STATUTORY INSTRUMENTS

1961 No. 741

WEST AFRICA

The Sierra Leone (Constitution) Order in Council, 1961

Made - - - - 14*th April*, 1961
Laid before Parliament 14*th April*, 1961
Coming into Operation. Immediately before the 27*th April*, 1961

At the Court at Windsor Castle, the 14th day of April, 1961

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 and interpretation.

1.—(1) This Order may be cited as the Sierra Leone (Constitution) Order in Council, 1961.

(2) This Order shall come into operation immediately before the twenty-seventh day of April, 1961:

Provided that where by or under this Order the Governor-General 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 of the Colony and Protectorate of Sierra Leone at any time after the fourteenth day of April, 1961, to such extent as may, in his opinion, be necessary or expedient to enable the Constitution established by this Order to function as from the twenty-seventh day of April, 1961.

(3) The Interpretation Act, 1889(b), as in force at the commencement of this Order, 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.

Revocations.

2.—(1) The Orders in Council specified in Column 1 of Part I of the First Schedule to this Order (hereinafter referred to as "the existing Orders") are revoked to the extent specified in Column 2 of that Part.

(2) The Letters Patent specified in Part II of the First Schedule to this Order (hereinafter referred to as "the existing Letters Patent") are revoked.

(3) The Schedule to the Sierra Leone (Constitution) Order in Council, 1958(c) (as set out in the Schedule to the Sierra Leone (Constitution) (Amendment) (No. 3) Order in Council, 1960(d)) is amended as specified in Part III of the First Schedule to this Order.

(a) 53 & 54 Vict. c. 37.
(b) 52 & 53 Vict. c. 63.
(c) S.I. 1958/1259 (1958 II, p. 2851).
(d) S.I. 1960/2415 (1960 III, p. 4032).

(4) The Sierra Leone and the Gambia Court of Appeal Order in Council, 1959, as amended by the Sierra Leone and the Gambia Court of Appeal (Amendment) Order in Council, 1960(a), is revoked in so far as it applies to Sierra Leone:

Provided that in so far as they relate to the powers, authority, jurisdiction or procedure of the former Sierra Leone and the Gambia Court of Appeal the provisions of that Order or any law made in pursuance of that Order by the Legislature of the former Colony and Protectorate of Sierra Leone or any rules of court made under that Order in force in the former Colony and Protectorate of Sierra Leone immediately before the commencement of this Order shall, until it is otherwise provided by or under any Act of the Parliament of Sierra Leone, apply with the necessary adaptations and modifications in relation to the Court of Appeal established by the Constitution as they applied in relation to the former Sierra Leone and the Gambia Court of Appeal.

Establishment of Constitution.

3. Subject to the provisions of this Order, the Constitution of Sierra Leone set out in the Second Schedule to this Order (in this Order referred to as "the Constitution") shall come into effect in Sierra Leone at the commencement of this Order.

Existing laws.

4.—(1) Subject to the provisions of this section, the existing laws shall, notwithstanding the revocation of the existing Orders, 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 may at any time within twelve months after the commencement of this Order make such amendments to any existing law as may appear to the Governor-General to be necessary or expedient for bringing that law into conformity with the provisions of this Order or otherwise for giving effect or enabling effect to be given to those provisions.

(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, including the amendment or repeal of any existing law.

(4) Where any matter falls to be prescribed under this Order by Parliament or any other person or authority that matter shall be regarded as being so prescribed if it is prescribed by any existing law, including any amendment to any such law made under this section.

(5) For the purposes of this section the expression "the existing laws" means 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 existing Orders and having effect as part of the law of the Colony and Protectorate of Sierra Leone or any part thereof immediately before the commencement of this Order.

Existing officers.

5.—(1) Where any office has been established for the former Colony and Protectorate of Sierra Leone by or under the existing Orders, the existing Letters Patent or any existing law, and the Constitution establishes the same or an equivalent office for Sierra Leone, not being the office of Prime Minister, Minister, member of the Cabinet or

(a) S.I. 1959/1977, 1960/440 (1959 II, p. 3289; 1960 III, p. 4099).

Parliamentary Secretary, any person who, immediately before the commencement of this Order, is holding or acting in the former office shall, so far as is consistent with the provisions of this Order, be deemed as from the commencement of this Order to have been appointed to or to act in the latter office in accordance with the provisions of this Order and to have taken any necessary oath under this Order:

Provided that any person who, under the existing Orders, the existing Letters Patent or any existing law, would have been required to vacate his office at the expiration of any period or upon his attainment of any age shall vacate his office at the expiration of that period or upon his attainment of that age.

(2) The provisions of this section shall be without prejudice to—

(*a*) the provisions of section 6 of this Order: and

(*b*) any powers conferred by or under this Order upon any person or authority to make provision for the abolition of offices and the removal of persons holding or acting in any office.

(3) In this section "existing law" means such a law as is referred to in subsection (5) of section 4 of this Order.

House of Representatives.

6.—(1) Notwithstanding any other provision of this Order, the House of Representatives established for the former Colony and Protectorate of Sierra Leone (in this section referred to as "the existing House of Representatives") shall be the House of Representatives of Sierra Leone during the period beginning with the commencement of this Order and ending with the first dissolution of Parliament thereafter (in this section referred to as "the interim period").

(2) Notwithstanding any other provision of this Order, during the interim period the provisions of the Constitution mentioned in Part IV of the First Schedule to this Order shall not have effect and in lieu thereof the provisions of the Sierra Leone (Constitution) Order in Council, 1958(a), as in force immediately before the commencement of this Order, mentioned in Part V of that Schedule shall continue to have effect but shall be construed subject to the adaptations and modifications specified in that Part.

(3) The persons who immediately before the commencement of this Order are members of the existing House of Representatives (other than persons who are Nominated Members thereof) shall continue to be members of that House after the commencement of this Order and as from that time shall be deemed to have been elected thereto in pursuance of the provisions of the Sierra Leone (Constitution) Order in Council, 1958, as applied by subsection (2) of this section, and shall hold their seats in that House in accordance with those provisions as so applied.

(4) The person who immediately before the commencement of this Order is Speaker of the existing House of Representatives shall continue to be Speaker of that House after the commencement of this Order and shall as from that time be deemed to have been elected as such in pursuance of section 33 of the Constitution and shall hold office in accordance with the provisions of that section.

(a) S.I. 1958/1259 (1958 II, p. 2851).

(5) During the interim period laws enacted or deemed to have been enacted in pursuance of section 53 of the Sierra Leone (Constitution) Order in Council, 1958(a), and in force immediately before the commencement of this Order shall, except as may be otherwise provided by Parliament, continue to apply in relation to the matters mentioned in that section but shall be read and construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Order, and the power conferred on the Governor-General by subsection (2) of section 4 of this Order shall include power to amend such laws.

(6) Any law in force in the former Colony and Protectorate of Sierra Leone immediately before the commencement of this Order which makes provision for determining or regulating the privileges, immunities or powers of the existing House of Representatives or its members shall, except as may be otherwise provided by Parliament, continue to apply during the interim period in relation to those matters but shall be read and construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring it into conformity with this Order, and the power conferred on the Governor-General by subsection (2) of section 4 of this Order shall include power to amend any such law.

(7) The Standing Orders of the existing House of Representatives as in force immediately before the commencement of this Order shall, except as may be otherwise provided by the House, continue to be the Standing Orders of the House during the interim period but shall be read and construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Order.

(8) (*a*) Notwithstanding anything contained in section 54 of the Constitution, the Governor-General shall summon Parliament to meet within three months after the commencement of this Order.

(*b*) Notwithstanding anything contained in subsection (2) of section 55 of the Constitution (but subject to the provisions of subsection (3) of that section), Parliament shall, unless sooner dissolved, stand dissolved on the first day of July, 1962.

Oaths.

7.—(1) The person first appointed to the office of Governor-General shall be deemed to have complied with the provisions of section 27 of the Constitution if he takes and subscribes the oath of allegiance and the oath for the due execution of his office as set out in Part VI of the First Schedule to this Order.

(2) Until such time as Parliament prescribes the oaths referred to in section 78 or, as the case may be, section 82 of the Constitution, a judge of the Supreme Court or a judge of the Court of Appeal shall be deemed to have complied with the provisions of that section if he takes and subscribes the oath of allegiance and the judicial oath set out in Part VI of the First Schedule to this Order.

First Chief Electoral Commissioner.

8. Notwithstanding anything contained in paragraph (*a*) of subsection (5) of section 37 of the Constitution, the person appointed as the first Chief Electoral Commissioner shall vacate his office at the expiration of five years from the date of his appointment or such earlier date as may be specified at the time of his appointment.

(a) 1958/1259 (1958 II, p. 2851).

Pending legal proceedings.

9. Any proceedings pending immediately before the commencement of this Order before the former Supreme Court of Sierra Leone, or any proceedings on appeal from that Court so pending before the Sierra Leone and the Gambia Court of Appeal, may be continued after the commencement of this Order before the Supreme Court, or the Court of Appeal, established by the Constitution, as the case may be.

Disposal of Sierra Leone and the Gambia Court of Appeal Fund.

10. The moneys in the Sierra Leone and the Gambia Court of Appeal Fund (being the fund established by section 23 of the Sierra Leone and the Gambia Court of Appeal Order in Council, 1959(a)) immediately before the commencement of this Order shall be applied in discharge of any outstanding liabilities attaching to the Fund; and any moneys remaining after those liabilities have been discharged shall be divided between the Government of Sierra Leone and the Government of the Gambia so that each Government receives such share of those moneys as bears the same proportion to the total amount of those moneys as the aggregate amount of the contributions made by that Government under paragraph (*b*) of subsection (2) of section 23 of that Order bears to the aggregate amount of the contributions made by both Governments under that paragraph.

Pending matters under Scheme of Retirement Benefits.

11. All things done before the commencement of this Order in pursuance of the provisions of the Scheme of Retirement Benefits set out in the Schedule to the Sierra Leone (Constitution) Order in Council, 1958(b) (as set out in the Schedule to the Sierra Leone (Constitution) (Amendment) (No. 3) Order in Council, 1960(c),) in respect of any matter pending at the date of such commencement shall have effect as if they had been done under the provisions of that Schedule as amended by this Order.

Transitional provisions relating to existing Commissions.

12.—(1) Any power of a Commission established by the existing Orders (in this section referred to as "an existing Commission") which has been validly delegated to any person or authority under those Orders shall, as from the commencement of this Order, be deemed to have been delegated to that person or authority in accordance with the provisions of the Constitution.

(2) Any matter which immediately before the commencement of this Order is pending before an existing Commission or, as the case may be, before any person or authority to whom the power to deal with such matter has been delegated under the existing Orders shall, as from the commencement of this Order, be continued before the Public Service Commission established by the Constitution or the Judicial Service Commission so established or, as the case may be, the said person or authority:

Provided that, where an existing Commission or, as the case may be, any person or authority as aforesaid has, immediately before the commencement of this Order, partly completed the hearing of a disciplinary proceeding (in this section referred to as "the original hearing"), no person shall take part in the continued hearing unless he has also taken part in the original hearing; and where, by virtue of this subsection, the original hearing cannot be so continued, the hearing of the disciplinary proceeding shall be recommenced.

(a) S.I. 1959/1977 (1959 II, p. 3269).

Transitional provisions for certain officers.

13.—(1) Any person who, immediately before the commencement of this Order, holds any office established by or under the existing Orders or the existing Letters Patent and who does not, as from the date of such commencement, hold any public office shall be entitled to the leave beginning with the commencement of this Order, for which under the terms of service applicable to him immediately before the commencement of this Order, he was then eligible :

Provided that if any such person holds, or is acting in, as from the commencement of this Order, any office established by or under the Constitution, the leave to which he is entitled under this section shall begin when he relinquishes that office.

(2) When any person is on leave under the provisions of subsection (1) of this section, he shall be regarded as still in the office which he held immediately before the commencement of this Order.

(3) In this section " public office " has the meaning attributed to that expression in section 107 of the Constitution.

Emergency Powers Orders in Council, 1939 to 1961.

14.—(1) The Emergency Powers Orders in Council, 1939 to 1961(a), shall cease to have effect as part of the law of Sierra Leone on the twenty-sixth day of April, 1963, or such earlier date as may be prescribed by Parliament.

(2) In their application to Sierra Leone, the said Orders are modified in the following respects:—

(*a*) any reference to the Governor shall be construed as a reference to the Governor-General, acting in accordance with the advice of the Prime Minister ;

(*b*) the definition of " law " in section 2 of the Emergency Powers Order in Council, 1939(b), shall not include any provision of the Constitution or (in so far as it forms part of the law of Sierra Leone) of the Sierra Leone Independence Act, 1961(c), or of the existing Orders or of this Order ;

(*c*) whenever a Proclamation is issued bringing the provisions of Part II of the Emergency Powers Order in Council, 1939, into operation, the occasion therefor shall forthwith be communicated to Parliament, and, if Parliament is then separated by such adjournment or prorogation as will not expire within ten days, a Proclamation shall be issued for the meeting of Parliament within ten days, and Parliament shall accordingly meet and sit upon the day appointed by that Proclamation, and shall continue to sit and act in a like manner as if it had stood adjourned or prorogued to that day ;

(*d*) any regulations made under Part II of the Emergency Powers Order in Council, 1939, shall be laid before Parliament as soon as practicable after they have been made and, unless approved in their original or amended form by resolution of Parliament before the expiration of twenty-eight days after being so laid, shall cease to be of any legal effect ;

(*e*) the expiry or revocation of any regulations so made shall not be deemed to affect the previous operation thereof, or the validity of any action taken thereunder, or of any penalty or punishment incurred in respect of any contravention or failure to comply therewith, or any proceeding or remedy in respect of any such punishment or penalty.

(a) *See* S.I. 1952 I, at p. 621; S.I. 1956/731, 1959/1310, 2205, 1961/61 (1956 I, p. 512; 1959 II, pp. 1996, 1998; 1961 I, p. 122). (b) 9 & 10 Eliz. 2. c. 16.

15. The Governor-General may by order at any time within six months after the commencement of this Order make provision for the definition and trial of offences connected with the functions of any Commission established by the Constitution and the imposition of penalties for such offences. Special powers relating to functions of Commissions.

16. Parliament may alter any of the provisions of this Order including this section in the same manner as it may alter the provisions of the Sierra Leone Independence Act, 1961. Alteration of this Order.

W. G. Agnew.

THE FIRST SCHEDULE

Section 2 (1)

PART I

Column 1	*Column* 2
The Sierra Leone (Constitution) Order in Council, 1958(a), as amended by the Sierra Leone (Constitution) (Amendment) Order in Council, 1958(b), the Sierra Leone (Constitution) (Amendment) Order in Council, 1960(c), the Sierra Leone (Constitution) (Amendment) (No. 2) Order in Council, 1960(d), and the Sierra Leone (Constitution) (Amendment) (No. 3) Order in Council, 1960(e).	The whole Order in Council except section 79A and the Schedule and, to the extent that it applies in relation to section 79A and that Schedule, but subject to Part III of this Schedule, section 1.
The Sierra Leone Protectorate Order in Council, 1951(f), as amended by the Sierra Leone Protectorate (Amendment) Order in Council, 1953(g), the Sierra Leone Protectorate (Amendment) Order in Council, 1958(h), the Sierra Leone Protectorate (Amendment) Order in Council, 1960(i), and the Sierra Leone Protectorate (Amendment (No. 2) Order in Council, 1960(j).	The whole Order in Council.

PART II

Section 2 (2)

The Sierra Leone Colony Letters Patent, 1951(k).

The Sierra Leone Colony Letters Patent, 1953(l).

The Sierra Leone Colony Letters Patent, 1958(m).

The Sierra Leone Colony Letters Patent (No. 2), 1958(n).

The Sierra Leone Colony Letters Patent, 1960(o).

The Sierra Leone Colony Letters Patent (No. 2), 1960(p).

(a) S.I. 1958/1259 (1958 II, p. 2851).
(b) S.I. 1958/1524 (1958 II, p. 2873).
(c) S.I. 1960/1056 (1960 III, p. 4006).
(d) S.I. 1960/1960 (1960 III, p. 4015).
(e) S.I. 1960/2415 (1960 III, p. 4032).
(f) S.I. 1951/610 (1951 II, p. 658).
(g) S.I. 1953/589 (1953 II, p. 1941).
(h) S.I. 1958/1260 (1958 II, p. 2874).
(i) S.I. 1960/1057 (1960 III, p. 4044).
(j) S.I. 1960/1959 (1960 III, p. 4046).
(k) S.I. 1951 II, p. 1441.
(l) S.I. 1953 II, p. 2802.
(m) S.I. 1958 II, p. 2945.
(n) S.I. 1958 II, p. 2948.
(o) S.I. 1960 II, p. 4219.
(p) S.I. 1960 II, p. 4222.

Section 2 (3).

PART III

AMENDMENTS TO THE SCHEDULE TO THE SIERRA LEONE (CONSTITUTION) ORDER IN COUNCIL, 1958

For the words " the public service of Sierra Leone " wherever they occur, substitute the words " the public service ", and that expression and the following expressions, that is to say, " the Prime Minister ", " the Public Service Commission ", " the Judicial Service Commission " and " Sierra Leone ", when used in relation to any period after the commencement of the Constitution, shall have the respective meanings attributed to those expressions in the Constitution.

Paragraph 1

Sub-paragraph (1)... (*a*) For the words " Governor with the concurrence of a Secretary of State " substitute the words " Public Service Commission or the Judicial Service Commission, as may be appropriate, with the approval of the Prime Minister ";

(*b*) for the words " Governor, acting in his discretion," substitute the words " Public Service Commission or the Judicial Service Commission, as may be appropriate, with the approval of the Prime Minister ".

Sub-paragraph (5)... Delete this sub-paragraph.

Paragraph 2

Sub-paragraph (1)... Delete this sub-paragraph and substitute the following sub-paragraph:—

" (1) Subject to the provisions of sub-paragraph (3) of this paragraph, an entitled officer may, after giving six months' notice in writing to the Public Service Commission or the Judicial Service Commission, as may be appropriate, or such shorter notice as that Commission may allow, retire at any time."

Sub-paragraph (2)... Delete the words " Governor, acting on the recommendation of the Public Service Commission or, as the case may be, the Judicial Service Commission " and substitute the words " appropriate Commission ".

Sub-paragraph (3)... (*a*) Delete the words " Governor, acting in his discretion " and substitute the words " appropriate Commission ";

(*b*) delete the words " Governor shall not withhold his permission " and substitute the words " appropriate Commission shall not withhold its permission ".

Sub-paragraph (4)... Delete the words " Governor, acting in his discretion," and substitute the words " appropriate Commission ".

Paragraph 4	Delete the words " or the Governor gives him notice " and substitute the words " or the Governor had given him notice ".
Paragraph 6	
Sub-paragraphs (1) and (2)	Delete the words " Governor, acting in his discretion," and substitute the words " Public Service Commission or, as the case may be, the Judicial Service Commission ".
Sub-paragraph (3)...	Delete the words " the Governor may, acting in his discretion," and substitute the words " the Public Service Commission or the Judicial Service Commission, as the case may be, may ".
Paragraph 11	
Sub-paragraph (*a*)...	Delete the words " Governor, acting in his discretion " and substitute the words " Public Service Commission or the Judicial Service Commission, as may be appropriate ".
Sub-paragraph (*c*)...	Delete the word " Governor " and substitute the words " appropriate Commission ".
Paragraph 14	
Sub-paragraph (1)...	Delete the words " the appropriate authority, with the concurrence of the Governor " and substitute the words " the Public Service Commission or the Judicial Service Commission, as may be appropriate, with the approval of the Prime Minister ".
Sub-paragraph (2)...	Delete the words " appropriate authority " and substitute the words " appropriate Commission ".
Sub-paragraph (3)...	Delete this sub-paragraph.

PART IV

Section 6 (2).

PROVISIONS OF THE CONSTITUTION WHICH SHALL NOT HAVE EFFECT DURING THE INTERIM PERIOD

Sections 30 and 31, subsection (1) and subsections (4) to (9) (inclusive) of section 32, section 36.

PART V

Section 6 (2).

PROVISIONS OF THE SIERRA LEONE (CONSTITUTION) ORDER IN COUNCIL, 1958, WHICH, SUBJECT TO THE SPECIFIED ADAPTATIONS AND MODIFICATIONS, SHALL HAVE EFFECT DURING THE INTERIM PERIOD

Provisions	*Adaptations and Modifications*
Section 1 to the extent that that section applies for the purpose of interpreting any other provision referred to in this Part.	In the definition of " prescribed " the reference to laws made under the Order shall be construed as including a reference to Acts of Parliament. For the definition of " Sierra Leone " there shall be substituted the following definition, that is to say:— " The expression ' Sierra Leone ' has the meaning attributed to it in the Sierra Leone Independence Act, 1961." For subsection (3) there shall be substituted the following, that is to say:— " (3) References in this Order to Her Majesty's dominions shall be construed as if they were references to all countries and territories within the Commonwealth and the Republic of Ireland."; and subsection (7) shall be deleted.

Provisions	*Adaptations and Modifications*
Section 19 ...	The reference to Nominated Members shall be omitted.
	The reference to the Protectorate shall be construed as a reference to the territory comprised in the former Protectorate.
	The reference to any law made in pursuance of section 53 of the Order shall be construed as including a reference to any Act of Parliament.
Section 23 ...	The reference to any law enacted under the Order shall be construed as including a reference to any Act of Parliament.
	The references to the Colony and the Protectorate shall be construed as references respectively to the territory comprised in the former Colony and the territory comprised in the former Protectorate of Sierra Leone.
Section 26 ...	The references to Nominated Members shall be omitted.
	The reference in paragraph (*a*) to a British subject shall be construed as a reference to a Commonwealth citizen.
Section 27 ...	The references to Nominated Members shall be omitted.
	The reference in paragraph (*a*) to a foreign Power or State shall be construed as a reference to a Power or State that is not within the Commonwealth but not as a reference to the Republic of Ireland.
Subsection (2) of section 28.	The reference to Nominated Members shall be omitted.
Subsection (3) of section 28.	The references to Nominated Members shall be omitted.
	The reference in paragraph (*e*) to a foreign Power or State shall be construed as a reference to a Power or State that is not within the Commonwealth but not as a reference to the Republic of Ireland.
Section 53 ...	The reference to any law enacted under the Order shall be construed as including a reference to any Act of Parliament.
	The reference to the Supreme Court shall be construed as a reference to the Supreme Court established by the Constitution.

PART VI

Section 7.

OATHS

Oath or Affirmation of Allegiance

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

So help me God. (*To be omitted in affirmation.*)

Oath or Affirmation for the due execution of the office of Governor-General

I.....do swear [*or* solemnly and sincerely affirm and declare] that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, in the office of Governor-General of Sierra Leone.

So help me God. (*To be omitted in affirmation.*)

Judicial Oath or Affirmation

I.....do swear [*or* solemnly and sincerely affirm and declare] that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, in the office of .....and will do right to all manner of people after the laws and usages of Sierra Leone without fear or favour, affection or ill will.

So help me God. (*To be omitted in affirmation.*)

THE SECOND SCHEDULE

Section 3.

THE CONSTITUTION OF SIERRA LEONE

CHAPTER I

CITIZENSHIP

Persons who become citizens on 27th April, 1961.

1.—(1) Every person who, having been born in the former Colony or Protectorate of Sierra Leone, was on the twenty-sixth day of April, 1961, a citizen of the United Kingdom and Colonies or a British protected person shall become a citizen of Sierra Leone on the twenty-seventh day of April, 1961:

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

(2) Every person who, having been born outside the former Colony and Protectorate of Sierra Leone, was on the twenty-sixth day of April, 1961, a citizen of the United Kingdom and Colonies or a British protected person shall, if his father becomes or would but for his death have become a citizen of Sierra Leone in accordance with the provisions of subsection (1) of this section, become a citizen of Sierra Leone on the twenty-seventh day of April, 1961.

Persons entitled to be registered as citizens.

2.—(1) Any person who, but for the proviso to subsection (1) of section 1 of this Constitution, would be a citizen of Sierra Leone by virtue of that subsection shall be entitled, upon making application before the twenty-seventh day of April, 1963, in such manner as may be prescribed, to be registered as a citizen of Sierra Leone:

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 twenty-sixth day of April, 1961, 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 Sierra Leone by virtue of section 1 of this Constitution; or

(*b*) who, having died before the twenty-seventh day of April, 1961, would, but for his death, have become a citizen of Sierra Leone by virtue of that section,

shall be entitled, upon making application in such manner as may be prescribed, to be registered as a citizen of Sierra Leone.

(3) Any woman who is or has been married to a person who becomes a citizen of Sierra Leone 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, to be registered as a citizen of Sierra Leone.

(4) Any woman who on the twenty-sixth day of April, 1961, was a citizen of the United Kingdom and Colonies or a British protected person and who has been married to a person who becomes, or would but for his death have become, entitled to be registered as a citizen of Sierra Leone under subsection (1) of this section, but whose marriage has been terminated by death or dissolution of marriage, shall be entitled, upon making application before the twenty-seventh day of April, 1963, in such manner as may be prescribed, to be registered as a citizen of Sierra Leone.

(5) The provisions of subsections (2), (3) and (4) of this section shall be without prejudice to the provisions of section 1 of this Constitution.

(6) Notwithstanding anything contained in this section, a person who has attained the age of twenty-one years or who is a woman who is or has been married shall not, if he is a citizen of some country other than Sierra Leone, be entitled to be registered as a citizen of Sierra Leone under the provisions of this section unless he renounces his citizenship of that other country, takes the oath of allegiance and makes and registers such declaration of his intentions concerning residence or employment as may be prescribed:

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.

Persons naturalized or registered before 27th April, 1961.

3.—(1) Any person who on the twenty-sixth day of April, 1961, 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 Sierra Leone as a British subject before that Act came into force; or

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

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

shall be entitled, upon making application before the twenty-seventh day of April, 1963, in such manner as may be prescribed, to be registered as a citizen of Sierra Leone:

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) Notwithstanding anything contained in subsection (1) of this section, a person who has attained the age of twenty-one years or who is a woman who is or has been married shall not, if he is a citizen of some country other than Sierra Leone, be entitled to be registered as a citizen of Sierra Leone under the provisions of that subsection unless he renounces his citizenship of that other country, takes the oath of allegiance and makes and registers such declaration of his intentions concerning residence or employment as may be prescribed:

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.

Persons born in Sierra Leone after 26th April, 1961.

4. Every person born in Sierra Leone after the twenty-sixth day of April, 1961, shall become a citizen of Sierra Leone at the date of his birth:

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

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

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

Persons born outside Sierra Leone after 26th April, 1961.

5. A person born outside Sierra Leone after the twenty-sixth day of April, 1961, shall become a citizen of Sierra Leone at the date of his birth if at that date his father is a citizen of Sierra Leone otherwise than by virtue of this section or subsection (2) of section 1 of this Constitution.

Dual citizenship.

6.—(1) Any person who, upon his attainment of the age of twenty-one years, was a citizen of Sierra Leone and also a citizen of some country other than Sierra Leone shall cease to be a citizen of Sierra Leone 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) 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 Sierra Leone by virtue of subsection (2) of section 1 of this Constitution, has made and registered such declaration of his intentions concerning residence or employment as may be prescribed:

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.

(2) A person who—

(*a*) has attained the age of twenty-one years before the twenty-seventh day of April, 1961; and

(*b*) becomes a citizen of Sierra Leone on that day by virtue of the provisions of section 1 of this Constitution; and

(*c*) is immediately after that date also a citizen of some country other than Sierra Leone,

shall cease to be a citizen of Sierra Leone on the twenty-sixth day of April, 1962 (or, in the case of a person of unsound mind, at such later date as may be prescribed) 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 Sierra Leone by virtue of subsection (2) of section 1 of this Constitution, made and registered such declaration of his intentions concerning residence or employment as may be prescribed:

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.

Commonwealth citizens.

7.—(1) Every person who under this Constitution or any Act of Parliament is a citizen of Sierra Leone 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) Save as may be otherwise provided by Parliament, 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 Federation of Nigeria, the Republic of Cyprus and the State of Singapore.

Criminal liability of Commonwealth citizens.

8.—(1) A Commonwealth citizen who is not a citizen of Sierra Leone, or a citizen of the Republic of Ireland who is not a citizen of Sierra Leone, shall not be guilty of an offence against any law in force in Sierra Leone by reason of anything done or omitted in any part of the Commonwealth other than Sierra Leone 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.

9. Parliament may make provision—

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

(*b*) for depriving of his citizenship of Sierra Leone any person who is a citizen of Sierra Leone otherwise than by virtue of subsection (1) of section 1 or section 4 of this Constitution; or

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

Interpretation.

10.—(1) In this Chapter—

"alien" means a person who is not a Commonwealth citizen, 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;

"prescribed" means prescribed by or under any Act of Parliament.

(2) For the purposes of this Chapter, a person born aboard a registered ship or aircraft, or aboard an unregistered ship or aircraft of the government of any country, shall be deemed to have been born in the place in which the ship or aircraft was registered or, as the case may be, in that country.

(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 the father's death; and where that death occurred before the twenty-seventh day of April, 1961, and the birth occurred after the twenty-sixth day of April, 1961, the national status that the father would have had if he had died on the twenty-seventh day of April, 1961, shall be deemed to be his national status at the time of his death.

Chapter II

Protection of Fundamental Rights and Freedoms of the Individual

Fundamental rights and freedoms of the individual.

11. Whereas every person in Sierra Leone is entitled to the fundamental rights and freedoms of the individual, that is to say, has the right, whatever his race, tribe, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely—

(*a*) life, liberty, security of the person, the enjoyment of property and the protection of the law;

(*b*) freedom of conscience, of expression and of assembly and association; and

(*c*) respect for his private and family life,

the subsequent provisions of this Chapter shall have effect for the purpose of affording protection to the aforesaid rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.

Protection of right to life.

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

(2) Without prejudice to any liability for a contravention of any other law with respect to the use of force in such cases as are hereinafter mentioned, 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 of force to such extent as is reasonably justifiable in the circumstances of the case—

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

(*b*) in order to effect a lawful arrest or to prevent the escape of a person lawfully 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,

or if he dies as the result of a lawful act of war.

Protection from arbitrary arrest or detention.

13.—(1) No person shall be deprived of his personal liberty save as may be authorised by law in any of the following cases, that is to say—

(*a*) in consequence of his unfitness to plead to a criminal charge; or

(*b*) in execution of the sentence or order of a court, whether in Sierra Leone or elsewhere, in respect of a criminal offence of which he has been convicted; or

(*c*) in execution of the order of the Supreme Court or of the Court of Appeal or such other court as may be prescribed by Parliament on the grounds of his contempt of any such court or of another court or tribunal; or

(*d*) in execution of the order of a court made in order to secure the fulfilment of any obligation imposed on him by law; or

(*e*) for the purpose of bringing him before a court in execution of the order of a court; or

(*f*) upon reasonable suspicion of his having committed or of being about to commit a criminal offence; or

(*g*) in the case of a person who has not attained the age of twenty-one years, for the purpose of his education or welfare; or

(*h*) for the purpose of preventing the spread of an infectious or contagious disease; or

(*i*) in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his care or treatment or the protection of the community; or

(*j*) for the purpose of preventing the unlawful entry of that person into Sierra Leone, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from Sierra Leone or the taking of proceedings relating thereto; or

(*k*) to such extent as may be necessary in the execution of a lawful order requiring that person to remain within a specified area within Sierra Leone or prohibiting him from being within such an area, or to such extent as may be reasonably justifiable for the taking of proceedings against that person relating to the making of any such order, or to such extent as may be reasonably justifiable for restraining that person during any visit that he is permitted to make to any part of Sierra Leone in which, in consequence of any such order, his presence would otherwise be unlawful.

(2) Any person who is arrested or detained shall be informed as soon as reasonably practicable, in a language which he understands, of the reasons for his arrest or detention.

(3) Any person who is arrested or detained in such a case as is mentioned in paragraph (*e*) or (*f*) of subsection (1) of this section and who is not released shall be brought without undue delay before a court; and if any person arrested or detained in such a case as is mentioned in the said paragraph (*f*) is not tried within a reasonable time, then, without prejudice to any further proceedings which may be brought against him, he shall be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.

(4) Any person who is unlawfully arrested or detained by any other person shall be entitled to compensation therefor from that other person.

(5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question authorises the taking during a period of public emergency of measures that are reasonably justifiable for the purpose of dealing with the situation that exists during that period of public emergency.

(6) If any person who is lawfully detained by virtue only of such a law as is referred to in subsection (5) of this section so requests at any time during the period of that detention not earlier than six months after he last made such a request during that period, his case shall be reviewed by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice of Sierra Leone from among the persons entitled to practise in Sierra Leone as advocates or solicitors.

(7) On any review by a tribunal in pursuance of subsection (6) of this section of the case of any detained person, the tribunal may make recommendations concerning the necessity or expediency of continuing his detention to the authority by whom it was ordered but, unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with any such recommendations.

Protection of freedom of movement.

14.—(1) No person shall be deprived of his freedom of movement, and for the purposes of this section the said freedom means the right to move freely throughout Sierra Leone, the right to reside in any part of Sierra Leone, the right to enter Sierra Leone and immunity from expulsion from Sierra Leone.

(2) Any restriction on a person's freedom of movement which is involved in his lawful detention shall not be held to be inconsistent with or in contravention of this section.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision—

(*a*) which is reasonably required in the interests of defence, public safety, public order, public morality, public health or the conservation of the mineral resources of Sierra Leone and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society; or

(*b*) for the imposition of restrictions on the movement or residence within Sierra Leone of any person who is not a citizen thereof or the exclusion or expulsion from Sierra Leone of any such person; or

(*c*) for the imposition of restrictions on the acquisition or use by any person of land or other property in Sierra Leone; or

(*d*) for the imposition of restrictions upon the movement or residence within Sierra Leone of public officers or members of a defence force; or

(*e*) for the removal of a person from Sierra Leone to be tried outside Sierra Leone for a criminal offence or to undergo imprisonment outside Sierra Leone in execution of the sentence of a court in respect of a criminal offence of which he has been convicted.

(4) If any person whose freedom of movement has been restricted by virtue only of such a provision as is referred to in paragraph (*a*) of subsection (3) of this section so requests at any time during the period of that restriction not earlier than six months after he last made such a request during that period, his case shall be reviewed by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice of Sierra Leone from among the persons entitled to practise in Sierra Leone as advocates or solicitors.

(5) On any review by a tribunal in pursuance of subsection (4) of this section of the case of any person whose freedom of movement has been restricted, the tribunal may make recommendations concerning the necessity or expediency of continuing that restriction to the authority by whom it was ordered but, unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with any such recommendations.

Protection from slavery and forced labour.

15.—(1) No person shall be held in slavery or servitude or required to perform forced labour.

(2) For the purposes of this section, the expression "forced labour" does not include—

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

(*b*) labour required of any person while he is lawfully detained which, though not required in consequence of the sentence or order of a court, is reasonably necessary in the interests of hygiene or for the maintenance of the place at which he is detained;

(*c*) any labour required of a member of a defence force in pursuance of his duties as such or, in the case of a person who has conscientious objections to service as such a member, any labour which that person is required by law to perform in place of such service;

(*d*) any labour required during a period of public emergency or in the event of any other emergency or calamity which threatens the life or well-being of the community; or

(*e*) any labour which forms part of normal communal or other civic obligations.

Protection from inhuman treatment.

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

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question authorises the infliction in any part of Sierra Leone of any description of punishment which was lawful in that part immediately before the commencement of this Constitution.

Protection from deprivation of property.

17.—(1) No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except where the following conditions are satisfied, that is to say—

(*a*) the taking of possession or acquisition is necessary in the interests of defence, public safety, public order, public morality, public health, town and country planning or the development and utilisation of any property in such a manner as to promote the public benefit; and

(*b*) the necessity therefor is such as to afford reasonable justification for the causing of any hardship that may result to any person having an interest in or right over the property; and

(*c*) provision is made by a law applicable to that taking of possession or acquisition—

(i) for the prompt payment of adequate compensation; and

(ii) securing to any person having an interest in or right over the property a right of access to a court or other authority for the determination of his interest or right, the legality of the taking of possession or acquisition of the property, interest or right, and the amount of any compensation to which he is entitled, and for the purpose of obtaining prompt payment of that compensation.

(2) Nothing in this section shall be construed as affecting the making or operation of any law so far as it provides for the taking of possession or acquisition of property—

(*a*) in satisfaction of any tax, rate or due;

(*b*) by way of penalty for breach of the law, whether under civil process or after conviction of a criminal offence;

(*c*) as an incident of a lease, tenancy, mortgage, charge, bill of sale, pledge or contract;

(*d*) by way of the vesting or administration of trust property, enemy property, or the property of persons adjudged or otherwise declared bankrupt or insolvent, persons of unsound mind, deceased persons, or bodies corporate or unincorporate in the course of being wound up;

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

(*f*) by reason of its being in a dangerous state or injurious to the health of human beings, animals or plants;

(*g*) in consequence of any law with respect to the limitation of actions;

(*h*) for so long only as may be necessary for the purposes of any examination, investigation, trial or inquiry or, in the case of land, the carrying out thereon—

(i) of work of soil conservation or the conservation of other natural resources; or

(ii) of agricultural development or improvement which the owner or occupier of the land has been required, and has without reasonable and lawful excuse refused or failed, to carry out.

(3) Nothing in this section shall be construed as affecting the making or operation of any law for the compulsory taking of possession in the public interest of any property, or the compulsory acquisition in the public interest of any interest in or right over property, where that property, interest or right is held by a body corporate which is established directly by any law and in which no moneys have been invested other than moneys provided by Parliament or by the Legislature of the former Colony and Protectorate of Sierra Leone.

Protection for privacy of home and other property.

18.—(1) Except with his own consent, no person shall be subjected to the search of his person or his property or the entry by others on his premises.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision which is reasonably required—

(*a*) in the interests of defence, public safety, public order, public morality, public health, town and country planning or the development and utilisation of any property in such a manner as to promote the public benefit; or

(*b*) to enable any body corporate established directly by any law or any department of the Government of Sierra Leone or any local government authority to enter on the premises of any person in order to carry out work connected with any property or installation which is lawfully on such premises and which belongs to that body corporate or that Government or that authority, as the case may be; or

(*c*) for the purpose of protecting the rights or freedoms of other persons,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

Provisions to secure protection of law.

19.—(1) Whenever any person is charged with a criminal offence he shall, unless the charge is withdrawn, be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.

(2) Any court or other authority prescribed by law for the determination of the existence or the extent of civil rights or obligations shall be independent and impartial; and where proceedings for such a determination are instituted by any person before such a court or other authority, the case shall be given a fair hearing within a reasonable time.

(3) All proceedings of every court and proceedings relating to the determination of the existence or the extent of a person's civil rights or obligations before any court or other authority, including the announcement of the decision of the court or other authority, shall be held in public:

Provided that the court or other authority may, to such extent as it may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice or in interlocutory civil proceedings, or to such extent as it may be empowered or required by law so to do in the interests of defence, public safety, public order, public morality, the welfare of persons under the age of twenty-one years or the protection of the private lives of persons concerned in the proceedings, exclude from its proceedings persons other than the parties thereto and their legal representatives.

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

Provided that nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this subsection to the extent that the law in question imposes upon any person charged as aforesaid the burden of proving particular facts.

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

(*a*) shall be informed as soon as reasonably practicable, in a language which he understands and in detail, of the nature of the offence charged;

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

(*c*) shall be permitted to defend himself in person or by a legal representative of his own choice;

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

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

Provided that nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this subsection to the extent that the law in question prohibits legal representation in Native Courts.

(6) When a person is tried for any criminal offence, the accused person or any person authorised by him in that behalf shall, if he so requires and subject to payment of such reasonable fee as may be prescribed by law, be given within a reasonable time a copy for the use of the accused person of any record of the proceedings made by or on behalf of the court.

(7) No person shall be held to be guilty of a criminal offence on account of any act or omission which did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence which is severer in degree or description than the maximum penalty which might have been imposed for that offence at the time when it 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 any other criminal offence of

which he could have been convicted at the trial for that offence save upon the order of a superior court made in the course of appeal proceedings relating to the conviction or acquittal; and no person shall be tried for a criminal offence if he shows that he has been pardoned for that offence:

Provided that nothing in any law shall be held to be inconsistent with or in contravention of this subsection by reason only that it authorises any court to try a member of a defence force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under service law; but any court so trying such a member and convicting him shall in sentencing him to any punishment take into account any punishment awarded him under service law.

(9) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of any provision of this section other than subsection (7) thereof to the extent that the law in question authorises the taking during a period of public emergency of measures that are reasonably justifiable for the purpose of dealing with the situation that exists during that period of public emergency.

(10) In paragraphs (*c*) and (*d*) of subsection (5) of this section, "legal representative" means an advocate entitled to practise as such in Sierra Leone or, except in relation to proceedings before a court in which a solicitor has no right of audience, a solicitor who is so entitled.

Protection of freedom of conscience.

20.—(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this section the said freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.

(2) Except with his own consent (or, if he is a minor, the consent of his guardian), 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 observance if that instruction, ceremony or observance relates to a religion other than his own.

(3) No religious community or denomination shall be prevented from providing religious instruction for persons of that community or denomination in the course of any education provided by that community or denomination.

(4) No person shall be compelled to take any oath which is contrary to his religion or belief or to take any oath in a manner which is contrary to his religion or belief.

(5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision which is reasonably required—

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

(*b*) for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practise any religion without the unsolicited intervention of members of any other religion,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

Protection of freedom of expression.

21.—(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression, and for the purposes of this section the said freedom includes the freedom to hold opinions and to receive and impart ideas and information without interference, and freedom from interference with his correspondence.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision—

(*a*) which is reasonably required—

(i) in the interests of defence, public safety, public order, public morality or public health; or

(ii) for the purpose of protecting the reputations, rights and freedoms of other persons, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, or regulating telephony, telegraphy, posts, wireless broadcasting, television, public exhibitions or public entertainments; or

(*b*) which imposes restrictions upon public officers or upon members of a defence force,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

Protection of freedom of assembly and association.

22.—(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to trade unions or other associations for the protection of his interests.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision—

(*a*) which is reasonably required—

(i) in the interests of defence, public safety, public order, public morality or public health; or

(ii) for the purpose of protecting the rights or freedoms of other persons; or

(*b*) which imposes restrictions upon public officers or upon members of a defence force,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

Protection from discrimination on the grounds of race, etc.

23.—(1) Subject to the provisions of subsections (4), (5) and (7) of this section, no law shall make any provision which is discriminatory either of itself or in its effect.

(2) Subject to the provisions of subsections (6), (7) and (8) of this section, no person shall be treated in a discriminatory manner by any

person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

(3) In this section, the expression " discriminatory " means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, tribe, place of origin, political opinions, colour or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

(4) Subsection (1) of this section shall not apply to any law so far as that law makes provision—

(*a*) for the appropriation of revenues or other funds of Sierra Leone or for the imposition of taxation (including the levying of fees for the grant of licences) ; or

(*b*) with respect to persons who are not citizens of Sierra Leone ; or

(*c*) with respect to adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law ; or

(*d*) for the application in the case of members of a particular race or tribe of customary law with respect to any matter to the exclusion of any law with respect to that matter which is applicable in the case of other persons ; or

(*e*) for authorising the taking during a period of public emergency of measures that are reasonably justifiable for the purpose of dealing with the situation that exists during that period of public emergency ; or

(*f*) whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society.

(5) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) of this section to the extent that it makes provision with respect to qualifications for service as a public officer or as a member of a defence force or for the service of a local government authority or a body corporate established directly by any law.

(6) Subsection (2) of this section shall not apply to anything which is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in subsection (4) or (5) of this section.

(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any restriction on the rights and freedoms guaranteed by sections 14, 18, 20, 21 and 22 of this Constitution, being such a restriction as is authorised by paragraph (*a*) of subsection (3) of section 14, subsection (2) of section 18, subsection (5) of section 20, subsection (2) of section 21 or subsection (2) of section 22, as the case may be.

(8) Nothing in subsection (2) of this section shall affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under this Constitution or any other law.

Enforcement of protective provisions.

24.—(1) Subject to the provisions of subsection (6) of this section, if any person alleges that any of the provisions of sections 12 to 23 (inclusive) of this Constitution has been, is being or is likely to be contravened in relation to him, then, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the Supreme Court for redress.

(2) The Supreme Court shall have original jurisdiction—

(*a*) to hear and determine any application made by any person in pursuance of subsection (1) of this section ; and

(*b*) to determine any question arising in the case of any person which is referred to it in pursuance of subsection (3) thereof,

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 of, any of the provisions of the said sections 12 to 23 (inclusive) to the protection of which the person concerned is entitled:

Provided that the Supreme Court shall not exercise its powers under this subsection if it is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned under any other law.

(3) If in any proceedings in any court other than the Supreme Court or the Court of Appeal any question arises as to the contravention of any of the provisions of the said sections 12 to 23 (inclusive), the person presiding in that court may, and shall if any party to the proceedings so requests, refer the question to the Supreme Court unless in his opinion the raising of the question is merely frivolous or vexatious.

(4) Any person aggrieved by any determination of the Supreme Court under this section may appeal therefrom to the Court of Appeal.

(5) No appeal shall lie from any determination under this section that any application or the raising of any question is merely frivolous or vexatious.

(6) Parliament may make provision, or may authorise the making of provision, with respect to the practice and procedure of any court for the purposes of this section and may confer upon that court such powers, or may authorise the conferment thereon of such powers, in addition to those conferred by this section as may appear to be necessary or desirable for the purpose of enabling that court more effectively to exercise the jurisdiction conferred upon it by this section.

(7) During the period of two years beginning with the commencement of this Constitution, nothing contained in any law made before that commencement shall be held to be inconsistent with any of the said sections 12 to 23 (inclusive) ; and nothing done during that period under the authority of any such law shall be held to be done in contravention of any of those sections.

Interpretation of Chapter II.

25.—(1) In this Chapter, save where the context otherwise requires, the following expressions have the following meanings respectively, that is to say—

"contravention", in relation to any requirement, includes a failure to comply with that requirement, and cognate expressions shall be construed accordingly;

"court" means any court of law in Sierra Leone other than a court constituted by or under service law and—

(i) in section 12, section 13, section 14, section 15, subsections (3), (5), (6), (8) (but not the proviso thereto) and (11) of section 19, subsection (8) of section 23 and subsection (3) of section 24 of this Constitution includes, in relation to an offence against service law, a court so constituted; and

(ii) in sections 13 and 15 and subsection (8) of section 23 of this Constitution includes, in relation to an offence against service law, an officer of a defence force or of the Sierra Leone Police Force;

"defence force" means any naval, military or air force of the Crown in right of the Government of Sierra Leone;

"member", in relation to a defence force or other armed force, includes any person who, under the law regulating the discipline of that force, is subject to that discipline;

"service law" means the law regulating the discipline of a defence force or of the Sierra Leone Police Force.

(2) References in sections 12, 13, 14 and 17 of this Constitution to a "criminal offence" shall be construed as including references to an offence against service law and such references in subsections (4) to (9) (inclusive) of section 19 of this Constitution shall, in relation to proceedings before a court constituted by or under service law, be similarly construed.

(3) Nothing done by or under the authority of the law of any country other than Sierra Leone to a member of an armed force raised under that law and lawfully present in Sierra Leone shall be held to be in contravention of this Chapter.

(4) In this Chapter "period of public emergency" means any period during which—

(*a*) Sierra Leone is at war; or

(*b*) there is in force a resolution of the House of Representatives supported by the votes of not less than two-thirds of all the members of the House declaring that a state of public emergency exists.

(5) A resolution passed by the House of Representatives for the purposes of subsection (4) 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 extended from time to time for a further period not exceeding twelve months by resolution passed in like manner and may be revoked at any time by resolution supported by the votes of a majority of all the members of the House of Representatives.

CHAPTER III

THE GOVERNOR-GENERAL

Establishment of office of Governor-General.

26. There shall be a Governor-General and Commander-in-Chief of Sierra Leone, 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 Sierra Leone.

Oaths to be taken by Governor-General.

27. 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.

28. Whenever the office of Governor-General is vacant or the holder of the office is absent from Sierra Leone 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 Sierra Leone so appointed and able to perform those functions, by the Chief Justice of Sierra Leone.

CHAPTER IV

PARLIAMENT

PART 1

Composition of Parliament

Establishment of Parliament.

29. There shall be a Parliament of Sierra Leone which shall consist of Her Majesty and a House of Representatives.

House of Representatives.

30.—(1) The House of Representatives shall consist of a Speaker and the following members (who shall be known as "Members of Parliament"), that is to say—

(*a*) one member for each District who shall, subject to the provisions of this Constitution, be elected in such manner as may be prescribed by or under any law from among the persons who, under any law, are for the time being Paramount Chiefs; and

(*b*) such number of other members as Parliament may prescribe who, subject as aforesaid, shall be elected in such manner as may be prescribed by or under any law:

Provided that—

(i) the number of members to be elected in pursuance of paragraph (*a*) and the number of members to be elected in pursuance of paragraph (*b*) of this subsection shall not together be less than sixty; and

(ii) no alteration in the number of Districts shall affect the composition of the House of Representatives until the next dissolution of Parliament after such alteration.

(2) In any election of a member of the House of Representatives the votes of the electors shall be given by ballot in such manner as not to disclose how any particular elector votes.

(3) In this section "District" means a District established under the Protectorate Ordinance(a) or by any Act of Parliament amending or replacing that Ordinance:

Provided that no alteration in the number of Districts shall be effected except by an Act of Parliament and unless the bill for that Act is supported at the final vote thereon by the votes of not less than two-thirds of all the members of the House of Representatives.

Qualifications for membership of House of Representatives.

31. Subject to the provisions of section 32 of this Constitution, any person who—

(*a*) is a citizen of Sierra Leone; and

(*b*) has attained the age of twenty-five years; and

(*c*) is able to speak and, unless incapacitated by blindness or other physical cause, to read the English language with a degree of proficiency sufficient to enable him to take an active part in the proceedings of the House of Representatives,

shall be qualified for election as such a member of the House of Representatives as is referred to in paragraph (*b*) of subsection (1) of section 30 of this Constitution, and any such person who, under any law, is for the time being a Paramount Chief shall be qualified for election as such a member of the House of Representatives as is referred to in paragraph (*a*) of that subsection, and no other person shall be qualified to be so elected.

Disqualification for membership of House of Representatives.

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

(*a*) if he is a citizen of a country other than Sierra Leone having become such a citizen voluntarily or is under a declaration of allegiance to such a country; or

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

(*c*) if he holds the office of Speaker; or

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

(*e*) if, being a person possessed of professional qualifications, he is disqualified (otherwise than at his own request) from practising his profession in Sierra Leone by the order of any competent authority made in respect of him personally within the immediately preceding five years but after the commencement of this Constitution; or

(*f*) if under any law in force in Sierra Leone he is adjudged to be a lunatic or otherwise declared to be of unsound mind; or

(*g*) if he is under a sentence of death imposed on him by any court or a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him by a court or substituted by competent authority for some other sentence imposed on him by a court; or

(a) Laws of Sierra Leone, Rev. 1946, c. 185.

(*h*) if, in the case of the election of such a member as is referred to in paragraph (*b*) of subsection (1) of section 30 of this Constitution, he is not qualified under any law to be registered as an elector for elections to the House of the members referred to in that paragraph ; or

(*i*) if, in the case of the election of such a member as is referred to in paragraph (*b*) of subsection (1) of section 30 of this Constitution, he is for the time being a Paramount Chief under any law.

(2) Parliament may provide that a person shall not be qualified for election to the House of Representatives for such period (not exceeding five years) as may be prescribed by Parliament if he is convicted by any court of such offences connected with the election of members of the House of Representatives as may be so prescribed.

(3) 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 the House.

(4) Parliament may provide that a person disqualified under paragraph (*g*) of subsection (1) of this section by reason of his being under a sentence of imprisonment exceeding twelve months for any such offence (being an offence that appears to Parliament to involve dishonesty) as may be prescribed by Parliament or by reason of his being under sentence of imprisonment that includes such a sentence for any such offence shall not be qualified for election as a member of 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 so prescribed.

(5) For the purposes of paragraph (*g*) 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 twelve months but if any one of those sentences exceeds that term they shall be regarded as one sentence.

(6) A person shall not be disqualified for election as a member of the House of Representatives under paragraph (*b*) of subsection (1) of this section by reason only that he holds the office of Prime Minister or other Minister, member of the Cabinet, Parliamentary Secretary, Chief, Tribal Authority, member of a Tribal Authority, member of a Native Court or member of any body corporate established by or under any of the following laws, that is to say, the Freetown Municipality Ordinance(**a**), the Tribal Authorities Ordinance(**b**), the Rural Area Ordinance, 1949(**c**), the District Councils Ordinance, 1950(**d**), the Sherbro Urban District Council Ordinance, 1950(**e**), the Bo Town Council Ordinance, 1954(**f**), and the Townships Ordinance, 1959(**g**), or any law amending or replacing any of those laws.

(**a**) Laws of Sierra Leone, Rev. 1946, c. 91.
(**b**) Laws of Sierra Leone, Rev. 1946, c. 245.
(**c**) Laws of Sierra Leone, No. 11 of 1949.
(**d**) Laws of Sierra Leone, No. 17 of 1950.
(**e**) Laws of Sierra Leone, No. 22 of 1950.
(**f**) Laws of Sierra Leone, No. 11 of 1954.
(**g**) Laws of Sierra Leone, No. 47 of 1959

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

(8) If any person who holds office as a member of a statutory corporation is 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.

(9) In this section "statutory corporation" means any body corporate established directly by any law other than one of the laws specified in subsection (6) of this section.

The Speaker.

33.—(1) The Speaker of the House of Representatives shall be elected by the members of the House from among persons who are members of the House or who are qualified to be elected as such whether in pursuance of paragraph (*a*) or paragraph (*b*) of subsection (1) of section 30 of this Constitution.

(2) The Speaker shall be elected by a resolution in favour of which there are cast the votes of not less than two-thirds of all the members of the House of Representatives:

Provided that if three successive resolutions proposing the election of a Speaker fail to receive the votes of two-thirds of all the members of the House, the Speaker shall be elected by a resolution passed by a simple majority of all the members.

(3) No person shall be elected as Speaker of the House of Representatives—

(*a*) if he is a public officer, a member of the armed forces of the Crown or the holder of any other office of emolument under the Crown; or

(*b*) if he is a Minister or a Parliamentary Secretary.

(4) The Speaker shall vacate his office—

(*a*) if any circumstances arise that, if he were not Speaker, would disqualify him for election as Speaker;

(*b*) when the House of Representatives first meets after any dissolution of Parliament; or

(*c*) if he is removed from office by a resolution of the House supported by the votes of not less than two-thirds of all the members of the House.

(5) 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.

Deputy Speaker.

34.—(1) There shall be a Deputy Speaker of the House of Representatives who shall be elected by the members of the House.

(2) No person shall be elected as Deputy Speaker of the House of Representatives unless he is a member of the House and is not a Minister or a Parliamentary Secretary.

(3) The members of the House of Representatives shall elect a person to the office of Deputy Speaker—

(*a*) at the first sitting of the House in every session; and

(*b*) at the first sitting of the House after the occurrence of a vacancy in the office of Deputy Speaker,

or as soon thereafter as may be convenient.

(4) The Deputy Speaker shall vacate his office—

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

(*b*) if he becomes a Minister or a Parliamentary Secretary ; or

(*c*) if he is removed from office by a resolution of the House.

Voting at elections of Speaker and Deputy Speaker.

35. In any election of a Speaker or Deputy Speaker the votes of the members of the House of Representatives shall be given by ballot in such manner as not to disclose how any particular member votes.

Tenure of seats of members of House of Representatives.

36.—(1) A member of the House of Representatives shall vacate his seat in the House—

(*a*) if he is elected as Speaker ;

(*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) of section 32 of this Constitution or any law enacted in pursuance of subsection (2) or (3) of that section ; or

(*c*) if he ceases to be a citizen of Sierra Leone ; or

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

(*e*) if he is absent from sittings of the House for such period and in such circumstances as may be prescribed in the rules of procedure of the House ; or

(*f*) if, in the case of such a member as is referred to in paragraph (*b*) of subsection (1) of section 30 of this Constitution, he becomes a Paramount Chief under any law ; or

(*g*) if, in the case of such a member as is referred to in paragraph (*a*) of subsection (1) of the said section 30, he ceases to be a Paramount Chief under any law ; or

(*h*) if, in the case of such a member as is referred to in paragraph (*b*) of subsection (1) of the said section 30 he ceases to be qualified under any law to be registered as an elector for elections to the House of the members referred to in that paragraph.

(2) Parliament may, in order to permit any 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, provide that, subject to such conditions as may be prescribed, the decision shall not have effect until such time as may be prescribed.

(3) In this section the expression "statutory corporation" has the meaning attributed to it by section 32 of this Constitution.

Establishment of Electoral Commission

37.—(1) There shall be an Electoral Commission for Sierra Leone.

(2) The members of the Electoral Commission shall be a Chief Electoral Commissioner, who shall be Chairman, and not less than two or more than four other members.

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

(4) A person shall not be qualified to hold the office of a member of the Electoral Commission if he is a Minister, a Parliamentary Secretary, a member of the House of Representatives or a public officer.

(5) Subject to the provisions of this section, a member of the Electoral Commission 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.

(6) A member of the Electoral Commission 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.

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

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

Constituencies and Elections.

38.—(1) Sierra Leone shall be divided into such constituencies for the purposes of electing the members of the House of Representatives referred to in paragraph (*b*) of subsection (1) of section 30 of this Constitution as the Electoral Commission, acting with the approval of the House of Representatives signified by resolution, may prescribe.

(2) Every constituency established under this section shall return one member to the House of Representatives.

(3) 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.

(4) The Electoral Commission shall review the division of Sierra Leone 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 the Commission 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 in the number of members of the House of Representatives referred to in paragraph (*b*) of subsection (1) of section 30 of this Constitution or by reason of the holding of a census of the population of Sierra Leone in pursuance of an Act of Parliament.

(5) Where the boundaries of any constituency 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 the House of Representatives.

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

(7) For the purposes of this section the number of inhabitants of Sierra Leone shall be ascertained by reference to the latest census of the population of Sierra Leone held in pursuance of an Act of Parliament or, if no census has been so held, by reference to any available information which, in the opinion of the Commission, best indicates the number of those inhabitants.

(8) The registration of voters and the conduct of elections in every constituency shall be subject to the direction and supervision of the Electoral Commission.

Filling of vacancies.

39. Whenever the seat of any member of the House of Representatives becomes vacant the vacancy shall be filled by election in accordance with the provisions of any law.

Determination of questions as to membership of the House of Representatives.

40.—(1) The Supreme Court shall have jurisdiction to hear and determine any question whether—

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

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

(2) Parliament may make provision with respect to—

(*a*) the persons who may apply to the Supreme 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 Supreme Court in relation to any such application.

Clerk to House of Representatives and his staff.

41.—(1) There shall be a Clerk to the House of Representatives.

(2) The office of the Clerk to the House and the offices of the members of his staff shall be public offices.

PART 2

Legislation and Procedure in House of Representatives

Power to make laws.

42. Subject to the provisions of this Constitution, Parliament may make laws for the peace, order and good government of Sierra Leone.

Alteration of this Constitution.

43.—(1) Parliament may alter any of the provisions of this Constitution or (in so far as it forms part of the law of Sierra Leone) any of the provisions of the Sierra Leone Independence Act, 1961:

Provided that in so far as it alters—

(*a*) this section;

(*b*) sections 11 to 25 (inclusive), section 29, section 44, subsection (2) of section 54, section 55, sections 56, 73, 74, 75, 76, 77, 79, 80, 81, 84, 85, 86, 87 to 93 (inclusive), 94, 95, 96, 97, 98, 99, 102 or 103;

(*c*) section 107 in its application to any of the provisions specified in paragraph (*a*) or (*b*) of this subsection; or

(*d*) any of the provisions of the Sierra Leone Independence Act, 1961,

a bill for an Act of Parliament under this section shall not be submitted to the Governor-General for his assent unless the bill has been passed by the House of Representatives in two successive sessions, there having been a dissolution of Parliament between the first and second of those sessions.

(2) For the purposes of subsection (1) of this section, a bill passed by the House of Representatives in one session shall be deemed to be the same bill as a bill passed by the House in the preceding session if it is identical with that bill, or contains only such alterations as are certified by the Speaker to be necessary owing to the time that has elapsed since that bill was passed in the preceding session.

(3) A bill for an Act of Parliament under this section shall not be passed by the House of Representatives in any session unless at the final vote thereon in that session it is supported by the votes of not less than two-thirds of all the members of the House.

(4) The provisions of this Constitution or (in so far as it forms part of the law of Sierra Leone) the Sierra Leone Independence Act, 1961, shall not be altered except in accordance with the provisions of this section.

(5) In this section—

(*a*) references to any of the provisions of this Constitution or the Sierra Leone Independence Act, 1961, include references to any 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 or the Sierra Leone Independence Act, 1961, include references to the amendment or 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.

Office of Paramount Chief.

44. No provision of any law, in so far as it provides for the abolition of the office of Paramount Chief as existing by customary law and usage immediately before the commencement of this Constitution, shall have effect unless it is included in an Act of Parliament; and the provisions of section 43 of this Constitution shall apply in relation to the bill for such an Act as they apply in relation to the bill for an Act of Parliament that alters any of the provisions of this Constitution that are referred to in the proviso to subsection (1) of that section.

Oath to be taken by members of House of Representatives.

45.—(1) Every member of the House of Representatives shall, before taking his seat in the 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 Speaker of the House.

(2) Any person elected to the office of Speaker of the House of Representatives who is not a member of the House shall, before entering upon the duties of his office, take and subscribe the oath of allegiance before the House.

Presiding in the House of Representatives.

46. 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 (not being a Minister or a Parliamentary Secretary) as the House may elect for that purpose.

Quorum in House of Representatives.

47. If objection is taken by any member of the House of Representatives present that there are present in the House (besides the person presiding) less than one-fourth of all the members of the 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-fourth of all the members of the House, he shall thereupon adjourn the House.

Use of English in House of Representatives.

48. The business of the House of Representatives shall be conducted in English.

Voting in the House of Representatives.

49.—(1) Save as otherwise provided in this Constitution, any question proposed for decision in the House of Representatives shall be determined by a majority of the votes of the members present and voting.

(2) The person presiding in the House shall cast a vote whenever necessary to avoid an equality of votes but shall not vote in any other case.

(3) The rules of procedure of the House may provide that the vote of a member upon a question in which he has a direct pecuniary interest shall be disallowed, and if any such provision is made a member whose vote is disallowed in accordance therewith shall be deemed not to have voted.

Unqualified persons sitting or voting.

50. Any person who sits or votes in the House of Representatives 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 so sits or votes in the House, which shall be recoverable by action in the Supreme Court at the suit of the Attorney-General.

Mode of exercising legislative power.

51.—(1) The power of Parliament to make laws shall be exercised by bills passed by the House of Representatives and assented to by the Governor-General on behalf of Her Majesty.

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

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

Restriction with regard to certain financial measures.

52. Except upon the recommendation of the Governor-General signified by a Minister, 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 Sierra Leone 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 Sierra Leone 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 Government of Sierra Leone;

(*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.

Regulation of procedure in House of Representatives.

53.—(1) Subject to the provisions of this Constitution, the House of Representatives may regulate its own procedure.

(2) The House may act notwithstanding any vacancy in its membership (including any vacancy not filled when the House first meets after the commencement of this Constitution or 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.

PART 3

Summoning, prorogation and dissolution

Sessions of Parliament.

54.—(1) Each session of Parliament shall be held at such place within Sierra Leone and shall commence at such time as the Governor-General may by Proclamation appoint.

(2) There shall be a session of Parliament once at least in every year, so that a period of twelve months shall not intervene between the last sitting of Parliament in one session and the first sitting thereof in the next session.

Prorogation and dissolution of Parliament.

55.—(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 the first sitting of the House of Representatives after any dissolution and shall then stand dissolved.

(3) At any time when Sierra Leone is at war, Parliament may 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 Sierra Leone can be carried on without a dissolution and that a dissolution would not be in the interests of Sierra Leone, he may refuse to dissolve Parliament;

(*b*) if the House of Representatives passes a resolution that it has no confidence in the Government of Sierra Leone 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.

General elections.

56.—(1) Subject to the provisions of subsection (2) of this section, a general election of members of the House of Representatives shall be held at such time within three months after any dissolution of Parliament as the Governor-General may appoint.

(2) If, when Parliament has been dissolved, the Prime Minister advises the Governor-General that, owing to the existence of a public emergency, it would not be practicable to hold a general election within three months after the dissolution, the Governor-General, acting in accordance with the advice of the Prime Minister, may by Proclamation recall the Parliament that has been dissolved and the following provisions shall then have effect, that is to say:—

(*a*) the House of Representatives shall meet at such date, not later than fourteen days after the date of the Proclamation, as may be specified therein;

(*b*) the Prime Minister shall, subject to the provisions of subsection (5) of section 33 of this Constitution, introduce or cause to be introduced in the House of Representatives as soon as it meets a resolution declaring that a public emergency exists and, subject as aforesaid, no other business shall be transacted in the House until that resolution has been passed;

(*c*) if the resolution is passed by the House of Representatives with the support of the votes of not less than two-thirds of all the members thereof, a general election shall be held at such time within twelve months after the original dissolution of the Parliament that has been recalled as the Governor-General, acting in accordance with the advice of the Prime Minister, may appoint; and the Parliament that has been recalled shall be deemed to be the Parliament for the time being and may meet and be kept in session accordingly until the date fixed for the nomination of candidates in that general election and, unless previously dissolved, shall then stand dissolved;

(*d*) if the resolution is defeated, or is passed with the support of the votes of less than two-thirds of all the members of the House, or has not been put to the vote within five days after it has been introduced, the Parliament that has been recalled shall then be again dissolved and a general election shall be held at such time within three months after the date of the Proclamation by which Parliament was so recalled as the Governor-General may appoint.

(3) When a Parliament is recalled under this section after having been dissolved—

(*a*) the session of that Parliament held next before that dissolution, and

(*b*) the session or sessions of that Parliament held between the date when it is so recalled and the date of the next dissolution thereafter,

shall, for the purposes of section 43 of this Constitution, be deemed together to form one session.

CHAPTER V

EXECUTIVE POWERS

Exercise of executive authority of Sierra Leone.

57.—(1) The executive authority of Sierra Leone is vested in Her Majesty.

(2) Subject to the provisions of this Constitution, the executive authority of Sierra Leone 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.

Ministers of Government of Sierra Leone.

58.—(1) There shall be a Prime Minister of Sierra Leone, 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 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, other than the office of Prime Minister, shall be made by the Governor-General, acting in accordance with the advice of the Prime Minister, from among the members of the House of Representatives.

(5) If occasion arises for making an appointment to the office of Prime Minister or any other Minister while Parliament is dissolved, a person who was a member of the House of Representatives immediately before the dissolution may, notwithstanding any other provision of this section, be appointed as Prime Minister or any other Minister.

(6) The office of Prime Minister shall become vacant—

(*a*) when, after any dissolution of Parliament, the person holding that office 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 the person holding that office ceases to be a member of the House of Representatives otherwise than by reason of a dissolution of Parliament.

(7) When any person is appointed or re-appointed as Prime Minister, the offices of all the other Ministers shall thereupon become vacant.

(8) Subject to the provisions of subsections (6) and (7) of this section, the Ministers 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.

(9) The office of a Minister, other than the office of Prime Minister, shall become vacant if the holder thereof ceases to be a member of the House of Representatives otherwise than by reason of a dissolution of Parliament.

The Attorney-General.

59.—(1) Until the office of Attorney-General is established as that of a Minister under subsection (3) of section 58 of this Constitution it shall be a public office and a person shall not be qualified to hold that office unless he is qualified for appointment as a judge of the Supreme Court.

(2) When the office of Attorney-General has been established as that of a Minister—

(*a*) no person shall be qualified to hold that office unless he is a person who is entitled to practise as an advocate in 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*) if the person holding that office is for any reason unable to perform the functions conferred upon him by or under any law, those functions may be performed by such other person, being a person entitled as aforesaid (whether or not that person is a member of the House of Representatives), as the Governor-General, acting in accordance with the advice of the Prime Minister, may direct.

(3) When the office of Attorney-General has been established as that of a Minister, then the person who immediately prior thereto held that office shall, for the purposes of any such law as is referred to in subsection (5) of section 100 of this Constitution, be entitled to be treated as if his office had been abolished.

Establishment of Cabinet of Ministers.

60.—(1) There shall be a Cabinet of Ministers whose function shall be to advise the Governor-General in the government of Sierra Leone and which shall consist of the Prime Minister and such other persons, being Ministers, 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 Cabinet shall vacate his seat in the Cabinet if he ceases to be a Minister or if the Governor-General, acting in accordance with the advice of the Prime Minister, so directs.

Collective responsibility.

61.—(1) The Cabinet shall be collectively responsible to Parliament for any advice given to the Governor-General by or under the general authority of the Cabinet and for all things done by or under the authority of any Minister 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, members of the Cabinet and Parliamentary Secretaries, the assignment of responsibility to any Minister under section 62 of this Constitution, or the authorization of another member of the Cabinet 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 70 of this Constitution (which relates to the prerogative of mercy).

Allocation of portfolios to Ministers.

62. The Governor-General, acting in accordance with the advice of the Prime Minister, may, by directions in writing, assign to the Prime Minister or any other Minister responsibility for any business of the Government of Sierra Leone, including the administration of any department of government.

Performance of functions of Prime Minister during absence or illness.

63.—(1) Whenever the Prime Minister is absent from Sierra Leone 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 Cabinet 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 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.

64.—(1) In the exercise of his functions the Governor-General shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet except in cases where by this Constitution or any other law he is required to act in accordance with the advice of any person or authority other than the Cabinet:

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 55 of this Constitution;

(*b*) in the exercise of the power to appoint the Prime Minister conferred upon him by subsection (2) or (5) of section 58 of this Constitution;

(*c*) in the exercise of the powers conferred upon him by section 63 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 95 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.

(3) The reference in subsection (1) of this section to the functions of the Governor-General shall be construed as a reference to his powers and duties in the exercise of the executive authority of Sierra Leone and to any other powers and duties conferred or imposed on him as Governor-General by or under this Constitution or any other law.

Governor-General to be informed concerning matters of government.

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

Parliamentary Secretaries.

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

Provided that, if occasion arises for making an appointment while Parliament is dissolved, a person who was a member of the House immediately before the dissolution may be appointed as a Parliamentary Secretary.

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

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

(*b*) upon the appointment or re-appointment of any person as Prime Minister; 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.

67. A member of the Cabinet, a Minister or a Parliamentary Secretary 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.

68. Where any Minister 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 a public office:

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

Constitution of offices, etc.

69. Subject to the provisions of this Constitution and of any Act of Parliament, the Governor-General may constitute offices for Sierra Leone, make appointments to any such office and terminate any such appointment.

Prerogative of mercy.

70.—(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 against the law of Sierra Leone 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 any person for such an offence; or

(*d*) remit the whole or any part of any punishment imposed on any 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-General under subsection (1) of this section shall be exercised by him in accordance with the advice of the Prime Minister.

Advisory Committee on Prerogative of Mercy.

71.—(1) There shall be an Advisory Committee on the Prerogative of Mercy.

(2) The Advisory Committee shall consist of such members of the Cabinet as may from time to time be designated by the Governor-General, acting in accordance with the advice of the Prime Minister.

(3) The Governor-General, acting in accordance with the advice of the Prime Minister, may by regulation make provision with respect to the manner in which the Committee shall perform the functions conferred upon it by section 72 of this Constitution, including the number of members whose presence at any meeting of the Committee shall be necessary for the valid discharge by the Committee of any such functions; and, subject to any such regulations, the Committee may regulate its own procedure.

Functions of Advisory Committee.

72.—(1) Where any person has been sentenced to death (otherwise than by a court-martial) for an offence against the law of Sierra Leone, the Prime Minister 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 he may require, to be taken into consideration at a meeting of the Advisory Committee; and after obtaining the advice of the Committee he shall decide in his own deliberate judgment whether to advise the Governor-General to exercise any of his powers under subsection (1) of section 70 of this Constitution.

(2) The Prime Minister may consult with the Advisory Committee before making any recommendation to the Governor-General under subsection (2) of section 70 of this Constitution 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 Committee.

Establishment of office and functions of Director of Public Prosecutions.

73.—(1) There shall be a Director of Public Prosecutions, whose office shall be a public office.

(2) A person shall not be qualified to hold or act in the office of Director of Public Prosecutions unless he is qualified for appointment as a judge of the Supreme Court.

(3) The Director of Public Prosecutions 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 in respect of any offence against the law of Sierra Leone;

(*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.

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

(5) The powers conferred upon the Director of Public Prosecutions by paragraphs (*b*) and (*c*) of subsection (3) 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 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, or any case stated or question of law reserved for the purposes of any such proceedings, to any other court shall be deemed to be part of those proceedings.

Transitional.

74. Notwithstanding the provisions of section 73 of this Constitution, no appointment shall be made to the office of Director of Public Prosecutions until the office of Attorney-General has been established as that of a Minister under subsection (3) of section 58 of this Constitution and until the office of Attorney-General has been established as aforesaid section 73 (other than subsection (1) thereof), subsection (4) of section 91, paragraph (*b*) of subsection (3) of section 95, and section 98, of this Constitution shall have effect as if the references therein to the Director of Public Prosecutions were references to the Attorney-General.

CHAPTER VI

THE JUDICATURE

PART 1

The Supreme Court

Establishment of Supreme Court.

75.—(1) There shall be a Supreme Court for Sierra Leone which shall have such jurisdiction and powers as may be conferred upon it by this Constitution or any other law.

(2) The judges of the Supreme Court shall be the Chief Justice and such number of Puisne Judges as may be prescribed by Parliament.

(3) No office of judge of the Supreme Court shall be abolished while there is a substantive holder thereof.

(4) The 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.

Appointment of judges of Supreme Court.

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

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

(3) (*a*) A person shall not be qualified for appointment as a judge of the Supreme Court unless—

(i) 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

(ii) he is entitled to practise as an advocate in such a court and has been entitled for not less than ten years to practise as an advocate or solicitor in such a court.

(*b*) For the purposes of paragraph (*a*) of this subsection a person shall not be regarded as not being entitled to practise in a court by reason only that he holds or acts in any office under the government of some part of the Commonwealth or any office connected with any court of law in some part of the Commonwealth, being an office the holder of which is, by virtue of his holding such office, precluded from practising in a court.

(4) (*a*) If the office of Chief Justice is vacant or if the person holding that 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 that office has resumed those functions, as the case may be, those functions shall be performed by such one of the Puisne Judges as may be designated in that behalf by the Governor-General, acting in accordance with the advice of the Prime Minister.

(*b*) If the office of any Puisne Judge is vacant or if any such Judge is appointed to act as Chief Justice or is for any reason unable to perform the functions of his office or the state of business in the Supreme Court so requires, the Governor-General, acting in accordance with the advice of the Judicial Service Commission, may appoint a person qualified for appointment as a judge of the Supreme Court to act as a Puisne Judge of that Court:

Provided that, notwithstanding the provisions of subsection (1) of section 77 of this Constitution, no person shall be disqualified for appointment under this subsection by reason only of his age.

(5) Any person appointed under paragraph (*b*) of subsection (4) of this section to act as a Puisne Judge shall continue to act for the period of his appointment or, if no such period is specified, until his appointment is revoked by the Governor-General, acting in accordance with the advice of the Judicial Service Commission.

Tenure of office of judges of Supreme Court.

77.—(1) Subject to the provisions of this section, a person holding the office of a judge of the Supreme Court shall vacate that office on attaining the age of sixty-two years:

Provided that the Governor-General, acting in accordance with the advice of the Prime Minister, may permit such a person to continue in office until he has attained an age not exceeding sixty-five years.

(2) Notwithstanding that he has attained the age at which he is required by or under the provisions of this section to vacate his office, a person holding the office of a judge of the Supreme Court may, with the permission of the Governor-General, acting in accordance with the advice of the Prime Minister, 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.

(3) A judge of the Supreme Court may be removed from office only for inability to perform the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour, and shall not be so removed except in accordance with the provisions of this section.

(4) A judge of the Supreme Court shall be removed from office by the Governor-General if the question of removal of that judge has, at the request of the Governor-General, made in pursuance of subsection (5) 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 as aforesaid or for misbehaviour.

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

(*a*) the Governor-General shall appoint a tribunal, which shall consist 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*) the 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 removal of that judge from office 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.

(6) If the question of removing a judge from office has been referred to a tribunal under subsection (5) of 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 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.

(7) The provisions of this section shall be without prejudice to the provisions of subsection (5) of section 76 of this Constitution.

Oaths to be taken by judges.

78. A judge of the Supreme Court 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.

PART 2

Court of Appeal

Establishment of Court of Appeal.

79.—(1) There shall be a Court of Appeal for Sierra Leone which shall have such jurisdiction and powers as may be conferred upon it by this Constitution or any other law.

(2) The judges of the Court of Appeal shall be—

(*a*) a President;

(*b*) the persons for the time being holding or acting in the offices of the Chief Justice and the Puisne Judges of the Supreme Court, who shall be judges of the Court of Appeal *ex officio*; and

(*c*) such number, if any, of other judges as may be prescribed by Parliament.

(3) No office of judge of the Court of Appeal shall be abolished while there is a substantive holder thereof.

(4) The Court of Appeal 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 Court of Appeal.

80.—(1) The President of the Court of Appeal shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister.

(2) The judges referred to in paragraph (*c*) of subsection (2) of section 79 of this Constitution shall be appointed by the Governor-General, acting in accordance with the advice of the Judicial Service Commission.

(3) (*a*) A person shall not be qualified for appointment as a judge of the Court of Appeal unless—

(i) 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

(ii) he is entitled to practise as an advocate in such a court and has been entitled for not less than ten years to practise as an advocate or solicitor in such a court.

(*b*) For the purposes of paragraph (*a*) of this subsection a person shall not be regarded as not being entitled to practise in a court by reason only that he holds or acts in any office under the government of some part of the Commonwealth or any office connected with any court of law in some part of the Commonwealth, being an office the holder of which is, by virtue of his holding such office, precluded from practising in a court.

(4) (*a*) If the office of President of the Court of Appeal is vacant or if the person holding that 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 that office has resumed those functions, as the case may be, those functions shall be performed by such one of the other judges of the court as may be designated in that behalf by the Governor-General, acting in accordance with the advice of the Prime Minister.

(*b*) If the office of any judge of the Court of Appeal other than the President is vacant or if any such judge is appointed to act as President or is for any reason unable to perform the functions of his office or the state of business in the Court so requires, the Governor-General, acting in accordance with the advice of the Judicial Service Commission, may appoint a person qualified for appointment as a judge of the court to act as a judge of the court:

Provided that, notwithstanding the provisions of subsection (1) of section 81 of this Constitution, no person shall be disqualified for appointment under this subsection by reason only of his age.

(5) Any person appointed under paragraph (*b*) of subsection (4) of this section to act as a judge shall continue to act for the period of his appointment or, if no such period is specified, until his appointment is revoked by the Governor-General, acting in accordance with the advice of the Judicial Service Commission.

Tenure of office of judges of Court of Appeal.

81.—(1) Subject to the provisions of this section, a person holding the office of a judge of the Court of Appeal (not being a person who is such a judge *ex officio*) shall vacate that office on attaining the age of sixty-two years:

Provided that the Governor-General, acting in accordance with the advice of the Prime Minister, may permit such a person to continue in office until he has attained an age not exceeding sixty-five years.

(2) Notwithstanding that he has attained the age at which he is required by or under the provisions of this section to vacate his office, a person holding the office of a judge of the Court of Appeal may, with the permission of the Governor-General, acting in accordance with the advice of the Prime Minister, 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.

(3) A judge of the Court of Appeal (not being a person who is such a judge *ex officio*) may be removed from office only for inability to perform the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour, and shall not be so removed except in accordance with the provisions of this section.

(4) A judge of the Court of Appeal (not being a person who is such a judge *ex officio*) shall be removed from office by the Governor-General if the question of removal of that judge has, at the request of the Governor-General, made in pursuance of subsection (5) 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 as aforesaid or for misbehaviour.

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

(*a*) the Governor-General shall appoint a tribunal, which shall consist 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*) the 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 removal of that judge from office 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.

(6) If the question of removing a judge from office has been referred to a tribunal under subsection (5) of 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 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.

(7) The provisions of this section shall be without prejudice to the provisions of subsection (5) of section 80 of this Constitution.

Oaths to be taken by judges.

82. A judge of the Court of Appeal 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.

Number of judges.

83. The Court of Appeal shall, when determining any matter other than an interlocutory matter, be composed of an uneven number of judges, not being less than three.

PART 3

Appeals to Her Majesty in Council

Appeals from Court of Appeal to Her Majesty in Council.

84.—(1) An appeal shall lie from decisions of the Court of Appeal 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 ; 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 Court of Appeal to Her Majesty in Council with the leave of the Court of Appeal in the following cases—

(*a*) where in the opinion of the Court of Appeal 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*) 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 Court of Appeal to Her Majesty in Council in any civil or criminal matter.

PART 4

Judicial Service Commission

Judicial Service Commission.

85.—(1) There shall be a Judicial Service Commission for Sierra Leone.

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

(*a*) the Chief Justice, who shall be Chairman;

(*b*) such other judge of the Supreme Court as may be designated by the Governor-General, acting in accordance with the advice of the Prime Minister;

(*c*) the Chairman of the Public Service Commission; 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 following provisions shall apply in relation to a member of the Judicial Service Commission appointed under paragraph (*d*) of subsection (2) of this section—

(*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; and

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

Appointment, etc. of judicial officers.

86.—(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 exercise disciplinary control over persons holding or acting in such offices shall vest in the Judicial Service Commission:

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, by directions in writing, to any of its members, to any judge of the Supreme Court, to the holder of any office to which this section applies or, in the case of a power relating to an office connected with the Court of Appeal, to any judge of the Court of Appeal.

(2) This section applies to the office of any judge of any court established by Parliament, the emoluments attaching to which are paid out of the Consolidated Revenue Fund or any other public fund of Sierra Leone and to the offices of Registrar of the Court of Appeal, Master and Registrar of the Supreme Court, Deputy Master and Registrar of the Supreme Court, Senior Registrar of the Supreme Court, Official Administrator and Registrar-General, Senior Police Magistrate and Police Magistrate and such other offices connected with any court as may be prescribed by Parliament.

CHAPTER VII

FINANCE

Establishment of Consolidated Revenue Fund.

87.—(1) All revenues or other moneys raised or received by Sierra Leone (not being revenues or other moneys payable under this Constitution or any other law into some other public fund 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 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 89 of this Constitution.

(3) No moneys shall be withdrawn from any public fund 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 except in the manner prescribed by or under any law.

Authorization of expenditure from Consolidated Revenue Fund.

88.—(1) The Minister responsible for finance shall cause to be prepared and laid before the House of Representatives in each financial year estimates of the revenues and expenditure of Sierra Leone 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 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 the House of Representatives and the heads of any such expenditure shall be included in a supplementary appropriation bill.

Authorization of expenditure in advance of appropriation.

89. 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 responsible for finance may authorize the withdrawal of moneys from the Consolidated Revenue Fund 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.

90.—(1) Parliament may provide for the establishment of a Contingencies Fund and for authorizing the Minister responsible for finance, if he is 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.

91.—(1) There shall be paid to the holders of the offices to which this section applies such salaries as may be prescribed by or under any law.

(2) The salaries and allowances payable to the holders of the offices to which this section applies shall be a charge on the Consolidated Revenue Fund.

(3) The salary and allowances payable to the holder of any office to which this section applies and his other terms of service shall not be altered to his disadvantage after his appointment, and, for the purposes of this subsection, in so far as the terms of service of any person depend upon the option of that person, the terms for which he opts shall be taken to be more advantageous to him than any other terms for which he might have opted.

(4) This section applies to the offices of Governor-General, the Chief Justice, the President of the Court of Appeal, a judge of the Court of Appeal, a Puisne Judge, a member of the Electoral Commission, the member of the Judicial Service Commission appointed under paragraph (*d*) of subsection (2) of section 85 of this Constitution, a member of the Public Service Commission, the Director of Public Prosecutions and the Director of Audit.

Establishment of office and functions of Director of Audit.

92.—(1) There shall be a Director of Audit for Sierra Leone, whose office shall be a public office.

(2) The public accounts of Sierra Leone and of all officers, courts and authorities of Sierra Leone shall be audited and reported on by the Director of Audit 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 shall submit his reports to the Minister responsible for finance, who shall cause them to be laid before the House of Representatives.

(4) In the exercise of his functions under this Constitution the Director of Audit shall not be subject to the direction or control of any other person or authority.

Public debt.

93.—(1) The public debt of Sierra Leone shall be secured on the revenues and assets of Sierra Leone.

(2) In this section references to the public debt of Sierra Leone 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 VIII

THE PUBLIC SERVICE

Public Service Commission

94.—(1) There shall be a Public Service Commission for Sierra Leone 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 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 if he is a member of the House of Representatives or a Minister or a Parliamentary Secretary or if he holds or is acting in any public office.

(4) A person who has held office or acted as a member of the Public Service Commission shall not, within a period of three years commencing with the date on which he last so held office or acted, be eligible for appointment to any public office.

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

(*a*) at the expiration of five years from the date of his appointment or such shorter period, not being less than three years, as may be specified at the time of his appointment;

(*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.

(6) A member of the Public Service Commission 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.

(7) A member of the Public Service Commission shall not be removed from office except in accordance with the provisions of this section.

(8) If the office of a member of the Public Service Commission is vacant or a member is for any reason unable to perform the functions of his office, the Governor-General, acting in accordance with the advice of the Prime Minister, may appoint a person who is qualified for appointment as a member of the Commission to act as a member of the Commission, and any person so appointed shall, subject to the provisions of paragraph (*b*) of subsection (5) of this section, continue to act until his appointment is revoked by the Governor-General, acting in accordance with the advice of the Prime Minister.

Appointments, etc. of public officers.

95.—(1) Power to appoint persons to hold or act in offices in the public service (including power to make appointments on promotion 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:

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, by directions in writing, to any of its members or to any public officer.

(2) The power to transfer persons holding or acting in offices in the public service from one department of government to another shall (where such transfer does not involve promotion) vest in the Minister to whom the responsibility for the public service is for the time being assigned.

(3) The provisions of this section shall not apply in relation to any of the following offices:—

(*a*) the office of any judge of the Court of Appeal or of any judge of the Supreme Court;

(*b*) except for the purposes of making appointments thereto, the office of the Director of Public Prosecutions;

(*c*) the office of the Director of Audit;

(*d*) any office to which section 86 of this Constitution (which relates to offices within the jurisdiction of the Judicial Service Commission) applies;

(*e*) any office to which section 96 of this Constitution (which relates to the offices of the principal representatives of Sierra Leone abroad) applies;

(*f*) any office to which section 97 of this Constitution (which relates to the offices of permanent secretaries and certain other offices) applies; or

(*g*) any office the remuneration of the holder of which is calculated on a daily rate.

(4) The provisions of this section shall not apply in relation to any office in the Sierra Leone Police Force except in the following cases, that is to say:—

(*a*) with respect to appointments (including appointments on promotion and the confirmation of appointments) of persons to hold or act in the office of Chief Inspector or any office of higher rank and the dismissal and disciplinary control of persons holding or acting in any such office; and

(*b*) subject to the provisions of subsection (5) of this section, with respect to the dismissal or reduction in rank of any person holding or acting in an office below the rank of Chief Inspector.

(5) Unless Parliament otherwise provides, the power to dismiss or reduce in rank any person holding or acting in an office in the Sierra Leone Police Force below the rank of Chief Inspector shall be exercised under subsection (1) of this section only on the recommendation of the Commissioner of Police.

(6) 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.

(7) Before the Public Service Commission appoints to any public office any person holding or acting in any office power to make appointments to which is vested by this Constitution in the Judicial Service Commission, it shall consult with that Commission.

(8) The Public Service Commission shall not dismiss, or inflict any other punishment on, a public officer on the grounds of any act done or omitted to be done by that officer in the exercise of a judicial function conferred upon him unless the Judicial Service Commission concurs therein.

Appointment, etc. of principal representatives of Sierra Leone abroad.

96.—(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 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 or acts in any public office other than an office to which this section applies, the Prime Minister shall consult the Public Service Commission.

(3) The offices to which this section applies are the offices of any Ambassador, High Commissioner or other principal representative of Sierra Leone in countries other than Sierra Leone.

Appointment, etc. of permanent secretaries and certain other officers.

97.—(1) Power to appoint persons to hold or act in any of the offices to which this section applies (including power to make appointments on promotion and transfer and to confirm appointments) 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 the Prime Minister shall consult the Public Service Commission.

(3) The offices to which this section applies are the offices of the Secretary to the Cabinet, the Financial Secretary, the Secretary to the Prime Minister, the Establishment Secretary and a permanent secretary.

Director of Public Prosecutions.

98.—(1) Subject to the provisions of this section, the Director of Public Prosecutions shall vacate his office when he attains such age as may be prescribed by Parliament.

(2) If the office of Director of Public Prosecutions is vacant or the holder of that office is for any reason unable to perform the functions thereof, a person qualified for appointment to that office may be appointed to act therein, and any person so appointed shall, subject to the provisions of subsection (1) and subsections (3) to (6) (inclusive) of this section, continue to act until a person has been appointed to and has assumed the functions of the office of Director of Public Prosecutions or until the person holding that office has resumed those functions.

(3) The Director of Public Prosecutions may be removed from office only 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 shall not be so removed except in accordance with the provisions of this section.

(4) The Director of Public Prosecutions 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 (5) of this section and the tribunal has recommended to the Governor-General that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(5) If the Prime Minister represents to the Governor-General that the question of removing the Director of Public Prosecutions from office for inability as aforesaid or for misbehaviour 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 not less than 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 from office for inability as aforesaid or for misbehaviour.

(6) If the question of removing the Director of Public Prosecutions from office has been referred to a tribunal under subsection (5) of 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 shall not be removed from office.

Director of Audit.

99.—(1) The Director of Audit shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister.

(2) Subject to the provisions of this section, the Director of Audit shall vacate that office when he attains such age as may be prescribed by Parliament.

(3) The Director of Audit shall be removed from office by the Governor-General if a resolution supported by the votes of not less than two-thirds of all the members of the House of Representatives is passed recommending his removal from office for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

(4) The Director of Audit shall not be removed from office except in accordance with the provisions of this section.

(5) If the office of Director of Audit is vacant or the holder of the office is for any reason unable to perform the functions of his office, the Governor-General, acting in accordance with the advice of the Prime Minister, may appoint a person to act in the office and any person so appointed shall, subject to the provisions of subsections (2), (3) and (4) of this section, continue to act until his appointment is revoked by the Governor-General, acting in accordance with the advice of the Prime Minister.

(6) Before advising the Governor-General for the purposes of this section the Prime Minister shall consult the Public Service Commission.

Protection of pension rights.

100.—(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 the grant of, 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 the twenty-seventh day of April, 1961, the date on which those benefits were granted ;

(*b*) in relation to any benefits granted or to be granted on or after the twenty-seventh day of April, 1961, to or in respect of any person who was a public officer before that date, the twenty-sixth day of April, 1961 ; and

(*c*) in relation to any benefits granted or to be granted to or in respect of any person who becomes a public officer on or after the twenty-seventh day of April, 1961, the date on which he becomes a public officer.

(3) Where a person is entitled to exercise an option as to which 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 (not being a benefit that is a charge upon some other public fund of Sierra Leone) shall be a charge upon the Consolidated Revenue Fund.

(5) This section applies to any benefits payable under any law providing for the grant of pensions, gratuities or compensation to persons who are or have been public officers in respect of their service in the public service or to the widows, children, dependants or personal representatives of such persons in respect of such service.

(6) References to the law applicable to any benefits to which this section applies include (without prejudice to their generality) references to any law relating to the time at which and the manner in which any person may retire in order to become eligible for those benefits.

Powers of Commissions in relation to grant of pensions, etc.

101.—(1) Where any benefits to which this section applies can be withheld, reduced in amount or suspended by any person or authority under any 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 any person who at the time when he ceased to be a public officer was subject to the jurisdiction of the Judicial Service Commission 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.

(2) No benefits to which this section applies that have been granted to or in respect of any person who is or has been a judge of the Supreme Court or a judge of the Court of Appeal or for which any such person or his widow, children, dependants or personal representatives may be eligible shall be withheld, reduced in amount or suspended on the ground that that person has been guilty of misbehaviour unless that person has been removed from his office as judge by reason of such misbehaviour.

(3) This section applies to any benefits payable under any law providing for the grant of pensions, gratuities or compensation to persons who are or have been public officers in respect of their service in the public service or to the widows, children, dependants or personal representatives of such persons in respect of such service.

CHAPTER IX

MISCELLANEOUS

Powers and procedure of Commissions.

102.—(1) Any Commission established by this Constitution may, with the consent of the Prime Minister or such other Minister as may be authorized in that behalf by the Prime Minister and subject to the provisions of subsection (2) of this section, by regulation or otherwise regulate its own procedure and confer powers and impose duties on any public officer or on any authority of the Government of Sierra Leone for the purpose of the discharge of its functions.

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

Protection of Commissions, etc. from legal proceedings.

103. The question whether—

(*a*) any Commission established by this Constitution has validly performed any function vested in it by or under this Constitution;

(*b*) any member of such a Commission or any other person has validly performed any function delegated to such member or person in pursuance of the provisions of subsection (1) of section 86 or, as the case may be, of subsection (1) of section 95 of this Constitution; or

(*c*) any member of such a Commission or any other person or authority has validly performed any other function in relation to the work of the Commission or in relation to any such function as is referred to in the preceding paragraph,

shall not be enquired into in any court.

Appeal from decision of a Commission.

104.—(1) Any person to whom this section applies (in this section referred to as "the officer") shall be entitled to appeal to an Appeals Board against the decision of a Commission that he should be dismissed from his office or against any decision of a Commission relating to his retirement that might have the effect of withholding, reducing in amount or suspending in relation to the officer any benefits to which this section applies.

(2) If a Commission decides to dismiss the officer from his office or if a decision of a Commission might have the effect of withholding, reducing in amount or suspending in relation to the officer any benefits to which this section applies, the Commission shall serve on the officer a notice in writing of that decision, stating the time, not being less than fourteen days, within which he may apply for the case to be referred to an Appeals Board.

(3) Any decision as aforesaid of a Commission shall not have effect until the expiry of the time specified in the notice; and if within the time so specified the officer applies to the Commission for the case to be referred to an Appeals Board, the decision of the Commission shall not have effect until the determination of the reference to the Appeals Board and then only to the extent, if any, to which the Board has advised that that decision shall have effect:

Provided that the Commission may nevertheless suspend the officer from the exercise of the functions of his office pending the determination of the reference to the Appeals Board.

(4) Where the officer applies as aforesaid for the case to be referred to an Appeals Board the Commission shall notify the Minister in writing of that application.

(5) When the Minister is notified as aforesaid, he shall appoint an Appeals Board of three members, consisting of—

(*a*) one member selected by the Minister ;

(*b*) one member selected by an association representative of public officers or a professional body, nominated in either case by the officer ; and

(*c*) one member selected by agreement between the Minister and the association or, as the case may be, the professional body referred to in paragraph (*b*) of this subsection, who shall be the chairman of the Board.

(6) The Appeals Board shall hear the officer on his written application and any other person who, in the opinion of the Board, is able to give the Board information on any matter to which the reference relates ; and the Board shall have access to, and shall consider, all documents that were available to the Commission and shall also consider any further document relating to any such matter that may be produced in the reference proceedings by or on behalf of the officer or the Commission.

(7) After the Appeals Board has completed its consideration of the case, the Board shall advise the Commission what action should be taken in respect of the officer and the Commission shall act in accordance with such advice.

(8) This section applies to persons who are entitled officers within the meaning of the Schedule to the Sierra Leone (Constitution) Order in Council, 1958, as set out in the Schedule to the Sierra Leone (Constitution) (Amendment) (No. 3) Order in Council, 1960, and as amended by subsection (3) of section 2 of the Sierra Leone (Constitution) Order in Council, 1961(a).

(9) This section applies to any benefits payable under any law for the time being in force in Sierra Leone providing for the grant of pensions, gratuities or compensation to persons who are or have been public officers in respect of their service in the public service or to the widows, children, dependants or personal representatives of such persons in respect of such service.

(10) In this section, "Commission" means any Commission established by this Constitution, and "the Minister" means the Minister charged with responsibility for the department of government in which the officer is serving, or, if the officer is not serving in a department of government, the Prime Minister.

Resignations.

105.—(1) Any person who is appointed, elected or otherwise selected to any office established by this Constitution (including the office of Prime Minister or other Minister, member of the Cabinet or Parliamentary Secretary) may resign from that office by writing under his

(a) S.I. 1961/741 (*See* p. 1475 of this Pt.).

hand addressed to the person or authority by whom he was appointed, elected or selected :

Provided that in the case of a person who holds office as Speaker or Deputy Speaker of the House of Representatives his resignation from that office shall be addressed to the House and in the case of a member of the House of Representatives his resignation from the House shall be addressed to the Speaker of the House.

(2) The resignation of any person from any such office as aforesaid 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.

106.—(1) Where any person has vacated any office established by this Constitution (including the office of Prime Minister or other Minister, member of the Cabinet or Parliamentary Secretary), 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 public office, 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.

Interpretation.

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

" the Commonwealth " means Sierra Leone, any country to which section 7 of this Constitution applies and any dependency of any such country ;

" court " means any court of law in Sierra Leone other than a court martial and includes Her Majesty in Council ;

" 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 ;

" law " includes—

(i) any instrument having the force of law made in exercise of a power conferred by a law ; and

(ii) native law and custom and any other unwritten rule of law,

and " lawful " and " lawfully " shall be construed accordingly ;

" Native Court " means a court established by or under the Native Courts Ordinance(a) or any law amending or replacing that Ordinance ;

" oath " includes affirmation ;

" the oath of allegiance " means such oath of allegiance as may be prescribed by Parliament ;

" Parliament " means the Parliament of Sierra Leone ;

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

(a) Laws of Sierra Leone, Rev. 1946, c. 149.

"public officer" means a person holding or acting in a public office;

"the public service" means, subject to the provisions of subsections (2) and (3) of this section, the service of the Crown in a civil capacity in respect of the government of Sierra Leone and includes the service of the Crown in a civil capacity in respect of the government of the former Colony and Protectorate of Sierra Leone;

"session" means the sittings of the House of Representatives beginning when it first meets after the commencement of this Constitution or after the prorogation or dissolution of Parliament at any time and ending when Parliament is prorogued or is dissolved without having been prorogued;

"Sierra Leone" has the meaning attributed to that expression in the Sierra Leone Independence Act, 1961(a);

"the Sierra Leone Police Force" means the Police Force established under the Police Ordinance(b) or by or under any law amending or replacing that Ordinance;

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

"Tribal Authority" means a Tribal Authority constituted under the Tribal Authorities Ordinance(c) or by or under any law amending or replacing that Ordinance.

(2) In this Constitution, unless the context otherwise requires, "the public service" includes service in the office of judge of the Court of Appeal or in the office of judge of the Supreme Court or in the office of judge of any other court established by Parliament, being an office the emoluments attaching to which are paid out of the Consolidated Revenue Fund or any other public fund of Sierra Leone, and service in the office of a member of the Sierra Leone Police Force.

(3) In this Constitution "the public service" does not include service in the office of Governor-General, Speaker or Deputy Speaker of the House of Representatives, member of the House of Representatives, Prime Minister or other Minister, member of the Cabinet, Parliamentary Secretary, member of any Commission established by this Constitution, member of any council, board, panel, committee or other similar body (whether incorporated or not) established by or under any law, Chief, Tribal Authority, member of a Tribal Authority, or member of a Native Court.

(4) In this Constitution, unless the context otherwise requires—

(*a*) a reference to an appointment to any office shall be construed as including a reference to the appointment of a person to act in or perform the functions of that office at any time when the office is vacant or the holder thereof is unable (whether by reason of absence or infirmity of mind or body or any other cause) to perform the functions of that office; and

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

(a) Laws of Sierra Leone, Rev. 1946, c. 174.
(b) Laws of Sierra Leone, Rev. 1946, c. 245.

(5) Where by this Constitution power is vested in any person or authority to appoint any person to act in or perform the functions of any office if the holder thereof is himself unable to perform those functions, no such appointment shall be called in question on the ground that the holder of the office was not unable to perform those functions.

(6) For the purposes of this Constitution 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.

(7) 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 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.

(8) Where any power is conferred by this Constitution to give any direction, the power shall be construed as including the power, exercisable in like manner, to amend or revoke any such direction.

(9) Any reference in this Constitution to a law enacted before the commencement of this Constitution shall, unless the context otherwise requires, be construed as a reference to that law as in force immediately before the twenty-seventh day of April, 1961.

(10) The Interpretation Act, 1889(a), as in force at the commencement of this Constitution 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.

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 Sierra Leone Independence Act, 1961, Sierra Leone will attain fully responsible status within the Commonwealth on the 27th April, 1961. This Order makes provision for a new Constitution for Sierra Leone with effect from that date, including provision for an Executive Government, a Legislature, a Supreme Court, a Court of Appeal and Judicial and Public Service Commissions. The Constitution also contains provisions regarding citizenship of Sierra Leone and fundamental rights of the individual.

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