

Date Printed: 01/14/2009

JTS Box Number: IFES_27

Tab Number: 14

Document Title: BOOK THREE: ON THE NATIONAL ASSEMBLY

Document Date: 1996

Document Country: GAM

Document Language: ENG

IFES ID: CON00059



* 9 7 2 2 8 5 5 3 - 8 2 2 6 - 4 C F 8 - A B 7 8 - E 3 9 A 7 3 4 9 C 5 A 2 *

con/GAM/1996/005/eng

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(FREEDOM)

SUPPLEMENT



No. 18/96 Monday, 20 May, 1996 ISSN: 0796-0573 Price: D2.00

A REVIEW OF THE DRAFT CONSTITUTION OF THE SECOND REPUBLIC



Book Three



ON THE NATIONAL ASSEMBLY

Chapter Seven

INTRODUCTION

Book Two explained the nature of the executive branch of the State

Readers would recall that Chapter One of the draft Constitution establishes that The Gambia is a sovereign Republic; that sovereignty of The Gambia resides in the people. This simply means that all organs of government must derive their authority from the people. In short, the Gambian people alone should determine the economic, political, social and cultural life of the country.

It is already clear that the Gambian people cannot meet everyday to contribute money and work out plans to build hospitals, roads, schools and other public facilities. This is why it becomes necessary to have representatives. Who will be able to take money from all of us in order to provide the public services all of us need on a daily basis? This requires the making of policies and their implementation in line with the laws of the country. This is the role of the executive branch of the State.

On the other hand, institutions have to work on the basis of rules. People also have to relate to each other in such a way that one does not infringe on the rights of others. This calls for the guidance or protection of the law. Who are to make the laws and monitor whether public services are being provided for in accordance with the law? This is the National Assembly or legislature.

Book Three seeks to explain the nature of the National Assembly. The question now arises: What is the nature of the law making body that is being proposed by the draft constitution? This is established in chapter Seven of the draft Constitution.

The Chapter establishes the National Assembly, maps out its composition, explains who would be qualified to be a member, provides for the removal of the members of the National Assembly, states how the Speaker

of the National Assembly is to be elected, provides for the meeting of the National Assembly, establishes the life of the National Assembly, elaborates on its law making powers, indicates its powers to check the performance of the executive and finally defines the responsibilities, privileges and immunities of the members.

Now, let us proceed to examine all the provisions of Chapter Seven.

CHAPTER SEVEN

NATIONAL ASSEMBLY AND LEGISLATION

WHO ARE TO BE MEMBERS OF THE NATIONAL ASSEMBLY?

Section 87 of the draft Constitution states:

"There shall be a National Assembly of The Gambia."

Section 88 states:

"(1) Members of the National Assembly shall comprise the following-

"(a) thirty-five members elected from the Chieftaincy Districts, each of which district shall constitute a constituency;

"(b) three members elected from the constituencies in Banjul, namely Banjul North, Banjul South and Banjul Central;

"(c) three members elected from the constituencies in the Kanifing Municipality, namely, Serrekunda West, Serrekunda East and Bakau; and

"(d) four nominated members."

OBSERVATION

The members of the National Assembly are national representatives. It is their collective decisions which make it possible to establish national laws. Hence, the selection of members of the National Assembly from constituencies is to ensure the broadest means of representation so that all regions shall be involved in the political life of the country. The creation of constituencies is not meant to divide the country but to promote the involve-

ment of all so that the people who are selected would work harmoniously to safeguard the common good. This is precisely the reason why certain fundamental principles of equity are employed to establish constituencies.

Interestingly enough, these principles are established in section 50, subsection (2) of the draft Constitution. What is established in section 88 is at variance with what is established in section 50, subsection (2) which reads:

"All constituencies shall contain as nearly equal numbers of inhabitants as appears to the Commission to be reasonably practical, but the Commission may depart from this principle to such extent as it considers expedient in order to take account of the following factors, namely-

"(a) the density of population and, in particular, the need to ensure the adequate representation of sparsely populated areas;

"(b) the means of communication;

"(c) geographical features; and

"(d) the boundaries of existing administrative areas."

Since the boundaries of administrative areas are only to be considered when it is considered to be expedient, section 88 should not establish such boundaries as constituencies as part and parcel of the fundamental law.

In short, as the 1993 statistics reveal the estimate that there are 409,764 Gambians who should be qualified to be voters, 17,264 persons are projected to be resident in the Banjul Administrative Area; 91,399 persons in the Kanifing Administrative Area; 93,312 persons in the Brikama Administrative Area; 25,219 persons in the Mansakonko Administrative Area; 56,245 persons in the Kerewan Administrative Area; 64,219 persons in the Jangjangbureh Administrative Area and 63,366 persons in the Basse Administrative Area.

A careful observation would reveal that the Base Administrative Area, which is almost as populated as the Jangjangbureh Administrative Area,

has four constituencies while Jangjangbureh Administrative Area has ten constituencies. Similarly, Kanifing Administrative Area, which is as populated as the Brikama Administrative Area, has three constituencies while Brikama Administrative Area has nine constituencies. The Kerewan Administrative Area, which has more than twice the number of inhabitants of Mansakonko Administrative Area, has six constituencies while Mansakonko Administrative Area also has six. One can do one's own comparison.

In this regard, section 88 of the draft Constitution needs to be looked into to eradicate the principle of equating constituencies with Chieftaincy Districts.

Furthermore, section 88, subsection (1) (d) makes mention of nominated members. Who is going to nominate these members? The draft Constitution does not state that. However, if it is the executive this would constitute monarchical power and a contravention of Chapter 1 of the Constitution which states that government must derive its authority from the people. Hence, no President should be empowered to nominate members of the National Assembly.

Suffice it to say, nominated members are supposed to become the persons entitled to be Speaker and Deputy Speaker as we shall see later. There should be no provision for nominated members.

ON QUALIFICATION FOR MEMBERSHIP TO THE NATIONAL ASSEMBLY

Section 89 of the draft Constitution reads:

"A persons shall be qualified for election to the National Assembly or included on the electoral list of a registered political party as provided in section 51, if he or she

"(a) is a citizen of The Gambia;

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

"(c) has been ordinarily resident in that constituency for a period of at least one year prior to nomination day;

"(d) is able to speak the English Language with a degree of profi-

ciency sufficient to enable him or her to take part in the proceedings of the National Assembly;

"(e) has made such declaration of his or her assets to the Independent Electoral Commission as is required in accordance with section 43."

OBSERVATION

Section 26 (b) of the draft constitution states that

"Every citizen of The Gambia of full age and capacity shall have the right, without unreasonable restrictions-

"(b) to vote and stand for elections at genuine periodic elections for public office...."

Full age is now reduced to eighteen years which is different from the 1970 Constitution which established the legal maturity age to be 21. Now that the legal maturity age is reduced to 18, why must one have to attain the age of 21 years to be a member of the National Assembly? Once a person has reached legal maturity age, he or she should be qualified to stand as candidate for any public office. To deprive a person of full age of the right to represent because he or she is considered to be too old or too young is ostracism. The electorate should be left to make that choice. Ostracism constitutes depriving a person a right he or she is qualified to enjoy by virtue of age, gender, race, origin and so on and so forth.

Secondly, section 89 makes it a requirement for a person to be ordinarily resident in a constituency for a period of at least one year prior to nomination day.

As has been stated elsewhere, the National Assembly is a national institution, not a regional body. Local government structures are established to deal with strictly local problems. Such representative institutions require the mayor, the councillors, etc. to be resident in the town, ward, village or district. Constituencies, however, elect persons who are going to make laws for the country and monitor how the executive runs the country. This is why residential qualification in a constituency is never set up for a person

to be qualified to stand as a candidate. What is required is for a person to be a registered voter somewhere in The Gambia. Once that is done, a Gambian should be able to stand as a candidate anywhere in the country. This is the only way to avoid sectionalism and promote national unity.

Under the 1970 Constitution, all that was required of the candidate on this score was to be a registered voter in a particular constituency in order to be qualified to stand in any constituency. This principle should be retained.

DISQUALIFICATION FOR MEMBERSHIP

Section 90, subsection (1) reads:

"No person shall be qualified for election as a member of the National Assembly or inclusion in such an electoral list if he or she-

"(a) holds the citizenship or nationality of a country other than The Gambia;

"(b) is adjudged under any law of The Gambia to be of unsound mind;

"(c) is under sentence of death imposed on him or her by any court, or is serving, or within five years of his or her nomination for election completed serving, a sentence of imprisonment for a term exceeding six months imposed on him or her by a court or substituted by competent authority for some other sentence imposed on him or her by a court, and has not received a free pardon;

"(d) has been found guilty of any abuse of office, corruption or any offence connected with public elections by a court;

"(e) has been found by the report of a commission or committee of inquiry (the proceedings of which have been held and published in accordance with the relevant law) to be incompetent to hold public office by reason of having acquired assets unlawfully or defrauded the State or misused or abused his or her office, or wilfully acted in a manner prejudicial to the interest of the State, and the findings have not been set aside on appeal or judicial review;

"(f) within the three years preceding nomination day, holds or acts in any office prescribed by an Act of the National Assembly the functions of

which involve responsibility for, or in connection with the conduct of elections to the National Assembly or the compilation of any register of voters for the purpose of such an election;

"(g) unless granted leave of absence in accordance with section 167, holds a public office or an office in the public service;

"(h) holds or acts in any office or appointment that may be prescribed by an Act of the National Assembly;

"(i) is a member of a disciplined force;

"(j) is an elected member of a local government authority;

"(k) is a District Chief or Alkalo;

"(l) is adjudged or otherwise declared a bankrupt under any law of The Gambia and has not been discharged."

OBSERVATION

Section 90, subsection (1) (g) maintains that a person will not qualify for election as a member of the National Assembly "unless granted leave of absence in accordance with section 167;

"(h) holds or acts in any office or appointment that may be prescribed by an Act of the National Assembly;"

Section 167 does not deal with leave of absence for public servants. It deals with appointments to and removal from public service. It is section 170 of the draft Constitution which states:

"(1) A person holding an office in a public service shall not hold office in any political party.

"(2) Any person who holds an office in a public service who wishes to contest an election for a political office shall, prior to nomination as a candidate, obtain one year's leave of absence without pay, which leave shall not unreasonably be refused.

"(3) If a person who has obtained leave of absence in accordance with this section is elected to a political office, he or she shall immediately resign from his or her office in the public service and, if he or she fails to do so, he or she shall be removed from such office."

Of course, the granting of leave to public servants to enable them to stand for elections is progress compared to the old system which required the public servants to resign and lose all entitlements as well as to sit for three years before applying for any public office.

Section 90, subsection (2) reads:

"For the purposes of this section-

"(a) a sentence of imprisonment imposed by a court outside The Gambia for an offence in respect of an act or omission which, if committed within The Gambia would constitute a comparable offence, shall be deemed to be a sentence of imprisonment within the meaning of paragraph (c) of subsection (1);

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

"(c) the period of disqualification under paragraph (d) or (e) of subsection (1) shall not exceed five years after-

"(i) the completion of any sentence of imprisonment passed for such offence; or

"(ii) the expiry of any period during which the person concerned has been debarred from holding public office."

WHEN MUST A MEMBER OF THE NATIONAL ASSEMBLY VACATE HIS OR HER SEAT?

Section 91, subsection (1) reads:

"A member of the National Assembly shall vacate his or her seat in the National Assembly-

"(a) on the dissolution of the National Assembly;

"(b) subject to subsection (2), if any circumstances arise that, if he or she were not a member, would cause him or her to be disqualified for election as a member;

"(c) if he or she resigns his or her office as a member;

"(d) if he or she ceases to be a member of the political party of which he or she was a member at the time of his or her election;

"Provided that nothing in this paragraph shall apply on a merger of

political parties at the national level where such merger is authorised by the constitution of the parties concerned;

"e) if, having been elected a member as an independent candidate, he or she joins a political party;

"(f) if, being a member representing a single seat constituency, he or she is recalled by the electorate of that constituency in accordance with an Act of the National Assembly to give effect to section 92;

"(g) if, without the permission in writing of the Speaker or reasonable cause, he or she is absent from ten or more sittings of the National Assembly during any period that the National Assembly is in session and continues to meet;

"(h) if he or she is found in contempt of the National Assembly and is expelled on a resolution supported by not less than three quarters of all the members of the National Assembly."

OBSERVATION

There should be no provision allowing the members of the National Assembly to expel another member. This can promote the tyranny of the majority against the minority.

Section 91, subsection (2) reads:

"An Act of the National Assembly may, in order to permit any member who-

"(a) has been sentenced to death;

"(b) has been convicted or found guilty of any offence or subject to any finding to which subsection (1) of section 90 refers;

"(c) adjudged to be of unsound mind; or

"(d) adjudged or otherwise declared to be bankrupt,

"to appeal against any such decision in accordance with any law, provide that, subject to such conditions as may be specified, the decision shall not have effect for the purposes of this section until such time as may be prescribed."

ON RECALL OF INCOMPETENT DEPUTIES

Section 92 of the draft Constitution reads:

"An Act of National Assembly may make provision for the recall of a member of the National Assembly representing a single seat constituency. Such an Act shall-

"(a) require that a petition for recall shall be supported by at least one-third of the registered voters in the constituency; and

"(b) prescribe the grounds for recall and the powers of, and procedures to be adopted by, the Independent Electoral Commission on receipt of such a petition."

ON THE SPEAKER OF THE NATIONAL ASSEMBLY AND DEPUTY SPEAKER

Section 93, subsection (1) reads:

"The Speaker of the National Assembly and the Deputy Speaker shall be elected by the members of the Assembly from among the nominated members."

OBSERVATION

Of course, under the 1970 Constitution, there were eight members to be nominated by the President. Speakers had also been selected outside of the House of Representatives.

In our view, the National Assembly should be free from any monarchical control. Hence, there should be no nominated members in the National Assembly, not to mention the election of Speaker and Deputy Speaker from among the nominated members. The members of the National Assembly should elect their own Speaker from among their ranks.

In fact, the fact that the members of the National Assembly can remove the Speaker and Deputy Speaker from office under section 93 indicates that if all four nominated members are rejected, the National Assembly would have to elect a Speaker from their ranks in accordance with section 103 of the draft Constitution.

Section 93, subsection (2) reads:

"The Chief Justice shall preside at the election of a Speaker.

"(3) Unless he or she sooner dies or resigns, the Speaker and the Deputy Speaker shall vacate their respective offices-

"(a) if he or she ceases to be a member of the National Assembly;

"(b) if he or she is removed from that office by a resolution of the National Assembly supported by the votes of not less than two-thirds of all the members of the National Assembly.

"(4) Persons elected to the office of Speaker or Deputy Speaker shall, before assuming the duties of their respective offices take the prescribed oaths.

"(5) No business shall be transacted in the National Assembly other than the election of the Speaker or Deputy Speaker when either of those offices is vacant."

CLERK OF THE NATIONAL ASSEMBLY

Section 94 of the draft Constitution reads:

"(1) There shall be a Clerk of the National Assembly who shall be appointed by the National Assembly."

"(2) The office of the clerk of the National Assembly and the offices of members of his or her staff shall be offices in the public service."

ON THE INCOME OF THE MEMBERS OF THE NATIONAL ASSEMBLY

Section 95 of the draft Constitution reads:

"The Speaker, the Deputy Speaker and the other members of the National Assembly shall receive such remuneration and benefits, including retirement benefits, as an Act of the National Assembly may prescribe."

ELECTIONS OF MEMBERS OF THE NATIONAL ASSEMBLY

Section 96 reads:

"There shall be a general election of all members of the National Assembly which shall be held three months after the date of election to the

office of the President."

SESSIONS OF THE NATIONAL ASSEMBLY

Section 97 reads:

"(1) The first session of the National Assembly after a general election shall be held in such place in The Gambia as the President may, by Proclamation, appoint.

"(2) The President may request the Speaker to summon a session of the National Assembly in the event of a declaration of a public emergency under section 34.

"(3) Subject to subsections (1) and (2), the National Assembly shall determine the times of its session:

"Provided that there shall be a session of the National Assembly at least one in every year."

OBSERVATIONS

The National Assembly is required by section 97 and 98 to hold one session or sit for 150 days a year.

Where the first session of the National Assembly is to be held should be determined by law and not by the President as provided by section 97 of the draft Constitution.

DISSOLUTION OF THE NATIONAL ASSEMBLY

Section 99 reads:

"(1) Subject to the other provisions of this section, the National Assembly shall stand dissolved on the day immediately preceding the day appointed in accordance with section 97 for the first session of the next following the National Assembly.

"(2) At any time when The Gambia is at war or a state of emergency is declared, the National Assembly may, by resolution supported by the votes of not less than two-thirds of all the members, extend the life of the National Assembly for not more than three months at a time, but the life of

the National Assembly shall not be extended under this subsection for more than a total period of one year."

OBSERVATIONS

The life of the National Assembly should be clearly spelt out under section 99.

HOW LAWS ARE MADE BY THE NATIONAL ASSEMBLY

Section 100, subsection (1) reads:

"The legislative power of The Gambia shall be exercised by Bills passed by the National Assembly and assented to by the President."

NO ONE PARTY STATE OR STATE RELIGION

Section 100, subsection (2) reads:

"The National Assembly shall have no power to pass a Bill-

"(a) to establish a one party state;

"(b) to establish any religion as a state religion;

"(c) to alter the decision or judgment of a court in any proceedings to the prejudice of any party to those proceedings, or deprive any person retroactively of vested or acquired rights,

"but subject thereto, the National Assembly may pass Bills designed to have retroactive effect."

OBSERVATIONS

It should be made clear which type of bills could be passed which are designed to have retroactive effect. For example, section 24, subsection (5) states that "No person shall be charged with or held to be guilty of a criminal offence on account of any act or omission which did not at the time it took place constitute such an offence."

Hence, it is already clear that no bill can be passed which is designed to punish a person for an act which did not constitute a crime.

PRESIDENT GIVEN 30 DAYS TO ASSENT TO BILLS

Section 100, subsection (3) reads:

"Where a Bill passed by the National Assembly is presented to the President for his or her assent, the President shall, within thirty days, assent to the Bill or return it to the National Assembly with the request that the National Assembly reconsider the Bill; and if he or she requests the National Assembly to reconsider the Bill, the President shall state the reasons for the request and any recommendations for amendment of the Bill".

THE POWER OF THE NATIONAL ASSEMBLY IN MAKING LAWS

Subsection (4) reads:

"Where the National Assembly has reconsidered a Bill as so requested in accordance with subsection (3) and has resolved by a vote supported by not less than two thirds of all the members of the National Assembly that the Bill, with or without the amendments recommended by the President, be presented again to the President for his or her assent, the President shall assent to the Bill within seven days of it being presented."

OBSERVATION

Section 100 states that, no Act shall come into operation until it is published in the Gazette. The President, however, is empowered to publish a Bill after assent within thirty days. Hence, the establishment of a law can be delayed for a month if the President so desires.

WHEN A BILL BECOMES LAW

Section 100, subsection (5) reads:

"A Bill which has been duly passed by the National Assembly and assented to by the President shall become law as an Act of the National Assembly and the words of enactment shall be: "Enacted by the President and the National Assembly"."

PUBLICATION OF BILLS

Section 100, subsection (6) reads:

"The President shall cause Acts of the National Assembly to be pub-

lished in the Gazette within thirty days of assent."

OBSERVATION

The President would be required to assent to Bills within thirty days or return them to the National Assembly. Of course, the 1970 Constitution did not establish any time limit when a Bill was to be assented to or returned to the House of Representatives. However, thirty days is still a lot.

Furthermore, under the draft Constitution, the President is required to assent to a Bill within seven days instead of twenty one days under the 1970 Constitution if two thirds of the members of the National Assembly pass it the second time, but nothing is said as to what would happen if the President refuses to assent to a Bill. Under the 1970 Constitution, Parliament would have to be dissolved and general elections held if the President were to fail to assent to a Bill. Under the 1996 draft Constitution, failure to assent to Bills after a second round of voting should be grounds for removal from office.

Subsection (7) reads:

"No Act of the National Assembly shall come into operation until it has been published in the Gazette, but the Act or some other Act of the National Assembly may provide for the postponement of its coming into force."

ON SUBSIDIARY LEGISLATIONS

Section 100, subsection (8) reads:

"Nothing in this section shall prevent an Act of the National Assembly from conferring on any person or authority the power to make subsidiary legislation."

WHO CAN INTRODUCE BILLS IN THE NATIONAL ASSEMBLY?

Section 101, subsection (1) reads:

"Subject to the other provisions of this section, a Bill or motion may be introduced in the National Assembly by a member of the cabinet or by a

member of the National Assembly, and the National Assembly shall give consideration to Bills and motions so introduced."

THE NATURE OF BILLS

Section 101, subsection (2) reads:

"No Bill, other than a Bill referred to in subsection (5), shall be introduced into the National Assembly unless it is accompanied by an explanatory memorandum setting out in detail the policy and principles of the Bill, the defects which it is intended to remedy and the necessity for its introduction."

PUBLICATION OF BILLS BEFORE CONSIDERATION BY THE NATIONAL ASSEMBLY

Section 101, subsection (3) reads:

"No Bill, other than a Bill referred to in subsection (5), shall be introduced into the National Assembly unless it has been published in the Gazette, and such publication has been made at least fourteen days before the date of its introduction:

"Provided that where the President certifies that the enactment of the Bill is required in the public interest as a matter of urgency, the Bill may be introduced notwithstanding it has not been published fourteen days before hand, but the Speaker shall, on the introduction of the Bill, cause a vote to be taken in the National Assembly without debate on a motion to give consideration to the Bill notwithstanding that the said period of fourteen days has not expired."

LIMITATION OF THE LAW MAKING POWERS OF THE NATIONAL ASSEMBLY

Section 101, subsection (4) reads:

"Without prejudice to the power of the National Assembly to make any amendment (whether by the increase or reduction of any tax or charges, or the amount of any payment or withdrawal, or otherwise), the National Assembly shall not give consideration to a Bill that in the opinion of the person presiding makes provision for any of the following purposes-

"(i) for the imposition of taxation or the alteration of taxation;

"(ii) for the imposition of any charges on the Consolidated Revenue Fund or any other public fund of The Gambia or the alteration of any such charge;

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

"(iv) for the composition or remission of any debt due to the Government,

"unless the Bill is introduced into the National Assembly by the President."

THE POWER TO CHECK GOVERNMENT OTHER POWERS OF THE NATIONAL ASSEMBLY

Section 102 reads:

"In addition to the other powers conferred on the National Assembly this Constitution or any other law, the National Assembly shall have power to-

"(a) receive and review reports on the activities of the Government and such other reports as are required to be made in accordance with this Constitution;

"(b) review and approve proposals for the raising of revenue by the Government;

"(c) examine the accounts and expenditure of the Government and other public bodies funded by public moneys and the reports of the Auditor General thereon;

"(d) include in a Bill a proposal for a referendum on an issue of national concern defined in the Bill;

"(e) advise the President on any matter which lies within his or her responsibility."

ON THE PROCEDURE IN THE NATIONAL ASSEMBLY

Section 103 reads:

"There shall preside at any sitting of the National Assembly-

"(a) the Speaker;

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

"(c) in the absence of both the Speaker and the Deputy Speaker, such member of the National Assembly as the National Assembly may elect for the purpose."

Section 104 reads:

"(1) The National Assembly may act notwithstanding any vacancy in its membership (including any vacancy not filled when the National Assembly first meets after a general election).

"(2) The quorum of the National Assembly at the commencement of any sitting is one half of all the members. If, subsequently thereto, objection is taken by any member that there are present in the National Assembly (besides the person presiding) less than one quarter of all the members, and the person presiding is so satisfied, he or she shall immediately adjourn the sitting."

LANGUAGE OF THE NATIONAL ASSEMBLY

Section 105 reads:

"The business of the National Assembly shall be conducted in the English Language or any other language prescribed by an Act of the National Assembly."

ON VOTING IN THE NATIONAL ASSEMBLY

Section 106 reads:

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

"(2) The person presiding in the National Assembly shall have neither an original nor a casting vote and if on any question before the National Assembly the votes are equally divided, the motion shall be deemed to have been rejected.

"(3) Any member of the National Assembly who has a direct pecuniary interest in any matter proposed for discussion in the National Assembly shall declare the same to the Speaker and the vote of any such member on such a matter shall be disallowed and he or she shall be deemed not to have voted."

INTERFERENCE WITH VOTING IN THE NATIONAL ASSEMBLY

Section 107 reads:

"Any person who sits or votes in the National Assembly knowing or having reasonable grounds for knowing that he or she is not entitled to do so shall be liable to such penalty as may be prescribed by an Act of the National Assembly, which penalty may be recovered by suit by the Attorney General."

ON THE RULES OR STANDING ORDERS OF THE NATIONAL ASSEMBLY

Section 108 reads:

"(1) Subject to the provisions of this Constitution, the National Assembly may regulate its own procedure and, in particular, may make Standing Orders for the conduct of its own proceedings.

"(2) Notwithstanding anything to the contrary in this Constitution or in any other law, no decision, order or direction of the National Assembly or any of its Committees or the Speaker relating to the Standing Orders of the National Assembly, or to the application or interpretation of Standing Orders, or any act done by the National Assembly or the Speaker under any Standing Orders, shall be enquired into by any court."

WORKING COMMITTEES OF THE NATIONAL ASSEMBLY

Section 109 reads:

"The National Assembly shall appoint-

"(a) a Public Appointments Standing Committee;

"(b) a Finance and Public Accounts Standing Committee;

"(c) a Standing Committee of Privileges;

"(d) a Standing Committee on Defence and Security,

"and such other standing or other committees as it considers necessary for the exercise of its functions.

"(2) Committees may be appointed-

"(a) to investigate or inquire into the activities or administration of ministries or departments of the Government, and such investigation or inquiry may extend to making proposals for legislation;

"(b) to investigate any matter of public importance.

"(3) For the purpose of effectively performing its functions, each of the committees shall have all of the powers, rights and privileges as are vested in the High Court at a trial in respect of-

"(a) enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise;

"(b) compelling the production of documents;

"(c) the issue of a commission or request to examine witnesses abroad."

ON CONTEMPT OF THE NATIONAL ASSEMBLY

Section 110 reads:

"Any act or omission which obstructs or impedes the National Assembly in the performance of its functions or which obstructs or impedes any member or officer of the National Assembly in the discharge of his or her duties or affronts the dignity of the National Assembly shall be a contempt of the National Assembly and, in addition to any liability in respect thereof under the criminal law, the offender shall be liable to reprimand or admonition by the National Assembly, and if the offender is a member of the National Assembly, suspension or expulsion from the National Assembly."

to:

ON THE NATIONAL ASSEMBLY SERVICE

Section 111 reads:

"There shall be a National Assembly Service to provide services and support for the National Assembly. The National Assembly Service shall

form part of the public service and its members shall be appointed by the National Assembly after consultation with the Public Service Commission.

"(2) The National Assembly shall establish an authority to supervise the National Assembly Service. The authority shall consist of-

"(a) the Speaker as chairman;

"(b) four other members of the National Assembly who shall be appointed by the Speaker acting in accordance with the advice of a committee of the National Assembly;

"(c) the Clerk of the National Assembly who shall be secretary of the authority.

"(3) The Clerk of the National Assembly shall be the administrative head of the National Assembly Service.

"(4) In addition to its other functions, the National Assembly Service shall provide members of the National Assembly with facilities for the drafting of Bills and the obtaining of such reasonable information from the relevant Government department as may be required for that purpose."

MEMBERS OF THE NATIONAL ASSEMBLY AS SERVANTS OF THE PEOPLE

Section 112 reads:

"The responsibilities of the members of the National Assembly shall include the following:

"(a) all members shall maintain the dignity of the National Assembly both during the sittings of the National Assembly and in their acts and activities outside the National Assembly;

"(b) all members shall regard themselves as servants of the people of The Gambia, desist from any conduct by which they seek improperly to enrich themselves or alienate themselves from the people, and shall discharge their duties and functions in the interest of the nation as a whole and in doing so shall be influenced by the dictates of conscience and the national interest."

FREEDOM OF DEBATE

Section 113 reads:

"There shall be freedom of speech and debate in the National Assembly and that freedom shall not be impeached or questioned in any court or place outside the National Assembly."

ON IMMUNITY FROM COURT PROCESSES WHILE ATTENDING NATIONAL ASSEMBLY MEETING

Section 114 of the draft constitution reads:

"Without prejudice to the generality of section 113, no civil or criminal proceedings shall be instituted against a member of the National Assembly in any court or other place outside the National Assembly by reason of anything said by him or her in the National Assembly."

Section 115 reads:

"No civil or criminal process issuing from any court or other place outside the National Assembly shall be served on or executed in relation to a member of the National Assembly while he or she is on his or her way to, attending or returning from any proceeding of the National Assembly."

Section 116 reads:

"Neither any member of the National Assembly nor the Clerk of the National Assembly shall be compelled while attending the National Assembly to appear as a witness in any court or place outside the National Assembly."

Section 117 reads:

"Neither any member of the National Assembly nor the clerk of the National Assembly shall be required to serve on a jury in any court."

PUBLICATION OF NATIONAL ASSEMBLY PROCEEDINGS

Section 118 reads:

"Subject to the provisions of this Constitution, no person shall be un-

der any civil or criminal liability in respect of the publication of-

"(a) the text or a summary of any report, papers, minutes, votes or proceedings of the National Assembly;

"(b) a contemporaneous report of the proceedings of the National Assembly;

"unless it is shown that the publication was effected maliciously or otherwise in want of good faith."

ON WITNESSES AND THE PROCEEDINGS OF THE NATIONAL ASSEMBLY

Section 119 reads:

"Every person summoned to give evidence or to produce any paper, book, record or other document before the National Assembly or any committee of the National Assembly shall be entitled, in respect of his evidence or the production of such document as the case may be, to the same privileges as if he or she were appearing before a court.

"(2) Where the President or any member of the cabinet certifies that the disclosure of the contents of any document sought by the National Assembly or a committee of the National Assembly will be injurious to the public interest or prejudicial to the security of the State, the National Assembly or such committee shall only give consideration to such document in private and under such conditions as will prevent the disclosure of the contents of such document outside the National Assembly or the committee as the case may be, and shall not publish the document or its contents.

"(3) An answer by a person to a question put by the National Assembly shall not be admissible evidence against him or her in any civil or criminal proceedings outside the National Assembly other than proceedings for perjury brought under the criminal law."

SEE BOOK FOUR FOR MORE LESSONS

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