

## GOLD COAST COLONY AND ASHANTI

### The Gold Coast Colony and Ashanti (Legislative Council) Order in Council, 1946

AT THE COURT AT BUCKINGHAM PALACE

The 19th day of February, 1946

Present

THE KING'S MOST EXCELLENT MAJESTY  
IN COUNCIL



WHEREAS by the Gold Coast Colony (Legislative Council) Orders in Council, 1925 to 1939, provision is made for the constitution and powers of a Legislative Council for the Gold Coast Colony :

AND WHEREAS by the Ashanti Order in Council, 1934, provision is made for the administration of Ashanti and for the making of laws therefor :

AND WHEREAS it is expedient to make provision for the constitution and powers of a Legislative Council for the Gold Coast Colony and for Ashanti :

NOW, THEREFORE, His Majesty, by virtue and in exercise of the powers vested in Him by the British Settlements Acts, 1887 and 1945, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

#### PART I

##### *Preliminary*

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

Interpreta-  
tion.

“ the appointed day ” means the day appointed under section 2 of this Order ;

“ Ashanti ” means the territories from time to time defined as such by Order of His Majesty in Council ;

“ the Colony ” means the Gold Coast Colony as from time to time defined by Order of His Majesty in Council ; and for the purposes of this Order references to the Colony shall include that part of Togoland under British Mandate, known as the Southern Section, which is for the time being administered as if it formed part of the Colony ;

“ the Council ” means the Legislative Council constituted under this Order ;

“ the Eastern Province ” means the Eastern Province of the Colony as from time to time defined by or under any law in force in the Gold Coast ;

“ the Executive Council ” means the Executive Council of the Gold Coast ;

“ the existing Orders ” means the Orders in Council mentioned in the Schedule to this Order ;

“ the Gazette ” means the official *Gazette* of the Gold Coast ;

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“ the Gold Coast ” means the Colony, Ashanti and the Northern Territories of the Gold Coast ; and for the purposes of this Order references to the Northern Territories shall include that part of Togoland under British Mandate, known as the Northern Section, which is for the time being administered as if it formed part of the Northern Territories ;

“ the Governor ” means the Governor and Commander-in-Chief of the Gold Coast and includes the Officer for the time being administering the Government and, to the extent to which a Deputy for the Governor is authorised to act, that Deputy ;

“ the Governor in Council ” means the Governor acting with the advice of the Executive Council, but not necessarily in accordance with that advice nor necessarily in such Council assembled ;

“ Meeting ” means any sitting or sittings of the Legislative Council commencing when the Council first meets after being summoned at any time and terminating when the Council is adjourned *sine die* or at the conclusion of a session ;

“ Native Authority ” means a Native Authority constituted under any law for the time being in force in the Gold Coast who or which is not subordinate to any other Native Authority (or, in the case of Ashanti, not subordinate to any Native Authority other than the Ashanti Confederacy Council) and has been appointed and is for the time being recognised by the Governor as a Native Authority ;

“ Native Court ” means a native court constituted under any law for the time being in force in the Gold Coast ;

“ Nominated Official Member ” means a Nominated Member of the Council who at the time of his appointment as such holds an office of emolument under the Crown in the Gold Coast ;

“ Nominated Unofficial Member ” means a Nominated Member of the Council who at the time of his appointment as such does not hold an office of emolument under the Crown in the Gold Coast ;

“ Prescribed ” means prescribed by law or by regulations made under this Order ;

“ the Public Seal ” means the Public Seal of the Gold Coast ;

“ the Supreme Court ” means the Supreme Court of the Gold Coast ;

“ Session ” means the meetings of the Legislative Council commencing when the Council first meets after being constituted under this Order, or after its prorogation or dissolution at any time, and terminating when the Council is prorogued or is dissolved without having been prorogued ;

“ the Western Province ” means the Western Province of the Colony as from time to time defined by or under any law in force in the Gold Coast.

(2) For the purposes of this Order, where reference is made to any public officer by the term designating his office, such reference means the officer for the time being lawfully discharging the functions of that office.

(3) For the purposes of this Order a person shall not be deemed to hold an office of emolument under the Crown in the Gold Coast by reason only that he—

- (a) is a Chief, a Native Authority, or a Member of a Native Authority, or of a native court ; or
- (b) is in receipt of a pension or other like allowance in respect of service under the Crown ;

and if it shall be declared by any law for the time being in force in the Gold Coast that an office shall not be an office of emolument under the Crown in the Gold Coast for all or any of the purposes of this Order, this Order shall have effect accordingly as if such law were enacted therein.

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

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Vict. c. 63

2. This Order may be cited as the Gold Coast Colony and Ashanti (Legislative Council) Order in Council, 1946, and shall come into operation on a date to be appointed by the Governor by Proclamation in the *Gazette* :

Short title  
and  
commence  
ment.

Provided that the Governor may, from time to time, by notice in the *Gazette*, bring into operation any of the provisions of this Order specified in such notice before the date so appointed by Proclamation.

3.—(1) The existing Orders and sections 5 to 17 inclusive of the Ashanti Order in Council, 1934, are hereby revoked.

Revoca-  
tion.

(2) The continued operation of any law in force in the Gold Coast immediately before the appointed day shall not be affected by reason only of the revocation of the said Orders.

## PART II

### *The Legislative Council*

4. The Legislative Council of the Colony as constituted under the existing Orders immediately before the appointed day shall cease to exist ; and there shall be constituted a Legislative Council for the Colony and Ashanti, in accordance with the provisions of this Order.

Establish-  
ment of  
Legislative  
Council.

5. The Legislative Council shall consist of the President, six Ex-officio Members, eighteen Elected Members and six Nominated Members.

Constitu-  
tion of  
Legislative  
Council.

6.—(1) The Governor, with the approval of a Secretary of State, may, by Instrument under the Public Seal, appoint a person (either by name, or by reference to the office held by him or to the office the functions of which he performs) to be the President of the Legislative Council ; and unless and until a President is so appointed, or if at any time there is no subsisting appointment, the Governor shall be the President.

President.

(2) Any person so appointed shall hold office during His Majesty's pleasure, and, subject thereto, for the period specified in the Instrument by which he is appointed ;

Provided that a person so appointed by name may at any time, by writing under his hand addressed to the Governor, resign the office of President ; and any appointment under this section may, with the approval of a Secretary of State, be revoked by the Governor by Instrument under the Public Seal.

Ex-officio  
Members.

7. The Ex-officio Members shall be—

- (a) The Colonial Secretary ;
- (b) The Chief Commissioner of the Colony ;
- (c) The Chief Commissioner of Ashanti ;
- (d) The Chief Commissioner of the Northern Territories ;
- (e) The Attorney-General ;
- (f) The Financial Secretary.

Elected  
Members.

8. The Elected Members shall be—

- (a) nine Provincial Members elected for the Eastern and Western Provinces in accordance with Part III of this Order ;
- (b) four Ashanti Members elected in accordance with Part IV of this Order ;
- (c) five Municipal Members elected in accordance with Part V of this Order.

Nominated  
Members.

9.—(1) The Nominated Members shall be appointed by the Governor by Instrument under the Public Seal.

(2) The Governor shall without delay report to His Majesty, through a Secretary of State, every appointment of any person as a Nominated Member and every person so appointed shall hold his seat on the Council during His Majesty's pleasure, and subject thereto for the period provided for by this Order.

Extra-  
ordinary  
Members.

10. Whenever upon any occasion the Governor is of opinion that the Council should have the assistance of any person touching any matter, he may by Instrument under the Public Seal appoint such person to be, for such occasion, an Extraordinary Member of the Council, but no such Extraordinary Member shall have the right to vote in the Council.

Tenure of  
Elected  
Members.

11. Subject to the provisions of this Order, a person elected as an Elected Member shall vacate his seat at the expiration of four years from the date of his election but, if qualified, shall be eligible for re-election.

Tenure of  
Nominated  
Members.

12.—(1) Subject to the provisions of this Order, a person appointed as a Nominated Member shall vacate his seat at the expiration of four years from the date of his appointment but, if qualified, shall be eligible for reappointment.

(2) If any person is appointed a temporary Member of the Council in accordance with the provisions of section 17 of this Order and such appointment is immediately followed by his definitive appointment as a Nominated Member, the said period of four years shall be reckoned from the date of his appointment as a temporary Member.

(3) The Governor may, by Instrument under the Public Seal, suspend any Nominated Member from the exercise of his functions as such. Every such suspension shall forthwith be reported by the

Governor to His Majesty through a Secretary of State, and shall remain in force, unless and until it shall be removed by the Governor by Instrument under the Public Seal or by His Majesty through a Secretary of State or the person suspended ceases to be a Member of the Council.

13. Subject to the provisions of section 14 and of Parts III, IV and V of this Order, any person who is a British subject or a British protected person or a person treated as if he were a British protected person, who is of the age of twenty-one years or upwards shall be qualified to be an Elected or Nominated Member of the Council, and no other person shall be qualified to be elected or appointed thereto or, having been so elected or appointed, shall sit or vote in the Council.

Qualifications for Elected and Nominated Membership.

14. No person shall be capable of being an Elected or Nominated Member of the Council or, having been elected or appointed thereto shall sit or vote in the Council, who at the time of election or appointment—

Disqualifications for Elected and Nominated Membership.

- (1) is, by virtue of his own act, under any acknowledgment of allegiance, obedience, or adherence to a foreign power ; or
- (2) is an undischarged bankrupt, having been declared a bankrupt under any law in force in any part of His Majesty's dominions or in any territory under His Majesty's protection ; or
- (3) is serving, or has within the immediately preceding ten years completed the serving of a sentence of imprisonment (by whatever name called) of or exceeding six months imposed in any part of His Majesty's dominions or any territory under His Majesty's protection and has not received a free pardon ; or
- (4) is disqualified from practising as a legal or medical practitioner in any part of His Majesty's dominions or any territory under His Majesty's protection by the order of any competent authority ; or
- (5) is a party to any subsisting contract with the Government of the Gold Coast in relation to the public service and—
  - (a) in the case of a Provincial, Ashanti or Nominated Member, has not disclosed to the Governor the nature of such contract and his interest therein ; or
  - (b) in the case of a Municipal Member has not published, within one month before the day of election, in the *Gazette* or in some newspaper circulating in the area for which he is a candidate, a notice setting out the nature of such contract and his interest therein ; or
- (6) is a lunatic so found under any law for the time being in force in the Gold Coast ; or
- (7) is disqualified for membership of the Council under any law or regulation for the time being in force in the Gold Coast relating to offences connected with the election of Members ; or
- (8) in the case of an Elected Member—
  - (a) holds an office of emolument under the Crown ; or
  - (b) has within five years before the day of election received any relief from public funds, except such special relief

as may be declared by any law for the time being in force in the Gold Coast not to be relief for the purposes of this paragraph.

15.—(1) The seat of an Elected Member or of a Nominated Member of the Council shall become vacant—

- (a) upon his death ; or
- (b) if he shall, without the leave of the Governor previously obtained, be absent from the sessions of the Council or from the Gold Coast for a continuous period of more than twelve months or be absent from the sittings of the Council for a period of one calendar month during a session of the Council ; or
- (c) if he shall take any oath, or make any declaration or acknowledgment, of allegiance, obedience or adherence to any foreign power or State ; or shall do, concur in or adopt any act done with the intention that he shall become a subject or citizen of any foreign power or State ; or
- (d) if he shall be declared a bankrupt under any law in force in any part of His Majesty's dominions or in any territory under His Majesty's protection ; or
- (e) if in any part of His Majesty's dominions or in any territory under His Majesty's protection he shall be sentenced to death or to imprisonment (by whatever name called) for a term of or exceeding six months ; or
- (f) if he shall become disqualified from practising as a legal or medical practitioner in any part of His Majesty's dominions or in any territory under His Majesty's protection by the order of any competent authority ; or
- (g) if, without the prior consent of the Governor in Council, he shall become a party to any contract with the Government of the Gold Coast in relation to the public service ; or
- (h) if he shall be found a lunatic under any law for the time being in force in the Gold Coast ; or
- (i) if he shall be disqualified for membership of the Council under any law or regulation for the time being in force in the Gold Coast relating to offences connected with the election of Members ; or
- (j) if he shall by writing under his hand directed to the Governor resign his seat in the Council ; or
- (k) if, being an Elected Member, he shall be appointed to any office of emolument under the Crown ; or
- (l) if, being a Nominated Official Member, he shall cease to hold office of emolument under the Crown ; or
- (m) if, being a Nominated Unofficial Member, he shall be appointed permanently to any office of emolument under the Crown ; or
- (n) if he shall otherwise cease to possess qualification for election or appointment, as the case may be, under the provisions of this Order.

(2) If any Nominated Unofficial Member shall be appointed temporarily to, or to act in, any office of emolument under the Crown, he shall not sit or vote in the Council by virtue of his appointment as a Nominated Unofficial Member so long as he continues to hold, or to act in, that office.

(3) The Governor may, by Instrument under the Public Seal, declare any Nominated Member to be incapable of discharging his functions as a Member of the Legislative Council, and thereupon such Member shall not sit or vote in the Council until he is declared, in manner aforesaid, again to be capable of discharging his said functions.

(4) Whenever the seat of an Unofficial Member becomes vacant under subsection (1) of this section, the vacancy shall forthwith be reported to the Governor in writing by the Clerk of the Legislative Council.

16.—(1) Subject to the provisions of this Order, all questions which may arise as to the right of any person to be or remain an Elected Member shall be determined in the prescribed manner.

Decision of questions as to Membership.

(2) All questions which may arise as to the right of any person to be or remain a Nominated Member shall be referred to and decided by the Governor in Council.

17.—(1) Whenever there shall be a vacancy in the number of persons sitting as Ex-officio or Nominated Members of the Council, by reason of the fact that :

Temporary Appointments.

- (a) one person is lawfully discharging the functions of more than one of the offices referred to in section 7 of this Order ; or
- (b) no person is lawfully discharging the functions of any such office ; or
- (c) a Nominated Official Member is lawfully discharging the functions of any such office ; or
- (d) any such office has ceased to exist ; or
- (e) a Nominated Member is unable to sit or vote in the Council in consequence of a declaration by the Governor, as provided in this Order, that he is incapable of discharging his functions as a Member ; or
- (f) a Member is absent from the Gold Coast ; or
- (g) a Nominated Unofficial Member is temporarily appointed to, or to act in, an office of emolument under the Crown in the Gold Coast,

a person qualified to be a Nominated Member may be appointed by the Governor by Instrument under the Public Seal as a temporary Member for the period of such vacancy.

(2) The period of any such vacancy shall terminate when the circumstances giving rise to the vacancy shall cease to exist.

(3) Every person so temporarily appointed shall, as long as his appointment shall subsist, be to all intents and purposes a Nominated Member and the provisions of subsection (1) of section 12, of section 15 and of subsection (2) of section 16 of this Order shall apply accordingly :

Provided that, in the case of a vacancy in the number of persons sitting as Ex-officio Members of the Council, the person so appointed shall be deemed for the purposes of section 5 of this Order to be an Ex-officio Member.

Presiding in  
Legislative  
Council.

18. The President, if present, or in the absence of the President such Member of the Council as the Governor may from time to time appoint, or in default of such appointment, or in the absence of the Member so appointed, the Member present who stands first in the order of precedence, shall preside at the meetings of the Legislative Council.

Precedence  
of Members.

19. After the President, the Members of the Council shall take precedence among themselves as His Majesty may specially assign, and in default thereof as follows :—

- (1) First, the Ex-officio Members in the order in which their offices are referred to in section 7 of this Order ;

Provided that the respective precedence, as between themselves, of the three Chief Commissioners shall be determined by the dates of their appointment to the rank of Chief Commissioner, except that a person holding the substantive office of Chief Commissioner shall take precedence before any person acting in that office ;

- (2) Secondly, the Elected and Nominated Members according to the length of time during which they have been continuously Members of the Council, Members elected or appointed at the same time taking precedence amongst themselves according to the alphabetical order of their names.

- (3) For the purposes of this section :—

(a) when the Legislative Council is dissolved, Members elected at the ensuing elections shall be deemed to have been elected, by virtue of those elections, and Nominated Members appointed to fill vacancies caused thereby shall be deemed to have been appointed, on the date on which the report of the first successful candidate for election is made to the Governor ; and

(b) Sub-paragraph (a) of this subsection shall apply to the Members elected or appointed to the Council as first constituted under this Order as if such elections or appointments were consequent upon a dissolution of the Legislative Council ; and

(c) in ascertaining the period during which a person has continuously been an Elected Member or a Nominated Member of the Council,—

- (i) no account shall be taken of any interval between the vacation by that person of his seat in the Council in consequence of the expiration of his tenure of office or a dissolution of the Council and the date of his re-election or re-appointment to fill a vacancy in the Council caused by that expiration of tenure or that dissolution ; and

- (ii) if any person, having been for any period immediately before the appointed day, a Member of the Legislative Council constituted under the existing Orders, becomes a Member of the Council as first constituted under this Order, he shall be deemed to have been a Member of the Council so constituted for that period; and no account shall be taken of any interval between the day preceding the appointed day and the date upon which he is first elected or appointed to the Council or of any interval in his membership of the Legislative Council constituted under the existing Orders between the expiration of his tenure of office and his election or appointment to fill the vacancy thereby caused.

**20.—(1)** Whenever the seat of an Elected Member becomes vacant a fresh election shall be held to fill the vacancy in accordance with the provisions of this Order. Filling of Vacancies.

(2) Whenever the seat of a Nominated Member becomes vacant the vacancy shall be filled by appointment by the Governor.

**21.** The first elections and appointments of Members to the Legislative Council constituted under this Order shall be held and made not later than three months after the appointed day, and the first session of the Council shall commence not later than four months after that day. First Elections, Appointments and Session.

### PART III

#### *Provincial Members*

**22.—(1)** Of the nine Provincial Members of the Legislative Council, five shall be elected to represent the Eastern Province and four to represent the Western Province. Provincial Members.

(2) Subject to the provisions of this Order, the Provincial Members shall be elected by the Joint Provincial Council (constituted as provided in section 23 of this Order) in accordance with provision made under section 45 of this Order.

**23.—(1)** For the purposes of this Part of this Order, the Joint Provincial Council shall consist of:— Joint Provincial Council.

- (a) The Paramount Chiefs of the Colony (or their duly accredited representatives as provided for in this section) but excluding any Paramount Chief who has not been, or who has ceased to be, recognised by the Governor as a Native Authority or as a Member of a Native Authority, or as a Paramount Chief in accordance with section 26 of this Order:
- (b) one Member of the Native Authority for every area within the Colony which does not include a State, or part of a State, such Member having been chosen by such Native Authority as their representative on the Joint Provincial Council:

Provided that a Paramount Chief who is a Member of the Joint Provincial Council may be represented at all or any of the meetings thereof by a person duly accredited for that purpose to the satisfaction of the President of the Joint Provincial Council.

(2) If any person chosen to be a Member of the Joint Provincial Council under paragraph (b) of subsection (1) of this section ceases to be a Member of the Native Authority by which he was chosen, or if such Native Authority ceases to be recognised by the Governor, such person shall cease forthwith to be a Member of the Joint Provincial Council.

(3) The President of the Joint Provincial Council shall forthwith furnish the Chief Commissioner of the Colony with the name of every person accredited in accordance with the provisions of subsection (1) of this section as the representative of a Paramount Chief, or chosen by a Native Authority as a Member of the Joint Provincial Council.

24.—(1) No person shall be eligible for election to serve as a Provincial Member or, having been elected, shall sit or vote as such in the Council unless—

- (a) he is a native of the Colony ; and
- (b) the Provincial Commissioner shall have certified in writing that his ability to speak and (unless incapacitated by blindness or other physical cause) to read the English language is sufficient to enable him to take an active part in the proceedings of the Council ; and
- (c) in the case of the Eastern Province he—
  - (i) is a Paramount Chief of the Province ; or
  - (ii) owes allegiance to the Stool of a Paramount Chief of the Province ; or
  - (iii) is a member of, or is subject to, the Native Authority for any area of the Province where there is no Paramount Chief ; and
- (d) in the case of the Western Province he—
  - (i) is a Paramount Chief of the Province ; or
  - (ii) owes allegiance to the Stool of a Paramount Chief of the Province ; or
  - (iii) is a member of, or is subject to, the Native Authority for any area of the Province where there is no Paramount Chief ; and
- (e) he is otherwise qualified as required by Part II of this Order.

(2) Immediately after the election of a Provincial Member, the President of the Joint Provincial Council shall report to the Chief Commissioner of the Colony the name of the Member who has been elected.

(3) Should the Joint Provincial Council fail to elect a Provincial Member to fill a vacancy within six months after the vacancy occurs or within such longer period as the Governor may in writing allow, the Governor may fill the vacancy by nominating a suitable person, duly qualified for election, to serve as a Provincial Member.

(4) Where the result of an election is that there is an equality of votes between any candidates and the addition of a vote would entitle any of those candidates to be elected, one re-vote shall be taken in respect of the vacancy or vacancies. If the re-vote has a like result, the Governor may fill the vacancy by nominating from

the candidates receiving an equal number of votes on the re-vote a person, duly qualified for election, to serve as a Provincial Member, and such person shall be deemed for the purposes of this Order to have been elected as a Provincial Member.

In this paragraph, the expression "vacancy" does not include any vacancy filled by a candidate receiving more votes than the candidates receiving an equal number of votes.

(5) In this section—

"allegiance" means the duty which according to native customary law a person owes to the Stool to which he is subject ;

"native of the Colony" means a person both of whose parents were born in the Colony and are or were members of a tribe or tribes indigenous to Africa ;

"State" means a territorial area of the Colony under the administration of a Paramount Chief who is recognised by the Governor as a Native Authority or as a Member of a Native Authority.

25. A Provincial Member of the Council who—

(a) having at the time of his election been a Paramount Chief or a Chief ceases so to be ; or

(b) having at the time of his election been a member, of the Joint Provincial Council, ceases so to be,

shall thereupon cease to be a Member of the Legislative Council.

Vacation of seats by Provincial Members.

26.—(1) For the purposes of this Part of this Order—

"Paramount Chief" means a Chief (not being in the opinion of the Governor subordinate in his ordinary jurisdiction to any other Chief) whom the Governor, either before or after the commencement of this Order, shall by Instrument under his hand, have recognised as a Paramount Chief, such Instrument not having been revoked.

(2) The Governor shall have power to amend or revoke any such Instrument.

(3) The validity of any such Instrument, amendment, or revocation shall not be liable to be impugned in any Court of Law or otherwise.

(4) After the commencement of this Order every Instrument recognizing a Paramount Chief in accordance with the provisions of this section, and every amendment or revocation of any such Instrument, shall be published in the *Gazette*.

Recognition of Paramount Chiefs.

PART IV

*Ashanti Members*

27.—(1) The four Ashanti Members of the Legislative Council shall represent the peoples of Ashanti.

Ashanti Members.

(2) Subject to the provisions of this Order, the Ashanti Members shall be elected by the Ashanti Confederacy Council (constituted as provided in section 28 of this Order) in accordance with provision made under section 45 of this Order.

Ashanti  
Confederacy  
Council.

Cap. 79.

Election of  
Ashanti  
Members.

28. For the purposes of this Part of this Order, the Ashanti Confederacy Council shall consist of the Asantehene and Head Chiefs of such of the Divisions of Ashanti, and of such of the Kumasi clans, as may from time to time be specified by the Governor in any Order made by him under the Native Authority (Ashanti) Ordinance, together with such other persons as the Asantehene, with the approval of the Governor, may from time to time appoint as Members of the Council.

29.—(1) No person shall be eligible for election to serve as an Ashanti Member or, having been elected, shall sit or vote as such in the Council unless—

- (a) he is a native of Ashanti ; and
- (b) the Chief Commissioner of Ashanti shall have certified in writing that his ability to speak and (unless incapacitated by blindness or other physical cause) to read the English language is sufficient to enable him to take an active part in the proceedings of the Council ; and
- (c) he owes allegiance directly or indirectly to the Asantehene ; and
- (d) he is otherwise qualified as required by Part II of this Order.

(2) Immediately after the election of an Ashanti Member, the President of the Ashanti Confederacy Council shall report to the Chief Commissioner of Ashanti the name of the Member who has been elected.

(3) Should the Ashanti Confederacy Council fail to elect an Ashanti Member to fill a vacancy within six months after the vacancy occurs or within such longer period as the Governor may in writing allow, the Governor may fill the vacancy by nominating a suitable person, duly qualified for election, to serve as an Ashanti Member.

(4) Where the result of an election is that there is an equality of votes between any candidates and the addition of a vote would entitle any of those candidates to be elected, one re-vote shall be taken in respect of the vacancy or vacancies. If the re-vote has a like result, the Governor may fill the vacancy by nominating from the candidates receiving an equal number of votes on the re-vote a person, duly qualified for election, to serve as an Ashanti Member, and such person shall be deemed for the purpose of this Order to have been elected as an Ashanti Member.

In this paragraph, the expression "vacancy" does not include any vacancy filled by a candidate receiving more votes than the candidates receiving an equal number of votes.

(5) In this section—

"allegiance" means the duty which according to native customary law a person owes to the Asantehene ;

"native of Ashanti" means a person both of whose parents were born in Ashanti and are or were members of a tribe or tribes indigenous to Africa,

30. An Ashanti Member of the Legislative Council who—
- (a) having at the time of his election been a Head Chief or Chief, ceases so to be ; or
  - (b) having at the time of his election been a Member of the Ashanti Confederacy Council ceases so to be,
- shall thereupon cease to be a Member of the Legislative Council.

Vacation of  
seats by  
Ashanti  
Members.

#### PART V

#### *Municipal Members*

31.—(1) Subject to the provisions of this Order, the five Municipal Members shall be elected in accordance with provision made under section 45 of this Order.

Municipal  
Members.

(2) Of the Municipal Members—

- (a) two shall be elected for the town of Accra ;
- (b) one shall be elected for the town of Cape Coast ;
- (c) one shall be elected for the town of Sekondi ;
- (d) one shall be elected for the town of Kumasi :

Provided that if a single Municipal area comprising the towns of Sekondi and Takoradi is established by law, then, on a date to be determined by the Governor by Proclamation, the person then sitting as Member for the town of Sekondi shall cease to be a Member of the Legislative Council ; and thereafter one member shall be elected for the said single Municipal area instead of for the town of Sekondi.

32. No person shall be eligible for election as a Municipal Member of the Council, or having been elected shall sit or vote as such in the Council, unless—

Disqualifi-  
cation of  
Municipal  
Members.

- (1) he is qualified to be registered as a voter for the election of a Municipal Member for the town or municipal area concerned ; and
- (2) The District Commissioner shall have certified in writing that his ability to speak and (unless incapacitated by blindness or other physical cause) to read the English language is sufficient to enable him to take an active part in the proceedings of the Council ; and
- (3) he is, in the town or municipal area concerned,
  - (a) the beneficial owner of real or personal property to the value of two hundred pounds ; or
  - (b) the occupier of premises and pays rates thereon computed on a valuation of not less than twenty pounds per annum ; and
- (4) he has been ordinarily resident in the town or municipal area concerned for at least six months immediately preceding the date of his nomination for election ; and
- (5) he is otherwise qualified as required by Part II of this Order.

#### PART VI

#### *Legislation and Procedure of Legislature*

33. Subject to the provisions of this Order, it shall be lawful for the Governor, with the advice and consent of the Legislative Council, to make laws for the peace, order and good government of the Colony and of Ashanti.

Power to  
make laws.

34. Subject to the provisions of this Order and of the Standing Rules and Orders of the Legislative Council, any Member may introduce any Bill or propose any motion for debate in, or may present any petition to, the Council, and the same shall be debated and disposed of according to the Standing Rules and Orders :

Provided that, except by the direction or with the sanction or recommendation of the Governor signified thereto, the Council shall not proceed upon any Bill, amendment, motion or petition which, in the opinion of the President or Presiding Member, would dispose of or charge any public revenue or public funds of the Gold Coast or revoke or alter any disposition thereof or charge thereon, or impose, alter or repeal any rate, tax or duty.

Voting.

35.—(1) Save as otherwise provided in this Order, all questions proposed for decision in the Council shall be determined by a majority of the votes of the Members present.

(2) The President shall have neither an original nor a casting vote, and in the absence of the President, the Presiding Member shall retain his original vote as a Member, but shall not have a casting vote :

Provided that, if any Member is President by virtue of his having been appointed Deputy for the Governor, he shall retain his original vote as a Member but shall not have a casting vote.

(3) If, upon any question before the Council, the votes are equally divided, the motion shall be declared to be lost.

Vacancies  
and  
Quorum.

36. The Council shall not be disqualified for the transaction of business by reason of any vacancy among the Members ; but no business except that of adjournment shall be transacted if objection is taken by any Member present that there are less than ten Members present besides the President or Presiding Member.

Royal  
Instruc-  
tions.

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

Governor's  
reserved  
powers.

38.—(1) If the Governor shall consider that it is expedient in the interests of public order, public faith or good government (which expressions shall, without prejudice to their generality, include the responsibility of the Gold Coast as a component part of the British Empire, and all matters pertaining to the creation or abolition of any public office or to the appointment, salary or other conditions of service of any public officer or officers) that any Bill introduced, or any motion proposed in the Council should have effect, then if the Council fail to pass such a Bill or motion within such time and in such form as the Governor may think reasonable and expedient, the Governor, at any time in his discretion, may, notwithstanding any provisions of this Order or of any Standing Rules and Orders of the Legislative Council, declare that such Bill or motion shall have effect as if it had been passed by the Council, either in the form in which it was so introduced

or proposed or with such amendments as the Governor shall think fit which have been moved or proposed in the Council or in any Committee thereof; and thereupon the said Bill or motion shall have effect as if it had been so passed, and, in the case of any such Bill, the provisions of this Order relating to assent to Bills and disallowance of laws shall apply accordingly.

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

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

(4) Any such declaration, other than a declaration relating to a Bill, may be revoked by a Secretary of State, and the Governor shall notify such revocation in the *Gazette*; and from the date of such notification, any motion which shall have had effect by virtue of the declaration revoked shall cease to have effect; and the provisions of subsection (2) of section 38 of the Interpretation Act, 1889, shall apply to such revocation as they apply to the repeal of an Act of Parliament.

52 & 53  
Vict. c. 63.

39.—(1) No Bill shall become a law until either the Governor shall have assented thereto in His Majesty's name and on His Majesty's behalf and shall have signed the same in token of such assent, or His Majesty shall have given his assent thereto through a Secretary of State.

Assent to  
Bills.

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

Provided that the Governor shall reserve for the signification of His Majesty's pleasure any Bill by which any provision of this Order is revoked or amended or which is in any way repugnant to or inconsistent with the provisions of this Order, unless he shall have been authorised by a Secretary of State to assent thereto.

(3) A law assented to by the Governor shall be published in the *Gazette* and shall come into operation on the date of such publication, or, if it shall be enacted, either in the law or in some other enactment (including any enactment in force on the appointed day), that it shall come into operation on some other date, on that date.

(4) A Bill reserved for the signification of His Majesty's pleasure shall become a law so soon as His Majesty shall have given His assent thereto, through a Secretary of State, and the Governor shall have signified such assent by Proclamation in the *Gazette*. Every such law shall come into operation on the date of such

Proclamation or, if it shall be enacted, either in the law or in some other enactment (including any enactment in force on the appointed day), that it shall come into operation on some other date, on that date.

Disallow-  
ance of  
Laws.

**40.**—(1) Any law to which the Governor shall have given his assent may be disallowed by His Majesty through a Secretary of State.

(2) Whenever any law has been disallowed by His Majesty, the Governor shall cause notice of such disallowance to be published in the *Gazette*.

(3) Every law so disallowed shall cease to have effect as soon as notice of such disallowance shall be published as aforesaid; and thereupon any enactment repealed or amended by or in pursuance of the law disallowed shall have effect as if such law had not been made. Subject as aforesaid, the provisions of subsection (2) of section 38 of the Interpretation Act, 1889, shall apply to such disallowance as they apply to the repeal of an Act of Parliament.

52 & 53  
Vict. c. 63.

Sessions of  
the Legis-  
lative  
Council.

**41.**—(1) The Sessions of the Legislative Council shall be held at such times and places as the Governor shall from time to time by Proclamation or notice appoint.

(2) There shall be a Session of the Council once at least in every year, so that a period of twelve months shall not intervene between the last sitting in one Session and the first sitting in the next Session.

Standing  
Rules and  
Orders.

**42.**—(1) Subject to the provision of this Order and of any Instructions under His Majesty's Sign Manual and Signet, the Council may from time to time, make, amend and revoke Standing Rules and Orders for the regulation and orderly conduct of their proceedings and the despatch of business, to provide for the giving of notice of the provisions of Bills and for the presentation thereof to the Governor for assent, but no such Rules or Orders shall have effect unless and until they shall have been approved by the Governor.

(2) Until other provision is made under this section, the Standing Rules and Orders of the Legislative Council constituted under the existing Orders, as in force immediately before the appointed day, shall, with the necessary modification and adaptations, be the Standing Rules and Orders of the Legislative Council established under this Order; and the said Standing Rules and Orders may be amended or revoked by Standing Rules and Orders made under the preceding subsection.

Proroga-  
tion and  
dissolution.

**43.**—(1) The Governor may at any time, by Proclamation, prorogue or dissolve the Legislative Council.

(2) On dissolution, all Members shall vacate their seats, and the Council shall be reconstituted by election and appointment in accordance with the provisions of this Order at such time, within three months of every dissolution, as the Governor shall by Proclamation appoint.

Oath of  
Allegiance.

Cap. 206.

**44.** No Member of the Council shall sit or vote therein unless or until he shall have taken and subscribed the oath of allegiance in accordance with the provisions of the Oaths Ordinance or shall have made the appropriate affirmation in lieu thereof as provided in the said Ordinance.

## PART VII

*Miscellaneous*

45.—(1) Provision may be made as hereinafter provided regarding the election of Elected Members including (without prejudice to the generality of the foregoing power) the following matters, that is to say :—

Provisions necessary to give effect to the Order.

- (a) the qualifications of voters for election of such Members ;
- (b) the registration of voters ;
- (c) the ascertainment of the qualification of voters and candidates ;
- (d) the holding of elections of such Members ;
- (e) offences in relation to such elections including the trial and punishment thereof ;
- (f) the disposal of election petitions and the determination of questions otherwise arising regarding membership of the Council ; and
- (g) the number of votes which may be cast in proportion to population by the Members of the Joint Provincial Council and of the Ashanti Confederacy Council respectively at the election of Provincial and Ashanti Members.

(2) Such provision may be made by or in pursuance of any law enacted under this Order, and, until provision has been made as aforesaid, by regulations made by the Governor.

(3) Such regulations shall be published in the *Gazette* ; and thereafter every such regulation shall take effect on the appointed day or on such other date as may be therein specified and shall have the force of law, subject to any revocation or amendment thereof by subsequent regulation or law.

46.—(1) Any person who—

- (a) having been elected or nominated a Member of the Legislative Council, but not having been at the time of such election or nomination, qualified to be so elected or nominated, shall sit or vote in the Legislative Council ; or
- (b) shall sit or vote in the Legislative Council after his seat thereon has become vacant or he has become disqualified from sitting or voting therein ;

Penalty for unqualified person sitting or voting.

knowing, or having reasonable grounds for knowing, that he was so disqualified, or that his seat has become vacant, as the case may be, shall be liable to a penalty not exceeding twenty pounds for every day upon which he so sits or votes.

(2) The said penalty shall be recoverable by action in the Supreme Court at the suit of the Attorney-General.

47.—(1) If any difficulty shall arise in bringing into operation any of the provisions of this Order or in giving effect to the purposes thereof, a Secretary of State may, by Order, amend or add to any provision of this Order and make such provision as seems to him necessary or expedient—

Removal of difficulties.

- (a) generally, for the purpose of removing any such difficulty ; and

- (b) in particular, and without prejudice to the generality of the foregoing, for the purpose of modifying the provisions of sections 23 and 28 of this Order so as to secure for any portion of the population of the Colony or Ashanti due representation in the Joint Provincial Council or in the Ashanti Confederacy Council ;

Provided that no Order under this section shall be made later than the first day of January, 1949.

(2) Any Order made under this section may be amended, added to or revoked by a further Order and may be given retrospective effect to a day not earlier than the date of this Order.

Powers reserved to the Governor.

48. Nothing in this Order shall affect the power to make Ordinances conferred upon the Governor by the Togoland Under British Mandate Order in Council, 1923, and the Gold Coast Ordinances Order in Council, 1946.

Powers reserved to His Majesty.

49.—(1) His Majesty hereby reserves to Himself, His Heirs and Successors, power, with the advice of His or Their Privy Council, to revoke, add to or amend this Order, as to Him or Them shall seem fit.

(2) Nothing in this Order shall affect the power of His Majesty in Council to make laws from time to time for the peace, order and good government of the Gold Coast.

F. C. E. LEADBITTER

## SCHEDULE

### EXISTING ORDERS IN COUNCIL

Section I.

1. The Gold Coast Colony (Legislative Council) Order in Council, 1925.
2. The Gold Coast Colony (Legislative Council) Order in Council, 1927.
3. The Gold Coast Colony (Legislative Council) Amendment Order in Council, 1933.
4. The Gold Coast Colony (Legislative Council) Amendment Order in Council, 1934.
5. The Gold Coast Colony (Legislative Council) Amendment Order in Council, 1939.

## GOLD COAST

## The Gold Coast Ordinances Order in Council, 1946

AT THE COURT AT BUCKINGHAM PALACE

The 19th day of February, 1946

Present

THE KING'S MOST EXCELLENT MAJESTY  
IN COUNCIL

WHEREAS by the Gold Coast Colony and Ashanti (Legislative Council) Order in Council, 1946, provision is made for the constitution of a Legislative Council for the Gold Coast Colony and for Ashanti :

AND WHEREAS by the said Order the Governor of the Gold Coast is empowered, with the advice and consent of the said Council, to make laws for the peace, order and good government of the Gold Coast Colony and of Ashanti :

AND WHEREAS by the Northern Territories Order in Council, 1934, the Governor of the Gold Coast Colony is empowered to provide by Ordinance for the administration of justice, the raising of revenue, and generally for the peace, order and good government of the Northern Territories of the Gold Coast :

AND WHEREAS by the Togoland under British Mandate Order in Council, 1923, the Governor of the Gold Coast Colony is empowered to provide by Ordinance for the administration of justice, the raising of revenue, and generally for the peace, order and good government of Togoland under British Mandate :

AND WHEREAS by the Gold Coast Ordinances Order in Council, 1934, provision is made for the enactment of laws for the peace, order and good government of the Gold Coast Colony, Ashanti and the Northern Territories of the Gold Coast as though they were a single territory :

AND WHEREAS it is expedient to make other provision for the last mentioned purposes :

Now, THEREFORE, His Majesty, by virtue and in exercise of all powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. This Order may be cited as The Gold Coast Ordinances Order in Council, 1946, and shall come into operation on a date to be appointed by the Governor by Proclamation in the official *Gazette* of the Gold Coast. Short title and commencement.
2. In this Order, unless the context otherwise requires :—
  - “ Ashanti ” means the territories from time to time defined as such by Order of His Majesty in Council ;
  - “ the Colony ” means the Gold Coast Colony as from time to time defined by Order of His Majesty in Council ; and for the purposes of this Order references to the Colony shall include thaInterpretation.

part of Togoland under British Mandate, known as the Southern Section, which is for the time being administered as if it formed part of the Colony ;

“ the Council ” means the Legislative Council for the Colony and Ashanti ;

“ the Gold Coast ” means the Colony, Ashanti and the Northern Territories of the Gold Coast as though they were a single territory ;

“ the Governor ” means the Governor and Commander-in-Chief of the Gold Coast and includes the Officer for the time being Administering the Government and, to the extent to which a Deputy for the Governor is authorised to act, that Deputy ;

“ the Northern Territories ” means the Northern Territories of the Gold Coast as from time to time defined by Order of His Majesty in Council ; and for the purposes of this Order references to the Northern Territories shall include that part of Togoland under British Mandate, known as the Northern Section, which is for the time being administered as if it formed part of the Northern Territories.

Revocation.

3. The Gold Coast Ordinances Order in Council, 1934, is hereby revoked without prejudice to anything lawfully done thereunder.

Power to make laws.

4.—(1) It shall be lawful for provision to be made from time to time for the peace, order and good government of the Gold Coast or any part thereof by Ordinance made in accordance with the provisions of this Section.

(2) Every such Ordinance shall be made in the manner prescribed by the Gold Coast Colony and Ashanti (Legislative Council) Order in Council, 1946, in so far as it relates to the Colony and Ashanti, and in the manner prescribed by the Northern Territories Order in Council, 1934, in so far as it relates to the Northern Territories.

(3) The words of enactment, according as the provisions of any such Ordinance relate to the Colony and Ashanti, or to the Northern Territories, shall be in the forms prescribed in that behalf by any Order in Council or by any Instructions under the Royal Sign Manual and Signet, as the case may be.

Saving and limitation of powers.

5. Nothing in this Order shall be so construed—

- (1) as to diminish or affect any powers of making laws separately for the Colony and Ashanti or the Northern Territories or Togoland under British Mandate respectively, or
- (2) as to confer upon the Council any power of making laws for the Northern Territories or the Northern Section of Togoland under British Mandate, or
- (3) as to confer upon the Governor any power of making laws for the Colony and Ashanti otherwise than in accordance with the Gold Coast Colony and Ashanti (Legislative Council) Order in Council, 1946.

Power to revoke or amend this Order.

6. His Majesty, His Heirs and Successors, in Council, may from time to time revoke, alter, add to or amend this Order.

## THE GOLD COAST

LETTERS PATENT passed under the Great Seal of the Realm constituting the Office of Governor and Commander-in-Chief of the Gold Coast Colony and Ashanti and making certain provisions for the Government thereof.

Dated March 7th, 1946.

GEORGE THE SIXTH, by the Grace of God of Great Britain, Ireland and the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India.

To all to whom these Presents shall come, Greeting!

WHEREAS by Letters Patent under the Great Seal dated the twenty third day of May, 1925, as amended by like Letters Patent dated the twenty third day of November, 1934 (hereinafter together called "The existing Letters Patent") provision is made constituting the Office of Governor and Commander-in-Chief in and over Our Gold Coast Colony and providing for the government thereof;

AND WHEREAS We are minded to make further provision for the purposes aforesaid for Our Gold Coast Colony and for Ashanti:

NOW KNOW YE that We do by these Presents declare Our will and pleasure as follows:—

1.—(1) In these Letters Patent, unless the context otherwise requires:— Interpretation.

"Ashanti" means the territories from time to time defined as such by Order of His Majesty in Council;

"the Colony" means the Gold Coast Colony as from time to time defined by Order of His Majesty in Council;

"the *Gazette*" means the official *Gazette* of the Gold Coast;

"the Gold Coast" means the Colony, Ashanti, the Northern Territories of the Gold Coast and Togoland under British Mandate;

"the Governor" means the Governor and Commander-in-Chief of the Colony and Ashanti, and includes the Officer for the time being Administering the Government and, to the extent to which a Deputy for the Governor is authorised to act, that Deputy;

"the Public Seal" means the Public Seal of the Gold Coast.

(2) The Interpretation Act, 1889, shall apply to these Letters Patent as it applies for the interpretation of an Act of Parliament. 52 & 53  
Vict. ch. 63

2. These Letters Patent may be cited as the Gold Coast Colony and Ashanti Letters Patent, 1946, and shall come into operation on a date to be appointed by the Governor by Proclamation published in the *Gazette*. Short title  
and com-  
mencement.

3. The existing Letters Patent are hereby revoked but without prejudice to any appointment lawfully made, or to any other thing lawfully done, thereunder. Revocation  
of existing  
Letters  
Patent.

Office of  
Governor  
and Com-  
mander-in-  
Chief  
constituted.

Governor's  
Authority.

4. There shall be a Governor and Commander-in-Chief in and over the Gold Coast Colony and Ashanti, and appointments to the said office shall be made by Commission under Our Sign Manual and Signet.

5. We do hereby authorise, empower and command the Governor to do all things belonging to his Office in accordance with these Letters Patent, such Commission as aforesaid, such Instructions as may from time to time be given to him by Us under Our Sign Manual and Signet or through a Secretary of State, and such Orders in Our Privy Council and other laws as may from time to time be in force.

Publication  
of  
Governor's  
Commission  
and taking  
of oaths.

Cap. 206.

6. Every person appointed to fill the Office of Governor shall, with all due solemnity, before entering on any of the duties of his Office, cause the Commission appointing him to be Governor to be read and published in the presence of the Chief Justice or, in his absence, some other Judge of Our Supreme Court of the Gold Coast and of such Members of the Executive Council as can conveniently attend, which being done, he shall then and there take before them the Oath of Allegiance and the Official Oath in the forms set out in the Oaths Ordinance, which Oaths the said Chief Justice or Judge is hereby required to administer.

Succession  
to Govern-  
ment.

7.—(1) Whenever the Office of Governor is vacant, or the Governor is absent from the Gold Coast or is from any cause prevented from, or incapable of, acting in the duties of his Office, then such other person as We may appoint under Our Sign Manual and Signet, or, if there is no such person in the Gold Coast and capable of discharging the duties of the administration, the senior Member of the Executive Council then in the Gold Coast and so capable shall, during Our pleasure, administer the Government of the Colony and Ashanti.

(2) Before assuming the administration of the Government any such person shall, in the form and manner prescribed in Article 6 of these Letters Patent, take the Oath of Allegiance and the Official Oath (as Governor); which being done, We do hereby authorise, empower and command such person, subject, if he is appointed as aforesaid under Our Sign Manual and Signet, to the terms of his appointment, during Our pleasure, to do all things that belong to the Office of Governor as provided in these Letters Patent.

(3) Any such person as aforesaid shall not continue to administer the Government after the Governor or some other person having a prior right to administer the same has notified that he is about to assume the administration.

(4) The Governor or any other person as aforesaid shall not be regarded as absent from the Gold Coast or prevented from or incapable of acting in the duties of his Office for the purposes of this Article during his passage from one part of the Gold Coast to another, or when there is a subsisting appointment of a Deputy under the next succeeding Article of these Letters Patent.

Appoint-  
ment of  
Deputy to  
Governor.

8.—(1) Whenever the Governor has occasion to be absent from the seat of Government but not from the Gold Coast, or to be absent from the Gold Coast for a period which he has reason to believe will

be of short duration, or whenever by reason of illness which he has reason to believe will be of short duration he considers it desirable so to do, he may, by Instrument under the Public Seal, appoint any person in the Gold Coast to be his Deputy during such absence or illness, and in that capacity to exercise and perform for and on behalf of the Governor during such absence or illness all such powers and functions vested in the Governor as shall be specified by such Instrument.

(2) By the appointment of a Deputy as aforesaid the power and authority of the Governor shall not be abridged, altered, or in any way affected otherwise than as We may at any time hereafter think proper to direct; and every such Deputy shall conform to and observe all such instructions as the Governor shall from time to time address to him for his guidance.

(3) Any appointment under this Article may at any time be revoked by the Governor or by a Secretary of State, and, in case of absence as aforesaid, shall cease and determine upon the return of the Governor to the seat of Government or to the Gold Coast, as the case may be.

9.—(1) There shall be an Executive Council in and for the Colony and Ashanti, and the said Council shall consist of such persons, appointed in such manner as We shall direct by Instructions under Our Sign Manual and Signet. Executive Council.

(2) The Members of the Executive Council shall hold their places in the Council during Our pleasure and, subject thereto, for such period and upon such conditions as may be specified in such Instructions as aforesaid.

10. The Governor may constitute and appoint in Our name and on Our behalf all such Judges and other Officers for the Colony and Ashanti as may lawfully be constituted or appointed by Us, all of whom, unless otherwise provided by law, shall hold their offices during Our pleasure. Appointment of Officers.

11. The Governor may, subject to the provisions of any law for the time being in force and to such Instructions as may from time to time be given to him by Us through a Secretary of State, upon sufficient cause to him appearing, dismiss or suspend from the exercise of his office any person holding any public office in the Colony or Ashanti or, subject as aforesaid, may take such other disciplinary action as may seem to him desirable. Discipline.

12. When any offence has been committed for which the offender may be tried in the Colony or Ashanti, the Governor may, as he shall see fit, in Our name and on Our behalf, grant a pardon to any accomplice in such offence who shall give such information as shall lead to the conviction of the principal offender, or of any one of such principal offenders if more than one; and further may grant to any offender convicted of any such offence in any Court within the Colony or Ashanti, a pardon, either free or subject to lawful conditions, or any respite, either indefinite or for such period as the Governor may think fit, of the execution of any sentence passed on such offender, and may remit the whole or any part of such sentence or of any penalties or forfeitures otherwise due to Us, Grant of pardon.

Disposal  
of lands.

**13.** Subject to any law for the time being in force and to any Instructions given to him by Us under Our Sign Manual and Signet or through a Secretary of State, the Governor may, in Our name and on Our behalf, make and execute, under the Public Seal, grants and dispositions of any lands or other immovable property within the Colony or Ashanti which may be lawfully granted or disposed of by Us.

The Public  
Seal.

**14.** The Governor shall keep and use the Public Seal for sealing all things whatsoever that shall pass the said Seal.

Officers and  
others to  
obey the  
Governor.

**15.** We do hereby require and command all Our Officers, Civil and Military, and all other the inhabitants of the Gold Coast to be obedient, aiding and assisting unto the Governor.

Reservation  
of power to  
revoke or  
amend  
Letters  
Patent.

**16.** We do hereby reserve to Ourselves, Our Heirs and Successors full power and authority to revoke, add to, or amend these Letters Patent as to Us or Them shall seem fit.

In witness whereof We have caused these Our Letters Patent to be made Patent.

Witness Ourselves at Westminster, this 7th day of March, 1946, in the Tenth year of Our Reign.

By Warrant under The King's Sign Manual.

NAPIER

## THE GOLD COAST

### INSTRUCTIONS passed under the Royal Sign Manual and Signet to the Governor and Commander-in-Chief of the Gold Coast

Dated March 7th, 1946.

GEORGE R.I.

Instructions to Our Governor and Commander-in-Chief in and over the Gold Coast or other Officer for the time being Administering the Government of the Gold Coast.

WHEREAS by the Gold Coast Colony and Ashanti Letters Patent, 1946 (hereinafter called "the Letters Patent"), We have ordered and declared that there shall be a Governor and Commander-in-Chief in and over the Gold Coast Colony and Ashanti :

AND WHEREAS certain Instructions and Additional Instructions under the Royal Sign Manual and Signet (hereinafter called "the existing Instructions") were issued to the Governor on the following dates, that is to say: Instructions and Additional Instructions relating to the administration of Our Gold Coast Colony dated respectively the twenty-third day of May, 1925, the twenty-third day of November, 1934, and the sixth day of March, 1945, and Instructions relating to the administration of Ashanti dated the twenty-third day of November, 1934 :

AND WHEREAS We are minded to issue fresh Instructions under Our Sign Manual and Signet for the guidance of the Governor and any other Officer who may administer the Government of the Gold Coast Colony and Ashanti :

Now, THEREFORE, as from a date to be appointed by the Governor by Notice in the official *Gazette* of the Gold Coast, We do hereby revoke the existing Instructions, but (subject as otherwise herein provided) without prejudice to any appointment lawfully made, or any other thing lawfully done, thereunder, and instead thereof We do hereby direct and enjoin and declare Our will and pleasure as follows :—

Revoca-  
tion of  
the existing  
Instruc-  
tions.

1. The Governor may, whenever he thinks fit, require any person in the public service of the Gold Coast to take the Oath of Allegiance together with such oath or oaths as may from time to time be prescribed by any law in force in the Gold Coast, in the form prescribed by any such law. The Governor is to administer such oaths or cause them to be administered by some public officer of the Gold Coast.

Governor to  
administer  
oaths.

2.—(1) Whenever there is a subsisting appointment of a Deputy to the Governor under the Letters Patent, these Instructions, so far as they apply to any matter or thing to be done, or any powers or functions to be exercised or performed, by such Deputy, shall be deemed to be addressed to, and shall be observed by, such Deputy.

Instruc-  
tions to be  
observed by  
Deputy.

(2) Any such Deputy may, if he think fit, apply to Us through a Secretary of State for instructions in any matter; but he shall forthwith transmit to the Governor a copy of every despatch or other communication so addressed to Us.

## 3. The Executive Council shall consist of—

- (a) the persons for the time being lawfully discharging the functions of Colonial Secretary, of Chief Commissioner of the Gold Coast Colony, of Chief Commissioner of Ashanti, of Chief Commissioner of the Northern Territories of the Gold Coast, of Attorney-General, of Financial Secretary, and of Director of Medical Services, who shall be styled *Ex-officio* Members of the Executive Council ; and
- (b) such other persons, who shall be styled *Appointed Members* of the Executive Council, as may from time to time be appointed by Us by any Instructions or Warrants under Our Sign Manual and Signet, or as the Governor, in pursuance of instructions from Us, through a Secretary of State, may from time to time appoint by Instrument under the Public Seal, or as may be appointed temporary Members by the Governor in the manner hereinafter provided.

4.—(1) An *Appointed Member* of the Executive Council shall vacate his seat at the end of three years from the date of the Instrument by which he is appointed, or at such earlier date as may be provided in that Instrument, or before either such date if :—

- (a) by writing under his hand addressed to the Governor he shall resign his seat in the Executive Council ; or
  - (b) being a person holding office of emolument under the Crown in the Gold Coast at the date of his appointment to the Executive Council (hereinafter called “ an *Official Appointed Member* ”), he shall cease so to hold office ; or
  - (c) being a person not holding office of emolument under the Crown in the Gold Coast at the date of his appointment to the Executive Council (hereinafter called “ an *Unofficial Appointed Member* ”), he shall be appointed permanently to any office of emolument under the Crown ; or
  - (d) without the permission of the Governor, he shall be absent from the Gold Coast.
- (2) If any person is appointed to be a temporary Member of the Executive Council and his temporary appointment is immediately followed by his definitive appointment as an *Appointed Member*, the said period of three years shall be reckoned from the date of the Instrument by which he is appointed a temporary Member.

(3) Any person vacating a seat as an *Appointed Member* may be again appointed from time to time.

(4) If an *Unofficial Appointed Member* shall be appointed temporarily to any office of emolument under the Crown, or to act in any such office, he shall not sit as a Member of the Executive Council by virtue of his appointment as an *Unofficial Appointed Member* so long as he continues to hold or act in that office.

(5) The Governor may, by Instrument under the Public Seal, declare any *Appointed Member* to be incapable of discharging his functions as a Member of the Executive Council, and thereupon such Member shall not sit in the Executive Council, until he is declared, in manner aforesaid, again to be capable of discharging his said functions.

(6) The Governor may, by Instrument under the Public Seal, suspend any Appointed Member of the Executive Council from the exercise of his functions as such, and thereupon such Member shall not sit in the Executive Council so long as his suspension remains in force. Every such suspension shall forthwith be reported by the Governor to Us through a Secretary of State, and shall remain in force unless and until it shall be removed by the Governor by Instrument under the Public Seal or by Us through a Secretary of State, or the person suspended ceases to be a Member of the Executive Council.

5.—(1) Whenever there shall be a vacancy in the number of persons sitting in the Executive Council by reason of the fact that—

Temporary  
Appoint-  
ments.

- (a) one person is lawfully discharging the functions of more than one of the offices set out in paragraph (a) of Clause 3 of these Instructions ; or
- (b) an Appointed Member is lawfully discharging the functions of any such office ; or
- (c) no person is lawfully discharging the functions of any such office ; or
- (d) the seat of an Appointed Member is vacant from any cause ; or
- (e) an Appointed Member is unable to sit in the Executive Council in consequence of a declaration by the Governor, as provided in these Instructions, that he is incapable of discharging his functions as a Member ; or
- (f) an Appointed Member is unable to sit in the Executive Council in consequence of his suspension as provided in these Instructions ; or
- (g) a Member is absent from the Gold Coast ; or
- (h) an Unofficial Appointed Member has been appointed temporarily to an office of emolument under the Crown, or to act in any such office ;

the Governor may, by Instrument under the Public Seal, appoint a person to be a temporary Member for the period of such vacancy.

(2) If the vacancy is in the number of Ex-officio Members, the person so appointed shall be a person holding office of emolument under the Crown.

(3) Every person so appointed shall, as long as his appointment shall subsist, be to all intents and purposes an Appointed Member ; and, subject to the provisions of this Clause, the provisions of Clause 4 of these Instructions shall apply accordingly.

(4) The Governor shall forthwith report any such temporary appointment to Us through a Secretary of State. Any such temporary appointment may (without prejudice to anything done by virtue thereof) be disallowed by Us through a Secretary of State or revoked by the Governor by Instrument under the Public Seal.

(5) A temporary appointment shall cease to have effect on notification by the Governor to the person appointed of disallowance by Us or of revocation by the Governor, or on supersession of the appointment by the definitive appointment of a person to fill the vacancy, or when the vacancy shall otherwise cease to exist.

Extra-ordinary Members.

6. Whenever upon any special occasion the Governor desires to obtain the advice of any person in the Gold Coast touching Our affairs therein, he may summon, in writing, for such special occasion, any such person as an Extraordinary Member of the Executive Council.

Precedence.

7. The Members of the Executive Council shall have seniority and precedence as We may specially assign, and in default thereof: First, the Ex-officio Members in the order in which their offices are referred to in paragraph (a) of Clause 3 of these Instructions: Provided that the respective precedence, as between themselves, of the three Chief Commissioners shall be determined by the dates of their appointment to the rank of Chief Commissioner, except that a person holding the substantive office of Chief Commissioner shall take precedence before any person acting in that office; and Secondly, the Appointed Members, according to the date of the Instruments by which they were respectively appointed, or if appointed on the same day, in such order as the Governor may assign; and Thirdly, the Extraordinary Members, according to the date of the instruments by which they were respectively appointed, or if appointed on the same day, in such order as the Governor may assign.

Summoning and quorum.

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

(2) The Executive Council shall not be disqualified for the transaction of business by reason of any vacancy among the members; but no business except that of adjournment shall be transacted if objection is taken by any Member present that there are less than two Members present besides the Governor or Member presiding.

Governor to attend and preside.

9. The Governor shall, so far as it is practicable, attend and preside at all meetings of the Executive Council, and in his absence such Member as the Governor may appoint or, in the absence of such Member or if no Member be so appointed, the Senior Member of the Executive Council actually present shall preside.

Governor to consult Executive Council.

10. In the exercise of his powers and duties the Governor shall consult with the Executive Council, except in cases—

- (a) which are of such nature that, in his judgment, Our service would sustain material prejudice by consulting the Executive Council thereon; or
- (b) in which the matters to be decided are, in his judgment, too unimportant to require their advice; or
- (c) in which the matters to be decided are, in his judgment, too urgent to admit of their advice being given by the time within which it may be necessary for him to act.

In every case falling within paragraph (c) of this Clause, the Governor shall as soon as practicable communicate to the Executive Council the measures which he shall have adopted, with the reasons therefor.

Governor to propose questions.

11. The Governor shall alone be entitled to submit questions to the Executive Council; but if the Governor shall decline to submit any question to the Executive Council when requested in writing

by any Member so to do, it shall be competent to such Member to require that there be recorded upon the Minutes his written application, together with the answer returned by the Governor thereto.

12.—(1) The Governor may act in opposition to the advice given to him by the Members of the Executive Council, if he shall in any case deem it right to do so ; but in any such case he shall report the matter to Us, through a Secretary of State, at the first convenient opportunity, with the reasons for his action.

Governor may act in opposition to Executive Council.

(2) Whenever the Governor shall so act against the advice of the Executive Council, it shall be competent to any Member to require that there be recorded upon the Minutes any advice or opinion he may give upon the question with the reasons therefor.

13. Minutes shall be kept of all the proceedings of the Executive Council, and at every meeting of the Executive Council the Minutes of the last preceding meeting shall be confirmed, with or without amendment as the case may require, before proceeding to the despatch of any other business. Twice in each year a full transcript of all Minutes of the Executive Council for the preceding half-year shall be transmitted to Us through a Secretary of State.

Minutes.

14. The Governor shall forthwith communicate to the Executive Council these Our Instructions and all such others as he shall, from time to time, find convenient for Our service to impart to the Executive Council.

Governor to communicate Instructions to the Executive Council.

15. In the making of laws the Governor and the Legislative Council shall observe, as far as practicable, the following Rules :—

Rules for the enactment of laws.

- (1) All laws shall be styled " Ordinances " and, save as otherwise provided by any Order in Our Privy Council, the words of enactment shall be " Enacted by the Governor of the Gold Coast with the advice and consent of the Legislative Council thereof " :

Provided that in the case of any Ordinance having effect by virtue of a declaration made by the Governor under Section 38 of the Gold Coast Colony and Ashanti (Legislative Council) Order in Council, 1946, the words of enactment shall be " Enacted by the Governor of the Gold Coast in accordance with the provisions of Section 38 of the Gold Coast Colony and Ashanti (Legislative Council) Order in Council, 1946."

- (2) All Ordinances shall be distinguished by titles, and shall be divided into successive sections consecutively numbered, and to every section there shall be annexed in the margin a short indication of its contents.
- (3) The Ordinances of each year (together with the Ordinances of the year enacted under Section 7 of the Northern Territories Order in Council, 1934, and the Ordinances of the year enacted under Sections 5 and 6 of the Togoland under British Mandate Order in Council, 1923) shall be distinguished by consecutive numbers, commencing in each year with the number one.

Ordinances passed by the Legislative Council and assented to by the Governor or having effect by virtue of a declaration

made by the Governor under Section 38 of the Gold Coast Colony and Ashanti (Legislative Council) Order in Council, 1946, shall be dated as of the day on which the assent of the Governor is given, but, whatever that day may be, shall be numbered as of the year in which they are passed.

Ordinances reserved by the Governor for the signification of Our pleasure and assented to by Us shall be dated as of the day and numbered as of the year on and in which they become law.

- (4) Each different matter shall be provided for by a different Ordinance without intermixing in one and the same Ordinance such things as have no proper relation to each other.

No provision shall be inserted in any Ordinance which shall be foreign to what the title of such Ordinance imports; and no perpetual provision shall be included in any temporary Ordinance.

16. The Governor shall not, without having previously obtained instructions through a Secretary of State, assent to any Bill within any of the following classes, unless such Bill contain a clause suspending the operation thereof until the signification of Our pleasure thereon, that is to say:—

- (1) Any Bill for the divorce of married persons;
- (2) Any Bill whereby any grant of land or money, or other donation or gratuity, may be made to himself;
- (3) Any Bill affecting the currency of the Gold Coast or relating to the issue of Bank Notes;
- (4) Any Bill establishing any banking association or altering the constitution, rights or duties of any banking association;
- (5) Any Bill imposing differential duties;
- (6) Any Bill the provisions of which shall appear to him to be inconsistent with obligations imposed upon Us by Treaty;
- (7) Any Bill interfering with the discipline or control of Our forces by land, sea or air;
- (8) Any Bill of an extraordinary nature and importance whereby Our prerogative, or the rights and property of Our subjects not residing in the Gold Coast, or the trade or transport or communications of any part of Our dominions or any territory under Our protection may be prejudiced;
- (9) Any Bill whereby persons not of European birth or descent may be subjected or made liable to any disabilities or restrictions to which persons of European birth or descent are not also subjected or made liable;
- (10) Any Bill containing provisions to which Our assent has once been refused or which have been disallowed by Us;

Provided that, if the Governor shall have satisfied himself that urgent necessity requires that any such Bill (other than one appearing to him to be inconsistent with obligations imposed upon Us by Treaty) be brought into immediate operation, he may assent thereto, but he shall, at the earliest opportunity, transmit the Ordinance to Us together with his reasons for so assenting.

17.—(1) In the making of Ordinances, any native laws by which the civil relations of any native chiefs, tribes or population under Our protection are now regulated shall be respected, except in so

Certain Bills not to be assented to without Instructions.

Native Laws, Rights and Interests.

far as the same may be incompatible with the due exercise of Our powers and jurisdiction, or clearly injurious to the welfare of the said natives.

(2) The Governor is to the utmost of his power to promote religion and education among the native inhabitants, and he is especially to take care to protect them in their persons and in the free enjoyment of their possessions, and by all lawful means to prevent and restrain all violence and injustice which may in any manner be practised or attempted against them.

18.—(1) Every Bill (not being a Government measure) intended to affect or benefit some particular person, association or corporate body, shall contain a clause saving the rights of Us, Our Heirs and Successors, all bodies politic and corporate, and all others except such as are mentioned in the Bill and those claiming by, from or under them.

Private  
Bills.

(2) No such Bill shall be introduced into the Legislative Council until due notice has been given by not less than three successive publications of the Bill in the *Gold Coast Gazette*; and the Governor shall not assent thereto in Our Name unless it has been so published. A certificate under the hand of the Governor signifying that such publication has been made shall be transmitted to Us with the Bill or Ordinance.

19. When any Ordinance shall have been enacted, the Governor shall forthwith transmit to Us, through a Secretary of State, for the signification of Our pleasure, a transcript in duplicate of the Ordinance, duly authenticated under the Public Seal and by his own signature, together with an explanation of the reasons and occasion for the enactment of the Ordinance.

Ordinances  
to be sent  
through  
Secretary  
of State.

20. As soon as practicable after the commencement of each year, the Governor shall cause a complete collection of all Ordinances enacted during the preceding year to be published for general information.

Ordinances  
to be  
published.

21.—(1) Before disposing of any vacant or waste lands to Us belonging in the Gold Coast, the Governor shall cause the same to be surveyed, and such reservations to be made thereout as he may think necessary for any public purpose.

Disposition  
of Crown  
lands.

(2) The Governor shall not, directly or indirectly, purchase for himself any land or building in the Gold Coast to Us belonging without Our special permission given through a Secretary of State.

22. Every appointment by the Governor of any person to any Office or employment shall, unless otherwise provided by law, be expressed to be during pleasure only.

Appoint-  
ments to be  
during  
pleasure.

23.—(1) Whenever any offender shall have been condemned by the sentence of any civil court in the Gold Coast to suffer death, the Governor shall call upon the Judge who presided at the trial to make to him a written report of the case of such offender, and shall cause such report to be taken into consideration at a meeting of the Executive Council, and he may cause the said Judge to be specially summoned to attend at such meeting and to produce his notes thereat.

Regulation  
of power of  
pardon in  
capital  
cases.

(2) The Governor shall not pardon or reprieve any such offender unless it shall appear expedient to him so to do upon receiving the advice of the Executive Council thereon; but he is to decide either

to extend or to withhold a pardon or reprieve, according to his own deliberate judgment, whether the Members of the Executive Council concur therein or otherwise; entering nevertheless, in the Minutes of the Executive Council, his reasons at length, in case he should decide any such question in opposition to the judgment of the majority of the Members thereof.

Blue Book.

24. The Governor shall forward to Us, from year to year, through a Secretary of State, the annual book of returns commonly called the Blue Book, relating to Revenue and Expenditure, Public Works, Legislation, Civil Establishments, Pensions, Population, Schools, Course of Exchange, Imports and Exports, Agricultural Produce, Manufactures, and other matters in the said Blue Book more particularly specified with reference to the state and condition of the Gold Coast.

Governor's absence.

25. Except in circumstances in which he is not regarded as absent from the Gold Coast for the purposes of the Letters Patent, the Governor shall not quit the Gold Coast without having first obtained leave from Us for so doing through a Secretary of State.

Interpretation.

26.—(1) In these Instructions, unless the context otherwise requires:—

“the Governor” means the Governor and Commander-in-Chief of the Gold Coast and includes the Officer for the time being Administering the Government and, to the extent to which a Deputy for the Governor is authorised to act, that Deputy;

“the Gold Coast” means the Gold Coast Colony, Ashanti, the Northern Territories of the Gold Coast and Togoland under British Mandate;

“the Public Seal” means the Public Seal of the Gold Coast;

“Secretary of State” means one of Our Principal Secretaries of State.

(2) For the purposes of these Our Instructions any reference to any public officer by the term designating his office means the officer for the time being lawfully discharging the functions of that Office.

(3) For the purposes of these Instructions a person shall not be deemed to hold an office of emolument under the Crown by reason only that he:—

(a) is a Chief, or a Native Authority, or a member of a Native Authority or of a native court; or

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

and if it shall be declared by any law for the time being in force in the Gold Coast that an office shall not be an office of emolument under the Crown for all or any of the purposes of these Instructions, these Instructions shall have effect as if such law were enacted in these Instructions.

Given at Our Court at St. James's this 7th day of March, 1946, in the Tenth year of Our Reign.