1960 No. 1654

The Southern Cameroons (Constitution) Order in Council, 1960

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

ARRANGEMENT OF ORDER

CHAPTER I—INTRODUCTORY

Section
1. Citation, commencement and revocations.
2. Establishment of office of Commissioner.
3. Powers and duties of Commissioner.
4. Oaths to be taken by Commissioner.
5. Discharge of Commissioner's functions during vacancy, etc.
6. Discharge of Commissioner's functions by deputy.

CHAPTER II—LEGISLATIVE POWERS AND PROCEDURE

7. Establishment of House of Assembly.
8. Speaker of House of Assembly.
9. Qualifications for elected membership of House of Assembly.
10. Disqualifications for elected membership of House of Assembly.
11. Tenure of seats of members of House of Assembly.
12. Constituencies.
13. Elections.
14. Determination of questions respecting membership of House of Assembly.
15. Oaths to be taken by members.
16. Presiding in House of Assembly.
17. Quorum in House.
18. Use of English in House of Assembly.
19. Voting in House of Assembly.
20. Unqualified persons sitting or voting.
21. Commissioner and House of Assembly to observe Royal Instructions.
22. Bills and motions affecting public officers, etc.
23. Reserved powers.
24. Assent to bills.
25. Disallowance of laws.
26. Introduction of Bills by message of Commissioner.
27. Power of Commissioner to address House.
28. Restrictions with regard to certain financial measures.
29. Regulation of procedure in House.
30. Sessions of House of Assembly.
31. Prorogation and dissolution of House of Assembly.
32. Power to make laws.

CHAPTER III—EXECUTIVE POWERS

Section
33. Ministers of Government of Southern Cameroons.
34. Establishment of Executive Council.
35. Summoning Executive Council and quorum.
36. Presiding in Executive Council.
37. Voting in Executive Council.
38. Council may act notwithstanding vacancies.
39. Allocation of portfolios to Ministers.
40. Exercise of Commissioner's powers.
41. Performance of functions of Premier during absence or illness.
42. Leave of absence for Ministers, etc.
43. Parliamentary Secretaries.
44. Oaths to be taken by members of Executive Council.
45. Permanent Secretaries.
46. Constitution of offices.
47. Establishment of Advisory Council on Prerogative of Mercy.
48. Prerogative of mercy.
49. Public prosecutions.

CHAPTER IV—COURTS

50. Establishment of High Court.
51. Appointment of judge of High Court.
52. Oaths to be taken by judges of High Court.
53. Tenure of office of judges of High Court.
54. Appeals to High Court from subordinate courts.
55. Appeals to Federal Supreme Court of Nigeria.
56. Powers, practice and procedure of Federal Supreme Court.
57. Appeals from Federal Supreme Court of Nigeria to Her Majesty in Council.

CHAPTER V—FINANCE

58. Establishment of Consolidated Revenue Fund.
59. Authorization of expenditure from Consolidated Revenue Fund.
60. Authorization of expenditure in advance of appropriation.
61. Contingencies Fund.
62. Special power to charge Consolidated Revenue Fund.
63. Remuneration of certain officers.
64. Audit of public accounts.
65. Public debt.

CHAPTER VI—THE PUBLIC SERVICE OF THE SOUTHERN CAMEROONS

66. Establishment of Public Service Commission.
67. Regulations regarding Public Service Commission.
68. Appointment to offices in public service.
69. Public Service Commission to advise Commissioner.
70. Commission to advise other officers.
71. Exercise of powers under this Chapter.

CHAPTER VII—FUNDAMENTAL RIGHTS

72. Deprivation of life.
73. Inhuman treatment.
74. Slavery and forced labour.
75. Deprivation of personal liberty.

76. Determination of rights.
77. Private and family life.
78. Freedom of conscience.
79. Freedom of expression.
80. Peaceful assembly and association.
81. Freedom of movement.
82. Freedom from discrimination.
83. Derogations from fundamental rights.
84. Reference to tribunal in certain cases.
85. Compulsory acquisition of property.
86. Special jurisdiction of High Court in relation to this Chapter.
87. Interpretation.

CHAPTER VIII—MISCELLANEOUS

88. Police.
89. House of Chiefs.
90. Resignations.
91. Re-appointments, etc.
92. Existing laws.
93. Existing offices, courts and authorities.
94. Pending legal proceedings.
95. Interpretation.

THE FIRST SCHEDULE

ORDERS IN COUNCIL REVOKED BY THIS ORDER

THE SECOND SCHEDULE

OATH OR AFFIRMATION FOR THE DUE EXECUTION OF THE OFFICE OF COMMISSIONER

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

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the Foreign Jurisdiction Act, 1890(a) or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

CHAPTER I—INTRODUCTORY

Citation, commencement and revocations

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

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

Provided that where by or under this Order the Commissioner 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 Commissioner of the Cameroons at any time after the sixteenth day of September, 1960, to such extent as may, in his opinion, be necessary or expedient to enable the constitution established by this Order to function as from the first day of October, 1960.

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

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

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

Establishment of office of Commissioner

2. There shall be a Commissioner for the Southern Cameroons, who shall be appointed by Her Majesty by Commission under Her Majesty's Sign Manual and Signet and shall hold office during Her Majesty's pleasure.

Powers and duties of Commissioner

3. The Commissioner shall have such powers and duties as are conferred upon him by or under this Order or any other law and such other powers and duties as Her Majesty may from time to time be pleased to assign to him and, subject to the provisions of this Order and any other law by which any such powers or duties are conferred, shall do or execute all things that belong to his office (including the exercise of any powers and the performance of any duties with respect to which he is empowered by this Order to act in his discretion) according to such instructions, if any, as Her Majesty may from time to time see fit to give him:

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

Oaths to be taken by Commissioner

4. A person appointed to hold the office of Commissioner shall, before entering upon the duties of that office, take and subscribe the oath of allegiance and an oath for the due execution of his office in the form set out in the Second Schedule to this Order.

Discharge of Commissioner's functions during vacancy, etc.

5.—(1) Whenever the office of Commissioner is vacant or the Commissioner is absent from the Southern Cameroons or is from any other cause prevented from or incapable of discharging the functions of his office, those functions shall be performed by such person as Her Majesty may appoint or, if there is no person so appointed and able to act, by the Deputy Commissioner of the Southern Cameroons.

(2) Before any person enters upon the performance of the functions of the office of Commissioner under this section, he shall take and subscribe the oaths directed by section 4 of this Order to be taken by a person appointed to the office of Commissioner.

(3) For the purposes of this section—

(*a*) the Commissioner shall not be regarded as absent from the Southern Cameroons during his passage from one part of the Southern Cameroons to another or as prevented from discharging the functions of his office by reason that he is so passing; and

(*b*) the Commissioner shall not be regarded as absent from the Southern Cameroons or as prevented from or incapable of discharging the functions of his office at any time when an officer is discharging those functions under section 6 of this Order.

Discharge of Commissioner's functions by deputy

6.—(1) The Commissioner, acting in his discretion, may by Instrument under the Public Seal of the Southern Cameroons authorize any officer in the public service to discharge for and on behalf of the Commissioner on such occasions and subject to such exceptions and conditions as may be specified in that Instrument such of the functions of the office of Commissioner as may be specified in that Instrument.

(2) The powers and authority of the Commissioner shall not be affected by any authority given to any officer in the public service under this section otherwise than as Her Majesty may at any time think proper to direct and that officer shall conform to and observe such instructions relating to the discharge by him of any of the functions of the office of Commissioner as the Commissioner may from time to time address to him for his guidance.

(3) Any authority given under this section may at any time be varied or revoked by Her Majesty by instructions given through a Secretary of State or by the Commissioner, acting in his discretion, by Instrument under the Public Seal.

CHAPTER II—LEGISLATIVE POWERS AND PROCEDURE

Establishment of House of Assembly

7.—(1) There shall be a House of Assembly for the Southern Cameroons.

(2) Subject to the provisions of subsection (6) of this section, the members of the House of Assembly shall be—

(*a*) the Deputy Commissioner of the Southern Cameroons, the Attorney-General of the Southern Cameroons and the Financial Secretary of the Southern Cameroons, who shall be *ex-officio* members of the House ;

(*b*) twenty-six Elected Members ;

(*c*) such Special Members as may be appointed in accordance with subsection (3) of this section ; and

(*d*) such temporary members as may be appointed in accordance with subsection (5) of this section.

(3) The Commissioner, acting in his discretion, may by Instrument under the Public Seal appoint not more than two persons to be Special Members of the House of Assembly to represent interests or communities that, in his opinion, are not otherwise adequately represented in the House.

(4) The Commissioner, acting in his discretion, may by Instrument under the Public Seal declare that a Special Member of the House of Assembly is, by reason of absence or illness, temporarily unable to discharge his functions as a member and thereupon that Member shall not take part in the proceedings of the House until he is declared, in manner aforesaid, to be able again to discharge his said functions.

(5) The Commissioner, acting in his discretion, may by Instrument under the Public Seal appoint a person to be a temporary member of the House of Assembly in the place of a Special Member in respect of whom a declaration has been made under subsection (4) of this section and the seat in the House of such temporary member shall become vacant when the Special Member on account of whose incapacity he has been appointed is under subsection (4) of this Order declared to be able again to discharge his functions or when the seat in the House of that Special Member becomes vacant.

(6) If it is provided by any instructions given by Her Majesty to the Commissioner through a Secretary of State that any of the officers specified in paragraph (*a*) of subsection (2) of this section shall no longer be an *ex-officio* member of the House of Assembly, any such officer shall cease to be an *ex-officio* member of the House.

Speaker of House of Assembly

8.—(1) The Commissioner, after consultation with the Premier, may by Instrument under the Public Seal appoint to be Speaker of the House of Assembly—

(*a*) a member of the House; or

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

(2) The Speaker of the House of Assembly shall hold office during the pleasure of the Commissioner, acting after consultation with the Premier:

Provided that his office shall in any case become vacant—

(*a*) at such time as may be provided by the Instrument by which he is appointed; or

(*b*) in the case of a person appointed Speaker from among the members of the House, if—

(i) he ceases to be a member of the House for any reason other than a dissolution of the House;

(ii) he becomes a Minister of the Government of the Southern Cameroons or a Parliamentary Secretary to such a Minister; or

(iii) after any dissolution of the House, he is informed by the Commissioner that another person is about to be appointed as Speaker.

(3) A person appointed Speaker of the House of Assembly otherwise than from among the members of the House shall be deemed to be a member of the House.

Qualifications for elected membership of House of Assembly

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

(*a*) he is a British subject or a British protected person of the age of twenty-one years or more; and

(*b*) he was born in the Southern Cameroons or his father was born in the Southern Cameroons or he has resided in the Southern Cameroons for a continuous period of at least one year immediately before the date of election.

Disqualifications for elected membership of House of Assembly

10.—(1) No person shall be qualified to be elected as an Elected Member of the House of Assembly—

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

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

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

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

(*e*) save as otherwise provided by any regulations made by the Commissioner, if he is a member of the public service, a member of the armed forces of the Crown or the holder of any other office of emolument under the Crown.

(2) The Commissioner may by regulation provide that a person shall not be qualified for election to the House of Assembly for such period (not exceeding five years) as may be prescribed if he is convicted by any court of law in the Southern Cameroons of such offences connected with the election of members of the House of Assembly as may be prescribed.

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

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

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

(6) For the purposes of paragraph (*c*) of subsection (1) of this section two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds six months but if any one of those sentences exceeds that term they shall be regarded as one sentence.

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

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

(*b*) the office of Minister of the Government of the Southern Cameroons, a Parliamentary Secretary to such a Minister, a member of the House of Chiefs or a member of any such body corporate as is referred to in the proviso to subsection (10) of this

section shall not be regarded as an office of emolument under the Crown.

(8) Save as otherwise provided by any regulations made by the Commissioner, a person shall not be regarded as disqualified for election as a member of the House of Assembly under paragraph (*e*) of subsection (1) of this section by reason only that he holds office as a member of a statutory corporation.

(9) If any person who holds the office of a member of any statutory corporation is elected as a member of the House of Assembly he shall, unless it is otherwise provided by any regulations made by the Commissioner, thereupon cease to hold office as a member of that corporation.

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

Provided that it does not include any body corporate established by the Native Authority Ordinance(a), as amended, or any law replacing that Ordinance.

Tenure of seats of members of House of Assembly

11.—(1) The seat in the House of Assembly of any Elected Member of that House shall become vacant—

(*a*) if he becomes a member of the House of Chiefs of the Southern Cameroons;

(*b*) if any circumstances arise that, if he were not an Elected Member of the House, would cause him to be disqualified for election as such under subsection (1) or (2) of section 10 of this Order;

(*c*) save as otherwise provided by any regulations made by the Commissioner, if he becomes a member of a statutory corporation;

(*d*) if he is absent from two consecutive meetings of the House and the Speaker does not excuse his absence within one month after the end of the second meeting; or

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

(2) The Commissioner may, in order to permit any member of the House of Assembly who has been adjudged to be a lunatic, declared to be of unsound mind, sentenced to death or imprisonment or adjudged or declared bankrupt to appeal against the decision in accordance with any law in force in the Southern Cameroons or in any other part of the Commonwealth, as the case may be, by regulation provide that, subject to such conditions as may be prescribed, the decision shall not have effect for the purposes of subsection (1) of this section until such time as may be prescribed.

(3) A Special Member or a temporary member of the House of Assembly shall hold his seat in the House during the pleasure of the Commissioner, acting in his discretion.

(4) In this section "statutory corporation" has the meaning assigned to it for the purposes of section 10 of this Order.

(a) Laws of Nigeria, Rev. 1948, Chapter 140.

Constituencies

12. The Southern Cameroons shall be divided into twenty-six constituencies in such manner as the Commissioner, acting in his discretion, may by Proclamation published in the *Official Gazette* prescribe.

Elections

13. Every constituency shall return to the House of Assembly one Elected Member who shall be directly elected in such manner as the Commissioner may by regulation prescribe.

Determination of questions respecting membership of House of Assembly

14.—(1) The High Court shall have original jurisdiction to hear and determine any question whether—

(*a*) any person has been validly elected as an Elected Member of the House of Assembly ; or

(*b*) the seat in the House of Assembly of an Elected Member has become vacant.

(2) Any question whether—

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

(*b*) the seat in the House of Assembly of any member (other than an Elected Member) of the House of Assembly has become vacant,

shall be referred to, and determined by, the Commissioner, acting in his discretion.

(3) The Commissioner may by regulation make provision with respect to—

(*a*) the persons who may apply to the High Court for the determination of any question under subsection (1) of this section ;

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

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

Oaths to be taken by members

15.—(1) Every member of the House of Assembly shall, before taking his seat in that House, take and subscribe before the House the oath of allegiance.

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

Presiding in House of Assembly

16. There shall preside at any sitting of the House of Assembly—

(*a*) the Speaker ; or

(*b*) in the absence of the Speaker, such person as the Commissioner may appoint ; or

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

Quorum in House of Assembly

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

Use of English in House of Assembly

18. The business of the House of Assembly shall be conducted in English.

Voting in House of Assembly

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

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

Unqualified persons sitting or voting

20. Any person who sits or votes in the House of Assembly knowing or having reasonable ground for knowing that he is not entitled to do so shall be liable to a penalty not exceeding twenty pounds for each day on which he sits or votes in that House, which shall be recoverable by action in the High Court at the suit of the Attorney-General of the Southern Cameroons.

Commissioner and House of Assembly to observe Royal Instructions

21. Subject to the provisions of this Order, the Commissioner and the House of Assembly shall, in the transaction of business and the making of laws, conform as nearly as may be to the directions contained in any instructions given by Her Majesty to the Commissioner through a Secretary of State.

Bills and motions affecting public officers, etc

22.—(1) In this section "reserved bill or motion" means any bill or motion that would effect any alteration in the salary, allowances or conditions of service (including leave, passages and promotion) of any public officer or in the law, regulations or practice governing the payment of pensions, gratuities or other like benefits to any public officer or former public officer or his widow, children, dependants or personal representatives.

(2) It shall be the duty of the Speaker or other person presiding in the House of Assembly, or in any committee thereof, to consider whether any bill or motion before the House or the committee, as the case may be, is a reserved bill or motion, and if he is of opinion that it is a reserved Bill or motion he shall forthwith so inform the House and the Commissioner and no further proceedings shall, save with the consent of the Commissioner, be taken upon the bill or motion during the period commencing on the day on which the House is informed or the day on which the Commissioner is informed, whichever is the earlier, and ending two days after the day on which the Commissioner is informed.

(3) The Commissioner may, with respect to any bill or motion that is before the House of Assembly, or any committee thereof, at any time give notice to the Speaker or other person presiding in the House or the committee, as the case may be, that the bill or motion is, in the opinion of the Commissioner, a reserved bill or motion, and when such notice has been given, no further proceedings shall, save with the consent of the Commissioner, be taken upon the bill or motion.

(4) Where a bill or motion, other than a motion for the amendment of a bill, appears to the Commissioner to be a bill or motion that would affect any public officer or former public officer or his widow, children, dependants or personal representatives prejudicially, then—

(*a*) in the case of a bill, he shall when the bill is presented for his assent, reserve the bill for the signification of Her Majesty's pleasure;

(*b*) in the case of a motion, he may, within a period of seven days from the date on which it was carried, certify by writing under his hand that he considers that any alteration that has been or would be effected by such motion is one that affects, or would so affect, any public officer or former public officer or his widow, children, dependants or personal representatives prejudicially and in such case the motion shall not have effect unless and until it is approved by a Secretary of State.

(5) Any such notice as is referred to in subsection (3) of this section may be given by the Commissioner in such manner as he may think fit.

(6) The powers conferred by the foregoing provisions of this section on the Commissioner shall be exercised by him in his discretion.

(7) The Commissioner shall not withhold consent to the taking of further proceedings upon any bill or motion in respect of which notice has been given in accordance with subsection (3) of this section if, in his opinion, any alteration that would be effected by such Bill or motion would not affect any public officer or former public officer or his widow, children, dependants or personal representatives prejudicially.

(8) The provisions of a bill or motion that would effect only the abolition of any office that is vacant shall be deemed not to affect any person prejudicially for the purposes of this section.

(9) Nothing in this section shall be construed so as to derogate from the powers of the House of Assembly conferred by this Order to debate or dispose of any bill or motion relating to the creation of any new office.

(10) In this section, "public office" and "public officer" mean respectively any office of emolument in the public service of the Southern Cameroons and the holder of such an office.

Reserved powers

23.—(1) If the Commissioner considers that it is expedient in the interest of public order, public faith or good government (which expressions shall, without prejudice to their generality, include the responsibility of the Southern Cameroons as a territory within the Commonwealth and all matters pertaining to the creation or abolition of any public office or to the salary or other conditions of service of any public officer) that any bill introduced, or any motion proposed, in the House of Assembly should have effect then, if the House fail to

pass such bill or to carry such motion within such time and in such form as the Commissioner thinks reasonable and expedient, the Commissioner may, at any time that he thinks fit and notwithstanding any provisions of this Order or of any Standing Orders of the House, declare that such bill or motion shall have effect as if it had been passed or carried by that House either in the form in which it was so introduced or proposed or with such amendments as the Commissioner thinks fit that have been moved or proposed in that House including any committee thereof; and the bill or the motion shall be deemed thereupon to have been so passed or carried, and the provisions of this Order, and in particular the provisions relating to assent to bills and disallowance of laws, shall have effect accordingly.

(2) The Commissioner shall forthwith report to a Secretary of State every case in which he makes any declaration under this section and the reasons therefor.

(3) If any member of the House of Assembly objects to any declaration made under this section he may, within seven days of the making thereof, submit to the Commissioner a statement in writing of his reasons for so objecting and a copy of such statement shall, if furnished by such member, be forwarded by the Commissioner as soon as practicable to a Secretary of State.

(4) Any declaration made under this section other than a declaration relating to a bill may be revoked by a Secretary of State and the Commissioner shall cause notice of such revocation to be published in the *Official Gazette;* and from the date of such publication any motion that is deemed to have been carried by virtue of the declaration shall cease to have effect and the provisions of subsection (2) of section 38 of the Interpretation Act, 1889(a), shall apply to such revocation as they apply to the repeal of an Act of Parliament.

(5) The powers conferred on the Commissioner by this section shall be exercised by him in his discretion.

Assent to Bills

24.—(1) A bill passed by the House of Assembly shall not become law unless either the Commissioner has assented thereto in Her Majesty's name and on Her Majesty's behalf and has signed the same in token of such assent or Her Majesty has given Her assent thereto through a Secretary of State.

(2) When a bill has been passed by the House of Assembly it shall be presented to the Commissioner for assent and thereupon the Commissioner shall, acting in his discretion, declare that he assents or refuses to assent thereto or that he reserves the bill for the signification of Her Majesty's pleasure.

(3) A law assented to by the Commissioner in pursuance of subsection (2) of this section shall come into operation on the date of its publication in the *Official Gazette* or, if it is provided either in such law or in some other law that it shall come into operation on some other date, on that date.

(4) A bill reserved for the signification of Her Majesty's pleasure in pursuance of subsection (2) of this section shall become a law as soon as Her Majesty has given Her assent thereto through a Secretary

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

of State and the Commissioner has signified such assent by Proclamation published in the *Official Gazette;* and every such law shall come into operation on the date of such Proclamation or, if it is provided either in such law or in some other law that it shall come into operation on some other date, on that date.

Disallowance of laws

25.—(1) Any law made by the Commissioner with the advice and consent of the House of Assembly to which the Commissioner has given his assent or any law made by the Commissioner by Proclamation may be disallowed by Her Majesty through a Secretary of State.

(2) Whenever any law has been disallowed by Her Majesty under this section, the Commissioner shall cause notice of such disallowance to be published in the *Official Gazette.*

(3) (*a*) Every law disallowed under this section shall cease to have effect as soon as notice of such disallowance is published as aforesaid and thereupon any enactment repealed or amended by, or in pursuance of, the law disallowed shall have effect as if that law had not been made.

(*b*) Subject as aforesaid, the provisions of subsection (2) of section 38 of the Interpretation Act, 1889, shall apply to such disallowance as they apply to the repeal of an Act of Parliament.

Introduction of Bills by message of Commissioner

26.—(1) The Commissioner, acting in his discretion, may—

(*a*) send by message to the Speaker of the House of Assembly a draft of any bill or motion that it appears to the Commissioner should be introduced or moved in that House;

(*b*) in the same or a later message require that the bill or motion shall be introduced or moved not later than a date specified in such message.

(2) If a request of the Commissioner made to the Speaker of the House of Assembly in accordance with paragraph (*b*) of subsection (1) of this section is not complied with, the Bill or motion to which the message relates shall be deemed for all purposes to have been introduced or moved in that House on the date specified in the message.

Power of Commissioner to address House

27. The Commissioner, acting in his discretion, may address the House of Assembly at any time that he thinks fit and may for that purpose require the attendance of members.

Restrictions with regard to certain financial measures

28. Except upon the recommendation of the Commissioner signified by a member of the Executive Council, the House of Assembly shall not—

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

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

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

Cameroons or the alteration of any such charge otherwise than by reduction;

(iii) for the payment, issue or withdrawal from the Consolidated Revenue Fund or any other public fund of the Southern Cameroons 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 Southern Cameroons;

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

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

Regulation of procedure in House of Assembly

29.—(1) Subject to the provisions of this Order and of any instructions given by Her Majesty to the Commissioner through a Secretary of State, the House of Assembly may by order provide for the regulation and orderly conduct of its own proceedings, for the passing, intituling and numbering of bills and for the presentation thereof to the Commissioner for assent:

Provided that no such orders shall have effect unless they have been approved by the Commissioner, acting in his discretion.

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

Sessions of House of Assembly

30. Each session of the House of Assembly shall be held at such place within the Southern Cameroons and shall begin at such time (not being later than twelve months from the end of the preceding session if the House of Assembly has been prorogued or three months from the end of that session if the House of Assembly has been dissolved) as the Commissioner shall appoint.

Prorogation and dissolution of House of Assembly

31.—(1) The Commissioner may at any time by Proclamation published in the *Official Gazette* prorogue or dissolve the House of Assembly.

(2) The House of Assembly, unless sooner dissolved, shall continue for five years from the date of its first sitting after any dissolution and shall then stand dissolved.

Power to make laws

32.—(1) The Commissioner, with the advice and consent of the House of Assembly, may make laws for the peace, order and good government of the Southern Cameroons with respect to any matter other than a matter with respect to which the Commissioner has power to make laws by virtue of paragraph (*a*) of subsection (2) of this section.

(2) The Commissioner, acting in his discretion, may by Proclamation published in the *Official Gazette* make laws for the peace, order and good government of the Southern Cameroons with respect to—

(*a*) any matter with respect to which the Legislature of the Federation of Nigeria had power immediately before the commencement of this Order to make such laws, not being a matter with respect to which the Legislature of the Southern Cameroons also had power immediately before the commencement of this Order to make such laws; and

(*b*) any other matter, for the purpose of implementing in the Southern Cameroons any treaty, convention or agreement between Her Majesty's Government in the United Kingdom and the government of any other country or any arrangement with or decision of any international organization of which Her Majesty's Government in the United Kingdom is a member, including (without prejudice to the generality of the foregoing) any arrangement for the purpose of facilitating the administration of the Southern Cameroons after the commencement of this Order made between the Governor-General of the Federation of Nigeria and the Commissioner of the Cameroons before the commencement of this Order or between Her Majesty's Government in the United Kingdom and Her Majesty's Government of the Federation of Nigeria after the commencement of this Order.

(3) If any law made under subsection (1) of this section is inconsistent with any law made under subsection (2) of this section or any regulation made by the Commissioner under this Order, the law made under subsection (2) or the regulation, as the case may be, shall prevail and the law made under subsection (1) shall, to the extent of the inconsistency, be void.

CHAPTER III—EXECUTIVE POWERS

Ministers of Government of Southern Cameroons

33.—(1) There shall be a Premier of the Southern Cameroons, who shall be appointed by the Commissioner, acting in his discretion.

(2) Whenever the Commissioner has occasion to appoint a Premier he shall appoint a member of the House of Assembly who appears to him likely to command the support of the majority of the members of the House.

(3) There shall be, in addition to the office of Premier, not less than five nor more than seven other Ministers of the Government of the Southern Cameroons appointed from among the members of the House of Assembly.

(4) Appointments to the office of Minister of the Government of the Southern Cameroons other than the office of Premier shall be made by the Commissioner, acting in accordance with the advice of the Premier.

(5) The office of the Premier shall become vacant—

(*a*) when, after any dissolution of the House of Assembly, the Premier is informed by the Commissioner that the Commissioner is about to re-appoint him as Premier or to appoint another person as Premier;

(*b*) if he ceases to be a member of the House of Assembly otherwise than by reason of a dissolution of that House; or

(*c*) if he absents himself from the Southern Cameroons without written permission given by the Commissioner, acting in his discretion.

(6) The office of a Minister of the Government of the Southern Cameroons other than the Premier shall become vacant if he ceases to be a member of the House of Assembly otherwise than by reason of a dissolution of the House or if the office of Premier becomes vacant.

(7) Subject to the provisions of subsections (5) and (6) of this section, the Ministers of the Government of the Southern Cameroons shall hold office during the pleasure of the Commissioner, acting in his discretion:

Provided that—

(*a*) the Commissioner shall not remove the Premier from office unless it appears to him that the Premier no longer commands the support of a majority of the members of the House of Assembly; and

(*b*) the Commissioner shall not remove a Minister other than the Premier from office except in accordance with the advice of the Premier.

Establishment of Executive Council

34.—(1) There shall be an Executive Council for the Southern Cameroons.

(2) Subject to the provisions of subsection (3) of this section, the members of the Executive Council shall be—

(*a*) the Deputy Commissioner of the Southern Cameroons, the Attorney-General of the Southern Cameroons and the Financial Secretary of the Southern Cameroons; and

(*b*) the Ministers of the Government of the Southern Cameroons.

(3) If it is provided by any instructions given by Her Majesty to the Commissioner through a Secretary of State that any of the officers specified in paragraph (*a*) of subsection (2) of this section shall no longer be a member of the Executive Council, any such officer shall cease to be a member of the Council.

Summoning Executive Council and quorum

35.—(1) The Executive Council shall not be summoned except by the authority of the Commissioner, acting in his discretion:

Provided that the Commissioner shall summon the Council if the Premier requests him in writing to do so.

(2) No business shall be transacted in the Executive Council if objection is taken by any member present that, in addition to any member presiding, there are present less than three members.

Presiding in Executive Council

36.—(1) The Commissioner may, if he shall think fit, preside at meetings of the Executive Council.

(2) In the absence of the Commissioner, there shall preside at any meeting of the Council such member of the Council as the Commissioner, acting in his discretion, may designate.

Voting in Executive Council

37.—(1) Where any matter is dependent on the decision of the Executive Council a decision shall be regarded as the decision of the Council if the majority of the votes of the members present and voting are cast in favour thereof.

(2) The Commissioner may, when presiding in the Executive Council, give a casting vote if on any question the votes of the members are equally divided but shall not have an original vote.

(3) A member of the Executive Council shall have an original vote in the Council and may, when presiding in the Council, also give a casting vote if on any question the votes are equally divided.

Council may act notwithstanding vacancies

38. The Executive Council may act notwithstanding any vacancy among the members thereof or the absence of any member.

Allocation of portfolios to Ministers

39.—(1) The Commissioner, acting in his discretion, may assign to any member of the Executive Council responsibility for any business of the Government of the Southern Cameroons including the administration of any department of government.

(2) Responsibility for legal matters, which expression shall, without prejudice to its generality, include the initiation, conduct and discontinuance of civil and criminal proceedings, shall not be assigned to a Minister of the Government of the Southern Cameroons but shall vest in the Attorney-General of the Southern Cameroons:

Provided that the Commissioner, acting in his discretion, may authorize a Minister to submit questions relating to such matters to the Executive Council or to conduct government business relating to such matters in the House of Assembly.

Exercise of Commissioner's powers

40.—(1) Subject to any instructions given by Her Majesty to the Commissioner through a Secretary of State and to the provisions of subsection (2) of this section, the Commissioner shall consult with the Executive Council in the formulation of policy and in the exercise of all powers conferred upon him by this Order or any other law except in the following cases—

(*a*) in the exercise of any power expressed to be exercisable by the Commissioner, acting in his discretion;

(*b*) in the exercise of any power relating to any of the matters with respect to which the Commissioner has power to make laws by virtue of subsection (2) of section 32 of this Order;

(*c*) in the exercise of any power conferred upon the Commissioner by any law (other than a power expressed to be conferred upon the Commissioner in Council) that in the opinion of the Commissioner—

(i) is a power pertaining to the administration of justice or is a judicial or quasi-judicial power;

(ii) is a power pertaining to the remission or mitigation of penalties, fees, duties or other charges;

(iii) relates to the appointment (including appointment on promotion or transfer) or dismissal of, or the exercise of disciplinary control over, any officer of a corporation directly incorporated by law or the grant of a pension, gratuity or other like benefit to any such officer or his widow, children, dependants or personal representatives; or

(iv) relates to the appointment of any person for the execution of any law or the dismissal of any such person (other than the chairman or a member of a corporation directly incorporated by law); or

(*d*) any other power conferred upon the Commissioner in respect of which it is provided by law, either expressly or by implication, that he shall not be obliged to consult with the Executive Council in the exercise thereof.

(2) The Commissioner shall not be obliged to consult with the Executive Council in the exercise of any power conferred upon him in any case—

(*a*) that is of such a nature that in his judgment Her Majesty's service would sustain material prejudice by reason of his consulting the Council thereon;

(*b*) in which the matters to be decided are, in his judgment, too unimportant to require the advice of the Council; or

(*c*) in which the matters to be decided are, in his judgment, too urgent to admit of the giving of the advice of the Council by the time within which it may be necessary for him to act:

Provided that in any case falling within paragraph (*c*) of this subsection the Commissioner shall, as soon as is practicable, communicate to the Council the measures that he has adopted, with the reasons therefore.

(3) Subject to the provisions of subsection (4) of this section, the Commissioner shall act in accordance with the advice of the Executive Council in any matter on which he is by this section obliged to consult with the Council.

(4) If in any case in which he consults with the Executive Council, whether in pursuance of this section or otherwise, the Commissioner considers it expedient in the interests of public faith, public order or good government (which expressions shall without prejudice to their generality include the responsibility of the Southern Cameroons as a territory within the Commonwealth and all matters pertaining to the creation or abolition of any public office or the salary or other conditions of service of any public officer) that he should not act in accordance with the advice of the Council then he may act otherwise than in accordance with that advice; and whenever the Commissioner so acts otherwise than in accordance with the advice of the Council in any matter on which he is by this section obliged to consult with the Council—

(*a*) he shall report the matter to Her Majesty through a Secretary of State at the first convenient opportunity, with the reasons for his action; and

(*b*) any member of the Council may require that there be recorded in the minutes of the Council any advice or opinion that he may give upon the question, with the reasons therefor.

Performance of functions of Premier during absence or illness

41.—(1) Whenever the Premier is for any reason prevented from or incapable of discharging the functions conferred upon him by this Order the Commissioner may authorize one of the other Ministers of the Government of the Southern Cameroons to perform those functions (other than the functions conferred by this section) and that

Minister may perform those functions until his authority is revoked by the Commissioner.

(2) The powers of the Commissioner under this section shall be exercised by him in accordance with the advice of the Premier:

Provided that if the Commissioner considers it is impracticable to obtain the advice of the Premier he may exercise those powers without that advice.

Leave of absence for Ministers, etc.

42.—(1) The Commissioner, acting in his discretion, may grant leave of absence from his duties to the Premier of the Southern Cameroons.

(2) The Commissioner, acting on the recommendation of the Premier, may grant leave of absence from his duties to a Minister of the Government of the Southern Cameroons other than the Premier or to a Parliamentary Secretary to such a Minister.

Parliamentary Secretaries

43.—(1) The Commissioner, acting in accordance with the advice of the Premier, may appoint not more than three Parliamentary Secretaries from among the members of the House of Assembly to assist Ministers of the Government of the Southern Cameroons in the performance of their duties.

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

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

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

(*c*) if the Commissioner, acting in accordance with the advice of the Premier, so directs.

Oaths to be taken by members of Executive Council

44. A member of the Executive Council shall not enter upon the duties of 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 any law.

Permanent secretaries

45. Where any Minister of the Government of the Southern Cameroons 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 such member of the public service (who shall be styled a permanent secretary) as the Commissioner, acting in his discretion, may select.

Constitution of offices

46. Subject to the provisions of this Order and of any other law and of any instructions given by Her Majesty to the Commissioner through a Secretary of State, the Commissioner, in Her Majesty's name and on Her Majesty's behalf, may constitute offices for the Southern Cameroons, make appointments to any such office and terminate any such appointment.

Establishment of Advisory Council on Prerogative of Mercy

47. There shall be an Advisory Council on the Prerogative of Mercy for the Southern Cameroons constituted in such manner as Her Majesty may by instructions given by Her Majesty to the Commissioner through a Secretary of State direct.

Prerogative of mercy

48.—(1) The Commissioner, acting in his discretion, may, in Her Majesty's name and on Her Majesty's behalf—

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

(*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 any offence; or

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

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

(2) In the exercise of his powers under this section, the Commissioner shall consult with the Advisory Council on the Prerogative of Mercy in such cases and in such manner as may be prescribed by any instructions given by Her Majesty to the Commissioner through a Secretary of State.

Public prosecutions

49.—(1) The Attorney-General of the Southern Cameroons shall have power in any case in which he considers it desirable so to do—

(*a*) to institute and undertake criminal proceedings against any person before any court of law in the Southern Cameroons other than a court-martial in respect of any offence;

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

(*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.

(2) The powers of the Attorney-General under subsection (1) of this section may be exercised by him in person or through members of his staff acting under and in accordance with his general or special instructions.

(3) The powers conferred upon the Attorney-General by paragraphs (*b*) and (*c*) of subsection (1) 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.

(4) In the exercise of the powers conferred upon him by this section the Attorney-General shall not be subject to the direction or control of any other person or authority.

(5) 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 or to Her Majesty in Council shall be deemed to be part of those proceedings.

CHAPTER IV

COURTS

Establishment of High Court

50.—(1) There shall be a High Court for the Southern Cameroons.

(2) Subject to the provisions of this Order, the High Court of the Southern Cameroons shall consist of a judge appointed in accordance with the provisions of section 51 of this Order.

(3) The High Court of the Southern Cameroons shall be a superior court of record and, save as otherwise provided by any law, shall have all the powers of such a court, including the power to punish for contempt of itself.

Appointment of judge of High Court

51.—(1) The judge of the High Court shall be appointed by the Commissioner by Instrument under the Public Seal in pursuance of instructions given by Her Majesty through a Secretary of State.

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

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

(*b*) he is qualified to practise as an advocate in such a court and he has been qualified to practise as an advocate or solicitor in such a court for not less than ten years:

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

(3) If the office of the judge of the High Court is vacant or if the Commissioner, acting in his discretion, is satisfied that the judge is for any reason unable to perform the functions of his office or that the state of business in the High Court so requires the Commissioner, acting in his discretion, may appoint a person qualified for appointment as the judge of the High Court to act as a judge of the High Court and any person so appointed shall, unless he is removed therefrom under section 53 of this Order, continue to act for the period of his appointment or, if no such period is specified, until his appointment is revoked by the Commissioner, acting in his discretion:

Provided that a person may act as a judge of the High Court notwithstanding that he has attained the age of sixty-two years.

Oaths to be taken by judges of High Court

52. A judge of the High Court of the Southern Cameroons shall, before entering upon the duties of his office, take and subscribe the oath of allegiance and such oath for the due execution of his office as may be prescribed by any law in force in the Southern Cameroons.

Tenure of office of judge

53.—(1) Subject to the provisions of this section, the judge of the High Court shall vacate his office when he attains the age of sixty-two years:

Provided that the Commissioner, acting in his discretion, may permit the judge to continue in office for such period as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

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

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

(4) If the Commissioner, acting in his discretion, considers that the question of removing the judge of the High Court under this section ought to be considered, then—

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

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

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

(5) If the question of removing the judge of the High Court from office has been referred to a tribunal under subsection (4) of this section, the Commissioner, acting in his discretion, may suspend the judge from performing the functions of his office, and any such suspension may at any time be revoked by the Commissioner, acting in his discretion, and shall in any case cease to have effect—

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

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

(6) The provisions of section 6, section 7 (other than the proviso) and sections 8 to 20 of the Commissions of Inquiry Ordinance(a) shall apply in relation to a tribunal appointed under subsection (4) of this section as they apply in relation to commissioners appointed under that Ordinance and for that purpose those provisions shall have effect as if they formed part of this Order.

(7) This section shall apply in relation to any person acting as a judge of the High Court as it applies to the person holding the office of the judge of the High Court but without prejudice to the provisions of section 51 of this Order relating to the revocation of his appointment.

Appeals to High Court from subordinate courts

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

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

(*b*) where the ground of appeal to the High Court involves questions of law alone, decisions in any criminal proceedings in which any person has been sentenced to imprisonment for a term exceeding three months or corporal punishment exceeding six strokes or a fine or forfeiture exceeding twenty-five pounds by the subordinate court from which the appeal lies to the High Court or that subordinate court has affirmed or substituted such a sentence;

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

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

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

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

(*g*) such other cases as may be prescribed by any law.

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

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

(a) Laws of Nigeria, Rev. 1948, Chapter 37.

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

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

(*a*) shall be exercisable in the case of civil proceedings at the instance of a party thereto or, with the leave of the High Court, at the instance of any other person having an interest in the matter and in the case of criminal proceedings at the instance of the accused person or, subject to the provisions of section 49 of this Order, at the instance of such other persons or authorities as may be prescribed by any law; and

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

(4) In this section—

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

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

Appeals to Federal Supreme Court of Nigeria

55.—(1) The Federal Supreme Court of Nigeria shall have jurisdiction to hear and determine appeals from the High Court.

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

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

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

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

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

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

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

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

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

(ii) from any order relating only to costs;

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

(iv) in the case of a party to proceedings for dissolution or nullity of marriage who, having had time and opportunity to

appeal from any decree *nisi* in such proceedings, has not so appealed from any decree absolute founded upon such a decree *nisi*.

(3) An appeal shall lie from decisions of the High Court to the Federal Supreme Court of Nigeria as of right from decisions on any such question as is referred to in section 14 of this Order and the decision of the Federal Supreme Court upon any such question shall be final.

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

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

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

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

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

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

(6) Any right of appeal to the Federal Supreme Court of Nigeria from the decisions of the High Court conferred by this section—

(*a*) shall be exercisable in the case of civil proceedings at the instance of a party thereto or, with the leave of the High Court or the Federal Supreme Court at the instance of any other person having an interest in the matter and in the case of criminal proceedings at the instance of an accused person or, subject to the provisions of section 49 of this Order, at the instance of such other persons or authorities as may be prescribed by any law in force in the Southern Cameroons; and

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

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

Powers, practice and procedure of Federal Supreme Court of Nigeria

56.—(1) The Federal Supreme Court of Nigeria shall be a superior court of record in the Southern Cameroons and, save as otherwise provided by any law shall have all the powers of such a court.

(2) The decisions of the Federal Supreme Court of Nigeria shall be enforced in the Southern Cameroons by the High Court and by all persons, authorities and other courts in the Southern Cameroons as if they were orders of the High Court.

(3) The Federal Supreme Court may make rules for regulating the practice and procedure of the court in the Southern Cameroons.

(4) The Commissioner, acting in his discretion, may by Proclamation confer upon the Federal Supreme Court such powers additional to those conferred by this Order as appear to be necessary or desirable for enabling the court more effectively to exercise its jurisdiction.

Appeal from Federal Supreme Court of Nigeria to Her Majesty in Council

57.—(1) Subject to the provisions of this Order, an appeal shall lie from a decision of the Federal Supreme Court of Nigeria given in exercise of the jurisdiction conferred upon it by this Order 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 amounts to or 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 Order; and

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

(2) Subject to the provisions of this Order, an appeal shall lie from decisions of the Federal Supreme Court of Nigeria given in exercise of the jurisdiction conferred upon it by this Order to Her Majesty in Council with the leave of the Federal Supreme Court of Nigeria in the following cases—

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

(*b*) in such other cases as may be prescribed by any law in force in the Southern Cameroons.

(3) Nothing in this section shall affect any right of Her Majesty to grant special leave to appeal to Her Majesty in Council from decisions of the Federal Supreme Court of Nigeria given in exercise of the jurisdiction conferred upon it by this Order in any civil or criminal matter.

CHAPTER V—FINANCE

Establishment of Consolidated Revenue Fund

58.—(1) All revenues or other moneys raised or received by the Southern Cameroons (not being revenues or other moneys payable under any law into some other public fund of the Southern Cameroons

established for a specific purpose) shall be paid into and form one Consolidated Revenue Fund.

(2) No moneys shall be withdrawn from the Consolidated Revenue Fund of the Southern Cameroons unless—

(*a*) those moneys are charged upon the Fund by this Order or any other law; or

(*b*) the issue of those moneys has been authorized by an appropriation law, a Proclamation made under section 32 of this Order or a law made in pursuance of section 60 of this Order.

(3) No moneys shall be withdrawn from any public fund of the Southern Cameroons other than the Consolidated Revenue Fund unless the issue of those moneys has been authorized by a law.

(4) No moneys shall be withdrawn from the Consolidated Revenue Fund or other public funds of the Southern Cameroons except in the manner prescribed by a law.

Authorization of expenditure from Consolidated Revenue Fund

59.—(1) The Commissioner shall cause to be prepared and laid before the House of Assembly in each financial year estimates of the revenues and expenditure of the Southern Cameroons 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 Order or any other law or authorized by a Proclamation made under section 32 of this Order) 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 law for any purpose is insufficient or that a need has arisen for expenditure for the purpose for which no amount has been appropriated by the law; or

(*b*) that any moneys have been expended for any purpose in excess of the amount (if any) appropriated for the purpose by the appropriation law,

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

Authorization of expenditure in advance of appropriation

60. A law made by the Commissioner with the advice and consent of the House of Assembly may make provision under which, if the appropriation law in respect of any financial year has not come into operation by the beginning of that financial year, the member of the Executive Council 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 appropriation law, whichever is the earlier.

Contingencies Fund

61.—(1) A law made by the Commissioner with the advice and consent of the House of Assembly may provide for the establishment of a Contingencies Fund and for authorizing the member of the Executive Council responsible for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Fund to meet that need.

(2) Where any advance is made in accordance with subsection (1) of this section a supplementary estimate shall be presented and a supplementary appropriation bill shall be introduced as soon as possible for the purpose of replacing the amount so advanced.

Special power to charge Consolidated Revenue Fund

62. If the Commissioner, acting in his discretion, is satisfied that any expenditure is required for giving effect or enabling effect to be given to any arrangement for the purpose of facilitating the administration of the Southern Cameroons after the commencement of this Order made between the Governor-General of the Federation of Nigeria and the Commissioner of the Cameroons before the commencement of this Order or between Her Majesty's Government in the United Kingdom and Her Majesty's Government of the Federation of Nigeria after the commencement of this Order, he may by order declare that that expenditure shall be a charge on the Consolidated Revenue Fund of the Southern Cameroons and any expenditure specified in any such order shall be charged accordingly.

Remuneration of certain officers

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

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

(3) The salary payable to any holder of an office to which this section applies and his terms of office other than allowances shall not be altered to his disadvantage after his appointment.

(4) This section applies to the office of the Commissioner, a judge of the High Court, the Director of Audit of the Southern Cameroons and a member of the Public Service Commission.

Audit of public accounts

64.—(1) There shall be a Director of Audit for the Southern Cameroons, whose office shall be an office in the public service.

(2) The public accounts of the Southern Cameroons and of all officers, courts and authorities of the Southern Cameroons shall be audited and reported on by the Director of Audit of the Southern Cameroons and for that purpose the Director or any person authorized by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.

(3) The Director of Audit of the Southern Cameroons shall submit his reports to the Commissioner, who shall cause them to be laid before the House of Assembly.

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

Public debt

65.—(1) The public debt of the Southern Cameroons shall be secured upon the revenues and assets of the Southern Cameroons.

(2) In this section references to the public debt of the Southern Cameroons include references to the interest on that debt, sinking fund payments in respect of that debt and the costs, charges and expenses incidental to the management of that debt.

Chapter VI—The Public Service of the Southern Cameroons

Establishment of Public Service Commission

66.—(1) There shall be a Public Service Commission for the Southern Cameroons, which shall consist of a chairman and such number of other members as may be prescribed by regulations made under section 67 of this Order.

(2) The members of the Public Service Commission shall be appointed by the Commissioner, who may terminate the appointment of any member, and subject to the provisions of this Order the members shall hold office on such terms and conditions as may be prescribed by regulations made under section 67 of this Order.

(3) An Elected Member or Special Member of the House of Assembly shall not be qualified to hold the office of member of the Public Service Commission.

Regulations regarding Public Service Commission

67. Subject to the provisions of this Order, the Commissioner may make regulations for giving effect to the provisions of this Chapter and in particular and without prejudice to the generality of the foregoing power may by such regulations make provision for any of the following matters, that is to say :—

(*a*) the membership of the Public Service Commission ;

(*b*) the appointment, tenure of office and terms of service of members of the Commission ;

(*c*) the organization of the work of the Commission and the manner in which the Commission shall perform its functions ;

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

(*e*) the appointment, tenure of office and terms of service of staff to assist the Commission in the performance of its functions ;

(*f*) the definition and trial of offences connected with the functions of the Commission (including, without prejudice to the generality of this paragraph, offences relating to the bringing of improper influence on the Commission, misconduct by members of the Commission, the giving of false information to the Commission and the improper disclosure of information obtained in the course of the work of the Commission) and the imposition of penalties for such offences :

Provided that no penalty for any such offence shall exceed a fine of two hundred pounds and imprisonment for a term of one year.

Appointment to offices in public service

68.—(1) Subject to the provisions of this Order, power to appoint persons to hold or act in offices in the public service of the Southern

Cameroons (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 Commissioner.

(2) Subject to the provisions of subsection (3) of this section, the Commissioner may, subject to such conditions as he may think fit, delegate to any officer in the public service any of the powers conferred on the Commissioner by subsection (1) of this section.

(3) The Commissioner shall not—

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

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

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

(5) The provisions of this section shall be subject to the provisions of any instructions given by Her Majesty to the Commissioner through a Secretary of State and any power conferred by this section or delegated under this section shall be exercised in accordance with the provisions of such instructions.

Public Service Commission to advise Commissioner

69.—(1) The Commissioner may (either generally or specially, and in whatever manner he thinks fit) refer to the Public Service Commission for their advice any matter relating to the appointment of any person to an office in the public service, or the dismissal or disciplinary control of officers in the public service or any other matter that, in his opinion, affects the public service.

(2) It shall be the duty of the Public Service Commission to advise the Commissioner on any question that he refers to it in accordance with the provisions of this section but the Commissioner shall not be obliged to act in accordance with the advice given to him by the Commission.

Commission to advise other officers

70.—(1) The Commissioner may in such manner as he thinks fit require any officer to whom he delegates any power under section 68 of this Order to refer to the Public Service Commission for their advice, on such conditions as the Commissioner may prescribe, any matter relating to the exercise of that power.

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

Exercise of powers under this Chapter

71. In the exercise of the powers conferred on him by this Chapter the Commissioner shall act in his discretion :

Provided that in appointing the members of the Public Service Commission other than the chairman the Commissioner shall consult with the Executive Council but shall not be required to act in accordance with the advice of that Council.

CHAPTER VII—FUNDAMENTAL RIGHTS

Deprivation of life

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

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

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

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

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

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

(3) The use of force in circumstances in which and to the extent to which it would have been authorized in the Southern Cameroons on the first day of November, 1959, by the Code of Criminal Law established by the Criminal Code Ordinance(a), as amended, shall be regarded as reasonably justifiable for the purposes of this section.

Inhuman treatment

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

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

Slavery and forced labour

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

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

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

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

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

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

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

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

Deprivation of personal liberty

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

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

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

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

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

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

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

(2) Any person who is arrested or detained shall be promptly informed, in language that he understands, of the reasons for his arrest or detention.

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

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

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

Determination of rights

76.—(1) In the determination of his civil rights and obligations a person shall be entitled to a fair hearing within a reasonable time by

a court or other tribunal established by law and constituted in such manner as to secure its independence and impartiality:

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

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

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

Provided that—

(*a*) a court or such a tribunal may exclude from its proceedings persons other than the parties thereto in the interests of defence, public safety, public order, public morality, the welfare of persons who have not attained the age of twenty-one years, the protection of the private lives of the parties or to such extent as it may consider necessary by reason of special circumstances in which publicity would be contrary to the interests of justice; and

(*b*) if in any proceedings before a court or such a tribunal, the Commissioner, acting in his discretion, certifies that it would not be in the public interest for any matter to be publicly disclosed, the court or tribunal shall make arrangements for evidence relating to that matter to be heard *in camera* and shall take such other action as may be necessary or expedient to prevent the disclosure of the matter.

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

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

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

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

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

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

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

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

Provided that nothing in this subsection shall invalidate any law by reason only that the law prohibits legal representation in a court established by or under the Customary Courts Law, 1956(a), as amended, or any law replacing that law.

(a) Law No. 9 of 1956.

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

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

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

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

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

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

Private and family life

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

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

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

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

Freedom of conscience

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

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

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

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

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

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

Freedom of expression

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

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

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

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

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

Peaceful assembly and association

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

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

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

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

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

Freedom of movement

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

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

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

(*b*) for the removal of persons from the Southern Cameroons to be tried outside the Southern Cameroons for criminal offences or to undergo imprisonment outside the Southern Cameroons in execution

of the sentences of courts of law in respect of criminal offences of which they have been found guilty; or

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

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

(4) This section applies to any person who belongs to the Southern Cameroons.

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

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

(*b*) has been ordinarily resident in the Southern Cameroons continuously for a period of seven years or more and since the completion of such period of residence has not been ordinarily resident continuously for a period of seven years or more in any other part of the Commonwealth; or

(*c*) has obtained the status of a British subject by reason of the grant by the Commissioner or by the Governor of Nigeria or the Governor-General of the Federation of Nigeria of a certificate of naturalization under the British Nationality and Status of Aliens Act, 1914(**a**), the Naturalisation of Aliens Ordinance(**b**) of the Federation of Nigeria or the British Nationality Act, 1948(**c**) and was at the time that certificate was granted ordinarily resident in the Southern Cameroons; or

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

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

Freedom from discrimination

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

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

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

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

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

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

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

(*c*) imposes restrictions with respect to the acquisition or use of any person of land or property in the Southern Cameroons or any part thereof;

(*d*) imposes restrictions upon the employment, movement or residence within the Southern Cameroons of persons to whom section 81 of this Order does not apply or provides for the expulsion of such persons from the Southern Cameroons or the refusal to allow them to enter the Southern Cameroons; or

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

Derogations from fundamental rights

83.—(1) A law shall not be invalid by reason only that it provides for the taking, during periods of emergency, of measures that contravene the provisions of sections 72, 75, 76 and 82 of this Order but no such measures shall be taken in pursuance of any such law during any period of emergency save to the extent that those measures are reasonably justifiable for the purpose of dealing with the situation that exists during that period of emergency:

Provided that nothing in this section shall authorize any derogation from the provisions of section 72 of this Order except in respect of deaths resulting from acts of war or from the provisions of subsection (7) of section 76.

(2) In this section "period of emergency" means a period during which Part II of the Emergency Powers Order in Council, 1939(**a**), as amended(**b**), is in force in the Southern Cameroons or any part thereof.

Reference to tribunal in certain cases

84.—(1) Where—

(*a*) any person is lawfully detained in pursuance of a law derogating from the provisions of section 75 of this Order; or

(*b*) the movement or residence within the Southern Cameroons of any person who is a person to whom section 81 of this Order applies is lawfully restricted (otherwise than by order of a court

(**a**) *See* S.I. 1952 I, at p. 621.
(**b**) S.I. 1952/2031, 1956/731, 1959/1310 (1952 I, p. 620; 1956 I, p. 512; 1959 II, p. 1996).

of law) in the interest of defence, public safety, public order, public morality or public health,

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

Provided that such authority, unless it is otherwise provided by law, shall not be obliged to act in accordance with any such recommendation.

(2) A tribunal established for the purposes of this section shall be constituted in such manner as to ensure its independence and impartiality and its chairman shall be appointed by the Commissioner, acting in his discretion, from among the persons qualified for admission in the Southern Cameroons as barristers or solicitors.

Compulsory acquisition of property

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

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

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

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

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

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

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

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

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

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

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

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

(*d*) relating to the vesting and administration of the property of persons adjudged or otherwise declared bankrupt or insolvent, of persons of unsound mind, of deceased persons and of companies,

other bodies corporate and unincorporate societies in the course of being wound up;

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

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

(*g*) relating to enemy property;

(*h*) relating to trusts and trustees;

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

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

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

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

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

Special jurisdiction of High Court in relation to this Chapter

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

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

(3) The Commissioner, acting in his discretion, may by Proclamation make provision with respect to the practice and procedure of the High Court for the purposes of this section, and may confer upon the court such powers in addition to those conferred by this section as may appear to be necessary or desirable for the purpose of enabling the court more effectively to exercise the jurisdiction conferred upon it by this section.

Interpretation

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

"court" means any court of law in the Southern Cameroons (other than a court-martial) and includes the Federal Supreme Court of Nigeria and Her Majesty in Council:

"court" means any court in the Southern Cameroons (other than a court-martial) and includes Her Majesty in Council:

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

"law" includes an unwritten rule of law;

"member of the armed forces of the Crown" includes any person who is subject to naval, military or air-force law;

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

CHAPTER VIII—MISCELLANEOUS

Police

88.—(1) Any contingents of the Nigeria Police Force that may be stationed in the Southern Cameroons in pursuance of any arrangement made between Her Majesty's Government in the United Kingdom and Her Majesty's Government of the Federation of Nigeria shall have such powers and duties as may be conferred upon them by any law in force in the Southern Cameroons and shall be under the command of such officer of the Nigeria Police Force as may be designated in that behalf by the Commissioner, acting in his discretion.

(2) The Commissioner, acting in his discretion, may give to the officer commanding the contingents of the Nigeria Police Force stationed in the Southern Cameroons such directions with respect to the maintaining and securing of public safety and public order as he may decide are desirable (including directions with respect to the use and operational control of those contingents) and the officer commanding the contingents shall comply with those directions or cause them to be complied with.

House of Chiefs

89.—(1) There shall be a House of Chiefs for the Southern Cameroons.

(2) The members of the House of Chiefs shall be—

(*a*) the Commissioner, who shall be the President of the House;

(*b*) not less than eighteen members selected for membership of the House in accordance with regulations made under subsection (4) of this section; and

(*c*) the members of the Executive Council.

(3) The number of members of the House of Chiefs to be selected under paragraph (*b*) of subsection (1) of this section shall, subject to the provisions of that paragraph, be such as the Commissioner, acting in his discretion, may from time to time prescribe.

(4) Subject to the provisions of this section, the Commissioner, acting in his discretion, may by regulation—

(*a*) make provision for the selection of persons to be members of the House of Chiefs in accordance with the foregoing provisions of this section;

(*b*) prescribe qualifications for selection as aforesaid;

(*c*) prescribe conditions on which any person selected as aforesaid shall hold his seat in the House;

(*d*) make provision for the regulation and orderly conduct of the proceedings of the House.

(5) The House of Chiefs may consider and discuss any bill introduced in the House of Assembly, not being a bill that the Commissioner acting in his discretion, certifies in writing to be a money bill, or the draft of any such bill proposed for introduction in that House, or any other matter that may be referred to the House for consideration by the Commissioner, acting in his discretion, or by any other member, and may submit resolutions on any such bill or draft bill or other matter to the Commissioner for his consideration, which the Commissioner shall cause to be laid before the House of Assembly.

(6) In this section "a money bill" means a bill that, in the opinion of the Commissioner, contains only provisions dealing with all or any of the following matters, namely, the imposition, repeal,

remission, alteration or regulation of taxation; the imposition for the payment of debt or other financial purposes of charges on public money or the variation or repeal of such charges; the grant of money to the Crown or to any authority or person, or the variation or revocation of any such grant; the appropriation, receipt, custody, investment, issue or audit of accounts of public money; the raising or guarantee of any loan or the repayment thereof; or subordinate matters incidental to those matters or any of them.

(7) Any question proposed for determination in the House of Chiefs shall be determined by a majority of the votes of the members present and voting:

Provided that the President shall cast a vote whenever necessary to avoid an equality of votes but shall not vote in any other case and the members of the Executive Council shall not be entitled to vote.

Resignations

90. Any person who is appointed, elected or otherwise selected to any office established by this Order may resign from that office by writing under his hand addressed to the person or authority by whom he was appointed, elected or selected:

Provided that in the case of a member of the House of Assembly the resignation shall be addressed to the Speaker and in the case of a member of the House of Chiefs it shall be addressed to the President.

Re-appointments, etc.

91.—(1) Where any person has vacated any office constituted by this Order, he may, if qualified, again be appointed, elected or otherwise selected to hold that office in accordance with the provisions of this Order.

(2) Where by this Order a power is conferred upon any person or authority to make any appointment to any office in the public service, 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.

Existing laws

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

(2) The Commissioner, acting in his discretion, may by order make such amendments to any existing law as may appear to him to be necessary or expedient—

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

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

(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) For the purposes of this section "the existing laws" mean all Ordinances, Laws, rules, regulations, orders and other instruments having the effect of law made or having effect as if they had been made in pursuance of the Orders in Council specified in the First Schedule to this Order and having effect as part of the law of the Southern Cameroons immediately before the commencement of this Order.

Existing offices, courts and authorities

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

Provided that—

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

(*b*) the House of Assembly shall, unless sooner dissolved, stand dissolved on the date on which the House of Assembly of the Southern Cameroons would have been required to be dissolved by the Orders revoked by this Order.

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

Pending legal proceedings

94.—(1) Any proceedings pending immediately before the commencement of this Order before the High Court of the Southern Cameroons established by the Orders revoked by this Order may be continued before the High Court established by this Order as if they had been initiated before that High Court after the commencement of this Order.

(2) Any proceedings pending immediately before the commencement of this Order before Her Majesty in Council or any court of law established by or under the Orders revoked by this Order for the Southern Cameroons may be continued after the commencement of this Order notwithstanding that, by reason of the terms of this Order, no such proceedings could be initiated after the commencement of this Order.

Interpretation

95.—(1) In this Order, unless it is otherwise expressly provided or required by the context—

"Commissioner" means the Commissioner of the Southern Cameroons;

"Commonwealth" means the United Kingdom and Colonies, Canada, Australia, New Zealand, the Union of South Africa, India, Pakistan, the Federation of Rhodesia and Nyasaland, Ceylon, Ghana, the Federation of Malaya, the State of Singapore, the Republic of Cyprus and Nigeria and any dependency of any such country;

"financial year" means any period of twelve months beginning on the first day of April in any year or such other date as may be prescribed by law;

"oath" includes affirmation;

"the oath of allegiance" means an oath of allegiance in such form as may be prescribed by any law;

"the public service" means the service of the Crown in a civil capacity in respect of the government of the Southern Cameroons; and

"the Southern Cameroons" means the territory that immediately before the commencement of this Order was comprised in the Southern Cameroons as established by section 3 of the Nigeria (Constitution) Order in Council, 1954(a).

(2) In this Order, unless it is otherwise expressly provided or required by the context—

(*a*) references to persons holding offices in the public service include references to persons acting in those offices; and

(*b*) references to offices in the public service include references to the offices of a judge of the High Court and references to the offices of members of all other courts established by any law, being offices the emoluments attaching to which are paid out of the Consolidated Revenue Fund or any other public fund of the Southern Cameroons.

(3) For the purposes of this Order, the office of Minister of the Government of the Southern Cameroons, a Parliamentary Secretary

---

(a) S.I. 1954/1146 (1954 II, p. 2829).

to such a Minister, a member of the Advisory Council on the Prerogative of Mercy or of the Public Service Commission shall not be regarded as offices in the public service.

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

(5) No provision of this Order 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 Order shall be construed as precluding a court of law from exercising jurisdiction in relation to any question whether that person or authority has performed those functions in accordance with this Order or any other law.

(6) Where by this Order the Commissioner is required to act in accordance with the advice of or after consultation with any person or authority, the question whether he has in any case received or acted in accordance with such advice or has so consulted shall not be enquired into in any court of law.

W. G. Agnew.

THE FIRST SCHEDULE

Section 1.

ORDERS IN COUNCIL REVOKED BY THIS ORDER

The Nigeria (Constitution) Order in Council, 1954(a).
The Nigeria (Offices of Governor-General and Governors) Order in Council, 1954(b).
The Nigeria (Offices of Governor-General and Governors) (Amendment) Order in Council, 1955(c).
The Nigeria (Constitution) (Amendment) Order in Council, 1955(d).
The Nigeria (Constitution) (Amendment) Order in Council, 1956(e).
The Nigeria (Tribunals of Inquiry) Order in Council, 1956(f).
The Nigeria (Constitution) (Amendment) Order in Council, 1957(g).
The Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957(h).
The Nigeria (Offices of Governor-General and Governors) (Amendment) Order in Council, 1957(i).
The Nigeria (Constitution) (Amendment) Order in Council, 1958(j).
The Nigeria (Offices of Governor-General and Governors) (Amendment) Order in Council, 1958(k).
The Nigeria (Constitution) (Amendment No. 2) Order in Council, 1958(l).
The Nigeria (Offices of Governor-General and Governors) (Amendment No. 2) Order in Council, 1958(m).
The Nigeria (Constitution) (Amendment No. 3) Order in Council, 1958(n).
The Nigeria (Constitution) (Amendment No. 4) Order in Council, 1958(o).
The Nigeria (Constitution) (Amendment) Order in Council, 1959(p).
The Nigeria (Offices of Governor-General and Governors) (Amendment) Order in Council, 1959(q).
The Nigeria (Constitution) (Amendment No. 2) Order in Council, 1959(r).
The Nigeria (Offices of Governor-General and Governors) (Amendment No. 2) Order in Council, 1959(s).
The Nigeria (Constitution) (Amendment No. 3) Order in Council, 1959(t).
The Nigeria (Constitution) (Amendment No. 4) Order in Council, 1959(u).
The Nigeria (Offices of Governor-General and Governors) (Amendment No. 3) Order in Council, 1959(v).
The Nigeria (Constitution) (Amendment) Order in Council, 1960(w).
The Nigeria (Offices of Governor-General and Governors) (Amendment) Order in Council, 1960(x).
The Nigeria (Constitution) (Amendment No. 2) Order in Council, 1960(y).

(a) S.I. 1954/1146 (1954 II, p. 2829).
(b) S.I. 1954/1147 (1954 II, p. 2939).
(c) S.I. 1955/431 (1955 II, p. 3167).
(d) S.I. 1955/432 (1955 II, p. 3163).
(e) S.I. 1956/836 (1956 II, p. 2953).
(f) S.I. 1956/1210 (1956 II, p. 2958).
(g) S.I. 1957/1363 (1957 II, p. 3028).
(h) S.I. 1957/1530 (1957 II, p. 3030).
(i) S.I. 1957/1531 (1957 II, p. 3053).
(j) S.I. 1958/429 (1958 II, p. 2757).
(k) S.I. 1958/430 (1958 II, p. 2749).
(l) S.I. 1958/1257 (1958 II, p. 2811).
(m) S.I. 1958/1258 (1958 II, p. 2755).
(n) S.I. 1958/1522 (1958 II, p. 2822).
(o) S.I. 1958/1958 (1958 II, p. 2825).
(p) S.I. 1959/368 (1959 II, p. 3195).
(q) S.I. 1959/369 (1959 II, p. 3189).
(r) S.I. 1959/1049 (1959 II, p. 3215).
(s) S.I. 1959/1050 (1959 II, p. 3191).
(t) S.I. 1959/1772 (1959 II, p. 3229).
(u) S.I. 1959/1981 (1959 II, p. 3266).
(v) S.I. 1959/1982 (1959 II, p. 3192).
(w) S.I. 1960/203.
(x) S.I. 1960/704.
(y) S.I. 1960/1290.

Section 4.

THE SECOND SCHEDULE

OATH OR AFFIRMATION FOR THE DUE EXECUTION OF THE OFFICE OF COMMISSIONER OF THE SOUTHERN CAMEROONS

I, do swear (*or* solemnly affirm) that I will well and truly serve Her Majesty Queen Elizabeth II, Her Heirs and Successors, in the office of Commissioner of the Southern Cameroons (so help me God).

EXPLANATORY NOTE

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

This Order makes provision for the administration of the United Nations Trust Territory of the Southern Cameroons under British Administration after its separation from Nigeria.