STATUTORY INSTRUMENTS

1961 No. 2274

EAST AFRICA

The Tanganyika (Constitution) Order in Council, 1961

Made - - - -	*27th November*, 1961
Laid before Parliament	*28th November*, 1961
Coming into Operation	*Immediately before the 9th December*, 1961.

At the Court of Saint James, the 27th day of November, 1961

Present,

Her Majesty Queen Elizabeth The Queen Mother
Her Royal Highness The Princess Margaret, Countess of Snowdon

Lord President	Lord Carrington
Earl of Perth	Mr. Secretary Amery

Whereas Her Majesty, in pursuance of the Regency Acts, 1937 to 1953, was pleased, by Letters Patent dated the eighth day of November, 1961, to delegate to the following Counsellors of State (subject to the exceptions hereinafter mentioned) or any two or more of them, that is to say, His Royal Highness Prince Philip, Duke of Edinburgh, Her Majesty Queen Elizabeth The Queen Mother, Her Royal Highness The Princess Margaret, Countess of Snowdon, His Royal Highness The Duke of Gloucester, His Royal Highness The Duke of Kent and Her Royal Highness The Princess Alexandra of Kent, full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

And whereas Her Majesty was further pleased to except from the number of the said Counsellors of State His Royal Highness Prince Philip, Duke of Edinburgh, and Her Royal Highness The Princess Alexandra of Kent while absent from the United Kingdom:

Now, therefore, Her Majesty Queen Elizabeth The Queen Mother and Her Royal Highness The Princess Margaret, Countess of Snowdon, being authorized thereto by the said Letters Patent and in exercise of the powers conferred on Her Majesty by the Foreign Jurisdiction Act, 1890(a), and of all other powers enabling Her Majesty in that behalf, do hereby, by and with the advice of Her Majesty's Privy Council, on Her Majesty's behalf order, and it is hereby ordered, as follows:—

Citation, commencement and construction.

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

(2) This Order shall come into operation immediately before the ninth day of December, 1961:

Provided that where the Governor-General has power by or under this Order to make any appointment, to make any order or to do any

(a) 53 & 54 Vict. c. 37.

other thing for the purposes of this Order, that power may be exercised by the Governor and Commander-in-Chief of Tanganyika at any time after the twenty-eighth day of November, 1961, to such extent as may, in his opinion, be necessary or expedient to enable the Constitution established by this Order to function as from the ninth day of December, 1961.

(3) Save where the context otherwise requires, expressions used in sections 1 to 13 (inclusive) of this Order and in the First Schedule thereto have the same meaning as in the Constitution set out in the Second Schedule to this Order and the provisions of section 89 of that Constitution shall apply for the purposes of interpreting those sections and the First Schedule as they apply for the purposes of interpreting that Constitution.

Revocations.

2. Subject to the provisions of section 6 of this Order, the Orders in Council specified in Part I of the First Schedule to this Order (hereinafter referred to as " the existing Orders ") are revoked.

Establishment of Constitution.

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

Existing laws.

4.—(1) Subject to the provisions of this section, the operation of the existing laws after the commencement of this Order shall not be affected by the revocation of the existing Orders but the existing laws shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Order.

(2) The Governor-General may by order made at any time before the ninth day of June, 1962, make such amendments to any existing law as may appear to him to be necessary or expedient for bringing that law into conformity with the provisions of this Order or otherwise for giving effect or enabling effect to be given to those provisions.

(3) Where any matter that falls to be prescribed or otherwise provided for under this Order by Parliament or by any other authority or person is prescribed or provided for by or under an existing law (including any amendment to any such law made under this section) or is otherwise prescribed or provided for, immediately before the commencement of this Order, by or under the existing Orders, that prescription or provision shall, as from the commencement of this Order, have effect as if it had been made under this Order by Parliament or, as the case may be, by the other authority or person.

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

(5) For the purposes of this section, the expression " the existing laws " means all Ordinances, laws, rules, regulations, orders and other instruments having the effect of law made or having effect as if they had been made in pursuance of the existing Orders and having effect as part of the law of Tanganyika or any part thereof immediately before the commencement of this Order.

Existing officers.

5.—(1) Where any office has been established by or under the existing Orders or any existing law or the Tanganyika Royal Instructions, 1961, and the Constitution establishes a similar or an equivalent office (not being the office of Prime Minister or other Minister or

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

Provided that any person who under the existing Orders, any existing law or the Tanganyika Royal Instructions, 1961, would have been required to vacate his office at the expiration of any period or on the attainment of any age shall vacate his office at the expiration of that period or upon the attainment of that age.

(2) The person holding the office of Attorney-General immediately before the commencement of this Order shall, until he ceases to hold that office, also hold the office of Director of Public Prosecutions, and upon his ceasing to hold the former office he shall (without prejudice to his eligibility for re-appointment) also cease to hold the latter office.

(3) So long as the offices of Attorney-General and Director of Public Prosecutions are held, by virtue of subsection (2) of this section, by the same person, the provisions of section 71, subsections (3) to (7) (inclusive) of section 79 and subsection (3) of section 84 of the Constitution shall not apply in relation to that person in his office as Director of Public Prosecutions.

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

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

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

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

National Assembly.

6.—(1) The National Assembly established by the existing Orders (in this section and in the First Schedule to this Order referred to as " the existing National Assembly ") shall be the National Assembly during the period beginning with the commencement of this Order and ending with the first dissolution of Parliament thereafter (in this section and in the First Schedule to this Order referred to as " the interim period ").

(2) Subject to the provisions of subsection (6) of section 40 of the Constitution, Parliament shall, unless sooner dissolved, stand dissolved on the date on which the existing National Assembly would have been required by the existing Orders to be dissolved.

(3) Subject to the provisions of subsections (4) and (9) of this section, during the interim period the provisions of the Constitution mentioned in Part II of the First Schedule to this Order shall not have effect, the provisions set out in Part III of that Schedule shall have effect in lieu thereof and the provisions of the Constitution mentioned in column 1 of Part IV of that Schedule shall have effect subject to the modifications specified in column 2 of that Part.

(4) In any election to the National Assembly held during the interim period after the first day of July, 1963, or such earlier date as may be prescribed by Parliament, section 20 of the Constitution shall have effect with respect to the qualifications and disqualifications of persons for registration as voters for the purposes of elections to the National

Assembly and with respect to the qualifications and disqualifications of persons for voting in such elections and subsection (2) of section 17 of the Constitution shall have effect with respect to the holding of such elections.

(5) The persons who, immediately before the commencement of this Order, are members of the existing National Assembly shall continue to be members of the National Assembly after the commencement of this Order and as from that time shall be deemed to have been elected or appointed thereto in pursuance of the provisions of the Constitution then having effect (including any modifications to those provisions specified in Part IV of the First Schedule to this Order and any provisions having effect in lieu of those provisions set out in Part III of that Schedule) and shall hold their seats in the National Assembly in accordance therewith.

(6) The person who, immediately before the commencement of this Order, is Speaker of the existing National Assembly shall continue to be Speaker of the National Assembly after the commencement of this Order and as from that time shall be deemed to have been elected as such in pursuance of section 22 of the Constitution and shall hold office in accordance with the provisions of that section except that he shall not vacate his office as Speaker by reason only that he is or becomes disqualified for election as a member of the National Assembly.

(7) Any law in force immediately before the commencement of this Order that makes provision for determining or regulating the privileges, immunities or powers of the existing National Assembly or its members shall, except as may be otherwise provided by Parliament, continue to apply after the commencement of this Order in relation to those matters (and references therein to a member of the National Assembly shall, except as aforesaid, be construed as including references to any person who is not such a member but who holds the office of Speaker) but any such law shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring it into conformity with this Order; and the power conferred on the Governor-General by subsection (2) of section 4 of this Order shall include power to amend any such law.

(8) The Standing Orders of the existing National Assembly as in force immediately before the commencement of this Order shall, except as may be otherwise provided by the National Assembly, continue to be the Standing Orders of the National Assembly after the commencement of this Order but shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Order.

(9) Any provision of this section or of the First Schedule to this Order whereby any provision of the Constitution shall not have effect during any period or shall have effect during that period subject to modifications or whereby other provision shall have effect in lieu thereof during that period shall not operate with respect to the exercise during that period of any function for the purposes of elections to the National Assembly that are to be held after the expiration of that period.

(10) The Electoral Commission, acting with the approval of the National Assembly signified by resolution, shall, as soon as may be after the commencement of this Order and not later than the ninth day of December, 1962, prescribe, in accordance with the provisions of section 26 of the Constitution, the boundaries of the constituencies

into which Tanganyika shall, subject to any alteration of those constituencies made under that section and to the provisions of subsection (11) of this section, be divided as from the expiry of the interim period.

(11) If Parliament is dissolved before the boundaries of the constituencies are prescribed under subsection (10) of this section, Tanganyika shall, as from the expiry of the interim period and until such prescription is duly made and comes into effect, be divided into the same constituencies as during the interim period, each constituency returning the same number of members as during that period; and, without prejudice to the provisions of subsection (2) of section 4 of this Order, the Governor-General may by order make such provision, including the amendment of any law, as may appear to him to be necessary or expedient for enabling elections to the National Assembly to be held in those constituencies.

(12) The power conferred on the Governor-General by subsection (11) of this section shall be without prejudice to the power of Parliament to make provision with respect to the same matter.

Emergency Powers Orders in Council, 1939 to 1961.

7. The Emergency Powers Orders in Council, 1939 to 1961(a), shall cease to have effect as part of the law of Tanganyika on the ninth day of June, 1963, or such earlier date as Parliament may prescribe.

High Court.

8.—(1) Any proceedings pending immediately before the commencement of this Order before Her Majesty's High Court of Tanganyika established by the existing Orders may be continued after the commencement of this Order before the High Court established by the Constitution.

(2) The number of puisne judges of the High Court shall, until Parliament otherwise prescribes under subsection (2) of section 58 of the Constitution, be seven.

Transitional provisions relating to existing Commissions.

9.—(1) Any power that, immediately before the commencement of this Order, is vested in a Commission established by the existing Orders (in this section referred to as " an existing Commission ") and that, under the existing Orders, is then delegated to some other person or authority (or is then authorised in pursuance of such a delegation to be exercised by some other person or authority) shall, as from the commencement of this Order, be deemed to have been delegated to (or authorised as aforesaid to be exercised by) such person or authority in accordance with the provisions of the Constitution.

(2) Any matter that, immediately before the commencement of this Order, is pending before an existing Commission shall be continued before the corresponding Commission established by the Constitution, and any matter that, immediately before the commencement of this Order, is pending before a person or authority to whom power to deal with such matter has been delegated by an existing Commission (or who has been authorised in pursuance of such a delegation to deal with that matter) shall be continued before that person or authority:

Provided that where the hearing of a disciplinary proceeding has begun but has not been completed immediately before the commencement of this Order, the continued hearing shall not be held before any person unless the hearing that has already taken place was also held before him; and where, by virtue of this proviso, the hearing cannot be continued, it shall be recommenced.

(a) *See* S.I. 1952 I, at p. 621; S.I. 1956/731, 1959/1310, 2205, 1961/61 (1956 I, p. 512; 1959 II, pp. 1996, 1998; 1961 I, p. 122).

Compulsory retirement to facilitate appointment of local candidates.

10.—(1) Any provision of the Constitution that relates to the removal of a public officer from office shall be without prejudice to—

(*a*) the provisions of paragraph 5 of the Schedule to the Tanganyika (Compensation and Retiring Benefits) Order in Council, 1961(a), (which paragraph provides for the compulsory retirement of certain public officers for the purpose of facilitating the appointment of local candidates);

(*b*) any law that provides for the compulsory retirement of non-designated officers for the purpose aforesaid; and

(*c*) the provisions of subsection (2) of this section.

(2) If the Prime Minister so requests, the authorities having power to make appointments in any branch of the public service shall consider whether there are more local candidates suitably qualified for appointment to, or promotion in, that branch than there are vacancies in that branch that could appropriately be filled by such local candidates; and those authorities, if satisfied that such is the case, shall, if so requested by the Prime Minister, select officers in that branch to whom this subsection applies and whose retirement would in the opinion of those authorities cause vacancies that could appropriately be filled by such suitably qualified local candidates as are available and fit for appointment and inform the Prime Minister of the number of officers so selected; and if the Prime Minister specifies a number of officers to be called upon to retire (not exceeding the number of officers so selected), those authorities shall nominate that number of officers from among the officers so selected and by notice in writing require them to retire from the public service; and any officer who is so required to retire shall retire accordingly.

(3) Subsection (2) of this section applies to any overseas officer who, after the commencement of this Order, is appointed to any public office (otherwise than on promotion or transfer from another public office) and who is notified at the time of his appointment that this subsection will apply to him.

(4) In this section—

"non-designated officer" means an officer, not being a designated officer for the purposes of the Overseas Service (Tanganyika) Agreement, 1961—

(*a*) who was, before the first day of January, 1961, appointed or selected for appointment to an office which was a pensionable office for the purposes of any law providing for the grant of pensions, gratuities or other like allowances to persons in respect of their service in the public service;

(*b*) who was, on the first day of July, 1961, the substantive holder of an office which was a pensionable office as aforesaid;

(*c*) whose terms of service on the first day of July, 1961, included a right to free passages to a country other than Tanganyika, Kenya, Uganda or Zanzibar for the purpose of normal vacation leave; and

(*d*) in the case of an officer whose appointment is subject to confirmation, who has been confirmed in that appointment; and

"overseas officer" has the meaning attributed to that expression in the Schedule to the Tanganyika (Compensation and Retiring Benefits) Order in Council, 1961.

(a) S.I 1961/2037 (*See* p. 3709 of this Pt.).

Appeals Board.

11.—(1) If any Commission established by the Constitution decides to give such concurrence as is required under subsection (1) or subsection (2) of section 84 of the Constitution in respect of any benefits to which that section applies that may be granted or that have been granted to or in respect of an officer to whom this section applies, or if any such Commission makes any other decision the effect of which is that any such benefits cannot be granted to or in respect of such an officer, the Commission shall cause to be delivered to the officer concerned (or to his personal representatives) a written notice of its decision, stating the time, not being less than fourteen days from the date on which the notice is delivered, within which he (or his personal representatives) may apply to the Commission for the case to be referred to an Appeals Board.

(2) Any such decision of a Commission shall not have effect until the expiry of the time stated in the notice, and if application is duly made within that time for the case to be referred to an Appeals Board, the decision shall not have effect until the final determination of the case under this section and except to the extent authorised by such determination:

Provided that the Commission may, pending the expiry of the time stated in the notice or pending the final determination of the case under this section—

(*a*) suspend the payment of any benefits to which the decision that is the subject of the reference to the Appeals Board relates; and

(*b*) suspend the officer concerned from the exercise of the functions of his office.

(3) If application is duly made within the time stated in the notice for the case to be referred to an Appeals Board, the Commission shall notify the Prime Minister in writing of that application, and the Prime Minister shall then appoint an Appeals Board of three members, consisting of—

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

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

(*c*) one member selected by the two other members jointly, who shall be the Chairman of the Board.

(4) The Appeals Board shall enquire into the facts of the case and for that purpose shall hear the applicant if he so requests in writing, and shall hear any other person who, in the opinion of the Board, is able to give the Board information on the case, and the Board shall have access to, and shall consider, all documents that were available to the Commission and shall also consider any further document relating to the case that may be produced by or on behalf of the applicant or the Commission.

(5) After the Appeals Board has completed its consideration of the case, the Board shall advise the Commission whether the decision of the Commission that is the subject of the reference to the Board should be confirmed, reversed or modified and the Commission shall act in accordance with such advice.

(6) Where power to remove the holder of an office from his office is vested by the Constitution in some person or authority other than a Commission, then, in relation to any officer to whom this section applies and who holds such an office, this section shall have effect as if for the reference to a decision of a Commission the effect of

which is that any benefits cannot be granted to or in respect of that officer there were substituted a reference to a decision having that effect taken by the said person or authority.

(7) The officers to whom this section applies are any officers who are liable to compulsory retirement under any such provision as is referred to in paragraph (*a*) or paragraph (*b*) of subsection (1) of section 10 of this Order (which paragraphs refer to certain provisions for the compulsory retirement of officers for the purpose of facilitating the appointment of local candidates).

Amendment of King's African Rifles Order in Council, 1960.

12. Section 7 of the King's African Rifles Order in Council, 1960(a), and any order made under that section by the Governor and Commander-in-Chief of Tanganyika shall cease to have effect in Tanganyika.

Alteration of this Order.

13. Parliament may alter any of the foregoing provisions of this Order or this section or the First Schedule to this Order in the same manner as it may alter the provisions of the Tanganyika Independence Act, 1961.

W. G. Agnew.

THE FIRST SCHEDULE

PART I

Section 2

ORDERS IN COUNCIL REVOKED BY THIS ORDER

The Tanganyika Order in Council, 1920(b).

The Tanganyika (Legislative Council) Order in Council, 1926(c).

The Tanganyika Order in Council, 1939(d).

The Tanganyika (Legislative Council) Amendment Order in Council, 1945(e).

The Tanganyika (Legislative Council) Amendment Order in Council, 1948(f).

The Tanganyika Order in Council, 1948(g).

The Tanganyika (Legislative Council) Amendment Order in Council, 1949(h).

The Tanganyika Order in Council, 1949(i).

The Tanganyika (Legislative Council) Amendment Order in Council, 1953(j).

The Tanganyika (Legislative Council) (Amendment) Order in Council, 1955(k).

The Tanganyika Order in Council, 1955(l).

The Tanganyika (Legislative Council) (Amendment) Order in Council, 1957(m).

The Tanganyika (Legislative Council) (Amendment) Order in Council, 1958(n).

The Tanganyika Order in Council, 1959(o).

(a) 1960/1054 (1960 I, p. 1215).
(b) S.R. & O. 1920/1583 (Rev. VIII, p. 266 : 1920 I, p. 685).
(c) S.R. & O. 1926/991 (Rev. VIII, p. 278 : 1926, p. 576).
(d) S.R. & O. 1939/875 (Rev. VIII, p. 266 : 1939 II, p. 1698).
(e) S.R. & O. 1945/1371 (Rev. VIII, p. 278 : 1945 I, p. 410).
(f) S.I. 1948/105 (Rev. VIII, p. 278 : 1948 I, p. 1354).
(g) S.I. 1948/2066 (Rev. VIII, p. 266 : 1948 I, p. 1353).
(h) S.I. 1949/2191 (1949 I, p. 1888). (i) S.I. 1949/2192 (1949 I, p. 1890).
(j) S.I. 1953/1208 (1953 II, p. 2271). (k) S.I. 1955/430 (1955 I, p. 689).
(l) S.I. 1955/1216 (1955 I, p. 688). (m) S.I. 1957/1875 (1957 I, p. 665).
(n) S.I. 1958/592 (1958 I, p. 996). (o) S.I. 1959/1047 (1959 I, p. 985).

The Tanganyika (Legislative Council) (Amendment) Order in Council, 1959(a).

The Tanganyika (Legislative Council) (Amendment) Order in Council, 1960(b).

The Tanganyika (Legislative Council) (Amendment No. 2) Order in Council, 1960(c).

The Tanganyika Order in Council, 1960(d).

The Tanganyika (Legislative Council) (Amendment No. 3) Order in Council, 1960(e).

The Tanganyika Order in Council, 1961(f).

The Tanganyika (Legislative Council) (Amendment) Order in Council, 1961(g).

The Tanganyika (No. 2) Order in Council, 1961(h).

The Tanganyika (Legislative Council) (Amendment No. 2) Order in Council, 1961(i).

Section 6 (3)

PART II

PROVISIONS OF CONSTITUTION WHICH SHALL NOT HAVE EFFECT DURING INTERIM PERIOD

Subsection (2) of section 17, sections 18, 19, 20 and 21 and subsections (1) to (7) (inclusive) of section 26.

Section 6 (3)

PART III

PROVISIONS WHICH SHALL HAVE EFFECT DURING THE INTERIM PERIOD IN LIEU OF THE PROVISIONS SPECIFIED IN PART II OF THIS SCHEDULE

1. The constituencies into which Tanganyika shall be divided for the purposes of elections to the National Assembly shall be those into which it is divided under existing law for the purposes of elections to the existing National Assembly.

2. Eleven of the seats in the National Assembly (excluding the seats of nominated members) shall be reserved for candidates who are Asians and ten such seats shall be reserved for candidates who are Europeans.

3. The allocation of seats to constituencies (including the seats that are reserved for candidates who are Asians and the seats that are reserved for candidates who are Europeans) shall be the same as the allocation of seats which is in force under existing law for the purposes of elections to the existing National Assembly.

4. The law regulating the qualifications and disqualifications of persons for election to the National Assembly, the tenure of seats therein of persons who have been elected thereto, the qualifications and disqualifications of persons for registration as voters for the purposes of elections to the National Assembly, the qualifications and disqualifications of persons for voting in such elections and the holding of such elections shall be the existing law regulating those matters with respect to elections to the existing National Assembly.

5. Nominated members of the National Assembly shall hold their seats therein at the pleasure of the Governor-General, acting in accordance with the advice of the Prime Minister.

6. In this Part of this Schedule "existing law" means the Tanganyika (Legislative Council) Order in Council, 1926, and any law made or having effect as if it had been made in pursuance of that Order and in force immediately before the commencement of this Order.

(a) S.I. 1959/1048 (1959 I, p. 988).
(b) S.I. 1960/206 (1960 I, p. 1260).
(c) S.I. 1960/1058 (1960 I, p. 1269).
(d) S.I. 1960/1373 (1960 I, p. 1252).
(e) S.I. 1960/1374 (1960 I, p. 1271).
(f) S.I. 1961/738 (Pt. I, p. 1457).
(g) S.I. 1961/740 (Pt. I, p. 1468).
(h) S.I. 1961/1190 (Pt. II, p. 2254).
(i) S.I. 1961/1191 (Pt. II, p. 2274).

7. Existing law shall be construed during the interim period with such modifications, adaptations, qualifications and exceptions as may be necessary to bring it into conformity with the provisions of the Constitution then having effect (including any modifications of those provisions specified in Part IV of this Schedule) and with the provisions of this Part of this Schedule then having effect; and the power conferred on the Governor-General by subsection (2) of section 4 of this Order shall include power to amend such law.

Section 6 (3)

PART IV

PROVISIONS OF THE CONSTITUTION WHICH SHALL HAVE EFFECT DURING THE INTERIM PERIOD SUBJECT TO THE SPECIFIED MODIFICATIONS

Provisions	*Modifications*
Section 15	The words "elected in accordance with section 17 of this Constitution" shall be omitted.
Section 16	The words "from among persons who are qualified for election as members of the National Assembly" shall be omitted.

Section 3

THE SECOND SCHEDULE

THE CONSTITUTION OF TANGANYIKA

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace:

And whereas the said rights include the right of the individual, whatever his race, tribe, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to life, liberty, security of the person, the enjoyment of property, the protection of the law, freedom of conscience, freedom of expression, freedom of assembly and association, and respect for his private and family life:

And whereas the said rights are best maintained and protected in a democratic society where the government is responsible to a freely-elected Parliament representative of the people and where the courts of law are independent and impartial:

This Constitution makes provision for the government of Tanganyika as such a democratic society.

CHAPTER I

CITIZENSHIP

Persons who become citizens on 9th December, 1961.

1.—(1) Every person who, having been born in Tanganyika, is on the eighth day of December, 1961, a citizen of the United Kingdom and Colonies or a British protected person shall become a citizen of Tanganyika on the ninth day of December, 1961:

Provided that a person shall not become a citizen of Tanganyika by virtue of this subsection if neither of his parents was born in Tanganyika.

(2) Every person who, having been born outside Tanganyika, is on the eighth day of December, 1961, a citizen of the United Kingdom and Colonies or a British protected person shall, if his father becomes, or would but for his death have become, a citizen of Tanganyika in accordance with the provisions of subsection (1) of this section, become a citizen of Tanganyika on the ninth day of December, 1961.

Persons entitled to be registered as citizens.

2.—(1) Any person who, but for the proviso to subsection (1) of section 1 of this Constitution, would be a citizen of Tanganyika by virtue of that subsection, shall be entitled, upon making application before the specified date in such manner as may be prescribed by Parliament, to be registered as a citizen of Tanganyika:

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

(2) Any woman who, on the eighth day of December, 1961, is or has been married to a person—

(*a*) who becomes a citizen of Tanganyika by virtue of section 1 of this Constitution; or

(*b*) who, having died before the ninth day of December, 1961, would, but for his death, have become a citizen of Tanganyika by virtue of that section

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

(3) Any woman who, on the eighth day of December, 1961, is married to a person who subsequently becomes a citizen of Tanganyika by registration under subsection (1) of this section shall be entitled, upon making application before the specified date in such manner as may be prescribed by Parliament, to be registered as a citizen of Tanganyika.

(4) Any woman who, on the eighth day of December, 1961, has been married to a person who becomes, or would, but for his death, have become, entitled to be registered as a citizen of Tanganyika under subsection (1) of this section, but whose marriage has been terminated by death or dissolution shall be entitled, upon making application before the specified date in such manner as may be prescribed by Parliament, to be registered as a citizen of Tanganyika.

(5) Any person who, on the eighth day of December, 1961, is a citizen of the United Kingdom and Colonies, having become such a citizen by virtue of his having been naturalised or registered in Tanganyika under the British Nationality Act, 1948(a), shall be entitled, upon making application before the specified date in such manner as may be prescribed by Parliament, to be registered as a citizen of Tanganyika:

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

(6) In this section "the specified date" means—

(*a*) in relation to a person to whom subsection (1) of this section refers, the ninth day of December, 1963;

(*b*) in relation to a woman to whom subsection (3) of this section refers, the expiration of such period after her husband is registered as a citizen of Tanganyika as may be prescribed by or under an Act of Parliament;

(*c*) in relation to a woman to whom subsection (4) of this section refers, the ninth day of December, 1963; and

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

(*d*) in relation to a person to whom subsection (5) of this section refers, the ninth day of December, 1963,

or such later date as may in any particular case be prescribed by or under an Act of Parliament.

Persons born in Tanganyika after 8th December, 1961.

3. Every person born in Tanganyika after the eighth day of December, 1961, shall become a citizen of Tanganyika at the date of his birth:

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

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

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

Persons born outside Tanganyika after 8th December, 1961.

4. A person born outside Tanganyika after the eighth day of December, 1961, shall become a citizen of Tanganyika at the date of his birth if at that date his father is a citizen of Tanganyika otherwise than by virtue of this section or subsection (2) of section 1 of this Constitution.

Marriage to Tanganyika citizen.

5. Any woman who, after the eighth day of December, 1961, marries a citizen of Tanganyika shall be entitled, upon making application in such manner as may be prescribed by Parliament, to be registered as a citizen of Tanganyika.

Dual citizenship.

6.—(1) Any person who, upon the attainment of the age of twenty-one years, was a citizen of Tanganyika and also a citizen of some country other than Tanganyika shall, subject to the provisions of subsection (7) of this section, cease to be a citizen of Tanganyika upon the specified date unless he has renounced his citizenship of that other country, taken the oath of allegiance and, in the case of a person who is a citizen of Tanganyika by virtue of subsection (2) of section 1 or section 4 of this Constitution, made and registered such declaration of his intentions concerning residence as may be prescribed by Parliament.

(2) Any person who—

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

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

(*c*) is immediately after that day also a citizen of some country other than Tanganyika

shall, subject to the provisions of subsection (7) of this section, cease to be a citizen of Tanganyika upon the specified date unless he has renounced his citizenship of that other country, taken the oath of allegiance and, in the case of a person who is a citizen of Tanganyika by virtue of subsection (2) of section 1 of this Constitution, made and registered such declaration of his intentions concerning residence as may be prescribed by Parliament.

(3) A citizen of Tanganyika shall cease to be such a citizen if—

(*a*) having attained the age of twenty-one years, he acquires the citizenship of some country other than Tanganyika by voluntary act (other than marriage) ; or

(*b*) having attained the age of twenty-one years, he otherwise acquires the citizenship of some country other than Tanganyika and has not, by the specified date, renounced his citizenship of that other country, taken the oath of allegiance and made and registered such declaration of his intentions concerning residence as may be prescribed by Parliament.

(4) Notwithstanding any other provision of this Chapter, a person who has attained the age of twenty-one years or who is a woman who is or has been married shall not, if he is a citizen of some country other than Tanganyika, be entitled to be registered as a citizen of Tanganyika unless he renounces his citizenship of that other country, takes the oath of allegiance and makes and registers such declaration of his intentions concerning residence as may be prescribed by Parliament.

(5) For the purposes of this section, where, under the law of a country other than Tanganyika, a person cannot renounce his citizenship of that other country, he need not make such renunciation but he may instead be required to make such declaration concerning that citizenship as may be prescribed by Parliament.

(6) In this section "the specified date" means—

(*a*) in relation to a person to whom subsection (1) of this section refers, the date on which he attains the age of twenty-two years or the ninth day of December, 1963, whichever is the later;

(*b*) in relation to a person to whom subsection (2) of this section refers, the ninth day of December, 1963; and

(*c*) in relation to a person to whom paragraph (*b*) of subsection (3) of this section refers, the expiration of one year after the date on which he acquired the citizenship of the country other than Tanganyika,

or, in the case of a person of unsound mind, such later date as may be prescribed by or under an Act of Parliament.

(7) Provision may be made by or under an Act of Parliament for extending beyond the specified date the period in which any person may make a renunciation of citizenship, take an oath or make or register a declaration for the purposes of this section, and if such provision is made that person shall not cease to be a citizen of Tanganyika upon the specified date but shall cease to be such a citizen upon the expiration of the extended period if he has not then made the renunciation, taken the oath or made or registered the declaration, as the case may be.

Commonwealth citizens.

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

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

(3) Save as may be otherwise provided by Parliament, the countries to which this section applies are the United Kingdom and Colonies, Canada, Australia, New Zealand, India, Pakistan, Ceylon, Ghana, the Federation of Malaya, the Federation of Nigeria, the Republic of Cyprus, Sierra Leone, the Federation of Rhodesia and Nyasaland, and the State of Singapore.

Criminal liability of Commonwealth citizens.

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

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

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

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

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

Powers of Parliament.

9.—(1) Parliament may make provision for the acquisition of citizenship of Tanganyika by persons who are not eligible or who are no longer eligible to become citizens of Tanganyika under the provisions of this Chapter.

(2) Parliament may make provision for depriving of his citizenship of Tanganyika any person who is a citizen of Tanganyika otherwise than by virtue of subsection (1) of section 1 or section 3 of this Constitution.

(3) Parliament may make provision for the renunciation by any person of his citizenship of Tanganyika.

Interpretation.

10.—(1) In this Chapter—

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

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

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

(3) Any reference in this Chapter to the national status of the father of a person at the time of that person's birth shall, in relation to a person born after the death of his father, be construed as a reference to the national status of the father at the time of the father's death; and where that death occurred before the ninth day of December, 1961, and the birth occurred after the eighth day of December, 1961, the national status that the father would have had if he had died on the ninth day of December, 1961, shall be deemed to be his national status at the time of his death.

CHAPTER II

THE GOVERNOR-GENERAL

Establishment of office of Governor-General.

11. There shall be a Governor-General and Commander-in-Chief who shall be appointed by Her Majesty and shall hold office during Her Majesty's pleasure and who shall be Her Majesty's representative in Tanganyika.

Oaths to be taken by Governor-General.

12. A person appointed to the office of Governor-General shall, before entering upon that office, take and subscribe the oath of allegiance and such oath for the due execution of his office as may be prescribed by Parliament.

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

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

CHAPTER III

PARLIAMENT

PART I

Composition of Parliament

Establishment of Parliament.

14. There shall be a Parliament which shall consist of Her Majesty and the National Assembly.

National Assembly.

15. The National Assembly shall consist of the following members, that is to say—

(*a*) elected members elected in accordance with section 17 of this Constitution ; and

(*b*) until Parliament otherwise provides, nominated members appointed in accordance with section 16 of this Constitution.

Nominated members.

16. The nominated members of the National Assembly shall consist of such members (whose number shall not exceed ten) as may be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister, from among persons who are qualified for election as members of the National Assembly.

Elected members.

17.—(1) Until Parliament otherwise provides, there shall be seventy-one elected members of the National Assembly.

(2) Subject to the provisions of this Constitution, the elected members of the National Assembly shall be elected in such manner as may be prescribed by or under any law.

Qualifications for election to National Assembly.

18. Subject to the provisions of section 19 of this Constitution, any person who—

(*a*) is a citizen of Tanganyika ;

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

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

shall be qualified for election as a member of the National Assembly, and no other person shall be so qualified.

Disqualifications for election to National Assembly.

19.—(1) No person shall be qualified for election as a member of the National Assembly—

(*a*) if he is under a declaration of allegiance to some country other than Tanganyika ;

(*b*) if, under any law in force in Tanganyika, he is adjudged or otherwise declared to be of unsound mind ;

(*c*) if he is under sentence of death imposed on him by any court in Tanganyika 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 Tanganyika ;

(*e*) if he is not qualified to be registered as a voter for the purposes of elections to the National Assembly ;

(*f*) subject to such exceptions and limitations as may be prescribed by Parliament, if he has any such interest in any such government contract as may be so prescribed ; or

(*g*) subject to such exceptions and limitations as may be prescribed by Parliament, if—

(i) he holds or acts in any office or appointment specified (either individually or by reference to a class of office or appointment) by Parliament ; or

(ii) he belongs to any of the armed forces of the Crown specified by Parliament or to any class of person so specified that is comprised in any such force ; or

(iii) he belongs to any police force specified by Parliament or to any class of person so specified that is comprised in any such force.

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

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

(4) Parliament may, in order to permit any person who has been adjudged or declared to be of unsound mind, sentenced to death or imprisonment, adjudged or declared bankrupt or convicted of an offence prescribed under subsection (3) of this section to appeal against the decision in accordance with any law, provide that, subject to such conditions as may be prescribed by Parliament, the decision shall not have effect for the purposes of subsection (1) or subsection (3) of this section until such time as may be so prescribed.

(5) For the purposes of paragraph (*c*) of subsection (1) of this section—

(*a*) two or more sentences that are required to be served consecutively shall be regarded as separate sentences if none of them exceeds six months but if any one of them exceeds six months they shall be regarded as one sentence ; and

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

(6) In paragraph (*f*) of subsection (1) of this section "government contract" means any contract made with the Government of Tanganyika, or with a department of that Government, or with an officer of that Government contracting as such.

Universal adult suffrage.

20.—(1) Every citizen of Tanganyika who has attained the age of twenty-one years shall, unless he is disqualified by any Act of Parliament from registration as a voter for the purposes of elections to the National Assembly, be entitled to be registered as such a voter under a law in that behalf, and no other person may be so registered.

(2) Every person who is registered as aforesaid in any constituency shall, unless he is disqualified by any Act of Parliament from voting in any election in that constituency to the National Assembly, be entitled so to vote, in accordance with the provisions of any law in that behalf, and no other person may so vote.

Tenure of seats of members of National Assembly.

21.—(1) A member of the National Assembly shall vacate his seat therein—

(*a*) if he ceases to be a citizen of Tanganyika ; or

(*b*) if any circumstances arise that, if he were not a member of the National Assembly, would cause him to be disqualified for election as such under subsection (1) of section 19 of this Constitution or under any law enacted in pursuance of subsection (2) or subsection (3) of that section.

(2) Parliament may, in order to permit any member of the National Assembly who has been adjudged or declared to be of unsound mind, sentenced to death or imprisonment, adjudged or declared bankrupt or convicted of any offence prescribed under subsection (3) of section 19 of this Constitution to appeal against the decision in accordance with any law, provide that, subject to such conditions as may be prescribed by Parliament, the decision shall not have effect for the purposes of this section until such time as may be so prescribed.

Speaker.

22.—(1) There shall be a Speaker of the National Assembly who shall be elected by the members of the National Assembly from among persons who are members of the National Assembly or who are qualified to be elected as such.

(2) A Minister or a Parliamentary Secretary shall not be qualified to be elected as Speaker.

(3) The Speaker shall vacate his office—

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

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

(*c*) when the National Assembly first meets after any dissolution of Parliament; or

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

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

Deputy Speaker.

23.—(1) There shall be a Deputy Speaker of the National Assembly who shall be elected by the members of the National Assembly from among persons who are members of the National Assembly other than Ministers or Parliamentary Secretaries.

(2) The members of the National Assembly shall elect a person to the office of Deputy Speaker—

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

(*b*) at the first sitting of the National Assembly after the office of Deputy Speaker has become vacant otherwise than by reason of a dissolution or prorogation of Parliament,

or as soon thereafter as may be convenient.

(3) The Deputy Speaker shall vacate his office—

(*a*) if he ceases to be a member of the National Assembly;

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

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

Voting at elections of Speaker and Deputy Speaker.

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

Electoral Commission.

25.—(1) There shall be an Electoral Commission which shall consist of—

(*a*) the Speaker, who shall be Chairman, and

(*b*) not less than three nor more than five appointed members who shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister.

(2) A person shall not be qualified to be an appointed member of the Commission if he is a Minister, a Parliamentary Secretary, a member of the National Assembly or the holder of any public office other than the office of Clerk or Clerk-Assistant of the National Assembly.

(3) Subject to the provisions of this section, the office of an appointed member of the Electoral Commission shall become vacant—

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

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

(4) An appointed member of the Electoral Commission may be removed from office by the Governor-General, acting in accordance with the advice of the Prime Minister, for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

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

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

Constituencies and elections.

26.—(1) Tanganyika shall be divided into constituencies for the purposes of elections to the National Assembly so that—

(*a*) the number of such constituencies shall correspond with the number of seats in the National Assembly (excluding the seats of nominated members); and

(*b*) the boundaries of such constituencies shall be such as the Electoral Commission, acting with the approval of the National Assembly signified by resolution, may prescribe.

(2) Each constituency shall return one member to the National Assembly.

(3) The boundaries of each constituency shall be such that the number of inhabitants thereof is as nearly equal to the population quota as is reasonably practicable:

Provided that the number of inhabitants of a constituency may be greater or less than the population quota in order to take account of means of communication, geographical features and the difference between urban and rural areas in respect of density of population.

(4) The Electoral Commission shall review the division of Tanganyika into constituencies at intervals of not less than eight nor more than ten years and may, in accordance with the provisions of this section, alter the constituencies to such extent as it considers desirable in the light of the review:

Provided that the Commission shall carry out such a review and, in accordance with the provisions of this section, alter the constituencies whenever Parliament has made provision altering the number of seats in the National Assembly (other than the seats of nominated members); and, in addition, the Commission may at any time carry out such a review and, in accordance with the provisions of this section, alter the constituencies to such extent as it considers desirable in consequence of the holding of a census of the population in pursuance of any law.

(5) Any provision by Parliament altering the number of seats in the National Assembly (other than the seats of nominated members) shall come into effect when the alteration of the constituencies that, in accordance with the provisions of subsection (4) of this section, is consequential thereon, comes into effect; and any alteration of the constituencies shall come into effect upon the next dissolution of Parliament after the alteration has been approved by the National Assembly.

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

(7) For the purposes of this section the number of inhabitants of Tanganyika shall be ascertained by reference to the latest census of the population held in pursuance of any law.

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

Determination of questions as to membership of National Assembly.

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

(*a*) any person has been validly elected or appointed as a member of the National Assembly; or

(*b*) the seat in the National Assembly of a member thereof has become vacant.

(2) Parliament may make provision with respect to—

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

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

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

(3) The determination by the High Court of any question under this section shall not be subject to appeal.

Clerk of National Assembly and his staff.

28.—(1) There shall be a Clerk of the National Assembly.

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

PART 2

Legislation and Procedure in National Assembly

Power to make laws.

29. Subject to the provisions of this Constitution, Parliament may make laws for the peace, order and good government of Tanganyika.

Alteration of this Constitution.

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

Provided that a bill for an Act of Parliament under this section shall not be passed by the National Assembly unless it was supported on the second and third readings by the votes of not less than two-thirds of all the members of the Assembly.

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

(3) In this section—

(*a*) references to any of the provisions of this Constitution or the Tanganyika Independence Act, 1961, include references to any law that amends or replaces that provision; and

(*b*) references to the alteration of any of the provisions of this Constitution or the Tanganyika Independence Act, 1961, include references to the amendment, modification or re-enactment, with or without amendment or modification, of that provision, the suspension or repeal of that provision and the making of different provision in lieu of that provision.

Oath to be taken by members of National Assembly.

31.—(1) Every member of the National Assembly shall, before taking his seat therein, take and subscribe before the National Assembly the oath of allegiance but a member may before taking that oath take part in the election of a Speaker.

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

Presiding in National Assembly.

32. There shall preside at any sitting of the National Assembly—

(*a*) the Speaker; or

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

(*c*) in the absence of the Speaker and of the Deputy Speaker, such member of the National Assembly (not being a Minister or a Parliamentary Secretary) as the National Assembly may elect for that purpose.

Quorum in National Assembly.

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

Voting in National Assembly.

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

(2) The person presiding in the National Assembly shall cast a vote whenever there would otherwise be an equality of votes but shall not vote in any other case.

(3) The rules of procedure of the National Assembly may make provision under which a member who votes upon a question in which he has a direct pecuniary interest shall be deemed not to have voted.

Unqualified persons sitting or voting.

35. Any person who sits or votes in the National Assembly knowing or having reasonable grounds for knowing that he is not entitled to do so shall be liable to a penalty not exceeding four hundred shillings or such other sum as may be prescribed by Parliament for each day on which he so sits or votes in the National Assembly, which shall be recoverable by action in the High Court at the suit of the Attorney-General.

Mode of exercising legislative power.

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

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

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

Restriction with regard to certain financial measures.

37. Except upon the recommendation of the Governor-General signified by a Minister, the National 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 Fund or any other public fund or the alteration of any such charge otherwise than by reduction;

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

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

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

Regulation of procedure in National Assembly.

38.—(1) Subject to the provisions of this Constitution, the National Assembly may regulate its own procedure.

(2) The National Assembly may act notwithstanding any vacancy in its membership (including any vacancy not filled when the National Assembly first meets after any dissolution of Parliament) and the presence

or participation of any person not entitled to be present or to participate in the proceedings of the National Assembly shall not invalidate those proceedings.

PART 3

Summoning, prorogation and dissolution

Sessions of Parliament.

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

Prorogation and dissolution of Parliament.

40.—(1) The Governor-General may at any time prorogue Parliament.

(2) The Governor-General, acting in accordance with the advice of the Prime Minister, may at any time dissolve Parliament.

(3) The Governor-General shall dissolve Parliament if the National Assembly passes a resolution that it has no confidence in the Government and the Prime Minister does not within three days resign from his office:

Provided that if the resolution is passed within fourteen days from the beginning of the first session of the National Assembly after the holding of a general election and the Governor-General considers that the passing of the resolution is a consequence of changes in the membership of the National Assembly resulting from that election, the Governor-General may remove the Prime Minister from office instead of dissolving Parliament.

(4) The Governor-General shall dissolve Parliament if the office of Prime Minister is vacant and the Governor-General considers that there is no prospect of his being able within a reasonable time to appoint to that office a person who can command the support of the majority of the members of the National Assembly.

(5) Subject to the provisions of subsection (6) of this section, Parliament, unless sooner dissolved, shall continue for four years from the date of its first sitting after any dissolution and shall then stand dissolved.

(6) At any time when Tanganyika is at war, Parliament may from time to time extend the period of four years specified in subsection (5) of this section for not more than twelve months at a time:

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

CHAPTER IV

EXECUTIVE POWERS

Executive authority of Tanganyika.

41.—(1) The executive authority of Tanganyika shall vest in Her Majesty.

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

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

Ministers of Government of Tanganyika.

42.—(1) There shall be a Prime Minister who shall be appointed by the Governor-General.

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

(3) The Governor-General shall appoint as Prime Minister a member of the National Assembly who appears to him likely to command the

support of the majority of the members of the National Assembly, and shall, acting in accordance with the advice of the Prime Minister, appoint the other Ministers from among the members of the National Assembly:

Provided that, if occasion arises for making an appointment to the office of Prime Minister or any other Minister while Parliament is dissolved, a person who was a member of the National Assembly immediately before the dissolution may be appointed as Prime Minister or any other Minister.

(4) The Governor-General may remove the Prime Minister from office at any time between the holding of a general election and the beginning of the first session of the National Assembly thereafter, if he considers that, in consequence of changes in the membership of the National Assembly resulting from that election, the Prime Minister will not be able to command the support of the majority of the members of the National Assembly.

(5) The office of any Minister shall become vacant—

(*a*) if the holder of the office ceases to be a member of the National Assembly otherwise than by reason of a dissolution of Parliament; or

(*b*) if, at the beginning of the first session of the National Assembly after the holding of a general election, the holder of the office is not a member of the National Assembly.

(6) The office of a Minister other than the Prime Minister shall become vacant—

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

(*b*) if the Prime Minister resigns from office within three days after the passage by the National Assembly of a resolution of no confidence in the Government or is removed from office under the provisions of subsection (3) of section 40 of this Constitution or of subsection (4) of this section; or

(*c*) upon the appointment of any person to the office of Prime Minister.

Cabinet.

43.—(1) There shall be a Cabinet of Ministers, consisting of the Prime Minister and the other Ministers.

(2) The function of the Cabinet shall be to advise the Governor-General in the government of Tanganyika, and the Cabinet shall be collectively responsible to Parliament for any advice given to the Governor-General by or under the general authority of the Cabinet and for all things done by or under the authority of any Minister in the execution of his office.

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

(*a*) the appointment and removal from office of Ministers and Parliamentary Secretaries, the assigning of responsibility to any Minister under section 44 of this Constitution or the authorisation of another Minister to perform the functions of the Prime Minister during absence or illness;

(*b*) the dissolution of Parliament; or

(*c*) the matters referred to in section 55 of this Constitution (which relates to the prerogative of mercy).

Allocation of Portfolios to Ministers.

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

Performance of functions of Prime Minister during absence or illness.

45.—(1) Whenever the Prime Minister is absent from Tanganyika or is by reason of illness unable to perform the functions conferred on him by this Constitution, the Governor-General may authorise some other Minister 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 Governor-General.

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

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

Exercise of Governor-General's functions.

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

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

(*a*) in the exercise of the functions conferred on him by the proviso to subsection (3) of section 40 of this Constitution (which empowers the Governor-General to remove the Prime Minister from office in certain circumstances);

(*b*) in considering, for the purposes of subsection (4) of section 40 of this Constitution, whether there is a prospect of his being able within a reasonable time to appoint a Prime Minister;

(*c*) in the exercise of the power to appoint the Prime Minister conferred on him by subsection (3) of section 42 of this Constitution;

(*d*) in the exercise of the power to remove the Prime Minister from office conferred on him by subsection (4) of section 42 of this Constitution;

(*e*) in the exercise of the powers conferred on him by section 45 of this Constitution (which relates to the performance of the functions of the Prime Minister during absence or illness) in the circumstances described in the proviso to subsection (2) of that section; and

(*f*) in signifying his concurrence, for the purposes of subsection (4) of section 75 of this Constitution, in appointments to offices on his personal staff.

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

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

Governor-General to be informed concerning matters of government.

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

Parliamentary Secretaries.

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

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

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

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

(*b*) if the Prime Minister resigns from office within three days after the passage by the National Assembly of a resolution of no confidence in the Government or is removed from office under the provisions of subsection (3) of section 40 or of subsection (4) of section 42 of this Constitution;

(*c*) upon the appointment of any person to the office of Prime Minister;

(*d*) if the holder of the office ceases to be a member of the National Assembly otherwise than by reason of a dissolution of Parliament; or

(*e*) if, at the beginning of the first session of the National Assembly after the holding of a general election, the holder of the office is not a member of the National Assembly.

Oaths to be taken by Ministers and Parliamentary Secretaries.

49. A Minister or a Parliamentary Secretary shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by Parliament.

Permanent secretaries.

50. Where any Minister has been charged with responsibility for any department of government, he shall exercise general direction and control over that department and, subject to such direction and control, the department shall be under the supervision of a permanent secretary whose office shall be a public office:

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

Secretary to the Cabinet.

51.—(1) There shall be a Secretary to the Cabinet whose office shall be a public office.

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

Attorney-General.

52.—(1) There shall be an Attorney-General whose office shall be a public office.

(2) The Attorney-General shall be the principal legal adviser to the Government of Tanganyika.

Director of Public Prosecutions.

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

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

(*a*) to institute and undertake criminal proceedings against any person before any court (other than a court-martial) in respect of any offence alleged to have been committed by that person;

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

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

(3) The powers of the Director of Public Prosecutions under subsection (2) of this section may be exercised by him in person or by officers subordinate to him acting in accordance with his general or special instructions.

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

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

(5) For the purposes of this section, any appeal from any judgment in any criminal proceedings before any court, or any case stated or question of law reserved for the purpose of any such proceedings, to any other court in Tanganyika or to any other court in East Africa or to the Judicial Committee of Her Majesty's Privy Council shall be deemed to be part of those proceedings:

Provided that the power conferred on the Director of Public Prosecutions by paragraph (*c*) of subsection (2) of this section shall not be exercised in relation to any appeal by a person convicted in any criminal proceedings or to any case stated or question of law reserved at the instance of such a person.

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

Constitution of offices, etc.

54. Subject to the provisions of this Constitution and of any Act of Parliament, the Governor-General may constitute offices, make appointments to any office so constituted and terminate any such appointment.

Prerogative of Mercy.

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

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

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

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

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

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

(3) In relation to persons convicted by courts-martial, the Governor-General, acting in accordance with the advice of the Prime Minister, may designate a Minister other than the Minister designated under subsection (2) of this section, and at any time when there is another Minister so designated the powers of the Governor-General under subsection (1) of this section shall, in relation to such persons, be exercised in accordance with the advice of that other Minister.

Advisory Committee on Prerogative of Mercy.

56.—(1) There shall be an Advisory Committee on the Prerogative of Mercy which, subject to the provisions of subsection (4) of section 57 of this Constitution, shall consist of—

(*a*) the Minister for the time being designated under subsection (2) of section 55 of this Constitution, who shall be Chairman;

(*b*) the Attorney-General; and

(*c*) not less than three nor more than five other members appointed by the Governor-General, acting in accordance with the advice of the Prime Minister.

(2) A member of the Advisory Committee other than the Chairman and the Attorney-General shall hold office for three years unless he is earlier removed from office by the Governor-General, acting in accordance with the advice of the Prime Minister, for inability to discharge the functions of his office (whether arising from infirmity of body or mind or from any other cause) or for misbehaviour.

Functions of Advisory Committee.

57.—(1) Where any person has been sentenced to death (otherwise than by a court-martial) for any offence, the Minister for the time being designated under subsection (2) of section 55 of this Constitution shall cause a written report of the case from the trial judge, together with such other information derived from the record of the case or elsewhere as he may require, to be considered at a meeting of the Advisory Committee; and after obtaining the advice of the Committee he shall decide in his own deliberate judgment whether to advise the Governor-General to exercise any of his powers under subsection (1) of the said section 55.

(2) The Minister for the time being designated under subsection (2) of section 55 of this Constitution may consult with the Advisory Committee before tendering any advice to the Governor-General under that subsection in any case not falling within subsection (1) of this section but the Minister shall not be obliged to act in accordance with the advice of the Committee.

(3) At any time when there is a Minister designated under subsection (3) of section 55 of this Constitution in relation to persons convicted by courts-martial, he may consult with the Advisory Committee before tendering any advice to the Governor-General under that subsection but the Minister shall not be obliged to act in accordance with the advice of the Committee.

(4) When the Advisory Committee is considering any case which has been referred to it by a Minister designated under subsection (3) of section 55 of this Constitution, that Minister shall be Chairman of the Committee in place of the Minister for the time being designated under subsection (2) of that section.

(5) The Advisory Committee may regulate its own procedure.

CHAPTER V

THE JUDICATURE

PART 1

The High Court

Establishment of High Court.

58.—(1) There shall be a High Court which shall have such jurisdiction and powers as may be conferred on it by this Constitution or any other law.

(2) The judges of the High Court shall be the Chief Justice and such number of other judges, not being less than six, (hereinafter referred to as "the puisne judges") as may be prescribed by Parliament:

Provided that the office of a puisne judge shall not be abolished while there is a substantive holder thereof.

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

(4) The High Court shall sit in such places as the Chief Justice may appoint.

Appointment of judges of High Court.

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

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

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

(i) he is, or has been, a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or

in the Republic of Ireland or in any country outside the Commonwealth that may be prescribed by Parliament or a court having jurisdiction in appeals from any such court; or

(ii) he holds one of the specified qualifications and has held one or other of those qualifications for a total period of not less than five years.

(*b*) In this subsection "the specified qualifications" mean the professional qualifications specified by the Advocates Ordinance(a) (or by or under any law amending or replacing that Ordinance) one of which must be held by any person before he may apply under that Ordinance (or under any such law) to be admitted as an advocate in Tanganyika.

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

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

Provided that, notwithstanding the provisions of subsection (1) of section 60 of this Constitution, no person shall be disqualified for appointment under this subsection by reason only of his age.

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

Provided that, notwithstanding the expiration of the period of his appointment or the revocation of his appointment, he may thereafter continue to act as a puisne judge for so long 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 previously thereto.

Tenure of office of judges of High Court.

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

Provided that the Governor-General, acting in accordance with the advice of the Prime Minister, may permit such a person to continue in office until he has attained the age of sixty-five years.

(2) Notwithstanding that he has attained the age at which he is required by the provisions of this section to vacate his office, a person holding the office of a judge of the High Court may continue in office for so long after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

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

(4) A judge of the High Court shall be removed from office by the Governor-General if the question of his removal has, at the request of the Governor-General, made in pursuance of subsection (5) of this section,

(a) Cap. 341 of the Revised Laws of Tanganyika.

been referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under any enactment enabling Her Majesty in that behalf, and the Judicial Committee has advised Her Majesty that the judge ought to be removed from office for inability as aforesaid or for misbehaviour.

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

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

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

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

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

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

(7) The provisions of this section shall be without prejudice to the provisions of subsection (6) of section 59 of this Constitution.

Oaths to be taken by judges of High Court.

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

PART 2

Appeals

Appeals to Her Majesty in Council or other court.

62.—(1) Unless Parliament otherwise provides, an appeal shall lie as of right direct to Her Majesty in Council from final decisions of the High Court in civil or criminal proceedings on questions as to the interpretation of this Constitution.

(2) Parliament may make provision—

(*a*) for appeals to lie from decisions of the High Court to another court in East Africa in cases other than those referred to in subsection (1) of this section; and

(*b*) for appeals in cases referred to in paragraph (*a*) of this subsection to lie from the other court in East Africa to Her Majesty in Council.

(3) The provisions of this section shall be subject to the provisions of subsection (3) of section 27 of this Constitution.

(4) References in this section to the High Court shall be construed as including references to a Magistrate presiding over a subordinate court and exercising the jurisdiction of the High Court invested in him under the Criminal Procedure Code(a) or any law amending or replacing that Code.

(a) Cap. 20 of the Revised Laws of Tanganyika.

Procedure, etc. in appeals.

63. Parliament may make provision regulating the circumstances and manner in which and the conditions on which appeals under section 62 of this Constitution shall be prosecuted.

PART 3

Judicial Service Commission

Judicial Service Commission.

64.—(1) There shall be a Judicial Service Commission which shall consist of—

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

(*b*) the Chairman of the Public Service Commission ; and

(*c*) such puisne judge as may for the time being be designated in that behalf by the Governor-General, acting in accordance with the advice of the Prime Minister.

(2) Before tendering advice for the purposes of paragraph (*c*) of subsection (1) of this section, the Prime Minister shall consult the Chief Justice.

Appointment, etc., of judicial officers.

65.—(1) Power to appoint persons to hold or act in offices to which this section applies (including power to confirm appointments), to exercise disciplinary control over persons holding or acting in such offices and to remove such persons from office shall vest in the Judicial Service Commission.

(2) The Judicial Service Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under this section to any judge of the High Court or to any person holding or acting in any office to which this section applies and may, by such directions and subject as aforesaid, empower the person to whom the delegation is made to authorise any other officer to whom a delegation might be made under this subsection to exercise any power so delegated.

(3) The offices to which this section applies are the offices of Registrar of the High Court, Deputy Registrar of the High Court, Resident Magistrate and any Magistrate and such other offices connected with any court (other than a court-martial) as, subject to the provisions of this Constitution, may be prescribed by Parliament:

Provided that this section shall not apply to the office of Magistrate in relation to any person who may be appointed to that office by virtue of his being an Administrative Officer.

CHAPTER VI

FINANCE

Consolidated Fund.

66. All revenues or other monies raised or received for the purposes of the government of Tanganyika (not being revenues or other monies payable by or under an Act of Parliament into some other fund established for a specific purpose) shall be paid into and form one Consolidated Fund.

Withdrawals from Consolidated Fund or other public funds.

67.—(1) No monies shall be withdrawn from the Consolidated Fund except—

(*a*) to meet expenditure that is charged upon the Fund by this Constitution or by any other law; or

(*b*) where the issue of those monies has been authorised by an Appropriation Act or by an Act enacted in pursuance of section 69 of this Constitution.

(2) No monies shall be withdrawn from any public fund other than the Consolidated Fund unless the issue of those monies has been authorised by or under any law.

(3) No monies shall be withdrawn from the Consolidated Fund unless such withdrawal has been approved by the Controller and Auditor-General and except in the manner prescribed by Parliament.

Authorisation of expenditure from Consolidated Fund by appropriation.

68.—(1) The Minister for the time being responsible for finance shall cause to be prepared and laid before the National Assembly in each financial year estimates of the revenues and expenditure of Tanganyika for the next following financial year.

(2) When the estimates of expenditure (other than expenditure charged upon the Consolidated Fund by this Constitution or by any other law) have been approved by the National Assembly, a bill, to be known as an Appropriation bill, shall be introduced into the National Assembly, providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums, under separate votes for the several services required, for the purposes specified therein.

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

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

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

a supplementary estimate or, as the case may be, a statement of excess showing the sums required or spent shall be laid before the National Assembly and, when the supplementary estimate or the statement of excess has been approved, a supplementary Appropriation bill shall be introduced into the National Assembly, providing for the issue of such sums from the Consolidated Fund and appropriating them for the purposes specified therein.

Authorisation of expenditure in advance of appropriation.

69. Parliament may make provision under which, if the Appropriation Act in respect of any financial year has not come into operation by the beginning of that financial year, the Minister for the time being responsible for finance may authorise the withdrawal of monies from the Consolidated 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 Act, whichever is the earlier.

Contingencies Fund.

70.—(1) Parliament may make provision for the establishment of a Contingencies Fund and for authorising the Minister for the time being 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 that Fund to meet that need.

(2) Where any advance is made from the Contingencies Fund, a supplementary estimate shall be presented for approval by the National Assembly and a supplementary Appropriation bill shall be introduced as soon as possible for the purpose of replacing the amount so advanced.

Remuneration of certain officers.

71.—(1) There shall be paid to the holders of the offices to which this section applies such salary and such allowances as may be prescribed by Parliament.

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

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

(4) Where a person's salary or terms of office depend upon his option, the salary or terms for which he opts shall, for the purposes of subsection (3) of this section, be deemed to be more advantageous to him than any others for which he might have opted.

(5) This section applies to the offices of Governor-General, judge of the High Court, member of the Public Service Commission, Director of Public Prosecutions and Controller and Auditor-General.

Public debt.

72.—(1) The public debt shall be secured on the Consolidated Fund.

(2) For the purposes of this section, the public debt includes 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.

Controller and Auditor-General.

73.—(1) There shall be a Controller and Auditor-General whose office shall be a public office.

(2) It shall be the duty of the Controller and Auditor-General—

(*a*) to satisfy himself that any proposed withdrawal from the Consolidated Fund is authorised by, or as provided by, section 67 of this Constitution, and, if so satisfied, to approve such withdrawal;

(*b*) to satisfy himself that all monies that have been appropriated by Parliament and disbursed have been applied to the purposes for which they were so appropriated and that the expenditure conforms to the authority that governs it; and

(*c*) at least once in every year to audit and report on the public accounts of Tanganyika, the accounts of all officers and authorities of the Government of Tanganyika, the accounts of all courts of Tanganyika (other than courts no part of the expenses of which are paid directly out of monies provided by Parliament) and the accounts of the Clerk of the National Assembly.

(3) The Controller and Auditor-General and any officer authorised by him shall have access to all books, records, returns, reports and other documents relating to any of the accounts referred to in subsection (2) of this section.

(4) The Controller and Auditor-General shall submit every report made by him in pursuance of subsection (2) of this section to the Minister for the time being responsible for finance who shall, not later than seven days after the first sitting of the National Assembly next after the receipt of such report, cause it to be laid before the National Assembly; and if the Minister makes default in laying the report before the National Assembly, the Controller and Auditor-General shall submit the report to the Speaker of the National Assembly (or, if the office of Speaker is vacant or if the Speaker is for any reason unable to perform the functions of his office, to the Deputy Speaker) who shall cause it to be laid before the National Assembly.

(5) The Controller and Auditor-General shall perform such other duties and exercise such other powers in relation to the accounts of the Government of Tanganyika or the accounts of other public authorities or other bodies as may be prescribed by or under any law.

(6) In the exercise of his functions under subsections (2), (3) and (4) of this section, the Controller and Auditor-General shall not be subject to the direction or control of any other person or authority.

CHAPTER VII

THE PUBLIC SERVICE

Public Service Commission.

74.—(1) There shall be a Public Service Commission which shall consist of a Chairman and not less than three nor more than six other members.

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

(3) A person shall not be qualified for appointment as a member of the Public Service Commission if he is a Minister or a Parliamentary Secretary or a member of the National Assembly or if he is a public officer.

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

(5) Subject to the provisions of this section, the office of a member of the Public Service Commission shall become vacant—

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

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

(6) A member of the Public Service Commission may be removed from office by the Governor-General, acting in accordance with the advice of the Prime Minister, for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

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

(8) If the office of Chairman of the Public Service Commission is vacant or if the person holding that office is for any reason unable to perform the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding that office has resumed those functions, as the case may be, those functions shall be performed by such one of the other members of the Commission as may be designated in that behalf by the Governor-General, acting in accordance with the advice of the Prime Minister.

(9) If at any time there are less than three members of the Public Service Commission besides the Chairman or if any such member is appointed to act as Chairman or is for any reason unable to perform the functions of his office, the Governor-General, acting in accordance with the advice of the Prime Minister, may appoint a person who is qualified for appointment as a member of the Commission to act as a member, and any person so appointed shall, subject to the provisions of subsection (5) of this section, continue to act until the office in which he is acting is filled or, as the case may be, until the holder thereof resumes its functions or until his appointment to act is revoked by the Governor-General, acting in accordance with the advice of the Prime Minister.

Appointment, etc. of public officers.

75.—(1) Subject to the provisions of this Constitution, power to appoint persons to hold or act in any offices in the public service (including power to confirm appointments), to exercise disciplinary control over persons holding or acting in such offices and to remove such persons from office shall vest in the Public Service Commission.

(2) The Public Service Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under this section to any public officer and may, by such directions and subject as aforesaid, empower the officer to whom the delegation is made to authorise another public officer to exercise any power so delegated.

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

(*a*) the office of any judge of the High Court;

(*b*) the office of Attorney-General;

(*c*) except for the purpose of making appointments thereto or to act therein, the office of Director of Public Prosecutions;

(*d*) the office of Controller and Auditor-General;

(*e*) any office to which section 65 of this Constitution (which relates to offices within the jurisdiction of the Judicial Service Commission) applies;

(*f*) any office in the Tanganyika Police Force;

(*g*) any office to which section 81 of this Constitution (which relates to the offices of the principal representatives of Tanganyika abroad) applies;

(*h*) the office of Secretary to the Cabinet; or

(*i*) so far only as concerns the appointment of persons thereto or to act therein, the offices of permanent secretaries.

(4) No person shall be appointed under this section to or to act in any office on the personal staff of the Governor-General except with the concurrence of the Governor-General.

(5) Before exercising any of its powers in relation to the Clerk or a Clerk-Assistant of the National Assembly, the Public Service Commission shall consult the Speaker of the National Assembly.

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

(7) The Public Service Commission shall not remove a public officer from office or inflict any other punishment on him on the grounds of any act done or omitted by him in the exercise of a judicial function conferred on him unless the Judicial Service Commission concurs therein.

Police Service Commission.

76.—(1) There shall be a Police Service Commission which shall consist of—

(*a*) the Chairman of the Public Service Commission, who shall be Chairman;

(*b*) such puisne judge as may for the time being be designated in that behalf by the Governor-General, acting in accordance with the advice of the Prime Minister: and

(*c*) such member of the Public Service Commission other than the Chairman thereof as may for the time being be designated in that behalf by the Governor-General, acting in accordance with the advice of the Prime Minister.

(2) Before tendering advice for the purposes of paragraph (*b*) of subsection (1) of this section, the Prime Minister shall consult the Chief Justice.

Appointment, etc. of police officers.

77.—(1) Subject to the provisions of subsection (3) of this section, power to appoint persons to hold or act in offices in the Tanganyika Police Force (including power to confirm appointments), to exercise disciplinary control over persons holding or acting in such offices and to remove such persons from office shall vest in the Police Service Commission.

(2) The Police Service Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under this section to the Commissioner of Police or to any other member of the Tanganyika Police Force and may, by such directions and subject as aforesaid, empower the person to whom the delegation is made to authorise another member of the Tanganyika Police Force to exercise the power so delegated.

(3) Power to appoint a person to hold or act in the office of Commissioner of Police or the office of Deputy Commissioner of Police shall vest in the Governor-General, acting in accordance with the advice of the Prime Minister.

(4) Before tendering advice for the purposes of subsection (3) of this section, the Prime Minister shall consult the Police Service Commission.

Attorney-General.

78.—(1) Power to appoint a person to hold or act in the office of Attorney-General and to remove from that office a person holding or acting in it shall vest in the Governor-General, acting in accordance with the advice of the Prime Minister.

(2) (*a*) A person shall not be qualified to be appointed to hold or act in the office of Attorney-General unless he holds one of the specified qualifications and has held one or other of those qualifications for a total period of not less than five years.

(*b*) In this subsection " the specified qualifications " mean the professional qualifications specified by the Advocates Ordinance (a) (or by or under any law amending or replacing that Ordinance) one of which must be held by any person before he may apply under that Ordinance (or under any such law) to be admitted as an advocate in Tanganyika.

Director of Public Prosecutions.

79.—(1) A person shall not be qualified for appointment as Director of Public Prosecutions unless he is qualified for appointment as Attorney-General.

(2) If the office of Director of Public Prosecutions is vacant or the Director of Public Prosecutions is for any reason unable to perform the functions of his office, a person qualified for appointment to that office may be appointed to act therein, and any person so appointed shall continue to act until the office of Director of Public Prosecutions is filled or, as the case may be, until the Director of Public Prosecutions has resumed the functions of his office or the appointment of that person is revoked by the Public Service Commission.

(3) Subject to the provisions of this section, a person holding the office of Director of Public Prosecutions shall vacate that office when he attains such age as may be prescribed by Parliament.

(4) A person holding the office of Director of Public Prosecutions 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.

(5) A person holding the office of Director of Public Prosecutions shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed under subsection (6) of this section and the tribunal has recommended to the Governor-General that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(6) If the Prime Minister represents to the Governor-General that the question of removing the Director of Public Prosecutions under this section ought to be investigated, then—

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

(*b*) that tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to the Governor-General whether the Director of Public Prosecutions ought to be removed under this section.

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

Controller and Auditor General.

80.—(1) Power to appoint a person to hold the office of Controller and Auditor-General shall vest in the Governor-General, acting in accordance with the advice of the Prime Minister.

(a) Cap. 341 of the Revised Laws of Tanganyika.

(2) If the office of Controller and Auditor-General is vacant or the Controller and Auditor-General is for any reason unable to perform the functions of his office, the Governor-General, acting in accordance with the advice of the Prime Minister, may appoint a person to act as Controller and Auditor-General and any person so appointed shall continue to act until the office of Controller and Auditor-General is filled or, as the case may be, until the Controller and Auditor-General has resumed the functions of his office or the appointment of that person is revoked by the Governor-General, acting in accordance with the advice of the Prime Minister.

(3) Subject to the provisions of this section, a person holding the office of Controller and Auditor-General shall vacate that office when he attains such age as may be prescribed by Parliament.

(4) A person holding the office of Controller and Auditor-General 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.

(5) A person holding the office of Controller and Auditor-General shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed under subsection (6) of this section and the tribunal has recommended to the Governor-General that he ought to be removed for inability as aforesaid or for misbehaviour.

(6) If the Prime Minister represents to the Governor-General that the question of removing the Controller and Auditor-General under this section ought to be investigated, then—

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

(*b*) that tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to him whether the Controller and Auditor-General ought to be removed under this section.

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

(8) A person who holds or has held the office of Controller and Auditor-General shall not be eligible for appointment to or to act in any other public office.

(9) Before tendering advice for the purposes of subsection (1) or subsection (2) of this section, the Prime Minister shall consult the Public Service Commission.

Principal representatives of Tanganyika abroad.

81.—(1) Power to appoint persons to hold or act in offices to which this section applies and to remove from office persons holding or acting in such offices shall vest in the Governor-General, acting in accordance with the advice of the Prime Minister.

(2) Before tendering any advice for the purposes of this section in relation to any person who holds any office in the public service, other than an office to which this section applies, the Prime Minister shall consult the Public Service Commission.

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

Secretary to Cabinet and permanent secretaries.

82.—(1) Power to appoint persons to hold or act in the office of Secretary to the Cabinet or the office of permanent secretary and to remove from office any person holding or acting in the office of Secretary to the Cabinet shall vest in the Governor-General, acting in accordance with the advice of the Prime Minister.

(2) Before tendering any advice for the purposes of this section, the Prime Minister shall consult the Public Service Commission.

Protection of pension rights.

83.—(1) The law applicable to any benefits to which this section applies shall, in relation to any person who has been granted or is eligible for the grant of such benefits, be that in force at the relevant date or any later law that is not less favourable to that person.

(2) In this section "the relevant date" means—

(*a*) in relation to benefits granted before the ninth day of December, 1961, the date on which those benefits were granted;

(*b*) in relation to benefits granted or which may be granted on or after the ninth day of December, 1961, to or in respect of a person who was a public officer before that date, the eighth day of December, 1961; and

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

(3) Where a person is entitled to exercise an option as to which of two or more laws shall apply in his case, the law for which he opts shall, for the purposes of this section, be deemed to be more favourable to him than the other law or laws.

(4) Any benefits to which this section applies (not being benefits that are charged upon some other public fund) shall be a charge on the Consolidated Fund.

(5) The benefits to which this section applies are any benefits payable under any law providing for the grant of any pensions, compensation, gratuities or other like allowances to persons in respect of their service as public officers or to the widows, children, dependants or personal representatives of such persons in respect of such service.

(6) References to the law applicable to any benefits to which this section applies include (without prejudice to their generality) references to any law regulating, for the purpose of determining whether any person is eligible for the grant of such benefits on his retirement from the public service, the circumstances in which he is required or permitted to retire.

Power of Commissions in relation to pensions, etc.

84.—(1) Where under any law any person or authority has a discretion—

(*a*) to decide whether or not any benefits to which this section applies shall be granted; or

(*b*) to withhold, reduce in amount or suspend any such benefits that have been granted,

those benefits shall be granted and may not be withheld, reduced in amount or suspended unless the appropriate Commission concurs in the refusal to grant the benefits or, as the case may be, in the decision to withhold them, reduce them in amount or suspend them.

(2) Where the amount of any benefits to which this section applies that may be granted to any person is not fixed by law, the amount of the benefits to be granted to him shall be the greatest amount for which he is eligible unless the appropriate Commission concurs in his being granted benefits of a smaller amount.

(3) The appropriate Commission shall not concur under subsection (1) or subsection (2) of this section in action taken on the ground that any person who holds or has held the office of judge of the High Court, Director of Public Prosecutions or Controller and Auditor-General has been guilty of misbehaviour unless he has been removed from that office by reason of such misbehaviour.

(4) In this section " the appropriate Commission " means—

(*a*) in the case of a person in respect of whose service in the public service the benefits are payable and who, immediately before he ceased to be a public officer, was subject to the disciplinary control of the Judicial Service Commission and in the case of the widow, children, dependants or personal representatives of such a person, the Judicial Service Commission ; and

(*b*) in the case of a person in respect of whose service in the public service the benefits are payable and who, immediately before he ceased to be a public officer, was subject to the disciplinary control of the Police Service Commission and in the case of the widow, children, dependants or personal representatives of such a person, the Police Service Commission ; and

(*c*) in any other case, the Public Service Commission.

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

CHAPTER VIII

MISCELLANEOUS

Powers and procedure of Commissions.

85.—(1) Any Commission established by this Constitution may by regulation or otherwise regulate its own procedure and, with the consent of the Prime Minister or such other Minister as may be authorised in that behalf by the Prime Minister, confer powers and impose duties on any public officer or any authority of the Government of Tanganyika for the purpose of the discharge of its functions.

(2) Subject to its rules of procedure, any Commission established by this Constitution may act notwithstanding any vacancy in its membership or the absence of any member:

Provided that any decision of the Commission shall require the concurrence of a majority of all the members thereof.

Protection of Commissions, etc. from legal proceedings.

86. The question whether—

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

(*b*) any person or authority has validly performed any function of such a Commission that, under this Constitution, has been delegated to that person or authority or, in pursuance of such a delegation, has been authorised to be performed by that person or authority ; or

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

shall not be enquired into in any court.

Resignations.

87.—(1) Any person who is appointed, elected or otherwise selected to any office established by this Constitution (including the office of Prime Minister or other Minister or Parliamentary Secretary) 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 person who holds office as Speaker or Deputy Speaker of the National Assembly his resignation from that office shall be addressed to the National Assembly, and in the case of a member of the National Assembly his resignation shall be addressed to the Speaker.

(2) The resignation of any person from any such office as aforesaid shall take effect when the writing signifying the resignation is received by the person or authority to whom it is addressed or by any person authorised by that person or authority to receive it.

Re-appointments and concurrent appointments.

88.—(1) Where any person has vacated any office established by this Constitution (including the office of Prime Minister or other Minister or Parliamentary Secretary), he may, if qualified, again be appointed, elected or otherwise selected to hold that office in accordance with the provisions of this Constitution.

(2) Where a power is conferred by this Constitution upon any person to make any appointment to any office, a person may be appointed to that office notwithstanding that some other person may be holding that office, when that other person is on leave of absence pending the relinquishment of the office ; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this subsection, then, for the purposes of any function conferred upon the holder of that office, the person last appointed shall be deemed to be the sole holder of the office.

Interpretation.

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

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

"financial year" means the period of twelve months ending on the thirtieth day of June in any year or such other day as Parliament may prescribe ;

"oath" includes an affirmation ;

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

"Parliament" means the Parliament of Tanganyika ;

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

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

"the public service" means, subject to the provisions of subsections (2) and (3) of this section, the service of the Crown in a civil capacity in respect of the government of Tanganyika ;

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

"sitting" means a period during which the National Assembly is sitting continuously without adjournment and includes any period during which the National Assembly is in committee ;

"Tanganyika" means the territory that, immediately before the ninth day of December, 1961, was comprised in the Trust Territory of Tanganyika under United Kingdom administration ;

"the Tanganyika Police Force" means the Police Force established by the Police Force Ordinance(a) or by or under any law amending or replacing that Ordinance.

(2) In this Constitution, unless the context otherwise requires, references to offices in the public service shall be construed as including references to the offices of judges of the High Court and references to the offices of

(a) Cap. 322 of the Revised Laws of Tanganyika.

members of all other courts of law established by Parliament (other than courts-martial), being offices the emoluments attaching to which are paid directly out of monies provided by Parliament, and references to the offices of members of the Tanganyika Police Force.

(3) (*a*) In this Constitution references to an office in the public service shall not be construed as including references to the office of—

(i) Governor-General, Speaker or Deputy Speaker of the National Assembly, Prime Minister or other Minister, a Parliamentary Secretary, a member of the National Assembly, a member of any Commission established by this Constitution or a member of the Advisory Committee on the Prerogative of Mercy; or

(ii) save in so far as may be prescribed by Parliament, a member of any council, board, panel, committee or other similar body (whether incorporated or not) established by or under any law, a chief, a native authority, a member of a native authority or a member of a local court.

(*b*) In this subsection—

"chief" means the holder of an office of chief constituted by the African Chiefs Ordinance(a) or by or under any law amending or replacing that Ordinance;

"native authority" means a native authority established or declared to be such under the Native Authority Ordinance(b) or by or under any law amending or replacing that Ordinance; and

"local court" means a local court established or deemed to be established under the Local Courts Ordinance(c) or by or under any law amending or replacing that Ordinance.

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

(5) In this Constitution, unless the context otherwise requires, a reference to the holder of an office by the term designating his office shall be construed as including a reference to any person for the time being lawfully acting in or performing the functions of that office.

(6) References in this Constitution to the power to remove a public officer from his office shall be construed as including references to any power conferred by any law to require or permit that officer to retire from the public service:

Provided that—

(*a*) nothing in this subsection shall be construed as conferring on any person or authority power to require a judge of the High Court or the Director of Public Prosecutions or the Controller and Auditor-General to retire from the public service; and

(*b*) any power conferred by any law to permit a person to retire from the public service shall, in the case of any public officer who may be removed from office by some person or authority other than a Commission established by this Constitution, vest in the Public Service Commission.

(7) Any provision in this Constitution that vests in any person or authority power to remove any public officer from his office shall be without prejudice to the power of any person or authority to abolish any office or to any law providing for the compulsory retirement of public officers generally or any class of public officer on attaining an age specified therein.

(a) Cap. 331 of the Revised Laws of Tanganyika.
(b) Cap. 72 of the Revised Laws of Tanganyika.
(c) Cap. 299 of the Revised Laws of Tanganyika.

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

(9) No provision of this Constitution that any person or authority shall not be subject to the direction or control of any other person or authority in the exercise of any functions under this Constitution shall be construed as precluding a court from exercising jurisdiction in relation to any question whether that person or authority has performed those functions in accordance with this Constitution or any other law.

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

(11) Any reference in this Constitution to a law enacted before the commencement of this Constitution shall, unless the context otherwise requires, be construed as a reference to that law as it has effect immediately before the ninth day of December, 1961.

(12) Any reference in this Constitution to a law that amends or replaces any other law shall be construed as including a reference to a law that modifies, re-enacts, with or without amendment or modification, or makes different provision in lieu of that other law.

(13) The Interpretation Act, 1889(a), shall apply, with the necessary adaptations, for the purpose of interpreting this Constitution 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.

EXPLANATORY NOTE

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

By virtue of the Tanganyika Independence Act, 1961, Tanganyika will attain fully responsible status within the Commonwealth on the 9th December, 1961. This Order makes provision for a new Constitution for Tanganyika with effect from that date, including provision relating to citizenship of Tanganyika and provision for the executive government, the legislature, the judicature and the public service.

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