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Permanent Secretaries.

42. Where any Minister of the Government of the Region has been charged with responsibility for any department of government, he shall exercise general direction and control over that department ; and, subject to such direction and control, the department shall be under the supervision of a Permanent Secretary, whose office shall be an office in the public service of the Region :

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

Constitution of offices for Region, etc.

43. Subject to the provisions of this Constitution and of any Regional law, the Governor may constitute offices for the Region, make appointments to any such office and terminate any such appointment.

Prerogative of mercy.

44. (1) The Governor may—

- (a) grant to any person concerned in or convicted of any offence created by or under a Regional law a pardon, either free or subject to lawful conditions ;
- (b) grant to any person a respite, either indefinite or for a specified period, of the execution of any punishment imposed on that person for such an offence ;
- (c) substitute a less severe form of punishment for any punishment imposed on that person for such an offence ; or
- (d) remit the whole or any part of any punishment imposed on that person for such an offence or of any penalty or forfeiture otherwise due to the state on account of such an offence.

(2) The powers of the Governor under sub-section (1) of this section shall be exercised by him in accordance with the advice of such member of the Executive Council as may from time to time be designated in that behalf by the Governor, acting in accordance with the advice of the Premier.

(3) The provisions of this section shall apply in relation to any offence created by or under any law in force in the Region relating to any matter not included in the Legislative List set out in the Schedule to the Constitution of the Federation (other than an offence created by or under an Act of Parliament or a Regional law) as they apply in relation to an offence created by or under a Regional law.

Establishment of Advisory Council on Prerogative of Mercy.

45. (1) There shall be for the Region an Advisory Council on the Prerogative of Mercy, which shall consist of—

- (a) such member of the Executive Council as may for the time being be designated under sub-section (2) of section 44 of this Constitution, who shall be chairman ;
- (b) where the chairman is a Minister other than the Attorney-General of the Region, the Attorney-General ; and
- (c) not less than five and not more than seven other members, who shall be appointed by the Governor, acting in accordance with the advice of the Premier, of whom at least one shall be a person who is a qualified medical practitioner.

(2) A person shall not be qualified for appointment by the Governor as a member of the Advisory Council if he is a member of a Legislative House of the Region, a member of either House of Parliament, a member of a legislative house of another Region, a Minister of the Government of the Region, a Minister of the Government of the Federation or a Minister of the Government of another Region.

(3) A member of the Advisory Council appointed by the Governor shall hold office for three years :

Provided that his seat on the Council shall become vacant—

- (a) if any circumstances arise that, if he were not a member of the Council, would cause him to be disqualified for appointment as such ; or
- (b) if he is removed from office by the Governor, acting in accordance with the advice of the Premier, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

46. (1) Where any person has been sentenced to death by any court of law in Nigeria for any offence created by or under a Regional law the member of the Executive Council of the Region designated under sub-section (2) of section 44 of this Constitution shall cause a written report of the case from the trial judge, together with such other information derived from the record of the case or elsewhere as the member may require, to be taken into consideration at a meeting of the Advisory Council ; and after obtaining the advice of the Council the member shall decide in his own deliberate judgment whether to recommend to the Governor that he should exercise any of his powers under that section in relation to that person.

Functions of
Advisory
Council.

(2) The member of the Executive Council designated under sub-section (2) of section 44 of this Constitution may consult with the Advisory Council before making any recommendation to the Governor under that sub-section in any case not falling within sub-section (1) of this section, but he shall not be obliged to act in accordance with the advice of the Council.

(3) The Advisory Council may regulate its own procedure.

47. (1) There shall be a Director of Public Prosecutions for the Region, whose office shall be an office in the public service of the Region and, without prejudice to the provisions of this Constitution relating to the Public Service Commission of the Region, an office in the department of government for which responsibility is assigned to the Attorney-General of the Region.

Public
prosecutions.

(2) The Attorney-General of the Region shall have power in any case in which he considers it desirable so to do—

- (a) to institute and undertake criminal proceedings against any person before any court of law in the Region in respect of any offence created by or under any Regional law

- (b) to take over and continue any such criminal proceedings that may have been instituted by any other person or authority ; and
- (c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.

(3) The powers of the Attorney-General of the Region under sub-section (2) of this section may be exercised by him in person and through the Director of Public Prosecutions of the Region acting under and in accordance with the general or special instructions of the Attorney-General and through other officers of the department mentioned in sub-section (1) of this section acting under and in accordance with such instructions.

(4) The Attorney-General of the Region may confer a general or special authority upon the Attorney-General of the Federation to exercise, subject to such conditions and exceptions as he may think fit, any of the powers conferred upon him by sub-section (2) of this section and may vary or revoke any such authority.

(5) The powers conferred upon the Attorney-General of the Region by paragraphs (b) and (c) of sub-section (2) of this section shall be vested in him to the exclusion of any other person or authority :

Provided that where any other person or authority has instituted criminal proceedings, nothing in this sub-section shall prevent the withdrawal of those proceedings by or at the instance of that person or authority at any stage before the person against whom the proceedings have been instituted has been charged before the court.

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

(7) For the purposes of this section any appeal from any determination in any criminal proceedings before any court of law in the Region or any case stated or question of law reserved for the purposes of any such proceedings to any other court in Nigeria shall be deemed to be part of those proceedings.

(8) The provisions of this section shall apply in relation to any offence created by or under any law in force in the Region relating to any matter not included in the Legislative Lists set out in the Schedule to the Constitution of the Federation (other than an offence created by or under an Act of Parliament or a Regional law) as they apply in relation to an offence created by or under a Regional law.

(9) Except at the instance of the Attorney-General of the Region, the question whether he has given any instructions in pursuance of this section, or what the instructions were, shall not be enquired into by any court of law.

CHAPTER IV COURTS

48. (1) There shall be a High Court for the Region.

Establish-
ment of
High Court.

(2) The judges of the High Court of the Region shall be

(a) the Chief Justice of the Region ; and

(b) such number of other judges (not being less than six) as may be prescribed by the Legislature of the Region.

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

49. (1) The Chief Justice of the Region and the other judges of the High Court of the Region shall be appointed by the Governor, acting in accordance with the advice of the Premier.

Appointment
of judges of
High Court.

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

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

(b) he is qualified for admission as an advocate in Nigeria and he has been so qualified for not less than ten years.

(3) If the office of Chief Justice of the Region is vacant or if the person holding the office is for any reason unable to perform the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding the office has resumed those functions, as the case may be, those functions shall be performed by such one of the other judges of the High Court of the Region as may from time to time be designated in that behalf by the Governor, acting in accordance with the advice of the Premier.

(4) If the office of any judge of the High Court of the Region other than the Chief Justice is vacant or if the person holding the office is acting as Chief Justice or is for any reason unable to perform the functions of his office, the Governor, acting in accordance with the advice of the Premier, may appoint a person with such qualifications as may be prescribed by the Legislature of the Region to act in the office of a judge of the High Court and any person so appointed shall continue to act for the period of his appointment or if no period is specified until his appointment is revoked by the Governor, acting in accordance with the advice of the Premier.

Tenure of
offices of
judges of
High Court.

50. (1) Subject to the provisions of this section, a person holding or appointed to act in the office of Chief Justice of the Region or any other judge of the High Court of the Region shall vacate his office when he attains such age as may be prescribed by the Legislature of the Region :

Provided that the Governor, acting in accordance with the advice of the Premier, may permit a judge to continue in his office or appointment for such period after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

(2) A person holding or appointed to act in the office of a judge of the High Court of the Region shall be removed from his office or appointment by the Governor if—

- (a) there are presented to the Governor addresses from both Legislative Houses of the Region praying that that person be so removed for inability to discharge the functions of the office in question (whether arising from infirmity of mind or body or any other cause) or for misbehaviour ; and
- (b) the address from each House bears a certificate which is signed by the person who presided at the meeting of that House at which the motion for the address was passed and which states that not less than two-thirds of all the members of that House voted in favour of the motion ;

and, except on the revocation, in pursuance of section 49 of this Constitution, of an appointment to act as aforesaid, a person holding or appointed to act in such an office shall not be removed from his office or appointment in any other circumstances.

Appeals to
High Court
from
subordinate
courts.

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

- (a) where the matter in dispute on the appeal to the High Court is of the value of fifty pounds or upwards or where the appeal involves directly or indirectly a claim to or question respecting property or a right of the value of fifty pounds or upwards, final decisions in any civil proceedings ;
- (b) where the ground of appeal to the High Court involves questions of law alone, decisions in any criminal proceedings in which any person has been sentenced to imprisonment for a term exceeding three months or corporal punishment exceeding six strokes or a fine or forfeiture exceeding twenty-five pounds by the subordinate court from which the appeal lies to the High Court or that subordinate court has affirmed or substituted such a sentence ;

- (c) decisions in any civil or criminal proceedings on questions as to the interpretation of this Constitution, the Constitution of the Federation or the constitution of another Region ;
- (d) decisions in any civil or criminal proceedings on questions as to whether any of the provisions of Chapter III of the Constitution of the Federation has been contravened in relation to any person ;
- (e) decisions in any criminal proceedings in which any person has been sentenced to death by the subordinate court from which the appeal lies to the High Court or in which that subordinate court has affirmed a sentence of death ;
- (f) decisions in any other criminal proceedings before a subordinate court sitting at first instance from which no appeal lies as of right to another subordinate court ; and
- (g) such other cases as may be prescribed by any law in force in the Region :

Provided that no appeal shall lie from decisions of a subordinate court established under section 126 of the Constitution of the Federation to the High Court in any case in which an appeal lies as of right to the Supreme Court by virtue of any Act of Parliament enacted in pursuance of section 118 of that Constitution.

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

- (a) decisions in any criminal proceedings from which no appeal lies as of right to the High Court ; and
- (b) such other cases in which no appeal lies as of right to the High Court as may be prescribed by any law in force in the Region :

Provided that no appeal shall lie under paragraph (a) of this sub-section from decisions of a subordinate court established under section 126 of the Constitution of the Federation to the High Court in any case in which an appeal lies to the Supreme Court (whether as of right or with the leave of the Supreme Court) by virtue of an Act of Parliament enacted under section 118 of that Constitution.

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

- (a) shall be exercisable in the case of civil proceedings at the instance of a party thereto or, with the leave of the High Court, at the instance of any other person having an interest in the matter and in the case of criminal proceedings at the instance of the accused person or, subject

to the provisions of section 47 of this Constitution, at the instance of such other persons or authorities as may be prescribed by any law in force in the Region ; and

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

(4) In this section—

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

“subordinate court” means any court of law in the Region other than the Supreme Court, the Court of Appeal of the Region, the High Court of the Region or a court-martial.

Establishment of Court of Appeal for the Region and appointment and tenure of offices of judges thereof.

52. (1) There shall be a Court of Appeal for the Region.

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

(a) the President of the Court of Appeal ; and

(b) such number of Justice of Appeal (not being less than three) as may be prescribed by the Legislature of the Region.

(3) The Court of Appeal of the Region shall be a superior court of record and, save as otherwise provided by any law in force in the Region, shall have all the powers of such a court.

(4) The President of the Court of Appeal of the Region and the Justices of Appeal shall be appointed by the Governor, acting in accordance with the advice of the Premier.

(5) A person shall not be qualified to hold the Office of President of the Court of Appeal of the Region or of Justice of Appeal unless—

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

(b) he is qualified for admission as an advocate in Nigeria and he has been so qualified for not less than ten years.

(6) If the office of President of the Court of Appeal of the Region is vacant or if the person holding the office is for any reason unable to perform the functions of the office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding the office has resumed those functions, as the case may be, those functions shall be performed by such one of the Justices of Appeal as may from time to time be designated in that behalf by the Governor, acting in accordance with the advice of the Premier.

(7) If the office of any Justice of Appeal is vacant or if the person holding the office is acting as President of the Court of Appeal of the Region or is for any reason unable to perform the functions of his office, the Governor, acting in accordance with the advice of the Premier, may appoint a person qualified to hold the office of Justice of Appeal to act in the office of a Justice of Appeal and any person so appointed shall continue to act for the period of his appointment or if no period is specified until his appointment is revoked by the Governor, acting in accordance with the advice of the Premier.

(8) Subject to the provisions of this sub-section and of sub-section (9) of this section, a person holding or appointed to act in the office of President of the Court of Appeal of the Region or a Justice of Appeal shall vacate that office when he attains such age as may be prescribed by the Legislature of the Region :

Provided that the Governor, acting in accordance with the advice of the Premier, may permit the President of the Court of Appeal of the Region or a Justice of Appeal to continue in his office or appointment for such period after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before he attained that age.

(9) A person holding or appointed to act in the office of President of the Court of Appeal or Justice of Appeal of the Region shall be removed from his office or appointment by the Governor if—

- (a) there are presented to the Governor addresses from both Legislative Houses praying that that person be so removed for inability to discharge the functions of the office in question (whether arising from infirmity of mind or body or any other cause) or for misbehaviour ; and
- (b) the address from each House bears a certificate which is signed by the person who presided at the meeting of that House at which the motion for the address was passed and which states that not less than two-thirds of all the members of the House voted in favour of the motion ;

and, except on the revocation, in pursuance of sub-section (7) of this section, of an appointment to act as aforesaid, a person holding or appointed to act in such an office shall not be removed from his office or appointment in any other circumstances.

(10) The provisions of this section shall come into operation on such date as the Governor may appoint.

Appeals to
Court of
Appeal from
High Court.

53.—(1) An appeal shall lie from decisions of the High Court of the Region to the Court of Appeal of the Region as of right in the following cases :—

- (a) final decisions in any civil proceedings before the High Court sitting at first instance ;
- (b) where the ground of appeal involves questions of law alone, decisions in any criminal proceedings before the High Court sitting at first instance ;
- (c) decisions in any civil or criminal proceedings on questions as to the interpretation of this Constitution, the Constitution of the Federation or the constitution of another Region ;
- (d) decisions in any civil or criminal proceedings on questions as to whether any of the provisions of Chapter III of the Constitution of the Federation has been contravened in relation to any person ;
- (e) decisions in any criminal proceedings in which any person has been sentenced to death by the High Court or in which the High Court has affirmed a sentence of death imposed by some other court ;
and
- (f) such other cases as may be prescribed by any law in force in the Region :

Provided that nothing in paragraph (a) of this sub-section shall confer any right of appeal—

- (i) from any order made *ex parte* ;
- (ii) from any order relating only to costs ;
- (iii) from any order made with the consent of the parties ; or
- (iv) in the case of a party to proceedings for dissolution or nullity of marriage who, having had time and opportunity to appeal from any decree *nisi* in such proceedings has not so appealed, from any decree absolute founded upon such a decree *nisi*.

(2) An appeal shall lie from decisions of the High Court of the Region to the Court of Appeal of the Region as of right in the following cases :—

- (a) decisions on any such questions as is referred to in section 53 of the Constitution of the Federation ; or
- (b) decisions on any question whether any person has been validly selected or elected as a member of a Legislative House of the Region or the seat in a Legislative House of the Region of any member of that House has become vacant.

(3) Subject to the provisions of sub-sections (1) and (2) of this section, an appeal shall lie from decisions of the High Court of the Region to the Court of Appeal of the Region with the leave of the High Court or the Court of Appeal of the Region in the following cases :—

- (a) where the ground of appeal involves questions of fact, mixed law and fact or *quantum* of sentence, decisions in any criminal proceedings before the High Court sitting at first instance ;
- (b) any case in which, but for the terms of the proviso to sub-section (1) of this section, an appeal would lie as of right to the Court of Appeal of the Region by virtue of paragraph (a) of that sub-section ;
- (c) decisions in any civil or criminal proceedings in which an appeal has been brought to the High Court from some other court ; and
- (d) such other cases as may be prescribed by any law in force in the Region.

(4) Any right of appeal to the Court of Appeal of the Region from the decisions of the High Court of the Region conferred by this section—

- (a) shall be exercisable in the case of civil proceedings at the instance of a party thereto or, with the leave of the High Court or the Court of Appeal of the Region, at the instance of any other person having an interest in the matter and in the case of criminal proceedings, at the instance of an accused person or, subject to the provisions of section 47 of this Constitution, at the instance of such other persons or authorities as may be prescribed by any law in force in the Region ; and
- (b) shall be exercised in accordance with any laws and rules of court for the time being in force in the Region regulating the powers, practice and procedure of the Court of Appeal of the Region.

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

(6) The provisions of this section shall come into operation on such date as the Governor may appoint.

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

Oaths to be
taken by
judges.

CHAPTER V

FINANCE

Establishment of Consolidated Revenue Fund.

55. (1) All revenues or other moneys raised or received by the Region (not being revenues or other moneys payable under this Constitution or any Regional law into some other public fund of the Region established for a specific purpose) shall be paid into and form one Consolidated Revenue Fund.

(2) No moneys shall be withdrawn from the Consolidated Revenue Fund of the Region except to meet expenditure that is charged upon the Fund by this Constitution, the Constitution of the Federation or any Regional law or where the issue of those moneys has been authorised by an appropriation law or a law made in pursuance of section 57 of this Constitution.

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

(4) No money shall be withdrawn from the Consolidated Revenue Fund or any other public fund of the Region except in the manner prescribed by the Legislature of the Region.

Authorization of expenditure from Consolidated Revenue Fund.

56. (1) The Minister of the Government of the Region responsible for finance shall cause to be prepared and laid before both Legislative Houses of the Region in each financial year estimates of the revenues and expenditure of the Region for the next following financial year.

(2) The heads of expenditure contained in the estimates (other than expenditure charged upon the Consolidated Revenue Fund by this Constitution, the Constitution of the Federation or any Regional law) shall be included in a bill, to be known as an appropriation bill, providing for the issue from the Consolidated Revenue Fund of the Region of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

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

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

(b) that any moneys have been expended for any purpose in excess of the amount appropriated for the purpose by the appropriation law or for a purpose for which no amount has been appropriated by the law,

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

57. The Legislature of the Region may make provision under which, if the appropriation law in respect of any financial year has not come into operation by the beginning of that financial year, the Minister of the Government of the Region responsible for finance may authorize the withdrawal of moneys from the Consolidated Revenue Fund of the Region for the purpose of meeting expenditure necessary to carry on the services of the Government until the expiration of four months from the beginning of that financial year or the coming into operation of the appropriation law, whichever is the earlier.

Authoriza-
tion of
expenditure
in advance of
appropriation.

58. (1) The Legislature of the Region may provide for the establishment of a Contingencies Fund for the Region and for authorizing the Minister of the Government of the Region responsible for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Fund to meet that need.

Contingen-
cies Fund.

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

59. (1) There shall be paid to the holders of the offices mentioned in sub-section (4) of this section such salary as may be prescribed by the Legislature of the Region.

Remunera-
tion of
Governor
and certain
other
officers.

(2) The salary and allowances payable to the holders of the offices so mentioned shall be a charge on the Consolidated Revenue Fund of the Region.

(3) The salary payable to the holder of any office so mentioned and his terms of office other than allowances shall not be altered to his disadvantage after his appointment.

(4) The offices aforesaid are the office of Governor, President of the Court of Appeal or Justice of Appeal of the Region, Chief Justice or other Judge of the High Court of the Region, member of the Electoral Commission of the Region, member of the Public Service Commission of the Region and Director of Audit of the Region.

60. (1) There shall be a Director of Audit for the Region, whose office shall be an office in the public service of the Region.

Audit of
public
accounts.

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

(3) The Director of Audit of the Region shall submit his reports to the Minister of the Government of the Region responsible for finance, who shall cause them to be laid before both Legislative Houses of the Region.

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

Public debt.

61. (1) The public debt of the Region shall be secured on the revenues and assets of the Region.

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

CHAPTER VI

THE PUBLIC SERVICE OF THE REGION

Establishment of Public Service Commission.

62. (1) There shall be a Public Service Commission for the Region, which shall consist of a chairman and not less than two or more than four other members.

(2) The members of the Public Service Commission of the Region shall be appointed by the Governor, acting in accordance with the advice of the Premier.

(3) A person shall not be qualified to hold the office of a member of the Public Service Commission of the Region if he is a member of a Legislative House of the Region, a member of a House of Parliament, a member of a legislative house of another Region, a Minister of the Government of the Region, a Minister of the Government of the Federation, a Minister of the Government of another Region or a member of the public service of the Region, the public service of the Federation or the public service of another Region.

(4) Subject to the provisions of this section, a member of the Public Service Commission of the Region shall vacate his office—

- (a) at the expiration of five years from the date of his appointment ; or
- (b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

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

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

(7) A person who has been appointed to be a member of the Public Service Commission of the Region shall not thereafter be eligible for appointment to any office in the public service of the Region.

63. (1) Power to appoint persons to hold or act in offices in the public service of the Region (including power to make appointments on promotion and transfer and to confirm appointments) and to dismiss and exercise disciplinary control over persons holding or acting in such offices shall vest in the Public Service Commission of the Region :

Appointment, etc., of officers in public service.

Provided that the Commission may, with the approval of the Premier and subject to such conditions as it may think fit, delegate any of its powers under this section to any of its members or to any officer in the public service of the Region.

(2) Sub-section (1) of this section shall not apply in relation to any of the following offices :—

- (a) the office of the Deputy Governor of the Region ;
- (b) the office of any judge of the Court of Appeal or the High Court of the Region ;
- (c) except for the purposes of making an appointment thereto, the office of the Director of Audit of the Region ;
- (d) the office of the Agent-General of the Region in the United Kingdom ;
- (e) the office of Justice of the Peace.

(3) The provisions of this section shall be subject to the provisions of section 66 of this Constitution.

(4) No appointment shall be made under this section to any office on the personal staff of the Governor unless the Governor signifies his approval of the appointment.

64. If at any time the office of Deputy Governor of the Region is established under section 43 of this Constitution, power to appoint persons to hold or act in that office and to remove persons so appointed from that office shall vest in the Governor, acting in accordance with the advice of the Premier.

Appointment, etc., of Deputy Governor.

65. (1) Power to appoint person to hold or act in the office of the Agent-General of the Region in the United Kingdom (including power to make appointments on promotion and transfer) and to remove persons so appointed from that office shall vest in the Governor acting in accordance with the advice of the Premier.

Appointment, etc., of Agent-General in U.K.

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

66. (1) Power to appoint persons to hold or act in the office of Permanent Secretary to any department of government of the Region and to remove persons so appointed from that office shall vest in the Governor, acting in accordance with the advice of the Premier.

Appointment, etc., of Permanent Secretaries.

(2) Before tendering any advice for the purposes of this section the Premier shall consult the Public Service Commission of the Region.

Qualifications of Director of Public Prosecutions.

67. A person shall not be qualified to hold or act in the office of Director of Public Prosecutions of the Region unless he is qualified for admission as an advocate in Nigeria and has been so qualified for not less than ten years.

Appointment and tenure of office of Director of Audit.

68. (1) Before appointing any person to hold the office of Director of Audit of the Region the Public Service Commission of the Region shall consult the Premier.

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

(3) A person holding the office of Director of Audit of the Region shall be removed from office by the Governor if a resolution is passed by each Legislative House of the Region recommending his removal from office for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

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

(5) If the office of Director of Audit of the Region is vacant or the holder of the office is for any reason unable to perform the functions of the office, the Public Service Commission of the Region, acting after consultation with the Premier, may appoint a person to act in the office and any person so appointed shall continue to act until his appointment is revoked by the Commission, acting after consultation with the Premier.

Powers relating to Clerks of Legislative Houses.

69. Before exercising any of its powers in relation to the Clerk to the House of Chiefs the Public Service Commission of the Region shall consult the President of that House and before exercising any of its powers in relation to the Clerk to the House of Assembly the Commission shall consult the Speaker of that House.

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

70. (1) Where any benefits to which this section applies can be withheld, reduced in amount or suspended by any person or authority under any Regional law, those benefits shall not be so withheld, reduced in amount or suspended without the approval of the Public Service Commission of the Region.

(2) No benefits to which this section applies that have been granted to any person who holds or has held the office of judge of the Court of Appeal or the High Court of the Region or for which any such person may be eligible shall be withheld, reduced or suspended on the ground that that person has been guilty of misbehaviour while holding that office unless that person has been removed from that office by reason of such misbehaviour.

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

CHAPTER VII

MISCELLANEOUS

71. Power to appoint persons to hold the office of Justice of the Peace for the Region or any part thereof and to remove or suspend persons so appointed from that office shall vest in the Attorney-General of the Region.

Appointment
of Justices of
the Peace.

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

Powers and
procedure of
Commis-
sions.

(2) Subject to its rules of procedure, any Commission established by this Constitution may act notwithstanding any vacancy in its membership or the absence of any member, but any decision of the Commission shall require the concurrence of a majority of all the members thereof.

73. (1) The Governor may by instrument in writing establish for any Province of the Region a Provincial Administration.

Establish-
ment of
Provincial
Administra-
tions.

(2) A Provincial Administration established under this section shall consist of such persons and shall have such functions as may be prescribed by the Governor or by or under any law in force in the Region.

(3) The provisions of this section shall be without prejudice to the powers of the Legislature of the Region to establish a Provincial Administration for any Province of the Region or otherwise to make provision for the administration of that Province.

74. (1) Any person who is appointed, elected or otherwise selected to any office established by this Constitution may resign from that office by writing under his hand addressed to the person or authority by whom he is appointed, elected or selected :

Resignations.

Provided that—

(a) in the case of the Governor of the Region, his resignation shall be addressed to the Premier;

- (b) in the case of a member of a Legislative House of the Region who holds office as President of the House or Speaker of the House his resignation from the House or that office shall be addressed to the House ; and
- (c) in the case of any other member of a Legislative House of the Region his resignation from the House shall be addressed to the President of the House or Speaker of the House, as the case may be.

(2) The resignation of any person from any office established by this Constitution shall take effect when the writing signifying the resignation is received by the person or authority to whom it is addressed or by any person authorized by that person or authority to receive it.

(3) On the resignation of the Governor of the Region, the Premier shall forthwith give notice of the resignation to the President.

Re-appointments, etc.

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

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

CHAPTER VIII

TRANSITIONAL PROVISIONS

Repeal of certain constitutional instruments.

Law No. 13 of 1963.

76. (1) Subject to the provisions of this section and section 77 of this Constitution, the Act of the Parliament of the United Kingdom entitled the Nigeria Independence Act, 1960, and the Nigeria (Constitution) Order in Council, 1960, including the Fourth Schedule thereto, (other than sections 14 and 17 of the Order in Council and the Second, Third and Fifth Schedules thereto) are hereby repealed in so far as they have effect as part of, or in relation to, the law of the Region, without prejudice to the retrospective operation of the Constitution of Western Nigeria (Amendment) Law, 1963, the validity of which is hereby confirmed.

(2) Reference in sub-section (1) of this section to the law of a Region is reference to that law in so far as it is not either part of the law of the Federation as a whole or contained or deemed to be contained in an Act of Parliament enacted otherwise than in the exercise of powers conferred by provisions corresponding to section 72 of the Constitution of the Federation.

77. (1) Subject to the provisions of sections 78 and 79 of this Constitution, any court of law, authority or office which was established, any appointment, election or other selection which was made or held, and any other thing whatsoever which was done in pursuance of any provision repealed by section 76 of this Constitution or which was deemed by virtue of any such provision to be so established, made, held or done, shall be deemed—

Saving for things done, etc., under repealed constitutional instruments.

- (a) to have been duly established, made, held or done in pursuance of the corresponding provision of this Constitution, whether or not the corresponding provision differs from the provision to which it corresponds; and
- (b) so far as relevant in the case of an appointment, election, selection or other thing, to have been so made, held or done in pursuance of the corresponding provision on the date or for the period on or for which it was actually made, held or done.

(2) Without prejudice to the generality of sub-section (1) of this section and subject to the provisions of sub-section (3) of section 31 of this Constitution, the Legislative Houses of the Region shall, unless sooner dissolved, stand dissolved on the date on which they would, apart from this Constitution, have stood dissolved in pursuance of sub-section (2) of section 31 of the Constitution of Western Nigeria, as set out in the Fourth Schedule to the Nigeria (Constitution) Order in Council, 1960.

(3) Except so far as a contrary intention appears in this Constitution, any right, privilege, obligation or liability saved by the operation of the Interpretation Act (a), on the repeal by this Constitution of any enactment shall be deemed to arise under the corresponding provision of this Constitution, whether or not the corresponding provision differs from the enactment to which it corresponds.

78. (1) JOSEPH ODELEYE FADAHUNSI shall be deemed to be appointed Governor of the Region on the 1st day of October, 1963.

Special provision relating to Governor.

(2) Nothing in sub-section (1) of section 77 of this Constitution shall be construed as applying to the appointment or period of office of the Governor of the Region or to the oaths required to be taken and subscribed by a person appointed as Governor of the Region before he enters upon the duties of that office.

79. (1) All property which, immediately before the date of commencement of this Constitution, was held by the Crown or by some other body or person (not being an authority of the Region) on behalf of or in trust for the Crown shall on that date, by virtue of this sub-section and without further assurance, vest in the Governor and be held by him on behalf of, or as the case may be, on the like trusts for the benefit of, the Government of the Region; and all property which, immediately before the date aforesaid, was held by an authority of the Region on behalf of or in trust for the Crown shall be held by

Miscellaneous transitional provisions.

(a) Laws of the Federation of Nigeria and Lagos (1958) Chapter 89.

that authority on behalf of, or as the case may be, on the like trusts for the benefit of, the Government of the Region.

(2) References to the Crown in sub-section (1) of this section are references to the Crown in right of the Government of the Region, and that sub-section shall, with necessary modifications, apply in relation to rights, liabilities and obligations arising out of a contract or other arrangement as it applies in relation to property.

(3) Nothing in this section shall be construed as purporting to prejudice section 156 of the Constitution of the Federation.

CHAPTER IX

GENERAL INTERPRETATION

Interpreta-
tion, etc.,—
general

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

“Act of Parliament” means any law made by Parliament ;

“the Advisory Council” means the Advisory Council on the Prerogative of Mercy of the Region ;

“the Commonwealth” means Nigeria, any country to which section 14 of the Constitution of the Federation applies and any dependency of any such country ;

“financial year” means any period of twelve months beginning on the 1st day of April in any year or such other date as the Legislature of the Region may prescribe ;

“oath” includes affirmation ;

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

“Parliament” means the Parliament of the Federation ;

“the President” means the President of the Republic ;

“the public service of the Region” means the service of the Government of the Region in a civil capacity ;

“Regional law” means any law made by the Legislature of the Region ;

“the state” means the Government of the Federation or a Region and “office under the state” and “office of emolument under the state” include office as the Governor of a Region, or as a member of the Government of the Federation or a Region, so, however, that a person shall not be treated as holding an office of emolument under the state by reason only of his receiving a pension or other like benefit in respect of an office under the state ;

“the Supreme Court” means the Supreme Court of Nigeria.

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

- (a) references to persons holding offices in the public service of the Federation or the public service of a Region include references to persons acting in those offices ; and
- (b) references to offices in the public service of the Region include references to the offices of the judges of the Court of Appeal and the High Court of the Region and references to the offices of members of all other courts of law established by the Legislature of the Region, being offices the emoluments attaching to which are paid out of the Consolidated Revenue Fund or any other public fund of the Region.

(3) For the purposes of this Constitution, the office of the President of the House of Chiefs or the Deputy President of the House, a member of the House of Chiefs, the Speaker or the Deputy Speaker of the House of Assembly, a member of the House of Assembly, a Minister of the Government of the Region, a Parliamentary Secretary to such a Minister or a member of the Executive Council, any Commission established by this Constitution or the Advisory Council shall not be regarded as an office in the public service of the Region.

(4) The Interpretation Act (a), as in force on the 1st day of October, 1963, shall, subject to the provisions of this Constitution and the Constitution of the Federation, apply, with necessary adaptations, for the purpose of interpreting this Constitution as it applies for the purpose of interpreting Acts of Parliament.

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

(6) Notwithstanding anything in section 16 or any other provision of this Constitution, no question as to the validity of the selection, appointment, approval of appointment, recognition, installation, grading, deposition or abdication of any chief shall be entertained by any court of law in the Region.

(7) For the avoidance of doubt it is hereby declared that any power to make laws conferred by this Constitution includes power to make laws having extra-territorial operation.

(a) Laws of the Federation of Nigeria and Lagos (1958) Chapter 89.

THE CONSTITUTION OF
MID-WESTERN NIGERIA
ACT, 1964

CONSTITUTION OF MID-WESTERN NIGERIA ACT, 1964



ARRANGEMENT OF SECTIONS

Section

- | | |
|--|------------------------------|
| 1. Constitution for Mid-Western Region. | 3. Commencement of this Act. |
| 2. Transitional operation of 1963, No. 19. | 4. Short title and extent. |

SCHEDULE

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THE GOVERNOR

1. Establishment and tenure of office of Governor.
2. Oaths to be taken by Governor.
3. Discharge of Governor's functions during vacancy, etc.

CHAPTER II

THE LEGISLATURE

Part I.—Composition of Legislature

4. Establishment of Legislature.
5. Composition of House of Chiefs.
6. Composition of House of Assembly.
7. Qualifications for membership of House of Assembly.
8. Disqualifications for membership of House of Assembly, etc.
9. President of House of Chiefs.
10. Speaker of House of Assembly.
11. Right of attendance of Ministers.
12. Tenure of seats of members of House of Assembly.
13. Establishment of Electoral Commission.
14. Constituencies.
15. Elections.

16. Determination of questions of membership of Legislative Houses.

17. Clerks to Legislative Houses and their staffs.

Part II.—Procedure in Legislative Houses

18. Oaths to be taken by members of Legislative Houses.
19. Presiding in House of Chiefs.
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21. Quorum in Legislative Houses.
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SCHEDULES :

First Schedule—Special areas, etc.

Second Schedule—Transitional provisions.

1964, No. 3

AN ACT TO MAKE PROVISION FOR THE CONSTITUTION OF MID-WESTERN NIGERIA ;
AND FOR PURPOSES CONNECTED THEREWITH.

[See section 3]

BE IT ENACTED by the Legislature of the Federation of Nigeria in this present Parliament assembled and by the authority of the same as follows :—

1. Subject to the provisions of the Constitution of the Federation, the constitution set out in the Schedule to this Act shall be the constitution of Mid-Western Nigeria.

2. The Mid-Western Region (Transitional Provisions) Act, 1963, shall have effect as if the reference in paragraph (a) of subsection (1) of section one of that Act to the time there mentioned were a reference to the day appointed in pursuance of subsection (3) of section three of this Act ; and that Act is hereby repealed on that day.

3.—(1) This Act shall be deemed to have come into force on the first day of November, 1963, in so far as it makes provision (either in connection with constituencies, elections, qualifications, determination of questions, the operation of laws or otherwise howsoever) relating to members of the House of Assembly of the Region ; so however that, without prejudice to the operation of any law in force in the Region at any time before the passing of this Act, it shall, in so far as it modifies any law with respect to offences or punishment, come into force for the purposes of this subsection on the date on which it is passed.

(2) Section two of this Act shall come into force on the date on which this Act is passed.

(3) Subject to the foregoing provisions of this section, this Act shall come into force on such day as the Prime Minister may by order appoint.

4. This Act may be cited as the Constitution of Mid-Western Nigeria Act, 1964, and shall apply throughout the Federation.

Commencement.

Constitution for Mid-Western Region.

Transitional operation of 1963, No. 19.

Commencement of this Act.

Short title and extent.

SCHEDULE

Section 1

THE CONSTITUTION OF MID-WESTERN NIGERIA

CHAPTER I

THE GOVERNOR

1.—(1) There shall be a Governor of the Region who shall, subject to the provisions of this section, be appointed by the President, acting in accordance with the advice of the Premier, and shall, subject as aforesaid, hold office for a term of five years.

Establishment and tenure of office of Governor.

(2) The office of Governor shall become vacant—

(a) on the expiration of his term of office ;

(b) if he dies ;

(c) if he resigns ; or

(d) if he is removed from office by the President, acting in accordance with the advice of the Premier.

(3) The Premier shall consult the Prime Minister of the Federation before tendering any advice to the President for the purposes of this section.

Oaths to be taken by Governor.

2. A person appointed to the office of Governor shall, before entering upon the duties of that office, take and subscribe, before the Chief Justice of the Region, the oath of allegiance and such oath for the due execution of the office as may be prescribed by the Legislature of the Region.

Discharge of Governor's functions during vacancy, etc.

3. Whenever the office of Governor is vacant or the holder of the office is absent from Nigeria or is in the opinion of the Premier for any reason unable to perform the functions conferred upon him by this Constitution, those functions shall be performed by such person as the President, acting in accordance with the advice of the Premier, may appoint or, if there is no person in the Region so appointed and able to perform those functions, by the President of the House of Chiefs :

Provided that nothing in this section shall preclude the Governor from performing any of those functions at any time when he is absent from Nigeria.

CHAPTER II

THE LEGISLATURE

Part I.—Composition of Legislature

Establishment of Legislature.

4. There shall be a Legislature for the Region, which shall consist of the Governor, a House of Chiefs and a House of Assembly and which shall have power to make laws for the peace, order and good government of the Region.

Composition of House of Chiefs.

5.—(1) Without prejudice to the provisions of section 9 of this Constitution, the House of Chiefs shall consist of—

(a) the Oba of Benin, the Olu of Warri and the persons for the time being holding such other chieftaincies as may be prescribed by the Governor, who shall be ex-officio members of the House ;

(b) fifty-one Chiefs having such qualifications and selected in such manner as may be prescribed by the Legislature of the Region ;

(c) such Special Members, being Chiefs, as may be selected by the Governor, acting in accordance with the advice of the Premier ; and

(d) four members selected by the Governor, acting in accordance with the advice of the Premier, to represent the interests of groups of persons resident in the special areas within the meaning of subsection (4) of section 14 of this Constitution, being groups whose interests, in the opinion of the Governor acting as aforesaid, are not represented by members of the House of Assembly for constituencies in those areas.

(2) A person shall not be a member of the House of Chiefs by virtue of paragraph (a) of subsection (1) of this section during any period when he holds office as Governor : and the number of persons who are for the time being members of that House by virtue of that paragraph or paragraph (c) of that subsection shall not in the aggregate exceed ten.

(3) The seat of a member of the House of Chiefs shall become vacant—

(a) in the case of a member other than the Oba of Benin, the Olu of Warri or a Special Member, in such circumstances as may be prescribed by the Legislature of the Region ; and

(b) in the case of a Special Member, if he is removed from office as such a member by the Governor, acting in accordance with the advice of the Premier.

(4) In this section "Chief" means any person who is for the time being recognised as a Chief under any law in force in the Region.

6. Without prejudice to the provisions of subsection (5) of section 10 and subsection (13) of section 33 of this Constitution, the House of Assembly shall consist of sixty-five members.

**Composition
of House of
Assembly.**

7.—(1) Subject to the provisions of subsection (3) of this section and section 8 of this Constitution, a person shall be qualified to be a member of the House of Assembly if he is a citizen of Nigeria who has attained the age of twenty-one years and—

**Qualifica-
tions for
membership
of House of
Assembly.**

(a) who was born in the Region ; or

(b) whose father was born in the Region ; or

(c) who has resided in the Region for a continuous period of at least one year immediately before the relevant date.

(2) In subsection (1) of this section "the relevant date" means—

(a) in relation to an elected member, the date of his nomination for election as a member ; and

(b) in relation to a person nominated for election as Speaker from outside the House, the date of the nomination.

(3) A law made by the Legislature of the Region may provide that, notwithstanding that a person satisfied any of the requirements of paragraphs (a) to (c) of subsection (1) of this section, he shall not be qualified to be a member of the House of Assembly for a constituency in a special area within the meaning of subsection (4) of section 14 of this Constitution unless he satisfies such conditions as may be specified by that law ; and until provision to the contrary is made by such a law there shall, as respects the constituencies in each area described in paragraphs 1, 2, 3 and 4 of the first column of the First Schedule to this Constitution, be deemed to be specified by such a law which so provides the condition that a person shall be a member in accordance with customary law of the ethnic group specified as respects that area in the second column of that Schedule.

(4) Subsection (5) of the said section 14 shall apply to a law made for the purposes of the last foregoing subsection as it applies to a law made for the purposes of subsection (4) of that section.

Disqualifi-
cations for
membership
of House of
Assembly,
etc.

8.—(1) No person shall be qualified for election to the House of Assembly—

(a) if he has voluntarily acquired citizenship of a country other than Nigeria or has, except in such cases as may be prescribed by the Legislature of the Region, made a declaration of allegiance to such a country ;

(b) if under any law in force in any part of Nigeria he is adjudged to be a lunatic or otherwise declared to be of unsound mind ;

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

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

(e) save as otherwise provided by the Legislature of the Region, if he is a member of the public service of the Region, the public service of the Federation or the public service of another Region, a member of the armed forces of the Federation or the holder of any other office of emolument under the state ; or

(f) if he is a member of the House of Chiefs, and ex-officio member of the Senate or a member of a legislative house of another Region.

(2) The Legislature of the Region may provide that a person shall not be qualified for membership of the House of Assembly for such period (not exceeding five years) as may be prescribed if he is convicted by any court of law in Nigeria of such offences connected with the selection or election of members of a Legislative House of the Region, a House of Parliament or legislative house of another Region as may be prescribed.

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

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

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

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

(7) For the purposes of paragraph (e) of subsection (1) of this section, the office of President of the House of Chiefs, Deputy President or a member of that House, the Speaker or Deputy Speaker of the House of Assembly, or a member of that House, the President, Deputy President, Speaker or Deputy Speaker or a member of a House of Parliament or a legislative house of another Region, a Minister of the Government of the Region, a Minister of the Government of the Federation, a Minister of the Government of another Region, a Parliamentary Secretary to any such Minister, a member of the Executive Council of the Region, a member of the Council of Ministers, a member of the Executive Council of another Region, a member of the Council of Chiefs of Northern Nigeria, or a member of any such body corporate as is referred to in the proviso to subsection (10) of this section shall not be regarded as an office of emolument under the state.

(8) Save as otherwise provided by the Legislature of the Region, a person shall not be regarded as disqualified for membership of the House of Assembly by reason only that he holds office as a member of a statutory corporation.

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

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

Provided that it does not include any body corporate established by virtue of the provisions of the Western Region Local Government Law, 1952, or the Local Government Law of that Region (a), as amended, or any law replacing either of those laws, as those provisions have effect as part of the law of Mid-Western Nigeria.

9.—(1) There shall be a President of the House of Chiefs, who shall be elected by the members of that House.

President of
House of
Chiefs.

(2) No person shall be elected as President of the House of Chiefs unless he is a member of the House or a Chief qualified for selection as a member of the House.

(3) The President of the House of Chiefs shall vacate his office—

(a) if he ceases to be a member of the House otherwise than by reason of a dissolution of the Legislative Houses of the Region ;

(b) when the House first sits after any dissolution ;

(c) if he becomes a Minister of the Government of the Region, a Parliamentary Secretary to such a Minister, a Minister of the Government of the Federation or a Minister of the Government of another Region ; or

(d) if he is removed from office by a resolution of the House supported by the votes of two-thirds of all the members of the House.

(a) Law No. 1 of 1953 and Laws of Western Nigeria (1959) Chapter 68.

(4) No business shall be transacted in the House of Chiefs (other than an election to the office of President of the House) at any time when that office is vacant.

(5) Subject to subsection (3) of section 5 of this Constitution, the President of the House of Chiefs shall be a member of the House by virtue of this subsection if he is not such a member apart from this subsection.

Speaker of
House of
Assembly.

10.—(1) There shall be a Speaker of the House of Assembly, who shall be elected by the members of that House.

(2) No person shall be elected as Speaker of the House of Assembly unless he is a member of the House or a person qualified to be a member of the House.

(3) The Speaker of the House of Assembly shall vacate his office—

(a) if he ceases to be a member otherwise than by reason of a dissolution of the Legislative Houses of the Region ;

(b) when the House first sits after any dissolution ;

(c) if he becomes a Minister of the Government of the Region, a Parliamentary Secretary to such a Minister, a Minister of the Government of the Federation or a Minister of the Government of another Region ; or

(d) if he is removed from office by a resolution of the House supported by the votes of two-thirds of all the members of the House.

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

(5) Subject to the provisions of section 12 of this Constitution, the Speaker shall be a member of the House of Assembly by virtue of this subsection if he is not such a member apart from this subsection.

Right of
attendance
of Ministers.

11.—(1) A Minister of the Government of the Region may attend and take part in the proceedings of either Legislative House of the Region notwithstanding that he is not a member of that House.

(2) Nothing in this section shall entitle any person who is not a member of a Legislative House of the Region to vote in that House or any of its committees.

Tenure of
seats of
members of
Assembly.

12.—(1) A member of the House of Assembly shall vacate his seat in the House—

(a) if he becomes a member of the House of Chiefs, a House of Parliament or a legislative house of another Region ;

(b) if any other circumstances arise that, if he were not a member of the House, would cause him to be disqualified for election as such under subsection (1), (2) or (3) of section 8 of this Constitution ;

(c) if he ceases to be a citizen of Nigeria ;

(d) if he becomes a Minister of the Government of the Federation or a Minister of the Government of another Region ;

(e) save as otherwise provided by the Legislature of the Region, if he becomes a member of any statutory corporation ; or

(f) if he is absent from two consecutive meetings of the House and the Speaker of the House does not, by writing under his hand, excuse his absence within one month after the end of the second meeting.

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

(3) In this section the expression "statutory corporation" has the meaning assigned to it for the purposes of section 8 of this Constitution.

13.—(1) There shall be an Electoral Commission for the Region.

(2) The members of the Electoral Commission of the Region shall be—

(a) the chairman of the Electoral Commission of the Federation, who shall be chairman ;

(b) the member of the Electoral Commission of the Federation representing the Region ; and

(c) two other members or such greater number of members as may be appointed by the Governor, acting in accordance with the advice of the Premier.

(3) A person shall not be qualified for appointment as a member of the Electoral Commission of the Region if he is a member of either Legislative House of the Region, a member of either House of Parliament or a member of a legislative house of another Region, a Minister of the Government of the Region, a Minister of the Government of the Federation, a Minister of the Government of another Region or a member of the public service of the Region, the public service of the Federation or the public service of another Region.

(4) Subject to the provisions of this section, a member of the Electoral Commission of the Region appointed by the Governor shall vacate his office—

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

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

(5) A member of the Electoral Commission of the Region appointed by the Governor may be removed from office by the Governor, acting in accordance with the advice of the Premier, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

(6) A member of the Electoral Commission of the Region appointed by the Governor shall not be removed from office except in accordance with the provisions of this section.

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

Establishment of Electoral Commission.

Constituencies.

14.--(1) The Region shall be divided into as many constituencies as there are members of the House of Assembly by virtue of section 6 of this Constitution, and shall be so divided in such manner as the competent authority, acting with the approval of each Legislative House of the Region signified by resolution, may prescribe.

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

Provided that the number of inhabitants of a constituency may be greater or less than the population quota in order to take account of means of communication, geographical features and the distribution of different communities.

(3) The competent authority shall review the division of the Region into constituencies at intervals of not less than eight and not more than ten years and may alter the constituencies in accordance with the provisions of this section to such extent as it may consider desirable in the light of the review :

Provided that that authority may at any time carry out such a review and alter the constituencies in accordance with the provisions of this section to such extent as it considers necessary in consequence of any alteration of the boundaries of the Region or by reason of the holding of a census of the population of the Region in pursuance of any law in force in the Region.

(4) Notwithstanding anything in the foregoing provisions of this section, each of the special areas within the meaning of this subsection shall be divided into four constituencies in the manner mentioned in subsection (1) of this section ; but the constituencies established in pursuance of this subsection shall be included in, and shall not be additional to, the total number of constituencies established in pursuance of the said subsection (1).

In this and the next following subsection, "special areas" mean such areas within the Region (not for the time being exceeding four) as may be specified for the purposes of this subsection by a law made by the Legislature of the Region ; and until provision to the contrary is made by such a law, the areas described in paragraphs 1, 2, 3 and 4 respectively of the first column of the First Schedule to this Constitution shall each be deemed to be specified as aforesaid.

(5) A law made by the Legislature of the Region for the purposes of subsection (4) of this section shall not come into force as respects any existing special area unless--

(a) a referendum upon the question whether the law should come into force has been held in that area in pursuance of provision made in that behalf by the Legislature of the Region ; and

(b) the persons entitled to vote in the referendum were those who at the date of the referendum were entitled to vote in elections of members of the House of Assembly for the constituencies in that area ; and

(c) not less than two-thirds of all those persons voted in the referendum in favour of the law.

(6) Where the boundaries of any constituency established in pursuance of this section are altered in accordance with the provisions

of this section, that alteration shall come into effect upon the next following dissolution of the Legislative Houses of the Region.

(7) In this section "population quota" means the number obtained by dividing the number of the inhabitants of the Region by the number of constituencies into which the Region is divided in pursuance of this section, any constituency established in pursuance of subsection (4) of this section and the inhabitants of any such constituency being left out of account.

(8) For the purposes of this section the number of inhabitants of the Region or a constituency shall be ascertained by reference to the latest census of the population of the Region held in pursuance of any law in force in the Region.

(9) In this section "the competent authority" means the Electoral Commission of the Region or such other authority consisting of persons appointed by the Governor, acting in accordance with the advice of the Premier, as may be established in that behalf by the Legislature of the Region.

15.—(1) Every constituency established in pursuance of section 14 of this Constitution shall return to the House of Assembly one member who shall be directly elected in such manner as may be prescribed by the Legislature of the Region.

Elections.

(2) The registration of voters at elections to the House of Assembly and the conduct of such elections shall be subject to the direction and supervision of the Electoral Commission of the Region.

16.—(1) The High Court of the Region shall have original jurisdiction to hear and determine any question whether—

Determination of questions of membership of Legislative Houses.

(a) any person has been validly selected or elected as a member of a legislative House of the Region; or

(b) the seat in a Legislative House of any member of that House has been vacant.

(2) The Legislature of the Region may make provision with respect to—

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

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

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

17.—(1) There shall be a Clerk to the House of Chiefs and a Clerk to the House of Assembly, and both offices may be held by the same person.

Clerks to Legislative Houses and their staffs.

(2) Subject to the provisions of any Regional law, the office of the Clerk of each Legislative House of the Region and the office of each member of his staff shall be offices in the public service of the Region.

Part II.—Procedure in Legislative Houses

18. Every member of either Legislative House of the Region shall, before taking his seat in that House, take and subscribe before the House the oath of allegiance, but a member may before taking that oath take part in the election of a President of the House of Chiefs or a Speaker of the House of Assembly, as the case may be:

Oaths to be taken by members of Legislative Houses.

Provided that if a Legislative House is not sitting a member of that House may take and subscribe the oath of allegiance before a judge of the High Court of the Region.

Presiding in
House of
Chiefs.

19. (1) There shall preside at any sitting of the House of Chiefs—

(a) the President of the House ; or

(b) in the absence of the President of the House, the Deputy President ; or

(c) in the absence of the President of the House and the Deputy President, such member of the House as the House may elect for that purpose.

(2) The House of Chiefs may from time to time elect a member of the House to be Deputy President and any person so elected shall hold office as such until he ceases to be a member of the House or is removed from office by the House.

Presiding in
House of
Assembly.

20.—(1) There shall preside at any sitting of the House of Assembly—

(a) the Speaker ; or

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

(c) in the absence of the Speaker and the Deputy Speaker, such member of the House as the House may elect for that purpose.

(2) The House of Assembly may from time to time elect a member of the House to be Deputy Speaker and any person so elected shall hold office as such until he ceases to be a member of the House or is removed from office by the House.

Quorum in
Legislative
Houses.

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

Use of
English in
Legislative
Houses.

22. The business of the Legislative Houses of the Region shall be conducted in English.

Voting in
Legislative
Houses.

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

(2) Save as otherwise provided in this Constitution, the required majority for the purposes of determining any question shall be a simple majority.

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

24. Any person who sits or votes in either Legislative House of the Region knowing or having reasonable ground for knowing that he is not entitled to do so shall be liable to a penalty not exceeding twenty pounds or such other sum as may be prescribed by the Legislature of the Region for each day on which he sits or votes in that House, which shall be recoverable by action in the High Court of the Region at the suit of the Attorney-General of the Region.

Unqualified persons sitting or voting.

25.—(1) The power of the Legislature of the Region to make laws shall be exercised by bills passed by both Legislative Houses of the Region (or in the cases mentioned in section 27 of this Constitution the House of Assembly) and assented to by the Governor.

Mode of exercising legislative power.

(2) A bill other than a money bill may originate in either Legislative House of the Region but a money bill may originate only in the House of Assembly.

(3) When a bill has been passed by the Legislative House of the Region in which it originated, it shall be sent to the other House; and it shall be presented to the Governor for assent—

(a) when it has been passed by the other House and agreement has been reached between the two Houses on any amendments made in it; or

(b) when it is required to be so presented under section 27 of this Constitution.

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

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

26.—(1) The House of Chiefs shall not—

(a) proceed upon any bill, other than a bill sent from the House of Assembly, that, in the opinion of the person presiding, makes provision for any of the following purposes—

Restrictions with regard to certain financial measures.

(i) the imposition, repeal or alteration of taxation;

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

(iii) the payment, issue or withdrawal from the Consolidated Revenue Fund or any other public fund of the Region of any moneys not charged thereon or any alteration in the amount of such a payment, issue or withdrawal; or

(iv) the composition or remission of any debt due to the Region;

(b) proceed upon any amendment to any bill that, in the opinion of the person presiding, makes provision for any of those purposes;

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

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

(2) Except upon the recommendation of the Governor signified by a Minister of the Government of the Region, the House of Assembly shall not—

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

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

(ii) the imposition of any charge upon the Consolidated Revenue Fund or any other public fund of the Region or the alteration of any such charge otherwise than by reduction ;

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

(iv) the composition or remission of any debt due to the Region ;

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

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

Limitation
of powers of
House of
Chiefs.

27.—(1) Where a money bill is passed by the House of Assembly and, having been sent to the House of Chiefs at least one month before the end of the session, is not passed by the House of Chiefs without amendment within one month after it is so sent, the bill shall, unless the House of Assembly otherwise resolves, be presented to the Governor for his assent.

(2) Where—

(a) a bill that is not a money bill is passed by the House of Assembly and, having been sent to the House of Chiefs at least one month before the end of the session, is not passed by the House of Chiefs before the end of the session or is passed by the House of Chiefs with amendments to which the House of Assembly does not before the end of the session agree ; and

(b) in the following session (whether of the same Legislative Houses or not) but not earlier than six months after it was first passed by the House of Assembly the same bill, with no other alterations than those mentioned in subsection (4) of this section, is passed again by the House of Assembly and sent to the House of Chiefs at least one month before the end of the session and is not passed by the House of Chiefs before the end of the session or is passed by the House of Chiefs with amendments to which the House of Assembly does not before the end of the session agree,

the bill shall, unless the House of Assembly otherwise resolves, be presented to the Governor for his assent with such amendments, if any, as may have been agreed to by both Houses.

(3) The House of Assembly may, on the passage of a bill for the purposes of paragraph (b) of subsection (2) of this section, suggest any amendments without inserting the amendments in the bill and any such suggested amendments shall be considered by the House of Chiefs and, if agreed to by the House of Chiefs, shall be treated as amendments agreed to by both Houses; but the exercise of this power by the House of Assembly shall not affect the operation of this section if the bill is not passed by the House of Chiefs or is passed by the House of Chiefs with amendments to which the House of Assembly does not agree.

(4) The alterations referred to in subsection (2) of this section are alterations certified by the Speaker of the House of Assembly to be necessary owing to the time that has elapsed since the bill was passed in the earlier session or to represent amendments made in that session by the House of Chiefs.

(5) When a money bill is sent to the House of Chiefs from the House of Assembly it shall bear a certificate of the Speaker of the House of Assembly that it is a money bill.

(6) When a bill is presented to the Governor in pursuance of this section it shall bear a certificate of the Speaker of the House of Assembly that this section has been complied with and that certificate shall be conclusive for all purposes and shall not be questioned in any court of law.

(7) This section does not apply to any bill for the purposes of section 5 of the Constitution of the Federation.

28.—(1) Subject to the provisions of this Constitution, each Legislative House of the Region may regulate its own procedure.

Regulation
of procedure
in Legislative
Houses.

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

29. Without prejudice to the generality of section 75 of this Constitution, in this Part of this Chapter "money bill" means a bill that in the opinion of the Speaker of the House of Assembly contains only provisions dealing with—

Interpreta-
tion of Part
II.

(a) the imposition, repeal, remission, alteration or regulation of taxation;

(b) the imposition for the payment of debt or other financial purposes of charges on the Consolidated Revenue Fund or any other public fund of the Region or the variation or repeal of any such charges;

(c) the grant of money to the state or to any other person or authority or the variation or revocation of any such grant;

(d) the appropriation, receipt, custody investment, issue or audit of accounts of public money;

(e) the raising or guarantee of any loan or the repayment thereof; or

(f) subordinate matters incidental to any of those matters:

Provided that the expression "taxation", "public money" and "loan" do not include any taxation, money or loan raised by local authorities or bodies for public purposes.

Part III. Summoning, prorogation and dissolution

30. Each session of the Legislative Houses of the Region shall be held at such place within the Region and shall begin at such time (not being later than twelve months from the end of the preceding session if those Houses have been prorogued or three months from the end of that session if those Houses have been dissolved) as the Governor shall appoint.

31.—(1) The Governor may at any time prorogue or dissolve the Legislative Houses of the Region.

(2) Subject to the provisions of subsection (3) of this section, the Legislative Houses of the Region, unless sooner dissolved, shall continue for five years from the date of their first sitting after any dissolution and shall then stand dissolved.

(3) At any time when the Federation is at war, the Legislature of the Region may from time to time extend the period of five years specified in subsection (2) of this section for not more than twelve months at a time :

Provided that the life of the Legislative Houses of the Region shall not be extended under this subsection for more than five years.

(4) In the exercise of his powers to dissolve the Legislative Houses of the Region the Governor shall act in accordance with the advice of the Premier, so however that the Premier recommends a dissolution in a case not falling within subsection (5) of this section and the Governor considers that the government of the Region can be carried on without a dissolution and that a dissolution would not be in the interests of the Region, he may refuse to dissolve the Legislative Houses.

(5) The Governor shall dissolve the Legislative Houses of the Region—

(a) if the House of Assembly passes a resolution that it has no confidence in the Government of the Region, and within the period of three days beginning with the day on which the resolution is passed the Premier does not resign or recommend a dissolution or does recommend a dissolution ;

(b) if the office of Premier is vacant and the Governor considers that there is no prospect of his being able, within a reasonable time, to appoint to that office a person who can command the support of the majority of the members of the House of Assembly.

CHAPTER III

EXECUTIVE POWERS

32.—(1) The executive authority of the Region shall be vested in the Governor and, subject to the provisions of this Constitution, may be exercised by him either directly or through officers subordinate to him.

Exercise of executive authority of Region.

(2) Nothing in this section shall prevent the Legislature of the Region from conferring functions on persons or authorities other than the Governor.

33.—(1) There shall be a Premier of the Region, who shall be appointed by the Governor.

Ministers of Government of Region.

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

(3) There shall be, in addition to the office of Premier, such other offices of Minister of the Government of the Region as may be established by this Constitution or by the Legislature of the Region or, subject to the provisions of any Regional law, by the Governor, acting in accordance with the advice of the Premier.

(4) Appointments to the office of Minister of the Government of the Region other than the office of Premier shall be made by the Governor, acting in accordance with the advice of the Premier :

Provided that at least two Ministers shall be appointed from among the members of the House of Chiefs.

(5) A person shall not hold office at the same time both as a Minister of the Government of the Region and as a Minister of the Government of the Federation or as a Minister of the Government of another Region.

(6) A person who holds office as a Minister of the Government of the Region for any period of four consecutive months without also being a member of a Legislative House of the Region shall cease to be a Minister at the expiration of that period or, if that period expires at a time when the Legislative Houses are dissolved and he does not in the meantime become a member of a Legislative House, at the date on which the Legislative Houses first meet after that dissolution.

(7) A person who holds office as a Minister of the Government of the Region and who is at no time while holding that office also a member of a Legislative House of the Region shall not be qualified for re-appointment as such a Minister before the Legislative Houses are next dissolved after he ceases to hold that office, unless in the meantime he has become a member of a Legislative House.

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

(a) when, after any dissolution of the Legislative Houses of the Region, the Premier is informed by the Governor that the Governor is about to reappoint him as Premier or to appoint another person a Premier ; or

(b) if he ceases to be a member of the House of Assembly otherwise than by reason of a dissolution of the Legislative Houses.

(9) The office of a Minister of the Government of the Region other than the Premier shall become vacant if the office of Premier becomes vacant.

(10) Subject to the provisions of subsection (9) of this section, the Ministers of the Government of the Region, other than the Premier, shall hold office during the Governor's pleasure; but the Governor shall not remove such a Minister from office except in accordance with the advice of the Premier.

(11) If on any occasion the office of Premier becomes vacant at a time when the Legislative Houses of the Region are dissolved, then—

(a) subsections (2) and (9) of this section and paragraph (b) of subsection (2) of section 40 of this Constitution shall not apply as respects that occasion; and

(b) the Governor shall appoint a member of the Executive Council as the Premier:

and if a dissolution of the Legislative Houses of the Region takes place at a time when the office of Premier is vacant, the Governor shall, without regard to the provisions of subsection (2) of this section, appoint as Premier a person who was a member of the Executive Council immediately before the vacancy occurred.

(12) There shall be an Attorney-General of the Region who shall be a Minister of the Government of the Region.

(13) Subject to the provisions of section 12 of this Constitution, the Attorney-General of the Region shall be a member of the House of Assembly by virtue of this subsection if he is not a member of the House of Chiefs and is not apart from this subsection a member of the House of Assembly.

(14) If the person holding the office of Attorney-General of the Region is for any reason unable to perform the functions conferred upon him by this Constitution or any other law, those functions (other than functions as a member of the House of Assembly) may be performed by such other person, whether or not that person is a Minister, as may from time to time be designated in that behalf by the Governor, acting in accordance with the advice of the Premier.

(15) A person shall not be qualified to hold or perform the functions of the office of the Attorney-General of the Region unless he is qualified for admission as an advocate in Nigeria and has been so qualified for not less than ten years.

Establish-
ment of
Executive
Council.

34.—(1) There shall be an Executive Council for the Region, whose function shall be to advise the Governor in the government of the Region and which shall consist of the Premier and such other persons, being Ministers of the Government of the Region, as the Governor, acting in accordance with the advice of the Premier, may from time to time appoint.

(2) A person appointed as a member of the Executive Council shall vacate his seat on the Council if he ceases to be a Minister of the Government of the Region or if the Governor, acting in accordance with the advice of the Premier, so directs.

35.—(1) The Executive Council shall be collectively responsible to the Legislative Houses of the Region for any advice given to the Governor by or under the general authority of the Council and for all things done by or under the authority of any Minister of the Government of the Region in the execution of his office.

Collective responsibility.

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

(a) the appointment and removal from office of Ministers of the Government of the Region, members of the Executive Council and Parliamentary Secretaries to Ministers, the assignment of portfolios to Ministers or the authorization of another member of the Executive Council to perform the functions of the Premier in pursuance of section 37 of this Constitution ;

(b) the dissolution of the Legislative Houses of the Region ;

(c) the matters referred to in section 44 of this Constitution ; or

(d) the exercise of the powers conferred on the Attorney-General of the Region by section 47 of this Constitution.

36. The Governor, acting in accordance with the advice of the Premier, may assign to the Premier or any other Minister of the Government of the Region responsibility for any business of the Government of the Region, including the administration of any department of government.

Allocation of portfolios to Ministers.

37.—(1) Whenever the Premier is absent from Nigeria or is for any other reason unable to perform the functions conferred upon him by this Constitution, the Governor may authorize some other member of the Executive Council of the Region to perform those functions (other than the functions conferred by this section) and that member may perform those functions until his authority is revoked by the Governor.

Performance of functions of Premier during absence, etc.

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

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

38. (1) Subject to the provisions of subsection (2) of this section, in the exercise of his functions under this Constitution, the Constitution of the Federation or any other law the Governor shall act in accordance with the advice of the Executive Council or a Minister of the Government of the Region acting under the general authority of the Executive Council except in cases where by this Constitution he is required to act in accordance with the advice of any person or authority other than the Executive Council :

Exercise of Governor's powers.

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

(a) in the exercise of the power to refuse to dissolve the Legislative Houses of the Region conferred upon him by subsection (4) of section 31 of this Constitution ;

(b) in the exercise of the powers to appoint the Premier conferred upon him by subsections (2) and (11) of section 33 of this Constitution and of the power conferred upon him by subsection (8) of that section to inform the Premier of his re-appointment or replacement ;

(c) in the exercise of the powers conferred upon him by section 37 of this Constitution in the circumstances described in the proviso to subsection (2) of that section ;

(d) in the exercise of the power conferred upon him by section 39 of this Constitution to request the Premier to furnish him with information ; and

(e) in signifying his approval for the purposes of section 62 of this Constitution of an appointment to an office on his personal staff.

(2) Nothing in subsection (1) of this section shall apply to functions conferred upon the Governor by subsection (5) of section 31, subsection (2) of section 50 or subsection (3) of section 67 of this Constitution.

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

Governor to be informed concerning matters of government.

39. The Premier shall keep the Governor fully informed concerning the general conduct of the government of the Region and shall furnish the Governor with such information as he may request with respect to any particular matter relating to the government of the Region.

Parliamentary Secretaries.

40.—(1) The Governor, acting in accordance with the advice of the Premier, may appoint Parliamentary Secretaries from among the members of the Legislative Houses of the Region to assist Ministers of the Government of the Region in the performance of their duties.

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

(a) if he ceases to be a member of one or other of the Legislative Houses of the Region otherwise than by reason of a dissolution of those Houses ;

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

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

Oaths to be taken by Ministers.

41. A member of the Executive Council, Minister of the Government of the Region or Parliamentary Secretary to such a Minister shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by the Legislature of the Region.

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

Permanent secretaries.

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

43. Subject to the provisions of this Constitution and of any Regional law, the Governor may constitute offices for the Region, make appointments to any such office and terminate any such appointments.

Constitution of offices for Region, etc.

44.—(1) The Governor may—

(a) grant to any person concerned in or convicted of any offence created by or under a Regional law a pardon, either free or subject to lawful conditions ;

Prerogative of mercy.

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

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

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

(2) The powers of the Governor under subsection (1) of this section shall be exercised by him in accordance with the advice of such member of the Executive Council as may from time to time be designated in that behalf by the Governor, acting in accordance with the advice of the Premier.

(3) The provisions of this section shall apply in relation to any offence created by or under any law in force in the Region relating to any matter not included in the Legislative Lists set out in the Schedule to the Constitution of the Federation (other than an offence created by or under an Act of Parliament or a Regional law) as they apply in relation to an offence created by or under a Regional law.

45.—(1) There shall be for the Region an Advisory Council on the Prerogative of Mercy, which shall consist of—

Establishment of Advisory Council on Prerogative of mercy.

(a) such member of the Executive Council as may for the time being be designated under subsection (2) of section 44 of this Constitution, who shall be chairman ;

(b) where the chairman is a Minister other than the Attorney-General of the Region, the Attorney-General ; and

(c) not less than five nor more than seven other members, who shall be appointed by the Governor, acting in accordance with the advice of the Premier, of whom at least one shall be a person who is a qualified medical practitioner.

(2) A person shall not be qualified for appointment by the Governor as a member of the Advisory Council if he is a member of a Legislative House of the Region, a member of either House of Parliament, a member of a legislative house of another Region, a Minister of the Government of the Region, a Minister of the Government of the Federation or a Minister of the Government of another Region.

(3) A member of the Advisory Council appointed by the Governor shall hold office for three years :

Provided that his seat on the Council shall become vacant—

(a) if any circumstances arise that, if he were not a member of the Council, would cause him to be disqualified for appointment as such a member ; or

(b) if he is removed from office by the Governor, acting in accordance with the advice of the Premier, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

**Functions of
Advisory
Council**

46.—(1) Where any person has been sentenced to death by any court of law in Nigeria for any offence created by or under a Regional law the member of the Executive Council of the Region designated under subsection (2) of section 44 of this Constitution shall cause a written report of the case from the trial judge, together with such other information derived from the record of the case or elsewhere as the member may require, to be taken into consideration at a meeting of the Advisory Council ; and after obtaining the advice of the Council the member shall decide in his own deliberate judgment whether to recommend to the Governor that he should exercise any of his powers under that section in relation to that person.

(2) The member of the Executive Council designated under subsection (2) of section 44 of this Constitution may consult the Advisory Council before making any recommendation to the Governor under that subsection in any case not falling within subsection (1) of this section, but he shall not be obliged to act in accordance with the advice of the Council.

(3) The Advisory Council may regulate its own procedure.

**Public
prosecu-
tions.**

47.—(1) There shall be a Director of Public Prosecutions for the Region, whose office shall be an office in the public service of the Region and, without prejudice to the provisions of this Constitution relating to the Public Service Commission of the Region, an office in the department of government for which responsibility is assigned to the Attorney-General of the Region.

(2) The Attorney-General of the Region shall have power in any case in which he considers it desirable so to do—

(a) to institute and undertake criminal proceedings against any person before any court of law in the Region in respect of any offence created by or under any Regional law ;

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

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

(3) The powers of the Attorney-General of the Region under subsection (2) of this section may be exercised by him in person and through the Director of Public Prosecutions of the Region acting under and in accordance with the general or special instructions of the Attorney-General and through other officers of the department mentioned in subsection (1) of this section acting under and in accordance with such instructions.

(4) The Attorney-General of the Region may confer a general or special authority upon the Attorney-General of the Federation to exercise, subject to such conditions and exceptions as he may think fit, any of the powers conferred upon him by subsection (2) of this section and may vary or revoke any such authority.

(5) The powers conferred upon the Attorney-General of the Region by paragraphs (b) and (c) of subsection (2) of this section shall be vested in him to the exclusion of any other person or authority :

Provided that where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance of that person or authority at any stage before the person against whom the proceedings have been instituted has been charged before the court.

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

(7) For the purposes of this section any appeal from any determination in any criminal proceedings before any court of law in the Region or any case stated or question of law reserved for the purposes of any such proceedings to any other court in Nigeria shall be deemed to be part of those proceedings.

(8) The provisions of this section shall apply in relation to any offence created by or under any law in force in the Region relating to any matter not included in the Legislative Lists set out in the Schedule to the Constitution of the Federation (other than an offence created by or under an Act of Parliament or a Regional law) as they apply in relation to an offence created by or under a Regional law.

(9) Except at the instance of the Attorney-General of the Region, the question whether he has given any instructions in pursuance of this section, or what the instructions were, shall not be enquired into by any court of law.

CHAPTER IV

COURTS

48.— (1) There shall be a High Court for the Region.

(2) The judges of the High Court of the Region shall be—

(a) the Chief Justice of the Region ; and

(b) such number of other judges (not being less than six) as may be prescribed by the Legislature of the Region.

Establishment of High Court.

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

Appointment
of judges of
High Court.

49.—(1) The Chief Justice of the Region and the other judges of the High Court of the Region shall be appointed by the Governor, acting in accordance with the advice of the Premier.

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

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

(b) he is qualified for admission as an advocate in Nigeria and he has been so qualified for not less than ten years.

(3) If the office of Chief Justice of the Region is vacant or if the person holding the office is for any reason unable to perform the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding the office has resumed those functions, as the case may be, those functions shall be performed by such one of the other judges of the High Court of the Region as may from time to time be designated in that behalf by the Governor, acting in accordance with the advice of the Premier.

(4) If the office of any judge of the High Court of the Region other than the Chief Justice is vacant or if the person holding the office is acting as Chief Justice or is for any reason unable to perform the functions of his office, the Governor, acting in accordance with the advice of the Premier, may appoint a person with such qualifications as may be prescribed by the Legislature of the Region to act in the office of a judge of the High Court and any person so appointed shall continue to act for the period of his appointment or if no period is specified until his appointment is revoked by the Governor, acting in accordance with the advice of the Premier.

Tenure of
offices of
judges of
High Court.

50.—(1) Subject to the provisions of this section, a person holding or appointed to act in the office of Chief Justice of the Region or any other judge of the High Court of the Region shall vacate his office when he attains such age as may be prescribed by the Legislature of the Region :

Provided that the Governor, acting in accordance with the advice of the Premier, may permit a judge to continue in his office or appointment for such period after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

(2) A person holding or appointed to act in the office of a judge of the High Court of the Region shall be removed from his office or appointment by the Governor if—

(a) there are presented to the Governor addresses from both Legislative Houses of the Region praying that that person be so removed for inability to discharge the functions of the office in question (whether arising from infirmity of mind or body or any other cause) or for misbehaviour ; and

(b) the address from each House bears a certificate which is signed by the person who presided at the meeting of that House at which the motion for the address was passed and which states that not less than two-thirds of all the members of that House voted in favour of the motion ;

and, except on the revocation in pursuance of section 49 of this Constitution of an appointment to act as aforesaid, a person holding or appointed to act in such an office shall not be removed from his office or appointment in any other circumstances.

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

Appeals to High Court from subordinate courts.

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

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

(c) decisions in any civil or criminal proceedings on questions as to the interpretation of this Constitution, the Constitution of the Federation or the constitution of another Region ;

(d) decisions in any civil or criminal proceedings on questions as to whether any of the provisions of Chapter III of the Constitution of the Federation has been contravened in relation to any person ;

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

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

(g) such other cases as may be prescribed by any law in force in the region :

Provided that no appeal shall lie from decisions of a subordinate court established under section 126 of the Constitution of the Federation to the High Court in any case in which an appeal lies as of right to the Supreme Court by virtue of any Act of Parliament enacted in pursuance of section 118 of that Constitution.

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

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

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

Provided that no appeal shall lie under paragraph (a) of this subsection from decisions of a subordinate court established under section 126 of the Constitution of the Federation to the High Court in any case in which an appeal lies to the Supreme Court (whether as of right or with the leave of the Supreme Court) by virtue of an Act of Parliament enacted under section 118 of that Constitution.

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

(a) shall be exercisable in the case of civil proceedings at the instance of a party thereto or, with the leave of the High Court, at the instance of any other person having an interest in the matter and in the case of criminal proceedings at the instance of the accused person or, subject to the provisions of section 47 of this Constitution, at the instance of such other persons or authorities as may be prescribed by any law in force in the Region ; and

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

(4) In this section—

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

“subordinate court” means any court of law in the Region other than the Supreme Court, the Court of Appeal of the Region, the High Court of the Region or a court-martial.

Power to
establish
Regional
Court of
Appeal.

52.—(1) The Legislature of the Region may establish a Court of Appeal for the Region to which appeals shall lie from the High Court of the Region in such circumstances as the Legislature of the Region may prescribe.

(2) The provisions of this Constitution relating to the Chief Justice of the Region and any other judge of the High Court of the Region (other than sections 2 and 18) shall apply with the necessary modifications in relation to the principal and any other judge respectively of the Court of Appeal as they apply in relation to a judge of the High Court of the Region, so however that the Legislature of the Region may provide that a person shall not hold or act in the office of a judge of the Court of Appeal unless he has such qualifications additional to those specified by the provisions aforesaid as the Legislature may prescribe.

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

Oaths to be taken by judges.

CHAPTER V

FINANCE

54.—(1) All revenues or other moneys raised or received by the Region (not being revenues or other moneys payable under this Constitution or any Regional law into some other public fund of the Region established for a specific purpose) shall be paid into and form one Consolidated Revenue Fund.

Establishment of Consolidated Revenue Fund.

(2) No moneys shall be withdrawn from the Consolidated Revenue Fund of the Region except to meet expenditure that is charge upon the Fund by this Constitution, the Constitution of the Federation or any Regional law or where the issue of those moneys has been authorised by an appropriation law or a law made in pursuance of section 56 of this Constitution.

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

(4) No money shall be withdrawn from the Consolidated Revenue Fund or any other public fund of the Region except in the manner prescribed by the Legislature of the Region.

55.—(1) The Minister of the Government of the Region responsible for finance shall cause to be prepared and laid before both Legislative Houses of the Region in each financial year estimates of the revenues and expenditure of the Region for the next following financial year.

Authorization of expenditure from Consolidated Revenue Fund.

(2) The heads of expenditure contained in the estimated (other than expenditure charged upon the Consolidated Revenue Fund by this Constitution, the Constitution of the Federation or any Regional law) shall be included in a bill, to be known as an appropriation bill, providing for the issue from the Consolidated Revenue Fund of the Region of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

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

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

(b) that any moneys have been expended for any purpose in excess of the amount appropriated for the purpose by the appropriation law or for a purpose for which no amount has been appropriated by the law,

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

Authoriza-
tion of
expenditure
in advance of
appropria-
tion

56. The Legislature of the Region may make provision under which, if the appropriation law in respect of any financial year has not come into operation by the beginning of that financial year, the Minister of the Government of the Region responsible for finance may authorize the withdrawal of moneys from the Consolidated Revenue Fund of the Region for the purpose of meeting expenditure necessary to carry on the services of the Government until the expiration of four months from the beginning of that financial year or the coming into operation of the appropriation law, whichever is the earlier.

Contingen-
cies Fund.

57.—(1) The Legislature of the Region may provide for the establishment of a Contingencies Fund for the Region and for authorising the Minister of the Government of the Region responsible for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Fund to meet that need.

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

Remunera-
tion of
Governor
and certain
other
officers.

58.—(1) There shall be paid to the holders of the offices mentioned in subsection (4) of this section such salary as may be prescribed by the Legislature of the Region.

(2) The salary and allowances payable to the holders of the offices so mentioned shall be a charge on the Consolidated Revenue Fund of the Region.

(3) The salary payable to the holder of any office so mentioned and his terms of office other than allowances shall not be altered to his disadvantage after his appointment.

(4) The offices aforesaid are the office of Governor, Chief Justice or other judge of the High Court of the Region, member of the Electoral Commission of the Region appointed by the Governor, member of the Public Service Commission of the Region and Director of Audit of the Region.

Audit of
public
accounts.

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

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

(3) The Director of Audit of the Region shall submit his reports to the Minister of the Government of the Region responsible for finance, who shall cause them to be laid before both Legislative Houses of the Region.

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

Public debt.

60.—(1) The public debt of the Region shall be secured on the revenues and assets of the Region.

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

CHAPTER VI

THE PUBLIC SERVICE OF THE REGION

61.—(1) There shall be a Public Service Commission for the Region, which shall consist of a chairman and not less than two nor more than four other members.

Establishment of Public Service Commission.

(2) The members of the Public Service Commission of the Region shall be appointed by the Governor, acting in accordance with the advice of the Premier.

(3) A person shall not be qualified to hold the office of a member of the Public Service Commission of the Region if he is a member of a Legislative House of the Region, a member of a House of Parliament, a member of a legislative house of another Region, a Minister of the Government of the Region, a Minister of the Government of the Federation, a Minister of the Government of another Region or a member of the public service of the Region, the public service of the Federation or the public service of another Region.

(4) Subject to the provisions of this section, a member of the Public Service Commission of the Region shall vacate his office—

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

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

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

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

(7) A person who has been appointed to be a member of the Public Service Commission of the Region shall not thereafter be eligible for appointment to any office in the public service of the Region.

62.—(1) Power to appoint persons to hold or act in offices in the public service of the Region (including power to make appointments on promotion and transfer and to confirm appointments) and to dismiss and exercise disciplinary control over persons holding or acting in such offices shall vest in the Public Service Commission of the Region :

Appointment etc. of officers in public service.

Provided that the Commission may, with the approval of the Premier and subject to such conditions as it may think fit, delegate any of its powers under this section to any of its members or to any officer in the public service of the Region.

(2) Subsection (1) of this section shall not apply in relation to any of the following offices—

(a) the office of the Deputy Governor of the Region ;

(b) the office of any judge of the High Court of the Region ;

(c) except for the purposes of making an appointment thereto, the office of the Director of Audit of the Region ;

(d) the office of the Agent-General of the Region in the United Kingdom ;

(e) the office of justice of the peace.

(3) The provisions of this section shall be subject to the provisions of section 65 of this Constitution.

(4) No appointment shall be made under this section to any office on the personal staff of the Governor unless the Governor signifies his approval of the appointment.

Appoint-
ment etc.
of Deputy
Governor.

63. If at any time the office of Deputy Governor of the Region is established under section 43 of this Constitution, power to appoint persons to hold or act in that office and to remove persons so appointed from that office shall vest in the Governor, acting in accordance with the advice of the Premier.

Appoint-
ment etc.
of Agent-
General in
U.K.

64.—(1) Power to appoint persons to hold or act in the office of the Agent-General of the Region in the United Kingdom (including power to make appointments on promotion and transfer) and to remove persons so appointed from that office shall vest in the Governor, acting in accordance with the advice of the Premier.

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

Appoint-
ment etc.
of permanent
secretaries.

65.—(1) Power to appoint persons to hold or act in the office of permanent secretary to any department of government of the Region and to remove persons so appointed from that office shall vest in the Governor, acting in accordance with the advice of the Premier.

(2) Before tendering any advice for the purposes of this section the Premier shall consult the Public Service Commission of the Region.

Qualifica-
tions of
Director of
Public
Prosecutions.

66. A person shall not be qualified to hold or act in the office of Director of Public Prosecutions of the Region unless he is qualified for admission as an advocate in Nigeria and has been so qualified for not less than ten years.

Appoint-
ment and
tenure of
office of
Director of
Audit.

67.—(1) Before appointing any person to hold office of Director of Audit of the Region the Public Service Commission of the Region shall consult the Premier.

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

(3) A person holding the office of Director of Audit of the Region shall be removed from office by the Governor if a resolution is passed by each Legislative House of the Region recommending his removal

from office for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

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

(5) If the office of Director of Audit of the Region is vacant or the holder of the office is for any reason unable to perform the functions of the office, the Public Service Commission of the Region, acting after consultation with the Premier, may appoint a person to act in the office and any person so appointed shall continue to act until his appointment is revoked by the Commission, acting after consultation with the Premier.

68. Before exercising any of its powers in relation to the Clerk to the House of Chiefs the Public Service Commission of the Region shall consult the President of that House, and before exercising any of its powers in relation to the Clerk to the House of Assembly the Commission shall consult the Speaker of that House.

Powers relating to Clerks of Legislative Houses.

69.—(1) Where any benefits to which this section applies can be withheld, reduced in amount or suspended by any person or authority under any Regional law, those benefits shall not be so withheld, reduced in amount or suspended without the approval of the Public Service Commission of the Region.

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

(2) No benefits to which this section applies that have been granted to any person who holds or has held the office of judge of the High Court of the Region or for which any such person may be eligible shall be withheld, reduced or suspended on the ground that that person has been guilty of misbehaviour while holding that office unless that person has been removed from that office by reason of such misbehaviour.

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

CHAPTER VII

MISCELLANEOUS

70. Power to appoint persons to hold the office of justice of the peace for the Region or any part thereof and to remove or suspend persons so appointed from that office shall vest in the Attorney-General of the Region.

Appointment of justices of the peace.

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

Powers and procedure of Commissions.

(2) Subject to its rules of procedure, any Commission established by this Constitution may act notwithstanding any vacancy in its membership or the absence of any member, but any decision of the Commission shall require the concurrence of a majority of all the members thereof.

Establishment of provincial administrations.

72.—(1) The Governor may by order designate any area within the Region as a province and establish for it a provincial administration.

(2) A provincial administration established under this section shall consist of such persons and shall have such functions as may be prescribed by the Governor or by any law in force in the Region.

(3) The provisions of this section shall be without prejudice to the powers of the Legislature of the Region to establish a provincial administration for any area within the Region or otherwise to make provision for the administration of such an area.

Resignations.

73.—(1) Any person who is appointed or elected to or otherwise selected for any office established by this Constitution may resign from that office by writing under his hand addressed to the person or authority by whom he is appointed, elected or selected :

Provided that—

(a) in the case of the Governor of the Region, his resignation shall be addressed to the Premier ;

(b) in the case of a member of a Legislative House of the Region who holds office as President or Speaker of the House, his resignation from the House or that office shall be addressed to the House ; and

(c) in the case of any other member of a Legislative House of the Region, his resignation from the House shall be addressed to the President or Speaker of the House, as the case may be.

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

(3) On the resignation of the Governor of the Region, the Premier shall forthwith give notice of the resignation to the President.

Re-appointments, etc.

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

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

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

Interpretation, etc.—
general.

“Act of Parliament” means any law made by Parliament ;

“the Advisory Council” means the Advisory Council on the Prerogative of Mercy of the Region ;

“the Commonwealth” means Nigeria, any country to which section 14 of the Constitution of the Federation applies and any dependency of any such country ;

“financial year” means any period of twelve months beginning on the first day of April in any year or such other date as the Legislature of the Region may prescribe ;

“oath” includes affirmation ;

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

“Parliament” means the Parliament of the Federation ;

“the President” means the President of the Republic ;

“the public service of the Region” means the service of the Republic in a civil capacity in respect of the government of the Region ;

“Regional law” means any law made by the Legislature of the Region ;

“the state” means the Government of the Federation or a Region and “office under the state” and “office of emolument under the state” include office as the Governor of a Region or as a member of the Government of the Federation or a Region, so however that a person shall not be treated as holding an office of emolument under the state by reason only of his receiving a pension or other like benefit in respect of an office under the state ; and

“the Supreme Court” means the Supreme Court of Nigeria.

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

(a) references to persons holding offices in the public service of the Federation or the public service of a Region include references to persons acting in those offices ; and

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

(3) For the purposes of this Constitution, the office of the President of the House of Chiefs or the Deputy President of the House, a member of the House of Chiefs, the Speaker or the Deputy Speaker of the House of Assembly, a member of the House of Assembly, a Minister of the Government of the Region, a Parliamentary Secretary to such a Minister or a member of the Executive Council, any Commission established by this Constitution or the Advisory Council or a justice of the peace for the Region shall not be regarded as an office in the public service of the Region.

(4) A provision of this Constitution that any person or authority shall not be subject to the direction or control of any other person or authority in exercising any functions under this Constitution shall not be construed as precluding a court of law from exercising jurisdiction in relation to any question whether that person or authority has performed those functions in accordance with this Constitution or any other law.

(5) Notwithstanding anything in section 16 or any other provision of this Constitution, no question as to the validity of the selection, appointment, approval of appointment, recognition, installation, grading, deposition or abdication of any chief shall be entertained by any court of law in the Region.

(6) For the avoidance of doubt it is hereby declared that any power to make laws conferred by this Constitution includes power to make laws having extra-territorial operation.

Transitional provisions.

76. The foregoing provisions of this Constitution shall have effect subject to the provisions of the Second Schedule to this Constitution which contains transitional provisions for giving effect to and otherwise connected with the foregoing provisions of this Constitution).

SCHEDULES

Sections 7, 14.

FIRST SCHEDULE

Special areas, etc.

(1)

(2)

- | | |
|--|---------------------------------------|
| 1. The Akoko-Edo area, that is to say, the area comprising so much of the electoral district established by the proclamation and designated and numbered thereby as Afenmai North West, No. 177, as consists of the District Council Area of Akoko-Edo within the meaning of the proclamation. | The Yoruba speaking Edo ethnic group. |
| 2. The Isoko area, that is to say, the area of the electoral district established by the proclamation and designated and numbered thereby as Urhobo East, No. 233. | The Isoko ethnic group. |
| 3. The Warri area, that is to say, the area of the electoral district established by the proclamation and designated and numbered thereby as Warri, No. 235. | The Itsekiri ethnic group. |
| 4. The Western Ijaw area, that is to say, the area of the electoral district established by the proclamation and designated and numbered thereby as Western Ijaw, No. 236. | The Ijaw ethnic group. |

In this Schedule, "the proclamation" means the Proclamation known as the Establishment of Electoral Districts Proclamation, 1958, and published in the Gazette as Legal Notice No. 115 of 1958, as in force on the first day of November, 1963.

Section 76

SECOND SCHEDULE

Transitional provisions

The Governor

1.—(1) The first Governor of the Region shall be appointed by the President, acting in accordance with the advice of the Prime Minister of the Federation.

(2) Before tendering any advice to the President for the purposes of the foregoing sub-paragraph, the Prime Minister shall consult such organisations appearing to him to carry on political activities in the Region as he thinks fit.

(3) The oaths which the first Governor of the Region is required to take and subscribe before first entering upon the duties of his office shall be taken and subscribed before the Chief Justice of Nigeria.

The Electoral Commission, etc.

2.—(1) The Electoral Commission of the Federation shall, to the exclusion of the Electoral Commission of the Region, exercise the functions conferred by this Constitution on the last-mentioned commission until such day (not being earlier than the first day of June, 1964) as the Governor may by order appoint or until the expiration of that year, whichever first occurs; and references in this Constitution to the Electoral Commission of the Region shall be construed accordingly.

(2) As respects any period during which functions are exercisable by the Electoral Commission of the Federation in pursuance of sub-paragraph (1) of this paragraph—

(a) the reference to approval in subsection (1) of section 14 of this Constitution shall be construed as a reference to the approval of the Prime Minister of the Federation signified by order; and

(b) the reference to the census in subsection (8) of that section shall be construed as a reference to the last census of the population of the area comprised in the Region held by virtue of an enactment before the first day of January, 1962.

The High Court

3.—(1) The High Court of Lagos shall, to the exclusion of the High Court of the Region, exercise the jurisdiction conferred by this Constitution on the last-mentioned court—

(a) subject to the following provisions of this sub-paragraph, until such day as the Governor may by order appoint or the expiration of the year nineteen hundred and sixty-four, whichever first occurs; and

(b) as respects any proceedings which, by virtue of the foregoing provisions of this sub-paragraph, are pending in the High Court of Lagos immediately before the day or the expiration of the period aforesaid,

and references in this Constitution to the High Court of the Region shall be construed accordingly.

(2) The High Court of Lagos shall, as respects proceedings pending in that court immediately before the appointed day, continue to exercise to the exclusion of any other court the jurisdiction conferred on it by section six of the Transitional Provisions Act.

(3) Nothing in this Constitution shall be construed as affecting the jurisdiction of the High Court of Western Nigeria as respects such pending proceedings as are mentioned in the said section six.

Vesting of property, etc.

4.—(1) All property held by the Administrative Council of Mid-Western Nigeria immediately before the appointed day shall, by virtue of this sub-paragraph and without further assurance, vest in the Governor of the Region on that day and be held by him for the purposes of the government of the Region.

(2) The foregoing sub-paragraph shall, with the necessary modifications, apply in relation to rights, liabilities and obligations arising out of a contract or other arrangement as it applies in relation to property.

Finance

5.—(1) The assets of the Mid-Western Region Administration Fund shall be paid into, and any sums falling to be paid from that fund shall be defrayed out of, the Consolidated Revenue Fund of the Region.

(2) Any regulations having effect by virtue of subsection (3) of section eight of the Transitional Provisions Act immediately before the appointed day shall, until varied or revoked by virtue of a law made by the Legislature of the Region, continue to have effect by virtue of this sub-paragraph but as if for any reference in the regulations to the administration fund aforesaid there were substituted a reference to the Consolidated Revenue Fund of the Region.

(3) The duty imposed by subsection (1) of section 55 of this Constitution as respects estimates for the financial year beginning on the first day of April, 1964, shall be treated as duly performed if it is performed before the expiration of that financial year; and section 56 of this Constitution shall have effect, in relation to that financial year, as if for the words "four months" there were substituted the words "twelve months".

Operation of existing law

6.—(1) Any law which, immediately before the appointed day, is in force in or in any part of the Region by virtue of section two, three or four of the Transitional Provisions Act shall, until it is changed by an authority having power to do so and subject to paragraph 5 of this Schedule, continue in force in the Region or part with such modifications (whether by way of addition, alteration or omission) as may be necessary to bring it into conformity with this Constitution.

(2) Without prejudice to the provisions of the foregoing sub-paragraph, where any matter—

(a) falls to be prescribed under this Constitution by the Legislature of the Region or any other authority; and

(b) is prescribed by any law having effect by virtue of that sub-paragraph or paragraph 5 of this Schedule.

that law shall, as respects that matter, be deemed to have been made by the Legislature or other authority in question.

(3) For the avoidance of doubt it is hereby declared that the provisions repealed by section 154 of the Constitution of the Federation ceased to have effect as respects the Region on the coming into force of that Constitution, and accordingly nothing in sub-paragraph (1) of this paragraph shall be construed as continuing those provisions in force as respects the Region.

(4) For the purposes of subsection (1) of section three of the Constitution of Mid-Western Nigeria Act, 1964, but not for any other purposes, the reference in this paragraph to the appointed day shall be construed as a reference to the relevant date mentioned in that subsection.

Existing public authorities and officers

7.—(1) The Administrative Council of Mid-Western Nigeria is hereby abolished on the appointed day.

(2) Without prejudice to the provisions of paragraph 6 of this Schedule, every local authority, court or other public body which, immediately before the appointed day, is charged with functions in the Region by virtue of subsection (1) of section five of the Transitional Provisions Act shall, until other provision in that behalf is made by law, continue to be charged with those functions.

(3) Any person who, immediately before the appointed day, holds office by virtue of subsection (2) of the said section five shall be deemed to be duly appointed to that office on that day by the Public Service Commission of the Region or, as the case may be, by any other authority by whom appointments to that office fall to be made in pursuance of this Constitution.

Miscellaneous

8. In relation to a Legislative House of the Region which has never been dissolved, subsection (2) of section 31 of this Constitution shall have effect as if the words "after any dissolution" were omitted.

9. In this Schedule—

"the appointed day" means, subject to sub-paragraph (4) of paragraph 6 of this Schedule, the day appointed in pursuance of subsection (3) of section three of the Constitution of Mid-Western Nigeria Act, 1964;

"functions" includes powers and duties; and

"the Transitional Provisions Act" means the Mid-Western Region (Transitional Provisions) Act, 1963.