewer than one-sixth of all the members of that House and, after such interval as may be prescribed in the rules of procedure of the House, the person presiding ascertains that the number of members present is still less than one-sixth of all the members of the House, he shall thereupon adjourn the House.

Use of English in Legislative Houses

22. The business of the Legislative Houses of the Region shall be conducted in English.

Voting in Legislative Houses

23.—(1) Any question proposed for decision in a Legislative House of the Region shall be determined by the required majority of the

members present and voting; and the person presiding shall cast a vote whenever necessary to avoid an equality of votes but shall not vote in any other case.

(2) Save as otherwise provided in this Constitution, the required majority for the purposes of determining any question shall be a simple majority.

(3) The rules of procedure of a Legislative House of the Region may provide that the vote of a member upon a question in which he has a direct pecuniary interest shall be disallowed.

Unqualified persons sitting or voting

24. Any person who sits or votes in either Legislative House of the Region knowing or having reasonable ground for knowing that he is not entitled to do so shall be liable to a penalty not exceeding twenty pounds or such other sum as may be prescribed by the Legislature of the Region for each day on which he sits or votes in that House, which shall be recoverable by action in the High Court of the Region at the suit of the Attorney-General of the Region.

Mode of exercising legislative power

25.—(1) The power of the Legislature of the Region to make laws shall be exercised by bills passed by both Legislative Houses of the Region (or in the cases mentioned in section 27 of this Constitution the House of Assembly) and assented to by the Governor on behalf of Her Majesty.

(2) A bill other than a money bill may originate in either Legislative House of the Region but a money bill may originate only in the House of Assembly.

(3) When a bill has been passed by the Legislative House of the Region in which it originated, it shall be sent to the other House; and it shall be presented to the Governor for assent—

(*a*) when it has been passed by the other House and agreement has been reached between the two Houses on any amendments made in it; or

(*b*) when it is required to be so presented under section 27 of this Constitution.

(4) When a bill is presented to the Governor for assent, he shall signify that he assents or that he withholds assent.

(5) A bill shall not become law unless it has been duly passed and assented to in accordance with this Constitution.

Restrictions with regard to certain financial measures

26.—(1) The House of Chiefs shall not—

(*a*) proceed upon any bill, other than a bill sent from the House of Assembly, that, in the opinion of the person presiding, makes provision for any of the following purposes—

(i) for the imposition, repeal or alteration of taxation;

(ii) for the imposition of any charge upon the Consolidated Revenue Fund or any other public fund of the Region;

(iii) for the payment, issue or withdrawal from the Consolidated Revenue Fund or any other public fund of the Region of any moneys not charged thereon or any alteration in the amount of such a payment, issue or withdrawal; or

(iv) for the composition or remission of any debt due to the Region;

(*b*) proceed upon any amendment to any bill that in the opinion of the person presiding makes provision for any of those purposes;

(*c*) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding, would be to make provision for any of those purposes; or

(*d*) receive any petition that, in the opinion of the person presiding, requests that provision be made for any of those purposes.

(2) Except upon the recommendation of the Governor signified by a Minister of the Government of the Region, the House of Assembly shall not—

(*a*) proceed upon any bill (including any amendment to a bill) that, in the opinion of the person presiding, makes provision for any of the following purposes—

(i) for the imposition of taxation or the alteration of taxation otherwise than by reduction;

(ii) for the imposition of any charge upon the Consolidated Revenue Fund or any other public fund of the Region or the alteration of any such charge otherwise than by reduction;

(iii) for the payment, issue or withdrawal from the Consolidated Revenue Fund or any other public fund of the Region of any moneys not charged thereon or any increase in the amount of such a payment, issue or withdrawal; or

(iv) for the composition or remission of any debt due to the Region;

(*b*) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding, would be to make provision for any of those purposes; or

(*c*) receive any petition that, in the opinion of the person presiding, requests that provision be made for any of those purposes.

Limitation of powers of House of Chiefs

27.—(1) Where a money bill is passed by the House of Assembly and, having been sent to the House of Chiefs at least one month before the end of the session, is not passed by the House of Chiefs without amendment within one month after it is so sent, the bill shall, unless the House ofAssembly otherwise resolves, be presented to the Governor for his assent.

(2) Where—

(*a*) a bill that is not a money bill is passed by the House of Assembly and, having been sent to the House of Chiefs at least one month before the end of the session, is not passed by the House of Chiefs before the end of the session or is passed by the House of Chiefs with amendments to which the House of Assembly does not before the end of the session agree; and

(*b*) in the following session (whether of the same Legislative Houses or not) but not earlier than six months after it was first passed by the House of Assembly the same bill, with no other alterations than those mentioned in subsection (4) of this section, is passed again by the House of Assembly and sent to the House of Chiefs at least one month before the end of the session and is not passed by the House of Chiefs before the end of the session

or is passed by the House of Chiefs with amendments to which the House of Assembly does not before the end of the session agree,

the bill shall, unless the House of Assembly otherwise resolves, be presented to the Governor for his assent with such amendments, if any, as may have been agreed to by both Houses.

(3) The House of Assembly may, on the passage of a bill for the purposes of paragraph (*b*) of subsection (2) of this section, suggest any amendments without inserting the amendments in the bill and any such suggested amendments shall be considered by the House of Chiefs and, if agreed to by the House of Chiefs, shall be treated as amendments agreed to by both Houses; but the exercise of this power by the House of Assembly shall not affect the operation of this section if the bill is not passed by the House of Chiefs or is passed by the House of Chiefs with amendments to which the House of Assembly does not agree.

(4) The alterations referred to in subsection (2) of this section are alterations certified by the Speaker of the House of Assembly to be necessary owing to the time that has elapsed since the bill was passed in the earlier session or to represent amendments made in that session by the House of Chiefs.

(5) When a money bill is sent to the House of Chiefs from the House of Assembly it shall bear a certificate of the Speaker of the House of Assembly that it is a money bill.

(6) When a bill is presented to the Governor in pursuance of this section it shall bear a certificate of the Speaker of the House of Assembly that this section has been complied with and that certificate shall be conclusive for all purposes and shall not be questioned in any court.

(7) This section does not apply to any bill for the purposes of section 5 of the Constitution of the Federation.

Regulation of procedure in Legislative Houses

28.—(1) Subject to the provisions of this Constitution, each Legislative House of the Region may regulate its own procedure.

(2) Each Legislative House of the Region may act notwithstanding any vacancy in its membership (including any vacancy not filled when the House first meets after any dissolution) and the presence or participation of any person not entitled to be present at or to participate in the proceedings of the House shall not invalidate those proceedings.

Interpretation

29. In this Part of this Chapter "money bill" means a bill that in the opinion of the Speaker of the House of Assembly contains only provisions dealing with—

(*a*) the imposition, repeal, remission, alteration or regulation of taxation;

(*b*) the imposition for the payment of debt or other financial purposes of charges on the Consolidated Revenue Fund or any other public fund of the Region or the variation or repeal of any such charges;

(*c*) the grant of money to the Crown or to any other person or authority or the variation or revocation of any such grant;

(*d*) the appropriation, receipt, custody, investment, issue or audit of accounts of public money;

(*e*) the raising or guarantee of any loan or the repayment thereof; or

(*f*) subordinate matters incidental to any of those matters:

Provided that the expressions "taxation", "public money" and "loan" do not include any taxation, money or loan raised by local authorities or bodies for public purposes.

Part 3

Summoning, prorogation and dissolution

Sessions of Legislative Houses

30. Each session of the Legislative Houses of the Region shall be held at such place within the Region and shall begin at such time (not being later than twelve months from the end of the preceding session if those Houses have been prorogued or three months from the end of that session if those Houses have been dissolved) as the Governor shall appoint.

Prorogation and dissolution of Legislative Houses

31.—(1) The Governor may at any time prorogue or dissolve the Legislative Houses of the Region.

(2) Subject to the provisions of subsection (3) of this section, the Legislative Houses of the Region, unless sooner dissolved, shall continue for five years from the date of their first sitting after any dissolution and shall then stand dissolved.

(3) At any time when the Federation is at war, the Legislature of the Region may from time to time extend the period of five years specified in subsection (2) of this section for not more than twelve months at a time:

Provided that the life of the Legislative Houses of the Region shall not be extended under this subsection for more than five years.

(4) In the exercise of his powers to dissolve the Legislative Houses of the Region, the Governor shall act in accordance with the advice of the Premier:

Provided that—

(*a*) if the Premier recommends a dissolution and the Governor considers that the government of the Region can be carried on without a dissolution and that a dissolution would not be in the interests of the Region he may refuse to dissolve the Legislative Houses;

(*b*) if the House of Assembly passes a resolution that it has no confidence in the Government of the Region and the Premier does not within three days either resign or advise a dissolution, the Governor may dissolve the Legislative Houses; and

(*c*) if the office of Premier is vacant and the Governor considers that there is no prospect of his being able to appoint a person who can command the support of the majority of the members of the House of Assembly to that office within a reasonable time, the Governor may dissolve the Legislative Houses.

CHAPTER III

EXECUTIVE POWERS

Exercise of executive authority of Region

32.—(1) The executive authority of the Region shall be vested in Her Majesty.

(2) Subject to the provisions of this Constitution, the executive authority of the Region may be exercised on behalf of Her Majesty by the Governor, either directly or through officers subordinate to him.

(3) Nothing in this section shall prevent the Legislature of the Region from conferring functions on persons or authorities other than the Governor.

Ministers of Government of Region

33.—(1) There shall be a Premier of the Region, who shall be appointed by the Governor.

(2) Whenever the Governor has occasion to appoint a Premier he shall appoint a member of House of Assembly who appears to him likely to command the support of the majority of the members of the House.

(3) There shall be, in addition to the office of Premier, such other offices of Minister of the Government of the Region as may be established by the Legislature of the Region or, subject to the provisions of any Regional law, by the Governor, acting in accordance with the advice of the Premier.

(4) Appointments to the office of Minister of the Government of the Region other than the office of Premier shall be made by the Governor, acting in accordance with the advice of the Premier:

Provided that at least two Ministers shall be appointed from among the members of the House of Chiefs.

(5) A person shall not hold office at the same time both as a Minister of the Government of the Region and as a Minister of the Government of another Region.

(6) Subject to the provisions of subsection (11) of this section, a person who holds office as a Minister of the Government of the Region for any period of four consecutive months without also being a member of a Legislative House of the Region shall cease to be a Minister at the expiration of that period or, if that period expires at a time when the Legislative Houses are dissolved and he does not in the meantime become a member of a Legislative House, at the date on which the Legislative Houses first meet after that dissolution.

(7) Subject to the provisions of subsection (11) of this section, a person who holds office as a Minister of the Government of the Region and who is at no time while holding that office also a member of a Legislative House of the Region shall not be qualified for reappointment as such a Minister before the Legislative Houses are next dissolved after he ceases to hold that office, unless in the meantime he has become a member of a Legislative House.

(8) The office of the Premier shall become vacant—

(*a*) when, after any dissolution of the Legislative Houses of the Region, the Premier is informed by the Governor that the Governor is about to re-appoint him as Premier or to appoint another person as Premier; or

(*b*) if he ceases to be a member of the House of Assembly otherwise than by reason of a dissolution of the Legislative Houses.

(9) The office of a Minister of the Government of the Region other than the Premier shall become vacant if the office of Premier becomes vacant.

(10) Subject to the provisions of subsections (8) and (9) of this section, the Ministers of the Government of the Region shall hold office during the Governor's pleasure :

Provided that—

(*a*) the Governor shall not remove the Premier from office unless it appears to him that the Premier no longer commands the support of a majority of the members of the House of Assembly ; and

(*b*) the Governor shall not remove a Minister other than the Premier from office except in accordance with the advice of the Premier.

(11) The office of the Attorney-General of the Region shall be that of a Minister of the Government of the Region:

Provided that—

(*a*) the provisions of subsections (6) and (7) of this section shall not apply in relation to a person holding that office ;

(*b*) if the person holding that office is for any reason unable to perform the functions conferred upon him by this Constitution or any other law, those functions may be performed by such other person (whether or not that person is a Minister) as may from time to time be designated in that behalf by the Governor acting in accordance with the advice of the Premier ; and

(*c*) a person shall not be qualified to hold that office or to perform the functions conferred upon the person holding that office by this Constitution or any other law unless he is qualified for admission as an advocate in Nigeria and has been so qualified for at least ten years.

Establishment of Executive Council

34.—(1) There shall be an Executive Council for the Region, whose function shall be to advise the Governor in the government of the Region and which shall consist of the Premier and such other persons, being Ministers of the Government of the Region, as the Governor, acting in accordance with the advice of the Premier, may from time to time appoint.

(2) A person appointed as a member of the Executive Council shall vacate his seat in the Council if he ceases to be a Minister of the Government of the Region or if the Governor, acting in accordance with the advice of the Premier, so directs.

Collective responsibility

35.—(1) The Executive Council shall be collectively responsible to the Legislative Houses of the Region for any advice given to the Governor by or under the general authority of the Council and for all things done by or under the authority of any Minister of the Government of the Region in the execution of his office.

(2) The provisions of this section shall not apply in relation to—

(*a*) the appointment and removal from office of Ministers of the Government of the Region, members of the Executive Council

and Parliamentary Secretaries to Ministers, the assignment of portfolios to Ministers or the authorization of another member of the Executive Council to perform the functions of the Premier during absence or illness;

(*b*) the dissolution of the Legislative Houses of the Region; or

(*c*) the matters referred to in section 44 of this Constitution (which relates to the prerogative of mercy).

Allocation of portfolios to Ministers

36. The Governor, acting in accordance with the advice of the Premier, may assign to the Premier or any other Minister of the Government of the Region responsibility for any business of the Government of the Region, including the administration of any department of government.

Performance of functions of Premier during absence or illness

37.—(1) Whenever the Premier is absent from Nigeria or is by reason of illness unable to perform the functions conferred upon him by this Constitution the Governor may authorize some other member of the Executive Council of the Region to perform those functions (other than the functions conferred by this section) and that member may perform those functions until his authority is revoked by the Governor.

(2) The powers of the Governor under this section shall be exercised by him in accordance with the advice of the Premier:

Provided that if the Governor considers that it is impracticable to obtain the advice of the Premier owing to his absence or illness he may exercise those powers without that advice.

Exercise of Governor's powers

38.—(1) In the exercise of his functions under this Constitution, the Constitution of the Federation or any other law the Governor shall act in accordance with the advice of the Executive Council or a Minister of the Government of the Region acting under the general authority of the Executive Council except in cases where by this Constitution he is required to act in accordance with the advice of any person or authority other than the Executive Council:

Provided that the Governor shall act in accordance with his own deliberate judgment in the performance of the following functions—

(*a*) in the exercise of the powers relating to the dissolution of the Legislative Houses of the Region conferred upon him by the proviso to subsection (4) of section 31 of this Constitution;

(*b*) in the exercise of the power to appoint the Premier conferred upon him by subsection (2) of section 33 of this Constitution;

(*c*) in the exercise of the powers conferred upon him by section 37 of this Constitution (which relates to the performance of the functions of the Premier during absence or illness) in the circumstances described in the proviso to subsection (2) of that section; and

(*d*) in signifying his approval for the purposes of section 63 of this Constitution of an appointment to an office on his personal staff.

(2) Where by this Constitution the Governor is required to act in accordance with the advice of any person or authority, the question whether he has in any case received, or acted in accordance with, such advice shall not be enquired into in any court of law.

Governor to be informed concerning matters of government

39. The Premier shall keep the Governor fully informed concerning the general conduct of the government of the Region and shall furnish the Governor with such information as he may request with respect to any particular matter relating to the government of the Region.

Parliamentary Secretaries

40.—(1) The Governor, acting in accordance with the advice of the Premier, may appoint Parliamentary Secretaries from among the members of the Legislative Houses of the Regions to assist Ministers of the Government of the Region in the performance of their duties.

(2) The office of a Parliamentary Secretary shall become vacant—

(*a*) if he ceases to be a member of one or other of the Legislative Houses of the Region otherwise than by reason of a dissolution of those Houses;

(*b*) if the office of Premier becomes vacant; or

(*c*) if the Governor, acting in accordance with the advice of the Premier, so directs.

Oaths to be taken by Ministers, etc.

41. A member of the Executive Council, Minister of the Government of the Region or Parliamentary Secretary to such a Minister shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by the Legislature of the Region.

Permanent secretaries

42. Where any Minister of the Government of the Region has been charged with responsibility for any department of government, he shall exercise general direction and control over that department; and, subject to such direction and control, the department shall be under the supervision of a permanent secretary, whose office shall be an office in the public service of the Region:

Provided that two or more government departments may be placed under the supervision of one permanent secretary.

Constitution of offices for Region, etc.

43. Subject to the provisions of this Constitution and of any Regional law, the Governor, in Her Majesty's name and on Her Majesty's behalf, may constitute offices for the Region, make appointments to any such office and terminate any such appointment.

Prerogative of mercy

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

(*a*) grant to any person concerned in or convicted of any offence created by or under a Regional law a pardon, either free or subject to lawful conditions;

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

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

(*d*) remit the whole or any part of any punishment imposed on that person for such an offence or of any penalty or forfeiture otherwise due to the Crown on account of such an offence.

(2) The powers of the Governor under subsection (1) of this section shall be exercised by him in accordance with the advice of such member of the Executive Council as may from time to time be designated in that behalf by the Governor, acting in accordance with the advice of the Premier.

(3) The provisions of this section shall apply in relation to any offence created by or under any law in force in the Region relating to any matter not included in the Legislative Lists set out in the Schedule to the Constitution by the Federation (other than an offence created by or under an Act of Parliament or a Regional law) as they apply in relation to an offence created by or under a Regional law.

Establishment of Advisory Council on Prerogative of Mercy

45.—(1) There shall be for the Region an Advisory Council on the Prerogative of Mercy, which shall consist of—

(*a*) such member of the Executive Council as may for the time being be designated under subsection (2) of section 44 of this Constitution, who shall be chairman;

(*b*) where the chairman is a Minister other than the Attorney-General of the Region, the Attorney-General; and

(*c*) not less than five and not more than seven other members, who shall be appointed by the Governor, acting in accordance with the advice of the Premier, of whom at least one shall be a person who is qualified to practise as a medical practitioner in Nigeria.

(2) A person shall not be qualified for appointment by the Governor as a member of the Advisory Council if he is a member of a Legislative House of the Region, a member of either House of Parliament, a member of a legislative house of another Region, a Minister of the Government of the Region, a Minister of the Government of the Federation or a Minister of the Government of another Region.

(3) A member of the Advisory Council appointed by the Governor shall hold office for three years:

Provided that his seat in the Council shall become vacant—

(*a*) if any circumstances arise that, if he were not a member of the Council, would cause him to be disqualified for appointment as such; or

(*b*) if he is removed from office by the Governor, acting in accordance with the advice of the Premier, for inability to discharge the functions of this office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

Functions of Advisory Council

46.—(1) Where any person has been sentenced to death by any court of law in Nigeria for any offence created by or under a Regional law the member of the Executive Council of the Region designated under subsection (2) of section 44 of this Constitution shall cause a written report of the case from the trial judge, together with such other information derived from the record of the case or elsewhere as the member may require, to be taken into consideration at a meeting of the Advisory Council; and after obtaining the advice of the Council the member shall decide in his own deliberate judgment whether to recommend to the Governor that he should exercise any of his powers under that section in relation to that person.

(2) The member of the Executive Council designated under subsection (2) of section 44 of this Constitution may consult with the Advisory Council before making any recommendation to the Governor under that subsection in any case not falling within subsection (1) of this section, but he shall not be obliged to act in accordance with the advice of the Council.

(3) The Advisory Council may regulate its own procedure.

Public prosecutions

47.—(1) There shall be a Director of Public Prosecutions for the Region, whose office shall be an office in the public service of the Region.

(2) The Director of Public Prosecutions of the Region shall have power in any case in which he considers it desirable so to do—

(*a*) to institute and undertake criminal proceedings against any person before any court of law in the Region in respect of any offence created by or under any Regional law;

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

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

(3) The powers of the Director of Public Prosecutions of the Region under subsection (2) of this section may be exercised by him in person or through members of his staff acting under and in accordance with his general or special instructions.

(4) The Director of Public Prosecutions of the Region may confer a general or special authority upon the Director of Public Prosecutions of the Federation to exercise, subject to such conditions and exceptions as he may think fit, any of the powers conferred upon him by subsection (2) of this section and may vary or revoke any such authority.

(5) The powers conferred upon the Director of Public Prosecutions of the Region by paragraphs (*b*) and (*c*) of subsection (2) of this section shall be vested in him to the exclusion of any other person or authority:

Provided that, where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance of that person or authority at any stage before the person against whom the proceedings have been instituted has been charged before the court.

(6) In the exercise of the powers conferred upon him by this section the Director of Public Prosecutions of the Region shall not be subject to the direction or control of any other person or authority.

(7) For the purposes of this section any appeal from any determination in any criminal proceedings before any court of law in the Region or any case stated or question of law reserved for the purposes of any such proceedings to any other court in Nigeria or to Her Majesty in Council shall be deemed to be part of those proceedings.

(8) The provisions of this section shall apply in relation to any offence created by or under any law in force in the Region relating to any matter not included in the Legislative Lists set out in the Schedule to the Constitution of the Federation (other than an offence

created by or under an Act of Parliament or a Regional law) as they apply in relation to an offence created by or under a Regional law.

CHAPTER IV

COURTS

Establishment of High Court

48.—(1) There shall be a High Court for the Region.

(2) The judges of the High Court of the Region shall be—

(*a*) the Chief Justice of the Region ; and

(*b*) such number of other judges (not being less than six) as may be prescribed by the Legislature of the Region.

(3) The High Court of the Region shall be a superior court of record and, save as otherwise provided by any law in force in the Region, shall have all the powers of such a court.

Appointment of judges of High Court

49.—(1) The Chief Justice of the Region shall be appointed by the Governor, acting in accordance with the advice of the Premier.

(2) The judges of the High Court of the Region other than the Chief Justice shall be appointed by the Governor, acting in accordance with the advice of the Judicial Service Commission of the Region.

(3) A person shall not be qualified to hold the office of a judge of the High Court of the Region unless—

(*a*) he is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court ; or

(*b*) he is qualified for admission as an advocate in Nigeria and he has been so qualified for not less than ten years :

Provided that in computing the period during which any person has been qualified to practise as an advocate any period during which he has held office as a judge or magistrate after becoming so qualified shall be included.

(4) If the office of Chief Justice of the Region is vacant or if the person holding the office is for any reason unable to perform the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding the office has resumed those functions, as the case may be, those functions shall be performed by such one of the other judges of the High Court of the Region as may from time to time be designated in that behalf by the Governor, acting in accordance with the advice of the Premier.

(5) If the office of any judge of the High Court of the Region other than the Chief Justice is vacant or if the person holding the office is acting as Chief Justice or is for any reason unable to perform the functions of his office, the Governor, acting in accordance with the advice of the Judicial Service Commission of the Region, may appoint a person with such qualifications as may be prescribed by the Legislature of the Region to act in the office of a judge of the High Court and any person so appointed shall continue to act for the period of his appointment or if no period is specified until his appointment is

revoked by the Governor, acting in accordance with the advice of the Commission.

Tenure of offices of judges of High Court

50.—(1) Subject to the provisions of this section, a person holding the office of Chief Justice of the Region or any other judge of the High Court of the Region shall vacate his office when he attains such age as may be prescribed by the Legislature of the Region :

Provided that the Governor, acting in accordance with the advice of the Premier, may permit a judge to continue in office for such period after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

(2) A person holding the office of a judge of the High Court of the Region may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(3) A person holding the office of a judge of the High Court of the Region shall be removed from office by the Governor if the question of the removal of that judge from office has, at the request of the Governor made in pursuance of subsection (4) of this section, been referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under any enactment enabling Her Majesty in that behalf and the Judicial Committee has advised Her Majesty that the judge ought to be removed from office for inability or misbehaviour.

(4) If the Premier represents to the Governor that the question of removing a judge of the High Court of the Region under this section ought to be investigated, then—

(*a*) the Governor shall appoint a tribunal consisting of a chairman and not less than two other members selected by the Governor, acting in accordance with the advice of the Premier, from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court ;

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

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

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

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

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

(6) This section shall apply to any person appointed to act in the office of a judge of the High Court of the Region as it applies to a person holding the office of a judge of the High Court, but without prejudice to the provisions of section 49 of this Constitution relating to the revocation of his appointment by the Governor.

Appeals to High Court from subordinate Courts

51.—(1) An appeal shall lie from decisions of a subordinate court 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, an appeal shall thereafter lie to the High Court as of right in the following cases—

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

(*b*) where the ground of appeal to the High Court 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 by the subordinate court from which the appeal lies to the High Court or that subordinate court has affirmed or substituted such a sentence;

(*c*) decisions in any civil or criminal proceedings on questions as to the interpretation of this Constitution, the Constitution of the Federation or the constitution of another Region;

(*d*) decisions in any civil or criminal proceedings on questions as to whether any of the provisions of Chapter III of the Constitution of the Federation has been contravened in relation to any person;

(*e*) decisions in any criminal proceedings in which any person has been sentenced to death by the subordinate court from which the appeal lies to the High Court or in which that subordinate court has affirmed a sentence of death;

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

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

Provided that no appeal shall lie from decisions of a subordinate court established under section 119 of the Constitution of the Federation to the High Court in any case in which an appeal lies as of right to the Federal Supreme Court by virtue of any Act of Parliament enacted in pursuance of section 111 of that Constitution.

(2) An appeal shall lie from decisions of a subordinate court 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, 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; and

(*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:

Provided that no appeal shall lie under paragraph (*a*) of this subsection from decisions of a subordinate court established under section 119 of the Constitution of the Federation to the High Court in any case in which an appeal lies to the Federal Supreme Court (whether as of right or with the leave of the Federal Supreme Court) by virtue of an Act of Parliament enacted under section 111 of that Constitution.

(3) Any right of appeal from decisions of a subordinate court 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 section 47 of this Constitution, 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 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;

"subordinate court" means any court of law in the Region other than the Federal Supreme Court, the High Court of the Region or a court-martial.

Establishment of Judicial Service Commission

52.—(1) There shall be a Judicial Service Commission for the Region.

(2) The members of the Judicial Service Commission of the Region shall be—

(*a*) the Chief Justice of the Region, who shall be chairman;

(*b*) such other judge of the High Court of the Region as may be designated by the Governor, acting in accordance with the advice of the Premier;

(*c*) the chairman of the Public Service Commission of the Region; and

(*d*) one other member, who shall be appointed by the Governor, acting in accordance with the advice of the Premier.

(3) The following provisions shall apply in relation to a member of the Judicial Service Commission of the Region appointed by the Governor—

(*a*) a person shall not be qualified for appointment as such unless he is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court;

(*b*) subject to the provisions of this subsection, a person appointed as such shall vacate his office at the expiration of five years from the date of his appointment;

(*c*) a person appointed as such may be removed from office by the Governor, acting in accordance with the advice of the Premier, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour; and

(*d*) a person appointed as such shall not be removed from office except in accordance with the provisions of this subsection.

Appointment of officers connected with courts

53.—(1) Power to appoint persons to hold or act in the offices to which this section applies (including power to make appointments on promotion and transfer and to confirm appointments) and to dismiss and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Judicial Service Commission of the Region:

Provided that the Commission may, with the approval of the Premier and subject to such conditions as it may think fit, delegate any of its powers under this section to any of its members, to any judge or to the holder of any office to which this section applies.

(2) The offices to which this section applies are the offices of members of any court of law established by the Legislature of the Region, being offices the emoluments attaching to which are payable out of the Consolidated Revenue Fund or any other public fund of the Region, the office of Chief Registrar or Registrar of the High Court, the office of Registrar of any Magistrate's Court established by the Legislature of the Region, any office of Justice of the Peace established by that Legislature and such other offices connected with the High Court of the Region or any court of law established by that Legislature as may be prescribed by that Legislature.

Oaths to be taken by judges

54. A judge of the High Court of the Region shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by the Legislature of the Region.

CHAPTER V

FINANCE

Establishment of Consolidated Revenue Fund

55.—(1) All revenues or other moneys raised or received by the Region (not being revenues or other moneys payable under this Constitution or any Regional law into some other public fund of the Region established for a specific purpose) shall be paid into and form one Consolidated Revenue Fund.

(2) No moneys shall be withdrawn from the Consolidated Revenue Fund of the Region except to meet expenditure that is charged upon the Fund by this Constitution, the Constitution of the Federation or any Regional law or where the issue of those moneys has been authorized by an appropriation law or a law made in pursuance of section 57 of this Constitution.

(3) No money shall be withdrawn from any public fund of the Region other than the Consolidated Revenue Fund unless the issue of those moneys has been authorized by a Regional law.

(4) No money shall be withdrawn from the Consolidated Revenue Fund or any other public fund of the Region except in the manner prescribed by the Legislature of the Region.

Authorization of expenditure from Consolidated Revenue Fund

56.—(1) The Minister of the Government of the Region responsible for finance shall cause to be prepared and laid before both Legislative Houses of the Region in each financial year estimates of the revenues and expenditure of the Region for the next following financial year.

(2) The heads of expenditure contained in the estimates (other than expenditure charged upon the Consolidated Revenue Fund by this Constitution, the Constitution of the Federation or any Regional law) shall be included in a bill, to be known as an appropriation bill, providing for the issue from the Consolidated Revenue Fund of the Region of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

(3) If in respect of any financial year it is found—

(*a*) that the amount appropriated by the appropriation law for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the law; or

(*b*) that any moneys have been expended for any purpose in excess of the amount appropriated for the purpose by the appropriation law or for a purpose for which no amount has been appropriated by the law,

a supplementary estimate showing the sums required or spent shall be laid before both Legislative Houses of the Region and the heads of any such expenditure shall be included in a supplementary appropriation bill.

Authorization of expenditure in advance of appropriation

57. The Legislature of the Region may make provision under which, if the appropriation law in respect of any financial year has not come into operation by the beginning of that financial year, the Minister of the Government of the Region responsible for finance may authorize the withdrawal of moneys from the Consolidated Revenue Fund of the Region for the purpose of meeting expenditure necessary to carry on the services of the Government until the expiration of four months from the beginning of that financial year or the coming into operation of the appropriation law, whichever is the earlier.

Contingencies fund

58.—(1) The Legislature of the Region may provide for the establishment of a Contingencies Fund for the Region and for authorizing the Minister of the Government of the Region responsible for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Fund to meet that need.

(2) Where any advance is made in accordance with subsection (1) of this section a supplementary estimate shall be presented and a supplementary appropriation bill shall be introduced as soon as possible for the purpose of replacing the amount so advanced.

Remuneration of Governor and certain other officers

59.—(1) There shall be paid to the holders of the offices to which

this section applies such salary as may be prescribed by the Legislature of the Region.

(2) The salary and allowances payable to the holders of the offices to which this section applies shall be a charge on the Consolidated Revenue Fund of the Region.

(3) The salary payable to the holder of any office to which this section applies and his terms of office other than allowances shall not be altered to his disadvantage after his appointment.

(4) This section applies to the office of Governor, Chief Justice or other judge of the High Court of the Region, member of the Electoral Commission of the Region, appointed member of the Judicial Service Commission of the Region, member of the Public Service Commission of the Region, Director of Public Prosecutions of the Region and Director of Audit of the Region.

Audit of public accounts

60.—(1) There shall be a Director of Audit for the Region, whose office shall be an office in the public service of the Region.

(2) The public accounts of the Region and of all officers, courts and authorities of the Region shall be audited and reported on by the Director of Audit of the Region and for that purpose the Director or any person authorized by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.

(3) The Director of Audit of the Region shall submit his reports to the Minister of the Government of the Region responsible for finance, who shall cause them to be laid before both Legislative Houses of the Region.

(4) In the exercise of his functions under this Constitution the Director of Audit of the Region shall not be subject to the direction or control of any other person or authority.

Public debt

61.—(1) The public debt of the Region shall be secured on the revenues and assets of the Region.

(2) In this section references to the public debt of the Region include references to the interest on that debt, sinking fund payments in respect of that debt and the costs, charges and expenses incidental to the management of that debt.

CHAPTER VI

THE PUBLIC SERVICE OF THE REGION

Establishment of Public Service Commission

62.—(1) There shall be a Public Service Commission for the Region, which shall consist of a chairman and not less than two or more than four other members.

(2) The members of the Public Service Commission of the Region shall be appointed by the Governor, acting in accordance with the advice of the Premier.

(3) A person shall not be qualified to hold the office of a member of the Public Service Commission of the Region if he is a member of a Legislative House of the Region, a member of a House of Parliament, a member of a legislative house of another Region, a Minister

of the Government of the Region, a Minister of the Government of the Federation, a Minister of the Government of another Region or a member of the public service of the Region, the public service of the Federation or the public service of another Region.

(4) Subject to the provisions of this section, a member of the Public Service Commission of the Region shall vacate his office—

(*a*) at the expiration of five years from the date of his appointment; or

(*b*) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(5) A member of the Public Service Commission of the Region may be removed from office by the Governor, acting in accordance with the advice of the Premier, 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) A member of the Public Service Commission of the Region shall not be removed from office except in accordance with the provisions of this section.

(7) A person who has been appointed to be a member of the Public Service Commission of the Region shall not thereafter be eligible for appointment to any office in the public service of the Region.

Appointment, etc. of officers in public service

63.—(1) Power to appoint persons to hold or act in offices in the public service of the Region (including power to make appointments on promotion and transfer and to confirm appointments) and to dismiss and exercise disciplinary control over persons holding or acting in such offices shall vest in the Public Service Commission of the Region:

Provided that the Commission may, with the approval of the Premier and subject to such conditions as it may think fit, delegate any of its powers under this section to any of its members or to any officer in the public service of the Region.

(2) This section shall not apply in relation to any of the following offices—

(*a*) the office of the Deputy Governor of the Region or any judge of the High Court of the Region;

(*b*) except for the purposes of making appointments thereto, the office of the Director of Audit of the Region or the Director of Public Prosecutions of the Region;

(*c*) any office to which section 53 of this Constitution (which relates to offices within the jurisdiction of the Judicial Service Commission of the Region) applies;

(*d*) any office to which section 65 of this Constitution (which relates to the office of the principal representative of the Region in the United Kingdom) applies.

(3) The provisions of this section shall be subject to the provisions of section 66 of this Constitution (which relates to permanent secretaries).

(4) No appointment shall be made under this section to any office on the personal staff of the Governor unless the Governor signifies his approval of the appointment.

Appointment, etc. of Deputy Governor

64. If at any time the office of Deputy Governor of the Region is established under section 43 of this Constitution, power to appoint persons to hold or act in that office and to remove persons so appointed from that office shall vest in the Governor, acting in accordance with the advice of the Premier.

Appointment, etc. of Agent-General in U.K.

65.—(1) Power to appoint persons to hold or act in the office of the Agent-General of the Region in the United Kingdom (including power to make appointments on promotion and transfer) and to remove persons so appointed from that office shall vest in the Governor acting in accordance with the advice of the Premier.

(2) Before tendering any advice for the purposes of this section in relation to any person who holds any office in the public service of the Region other than an office to which this section applies, the Premier shall consult the Public Service Commission of the Region.

Appointment, etc. of permanent secretaries

66.—(1) Power to appoint persons to hold or act in the office of permanent secretary to any department of government of the Region and to remove persons so appointed from that office shall vest in the Governor, acting in accordance with the advice of the Premier.

(2) Before tendering any advice for the purposes of this section the Premier shall consult the Public Service Commission of the Region.

Qualifications of Director of Public Prosecutions

67. A person shall not be qualified to hold or act in the office of Director of Public Prosecutions of the Region unless he is qualified for admission as an advocate in Nigeria and has been so qualified for at least ten years.

Tenure of office of Director of Public Prosecutions

68.—(1) Subject to the provisions of this section, a person holding the office of Director of Public Prosecutions of the Region shall vacate that office when he attains such age as may be prescribed by the Legislature of the Region.

(2) A person holding the office of Director of Public Prosecutions of the Region may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(3) A person holding the office of Director of Public Prosecutions of the Region shall be removed from office by the Governor if the question of his removal from office has been referred to a tribunal appointed under subsection (4) of this section and the tribunal has recommended to the Governor that he ought to be removed from office for inability or misbehaviour.

(4) If the Premier represents to the Governor that the question of removing the Director of Public Prosecutions of the Region under this section ought to be investigated then—

(*a*) the Governor shall appoint a tribunal, which shall consist of a chairman and not less than two other members, acting in accordance with the advice of the Premier, the chairman and half of the other members being persons who hold or have held

office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; and

(*b*) that tribunal shall enquire into the matter and report on the facts thereof to the Governor and recommend to the Governor whether the Director ought to be removed under this section.

(5) If the question of removing the Director of Public Prosecutions of the Region has been referred to a tribunal under this section, the Governor, acting in accordance with the advice of the Premier, may suspend the Director from performing the functions of his office and any such suspension may at any time be revoked by the Governor, acting in accordance with the advice of the Premier, and shall in any case cease to have effect if the tribunal recommends to the Governor that the Director should not be removed.

Appointment and tenure of office of Director of Audit

69.—(1) Before appointing any person to hold the office of Director of Audit of the Region the Public Service Commission of the Region shall consult the Premier.

(2) Subject to the provisions of this section, a person holding the office of Director of Audit of the Region shall vacate that office when he attains such age as may be prescribed by the Legislature of the Region.

(3) A person holding the office of Director of Audit of the Region shall be removed from office by the Governor if a resolution is passed by each Legislative House of the Region recommending his removal from office for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(4) Any person holding the office of Director of Audit of the Region shall not be removed from office except in accordance with the provisions of this section.

(5) If the office of Director of Audit of the Region is vacant or the holder of the office is for any reason unable to perform the functions of the office, the Public Service Commission of the Region, acting after consultation with the Premier, may appoint a person to act in the office and any person so appointed shall continue to act until his appointment is revoked by the Commission, acting after consultation with the Premier.

Powers relating to Clerks of Legislative Houses

70. Before exercising any of its powers in relation to the Clerk to the House of Chiefs the Public Service Commission of the Region shall consult the President of that House and before exercising any of its powers in relation to the Clerk to the House of Assembly the Commission shall consult the Speaker of that House.

Powers of Commissions in relation to grant of pensions, etc.

71.—(1) Where any benefits to which this section applies can be withheld, reduced in amount or suspended by any person or authority under any Regional law, those benefits shall not be so withheld, reduced in amount or suspended—

(*a*) in the case of benefits that have been granted in respect of the service in the public service of the Region of any person who at the time when he ceased to be a member of that public service

was subject to the jurisdiction of the Judicial Service Commission of the Region or for which any person may be eligible in respect of such service, without the approval of that Commission ; or

(*b*) in any other case, without the approval of the Public Service Commission of the Region.

(2) No benefits to which this section applies that have been granted to any person who holds or has held the office of judge of the High Court of the Region or for which any such person may be eligible shall be withheld, reduced or suspended on the ground that that person has been guilty of misbehaviour while holding that office unless that person has been removed from that office by reason of such misbehaviour.

(3) This section applies to any benefits payable under any Regional law providing for the grant of pensions, gratuities or compensation to persons who are or have been members of the public service of the Region in respect of their service in that public service or to the widows, children, dependants or personal representatives of such persons in respect of such service.

CHAPTER VII

MISCELLANEOUS

Powers and procedure of Commissions

72.—(1) Any Commission established by this Constitution may, with the consent of the Premier or such other Minister of the Government of the Region as may be authorized in that behalf by the Premier, by regulation or otherwise regulate its own procedure or confer powers and impose duties on any officer or authority of the Region for the purpose of discharging its functions.

(2) Subject to its rules of procedure, any Commission established by this Constitution may act notwithstanding any vacancy in its membership or the absence of any member :

Provided that any decision of the Commission shall require the concurrence of a majority of all the members thereof.

Minority Areas

73.—(1) The Governor may declare any area within the Region to be a Minority Area.

(2) There shall be a Minority Council for each Minority Area, which shall consist of—

(*a*) those members of the House of Representatives of the Federation or the House of Assembly who have been elected as such to represent a constituency all or part of which is within that Minority Area ; and

(*b*) those members of the House of Chiefs who represent an area all or part of which is within that Minority Area.

(3) The Minority Council for a Minority Area shall be responsible for advising the Government of the Region with respect to the development and welfare of that Minority Area and for bringing to the notice of the Government any discrimination against the inhabitants of that Minority Area and shall have such other functions with respect to that Minority Area as may be conferred upon it by any law in force in the Region.

(4) For the purposes of this section the Legislature of the Region may—

(*a*) make provision for the selection of persons as members of the Minority Council for a Minority Area;

(*b*) prescribe the circumstances in which the seat in the Council of a person so selected shall become vacant; and

(*c*) make provision for the organization of the work of the Council and the appointment, tenure of office and terms of service of staff to assist the Council in the performance of its functions.

Resignations

74.—(1) Any person who is appointed, elected or otherwise selected to any office established by this Constitution may resign from that office by writing under his hand addressed to the person or authority by whom he is appointed, elected or selected.

Provided that in the case of a member of a Legislative House of the Region who holds office as President or Speaker of the House his resignation from the House or that office shall be addressed to the House and in the case of any other member of the House his resignation from the House shall be addressed to the President or Speaker of the House.

(2) The resignation of any person from any office established by this Constitution shall take effect when the writing signifying the resignation is received by the person or authority to whom it is addressed or by any person authorized by that person or authority to receive it.

Re-appointments, etc.

75.—(1) Where any person has vacated any office constituted by this Constitution, he may, if qualified, again be appointed, elected or otherwise selected to hold that office in accordance with the provisions of this Constitution.

(2) Where by this Constitution a power is conferred upon any person or authority to make any appointment to any office in the public service of the Region, a person may be appointed to that office notwithstanding that some other person may be holding that office, when that other person is on leave of absence pending relinquishment of his office; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this subsection, then for the purposes of any function conferred upon the holder of that office, the person last appointed shall be deemed to be the sole holder of the office.

Interpretation

76.—(1) In this Constitution, unless it is otherwise expressly provided or required by the context—

"Act of Parliament" means any law made by Parliament;

"the Advisory Council" means the Advisory Council on the Prerogative of Mercy of the Region;

"the Commonwealth" means Nigeria, any country to which section 13 of the Constitution of the Federation applies and any dependency of any such country;

"financial year" means any period of twelve months beginning on the first day of April in any year or such other date as the Legislature of the Region may prescribe;

"oath" includes affirmation;

" the oath of allegiance " means such oath of allegiance as may be prescribed by Parliament ;

" Parliament " means the Parliament of the Federation ;

" the public service of the Region " means the service of the Crown in a civil capacity in respect of the government of the Region ;

" Regional law " means any law made by the Legislature of the Region.

(2) In this Constitution, unless it is otherwise expressly provided or required by the context—

(*a*) references to persons holding offices in the public service of the Federation or the public service of a Region include references to persons acting in those offices ; and

(*b*) references to offices in the public service of the Region include references to the offices of the judges of the High Court of the Region and references to the offices of members of all other courts of law established by the Legislature of the Region, being offices the emoluments attaching to which are paid out of the Consolidated Revenue Fund or any other public fund of the Region.

(3) For the purposes of this Constitution, the office of the President or the Deputy President of the House of Chiefs, a member of the House of Chiefs, the Speaker or the Deputy Speaker of the House of Assembly, a member of the House of Assembly, a Minister of the Government of the Region, a Parliamentary Secretary to such a Minister or a member of the Executive Council, any Commission established by this Constitution, the Advisory Council or the Minority Council for a Minority Area in the Region shall not be regarded as an office in the public service of the Region.

(4) The Interpretation Act, 1889(a), as in force on the first day of October, 1960, shall apply, with the necessary adaptations, for the purpose of interpreting this Constitution and otherwise in relation thereto as it applies for the purposes of interpreting, and in relation to, Acts of the Parliament of the United Kingdom.

(5) No provision of this Constitution that any person or authority shall not be subject to the direction or control of any other person or authority in exercising any functions under this Constitution shall be construed as precluding a court of law from exercising jurisdiction in relation to any question whether that person or authority has performed those functions in accordance with this Constitution or any other law.

(a) 52 & 53 Vict. c. 63

THE FIFTH SCHEDULE Section 2.

THE CONSTITUTION OF EASTERN NIGERIA

ARRANGEMENT OF SECTIONS

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Whereas Eastern Nigeria is a Region of the Federation of Nigeria:

And whereas it is expedient to make provision, subject to the provisions of the Constitution of the Federation, for a Constitution for Eastern Nigeria (hereinafter referred to as "the Region"):

Now, therefore, the Constitution of the Region shall be as follows:—

CHAPTER I

THE GOVERNOR

Establishment of office of Governor

1.—(1) There shall be a Governor of the Region, who shall be appointed by Her Majesty and shall hold office during Her Majesty's pleasure and who shall be Her Majesty's representative in the Region.

(2) The Premier shall consult the Prime Minister of the Federation before tendering any advice to Her Majesty for the purposes of this section.

Oaths to be taken by Governor

2. A person appointed to the office of Governor shall, before entering upon the duties of that office, take and subscribe the oath of allegiance and such oath for the due execution of the office as may be prescribed by the Legislature of the Region.

Discharge of Governor's functions during vacancy, etc.

3. Whenever the office of Governor is vacant or the holder of the office is absent from Nigeria or is for any reason unable to perform the functions conferred upon him by this Constitution, those functions shall be performed by such person as Her Majesty may appoint or, if there is no person in the Region so appointed and able to perform those functions, by the Chief Justice of the Region:

Provided that nothing in this section shall preclude the Governor from performing any of those functions at any time when he is absent from Nigeria.

CHAPTER II

THE LEGISLATURE

Part I

Composition of Legislature

Establishment of Legislature

4. There shall be a Legislature for the Region, which shall consist of Her Majesty, a House of Chiefs and a House of Assembly and which shall have power to make laws for the peace, order and good government of the Region.

Composition of House of Chiefs

5.—(1) The House of Chiefs shall consist of—

(*a*) all traditional Rulers, who shall be *ex-officio* members of the House;

(*b*) such first-class Chiefs as may be selected to represent provinces in the Region in such manner as may be prescribed by the Legislature of the Region;

(*c*) fifty-five Chiefs having such qualifications and selected in such manner as may be prescribed by the Legislature of the Region; and

(*d*) such special members (not exceeding five) having such qualifications as may be prescribed by the Legislature of the Region as may

be selected by the Governor, acting in accordance with the advice of the Premier.

(2) The seat in the House of Chiefs of a member other than an *ex-officio* member shall become vacant in such circumstances as may be prescribed by the Legislature of the Region.

(3) In this section—

"Chief" means any person who is for the time being recognized as a Chief under any law in force in the Region;

"first-class Chief" means any Chief who is for the time being recognized as a first-class Chief under any law in force in the Region;

"traditional Ruler" means any person who is for the time being recognized as a traditional Ruler under any law in force in the Region.

Composition of House of Assembly

6. The House of Assembly shall consist of one hundred and forty-six members.

Qualifications for membership of House of Assembly

7. Subject to the provisions of section 8 of this Constitution, a person shall be qualified to be a member of the House of Assembly if he is a citizen of Nigeria who has attained the age of twenty-one years and—

(*a*) was born in the Region; or

(*b*) whose father was born in the Region; or

(*c*) who has resided in the Region for a continuous period of at least one year immediately before the date of the election.

Disqualifications for membership of House of Assembly

8.—(1) No person shall be qualified for election to the House of Assembly—

(*a*) if he has voluntarily acquired citizenship of a country other than Nigeria or has made a declaration of allegiance to such a country;

(*b*) if under any law in force in any part of Nigeria he is adjudged to be a lunatic or otherwise declared to be of unsound mind;

(*c*) if he is under a sentence of death imposed on him by any court of law in Nigeria or a sentence of imprisonment (by whatever name called) exceeding six months imposed upon him by such a court or substituted by competent authority for some other sentence imposed on him by such a court;

(*d*) if he is an undischarged bankrupt, having been adjudged or otherwise declared to be bankrupt under any law in force in any part of Nigeria;

(*e*) save as otherwise provided by the Legislature of the Region, if he is a member of the public service of the Region, the public service of the Federation or the public service of another Region, a member of the armed forces of the Crown or the holder of any other office of emolument under the Crown; or

(*f*) if he is a member of the House of Chiefs, an *ex-officio* member of the Senate or a member of a legislative house of another Region.

(2) The Legislature of the Region may provide that a person shall not be qualified for membership of the House of Assembly for such

period (not exceeding five years) as may be prescribed if he is convicted by any court of law in Nigeria of such offences connected with the selection or election of members of a Legislative House of the Region, a House of Parliament or a legislative house of another Region as may be prescribed.

(3) The Legislature of the Region may prescribe that a person disqualified under paragraph (*c*) of subsection (1) of this section by reason of his being under a sentence of imprisonment exceeding six months for any such offence (being an offence that appears to that Legislature to involve dishonesty) as may be prescribed or by reason of his being under sentences of imprisonment that include such a sentence for any such offence shall not be qualified for membership of the House of Assembly for such period from the date on which he ceases to be disqualified under that paragraph (not exceeding five years) as may be prescribed.

(4) The Legislature of the Region may provide that a person who is the holder of any office the functions of which involve responsibility for, or in connection with, the conduct of any election to the House of Assembly or the compilation of any register of voters for the purposes of such an election shall not be qualified for election to that House.

(5) The Legislature of the Region may, in order to permit any person who has been adjudged to be a lunatic, declared to be of unsound mind, sentenced to death or imprisonment or adjudged or declared bankrupt to appeal against the decision in accordance with any law in force in Nigeria, provide that, subject to such conditions as may be prescribed, the decision shall not have effect for the purposes of subsection (1) of this section for such time as may be prescribed.

(6) For the purposes of paragraph (*c*) of subsection (1) of this section two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds six months but if any one of those sentences exceeds that term they shall be regarded as one sentence.

(7) For the purposes of paragraph (*e*) of subsection (1) of this section—

(*a*) a person shall not be regarded as holding an office of emolument under the Crown by reason only that he is in receipt of a pension or other like benefit in respect of service in an office under the Crown ; and

(*b*) the office of the Speaker or the Deputy Speaker of the House of Assembly, the President, Deputy President, Speaker or Deputy Speaker or a member of a House of Parliament or a legislative house of another Region, a Minister of the Government of the Region, a Minister of the Government of the Federation, a Minister of the Government of another Region, a Parliamentary Secretary to any such Minister, a member of the Executive Council of the Region, a member of the Council of Ministers, a member of the Executive Council of another Region, a member of the Council of Chiefs of the Northern Region, a member of the Minority Council of a Minority Area in the Region or Western Nigeria or a member of any such body corporate as is referred to in the proviso to subsection (10) of this section shall not be regarded as an office of emolument under the Crown.

(8) Save as otherwise provided by the Legislature of the Region, a person shall not be regarded as disqualified for membership of the House of Assembly by reason only that he holds office as a member of a statutory corporation.

(9) If a person who holds the office of a member of any statutory corporation becomes a member of the House of Assembly, he shall, unless it is otherwise provided by the Legislature of the Region, thereupon cease to hold office as a member of that corporation.

(10) In this section "statutory corporation" means any body corporate established directly by any law in force in Nigeria :

Provided that it does not include any body corporate established by or under the Eastern Region Local Government Law, 1960, of the Region(a), as amended, or any law replacing that law.

President of House of Chiefs

9.—(1) There shall be a President of the House of Chiefs, who shall be elected by the members of that House.

(2) The President of the House of Chiefs shall vacate his office—

(*a*) if, having been elected from among the members of the House, he ceases to be a member of the House otherwise than by reason of a dissolution of the Legislative Houses of the Region ;

(*b*) if, having been elected from outside the House, any circumstances arise (other than a dissolution of the Legislative Houses) that if he were a member of the House selected from among the Chiefs would cause him to vacate his seat as such ;

(*c*) when the House first sits after any dissolution ;

(*d*) if he becomes a Minister of the Government of the Region, a Parliamentary Secretary to such a Minister, a Minister of the Government of the Federation or a Minister of the Government of another Region ; or

(*e*) if he is removed from office by a resolution of the House supported by the votes of two-thirds of all the members of the House.

(3) No business shall be transacted in the House of Chiefs (other than an election to the office of President) at any time when the office of President is vacant.

Speaker of House of Assembly

10.—(1) There shall be a Speaker of the House of Assembly, who shall be elected by the members of that House.

(2) No person shall be elected as Speaker of the House of Assembly unless he is a member of the House or a person qualified to be a member of the House.

(3) The Speaker of the House of Assembly shall vacate his office—

(*a*) if, having been elected from among the members of the House, he ceases to be a member otherwise than by reason of a dissolution of the Legislative Houses of the Region ;

(*b*) if, having been elected from outside the House, any circumstances arise (other than a dissolution of the Legislative Houses) that if he were a member of the House would cause him to vacate his seat as such ;

(*c*) when the House first sits after any dissolution ;

(a) Law No. 17 of 1960.

(*d*) if he becomes a Minister of the Government of the Region, a Parliamentary Secretary to such a Minister, a Minister of the Government of the Federation or a Minister of the Government of another Region ; or

(*e*) if he is removed from office by a resolution of the House supported by the votes of two-thirds of all the members of the House.

(4) No business shall be transacted in the House of Assembly (other than an election to the office of Speaker) at any time when the office of Speaker is vacant.

Right of attendance of Ministers

11.—(1) A Minister of the Government of the Region may attend and take part in the proceedings of either Legislative House of the Region notwithstanding that he is not a member of that House.

(2) Nothing in this section shall entitle any person who is not a member of a Legislative House of the Region to vote in that House or any of its committees.

Tenure of seats of members of House of Assembly

12.—(1) A member of the House of Assembly shall vacate his seat in the House—

(*a*) if he becomes a member of the House of Chiefs, a House of Parliament or a legislative house of another Region ;

(*b*) if any other circumstances arise that, if he were not a member of the House, would cause him to be disqualified for election as such under subsection (1) or (2) of section 8 of this Constitution ;

(*c*) if he ceases to be a citizen of Nigeria ;

(*d*) if he becomes a Minister of the Government of the Federation or a Minister of the Government of another Region ;

(*e*) save as otherwise provided by the Legislature of the Region, if he becomes a member of any statutory corporation ; or

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

(2) The Legislature of the Region may, in order to permit any member of the House of Assembly who has been adjudged to be a lunatic, declared to be of unsound mind, sentenced to death or imprisonment or adjudged or declared bankrupt to appeal against the decision in accordance with any law in force in Nigeria, provide that, subject to such conditions as may be prescribed, the decision shall not have effect for the purposes of this section until such time as may be prescribed.

(3) In this section the expression " statutory corporation " has the meaning assigned to it for the purposes of section 8 of this Constitution.

Establishment of Electoral Commission

13.—(1) There shall be an Electoral Commission for the Region.

(2) The members of the Electoral Commission of the 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 may be appointed by the Governor, acting in accordance with the advice of the Premier.

(3) A person shall not be qualified for appointment as a member of the Electoral Commission of the Region if he is a member of either Legislative House of the Region, a member of either House of Parliament or a member of a legislative house of another Region, a Minister of the Government of the Region, a Minister of the Government of the Federation, a Minister of the Government of another Region or a member of the public service of the Region, the public service of the Federation or the public service of another Region.

(4) Subject to the provisions of this section, a member of the Electoral Commission of the Region appointed by the Governor shall vacate his office—

(*a*) at the expiration of five years from the date of his appointment ; or

(*b*) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(5) A member of the Electoral Commission of the Region appointed by the Governor may be removed from office by the Governor, acting in accordance with the advice of the Premier, 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) A member of the Electoral Commission of the Region appointed by the Governor shall not be removed from office except in accordance with the provisions of this section.

(7) In the exercise of its functions under this Constitution the Electoral Commission of the Region shall not be subject to the direction or control of any other person or authority.

Constituencies

14.—(1) The Region shall be divided into as many constituencies as there are members of the House of Assembly in such manner as the competent authority, acting with the approval of each Legislative House of the Region signified by resolution, may prescribe.

(2) The boundaries of each constituency shall be such that the number of inhabitants thereof is as nearly equal to the population quota as is reasonably practicable :

Provided that the number of inhabitants of a constituency may be greater or less than the population quota in order to take account of means of communication, geographical features and the distribution of different communities.

(3) The competent authority shall review the division of the Region into constituencies at intervals of not less than eight and not more than ten years and may alter the constituencies in accordance with the provisions of this section to such extent as it may consider desirable in the light of the review :

Provided that that authority may at any time carry out such a review and alter the constituencies in accordance with the provisions

of this section to such extent as it considers necessary in consequence of any alteration of the boundaries of the Region or by reason of the holding of a census of the population of the Region in pursuance of any law in force in the Region.

(4) Where the boundaries of any constituency established under this section are altered in accordance with the provisions of this section, that alteration shall come into effect upon the next dissolution of the Legislative Houses of the Region after the alteration has been approved by those Houses.

(5) In this section "population quota" means the number obtained by dividing the number of the inhabitants of the Region by the number of constituencies into which the Region is divided under this section.

(6) For the purposes of this section the number of inhabitants of the Region shall be ascertained by reference to the latest census of the population of the Region held in pursuance of any law in force in the Region.

(7) In this section "the competent authority" means the Electoral Commission of the Region or such other authority consisting of persons appointed by the Governor, acting in accordance with the advice of the Premier, as may be established in that behalf by the Legislature of the Region.

Elections

15.—(1) Every constituency established under section 14 of this Constitution shall return to the House of Assembly one member who shall be directly elected in such manner as may be prescribed by the Legislature of the Region.

(2) The registration of voters at elections to the House of Assembly and the conduct of such elections shall be subject to the direction and supervision of the Electoral Commission of the Region.

Determination of questions of membership of Houses of Legislature

16.—(1) The High Court of the Region shall have original jurisdiction to hear and determine any question whether—

(*a*) any person has been validly selected or elected as a member of a Legislative House of the Region; or

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

(2) The Legislature of the Region may make provision with respect to—

(*a*) the persons who may apply to the High Court of the Region for the determination of any question under this section;

(*b*) the circumstances and manner in which, and the conditions upon which, any such application may be made; and

(*c*) the powers, practice and procedure of the High Court in relation to any such application.

Clerks to Legislative Houses and their staffs

17.—(1) There shall be a Clerk to the House of Chiefs and a Clerk to the House of Assembly:

Provided that the offices of Clerk to the House of Chiefs and Clerk to the House of Assembly may be held by the same person.

(2) Subject to the provisions of any Regional law, the office of the

Clerk of each Legislative House of the Region and the members of his staff shall be offices in the public service of the Region.

Part 2

Procedure in Legislative Houses

Oaths to be taken by members of Legislative Houses

18.—(1) Every member of either Legislative House of the Region shall, before taking his seat in that House, take and subscribe before the House the oath of allegiance but a member may before taking that oath take part in the election of a President of the House of Chiefs or a Speaker of the House of Assembly, as the case may be:

Provided that if a Legislative House is not sitting a member of that House may take and subscribe the oath of allegiance before a judge of the High Court of the Region.

(2) Any person elected to the office of President or Speaker of a Legislative House of the Region who is not a member of that House shall, before entering upon the duties of his office, take and subscribe the oath of allegiance before the House.

Presiding in House of Chiefs

19.—(1) There shall preside at any sitting of the House of Chiefs—

(*a*) the President; or

(*b*) in the absence of the President, the Deputy President; or

(*c*) in the absence of the President and the Deputy President, such member of the House as the House may elect for that purpose.

(2) The House of Chiefs may from time to time elect a member of the House to be Deputy President and any person so elected shall hold office as such until he ceases to be a member of the House or is removed from office by the House.

Presiding in House of Assembly

20.—(1) There shall preside at any sitting of the House of Assembly—

(*a*) the Speaker; or

(*b*) in the absence of the Speaker, the Deputy Speaker; or

(*c*) in the absence of the Speaker and the Deputy Speaker, such member of the House as the House may elect for that purpose.

(2) The House of Assembly may from time to time elect a member of the House to be Deputy Speaker, and any person so elected shall hold office as such until he ceases to be a member of the House or is removed from office by the House.

Quorum in Legislative Houses

21. If objection is taken by any member of a Legislative House of the Region present that there are present in that House (besides the person presiding) fewer than one-sixth of all the members of that House and, after such interval as may be prescribed in the rules of procedure of the House, the person presiding ascertains that the number of members present is still less than one-sixth of all the members of the House, he shall thereupon adjourn the House.

Use of English in Legislative Houses

22. The business of the Legislative Houses of the Region shall be conducted in English.

Voting in Legislative Houses

23.—(1) Any question proposed for decision in a Legislative House of the Region shall be determined by the required majority of the members present and voting; and the person presiding shall cast a vote whenever necessary to avoid an equality of votes but shall not vote in any other case.

(2) Save as otherwise provided in this Constitution, the required majority for the purposes of determining any question shall be a simple majority.

(3) The rules of procedure of a Legislative House of the Region may provide that the vote of a member upon a question in which he has a direct pecuniary interest shall be disallowed.

Unqualified persons sitting or voting

24. Any person who sits or votes in either Legislative House of the Region knowing or having reasonable ground for knowing that he is not entitled to do so shall be liable to a penalty not exceeding twenty pounds or such other sum as may be prescribed by the Legislature of the Region for each day on which he sits or votes in that House, which shall be recoverable by action in the High Court of the Region at the suit of the Attorney-General of the Region.

Mode of exercising legislative power

25.—(1) The power of the Legislature of the Region to make laws shall be exercised by bills passed by both Legislative Houses of the Region (or in the cases mentioned in section 27 of this Constitution the House of Assembly) and assented to by the Governor on behalf of Her Majesty.

(2) A bill other than a money bill may originate in either Legislative House of the Region, but a money bill may originate only in the House of Assembly.

(3) When a bill has been passed by the Legislative House of the Region in which it originated, it shall be sent to the other House; and it shall be presented to the Governor for assent—

(*a*) when it has been passed by the other House and agreement has been reached between the two Houses on any amendments made in it; or

(*b*) when it is required to be so presented under section 27 of this Constitution.

(4) When a bill is presented to the Governor for assent, he shall signify that he assents or that he withholds assent.

(5) A bill shall not become law unless it has been duly passed and assented to in accordance with this Constitution.

Restrictions with regard to certain financial measures

26.—(1) The House of Chiefs shall not—

(*a*) proceed upon any bill, other than a bill sent from the House of Assembly, that, in the opinion of the person presiding, makes provision for any of the following purposes—

(i) for the imposition, repeal or alteration of taxation;

(ii) for the imposition of any charge upon the Consolidated Revenue Fund or any other public fund of the Region;

(iii) for the payment, issue or withdrawal from the Consolidated Revenue Fund or any other public fund of the Region of any moneys not charged thereon or any alteration in the amount of such a payment, issue or withdrawal; or

(iv) for the composition or remission of any debt due to the Region;

(*b*) proceed upon any amendment to any bill that in the opinion of the person presiding makes provision for any of those purposes;

(*c*) proceed upon any motion (including any amendment to a motion), the effect of which, in the opinion of the person presiding, would be to make provision for any of those purposes; or

(*d*) receive any petition that, in the opinion of the person presiding, requests that provision be made for any of those purposes.

(2) Except upon the recommendation of the Governor signified by a Minister of the Government of the Region, the House of Assembly shall not—

(*a*) proceed upon any bill (including any amendment to a bill) that, in the opinion of the person presiding, makes provision for any of the following purposes—

(i) for the imposition of taxation or the alteration of taxation otherwise than by reduction;

(ii) for the imposition of any charge upon the Consolidated Revenue Fund or any other public fund of the Region or the alteration of any such charge otherwise than by reduction;

(iii) for the payment, issue or withdrawal from the Consolidated Revenue Fund or any other public fund of the Region of any moneys not charged thereon or any increase in the amount of such a payment, issue or withdrawal; or

(iv) for the composition or remission of any debt due to the Region;

(*b*) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding, would be to make provision for any of those purposes; or

(*c*) receive any petition that, in the opinion of the person presiding, requests that provision be made for any of those purposes.

Limitation of powers of House of Chiefs

27.—(1) Where a money bill is passed by the House of Assembly and, having been sent to the House of Chiefs at least one month before the end of the session, is not passed by the House of Chiefs without amendment within one month after it is so sent, the bill shall, unless the House of Assembly otherwise resolves, be presented to the Governor for his assent.

(2) Where—

(*a*) a bill that is not a money bill is passed by the House of Assembly and, having been sent to the House of Chiefs at least one month before the end of the session, is not passed by the House of Chiefs before the end of the session or is passed by the House of Chiefs with amendments to which the House of Assembly does not before the end of the session agree; and

(*b*) in the following session (whether of the same Legislative Houses or not) but not earlier than six months after it was first passed by the House of Assembly the same bill, with no other alterations than those mentioned in subsection (4) of this section, is passed again by the House of Assembly and sent to the House of Chiefs at least one month before the end of the session and is not passed by the House of Chiefs before the end of the session or is passed by the House of Chiefs with amendments to which the House of Assembly does not before the end of the session agree,

the bill shall, unless the House of Assembly otherwise resolves, be presented to the Governor for his assent with such amendments, if any, as may have been agreed to by both Houses.

(3) The House of Assembly may, on the passage of a bill for the purposes of paragraph (*b*) of subsection (2) of this section, suggest any amendments without inserting the amendments in the bill and any such suggested amendments shall be considered by the House of Chiefs and, if agreed to by the House of Chiefs, shall be treated as amendments agreed to by both Houses; but the exercise of this power by the House of Assembly shall not affect the operation of this section if the bill is not passed by the House of Chiefs or is passed by the House of Chiefs with amendments to which the House of Assembly does not agree.

(4) The alterations referred to in subsection (2) of this section are alterations certified by the Speaker of the House of Assembly to be necessary owing to the time that has elapsed since the bill was passed in the earlier session or to represent amendments made in that session by the House of Chiefs.

(5) When a money bill is sent to the House of Chiefs from the House of Assembly it shall bear a certificate of the Speaker of the House of Assembly that it is a money bill.

(6) When a bill is presented to the Governor in pursuance of this section it shall bear a certificate of the Speaker of the House of Assembly that this section has been complied with and that certificate shall be conclusive for all purposes and shall not be questioned in any court.

(7) This section does not apply to any bill for the purposes of section 5 of the Constitution of the Federation.

Regulation of procedure in Legislative Houses

28.—(1) Subject to the provisions of this Constitution, each Legislative House of the Region may regulate its own procedure.

(2) Each Legislative House of the Region may act notwithstanding any vacancy in its membership (including any vacancy not filled when the House first meets after any dissolution) and the presence or participation of any person not entitled to be present at or to participate in the proceedings of the House shall not invalidate those proceedings.

Interpretation

29. In this Part of this Chapter "money bill" means a bill that in the opinion of the Speaker of the House of Assembly contains only provisions dealing with—

(*a*) the imposition, repeal, remission, alteration or regulation of taxation;

(*b*) the imposition for the payment of debt or other financial purposes of charges on the Consolidated Revenue Fund or any other public fund of the Region or the variation or repeal of any such charges;

(*c*) the grant of money to the Crown or to any other person or authority or the variation or revocation of any such grant;

(*d*) the appropriation, receipt, custody, investment, issue or audit of accounts of public money;

(*e*) the raising or guarantee of any loan or the repayment thereof; or

(*f*) subordinate matters incidental to any of those matters;

Provided that the expressions "taxation", "public money" and "loan" do not include any taxation, money or loan raised by local authorities or bodies for public purposes.

PART 3

Summoning, prorogation and dissolution

Sessions of Legislative Houses

30. Each session of the Legislative Houses of the Region shall be held at such place within the Region and shall begin at such time (not being later than twelve months from the end of the preceding session if those Houses have been prorogued or three months from the end of that session if those Houses have been dissolved) as the Governor shall appoint.

Prorogation and dissolution of Legislative Houses

31.—(1) The Governor may at any time prorogue or dissolve the Legislative Houses of the Region.

(2) Subject to the provisions of subsection (3) of this section, the Legislative Houses of the Region, unless sooner dissolved, shall continue for five years from the date of their first sitting after any dissolution and shall then stand dissolved.

(3) At any time when the Federation is at war, the Legislature of the Region may from time to time extend the period of five years specified in subsection (2) of this section for not more than twelve months at a time:

Provided that the life of the Legislative Houses of the Region shall not be extended under this subsection for more than five years.

(4) In the exercise of his powers to dissolve the Legislative Houses of the Region, the Governor shall act in accordance with the advice of the Premier:

Provided that—

(*a*) if the Premier recommends a dissolution and the Governor considers that the government of the Region can be carried on without a dissolution and that a dissolution would not be in the interests of the Region he may refuse to dissolve the Legislative Houses;

(*b*) if the House of Assembly passes a resolution that it has no confidence in the Government of the Region and the Premier does not within three days either resign or advise a dissolution, the Governor may dissolve the Legislative Houses; and

(*c*) if the office of Premier is vacant and the Governor considers that there is no prospect of his being able to appoint a person who can command the support of the majority of the members of the House of Assembly to that office within a reasonable time, the Governor may dissolve the Legislative Houses.

CHAPTER III

EXECUTIVE POWERS

Exercise of executive authority of Region

32.—(1) The executive authority of the Region shall be vested in Her Majesty.

(2) Subject to the provisions of this Constitution, the executive authority of the Region may be exercised on behalf of Her Majesty by the Governor, either directly or through officers subordinate to him.

(3) Nothing in this section shall prevent the Legislature of the Region from conferring functions on persons or authorities other than the Governor.

Ministers of Government of Region

33.—(1) There shall be a Premier of the Region, who shall be appointed by the Governor.

(2) Whenever the Governor has occasion to appoint a Premier he shall appoint a member of the House of Assembly who appears to him likely to command the support of the majority of the members of the House.

(3) There shall be, in addition to the office of Premier, such other offices of Minister of the Government of the Region as may be established by the Legislature of the Region or, subject to the provisions of any Regional law, by the Governor, acting in accordance with the advice of the Premier.

(4) Appointments to the office of Minister of the Government of the Region other than the office of Premier shall be made by the Governor, acting in accordance with the advice of the Premier:

Provided that at least two Ministers shall be appointed from among the members of the House of Chiefs.

(5) A person shall not hold office at the same time both as a Minister of the Government of the Region and as a Minister of the Government of another Region.

(6) Subject to the provisions of subsection (11) of this section, a person who holds office as a Minister of the Government of the Region for any period of four consecutive months without also being a member of a Legislative House of the Region shall cease to be a Minister at the expiration of that period or, if that period expires at a time when the Legislative Houses are dissolved and he does not in the meantime become a member of a Legislative House, at the date on which the Legislative Houses first meet after that dissolution.

(7) Subject to the provisions of subsection (11) of this section, a person who holds office as a Minister of the Government of the Region and who is at no time while holding that office also a member of a Legislative House of the Region shall not be qualified for reappointment as such a Minister before the Legislative Houses are next dissolved

after he ceases to hold that office, unless in the meantime he has become a member of a Legislative House.

(8) The office of the Premier shall become vacant—

(*a*) when, after any dissolution of the Legislative Houses of the Region, the Premier is informed by the Governor that the Governor is about to re-appoint him as Premier or to appoint another person as Premier; or

(*b*) if he ceases to be a member of the House of Assembly otherwise than by reason of a dissolution of the Legislative Houses.

(9) The office of a Minister of the Government of the Region other than the Premier shall become vacant if the office of Premier becomes vacant.

(10) Subject to the provisions of subsections (8) and (9) of this section, the Ministers of the Government of the Region shall hold office during the Governor's pleasure:

Provided that—

(*a*) the Governor shall not remove the Premier from office unless it appears to him that the Premier no longer commands the support of a majority of the members of the House of Assembly; and

(*b*) the Governor shall not remove a Minister other than the Premier from office except in accordance with the advice of the Premier.

(11) The office of the Attorney-General of the Region shall be that of a Minister of the Government of the Region:

Provided that—

(*a*) the provisions of subsections (6) and (7) of this section shall not apply in relation to a person holding that office;

(*b*) if the person holding that office is for any reason unable to perform the functions conferred upon him by this Constitution or any other law, those functions may be performed by such other person (whether or not that person is a Minister) as may from time to time be designated in that behalf by the Governor acting in accordance with the advice of the Premier; and

(*c*) a person shall not be qualified to hold that office or to perform the functions conferred upon the person holding that office by this Constitution or any other law unless he is qualified for admission as an advocate in Nigeria and has been so qualified for at least ten years.

(12) Save as otherwise provided by the Legislature of the Region, the office of Provincial Commissioner for any province of the Region shall be that of a Minister of the Government of the Region.

Establishment of Executive Council

34.—(1) There shall be an Executive Council for the Region, whose function shall be to advise the Governor in the government of the Region and which shall consist of the Premier and such other persons, being Ministers of the Government of the Region, as the Governor, acting in accordance with the advice of the Premier, may from time to time appoint.

(2) A person appointed as a member of the Executive Council shall vacate his seat in the Council if he ceases to be a Minister of the

Government of the Region or if the Governor, acting in accordance with the advice of the Premier, so directs.

Collective responsibility

35.—(1) The Executive Council shall be collectively responsible to the Legislative Houses of the Region for any advice given to the Governor by or under the general authority of the Council and for all things done by or under the authority of any Minister of the Government of the Region in the execution of his office.

(2) The provisions of this section shall not apply in relation to—

(*a*) the appointment and removal from office of Ministers of the Government of the Region, members of the Executive Council and Parliamentary Secretaries to Ministers, the assignment of portfolios to Ministers or the authorization of another member of the Executive Council to perform the functions of the Premier during absence or illness;

(*b*) the dissolution of the Legislative Houses of the Region; or

(*c*) the matters referred to in section 44 of this Constitution (which relates to the prerogative of mercy).

Allocation of portfolios to Ministers

36. The Governor, acting in accordance with the advice of the Premier, may assign to the Premier or any other Minister of the Government of the Region responsibility for any business of the Government of the Region, including the administration of any department of government.

Performance of functions of Premier during absence or illness

37.—(1) Whenever the Premier is absent from Nigeria or is by reason of illness unable to perform the functions conferred upon him by this Constitution the Governor may authorize some other member of the Executive Council of the Region to perform those functions (other than the functions conferred by this section) and that member may perform those functions until his authority is revoked by the Governor.

(2) The powers of the Governor under this section shall be exercised by him in accordance with the advice of the Premier:

Provided that if the Governor considers that it is impracticable to obtain the advice of the Premier owing to his absence or illness he may exercise those powers without that advice.

Exercise of Governor's powers

38.—(1) In the exercise of his functions under this Constitution, the Constitution of the Federation or any other law the Governor shall act in accordance with the advice of the Executive Council or a Minister of the Government of the Region acting under the general authority of the Executive Council, except in cases where by this Constitution he is required to act in accordance with the advice of any person or authority other than the Executive Council:

Provided that the Governor shall act in accordance with his own deliberate judgment in the performance of the following functions—

(*a*) in the exercise of the powers relating to the dissolution of the Legislative Houses of the Region conferred upon him by the proviso to subsection (4) of section 31 of this Constitution;

(*b*) in the exercise of the power to appoint the Premier conferred upon him by subsection (2) of section 33 of this Constitution;

(*c*) in the exercise of the powers conferred upon him by section 37 of this Constitution (which relates to the performance of the functions of the Premier during absence or illness) in the circumstances described in the proviso to subsection (2) of that section ; and

(*d*) in signifying his approval for the purposes of section 63 of this Constitution of an appointment to an office on his personal staff.

(2) Where by this Constitution the Governor is required to act in accordance with the advice of any person or authority, the question whether he has in any case received, or acted in accordance with, such advice shall not be enquired into in any court of law.

Governor to be informed concerning matters of government

39. The Premier shall keep the Governor fully informed concerning the general conduct of the government of the Region and shall furnish the Governor with such information as he may request with respect to any particular matter relating to the government of the Region.

Parliamentary Secretaries

40.—(1) The Governor, acting in accordance with the advice of the Premier, may appoint Parliamentary Secretaries from among the members of the Legislative Houses of the Regions to assist Ministers of the Government of the Region in the performance of their duties.

(2) The office of a Parliamentary Secretary shall become vacant—

(*a*) if he ceases to be a member of one or other of the Legislative Houses of the Region otherwise than by reason of a dissolution of those Houses ;

(*b*) if the office of Premier becomes vacant ; or

(*c*) if the Governor, acting in accordance with the advice of the Premier, so directs.

Oaths to be taken by Ministers, etc.

41. A member of the Executive Council, Minister of the Government of the Region or Parliamentary Secretary to such a Minister shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by the Legislature of the Region.

Permanent secretaries

42. Where any Minister of the Government of the Region has been charged with responsibility for any department of government, he shall exercise general direction and control over that department ; and, subject to such direction and control, the department shall be under the supervision of a permanent secretary, whose office shall be an office in the public service of the Region :

Provided that two or more government departments may be placed under the supervision of one permanent secretary.

Constitution of offices for Region, etc.

43. Subject to the provisions of this Constitution and of any Regional law, the Governor, in Her Majesty's name and on Her Majesty's behalf, may constitute offices for the Region, make appointments to any such office and terminate any such appointment.

Prerogative of mercy

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

(*a*) grant to any person concerned in or convicted of any offence created by or under a Regional law a pardon, either free or subject to lawful conditions ;

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

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

(*d*) remit the whole or any part of any punishment imposed on that person for such an offence or of any penalty or forfeiture otherwise due to the Crown on account of such an offence.

(2) The powers of the Governor under subsection (1) of this section shall be exercised by him in accordance with the advice of such member of the Executive Council as may from time to time be designated in that behalf by the Governor, acting in accordance with the advice of the Premier.

(3) The provisions of this section shall apply in relation to any offence created by or under any law in force in the Region relating to any matter not included in the Legislative Lists set out in the Schedule to the Constitution of the Federation (other than an offence created by or under an Act of Parliament or a Regional law) as they apply in relation to an offence created by or under a Regional law.

Establishment of Advisory Council on Prerogative of Mercy

45.—(1) There shall be for the Region an Advisory Council on the Prerogative of Mercy, which shall consist of—

(*a*) such member of the Executive Council as may for the time being be designated under subsection (2) of section 44 of this Constitution, who shall be chairman ;

(*b*) where the chairman is a Minister other than the Attorney-General of the Region, the Attorney-General ; and

(*c*) not less than five and not more than seven other members, who shall be appointed by the Governor, acting in accordance with the advice of the Premier, of whom at least one shall be a person who is qualified to practise as a medical practitioner in Nigeria.

(2) A person shall not be qualified for appointment by the Governor as a member of the Advisory Council if he is a member of a Legislative House of the Region, a member of either House of Parliament, a member of a legislative house of another Region, a Minister of the Government of the Region, a Minister of the Government of the Federation or a Minister of the Government of another Region.

(3) A member of the Advisory Council appointed by the Governor shall hold office for three years :

Provided that his seat in the Council shall become vacant—

(*a*) if any circumstances arise that, if he were not a member of the Council, would cause him to be disqualified for appointment as such ; or

(*b*) if he is removed from office by the Governor, acting in accordance with the advice of the Premier, for inability to discharge the

functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

Functions of Advisory Council

46.—(1) Where any person has been sentenced to death by any court of law in Nigeria for any offence created by or under a Regional law the member of the Executive Council of the Region designated under subsection (2) of section 44 of this Constitution shall cause a written report of the case from the trial judge, together with such other information derived from the record of the case or elsewhere as the member may require, to be taken into consideration at a meeting of the Advisory Council; and after obtaining the advice of the Council the member shall decide in his own deliberate judgment whether to recommend to the Governor that he should exercise any of his powers under that section in relation to that person.

(2) The member of the Executive Council designated under subsection (2) of section 44 of this Constitution may consult with the Advisory Council before making any recommendation to the Governor under that subsection in any case not falling within subsection (1) of this section, but he shall not be obliged to act in accordance with the advice of the Council.

(3) The Advisory Council may regulate its own procedure.

Public prosecutions

47.—(1) There shall be a Director of Public Prosecutions for the Region, whose office shall be an office in the public service of the Region.

(2) The Director of Public Prosecutions of the Region shall have power in any case in which he considers it desirable so to do—

(*a*) to institute and undertake criminal proceedings against any person before any court of law in the Region in respect of any offence created by or under any Regional law;

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

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

(3) The powers of the Director of Public Prosecutions of the Region under subsection (2) of this section may be exercised by him in person or through members of his staff acting under and in accordance with his general or special instructions.

(4) The Director of Public Prosecutions of the Region may confer a general or special authority upon the Director of Public Prosecutions of the Federation to exercise, subject to such conditions and exceptions as he may think fit, any of the powers conferred upon him by subsection (2) of this section and may vary or revoke any such authority.

(5) The powers conferred upon the Director of Public Prosecutions of the Region by paragraphs (*b*) and (*c*) of subsection (2) of this section shall be vested in him to the exclusion of any other person or authority:

Provided that, where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance of that person or authority at any stage before the person against whom the proceedings have been instituted has been charged before the court.

(6) In the exercise of the powers conferred upon him by this section the Director of Public Prosecutions of the Region shall not be subject to the direction or control of any other person or authority.

(7) For the purposes of this section any appeal from any determination in any criminal proceedings before any court of law in the Region or any case stated or question of law reserved for the purposes of any such proceedings to any other court in Nigeria or to Her Majesty in Council shall be deemed to be part of those proceedings.

(8) The provisions of this section shall apply in relation to any offence created by or under any law in force in the Region relating to any matter not included in the Legislative Lists set out in the Schedule to the Constitution of the Federation (other than an offence created by or under an Act of Parliament or a Regional law) as they apply in relation to an offence created by or under a Regional law.

CHAPTER IV
COURTS

Establishment of High Court

48.—(1) There shall be a High Court for the Region.

(2) The judges of the High Court of the Region shall be—

(*a*) the Chief Justice of the Region ; and

(*b*) such number of other judges (not being less than six) as may be prescribed by the Legislature of the Region.

(3) The High Court of the Region shall be a superior court of record and, save as otherwise provided by any law in force in the Region, shall have all the powers of such a court.

Appointment of judges of High Court

49.—(1) The Chief Justice of the Region shall be appointed by the Governor, acting in accordance with the advice of the Premier.

(2) The judges of the High Court of the Region other than the Chief Justice shall be appointed by the Governor, acting in accordance with the advice of the Judicial Service Commission of the Region.

(3) A person shall not be qualified to hold the office of a judge of the High Court of the Region unless—

(*a*) he is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court ; or

(*b*) he is qualified for admission as an advocate in Nigeria and he has been so qualified for not less than ten years:

Provided that in computing the period during which any person has been qualified to practise as an advocate any period during which he has held office as a judge or magistrate after becoming so qualified shall be included.

(4) If the office of Chief Justice of the Region is vacant or if the person holding the office is for any reason unable to perform the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding the office has resumed those functions, as the case may be, those functions shall be performed by such one of the other judges of the High Court of the Region as may from time to time be designated

in that behalf by the Governor, acting in accordance with the advice of the Premier.

(5) If the office of any judge of the High Court of the Region other than the Chief Justice is vacant or if the person holding the office is acting as Chief Justice or is for any reason unable to perform the functions of his office, the Governor, acting in accordance with the advice of the Judicial Service Commission of the Region, may appoint a person with such qualifications as may be prescribed by the Legislature of the Region to act in the office of a judge of the High Court and any person so appointed shall continue to act for the period of his appointment or if no period is specified until his appointment is revoked by the Governor, acting in accordance with the advice of the Commission.

Tenure of offices of judges of High Court

50.—(1) Subject to the provisions of this section, a person holding the office of Chief Justice of the Region or any other judge of the High Court of the Region shall vacate his office when he attains such age as may be prescribed by the Legislature of the Region:

Provided that the Governor, acting in accordance with the advice of the Premier, may permit a judge to continue in office for such period after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

(2) A person holding the office of a judge of the High Court of the Region may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(3) A person holding the office of a judge of the High Court of the Region shall be removed from office by the Governor if the question of the removal of that judge from office has, at the request of the Governor made in pursuance of subsection (4) of this section, been referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under any enactment enabling Her Majesty in that behalf and the Judicial Committee has advised Her Majesty that the judge ought to be removed from office for inability or misbehaviour.

(4) If the Premier represents to the Governor that the question of removing a judge of the High Court of the Region under this section ought to be investigated, then—

(*a*) the Governor shall appoint a tribunal consisting of a chairman and not less than two other members selected by the Governor, acting in accordance with the advice of the Premier, from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court;

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

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

(5) If the question of removing a judge of the High Court of the Region from office has been referred to a tribunal under this section, the Governor, acting in accordance with the advice of the Premier, may suspend the judge from performing the functions of his office and any such suspension may at any time be removed by the Governor, acting in accordance with the advice of the Premier, and shall in any case cease to have effect—

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

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

(6) This section shall apply to any person appointed to act in the office of a judge of the High Court of the Region as it applies to a person holding the office of a judge of the High Court, but without prejudice to the provisions of section 49 of this Constitution relating to the revocation of his appointment by the Governor.

Appeals to High Court from subordinate courts

51.—(1) An appeal shall lie from decisions of a subordinate court 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, an appeal shall thereafter lie to the High Court as of right in the following cases—

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

(*b*) where the ground of appeal to the High Court 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 by the subordinate court from which the appeal lies to the High Court or that subordinate court has affirmed or substituted such a sentence;

(*c*) decisions in any civil or criminal proceedings on questions as to the interpretation of this Constitution, the Constitution of the Federation or the Constitution of another Region;

(*d*) decisions in any civil or criminal proceedings on questions as to whether any of the provisions of Chapter III of the Constitution of the Federation has been contravened in relation to any person;

(*e*) decisions in any criminal proceedings in which any person has been sentenced to death by the subordinate court from which the appeal lies to the High Court or in which that subordinate court has affirmed a sentence of death;

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

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

Provided that no appeal shall lie from decisions of a subordinate court established under section 119 of the Constitution of the Federation to the High Court in any case in which an appeal lies as of right to the Federal Supreme Court by virtue of any Act of Parliament enacted in pursuance of section 111 of that Constitution.

(2) An appeal shall lie from decisions of a subordinate court 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, 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 ; and

(*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 :

Provided that no appeal shall lie under paragraph (*a*) of this subsection from decisions of a subordinate court established under section 119 of the Constitution of the Federation to the High Court in any case in which an appeal lies to the Federal Supreme Court (whether as of right or with the leave of the Federal Supreme Court) by virtue of an Act of Parliament enacted under section 111 of that Constitution.

(3) Any right of appeal from decisions of a subordinate court 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 section 47 of this Constitution, 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 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 ;

" subordinate court " means any court of law in the Region other than the Federal Supreme Court, the High Court of the Region or a court-martial.

Establishment of Judicial Service Commission

52.—(1) There shall be a Judicial Service Commission for the Region :

(2) The members of the Judicial Service Commission of the Region shall be—

(*a*) the Chief Justice of the Region, who shall be chairman ;

(*b*) such other judge of the High Court of the Region as may be designated by the Governor, acting in accordance with the advice of the Premier ;

(*c*) the chairman of the Public Service Commission of the Region; and

(*d*) one other member, who shall be appointed by the Governor, acting in accordance with the advice of the Premier.

(3) The following provisions shall apply in relation to a member of the Judicial Service Commission of the Region appointed by the Governor—

(*a*) a person shall not be qualified for appointment as such unless he is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court;

(*b*) subject to the provisions of this subsection, a person appointed as such shall vacate his office at the expiration of five years from the date of his appointment;

(*c*) a person appointed as such may be removed from office by the Governor, acting in accordance with the advice of the Premier, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour; and

(*d*) a person appointed as such shall not be removed from office except in accordance with the provisions of this subsection.

Appointment of officers connected with courts

53.—(1) Power to appoint persons to hold or act in the offices to which this section applies (including power to make appointments on promotion and transfer and to confirm appointments) and to dismiss and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Judicial Service Commission of the Region.

Provided that the Commission may, with the approval of the Premier and subject to such conditions as it may think fit, delegate any of its powers under this section to any of its members, to any judge or to the holder of any office to which this section applies.

(2) The offices to which this section applies are the offices of members of any court of law established by the Legislature of the Region, being offices the emoluments attaching to which are payable out of the Consolidated Revenue Fund or any other public fund of the Region, the office of Chief Registrar or Registrar of the High Court, the office of Registrar of any Magistrate's Court established by the Legislature of the Region, any office of Justice of the Peace established by that Legislature and such other such offices connected with the High Court of the Region or any court of law established by that Legislature as may be prescribed by that Legislature.

Oaths to be taken by judges

54. A judge of the High Court of the Region shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by the Legislature of the Region.

CHAPTER V

FINANCE

Establishment of Consolidated Revenue Fund

55.—(1) All revenues or other moneys raised or received by the Region (not being revenues or other moneys payable under this Constitution or any Regional law into some other public fund of the Region

established for a specific purpose) shall be paid into and form one Consolidated Revenue Fund.

(2) No moneys shall be withdrawn from the Consolidated Revenue Fund of the Region except to meet expenditure that is charged upon the Fund by this Constitution, the Constitution of the Federation or any Regional law or where the issue of those moneys has been authorized by an appropriation law or a law made in pursuance of section 57 of this Constitution.

(3) No moneys shall be withdrawn from any public fund of the Region other than the Consolidated Revenue Fund unless the issue of those moneys has been authorized by a Regional law.

(4) No moneys shall be withdrawn from the Consolidated Revenue Fund or any other public fund of the Region except in the manner prescribed by the Legislature of the Region.

Authorization of expenditure from Consolidated Revenue Fund

56.—(1) The Minister of the Government of the Region responsible for finance shall cause to be prepared and laid before both Legislative Houses of the Region in each financial year estimates of the revenues and expenditure of the Region for the next following financial year.

(2) The heads of expenditure contained in the estimates (other than expenditure charged upon the Consolidated Revenue Fund by this Constitution, the Constitution of the Federation or any Regional law) shall be included in a bill, to be known as an appropriation bill, providing for the issue from the Consolidated Revenue Fund of the Region of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

(3) If in respect of any financial year it is found—

(*a*) that the amount appropriated by the appropriation law for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the law; or

(*b*) that any moneys have been expended for any purpose in excess of the amount appropriated for the purpose by the appropriation law or for a purpose for which no amount has been appropriated by the law,

a supplementary estimate showing the sums required or spent shall be laid before both Legislative Houses of the Regions and the heads of any such expenditure shall be included in a supplementary appropriation bill.

Authorization of expenditure in advance of appropriation

57. The Legislature of the Region may make provision under which, if the appropriation law in respect of any financial year has not come into operation by the beginning of that financial year, the Minister of the Government of the Region responsible for finance may authorize the withdrawal of moneys from the Consolidated Revenue Fund of the Region for the purpose of meeting expenditure necessary to carry on the services of the Government until the expiration of four months from the beginning of that financial year or the coming into operation of the appropriation law, whichever is the earlier.

Contingencies fund

58.—(1) The Legislature of the Region may provide for the establishment of a Contingencies Fund for the Region and for authorizing

the Minister of the Government of the Region responsible for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Fund to meet that need.

(2) Where any advance is made in accordance with subsection (1) of this section a supplementary estimate shall be presented and a supplementary appropriation bill shall be introduced as soon as possible for the purpose of replacing the amount so advanced.

Remuneration of Governor and certain other officers

59.—(1) There shall be paid to the holders of the offices to which this section applies such salary as may be prescribed by the Legislature of the Region.

(2) The salary and allowances payable to the holders of the offices to which this section applies shall be a charge on the Consolidated Revenue Fund of the Region.

(3) The salary payable to the holder of any office to which this section applies and his terms of office other than allowances shall not be altered to his disadvantage after his appointment.

(4) This section applies to the office of Governor, Chief Justice or other judge of the High Court of the Region, member of the Electoral Commission of the Region, appointed member of the Judicial Service Commission of the Region, member of the Public Service Commission of the Region, Director of Public Prosecutions of the Region and Director of Audit of the Region.

Audit of public accounts

60.—(1) There shall be a Director of Audit for the Region, whose office shall be an office in the public service of the Region.

(2) The public accounts of the Region and of all officers, courts and authorities of the Region shall be audited and reported on by the Director of Audit of the Region and for that purpose the Director or any person authorized by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.

(3) The Director of Audit of the Region shall submit his reports to the Minister of the Government of the Region responsible for finance, who shall cause them to be laid before both Legislative Houses of the Region.

(4) In the exercise of his functions under this Constitution the Director of Audit of the Region shall not be subject to the direction or control of any other person or authority.

Public debt

61.—(1) The public debt of the Region shall be secured on the revenues and assets of the Region.

(2) In this section references to the public debt of the Region include references to the interest on that debt, sinking fund payments in respect of that debt and the costs, charges and expenses incidental to the management of that debt.

CHAPTER VI

THE PUBLIC SERVICE OF THE REGION

Establishment of Public Service Commission

62.—(1) There shall be a Public Service Commission for the Region, which shall consist of a chairman and not less than two or more than four other members.

(2) The members of the Public Service Commission of the Region shall be appointed by the Governor acting in accordance with the advice of the Premier.

(3) A person shall not be qualified to hold the office of a member of the Public Service Commission of the Region if he is a member of a Legislative House of the Region, a member of a House of Parliament, a member of a legislative house of another Region, a Minister of the Government of the Region, a Minister of the Government of the Federation, a Minister of the Government of another Region or a member of the public service of the Region, the public service of the Federation or the public service of another Region.

(4) Subject to the provisions of this section, a member of the Public Service Commission of the Region shall vacate his office—

(*a*) at the expiration of five years from the date of his appointment; or

(*b*) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(5) A member of the Public Service Commission of the Region may be removed from office by the Governor, acting in accordance with the advice of the Premier, 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) A member of the Public Service Commission of the Region shall not be removed from office except in accordance with the provisions of this section.

(7) A person who has been appointed to be a member of the Public Service Commission of the Region shall not thereafter be eligible for appointment to any office in the public service of the Region.

Appointment, etc. of officers in public service

63.—(1) Power to appoint persons to hold or act in offices in the public service of the Region (including power to make appointments on promotion and transfer and to confirm appointments) and to dismiss and exercise disciplinary control over persons holding or acting in such offices shall vest in the Public Service Commission of the Region:

Provided that the Commission may, with the approval of the Premier and subject to such conditions as it may think fit, delegate any of its powers under this section to any of its members or to any officer in the public service of the Region.

(2) This section shall not apply in relation to any of the following offices—

(*a*) the office of the Deputy Governor of the Region or any judge of the High Court of the Region;

(*b*) except for the purposes of making appointments thereto, the office of the Director of Audit of the Region or the Director of Public Prosecutions of the Region;

(*c*) any office to which section 53 of this Constitution (which relates to offices within the jurisdiction of the Judicial Service Commission of the Region) applies;

(*d*) any office to which section 65 of this Constitution (which relates to the office of the principal representative of the Region in the United Kingdom) applies.

(3) The provisions of this section shall be subject to the provisions of section 66 of this Constitution (which relates to permanent secretaries).

(4) No appointment shall be made under this section to any office on the personal staff of the Governor unless the Governor signifies his approval of the appointment.

Appointment, etc. of Deputy Governor

64. If at any time the office of Deputy Governor of the Region is established under section 43 of this Constitution, power to appoint persons to hold or act in that office and to remove persons so appointed from that office shall vest in the Governor, acting in accordance with the advice of the Premier.

Appointment, etc. of Agent-General in U.K.

65.—(1) Power to appoint persons to hold or act in the office of the Agent-General of the Region in the United Kingdom (including power to make appointments on promotion and transfer) and to remove persons so appointed from that office shall vest in the Governor, acting in accordance with the advice of the Premier.

(2) Before tendering any advice for the purposes of this section in relation to any person who holds any office in the public service of the Region other than an office to which this section applies, the Premier shall consult the Public Service Commission of the Region.

Appointment, etc. of permanent secretaries

66.—(1) Power to appoint persons to hold or act in the office of permanent secretary to any department of government of the Region and to remove persons so appointed from that office shall vest in the Governor, acting in accordance with the advice of the Premier.

(2) Before tendering any advice for the purposes of this section the Premier shall consult the Public Service Commission of the Region.

Qualifications of Director of Public Prosecutions

67. A person shall not be qualified to hold or act in the office of Director of Public Prosecutions of the Region unless he is qualified for admission as an advocate in Nigeria and has been so qualified for at least ten years.

Tenure of office of Director of Public Prosecutions

68.—(1) Subject to the provisions of this section, a person holding the office of Director of Public Prosecutions of the Region shall vacate that office when he attains such age as may be prescribed by the Legislature of the Region.

(2) A person holding the office of Director of Public Prosecutions of the Region may be removed from office only for inability to discharge

the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(3) A person holding the office of Director of Public Prosecutions of the Region shall be removed from office by the Governor if the question of his removal from office has been referred to a tribunal appointed under subsection (4) of this section and the tribunal has recommended to the Governor that he ought to be removed from office for inability or misbehaviour.

(4) If the Premier represents to the Governor that the question of removing the Director of Public Prosecutions of the Region under this section ought to be investigated then—

(*a*) the Governor acting in accordance with the advice of the Premier, shall appoint a tribunal, which shall consist of a chairman and not less than two other members, the chairman and half of the other members being persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; and

(*b*) that tribunal shall enquire into the matter and report on the facts thereof to the Governor and recommend to the Governor whether the Director ought to be removed under this section.

(5) If the question of removing the Director of Public Prosecutions of the Region has been referred to a tribunal under this section, the Governor, acting in accordance with the advice of the Premier, may suspend the Director from performing the functions of his office and any such suspension may at any time be revoked by the Governor, acting in accordance with the advice of the Premier, and shall in any case cease to have effect if the tribunal recommends to the Governor that the Director should not be removed.

Appointment and tenure of office of Director of Audit

69.—(1) Before appointing any person to hold the office of Director of Audit of the Region the Public Service Commission of the Region shall consult the Premier.

(2) Subject to the provisions of this section, a person holding the office of Director of Audit of the Region shall vacate that office when he attains such age as may be prescribed by the Legislature of the Region.

(3) A person holding the office of Director of Audit of the Region shall be removed from office by the Governor if a resolution is passed by each Legislative House of the Region recommending his removal from office for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(4) Any person holding the office of Director of Audit of the Region shall not be removed from office except in accordance with the provisions of this section.

(5) If the office of Director of Audit of the Region is vacant or the holder of the office is for any reason unable to perform the functions of the office, the Public Service Commission of the Region, acting after consultation with the Premier, may appoint a person to act in the office and any person so appointed shall continue to act until his

appointment is revoked by the Commission, acting after consultation with the Premier.

Powers relating to Clerks of Legislative Houses

70. Before exercising any of its powers in relation to the Clerk to the House of Chiefs the Public Service Commission of the Region shall consult the President of that House and before exercising any of its powers in relation to the Clerk to the House of Assembly the Commission shall consult the Speaker of that House.

Powers of Commissions in relation to grant of pensions, etc.

71.—(1) Where any benefits to which this section applies can be withheld, reduced in amount or suspended by any person or authority under any Regional law, those benefits shall not be so withheld, reduced in amount or suspended—

(*a*) in the case of benefits that have been granted in respect of the service in the public service of the Region of any person who at the time when he ceased to be a member of that public service was subject to the jurisdiction of the Judicial Service Commission of the Region or for which any person may be eligible in respect of such service, without the approval of that Commission; or

(*b*) in any other case, without the approval of the Public Service Commission of the Region.

(2) No benefits to which this section applies that have been granted to any person who holds or has held the office of judge of the High Court of the Region or for which any such person may be eligible shall be withheld, reduced or suspended on the ground that that person has been guilty of misbehaviour while holding that office unless that person has been removed from that office by reason of such misbehaviour.

(3) This section applies to any benefits payable under any Regional law providing for the grant of pensions, gratuities or compensation to persons who are or have been members of the public service of the Region in respect of their service in that public service, or to the widows, children, dependants or personal representatives of such persons in respect of such service.

CHAPTER VII

MISCELLANEOUS

Powers and procedure of Commissions

72.—(1) Any Commission established by this Constitution may, with the consent of the Premier or such other Minister of the Government of the Region as may be authorized in that behalf by the Premier, by regulation or otherwise regulate its own procedure or confer powers and impose duties on any officer or authority of the Region for the purpose of discharging its functions.

(2) Subject to its rules of procedure, any Commission established by this Constitution may act notwithstanding any vacancy in its membership or the absence of any member:

Provided that any decision of the Commission shall require the concurrence of a majority of all the members thereof.

Minority Areas

73.—(1) The Governor may declare any area within the Region to be a Minority Area.

(2) There shall be a Minority Council for each Minority Area, which shall consist of—

(*a*) those members of the House of Representatives of the Federation or the House of Assembly who have been elected as such to represent a constituency all or part of which is within that Minority Area ; and

(*b*) those members of the House of Chiefs who represent an area all or part of which is within that Minority Area.

(3) The Minority Council for a Minority Area shall be responsible for advising the Government of the Region with respect to the development and welfare of that Minority Area and for bringing to the notice of the Government any discrimination against the inhabitants of that Minority Area and shall have such other functions with respect to that Minority Area as may be conferred upon it by any law in force in the Region.

(4) For the purposes of this section the Legislature of the Region may—

(*a*) make provision for the selection of persons as members of the Minority Council for a Minority Area ;

(*b*) prescribe the circumstances in which the seat in the Council of a person so selected shall become vacant ; and

(*c*) make provision for the organization of the work of the Council and the appointment, tenure of office and terms of service of staff to assist the Council in the performance of its functions.

Establishment of Provincial Administrations

74.—(1) The Governor may by instrument in writing establish for any Province of the Region a Provincial Administration.

(2) A Provincial Administration established under this section shall consist of such persons and shall have such functions as may be prescribed by the Governor or by or under any law in force in the Region.

(3) The provisions of this section shall be without prejudice to the powers of the Legislature of the Region to establish a Provincial Administration for any Province of the Region or otherwise to make provision for the administration of that Province.

Resignations

75.—(1) Any person who is appointed, elected or otherwise selected to any office established by this Constitution may resign from that office by writing under his hand addressed to the person or authority by whom he is appointed, elected or selected :

Provided that in the case of a member of a Legislative House of the Region who holds office as President or Speaker of the House his resignation from the House or that office shall be addressed to the House and in the case of any other member of the House his resignation from the House shall be addressed to the President or Speaker of the House.

(2) The resignation of any person from any office established by this Constitution shall take effect when the writing signifying the resignation is received by the person or authority to whom it is addressed or by any person authorized by that person or authority to receive it.

Re-appointments, etc.

76.—(1) Where any person has vacated any office constituted by this Constitution, he may, if qualified, again be appointed, elected or otherwise selected to hold that office in accordance with the provisions of this Constitution.

(2) Where by this Constitution a power is conferred upon any person or authority to make any appointment to any office in the public service of the Region, a person may be appointed to that office notwithstanding that some other person may be holding that office, when that other person is on leave of absence pending relinquishment of his office; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this subsection, then for the purposes of any function conferred upon the holder of that office, the person last appointed shall be deemed to be the sole holder of the office.

Interpretation

77.—(1) In this Constitution, unless it is otherwise expressly provided or required by the context—

"Act of Parliament" means any law made by Parliament;

"the Advisory Council" means the Advisory Council on the Prerogative of Mercy of the Region;

"the Commonwealth" means Nigeria, any country to which section 13 of the Constitution of the Federation applies and any dependency of any such country;

"the financial year" means any period of twelve months beginning on the first day of April in any year or such other date as the Legislature of the Region may prescribe;

"oath" includes affirmation;

"the oath of allegiance" means such oath of allegiance as may be prescribed by Parliament;

"Parliament" means the Parliament of the Federation;

"the public service of the Region" means the service of the Crown in a civil capacity in respect of the government of the Region;

"Regional law" means any law made by the Legislature of the Region.

(2) In this Constitution, unless it is otherwise expressly provided or required by the context—

(*a*) references to persons holding offices in the public service of the Federation or the public service of a Region include references to persons acting in those offices; and

(*b*) references to offices in the public service of the Region include references to the offices of the judges of the High Court of the Region and references to the offices of members of all other courts of law established by the Legislature of the Region, being offices the emoluments attaching to which are paid out of the Consolidated Revenue Fund or any other public fund of the Region.

(3) For the purposes of this Constitution, the office of the President or the Deputy President of the House of Chiefs, a member of the House of Chiefs, the Speaker or the Deputy Speaker of the House of

Assembly, a member of the House of Assembly, a Minister of the Government of the Region, a Parliamentary Secretary to such a Minister or a member of the Executive Council, any Commission established by this Constitution, the Advisory Council or the Minority Council for a Minority Area in the Region shall not be regarded as an office in the public service of the Region.

(4) The Interpretation Act, 1889(a), as in force on the first day of October, 1960, shall apply, with the necessary adaptations, for the purpose of interpreting this Constitution and otherwise in relation thereto as it applies for the purposes of interpreting, and in relation to, Acts of the Parliament of the United Kingdom.

(5) No provision of this Constitution that any person or authority shall not be subject to the direction or control of any other person or authority in exercising any functions under this Constitution shall be construed as precluding a court of law from exercising jurisdiction in relation to any question whether that person or authority has performed those functions in accordance with this Constitution or any other law.

EXPLANATORY NOTE

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

By virtue of the provisions of the Nigeria Independence Act, 1960, Nigeria will attain fully responsible status within the Commonwealth on 1st October, 1960. This Order makes fresh constitutional provision for Nigeria as a Federation consisting of the three Regions and a Federal territory with effect from that date.

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