STATUTORY INSTRUMENTS

1962 No. 1649

CARIBBEAN AND NORTH ATLANTIC TERRITORIES

The Turks and Caicos Islands (Constitution) Order in Council 1962

Made - - - - 30*th July* 1962
Coming into Operation 6*th August* 1962

ARRANGEMENT OF ORDER

PART I

Introductory

Section
1. Citation, publication, commencement and revocation.
2. Interpretation.

PART II

The Administrator

3. The Administrator.
4. Emoluments of Administrator.
5. Acting Administrator.
6. Administrator's deputy.

PART III

Executive Council

7. Executive Council.
8. Tenure of office of members of Executive Council.
9. Administrator to consult the Council.
10. Administrator may act contrary to advice of Council.
11. Temporary members of Council.
12. Determination of questions as to membership.
13. Oath by members of Council.
14. Summoning of Council and transaction of business.
15. Presiding in the Council.
16. Submission of questions to Council.
17. Summoning of persons to Council.

PART IV

Legislative Assembly

18. Legislative Assembly.
19. Qualifications for elected membership.
20. Disqualifications for nominated and elected membership.
21. Tenure of office of members of Assembly.
22. Vacation of seat on sentence.
23. Temporary members of Assembly.
24. Determination of questions as to membership of Assembly.
25. Penalty for sitting or voting in Assembly when unqualified.
26. Qualifications of electors.
27. Disqualifications of electors.
28. Right to vote at elections.
29. Law as to elections.

PART V

Legislation and Procedure in Legislative Assembly

Section
30. Power to make laws.
31. Royal Instructions.
32. Standing Orders.
33. The Deputy President.
34. Presiding in Assembly.
35. Assembly may transact business notwithstanding vacancies.
36. Quorum.
37. Voting.
38. Summoning of persons to assist Assembly.
39. Introduction of Bills.
40. Administrator's reserved power.
41. Assent to Bills.
42. Return of Bills by Administrator.
43. Disallowance of laws.
44. Oath of allegiance.
45. Privileges of Assembly and members.
46. Sessions.
47. Prorogation and dissolution.
48. General elections.

PART VI

Appeals from the Supreme Court

49. Appeals to Court of Appeal for Jamaica ; saving.

PART VII

Miscellaneous

50. Public Seal.
51. Grants of land.
52. Administrator's power of pardon.
53. Offices and appointments.
54. Discipline.
55. Existing offices and authorities.
56. Existing laws.
57. Power reserved to Her Majesty.

SCHEDULE.

At the Court at Buckingham Palace, the 30th day of July 1962

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue of the powers conferred upon Her by section 5 of the West Indies Act 1962(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, commencement and revocation.

1.—(1) This Order may be cited as the Turks and Caicos Islands (Constitution) Order in Council 1962.

(a) 10 & 11 Eliz. 2. c. 19.

(2) This Order shall be published in such manner as the Administrator shall think fit, and shall come into operation on the appointed day.

(3) The Turks and Caicos Islands (Constitution) Order in Council 1959(a) (in this Order referred to as "the Order of 1959") is hereby revoked.

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 6 of this Order is authorized to act, that deputy;

"appointed day" means the 6th day of August 1962;

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

"functions" includes jurisdictions, powers and duties;

"the Islands" means the Turks and Caicos Islands;

"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 service" means the service of the Crown in a civil capacity in respect of the government of the Islands;

"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 in receipt of any remuneration or allowance as 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) 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.

(4) A reference in this Order to the holder of an office by the term designating his office shall be construed as a reference to any

(a) S.I. 1959/864 (1959 I, p. 533).

person for the time being lawfully performing the functions of that office.

(5) Without prejudice to the last foregoing subsection—

(*a*) where the holder of any office constituted by or under this Order is on leave of absence pending the relinquishment of that office, the person or authority having power to make appointments to that office may appoint another person thereto; and

(*b*) where two or more persons concurrently hold the same office by virtue of the foregoing paragraph, the person last appointed shall in respect of any function conferred on the holder of that office be deemed to be the sole holder thereof.

(6) Any power conferred by this Order to make any proclamation or order or to give any directions shall be construed as including a power exercisable in like manner to amend or revoke any such proclamation, order or directions.

(7) Where a person is required by this Order to make an oath he shall if he so desires be permitted to comply with that requirement by making an affirmation in accordance with the provisions of the First Schedule to this Order.

(8) For the purposes of this Order the resignation of a member of any body or holder of any office thereby established 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.

(9) For the purposes of this Order a person shall not be regarded as absent from the Islands or as unable to perform any of his functions thereunder by reason only that he is in passage between any one of the Islands and another or from one part of any Island to another part.

(10) The Interpretation Act 1889(a) shall apply with the necessary adaptations for the purpose of interpreting this Order and otherwise in relation thereto as it applies for the purpose of interpreting and in relation to an Act of Parliament.

PART II

The Administrator

The Administrator.

3.—(1) There shall be an Administrator of the Islands who shall be appointed by Her Majesty by Commission under Her Sign Manual and Signet and shall hold office during Her Majesty's pleasure.

(2) The Administrator shall, for the purpose of administering the government of the Islands, have such powers and duties as are conferred or imposed on him by this Order or any other law and such other powers as Her Majesty may from time to time be pleased to assign to him, and, subject to the provisions of this Order and of any other law by which any such powers or duties are conferred or imposed, shall do and execute all things that belong to his office according to such Instructions, if any, as Her Majesty may from time to time see fit to give him; but no court may enquire whether or not he has complied with any such Instructions.

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

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

Emoluments of Administrator.

4. The Administrator shall receive such emoluments as may be fixed by a Secretary of State, and those emoluments are hereby charged upon the revenues of the Islands.

Acting Administrator.

5.—(1) During any period when 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 those functions shall, during Her Majesty's pleasure, be assumed and performed by—

(*a*) such person as Her Majesty may designate in that behalf by Instructions given under Her Sign Manual and Signet or through a Secretary of State, or

(*b*) if there is no person in the Islands so designated and able to perform those functions, such public officer as the Administrator shall by writing under his hand appoint.

(2) Before assuming the functions of the office of Administrator, any such person as aforesaid shall make the oaths directed by section 3 of this Order to be made by the Administrator.

(3) Any such person as aforesaid shall not continue to perform the functions of the office of Administrator after the Administrator or some other person having a prior right to perform the functions of that office has notified him that he is about to resume or assume those functions.

Administrator's deputy.

6.—(1) Whenever the Administrator—

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

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

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

he may, by instrument under the public seal, appoint any person in the Islands to be his deputy during such absence or illness and in that capacity to perform on his behalf such of the functions of the office of Administrator as may be specified in that 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, and a deputy shall conform to and observe all instructions that the Administrator may from time to time address to him; but no court may enquire whether or not he has complied with any such instructions.

(3) A person appointed as a deputy under this section shall hold that appointment 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 Her Majesty by instructions given through a Secretary of State, or by the Administrator.

PART III

Executive Council

Executive Council.

7. There shall be an Executive Council in and for the Islands which, subject to section 11 of this Order, shall consist of—

(*a*) two official members, who shall be appointed by the Administrator, acting in pursuance of instructions given to him by Her Majesty through a Secretary of State, by instrument under the public seal, from among persons holding public offices ;

(*b*) one nominated member, who shall be appointed by the Administrator, acting in pursuance of instructions given to him by Her Majesty through a Secretary of State, by instrument under the public seal, from among the nominated members of the Assembly ; and

(*c*) two elected members, who shall be elected by the nominated and elected members of the Assembly from among the elected members of the Assembly.

Tenure of office of members of Executive Council.

8.—(1) The official members of the Executive Council shall hold their seats in the Council during Her Majesty's pleasure:

Provided that the seat of an official member shall in any case become vacant—

(*a*) if he resigns his seat in the Council by writing under his hand addressed to the Administrator and the Administrator accepts the resignation ;

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

(*c*) if he ceases to hold public office.

(2) The nominated member of the Executive Council shall hold his seat in the Council during Her Majesty's pleasure:

Provided that the seat of the nominated member shall in any case become vacant—

(*a*) if he resigns his seat in the Council by writing under his hand addressed to and received by the Administrator ;

(*b*) when the Assembly first meets after any dissolution thereof ;

(*c*) if he ceases to be a member of the Assembly for any reason other than a dissolution thereof ;

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

(3) The seat of an elected member of the Executive Council shall become vacant—

(*a*) if he resigns his seat in the Council by writing under his hand addressed to and received by the Administrator ;

(*b*) when the Assembly first meets after a dissolution thereof ;

(*c*) if he ceases to be a member of the Assembly for any reason other than a dissolution thereof ;

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

(*e*) if his election to the Executive 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 presiding member who shall not be entitled to vote on the resolution.

Administrator to consult the Council.

9.—(1) In the exercise of his functions the Administrator shall, subject to the following provisions of this section, consult with the Executive Council.

(2) The foregoing subsection shall not apply to the exercise by the Administrator of any function conferred upon him by any law other than this Order in terms authorising him to exercise that function without obtaining the advice of the Executive Council.

(3) The Administrator shall not be obliged to consult with the Executive Council in any case—

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

(*b*) in which the question for decision is, in his judgment, too unimportant to require their advice; or

(*c*) in which, in his judgment, the urgency of the matter requires him to act before the Council can be consulted;

but in any such case of urgency he shall, as soon as practicable, communicate to the Council the measures he has adopted and the reasons therefor.

Administrator may act contrary to advice of Council.

10.—(1) The Administrator may act otherwise than in accordance with the advice given to him by the Executive Council if in any case he deems it right so to do; but in any such case the Administrator shall, at the first opportunity, report the matter to Her Majesty through a Secretary of State with the reasons for his action.

(2) Whenever the Administrator acts otherwise than in accordance with the advice given to him by the Council, any member of the Council may require that there be recorded upon the minutes of the Council the grounds of any advice or opinion which he may have given on the question.

Temporary members of Executive Council.

11.—(1) Whenever a member of the Executive Council is by reason of his illness or absence from the Islands or for any other reason incapable of performing the functions of his office, then—

(*a*) the Administrator may, by instrument under the public seal, appoint to be temporarily a member of the Council, in the case of the incapacity of an official member, a person who is an official member of the Assembly or in the case of the incapacity of a nominated member, a person who is a nominated member of the Assembly; or

(*b*) in the case of the incapacity of an elected member, the nominated and elected members of the Assembly, if the Administrator 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 Administrator 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 Administrator that the circumstances giving rise to the appointment or election have 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 Administrator.

(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 as they apply in relation to the member on account of whose incapacity he was appointed or elected.

Determination of questions as to membership.

12. Any question whether a person is a member of the Executive Council shall be determined by the Administrator.

Oath by members of Council.

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

Summoning of Council and transaction of business.

14.—(1) The Executive Council shall not be summoned except by the authority of the Administrator.

(2) No business shall be transacted at any meeting of the Executive Council unless there are two members present besides 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 therein.

Presiding in the Council.

15.—(1) The Administrator shall, so far as is practicable, attend and preside at meetings of the Executive Council.

(2) In the absence of the Administrator there shall preside at any meeting of the Executive Council such member of the Council as the Administrator may appoint.

Submission of questions to Council.

16. The Administrator shall alone be entitled to submit questions to the Executive Council for their advice; but if 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 be recorded in the minutes his written application, together with the answer given thereto by the Administrator.

Summoning of persons to Council.

17. 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.

18.—(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 Administrator, acting in pursuance of instructions given to him by Her Majesty through a Secretary of State, may from time to time determine), who shall be appointed by the Administrator 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 Administrator may determine as aforesaid), who shall be British subjects of the age of twenty-one years or upwards, and shall be appointed by the Administrator, acting in pursuance of instructions given to him by Her Majesty through a Secretary of State, 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.

Qualifications for elected membership.

19. 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.

20.—(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 the Commonwealth 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 the Commonwealth, 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.

21.—(1) Subject to the provisions of this Order, an official member 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 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 Administrator, and the Administrator 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 Administrator, and the Administrator 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 Administrator 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 Administrator 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 subsection (1) of the last foregoing section ; or

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

Vacation of seat on sentence.

22.—(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 the Commonwealth 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 Administrator 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.

23.—(1) Whenever an official or a nominated member of the Assembly is by reason of his illness or absence from the Islands or for any other reason incapable of performing the functions of his office, the Administrator 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 Administrator that the member on account of whose incapacity he was appointed

is again able to perform his functions as a member of the Assembly, or when the seat of that member in whose place he was appointed becomes vacant.

(3) The Administrator 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 as they apply to the member on account of whose incapacity he was appointed.

Determination of questions as to membership of Assembly.

24.—(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 Administrator.

(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 and not subject to any appeal.

Penalty for sitting or voting in Assembly when unqualified.

25.—(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.

26. 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 for elections to the Assembly 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.

27.—(1) A person shall not 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 the Commonwealth, 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 20 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 20.

Right to vote at elections.

28.—(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.

29. 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 the 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.

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

Royal Instructions.

31. Subject to the provisions of this Order, the Administrator 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 Administrator in that behalf.

Standing Orders.

32.—(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 Administrator for assent; but no such Standing Orders or amendment or revocation thereof shall have effect unless they have been approved by the Administrator.

(2) The first Standing Orders of the Assembly shall, subject to the provisions of this Order, be the Standing Orders of the Legislative Assembly constituted by the Order of 1959 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.

33.—(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 from among the nominated and elected members a member who is not a member of the Executive Council 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.

34.—(1) 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.

(2) Where the office of Deputy President is vacant, the foregoing subsection shall apply as if a person holding that office were absent.

Assembly may transact business notwithstanding vacancies.

35. 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.

36.—(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.

37.—(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.

38.—(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 may not vote.

Introduction of Bills.

39.—(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 would 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.

Administrator's reserved power.

40.—(1) If the Administrator 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 in the United Kingdom 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 Administrator thinks reasonable and expedient, the Administrator 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 Administrator 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 Administrator 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 Administrator 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 Administrator 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 Administrator shall forthwith 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.

Assent to Bills.

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

(*a*) the Administrator 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 Administrator has signified Her assent by Proclamation.

(2) When a Bill is presented to the Administrator for his assent, he shall, 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 Administrator 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.

(3) This section shall have effect in relation to any Bill passed by the Legislative Assembly subsisting immediately before the appointed day but not assented to before that day it has effect in relation to Bills passed after the appointed day.

Return of Bills by Administrator.

42. The Administrator 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.

43.—(1) Any law to which the Administrator 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 Administrator 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, 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.

44. Except for the purpose of enabling this section to be complied with, no official, nominated or elected 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 of allegiance in the form set out in the Schedule to this Order.

Privileges of Assembly and members.

45. 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 or of the members thereof.

Sessions.

46.—(1) Subject to the provisions of this Order, the sessions of the Assembly shall be held at such places and begin at such times 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.

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

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

General elections.

48. There shall be a general election at such time within two months after every dissolution of the Assembly, as the Administrator shall by Proclamation appoint.

PART VI

Appeals from the Supreme Court

Appeals to Court of Appeal for Jamaica; saving.

49.—(1) Subject to the provisions of this section, the Court of Appeal for 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 for the time being in force in the Islands.

(2) The foregoing subsection shall not apply to appeals relating to any matter in respect of which this Order or any other law provides that the decision of the Supreme Court of the Islands is to be final.

PART VII

Miscellaneous

Public Seal.

50. The Administrator shall keep and use the public seal for sealing all things that should pass that seal.

Grants of land.

51. Subject to the provisions of any law for the time being in force in the Islands, the Administrator or any person duly authorised by him in writing under his hand 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.

Administrator's power of pardon.

52. The Administrator may, in Her Majesty's name and on Her behalf—

(*a*) grant to any person concerned in the commission of any offence for which he may be tried in the Islands, or to any person convicted of any offence under any law in force in the Islands, 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.

Offices and appointments.

53. The Administrator, 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, 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.

Discipline.

54. Subject to the provisions of any law in force in the Islands, the Administrator 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.

Existing offices and authorities.

55.—(1) Subject to the provisions of this section, all offices and authorities established by or under the Order of 1959 and existing immediately before the appointed day shall on and after that day, so far as consistent with the provisions of this Order, continue as if they had been established by or under this Order; and any person who immediately before that day is holding or acting in any such office or as a member of any such authority shall on and after that day continue to hold or act in that office or to be such a member as if he had been appointed thereto or as the case may be elected as such in accordance with this Order and had made any oath thereby required:

Provided that the Legislative Assembly shall, if not sooner dissolved, stand dissolved on the date on which it would have been required by that Order to be dissolved.

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

Existing laws.

56.—(1) All Acts, Ordinances, rules, regulations, orders and other instruments made under or having effect by virtue of the Order of 1959 and having effect as part of the law of the Islands immediately before the appointed day shall on and after the appointed day have effect as if they had been made under or by virtue of this Order.

(2) Subject to the provisions of the next following subsection, the existing laws shall on and after the appointed day be construed with such modifications, adaptations, qualifications and exceptions as are necessary to bring them into conformity with this Order.

(3) Subject to the provisions of this Order, the Administrator may by regulations at any time within eighteen months from the appointed day make such amendments to any existing law as 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.

(4) In this section the expression "existing laws" means laws and instruments (other than Acts of the Parliament of the United Kingdom and instruments made thereunder) having effect as part of the law of the Islands immediately before the appointed day.

Power reserved to Her Majesty.

57. Her Majesty hereby reserves to Herself power, with the advice of Her Privy Council, to make laws for the peace, order and good government of the Islands.

W. G. Agnew.

SCHEDULE

(see over)

Sections 3 (3), 5 (2), 13 and 44.

SCHEDULE

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. *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.

3. *Affirmations*

In the forms above respectively set forth, for the word "swear" there shall be substituted the words "solemnly and sincerely affirm and declare", and the words "So help me God" shall be omitted.

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 substitute a revised Constitution for that provided by the Turks and Caicos Islands (Constitution) Order in Council 1959, and to synchronise its commencement with that of the independence of Jamaica, whose Governor was, under that Order, the Governor of the Islands.