(2) In this section "existing law" means a law in force immediately before the date of the commencement of this Order that was enacted by the legislature of the Territory and includes any instrument in force as aforesaid and made in exercise of a power conferred by any law of the legislature of the Territory.

(3) An order made under this section may be revoked or amended by a further order made under this section or, in relation to any law or instrument affected thereby, by the authority having power to repeal, revoke or amend that law or instrument.

Commencement of sections 14 *and* 19 *of this Order*

24. Sections 14 and 19 of this Order shall come into operation on such day after the date of the commencement of this Order (being a day not earlier than the date upon which the regulations mentioned in subsection (1) of section 20 of this Order shall have come into force) as the Governor, acting in his discretion, may by Proclamation published in the Gazette appoint.

W. G. Agnew.

EXPLANATORY NOTE

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

This Order amends the Trinidad and Tobago (Constitution) Order in Council, 1950, by substituting a Cabinet for the Executive Council; substitutes a new Public Service Commission for the existing Public Service Commission, and establishes a Judicial and Legal Service Commission and a Police Service Commission. The Order also makes some minor and consequential amendments.

1959 No. 864

The Turks and Caicos Islands (Constitution) Order in Council, 1959

Made - - - - 13*th May*, 1959

Coming into Operation 4*th July*, 1959

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SCHEDULE.

At the Court at Buckingham Palace, the 13th day of May, 1959

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue of the powers conferred upon Her by section 2 of the Cayman Islands and Turks and Caicos Islands Act, 1958(a), and all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

PART I

Introductory

Citation, publication and commencement

1.—(1) This Order may be cited as the Turks and Caicos Islands (Constitution) Order in Council, 1959.

(2) This Order shall be published in such manner as the Governor shall think fit, and shall come into operation on the day (hereinafter called " the appointed day ") specified in section 3 of this Order.

Interpretation

2.—(1) In this Order, unless the context otherwise requires—

" Administrator " means the person for the time being holding the office of Administrator of the Islands, and includes any person for the time being lawfully performing the functions of that office and, to the extent to which a Deputy appointed under section 12 of this Order is authorized to act, that Deputy ;

" Assembly " means the Legislative Assembly of the Islands established by this Order ;

" Executive Council " means the Executive Council of the Islands established by this Order ;

" Governor " means the Governor of the Islands constituted by this Order, and includes the officer for the time being administering the Government and, to the extent to which a Deputy for the Governor is authorized to act, that Deputy ;

" the Islands " means the Turks and Caicos Islands ;

" Jamaica " means the Colony of Jamaica ;

" law " includes any instrument having the force of law made in exercise of a power conferred by a law ;

" public office " means, subject to the provisions of the next following subsection, an office of emolument in the public service ;

" public officer " means the holder of any public office, and includes a person appointed to act in any public office ;

" the Public Seal " means the Public Seal of the Islands ;

" the public service " means the service of the Crown in respect of the government of the Islands ;

(a) 6 & 7 Eliz. 2. c. 13.

" session " means the meetings of the Assembly commencing when the Assembly first meets after being constituted under this Order, or after its prorogation or dissolution at any time, and terminating when the Assembly is prorogued or is dissolved without having been prorogued ;

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

(2) For the purposes of this Order, a person shall not be considered to hold a public office by reason only that he—

(*a*) is a member of the Executive Council or the Assembly ;

(*b*) is in receipt of a pension or other like allowance in respect of service under the Crown ; or

(*c*) holds an office the holder of which is declared by any law in force in the Islands not to be disqualified for election as a member of the Assembly.

(3) References in this Order to Her Majesty's dominions shall be construed as if they were references to all countries or territories within the Commonwealth.

(4) For the purposes of this Order the resignation of a member of any body or holder of any office established by this Order that is required to be addressed to any person shall, unless otherwise expressly provided, be deemed to have effect from the time at which it is received by that person.

(5) For the avoidance of doubt it is hereby declared that any person who has vacated his seat in any body, or has vacated any office established by this Order may, if qualified, again be appointed or elected as a member of that body or to that office, as the case may be, from time to time.

(6) Nothing in this Order shall be construed as conferring any power except in so far as may be consistent with the provisions of any Order in Council in force under section 1 of the British Caribbean Federation Act, 1956(**a**).

(7) The Interpretation Act, 1889(**b**), shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

The appointed day

3. The day appointed by section 3 of the Cayman Islands (Constitution) Order in Council, 1959(**c**), in accordance with section 1 of the Cayman Islands and Turks and Caicos Islands Act, 1958(**d**), and for the purposes of that Act, shall be the appointed day for the purposes of this Order.

PART II

Governor and Administrator

Office of Governor

4.—(1) The office of Governor of the Islands is hereby constituted.

(2) The person who holds the office of Captain-General and Governor-in-Chief of Jamaica shall be the Governor of the Islands.

(**a**) 4 & 5 Eliz. 2. c. 63. (**b**) 52 & 53 Vict. c. 63.
(**c**) S.I. 1959/863 (Pt. I, p. 325 of this vo.l). (**d**) 6 & 7 Eliz. 2. c. 13.

Powers and duties of Governor

5. The Governor shall have such powers and duties as are conferred or imposed upon him by this Order or by any other law, and such other powers and duties as Her Majesty may from time to time assign to him, and, subject to the provisions of this Order and of any other law by which powers or duties may be conferred or imposed upon him, he shall do all things that belong to the office of Governor according to such instructions as Her Majesty may from time to time see fit to give him; but no court shall inquire whether or not he has complied with such instructions.

Performance of functions of office of Governor

6. During any period when, under the provisions of section 5 of the Jamaica (Constitution) Order in Council, 1959(**a**), some person other than the holder of the office of Captain-General and Governor-in-Chief of Jamaica is performing the functions of that office, that person shall also perform the functions of the office of Governor.

Governor's Deputy

7.—(1) Whenever, under the provisions of subsection (1) of section 6 of the Jamaica (Constitution) Order in Council, 1959, the Governor, in his capacity as Captain-General and Governor-in-Chief of Jamaica, has occasion (otherwise than by reason of his absence from Jamaica for the purpose of visiting the Islands) to appoint a person to be his deputy in that office, he may, acting in his discretion, appoint that person, by the same instrument, to be his Deputy as Governor of the Islands and in that capacity to perform on his behalf such of the functions of the latter office as may be specified in that instrument.

(2) The provisions of subsections (2) and (3) of the said section 6 shall apply in relation to the Governor of the Islands and his Deputy appointed under this section as they apply in relation to the Captain-General and Governor-in-Chief of Jamaica and his deputy.

Office of Administrator

8.—(1) The office of Administrator of the Islands is hereby constituted.

(2) The Administrator shall, with the approval of a Secretary of State, be appointed by the Governor, acting in his discretion, by Instrument under the Public Seal, and a person appointed to the office of Administrator shall hold that office during Her Majesty's pleasure.

(3) A person appointed to the office of Administrator shall, before assuming the functions of his office, make oaths or affirmations of allegiance and for the due execution of the office of Administrator in the forms set out in the Schedule to this Order.

Powers and duties of Administrator

9.—(1) The Administrator shall administer the government of the Islands:

Provided that the Governor, when present in the Islands, may, if he thinks fit, administer the government thereof in place of the Administrator.

(**a**) S.I. 1959/862 (Pt. I, p. 410, of this vol.).

(2) The Administrator shall have such powers and duties as are conferred or imposed upon him by this Order or by any other law, and such other powers and duties as Her Majesty or the Governor, acting in his discretion, may assign to him, and, subject to the provisions of this Order and of any other law by which powers or duties may be conferred or imposed upon him, he shall do all things that belong to the office of Administrator according to such instructions as Her Majesty or the Governor, acting in his discretion, may from time to time see fit to give him ; but no court shall inquire whether or not he has complied with such instructions.

(3) The Administrator may do such things within the Islands belonging to the office of Governor as the Governor, acting in his discretion, may from time to time assign to him, save that he shall not exercise the powers vested in the Governor by sections 8, 10, 11, 59, 60, 61 and 63 of this Order.

Emoluments of Administrator

10. The Administrator shall receive such emoluments as may be fixed by the Governor, and those emoluments are hereby charged upon the revenues of the Islands.

Performance of functions of office of Administrator

11.—(1) Whenever the office of Administrator is vacant, or the Administrator is absent from the Islands, or is for any other reason unable to perform the functions of his office, such person as the Governor, acting in his discretion, may appoint by Instrument under the Public Seal shall perform those functions.

(2) A person appointed to perform the functions of the office of Administrator shall, before assuming those functions, make oaths or affirmations of allegiance and for the due execution of that office in the forms set out in the Schedule to this Order.

(3) A person appointed to perform the functions of the office of Administrator shall not continue to perform those functions after the person holding the office has notified him that he is about to assume or resume those functions.

(4) Every appointment under this section shall be reported to Her Majesty by the Governor through a Secretary of State and may be revoked at any time by Her Majesty by instructions given to the Governor through a Secretary of State or by the Governor, acting in his discretion.

(5) The Administrator shall not, for the purposes of this section, be regarded as absent from the Islands, or as unable to perform the functions of his office—

(*a*) by reason only that he is in passage from one part of the Islands to another ; or

(*b*) at any time when there is a subsisting appointment of a Deputy under the next following section.

Administrator's Deputy

12.—(1) Whenever the Administrator—

(*a*) has occasion to be absent from the seat of government of the Islands but not from the Islands ;

(*b*) has occasion to be absent from the Islands for a period that he has reason to believe will be of short duration; or

(*c*) is suffering from an illness that he has reason to believe will be of short duration,

he may, acting in his discretion, by Instrument under the Public Seal, appoint any person in the Islands to be his Deputy during his absence or illness, and in that capacity to perform such of the functions of the office of Administrator as may be specified in the Instrument.

(2) The power and authority of the Administrator shall not be abridged, altered or in any way affected by the appointment of a Deputy under this section otherwise than as the Governor, acting in his discretion, may at any time think proper to direct, and the Deputy shall conform to and observe all instructions that the Governor or Administrator, acting, in either case, in his discretion, may from time to time address to him.

(3) A person appointed as Deputy under this section shall hold that office for such period as may be specified in the Instrument by which he is appointed, and his appointment may be revoked at any time by the Governor or by the Administrator, acting, in either case, in his discretion.

(4) In this section "the Administrator" does not include a Deputy appointed under this section.

PART III

Executive Council

Executive Council

13.—(1) There shall be an Executive Council for the Islands.

(2) Subject to the provisions of this Order, the Executive Council shall consist of—

(*a*) the Administrator, when the Governor is presiding, but not otherwise;

(*b*) two official members, who shall be appointed by the Governor, acting in his discretion, either by office or by name, by Instrument under the Public Seal, from among the official members of the Assembly;

(*c*) one nominated member, who shall be appointed by the Governor, acting in his discretion, by Instrument under the Public Seal, from among the nominated members of the Assembly; and

(*d*) two elected members, elected by the nominated and elected members of the Assembly from among the elected members of the Assembly.

(3) The Governor shall forthwith report to Her Majesty through a Secretary of State the appointment of any person to be an official or a nominated member of the Executive Council.

Governor and Administrator to consult Executive Council

14.—(1) Subject to the provisions of this section, the Governor and the Administrator shall consult with the Executive Council in the exercise of all powers conferred upon them by this Order or by any other law in force in the Islands, except—

(*a*) any power conferred upon them by this Order which they are empowered to exercise in their discretion; or

(*b*) any other power conferred upon them which they are empowered, either expressly or by implication, to exercise without being obliged to consult with the Council.

(2) The Governor or the Administrator, as the case may be, shall not be obliged to consult with the Executive Council in any case—

(*a*) in which, in his judgment, it is in the public interest that he should act without consulting the Council;

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

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

In every case falling within paragraph (*c*) of this subsection the Governor or the Administrator, as the case may be, shall, as soon as is practicable, communicate to the Council the measures that he has adopted, with the reasons therefor.

Governor and Administrator may act in opposition to Executive Council

15.—(1) The Governor or the Administrator, as the case may be, may act in opposition to the advice given to him by the members of the Executive Council, if in any case he considers it right to do so; but if the Governor so acts, he shall at the first convenient opportunity report the matter to Her Majesty, through a Secretary of State, with the reasons for his action, and if the Administrator so acts, he shall at the first convenient opportunity report the matter to the Governor, with the reasons for his action, and the Governor shall transmit the Administrator's report to a Secretary of State together with his own comments thereon.

(2) Whenever the Governor or the Administrator acts against the advice of the Executive Council, any member of the Council may require that there shall be recorded upon the minutes of the Council any advice or opinion which he may give upon the question at issue and the reasons therefor.

Tenure of office of members of Executive Council

16.—(1) Subject to the provisions of this Order, the official members and the nominated member of the Executive Council shall hold their seats during Her Majesty's pleasure.

(2) An official member of the Executive Council shall vacate his seat if he ceases to be an official member of the Assembly otherwise than by reason of a dissolution thereof and, in the case of an official member of the Executive Council appointed by name—

(*a*) if he resigns his seat by writing under his hand addressed to the Governor, and the Governor, acting in his discretion, accepts his resignation; or

(*b*) if he is absent from the Islands without the written permission of the Administrator.

(3) The nominated member or an elected member of the Executive Council shall vacate his seat—

(*a*) in the case of the nominated member, when, after any dissolution of the Assembly, he is informed by the Governor that the Governor is about to reappoint him as a member of the Council or to appoint another person in his place;

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

(*c*) if he resigns his seat by writing under his hand addressed to the Governor, and (in the case of the nominated member) the Governor, acting in his discretion, accepts his resignation ;

(*d*) if he is absent from the Islands without the written permission of the Administrator ;

(*e*) in the case of an elected member, at the beginning of the next session of the Assembly after any dissolution thereof, if he has not been re-elected to the Assembly ;

(*f*) in the case of an elected member, if his election to the Council is revoked by a resolution of the Assembly in favour of which there are cast the votes of not less than two-thirds of all the nominated and elected members of the Assembly, other than the person presiding who shall not be entitled to vote on the resolution ; or

(*g*) if he is required, under the provisions of section 28 of this Order, to cease to perform his functions as a member of the Assembly.

Temporary members of Executive Council

17.—(1) Whenever there is a temporary vacancy in the Executive Council because a member is ill, or absent from the Islands, or for any other reason, then—

(*a*) the Governor, acting in his discretion, may, by Instrument under the Public Seal, appoint to be temporarily a member of the Council a person who is an official member of the Assembly in place of an official member, or a person who is a nominated member of the Assembly in place of the nominated member ; or

(*b*) in place of an elected member, the nominated and elected members of the Assembly, if the Governor informs the Assembly that that is desirable, may elect a person from among the elected members of the Assembly to be temporarily a member of the Council.

(2) The Governor shall forthwith report to Her Majesty through a Secretary of State any appointment made under this section.

(3) A person appointed or elected under this section to be temporarily a member of the Executive Council shall vacate his seat—

(*a*) when he is informed by the Governor that the vacancy in respect of which he was appointed or elected has ceased to exist ; or

(*b*) in the case of a person appointed in place of an official member or of the nominated member, if his appointment is revoked by Her Majesty through a Secretary of State or by the Governor, acting in his discretion.

(4) Subject to the provisions of this section, the provisions of this Order shall apply in relation to a person appointed or elected to be temporarily a member of the Executive Council—

(*a*) as they apply in relation to an official member or the nominated member, as the case may be, if he was appointed in place of such a member ; and

(*b*) as they apply in relation to an elected member, if he was elected in place of such a member.

Determination of questions as to membership

18. Any question whether a person is a member of the Executive Council shall be determined by the Governor, acting in his discretion.

Oath or affirmation by members of Executive Council

19. Before assuming the functions of his office a member of the Executive Council, and any person appointed or elected to be temporarily a member of the Council, shall make before the Administrator, or some other person authorized in that behalf by the Administrator, an oath or affirmation for the due execution of his office in the form set out in the Schedule to this Order.

Summoning of Executive Council and transaction of business

20.—(1) The Executive Council shall not be summoned except by the authority of the Governor or of the Administrator, acting, in either case, in his discretion.

(2) No business shall be transacted at any meeting of the Executive Council unless there are two members present besides the Governor, or the Administrator, or other person presiding.

(3) Subject to the provisions of the last foregoing subsection, the Executive Council shall not be disqualified for the transaction of business by reason of any vacancy in the membership of the Council (including any vacancy not filled when the Council is first constituted or is reconstituted at any time) and the validity of the transaction of business in the Council shall not be affected by reason only of the fact that some person who was not entitled to do so took part in those proceedings.

Presiding in Executive Council

21.—(1) Whenever the Governor is present in the Islands, he shall, so far as he considers it necessary in performing the functions of his office, attend and preside at meetings of the Executive Council.

(2) The Administrator shall, so far as is practicable, attend all meetings of the Executive Council.

(3) In the absence of the Governor, there shall preside at any meeting of the Executive Council—

(*a*) the Administrator ; or

(*b*) in the absence of the Administrator, such member of the Council as the Governor, acting in his discretion, may either generally or specially appoint.

Submission of questions to Executive Council

22. The Governor and the Administrator shall alone be entitled to submit questions to the Executive Council for their advice ; but if the Governor or the Administrator declines to submit any question to the Council when requested in writing by any member of the Council to do so, that member may require that there shall be recorded in the minutes his written application, together with the answer given thereto by the Governor or the Administrator, as the case may be.

Summoning of persons to Executive Council

23. The person presiding may, when in his opinion the business before the Executive Council makes it desirable, summon any person to a meeting of the Council, notwithstanding that that person is not a member of the Council.

PART IV

Legislative Assembly

Legislative Assembly

24.—(1) There shall be a Legislative Assembly for the Islands.

(2) Subject to the provisions of this Order, the Assembly shall consist of—

(*a*) the Administrator;

(*b*) not less than two nor more than three official members (as the Governor, acting in his discretion, may from time to time determine), who shall be appointed by the Governor, acting in his discretion, either by office or by name, by Instrument under the Public Seal, from among persons holding public office;

(*c*) not less than two nor more than three nominated members (as the Governor may determine as aforesaid), who shall be British subjects of the age of twenty-one years or upwards, and shall be appointed by the Governor, acting in his discretion, by Instrument under the Public Seal; and

(*d*) nine elected members, who shall be persons qualified for election in accordance with the provisions of this Order, and elected in the manner provided by any law in force in the Islands.

(3) The Governor shall forthwith report to Her Majesty through a Secretary of State the appointment of any person to be an official or a nominated member of the Assembly.

(4) The Legislative Board for the Turks and Caicos Islands shall cease to exist on the appointed day.

Qualifications for elected membership

25. Subject to the provisions of the next following section, a person shall be qualified to be elected as a member of the Assembly if, and shall not be qualified to be so elected unless, he—

(*a*) is a British subject of the age of twenty-one years or upwards; and

(*b*) either has resided in the Islands for a period of twelve months immediately preceding the date of his nomination for election, or is domiciled in the Islands and is resident therein at that date.

Disqualifications for nominated and elected membership

26.—(1) No person shall be qualified to be appointed as a nominated member or to be elected as a member of the Assembly who—

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

(*b*) holds, or is acting in, any public office;

(*c*) has been adjudged or otherwise declared bankrupt under any law in force in any part of Her Majesty's dominions and has not been discharged;

(*d*) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in the Islands ;

(*e*) subject to the provisions of the next following subsection, is under sentence of death imposed on him by a court in any part of Her Majesty's dominions, or is serving a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court, or is under such a sentence of imprisonment the execution of which has been suspended ;

(*f*) in the case of an elected member, is disqualified for election by any law in force in the Islands by reason of his holding, or acting in, any office the functions of which involve—

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

(ii) any responsibility for the compilation or revision of any electoral register ; or

(*g*) is disqualified for membership of the Assembly by any law in force in the Islands relating to offences connected with elections.

(2) For the purposes of paragraph (*e*) of the foregoing subsection—

(*a*) where a person is serving two or more sentences of imprisonment that are required to be served consecutively he shall, throughout the whole time during which he so serves, be regarded as serving a sentence exceeding twelve months if (but not unless) any one of those sentences exceeds that term ; 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.

Tenure of office of members of Assembly

27.—(1) Subject to the provisions of this Order, an official member of the Assembly appointed by name and a nominated member of the Assembly shall hold his seat in the Assembly during Her Majesty's pleasure.

(2) The seat of an official member of the Assembly appointed by name shall become vacant—

(*a*) if he ceases to hold a public office ;

(*b*) upon a dissolution of the Assembly ; or

(*c*) if he resigns his seat by writing under his hand addressed to the Governor, and the Governor, acting in his discretion, accepts his resignation.

(3) The seat of a nominated or an elected member of the Assembly shall become vacant—

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

(*b*) if, without the written permission of the Administrator, he is absent from three consecutive meetings of the Assembly ;

(*c*) if he ceases to be a British subject ;

(*d*) if he ceases to be resident in the Islands ;

(*e*) if, being a nominated member, he resigns his seat by writing under his hand addressed to the Governor, and the Governor, acting in his discretion, accepts his resignation ; or, being an elected member, he resigns his seat by writing under his hand addressed to the Administrator ;

(*f*) if he becomes a party to any contract with the Government of the Islands for or on account of the public service, or if any firm in which he is a partner or any company of which he is a director or manager becomes a party to any such contract, or if he becomes a partner in a firm or a director or manager of a company which is a party to any such contract:

Provided that, if in the circumstances it appears to him to be just to do so, the Governor, acting in his discretion, may exempt any nominated or elected member from vacating his seat under the provisions of this paragraph, if the member, before becoming a party to the contract, or before or as soon as practicable after becoming otherwise interested in the contract (whether as a partner in a firm or as a director or manager of a company), discloses to the Governor the nature of the contract and his interest or the interest of the firm or company therein;

(*g*) if any of the circumstances arise that, if he were not a member of the Assembly, would cause him to be disqualified for election thereto by virtue of paragraph (*a*), (*b*), (*c*), (*d*), (*f*) or (*g*) of the last foregoing section; or

(*h*) in the circumstances mentioned in the next following section.

Vacation of seat on sentence

28.—(1) Subject to the provisions of this section, if a nominated or an elected member of the Assembly is sentenced by a court in any part of Her Majesty's dominions to death or to imprisonment (by whatever name called) for a term exceeding twelve months, he shall forthwith cease to perform his functions as a member of the Assembly, and his seat in the Assembly shall become vacant at the expiration of a period of thirty days thereafter:

Provided that the Governor, acting in his discretion, may, at the request of the member, from time to time extend that period for thirty days to enable the member to pursue any appeal in respect of his conviction or sentence, so however that extensions of time exceeding in the aggregate three hundred and thirty days shall not be given without the approval of the Assembly signified by resolution.

(2) If at any time before the member vacates his seat he is granted a free pardon or his conviction is set aside or his sentence is reduced to a term of imprisonment of less than twelve months or a punishment other than imprisonment is substituted, his seat in the Assembly shall not become vacant under the provisions of the foregoing subsection, and he may again perform his functions as a member of the Assembly.

(3) For the purposes of this section—

(*a*) where a person is sentenced to two or more terms of imprisonment that are required to be served consecutively, account shall be taken only of any of those terms that exceeds twelve months; 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.

Temporary members of Assembly

29.—(1) Whenever there is a temporary vacancy in the Assembly because an official or a nominated member is ill, or absent from the Islands, or because a nominated member is required, under the foregoing section, to cease to perform his functions as such, or for any other

reason, the Governor, acting in his discretion, may, by Instrument under the Public Seal, appoint to be temporarily a member of the Assembly—

(*a*) a person who holds a public office in place of an official member; or

(*b*) a person qualified for appointment as a nominated member in place of a nominated member.

(2) A person appointed under this section to be temporarily a member of the Assembly—

(*a*) shall hold his seat in the Assembly during Her Majesty's pleasure, and

(*b*) shall vacate his seat when he is informed by the Governor that the member in whose place he was appointed is again able to perform his functions as a member of the Assembly, or when the seat of the member in whose place he was appointed becomes vacant.

(3) The Governor shall forthwith report to Her Majesty through a Secretary of State any appointment made under this section.

(4) Subject to the provisions of this section, the provisions of this Order shall apply to a person appointed to be temporarily a member of the Assembly—

(*a*) as they apply in relation to official members, if he was appointed in place of such a member; and

(*b*) as they apply in relation to nominated members, if he was appointed in place of such a member.

Determination of questions as to membership of Assembly

30.—(1) Any question whether a person has been validly appointed as an official or a nominated member of the Assembly, or whether an official or a nominated member of the Assembly has vacated his seat therein, shall be determined by the Governor, acting in his discretion.

(2) Any question whether a person has been validly elected as a member of the Assembly, or whether an elected member of the Assembly has vacated his seat therein, shall be determined by the Supreme Court, whose decision shall be final.

Penalty for sitting or voting in Assembly when unqualified

31.—(1) Any person who sits or votes in the Assembly knowing or having reasonable grounds for knowing that he is not entitled to do so shall be liable to a penalty not exceeding twenty pounds for each day upon which he so sits or votes.

(2) Any such penalty shall be recoverable by civil action in the Supreme Court at the suit of the Administrator.

Qualifications of electors

32. Subject to the provisions of the next following section, a person shall be entitled to be registered as an elector in one electoral district only, but he shall not be entitled to be registered as an elector unless he—

(*a*) is a British subject of the age of twenty-one years or upwards; and

(*b*) either has resided in the Islands for a period of at least twelve months immediately before the date of registration, or is domiciled in the Islands and is resident therein at that date.

Disqualifications of electors

33.—(1) No person shall be entitled to be registered as an elector in any electoral district who—

(*a*) subject to the provisions of the next following subsection, is under sentence of death imposed on him by a court in any part of Her Majesty's dominions, or is serving a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court, or is under such a sentence of imprisonment the execution of which has been suspended;

(*b*) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in the Islands; or

(*c*) is disqualified for registration as an elector by any law in force in the Islands relating to offences connected with elections.

(2) The provisions of subsection (2) of section 26 of this Order shall apply for the purposes of the foregoing subsection as they apply for the purposes of paragraph (*e*) of subsection (1) of the said section 26.

Right to vote at elections

34.—(1) Any person who is registered as an elector in an electoral district shall, while so registered, be entitled to vote at any election for that district unless he is prohibited from so voting by any law in force in the Islands—

(*a*) because he is a returning officer; or

(*b*) because he has been concerned in any offence connected with elections.

(2) No person shall vote at any election for any electoral district who is not registered as an elector in that district.

Law as to elections

35. Subject to the provisions of this Order, a law enacted under this Order may provide for the election of members of the Assembly, including (without prejudice to the generality of the foregoing power) the following matters, that is to say:—

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

(*b*) the registration of electors;

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

(*d*) the division of the Islands into electoral districts for the purpose of elections;

(*e*) the holding of elections;

(*f*) the determination of any question whether any person has been validly elected a member of the Assembly or whether the seat of any elected member in the Assembly has become vacant;

(*g*) the definition and trial of offences connected with elections and the imposition of penalties therefor, including disqualification for membership of the Assembly, or for registration as an elector, or for voting at elections, of any person concerned in any such offence; and

(*h*) the disqualification for election as members of the Assembly of persons holding, or acting in, any office the functions of which involve any responsibility for, or in connection with, the conduct of any election or the compilation or revision of any electoral register.

PART V

Legislation and Procedure in Legislative Assembly

Power to make laws

36. Subject to the provisions of this Order, the Governor, with the advice and consent of the Assembly, may make laws for the peace, order and good government of the Islands.

Royal Instructions

37. Subject to the provisions of this Order, the Governor and the Assembly shall, in the transaction of business and the making of laws, conform as nearly as may be to the directions contained in any Instructions under Her Majesty's Sign Manual and Signet which may from time to time be addressed to the Governor in that behalf.

Standing Orders

38.—(1) Subject to the provisions of this Order and of any Instructions under Her Majesty's Sign Manual and Signet, the Assembly may from time to time make, amend and revoke Standing Orders for the regulation and orderly conduct of its own proceedings and the despatch of business, and for the passing, intituling and numbering of Bills and for the presentation thereof to the Governor for assent; but no such Standing Orders or amendment or revocation thereof shall have effect unless they have been approved by the Governor, acting in his discretion.

(2) The first Standing Orders of the Assembly shall, subject to the provisions of this Order, be the Standing Orders of The Legislative Board for the Islands as in force immediately before the appointed day, with such adaptations and modifications as may be necessary, and those Standing Orders may be amended or revoked by Standing Orders made under the foregoing subsection.

The Deputy President

39.—(1) The Assembly shall—

(*a*) at its first sitting after the appointed day;

(*b*) at its first sitting after any dissolution; or

(*c*) at its first sitting after the occurrence of a vacancy in the office of Deputy President from any cause other than a dissolution,

or as soon thereafter as may be convenient, elect a member who is not a member of the Executive Council from among the nominated and elected members to be Deputy President of the Assembly.

(2) A person shall vacate the office of Deputy President—

(*a*) upon ceasing to be a member of the Assembly;

(*b*) upon becoming a member of the Executive Council; or

(*c*) if he resigns his office by writing under his hand addressed to the Administrator.

(3) In electing a Deputy President the members of the Assembly shall give their votes by ballot in such a manner as not to disclose how each member votes.

Presiding in Assembly

40. The Administrator, or in his absence the Deputy President, or in their absence a member of the Assembly (not being a member of the Executive Council) elected by the Assembly for the sitting, shall preside at a sitting of the Assembly.

Assembly may transact business notwithstanding vacancies

41. The Assembly shall not be disqualified for the transaction of business by reason of any vacancy in the membership thereof (including any vacancy not filled when the Assembly is first constituted or is reconstituted at any time) and any proceedings therein shall be valid notwithstanding that some person who was not entitled to do so sat or voted in the Assembly or otherwise took part in those proceedings.

Quorum

42.—(1) If at any sitting of the Assembly a quorum is not present and any member of the Assembly who is present objects on that account to the transaction of business and, after such interval as may be prescribed in the Standing Orders of the Assembly, the person presiding at the sitting ascertains that a quorum is still not present, he shall adjourn the Assembly.

(2) For the purposes of this section a quorum shall consist of seven members of the Assembly in addition to the person presiding.

Voting

43.—(1) Save as otherwise provided in this Order, all questions proposed for decision in the Assembly shall be determined by a majority of votes of the members present and voting.

(2) The Administrator or other member presiding shall not vote unless on any question the votes are equally divided, in which case he shall have and exercise a casting vote.

Summoning of persons to assist Assembly

44.—(1) The Administrator or other person presiding may, when in his opinion the business before the Assembly makes it desirable, summon any person to a meeting of the Assembly notwithstanding that that person is not a member of the Assembly.

(2) Any person so summoned shall be entitled to take part as if he were a member in the proceedings of the Assembly relating to the matter in respect of which he was summoned, except that he shall not have a right to vote.

Governor's right to address Assembly

45. The Governor shall have a right to address the Assembly at any time he may think fit.

Introduction of Bills

46.—(1) Subject to the provisions of this Order and of the Standing Orders of the Assembly, any member may introduce any Bill or propose any motion for debate in, or may present any petition to, the Assembly, and the same shall be debated and disposed of according to the Standing Orders of the Assembly.

(2) Except on the recommendation of the Administrator the Assembly shall not—

(*a*) proceed upon any Bill (including any amendment to a Bill) which, in the opinion of the person presiding in the Assembly, makes provision for imposing or increasing any tax, for imposing or increasing any charge on the revenues or other funds of the Islands or for altering any such charge otherwise than by reducing it or for compounding or remitting any debt due to the Islands;

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

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

Governor's reserved power

47.—(1) If the Governor considers that it is expedient—

(*a*) in the interests of public order, public faith or good government (which expressions shall, without prejudice to their generality, include the responsibility of the Islands as a territory within the Commonwealth and all matters pertaining to the creation or abolition of any public office or to the salary or other conditions of service of any public officer); or

(*b*) in order to secure detailed control of the finances of the Islands during such time as, by virtue of the receipt of financial assistance by the Islands from Her Majesty's Exchequer for the purpose of balancing the annual budget or otherwise, such control rests with Her Majesty's Government,

that any Bill introduced, or any motion proposed, in the Assembly should have effect, then, if the Assembly fail to pass the Bill or to carry the motion within such time and in such form as the Governor thinks reasonable and expedient, the Governor may, at any time that he thinks fit, and notwithstanding any provisions of this Order or of any other law in force in the Islands or of any Standing Orders of the Assembly, declare that the Bill or motion shall have effect as if it had been passed or carried by the Assembly either in the form in which it was introduced or proposed or with such amendments as the Governor thinks fit which have been moved or proposed in the Assembly or any committee thereof; and the Bill or the motion shall be deemed thereupon to have been so passed or carried, and the provisions of this Order, and in particular the provisions relating to assent to Bills and disallowance of laws, shall have effect accordingly.

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

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

(4) Any declaration made under this section other than a declaration relating to a Bill may be revoked by a Secretary of State and the Governor shall cause notice of the revocation to be published by

Government Notice; and from the date of such publication any motion that is deemed to have been carried by virtue of the declaration shall cease to have effect and the provisions of subsection (2) of section 38 of the Interpretation Act, 1889, shall apply to the revocation as they apply to the repeal of an Act of Parliament.

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

Assent to Bills

48.—(1) A Bill shall not become a law until—

(*a*) the Governor has assented to it in Her Majesty's name and on Her Majesty's behalf and has signed it in token of his assent; or

(*b*) Her Majesty has given Her assent to it through a Secretary of State and the Governor has signified Her assent by Proclamation.

(2) When a Bill is presented to the Governor for his assent, he shall, acting in his discretion, but subject to the provisions of this Order and of any Instructions addressed to him under Her Majesty's Sign Manual and Signet or through a Secretary of State, declare that he assents, or refuses to assent, to it, or that he reserves the Bill for the signification of Her Majesty's pleasure:

Provided that the Governor shall reserve for the signification of Her Majesty's pleasure—

(*a*) any Bill which is in any way repugnant to, or inconsistent with, the provisions of this Order; and

(*b*) any Bill which determines or regulates the privileges, immunities or powers of the Assembly or of its members;

unless he has been authorized by a Secretary of State to assent to it.

Return of Bills by Governor

49. The Governor may return to the Assembly any Bill presented to him for his assent, transmitting therewith any amendments which he may recommend, and the Assembly shall deal with such recommendation.

Disallowance of laws

50.—(1) Any law to which the Governor has given his assent may be disallowed by Her Majesty through a Secretary of State.

(2) Whenever a law has been disallowed by Her Majesty the Governor shall, as soon as practicable, cause notice of the disallowance to be published by Government Notice and the law shall be annulled with effect from the date of the publication of that notice.

(3) The provisions of subsection (2) of section 38 of the Interpretation Act, 1889(a), shall apply to the annulment of any law under this section as they apply to the repeal of an Act of Parliament, save that any enactment repealed or amended by or in pursuance of that law shall have effect as from the date of the annulment as if that law had not been made.

Oath of allegiance

51. Except for the purpose of enabling this section to be complied with, no member of the Assembly shall be permitted to take part in its proceedings until he has made before the Administrator, or some

other person authorized in that behalf by the Administrator, an oath or affirmation of allegiance in the form set out in the Schedule to this Order.

Privileges of Assembly and members

52. A law enacted under this Order may determine and regulate the privileges, immunities and powers of the Assembly and its members, but no such privileges, immunities or powers shall exceed those of the Commons' House of Parliament of the United Kingdom of Great Britain and Northern Ireland or of the members thereof.

Sessions

53.—(1) Subject to the provisions of this Order, the sessions of the Assembly shall be held at such times and places as the Administrator may from time to time by Proclamation appoint.

(2) The first session of the Assembly shall begin within twelve months after the appointed day; and thereafter there shall be at least one session of the Assembly in every year, so however that there shall be an interval of less than twelve months between the last sitting in one session and the first sitting in the next session.

Prorogation and dissolution

54.—(1) The Governor may at any time, by Proclamation, prorogue or dissolve the Assembly.

(2) The Governor shall dissolve the Assembly at the expiration of three years from the date when the Assembly first meets after any general election unless it has been sooner dissolved.

General elections

55. There shall be a general election at such time within three months after the appointed day, and thereafter within two months after every dissolution of the Assembly, as the Administrator shall by Proclamation appoint.

PART VI

Legislature and Supreme Court of Jamaica

Legislature of Jamaica may make laws for Islands

56.—(1) Subject to the provisions of this section, the Legislature of Jamaica may make laws for the peace, order and good government of the Islands.

(2) A law enacted by the Legislature of Jamaica shall not apply to the Islands unless—

(*a*) it is in express terms applied thereto; and

(*b*) the Governor has by Proclamation in the Islands declared that the law shall apply to the Islands either as enacted or with such modifications as may be specified in the Proclamation.

(3) A law enacted by the Legislature of Jamaica which is applied to the Islands by virtue of the provisions of this section shall, to the extent of any inconsistency, prevail over a law enacted by the Legislature of the Islands.

(4) A Proclamation made under this section may be revoked or varied by a subsequent Proclamation.

Appeals to Supreme Court of Jamaica

57.—(1) Subject to the provisions of this section, the Supreme Court of Jamaica shall have such jurisdiction to hear and determine appeals (including reserved questions of law and cases stated) from the Supreme Court of the Islands and, in connection with such appeals, such powers and authorities as may be conferred upon it by any law of the Legislature of Jamaica enacted under the provisions of the last foregoing section or any law in force in the Islands immediately before the appointed day.

(2) This section shall not apply to appeals relating to any matter in respect of which—

(*a*) appeal lies exclusively to the Federal Supreme Court of The West Indies; or

(*b*) this Order or a law enacted by the Legislature of the Islands provides that the decision of the Supreme Court of the Islands shall be final.

PART VII

Miscellaneous

Public Seal

58. The Administrator shall keep and use the Public Seal for sealing all things that should pass that Seal:

Provided that the Administrator shall, if required to do so by the Governor, permit the Governor to keep and use the Public Seal while the Governor is in the Islands.

Grants of land

59.—(1) The Governor may, in Her Majesty's name and on Her behalf, make and execute under the Public Seal grants and dispositions of any land or other immovable property within the Islands that may be lawfully granted or disposed of by Her Majesty.

(2) Grants and dispositions of land or other immovable property in the Islands made under this section shall be made in conformity with the provisions of any law in force in the Islands, and of any Instructions given to the Governor under Her Majesty's Sign Manual and Signet or through a Secretary of State.

Governor's power of pardon

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

(*a*) grant to any person concerned in any offence to which this section applies, or to any person convicted in the Islands of any such offence, a pardon, either free or subject to lawful conditions;

(*b*) grant to any person so convicted a respite, either indefinite or for a specified period, of the execution of any sentence passed on him in respect of the conviction;

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

(*d*) remit the whole or any part of any such sentence or of any penalty or forfeiture due to Her Majesty by reason of the conviction.

(2) The powers conferred upon the Governor by the foregoing subsection shall, subject to any Instructions under Her Majesty's Sign Manual and Signet, be exercised by him in his discretion.

(3) The offences to which this section applies are offences against any law in force in the Islands other than a law enacted by the Federal Legislature of The West Indies.

Offices and appointments

61. The Governor, in Her Majesty's name and on Her behalf, may constitute such offices for the Islands as may lawfully be constituted by Her Majesty and, subject to the provisions of any law in force in the Islands, the Governor, acting in his discretion, may make appointments (including appointments on promotion and transfer) to any such office ; and any person so appointed shall, unless it is otherwise provided by any such law, hold office during Her Majesty's pleasure.

Concurrent appointments

62.—(1) Whenever the holder of any office constituted by or under this Order is on leave of absence pending relinquishment of that office, the person or authority having power to make appointments to that office may appoint another person thereto.

(2) Where two or more persons are holding the same office by reason of an appointment made pursuant to the foregoing subsection, the person last appointed shall, in respect of any function conferred on the holder of that office, be deemed to be the sole holder of that office.

Discipline

63. Subject to the provisions of any law in force in the Islands, the Governor, acting in his discretion, may, for cause shown to his satisfaction, dismiss or suspend from the exercise of his office any person holding a public office or take such disciplinary action as may seem to him to be desirable.

Electoral Regulations

64.—(1) The Governor, acting in his discretion, may, at any time after the making of this Order and before the first session of the Assembly under this Order, make such regulations as appear to him to be necessary or expedient for providing for any matter which may be provided for under section 35 of this Order.

(2) A regulation made under this section—

(*a*) may be given retrospective effect to a date not earlier than the appointed day ;

(*b*) shall be published in such manner as the Governor shall think fit, and shall thereupon have the force of law, and shall take effect on such date, not earlier than the appointed day, as may be specified therein or in any other such regulation ; and

(*c*) may be revoked or varied by a subsequent regulation made under this section or by a law enacted under the provisions of this Order.

Modification of existing instruments

65.—(1) Subject to the provisions of this section, all existing instruments shall, as from the appointed day, be construed with any adaptations and modifications which may be necessary to bring them into accord with the provisions of this Order.

(2) Without prejudice to the generality of the foregoing subsection, the Governor, acting in his discretion, may, by regulation, at any time within twelve months after the making of this Order, make such provision as appears to him to be necessary or expedient for the purpose of bringing instruments to which this subsection applies into accord with the provisions of this Order or otherwise for giving effect, or enabling effect to be given, to those provisions; and in particular and without prejudice to the generality of the foregoing power may by such regulation—

(*a*) modify, adapt, repeal or revoke any provisions in such instruments which refer, in whatever terms, to the Governor of Jamaica, the Privy Council of Jamaica, the Council of Ministers of Jamaica or The Legislative Board for the Turks and Caicos Islands; and

(*b*) provide for the transfer of powers or duties conferred or imposed by such instruments upon any person or authority to such other person or authority as may be specified in the regulation.

(3) A regulation made under this section—

(*a*) may be given retrospective effect to a date not earlier than the appointed day;

(*b*) shall be published in such manner as the Governor shall think fit, and shall thereupon have the force of law, and shall take effect on such date, not earlier than the appointed day, as may be specified therein or in any other such regulation; and

(*c*) may be revoked or varied by a subsequent regulation made under this section or by a law enacted under the provisions of this Order.

(4) In this section "existing instruments" means laws, rules, regulations, by-laws, proclamations, orders, licences, permits and other instruments having the force of law, or issued in pursuance of statutory powers, (other than the provisions mentioned in subsection (1) of section 2 of the Cayman Islands and Turks and Caicos Islands Act, 1958) which are in force in the Islands immediately before the appointed day, and, in relation to a regulation made under this section, the instruments to which subsection (2) of this section applies are all existing instruments which are in force in the Islands at the date on which that regulation takes effect.

Power reserved to Her Majesty

66. Her Majesty hereby reserves to Herself, Her Heirs and Successors power, with the advice of Her or Their Privy Council, to amend, add to or revoke this Order as to Her or Them shall seem fit.

W. G. Agnew.

SCHEDULE

Sections 8 (3), 11 (2), 19 and 51.

FORMS OF OATHS AND AFFIRMATIONS

1. *Oath of Allegiance*

I ..... do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law. So help me God.

2. *Affirmation of Allegiance*

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

3. *Oath for due execution of office*

I ..... do swear that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, in the office of (*here insert the description of the office*). So help me God.

4. *Affirmation for due execution of office*

I ..... do solemnly and sincerely affirm and declare that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, in the office of (*here insert the description of the office*).

EXPLANATORY NOTE

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

The purpose of this Order is to make provision for a new Constitution for the Turks and Caicos Islands with effect from the day appointed under the Cayman Islands and Turks and Caicos Islands Act, 1958.

1959 No. 1046

The Turks and Caicos Islands (Constitution) (Amendment) Order in Council, 1959

Made - - - - 15*th June*, 1959

Coming into Operation 4*th July*, 1959

At the Court at Buckingham Palace, the 15th day of June, 1959

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue of the powers conferred upon Her by section 2 of the Cayman Islands and Turks and Caicos Islands Act, 1958(a), and all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation, commencement, construction and publication

1.—(1) This Order may be cited as the Turks and Caicos Islands (Constitution) (Amendment) Order in Council, 1959, and shall come into

(a) 6 & 7 Eliz. 2. c. 13.