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E CARIBE
VOLUME V

MINISTÉRIO DAS RELAÇÕES EXTERIORES

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Haiti

LA CONSTITUTION DE LA RÉPUBLIQUE D'HAÏTI (1987)

PRÉAMBULE

Le Peuple Haïtien proclame la présente Constitution:

Pour garantir ses droits inaliénables et imprescriptibles à la vie, a la liberté et la poursuite du bonheur; conformément à son Acte d'indépendance de 1804 et à la Déclaration Universelle des Droits de l'Homme de 1948.

Pour constituer une nation haïtienne socialement juste économiquement libre et politiquement indépendante.

Pour rétablir un État stable et fort, capable de protéger les valeurs, les traditions, la souveraineté, l'indépendance et la vision nationale.

Pour implanter la démocratie qui implique le pluralisme idéologique et l'alternance politique et affirmer les droits inviolables du Peuple Haïtien.

Pour fortifier l'unité nationale, en éliminant toutes discrimations entre les populations des villes et des campagnes, par l'acceptation de la communauté

de langues et de culture et par la reconnaissance du droit au progrès, à l'information, à l'éducation, à la santé, au travail et au loisir pour tous les citoyens.

Pour assurer la séparation, et la répartition harmonieuse des Pouvoirs de l'Etat au service des intérêts fondamentaux et prioritaires de la Nation.

Pour instaurer un régime gouvernemental basé sur les libertés fondamentales et le respect des droits humains, la paix sociale, l'équité économique, la concertation et la participation de toute la population aux grandes décisions engageant la vie nationale, par une décentralisation effective.

TITRE I
DE LA RÉPUBLIQUE D'HAÏTI
SON EMBLÈME - SES SYMBOLES

CHAPITRE I
DE LA RÉPUBLIQUE D'HAÏTI

Article 1:
Haïti est une République, indivisible, souveraine, indépendante, coopératiste, libre, démocratique et sociale.

Article 1.1:
La ville de Port-au-Prince est sa Capitale et le siège de son Gouvernement. Ce siège peut: être déplacé en cas de force majeure.

Article 2:
Les couleurs nationales sont: le bleu et le rouge.

Article 3:
L'emblème de la Nation Haïtienne est le Drapeau qui répond à la description suivante:
a) Deux (2) bandes d'étoffe d'égales dimensions: l'une bleue en haut, l'autre rouge en bas, placées horizontalement;
b) Au centre, sur un carré d'étoffe blanche, sont disposées les Armes de la République;

c) Les Armes de la République sont: Le Palmiste surmonté du Bonnet de la Liberté et, ombrageant des ses Palmes, un Trophée d'Armes avec la Légende: L'Union fait la Force.

Article 4:
La devise nationale est: Liberté - Égalité - Fraternité.

Article 4.1:
L'Hymne National est: La Dessalinienne.

Article 5:
Tous les Haïtiens sont unis par une Langue commune: le Créole.
- Le Créole et le Français sont les langues officielles de la République.

Article 6:
L'Unité monétaire nationale est: La GOURDE. Elle est divisée en centimes.

Article 7:
Le culte de la personnalité est formellement interdit. Les effigies, les noms de personnages vivants ne peuvent figurer sur la monnaie, les timbres, les vignettes. Il en est de même pour les bâtiments publics, les rues et les ouvrages d'art.

Article 7.1:
L'utilisation d'effigie de personne décédée doit obtenir l'approbation de l'Assemblée Nationale.

CHAPITRE II
DU TERRITOIRE DE LA RÉPUBLIQUE D'HAÏTI

Article 8:
Le territoire de la République d'Haïti comprend:
a) La partie Occidentale de l'Ile d'Haïti ainsi que les Iles adjacentes: la Gonâve, La Tortue, l'Ile à Vache, les Cayenites, La Navase, La Grande Caye et les autres îles de la Mer Territoriale;
Il est limité à l'Est par la République Dominicaine, au Nord par l'Océan Atlantique, au Sud et à l'Ouest par la mer des Caraïbes ou mer des Antilles.
b) La mer territoriale et la zone économique exclusive;

c) Le milieu aérien surplombant la partie Terrestre et Maritime.

Article 8.1:
Le Territoire de la République d'Haïti est inviolable et ne peut-être aliéné ni en tout, ni en partie par aucun Traité ou Convention.

Article 9:
Le Territoire de la République est divisé et subdivisé en Départements, Arrondissements, Communes, Quartiers et Sections Communales.

Article 9.1:
La Loi détermine le nombre, les limites de ces divisions et subdivisions et en règle l'organisation et le fonctionnement.

TITRE II
DE LA NATIONALITÉ HAÏTIENNE

Article 10:
Les règles relatives à la Nationalité Haïtienne sont déterminées par la Loi.

Article 11:
Possède la Nationalité Haïtienne d'origine, tout individu né d'un père haïtien ou d'une mère haïtienne qui eux-mêmes sont nés Haïtiens et n'avaient jamais renoncé à leur nationalité au moment de la naissance.

Article 12:
La Nationalité Haïtienne peut être acquise par la naturalisation.

Article 12.1:
Tout étranger après cinq (5) ans de résidence continue sur le Territoire de la République peut obtenir la nationalité haïtienne par naturalisation, en se conformant aux règles établies par la Loi.

Article 12.2:
Les Haïtiens par naturalisation sont admis à exercer leur de vote, mais ils doivent attendre cinq (5) ans après la date de leur naturalisation pour être

éligible ou occuper des fonctions publiques autres que celles réservées par la Constitution et par la Loi des haïtiens d'origine.

Article 13:
La Nationalité haïtienne se perd par:
a) La Naturalisation acquise en Pays étranger;
b) L'occupation d'un poste politique au service d'un Gouvernement Etranger;
c) La résidence continue à l'étranger pendant trois (3) ans d'un individu étranger naturalisé haïtien sans une autorisation régulièrement accordée par l'Autorité compétente. Quiconque perd ainsi la nationalité haïtienne, ne peut pas la recouvrer.

Article 14:
L'Haïtien naturalisé en pays étranger peut recouvrer sa Nationalité haïtienne, en remplissant toutes les conditions et formalités imposées à l'étranger par la loi.

Article 15:
La double nationalité haïtienne et étrangère n'est admise dans aucun cas.

TITRE III
DU CITOYEN
DES DROITS ET DEVOIRS FONDAMENTAUX

CHAPITRE I
DE LA QUALITÉ DU CITOYEN

Article 16:
La réunion des droits civils et politiques constitue la qualité du citoyen.

Article 16.1:
La jouissance, l'exercice, la suspension et la perte de ses droits sont réglés par la loi.

Article 16.2:
L'âge de la majorité est fixé à dix-huit (18) ans.

Article 17:
Les Haïtiens sans distinction de sexe et d'état civil, âgé de dix-huit (18) ans accomplis, peuvent exercer leurs droits civils et politiques s'ils réunissent les autres conditions prévues par la Constitution et par la loi.

Article 18:
Les Haïtiens sont égaux devant loi sous la réserve des avantages conférés aux Haïtiens d'origine qui n'ont jamais renoncé à leur nationalité.

CHAPITRE II
DES DROITS FONDAMENTAUX

SECTION A
DROIT A LA VIE ET A LA SANTÉ

Article 19:
L'Etat a l'impérieuse obligation de garantir le droit à la vie, à la santé, au respect de la personne humaine, à tous les citoyens sans distinction, conformément à la Déclaration Universelle des Droits de l'Homme.

Article 20:
La peine de mort est abolie en toute matière.

Article 21:
Le crime de haute trahison consiste à porter les armes dans une armée étrangère contre la République, à servir une nation étrangère contre la République, dans le fait par tout fonctionnaire de voler les biens de l'Etat confiés à sa gestion ou toute violation de la Constitution par ceux chargés de la faire respecter.

Article 21.1:
Le crime de haute trahison est puni de la peine des travaux forcés à perpétuité sans commutation de peine.

Article 22:
L'Etat reconnaît le droit de tout citoyen à un logement décent, à l'éducation, à l'alimentation et à la sécurité sociale.

Article 23:
L'Etat est astreint à l'obligation d'assurer à tous les citoyens dans toutes les collectivités territoriales les moyens appropriés pour garantir la protection, le maintien et le rétablissement de leur santé par la création d'hôpitaux, centres de santé et de dispensaires.

SECTION B
DE LA LIBERTÉ INDIVIDUELLE

Article 24:
La liberté individuelle est garantie et protégée par l'Etat.

Article 24.1:
Nul ne peut-être poursuivi, arrêté ou détenu que dans les cas déterminés par la loi et selon les formes qu'elle prescrit.

Article 24.2:
L'arrestation et la détention, sauf en cas de flagrant délit, n'auront lieu que sur un mandat écrit d'un fonctionnaire légalement compétent.

Article 24.3:
Pour que ce mandat puisse être exécuté, il faut:
a) Qu'il exprime formellement en créole et en français le ou les motifs de l'arrestation ou de la détention et la disposition de loi qui punit le fait imputé;
b) Qu'il soit notifié et qu'il en soit laissé copie au moment de l'exécution à la personne prévenue;
c) Qu'il soit notifié au prévenu de son droit de se faire assister d'un avocat à toutes les phases de l'instruction de l'affaire jusqu'au jugement définitif;
d) Sauf le cas de flagrant délit, aucune arrestation sur mandat, aucune perquisition ne peut se faire entre six (6) heures du soir et six (6) heures du matin.;
e) La responsabilité est personnelle. Nul ne peut être arrêté à la place d'un autre.

Article 25:
Toute rigueur ou contrainte qui n'est pas nécessaire pour appréhender une personne ou la maintenir en détention, toute pression morale ou brutalité physique notamment pendant l' interrogation sont interdites.

Article 25.1:
Nul ne peut être interrogé en absence de son avocat ou d'un témoin de son choix.

Article 26:
Nul ne peut être maintenu en détention s'il n'a comparu dans les quarante-huit (48) heures qui suivent son arrestation, par devant un juge appelé à statuer sur la légalité de l'arrestation et si ce juge n'a confirmé la détention par décision motivée.

Article 26.1:
En cas de contravention, l'inculpé est déféré par devant le juge de paix qui statue définitivement.
En cas de délit ou de crime, le prévenu peut, sans permission préalable et sur simple mémoire, se pourvoir devant le doyen du tribunal de première instance du ressort qui, sur les conclusions du Ministère Public, statue à l'extraordinaire, audience tenante, sans remise ni tour de rôle, toutes affaires cessantes sur la légalité de l'arrestation et de la détention.

Article 26.2:
Si l'arrestation est jugée illégale, le Juge ordonne la libération immédiate du détenu et cette décision exécutoire sur minute nonobstant appel, pourvoi en cassation ou défense d'exécuter.

Article 27:
Toutes violations des dispositions relatives à la liberté individuelle sont des actes arbitraires. Les personnes lésées peuvent, sans autorisation préalable, se référer aux tribunaux compétents pour poursuivre les auteurs et les exécuteurs de ces actes arbitraires quelles que soient leurs qualités et à quelque Corps qu'ils appartiennent.

Article 27.1:
Les fonctionnaires et les employés de l'Etat sont directement responsables selon les lois pénales, civiles et administratives des actes accomplis en violation de droits. Dans ces cas, la responsabilité civile s'étend aussi à l'Etat.

SECTION C
DE LA LIBERTÉ D'EXPRESSION

Article 28:
Tout Haïtien ou toute haïtienne a le droit d'exprimer librement ses opinions, en toute matière par la voie qu'il choisit.

Article 28.1:
Le journaliste exerce librement sa profession dans le cadre de la loi. Cet exercice ne peut être soumis à aucune autorisation, ni censure sauf en cas de guerre.

Article 28.2:
Le journaliste ne peut être forcé de révéler ses sources. Il a toutefois pour devoir d'en vérifier l'authenticité et l'exactitude des informations. Il est également tenu de respecter l'éthique professionelle.

Article 28.3:
Tout délit Presse ainsi que les abus du droit d'expression relèvent du Code Pénal.

Article 29:
Le droit de pétition est reconnu. Il est exercé personnellement par un, une ou plusieurs citoyens mais jamais au nom d'un Corps.

Article 29.1:
Toute pétition adressée au Pouvoir Législatif doit donner lieu à procédure réglementaire permettant de statuer sur son objet.

SECTION D
DE LA LIBERTÉ DE CONSCIENCE

Article 30:
Toutes les religions et tous les cultes sont libres. Toute personne a le droit de professer sa religion et son culte, pourvu que l'exercice de ce droit ne trouble pas l'ordre et la paix publics.

Article 30.1:
Nul ne peut être contraint à faire partie d'une association ou à suivre un enseignement religieux contraire à ses convictions.

Article 30.2:
La loi établit les conditions de reconnaissance et de fonctionnement des religions et des cultes.

SECTION E
LIBERTÉ DE RÉUNION ET D'ASSOCIATION

Article 31:
La liberté d'association et de réunion sans armes à des fins politiques, économiques, sociales, culturelles ou toutes autres fins pacifiques est garantie.

Article 31.1:
Les partis et groupements politiques concourent à l'expression du suffrage. Ils se forment et exercent leur activité librement. Ils doivent respecter les principes de la souveraineté nationale et de la démocratie. La loi détermine leurs conditions de reconnaissance et de fonctionnement, les avantages et privilèges qui leur sont réservés.

Article 31.2:
Les réunions sur la voie publique sont sujettes à notification préalable aux autorités de police.

Article 31.3:
Nul ne peut être contraint de s'affilier à une association, quelqu'en soit le caractère.

SECTION F
DE L'EDUCATION ET DE L'ENSEIGNEMENT

Article 32:
L'Etat garantit le droit à l'éducation. Il veille à la formation physique, intellectuelle, morale, professionnelle, sociale et civique de la population.

Article 32.1:
L'éducation est une charge de l'Etat et des collectivités territoriales. Ils doivent mettre l'école gratuitement à la portée de tous, veiller au niveau de formation des Enseignements des secteurs public et privé.

Article 32.2:
La première charge de l'Etat et des collectivités territoriales est la scolarisation massive, seule capable de permettre le développement du pays. L'Etat encourage et facilite l'initiative privée en ce domaine.

Article 32.3:
L'enseignement primaire est obligatoire sous peine de sanctions à déterminer par la loi. Les fournitures classiques et le matériel didactique seront mis gratuitement par l'Etat à la disposition des élèves au niveau de l'enseignement primaire.

Article 32.4:
L'enseignement agricole, professionnel, coopératif et technique est une responsabilité primordiale de l'Etat et des communes.

Article 32.5:
La formation pré-scolaire et maternelle ainsi que l'enseignement non-formel sont encouragés.

Article 32.6:
L'accès aux Etudes Supérieures est ouvert en pleine égalité à tous, uniquement en fonction du mérite.

Article 32.7:
L'Etat doit veiller à ce que chaque collectivité territoriale, section communale, commune, département soit doté d'établissements d'enseignement indispensables, adaptés aux besoins de son développement, sans toutefois porter préjudice à la priorité de l'enseignement agricole, professionnel, coopératif et technique qui doit être largement diffusé.

Article 32.8:
L'Etat garantit aux handicapés et aux surdoués des moyens pour assurer leur autonomie, leur éducation, leur indépendance.

Article 32.9:
L'Etat et les collectivités territoriales ont pour devoir de prendre toutes les dispositions nécessaires en vue d'intensifier la campagne d'alphabétisation des masses. Ils encouragent toutes les initiatives privées tendant à cette fin.

Article 32.10:
L'enseignement a droit à un salaire de base équitable.

Article 33:
L'enseignement est libre à tous les degrés. Cette liberté s'exerce sous le contrôle de l'Etat.

Article 34:
Hormis les cas de flagrant délit, l'enceinte des établissements d'enseignement est inviolable. Aucune force de l'ordre ne peut y pénétrer qu'en accord avec la Direction desdits établissements.

Article 34.1:
Cette disposition ne s'applique pas quand un établissement scolaire est utilisé à d'autre fins.

SECTION G
DE LA LIBERTÉ DU TRAVAIL

Article 35:
La liberté du travail est garantie. Tout citoyen a pour obligation de se consacrer à un travail de son choix en vue de subvenir à ses besoins et à ceux de sa famille, de cooperer avec l'Etat à l'établissement d'un système de sécurité sociale.

Article 35.1:
Tout employé d'une institution privée ou publique a droit à un juste salaire, au repos, au congé annuel paye et au bonus.

Article 35.2:
L'Etat garantit au travailleur, l'égalité des conditions de travail et de salaire quel que soit son sexe, ses croyances, ses opinions et son statut matrimonial.

Article 35.3:
La liberté syndicale est garantie. Tout travailleur des secteurs privé et public peut adhérer au Syndicat de ses activités professionnelles pour la défense exclusivement de ses intérêts de travail.

Article 35.4:
Le syndicat est essentiellement apolitique, à but non lucratif et non confessionnel. Nul ne peut être contraint d'y adhérer.

Article 35.5:
Le droit de grève est reconnu dans les limites déterminée par la loi.

Article 35.6:
La loi la limite d'âge pour le travail salarié. Des Lois Spéciales règlementent le travail des enfants mineurs et des gens de maison.

SECTION H
DE LA PROPRIÉTÉ

Article 36:
La propriété privée est reconnue et garantie. La loi en détermine les modalités d'acquisition, de jouissance ainsi que les limites.

Article 36.1:
L'expropriation pour cause d'utilité publique peut avoir lieu moyennant le paiement ou la consignation ordonnée par justice aux ordres de qui de droit, d'une juste et préalable indemnité fixée à dire d'expert.
Si le projet initial est abandonné, l'expropriation est annulée et l'immeuble ne pouvant être l'objet d'aucune autre spéculation, doit être restitué à son propriétaire originaire, sans aucun remboursement pour le petit propriétaire.
La mesure d'expropriation est effective à partir de la mise en oeuvre du projet.

Article 36.2:
La Nationalisation et la confiscation des biens, meubles et immeubles pour causes politiques sont interdites.

Nul ne peut être privé de son droit légitime de propriété qu'en vertu d'un jugement rendu par un Tribunal de droit commun passé en force de chose souverainement jugée, sauf dans le cadre d'une réforme agraire.

Article 36.3:
La propriété entraîne également des obligations. Il n'en peut être fait usage contraire à l'intérêt général.

Article 36.4:
Le propriétaire foncier doit cultiver, exploiter le sol et le protéger, notamment contre l'érosion. La sanction de cette obligation est prévue par la loi.

Article 36.5:
Le droit de propriété ne s'étend pas au littoral, aux sources, rivières, cours d'eau, mines et carrières. Ils font partie du domaine public de l'Etat.

Article 36.6:
La loi fixe les règles qui conditionnent la liberté de prospection et le droit d'exploter les mines, minières et carrières du sous-sol, en assurant au propriétaire de la surface, aux concessionnaires et à l'Etat haïtien une participation équitable au profit que procure la mise en valeur de ces ressources naturelles.

Article 37:
La loi fixe les conditions de morcellement et de remembrement de la terre en fonction du plan d'aménagement du territoire et du bien -être des communautés concernées, dans le cadre d'une réforme agraire.

Article 38:
La propriété scientifique, littéraire et artistique est protégée par la loi.

Article 39:
Les habitants des sections communales ont un droit de préemption pour l'exploitation des terres du domaine privé de l'Etat situées dans leur localité.

SECTION I
DROIT A L'INFORMATION

Article 40:
Obligation est faite à l'Etat de donner publicité par voie de presse parlée, écrite et télévisée, en langues créole et française aux lois, arrêtés, décrets, accords internationaux, traités, conventions, à tout ce qui touche la vie nationale, exception faite pour les informations relevant de la sécurité nationale.

SECTION J
DROIT A LA SÉCURITÉ

Article 41:
Aucun individu de nationalité haïtienne ne peut être déporté ou forcé de laisser le territoire national pour quelque motif que ce soit.
Nul ne peut être privé pour des motifs politiques de sa capacité juridique et de sa nationalité.

Article 41.1:
Aucun haítien n'a besoin de visa pour laisser le pays ou pour y revenir.

Article 42:
Aucun citoyen, civil ou militaire ne peut être distrait des juges que la constitution et les lois lui assignent.

Article 42.1:
Le militaire accusé de crime de haute trahidon envers la patrie est passible du tribunal de droit commun.

Article 42.2:
La justice militaire n'a juridiction que:
a) Dans les cas de violation des règlements du Manuel de justice militaire par des militaires;
b) Dans les cas de conflits entre les membres des forces armées;
c) En cas de guerre.

Article 42.3:
Les cas de conflit entre civils et militaires, les abus, violences et crimes perpétrés contre un civil par un militaire dans l'exercice de ses fonctions, relèvent exclusivement des tribunaux de droit commun.

Article 43:
Aucune visite domiciliaire, aucune saisie de papier ne peut avoir lieu qu'en vertu de la loi et dans les formes qu'elle prescrit.

Article 44:
Les déténus provisoires attendant d'être jugés doivent être séparés de ceux qui purgent une peine.

Article 44.1:
Le régime des prisons doit répondre aux normes attachées au respect de la dignité humaine selon la loi sur la matière.

Article 45:
Nulle peine ne peut être établie que par la loi, ni appliquée que dans les cas que celle-ci détermine.

Article 46:
Nul ne peut être obligé, en matière criminelle, correctionnelle ou de simple police, à témoigner contre lui-même ou ses parents jusqu'au quatrième degré de consanguinité ou deuxième degré d'alliance.

Article 47:
Nul ne peut être contraint à prêter serment que dans le cas et dans les formes prévus par la loi.

Article 48:
L'Etat veillera à ce qu'une caisse de pension civile de retraite soit établie dans les secteurs privé et public. Elle sera alimentée par les contributions des employeurs et employés suivant les critères et modalités établis par la loi. L'allocation de la pension est un droit et non une faveur.

Article 49:
La liberté, le secret de la correspondance et de toutes les autres de communication sont inviolables. Leur limitation ne peut se produire que par un acte motivé de l'autorité judiciaire, selon les garanties fixée par la loi.

Article 50:
Dans le cadre de la constitution et de la loi, le jury est établi en matière criminelle pour les crimes de sang et en matière de délits politiques.

Article 51:
La loi ne peut avoir d'effet rétroactif, sauf en matière pénale quand elle est favorable à l'accusé.

CHAPITRE III
DES DEVOIRS DU CITOYEN

Article 52:
A la qualité de citoyen se rattache le devoir civique. Tout droit est contrebalancé par le devoir correspondant.

Article 52.1:
Le devoir civique est l'ensemble des obligations du citoyen dans l'ordre moral, politique, social et économique vis-à-vis de l'Etat et de la patrie. Ces obligations sont:

a) respecter la constitution et l'emblème national;
b) respecter les lois;
c) voter aux élections sans contrainte;
d) payer ses taxes;
e) servir de juré;
f) défendre le pays en cas de guerre;
g) s'instruire et se perfectionner;
h) respecter et protéger l'environnement;
i) respecter scrupuleusement les deniers et biens de l'Etat;
j) respecter le bien d'autrui;
k) oeuvrer pour le maintien de la paix;
l) fournir assistance aux personnes en danger;

m) respecter les droits et la liberté d'autrui.

Article 52.2:
La dérogation à ces prescriptions est sanctionnée par la loi.

Article 52.3:
Il est établi un service civique mixte obligatoire dont les conditions de fonctionnement sont établies par la loi.

TITRE IV
DES ÉTRANGERS

Article 53:
Les conditions d'admission et de séjour des étrangers dans le pays sont établies par la loi.

Article 54:
Les étrangers qui se trouvent sur le territoire de la République bénéficient de la même protection que celle qui est accordée aux haïtiens, conformément à la loi.

Article 54.1:
L'étranger jouit des droits civils, des droits économiques et sociaux sous la réserve des dispositions légales relatives au droit de propriété immobilière, à l'exercice des professions, au commerce de gros, à la représentation commerciale et aux opérations d'importation et d'exportation.

Article 55:
Le droit de propriété immobilière est accordé à l'étranger résidant en Haïti pour les besoins de sa demeure.

Article 55.1:
Cependant, l'étranger résidant en Haïti ne peut être propriétaire de plus d'une maison d'habitation dans un même arrondissement. Il ne peut en aucun cas se livrer au trafic de location d'immeubles. Toutefois, les sociétés étrangères de promotion immobilière bénéficient d'un statut spécial réglé par la loi.

Article 55.2:
Le droit de propriété immobilière est également accordé à l'étranger résidant en Haïti et aux sociétés étrangères pour les besoins de leurs entreprises agricoles, commerciales, industrielles, religieuses, humanitaires ou d'enseignement, dans les limites et conditions déterminées par la loi.

Article 55.3:
Aucun étranger ne peut être propriétaire d'un immeuble borné par la frontière terrestre haïtienne.

Article 55.4:
Ce droit prend fin cinq (5) années après que l'étranger n'a cessé de résider dans le pays ou qu'ont cessé les opérations de ces sociétés, conformément à la loi qui détermine les règlements à suivre pour la transmission et la liquidation des biens appartenant aux étrangers.

Article 55.5:
Les contrevenants aux sus-dites dispositions ainsi que leurs complices seront punis conformément à la loi.

Article 56:
L'étranger peut être expulsé du territoire de la République lorsqu'il s'immisce dans la vie politique du pays et dans les cas déterminés par la loi.

Article 57:
Le droit d'asile est reconnu aux réfugiés politiques.

TITRE V
DE LA SOUVERAINETÉ NATIONALE

Article 58:
La souveraineté nationale réside dans l'universalité des citoyens.
Les citoyens exercent directement les prérogatives de la souveraineté par:
a) l'élection du Président de la République;
b) l'élection des membres du Pouvoir législatif;
c) l'élection des membres de tous autres corps ou de toutes assemblées prévues par la constitution et par la loi.

Article 59:
Les citoyens délèguent l'exercice de la souveraineté nationale à trois (3) pouvoirs:
a) le pouvoir législatif;
b) le pouvoir exécutif;
c) le pouvoir judiciaire.
Le principe de séparation des trois (3) pouvoirs est consacré par la constitution.

Article 59.1:
L'ensemble de ces trois (3) pouvoirs constitue le fondement essentiel de l'organisation de l'Etat qui est civil.

Article 60:
Chaque pouvoir est indépendant des deux (2) autres dans ses attributions qu'il exerce séparément.

Article 60.1:
Aucun d'eux ne peut, sous aucun motif, déléguer ses attributions en tout ou en partie, ni sortir des limites qui sont fixées par la constitution et par la loi.

Article 60.2:
La responsabilité entière est attachée aux actes de chacun des trois (3) pouvoirs.

CHAPITRE I
DES COLLECTIVITÉS TERRITORIALES ET DE LA DÉCENTRALISATION

Article 61:
Les collectivités territoriales sont la section communale, la commune et le département.

Article 61.1:
La loi peut créer toute autre collectivité territoriale.

SECTION A
DE LA SECTION COMMUNALE

Article 62:
La section communale est la plus petite entité territoriale administrative de la République.

Article 63:
L'administration de chaque section communale est assurée par un conseil de trois (3) membres élu au suffrage universel pour une durée de quatre (4) ans. Ils sont indéfiniment rééligibles. Son mode d'organisation et de fonctionnement est réglé par la loi.

Article 63.1:
Le conseil d'administration de la section communale est assisté dans sa tâche par une assemblée de la section communale.

Article 64:
L'Etat a pour obligation d'établir au niveau de chaque section communale les structures propres à la formation sociale, économique, civique et culturelle de sa population.

Article 65:
Pour être membre du conseil d'administration de la section communale, il faut:
a) être haïtien et âgé de 25 ans au moins;
b) avoir résidé dans la section communale deux (2) ans avant les élections et continuer à y résider;
c) jouir de ses droits civils et politiques et n'avoir jamais été condamné à une peine afflictive et infamante.

SECTION B
DE LA COMMUNE

Article 66:
La Commune a l'autonomie administrative et financière. Chaque Commune de la République est administrée par un Conseil de trois (3) membres élus au suffrage universel dénommé Conseil Municipal.

Article 66.1:
Le Président du Conseil porte le titre de Maire. Il est assisté de Maires-adjoints.

Article 67:
Le Conseil Municipal est assisté dans sa tâche d'une Assemblée municipale formée notamment d'un représentant de chacune de ses Sections communales.

Article 68:
Le mandat du Conseil municipal est de quatre (4) ans et ses membres sont indéfiniment rééligibles.

Article 69:
Le mode d'organisation et de fonctionnement de la Commune et du Conseil municipal sont réglés par la loi.

Article 70:
Pour être élu membre d'un Conseil municipal, il faut:
a) être haïtien
b) être âgé de vingt-cinq (25) ans accomplis.
c) jouir de ses droits civils et politiques.
d) n'avoir jamais été condamné à une peine afflictive et infamante.
e) avoir résidé au moins 3 ans dans la Commune et s'engager à y résider pendant la durée de son mandat.

Article 71:
Chaque Conseil municipal est assisté sur sa demande d'un Conseil technique fourni par l'administration centrale.

Article 72:
Le Conseil municipal ne peut-être dissous qu'en cas d'incurie, de malversation ou d'administration frauduleuse légalement prononcée par le tribunal compétent.
En cas de dissolution, le Conseil départemental supplée immédiatement à la vacance et saisit le Conseil Electoral Permanent dans les soixante (60) jours à partir de la date de la dissolution en vue de l'élection d'un nouveau Conseil

devant gérer les intérêts de la Commune pour le temps qui reste à courir. Cette procédure s'applique en cas de vacance pour toute autre cause.

Article 73:
Le Conseil municipal administre ses ressources au profit exclusif de la municipalité et rend compte à l'Assemblée municipale qui elle-même en fait rapport au Conseil départemental.

Article 74:
Le Conseil municipal est gestionnaire privilégié des biens fonciers du domaine privé de l'Etat situés dans les limites de sa Commune. Ils ne peuvent être l'objet d'aucune transaction sans l'avis préalable de l'Assemblée municipale.

SECTION C
DE L'ARRONDISSEMENT

Article 75:
L'arrondissement est une division administrative pouvant regrouper plusieurs communes. Son organisation et son fonctionnement sont réglés par la loi.

SECTION D
DU DÉPARTEMENT

Article 76:
Le département est la plus grande division territoriale. Il regroupe les arrondissements.

Article 77:
Le département est une personne morale. Il est autonome.

Article 78:
Chaque département est administré par un Conseil de trois (3) membres élus pour quatre (4) ans par l'Assemblée départementale.

Article 79:
Le membre du Conseil départemental n'est pas forcément tiré de l'Assemblée mais il doit:

a) être haïtien et âgé de vingt-cinq (25) ans au moins;
b) avoir résidé dans le département trois (3) ans avant les élections et s'engager à y résider pendant la durée du mandat;
c) jouir de ses droits civils et politiques et n'avoir jamais été condamné à une peine à la fois afflictive et infamante.

Article 80:
Le Conseil départemental est assisté dans sa tâche d'une Assemblée départementale formée d'un (1) représentant de chaque assemblée municipale.

Article 80.1:
Ont accès aux réunions de l'Assemblée avec voix consultative:
a) les députés, les sénateurs du département;
b) un (1) représentant de chaque association socio-professionnelle ou syndicale;
c) le délégué départemental;
d) les directeurs des services publics du département.

Article 81:
Le Conseil départemental élabore en collaboration avec l'administration centrale, le plan de développement du département.

Article 82:
L'organisation et le fonctionnement du conseil départemental et de l'assemblée départementale sont réglés par la loi.

Article 83:
Le conseil départemental administre ses ressources financières au profit exclusif du département et rend compte à l'Assemblée départementale qui elle-même en fait rapport à l'administration centrale.

Article 84:
Le conseil départemental peut être dissous encas d'incurie, de malversations ou d'administration frauduleuse légalement constatées par le tribunal compétent.
En cas de dissolution, l'administration centrale nomme une commission provisoire et saisit le conseil électoral permanent en vue de l'élection d'un

nouveau conseil pour le temps à courir dans les soixante (60) jours de la dissolution.

SECTION E
DES DÉLÉGUÉS ET VICE-DÉLÉGUÉS

Article 85:
Dans chaque chef-lieu de département, le pouvoir exécutif nomme un représentant qui porte le titre de délégué. Un vice-délégué placé sous l'autorité du délégué est également nommé dans chaque chef-lieu d'arrondissement.

Article 86:
Les délégués et vice-délégués assurent la coordination et le contrôle des services publics et n'exercent aucune fonction de police répressive. Les autres attributions des délégués et vice-délégués sont déterminées par la loi.

SECTION F
DU CONSEIL INTERDEPARTEMENTAL

Article 87
L'Exécutif est assisté d'un (1) Conseil interdépartemental dont les membres sont désignés par les assemblées départementales à raison d'un (1) par département.

Article 87.1:
Ce représentant, choisi parmi les membres des assemblées départementales sert de liaison entre le département et le pouvoir exécutif.

Article 87.2:
Le conseil interdépartemental, de concert avec l'Exécutif, étudie et planifie les projets de décentralisation et de développement du pays, au point de vue social, économique, commercial, agricole et industriel.

Article 87.3:
Il assiste aux séances de travail du Conseil des ministres lorsquélles traitent des objets mentionnés au précédent paragraphe avec voix délibérative.

Article 87.4:
La décentralisation doit être accompagnée de la déconcentration des services publics avec délégation de pouvoir et du décloisonnement industriel au profit des départements.

Article 87.5:
La loi détermine l'organisation et le fonctionnement du conseil interdépartemental ainsi que la fréquence des séances du Conseil des ministres auxquelles il participe.

CHAPITRE II
DU POUVOIR LÉGISLATIF

Article 88:
Le pouvoir législatif s'exerce par deux (2) Chambres représentatives. Une (1) Chambre des députés et un (1) Sénat qui forment le Corps Législatif.

SECTION A
DE LA CHAMBRE DES DÉPUTÉS

Article 89:
La Chambre des députés est un corps composé de membres élus au suffrage direct par les citoyens et chargé d'exercer au nom de ceux-ci et de concert avec le Sénat les attributions du Pouvoir législatif.

Article 90:
Chaque collectivité municipale constitue une circonscription électorale et élit un (1) député.
La loi fixe le nombre de députés au niveau des grandes agglomérations sans que ce nombre n'excède trois (3). En attendant l'application des alinéas précédents, le nombre de députés ne peut être inférieur à soixante-dix (70).

Article 90.1:
Le député est élu à la majorité absolue des suffrages exprimés dans les assemblées primaires, selon les conditions et le mode prescrits par la loi électorale.

Article 91:
Pour être membre de la Chambre des députés, il faut:
1) être haïtien ou haïtienne d'origine et n'avoir jamais renoncé à sa nationalité;
2) être âgé de vingt-cinq (25) ans accomplis;
3) jouir de ses droits civils et politiques et n'avoir jamais été condamné à une peine afflictive ou infamante pour un crime de droit commun;
4) avoir résidé au moins deux (2) années consécutives précédant la date des élections dans la circonscription électorale à répresenter;
5) Etre propriétaire d'un immeuble au moins dans la circonscription ou y exercer une profession ou une industrie;
6) avoir reçu décharge, le cas échéant, comme gestionnaire de fonds publics.

Article 92:
Les députés sont élus pour quatre (4) ans et sont indéfiniment rééligibles.

Article 92.1:
Ils entrent en fonction le deuxième lundi de janvier et siègent en deux (2) sessions annuelles. La durée de leur mandat forme une législature.

Article 92.2:
La première session va du deuxième lundi de janvier au deuxième lundi de mai. La seconde, du deuxième lundi du mois de juin au deuxième lundi de septembre.

Article 92.3:
Le renouvellement de la Chambre des députés se fait intégralement tous les quatre (4) ans.

Article 93:
La Chambre des députés, outre les attributions qui lui sont dévolues par la Constitution en tant que branche du pouvoir législatif, a le privilège de mettre en accusation le Chef de l'Etat, le Premier Ministre, les Ministres ,les Secrétaires d'Etat par devant la Haute Cour de justice, par une majorité des 2/3 de ses membres. Les autres attributions de la Chambre des députés lui sont assignées par la Constitution et par la loi.

SECTION B
DU SÉNAT

Article 94:
Le Sénat est un Corps composé de membres élus au suffrage direct par les citoyens et chargé d'exercer en leur nom, de concert avec la Chambre des Députés, les attributions du Pouvoir législatif.

Article 94.1:
Le nombre des sénateurs est fixé à trois (3) sénateurs par département.

Article 94.2:
Le sénateur de la République est élu au suffrage universel à la majorité absolue dans les assemblées primaires tenues dans les Départements géographiques, selon les conditions prescrites par la loi électorale.

Article 95:
Les sénateurs sont élus pour six (6) ans et sont indéfiniment rééligibles.

Article 95.1:
Les sénateurs siègent en permanence.

Article 95.2:
Le Sénat peut cependant s'ajourner excepté durant la session législative. Lorsqu'il s'ajourne, il laisse un comité permanent chargé d'expédier les affaires courantes. Ce comité ne peut prendre aucun arrêté, sauf pour la convocation du Sénat.
Dans les cas d'urgence, l'Exécutif peut également convoquer le Sénat avant la fin de l'ajournement.

Article 95.3:
Le renouvellement du Sénat se fait par tiers (1/3) tous les deux ans.

Article 96:
Pour être élu sénateur, il faut:
1) être haïtien d'origine et n'avoir jamais renoncé à sa nationalité;
2) être âgé de trente (30) ans accomplis;

3) jouir de ses droits civils et politiques et n'avoir jamais été condamné àune peine afflictive et infamante pour un crime de droit commun;
4) avoir résidé dans le département à représenter au moins quatre (4) années consécutives précédant la date des élections;
5) être propriétaire d'un immeuble au moins dans le département ou y exercer une profession ou une industrie;
6) avoir obtenu décharge, le cas échéant, comme gestionnaire de fonds publics.

Article 97:
En addition aux responsabilités qui sont inhérentes en tant que branche du Pouvoir législatif, le Sénat exerce les attributions suivantes:
1) proposer à l'Exécutif la liste des juges de la Cour de Cassation selon les prescriptions de la Constitution;
2) s'ériger en Haute Cour de justice;
3) Exercer toutes autres attributions qui lui sont assignées par la présenteConstitution et par la loi.

SECTION C
DE L'ASSEMBLÉE NATIONALE

Article 98:
La réunion en une seule Assemblée des deux (2) branches du pouvoir législatif constitue l'Assemblée Nationale.

Article 98.1:
L'Assemblée Nationale se réunit pour l'ouverture et la clôture de chaque Session et dans tous les autres cas prévus par la Constitution.

Article 98.2:
Les pouvoirs de l'Assemblée Nationale sont limités et ne peuvent s'étendre à d'autres objets que ceux qui sont spécialement attribués par la Constitution.

Article 98.3:
Les attributions sont:
1) de recevoir le serment constitutionnel du Président de la République;
2) de ratifier toute décision, de déclarer la guerre quand toutes les tentatives de conciliation ont échoué;

3) d'approuver ou de rejeter les traités et conventions internationales;
4) d'amender la Constitution selon la procédure qui y est indiquée;
5) de ratifier la décision de l'Exécutif de déplacer le siège du Gouvernement dans les cas déterminés par l'Article Premier de la présente Constitution;
6) de statuer sur l'opportunité de l'Etat de siège, d'arrêter avec l'Exécutif les garanties constitutionnelles à suspendre et de se prononcer sur toute demande de renouvellement de cette mesure;
7) de concourir à la formation du Conseil Electoral Permanent conformément à l'Article 192 de la Constitution;
8) de recevoir à l'ouverture de chaque session, le bilan des activités du Gouvernement.

Article 99:
L'Assemblée Nationale est présidée par le Président du Sénat. assísté du Président de la Chambre des députés en qualité de Vice-Président. Les Secrétaires du Sénat et ceux de la Chambre des députés sont les Secrétaires de l'Assemblée Nationale.

Article 99.1:
En cas d'empêchement du Président du Sénat, l'Assemblée Nationale est présidée par le Président de la Chambre des députés, le Vice-Président du Sénat devient alors Vice-Président de l'Assemblée Nationale.

Article 99.2:
En cas d'empêchement des deux (2) Présidents, les deux (2) Vice-Président y suppléent respectivement.

Article 100:
Les séances de l'Assemblée sont publiques. Néanmoins, elles peuvent avoir lieu à huis clos sur la demande de cinq (5) membres et il sera ensuite décidé à la majorité absolue si la séance doit être reprise en public.

Article 101:
En cas d'urgence, lorsque le corps législatif n'est pas en session, le pouvoir exécutifpeut convoquer l'Assemblée Nationale à l'extraordinaire.

Article 102:
L'Assemblée Nationale ne peut siéger ou prendre des décisions et des résolutions sansla présence en son sein de la mojorité de chacune des deux (2) Chambres.

Article 103:
Le corps législatif a son siège à Port-au-Prince. Néanmoins, suivant les circonstances, ce siège sera transféré ailleurs au même lieu et en même temps que celui du pouvoir exécutif.

SECTION D
DE L'EXERCICE DU POUVOIR LÉGISLATIF

Article 104:
La session du corps législatif prend date dès l'ouverture des deux (2) Chambres en Assemblée Nationale.

Article 105:
Dans l'intervalle des sessions ordinaires et en cas d'urgence, le Président de la République peut convoquer le corps législatif en session extraordinaire.

Article 106:
Le Chef du pouvoir exécutif rend compte de cette mesure par un message.

Article 107:
Dans le cas de convocation à l'extraordinaire du corps législatif, il ne peut décider sur aucun objet étranger au motif de la convocation.

Article 107.1:
Cependant, tout sénateur ou député peut entretenir l'Assemblée à laquelle il appartient de question d'intérêt général.

Article 108:
Chaque Chambre vérifie et valide les pouvoirs de ses membres et juge souverainement les contestations qui s'élèvent à ce sujet.

Article 109:
Les membres de chaque Chambre prêtent le serment suivant:
"Je jure de m'acquitter de ma tâche, de maintenir et de sauvegarder les droits du Peuple et d'être fidèle à la Constitution."

Article 110:
Les séances des (2) deux Chambres sont publiques. Chaque Chambre peut travailler à huis clos sur la demande de cinq (5) membres et décider ensuite à la majorité si la séance doit être reprise en public.

Article 111:
Le Pouvoir législatif fait des lois sur tous les objets d'intérêt public.

Article 111.1:
L'initiative en appartient à chacune des deux (2) Chambres ainsi qu'au pouvoir exécutif.

Article 111.2:
Toutefois l'initiative de la Loi Budgétaire, des lois concernant l'assiette, la quotité et le mode de perception des impôts et contributions, de celles ayant pour objet de créer des recettes ou d'augmenter les recettes et les dépenses de l'Etat est du ressort du pouvoir exécutif. Les projets présentés à cet égard doivent être votés d'abord par la Chambre des députés.

Article 111.3:
En cas de désaccord entre les deux (2) Chambres relativement aux lois mentionnées dans le précédent paragraphe, chaque Chambre nomme au scrutin de liste et en nombre égal une commission parlementaire qui résoud en dernier ressort le désaccord.

Article 111.4:
Si le désaccord se produit à l'occasion de toute autre loi, celle-ci sera ajournée jusqu'à la session suivante. Si à cette session et même en cas de renouvellement des Chambres, la loi étant présentée à nouveau, une entente ne se réalise pas, chaque Chambre nomme au scrutin de liste et en nombre égal, une commission parlementaire chargée d'arrêter le texte définitif qui sera soumis aux deux (2) Assemblées, à commencer par celle qui avait primitivement voté la loi. Et si

ces nouvelles délibérations ne donnent aucun résultat, le projet ou la proposition de loi sera retiré.

Article 111.5:
En cas de désaccord, entre le pouvoir législatif et le pouvoir exécutif, la commission deconciliation prévue à l'Article 206 ci-après, est saisie du différend sur demande de l'une des parties.

Article 111.6:
Si la commission échoue dans sa mission, elle dresse un procès-verbal de non conciliation qu'elle transmet aux deux (2) hautes parties et en donne avis à la Cour de Cassation.

Article 111.7:
Dans la huitaine de la réception de ce procès-verbal, la Cour de cassation se saisit d'office du différend. La Cour statue en sections réunies, toutes affaires cessantes. La décision sera finale et s'impose aux hautes parties. Si entre temps, une entente survient entre les hautes parties, les termes de l'entente arrêteront d'office la procédure en cours.

Article 111.8:
En aucun cas, la Chambre des députés ou le Sénat ne peut être dissous ou ajourné, ni le mandat de leurs membres prorogé.

Article 112:
Chaque Chambre au terme de ses règlements, nomme son personnel, fixe sa discipline et détermine le mode suivant lequel elle exerce ses attributions.

Article 112.1:
Chaque Chambre peut appliquer à ces membres pour conduite répréhensible, par décision prise à la majorité des 2/3, des peines disciplinaires sauf, celle de la radiation.

Article 113:
Sera déchu de sa qualité de député ou de sénateur, tout membre du Corps législatif qui, pendant la durée de son mandat, aura été frappé d'une condamnation prononcée par un tribunal de droit commun qui a acquis autorité de chose jugée et entraîne l'inégibilité.

Article 114:
Les membres du Corps législatif sont inviolables du jour de leur prestation de serment jusqu'à l'expiration de leur mandat, sous réserve des dispositions de l'article 115 ci-après.

Article 114.1:
Ils ne peuvent être en aucun temps poursuivis et attaqués pour les opinions et votes émis par eux dans l'exercice de leur fonction.

Article 114.2:
Aucune contrainte par corps ne peut être exécutée contre un membre du Corps législatif pendant la durée de son mandat.

Article 115:
Nul membre du Corps législatif ne peut, durant son mandat, être arrêté en matière criminelle, correctionnelle ou de police pour délit de droit commun, si ce n'est avec l'autorisation de la Chambre à laquelle il appartient, sauf le cas de flagrant délit pour faits emportant une peine afflictive et infamante. Il en est alors référé à la Chambre des députés ou au Sénat sans délai si le Corps législatif est en session, dans le cas contraire, à l'ouverture de la prochaine session ordinaire ou extraordinaire.

Article 116:
Aucune des deux (2) Chambres ne peut siéger, ni prendre une résolution sans la présence de la majorité de ses membres.

Article 117:
Tous les actes du Corps législatif doivent être pris à la majorité des membres présents, excepté s'il en est autrement prévu par la présente Constitution.

Article 118:
Chaque Chambre a le droit d'enquêter sur les questions dont elle est saisie.

Article 119:
Tout le projet de loi doit être voté Article par Article.

Article 120:
Chaque Chambre a le droit d'amender et de diviser les Articles et amendements proposés. Les Amendements votés par une Chambre ne peuvent faire partie d'un projet de loi qu'après avoir été votés par l'autre Chambre dans la même forme et en des termes identiques. Aucun projet de loi ne devient loi qu'après avoir été voté dans la même forme par les deux (2) Chambres.

Article 120.1:
Tout projet peut être retiré de la discussion tant qu'il n'a pas été définitivement voté.

Article 121:
Toute loi votée par le Corps législatif est immédiatement adressée au Président de la République qui, avant de la promulguer, a le droit d'y faire des objections en tout ou en partie.

Article 121.2:
Si la loi ainsi amendée est votée par la seconde Chambre, elle sera adressée de nouveau au Président de la République pour être promulguée.

Article 121.3:
Si les objections sont refetées par la Chambre qui a primitivement voté la loi, elle est renvoyée à l'autre Chambre avec les objections.

Article 121.4:
Si la seconde Chambre vote également le rejet, la loi est renvoyée au Président de la République qui est dans l'obligation de la promulguer.

Article 121.5:
Le rejet des objections est voté par l'une ou l'autre Chambre à la majorité prévue par l'Article 117. Dans ce cas, les votes de chaque Chambre seront émis au scrutin secret.

Article 121.6:
Si dans l'une ou l'autre Chambre, la majorité prévue à l'alinéa précédent n'est pas obtenue pour le rejet, les objections sont acceptées.

Article 122:
Le droit d'objection doit être exercé dans un délai de huit (8) jours francs à partir de la date de la réception de la loi par le Président de la République.

Article 123:
Si dans les délais prescrits, le Président de la République ne fait aucune objection, la loi doit être promulguée à moins que la session du Corps législatif n'ait pris fin avant l'expiration des délais, dans ce cas, la loi demeure ajournée. La loi ainsi ajournée est, à l'ouverture de la Session suivante, adressée au Président de la République pour l'exercice de son droit d'objection.

Article 124:
Un projet de loi rejeté par l'une des deux (2) Chambres ne peut être présenté de nouveau dans la même session.

Article 125:
Les lois et autres actes du Corps législatif et de l'Assemblée Nationale seront rendus exécutoires par leur promulgation et leur publication au Journal Officiel de la République.

Article 125.1:
Ils sont numérotés, insérés dans le bulletin imprimé et numéroté ayant pour titre BULLETIN DES LOIS ET ACTES.

Article 126:
La loi prend date du jour de son adoption définitive par les deux (2) Chambres.

Article 127:
Nul ne peut en personne présenter des pétitions à la tribune du Corps législatif.

Article 128:
L'interprétation des lois par voie d'autorité, n'appartient qu'au Pouvoir législatif, elle est donnée dans la forme d'une loi.

Article 129:
Chaque membre du Corps législatif reçoit une indemnité mensuelle à partir de sa prestation de serment.

Article 129.1:
La fonction de membre du Corps législatif est incompatible avec toute autre fonction rétribuée par l'Etat, sauf celle d'enseignement.

Article 129.2:
Le droit de questionner et d'interpeller un membre du Gouvernement ou le Gouvernement tout entier sur les faits et actes de l'Administration est reconnu à tout membre des deux (2) Chambres.

Article 129.3:
La demande d'interpellation doit être appuyée par cinq (5) membres du Corps intéressé.Elle aboutit à un vote de confiance ou de censure pris à la majorité de ce Corps.

Article 125.4:
Lorsque la demande d'interpellation aboutit à un vote de censure sur une question se rapportant au programme où à une déclaration de politique générale du Gouvernement, le Premier Ministre doit remettre au Président de la République, la démission de son Gouvernement.

Article 125.5:
Le Président doit accepter cette démission et nommer un nouveau Premier Ministre, conformément aux dispositions de la Constitution.

Article 129.6:
Le Corps législatif ne peut prendre plus d'un vote de censure par an sur une question se rapportant au programme ou à une déclaration de politique générale de Gouvernement.

Article 130:
En cas de mort, de démission, de déchéance, d'interdiction judiciaire ou d'acceptation d'une fonction incompatible avec celle de membre du Corps législatif, il est pourvu au remplacement du député ou du sénateur dans sa circonscription électorale pour le temps seulement qui reste à courir par une élection partielle sur convocation de l'Assemblée Primaire Electorale faite par le Conseil Electoral Permanent dans le mois même de la vacance.

Article 130.1:
L'élection a lieu dans une période de trente (30) jours après la convocation de l'Assemblée Primaire, conformément à la Constitution.

Article 130.2:
Il en est de même à défaut d'élection ou en cas de nullité des élections prononcées par le Conseil Electoral Permanent dans une ou plusieurs circonscriptions.

Article 130.3:
Cependant, si la vacance se produit au cours de la dernière session ordinaire de la Législature ou après la session, il n'y a pas lieu à l'élection partielle.

SECTION E
DES INCOMPATIBILITÉS

Article 131:
Ne peuvent être élus membres du Corps législatif:
1) le concessionnaire ou cocontractant de l'Etat pour l'exploitation des services publics;
2) les représentants ou mandataires des concessionnaires ou cocontractants de l'Etat, compagnies ou sociétés concessionnaires ou cocontractants de l'Etat;
3) les délégués, vice-délégueés, les juges, les officiers du Ministère Public dont les fonctions n'ont pas cessé six (6) mois avant la date fixée pour les élections;
4) toute personne se trouvant dans les autres cas d'inégibilité prévus par la présente Constitution et par la loi.

Article 132:
Les membres du pouvoir exécutif et les directeurs généraux de l'Administration publique ne peuvent être élus membres du Corps législatif s'ils ne démissionnent un (1) an au moins avant la date des élections.

CHAPITRE III
DU POUVOIR EXECUTIF

Article 133:
Le pouvoir exécutif est exercé par:
a) le Président de la République, Chef de l'Etat;
b) le Gouvernement ayant à sa tête un Premier Ministre.

SECTION A
DU PRÉSIDENT DE LA RÉPUBLIQUE

Article 134:
Le Président de la République est élu au suffrage universel direct à la majorité absolue des votants. si celle-ci n'est pas obtenue au premeir tour, il est procédé à un second tour.
Seuls peuvent s'y présenter les deux (2) candidats qui, le cas échánt, après retrait de candidats plus favorisés, se trouvent avoir recueilli le plus grand nombre de voix au premier tour.

Article 134.1:
La durée du mandat présidentiel est de cinq (5) ans. Cette période commence et se terminera le 7 février suivant la date des élections.

Article 134.2:
Les élections présidentielles ont lieu le dernier dimanche de novembre de la cinquième année du mandat présidentiel.

Article 134.3:
Le Président de la République ne peut bénéficier de prolongation de mandat. Il ne peut assumer un nouveau mandat, qu'après un intervalle de cinq (5) ans. En aucun cas, il ne peut briguer un troisième mandat.

Article 135:
Pour être élu Président de la République d'Haïti, il faut:
a) être haïtien d'origine et n'avoir jamais renoncé à sa nationalité;
b) être âgé de trente-cinq (35) ans accomplis au jour des élections;

c) jouir de ses droits civils et politiques et n'avoir jamais été condanmé à une peine afflictive et infamante pour crime de droit commun;
d) être propriétaire en Haïti d'un immeuble au moins et avoir dans le pays une résidence habituelle;
e) résider dans le pays depuis cinq (5) années consécutives avant la date des élections;
f) avoir reçu décharge de sa gestion si on a été comptable des deniers publics.

Article 135.1:
Avant d'entrer en fonction, le Président de la République prête devant l'Assemblée Nationale le serment suivant:
"Je jure, devant Dieu et devant la Nation, d'observer fidèlement la Constitution et les lois de la République, de respecter et de faire respecter les droits du peuple haïtien, de travailler à la grandeur de la Patrie, de maintenir l'indépendance nationale et l'intégrité du territoire."

SECTION B
DES ATTRIBUTIONS DU PRÉSIDENT DE LA RÉPUBLIQUE

Article 136:
Le Président de la République, Chef de l'Etat, veille au respect et à l'exécution de la Constitution et à la stabilité des institutions. Il assure le fonctionnement régulier des pouvoirs publics ainsi que la continuité de l'Etat.

Article 137:
Le Président de la République choisit un Premier Ministre parmi les membres du parti ayant la majorité au Parlement. A défaut de cette majorité, le Président de la République choisit son Premier Ministre en consultation avec le Président du Sénat et celui de la Chambre des députés. Dans les deux (2) cas le choix doit être ratifié par le Parlement.

Article 137.1:
Le Président de la République met fin aux fonctions du Premier Ministre sur la présentation par celui-ci de la démission du Gouvernement.

Article 138:
Le Président de la République est le garant de l'Indépendance Nationale et de l'Intégrité du Territoire.

Article 139:
Il négocie et signe tous traités, conventions et accords internationaux et les soumet à la ratification de l'Assemblée Nationale.

Article 139.1:
Il accrédite les Ambassadeurs et les Envoyés Extraordinaires auprès des puissances étrangères, reçoit les lettres de créance des Ambassadeurs des puissances étrangères et accorde l'exéquatur aux Consuls.

Article 140:
Il déclare la guerre, négocie et signe les traités de paix avec l'approbation de l'Assemblée Nationale.

Article 141:
Le Président de la République, après approbation du Sénat nomme par arrêté pris en Conseil des Ministres, le Commandant en Chef des Forces Armées, le Commandant en Chef de la Police, les Ambassadeurs et les Consuls généraux.

Article 142:
Par arrêté pris en Conseil des Ministres, le Président de la République nomme les directeurs généraux de l'Administration publique, les délégués et vice-délégués des départements et arrondissements. Il nomme également, après approbation du Sénat, les conseils d'administration des organismes autonomes.

Article 143:
Le Président de la République est le Chef nominal des Forces Armées, il ne les commande jamais en personne.

Article 144:
Il fait sceller les lois du Sceau de la République et les promulgue dans les délais prescrits par la Constitution. Il peut avant l'expiration de ce délai, user de son droit d'objection.

Article 145:
Il veille à l'exécution des décisions judiciaires, conformément à la loi.

Article 146:
Le Président de la République a le droit de grâce et de commutation de peine relativement à toute condamnation passée en force de chose jugée, à l'exception des condamnations prononcées par la Haute Cour de Justice ainsi qu'il est prévu dans la présente Constitution.

Article 147:
Il ne peut accorder amnistie qu'en matière politique et selon les prescriptions de la loi.

Article 148:
Si le Président se trouve dans l'impossibilité temporaire d'exercer ses fonctions, le Conseil des Ministres sous la présidence du Premier Ministre, exerce le pouvoir exécutif tant que dure l'empêchement.

Article 149:
En cas de vacance de la Présidence de la République pour quelque cause que ce soit, le Président de la Cour de Cassation de la République ou, à son défaut, le Vice-Président de cette Cour ou à défaut de celui-ci, le juge le plus ancien et ainsi de suite par ordre d'ancienneté, est investi provisoirement de la fonction de Président de la République par l'Assemblée Nationale dûment convoquée par le Premier Ministre. Le scrutin pour l'élection du nouveau Président pour un nouveau mandat de cinq (5) ans a lieu quarante-cinq (45) jours au moins et quatre-vingt-dix (90) jours au plus après l'ouverture de la vacance, conformément à la Constitution et à la Loi Electorale.

Article 149.1:
Ce Président provisoire ne peut en aucun cas se porter candidat à la plus prochaine élection présidentielle.

Article 150:
Le Président de la République n'a d'autres pouvoirs que ceux que lui attribue la Constitution.

Article 151:
A l'ouverture de la Première session législative annuelle, le Président de la République, par un message au Corps législatif, fait l'Exposé général de la situation. Cet exposé ne donne lieu à aucun débat.

Article 152:
Le Président de la République reçoit du Trésor public une indemnité mensuelle à partir de sa prestation de serment.

Article 153:
Le Président de la République a sa résidence officielle au Palais National, à la capitale, sauf en cas de déplacement du siège du pouvoir exécutif.

Article 154:
Le Président de la République préside le Conseil des Ministres.

SECTION C
DU GOUVERNEMENT

Article155:
Le Gouvernement se compose du Premier Ministre, des Ministres et des Secrétaires d'Etat. Le Premier Ministre est le Chef de Gouvernement.

Article 156:
Le Gouvernement conduit la politique de la Nation. Il est responsable devant le Parlement dans les conditions prévues par la Constitution.

Article 157:
Pour être nommé Premier Ministre, il faut:
1) être haïtien d'origine et n'avoir pas renoncé à sa nationalité;
2) être âgé de trente (30) ans accomplis;
3) jouir de ses droits civils et politiques et n'avoir jamais été condamné à une peine afflictive et infamante;
4) être propriétaire en Haïti ou y exercer une profession;
5) résider dans le pays depuis cinq (5) années consécutives;
6) avoir reçu décharge de sa gestion si on a été comptable des deniers publics.

SECTION D
DES ATTRIBUTIONS DU PREMIER MINISTRE

Article 158:
Le Premier Ministre en accord avec le Président choisit les membres de son Cabinet ministériel et se présente devant le Parlement afin d'obtenir un vote de confiance sur sa déclaration de politique générale. Le vote a lieu au scrutin public et à la majorité absolue de chacune des deux (2) Chambres. Dans le cas d'un vote de non confiance par l'une des deux (2) Chambres, la procédure recommence.

Article 159:
Le Premier Ministre fait exécuter les lois. En cas d'absence, d'empêchement temporaire du Président de la République ou sur sa demande, le Premier Ministre préside le Conseil des Ministres. Il a le pouvoir règlementaire, mais il ne peut jamais suspendre, ni interpréter les lois, actes et décrets, ni se dispenser de les exécuter.

Article 159.1:
De concert avec le Président de la République, il est responsable de la Défense Nationale.

Article 160:
Le Premier Ministre nomme et révoque directement ou par délégation les fonctionnaires publics selon les conditions prévues par la Constitution et par la loi sur le statut général de la Fonction Publique.

Article 161:
Le Premier Ministre et les Ministres ont leurs entrées aux Chambres pour soutenir les projets de lois et les objections du Président de la République ainsi que pour répondre aux interpellations.

Article 162:
Les actes du Premier Ministre sont contresignés, le cas échéant par les Ministres chargés de leur exécution. Le Premier Ministre peut être chargé d'un portefeuille ministériel.

Article 163:
Le Premier Ministre et les Ministres sont responsables solidairement tant des actes du Président de la République qu'ils contresignent que de ceux de leurs ministères. Ils sont également responsables de l'exécution des lois, chacun en ce qui le concerne.

Article 164:
La fonction de Premier Ministre et celle de membre du Gouvernement sont incompatibles avec tout mandat parlementaire. Dans un tel cas, le parlementaire opte pour l'une ou l'autre fonction.

Article 165:
En cas de démission du Premier Ministre, le Gouvernement reste en place jusqu'à la nomination de son successeur pour expédier les affaires courantes.

SECTION E
DES MINISTRES ET DES SECRÉTAIRES D'ETAT

Article 166:
Le Président de la République préside le Conseil des Ministres. Le nombre de ceux-ci ne peut être inférieur à dix (10).
Le Premier Ministre quand il le juge nécessaire adjoindra aux Ministres, des Secrétaires d'Etat.

Article 167:
La loi fixe le nombre des Ministères.

Article 168:
La fonction ministérielle est incompatible avec l'exercice de tous autres emplois publics, sauf ceux de l'Enseignement supérieur.

Article 169:
Les Ministres sont responsables des actes du Premier Ministre qu'ils contresignent. Ils sont solidairement responsables de l'exécution des lois.

Article 169.1:
En aucun cas, l'ordre écrit ou verbal du Président de la République ou du Premier Ministre ne peut soustraire les Ministres à la responsabilité attachée à leurs fonctions.

Article 170:
Le Premier Ministre, les Ministres et les Secrétaires d'Etat reçoivent des indemnités mensuelles établies par la Loi Budgétaire.

Article 171:
Les Ministres nomment certaines catégories d'agents de la Fonction Publique par délégation du Premier Ministre, selon les conditions fixées par la loi sur la Fonction Publique.

Article 172:
Lorsque l'une des deux (2) Chambres, à l'occasion d'une interpellation met en cause la responsabilité d'un Ministre par un vote de censure pris à la majorité absolue de ses membres, l'Exécutif renvoie le Ministre.

CHAPITRE IV
DU POUVOIR JUDICIAIRE

Article 173:
Le pouvoir judiciaire est exercé par une Cour de Cassation, les Cours d'Appel, les tribunaux de première instance, les tribunaux de paix et les tribunaux spéciaux dont le nombre, la composition, l'organisation, le fonctionnement et la juridiction sont fixés par la loi.

Article 173.1:
Les contestations qui ont pour objet les droits civils sont exclusivement du ressort des tribunaux.

Article 173.2:
Nul tribunal, nulle juridiction contentieuse ne peut être établie qu'en vertu de la loi. Il ne peut être créé de tribunal extraordinaire sous quelque dénomination que ce soit.

Article 174:
Les juges de la Cour de Cassation et des Cours d'Appel sont nommés pour dix (10) ans. Ceux des tribunaux de première instance le sont pour sept (7) ans. Leur mandat commence à courir à compter de leur prestation de serment.

Article 175:
Les juges de la Cour de Cassation sont nommés par le Président de la République sur une liste de trois (3) personnes par siège soumise par le Sénat. Ceux des cours d'appel et des tribunaux de première instance le sont sur une liste soumise par l'Assemblée départementale concernée; les juges de paix sur une liste préparée par les Assemblées communales.

Article 176:
L a loi règle les conditions exigibles pour être juge à tous les degrés. Une Ecole de la Magistrature est créée.

Article 177:
Les juges de la Cour de Cassation, ceux des Cours d'Appel et des tribunaux de première instance sont inamovibles. Ils ne peuvent être destitués que pour forfaiture légalement prononcée ou suspendus qu'à la suite d'une inculpation. Ils ne peuvent être l'objet d'affectation nouvelle, sans leur consentement, même en cas de promotion. Il ne peut être mis fin à leur service durant leur mandat qu'en cas d'incapacité physique ou mentale permanente dûment constatée.

Article 178:
La Cour de Cassation ne connaît pas du fond des affaires. Néanmoins, en toutes matières autres que celles soumises au Jury lorsque sur un second recours, même sur une exception, une affaire se présentera entre les mêmes parties, la Cour de Cassation admettant le pourvoi, ne prononcera point de renvoi et statuera sur le fond, sections réunies.

Article 178.1:
Cependant, lorsqu'il s'agit de pourvoi contre les ordonnances de référé, du juge d'instruction, les ordonnances du juge d'instruction, les arrêts d'appel rendus à l'occasion de ces ordonnances ou contre les sentences en dernier ressort des tribunaux de paix ou des décisions de tribunaux spéciaux de la Cour de Cassation admettant les recours statue sans renvoi.

Article 179:
Les fonctions de juge sont incompatibles avec toutes autres fonctions salariées, sauf celle de l'Enseignement.

Article 180:
es Audiences des tribunaux sont publiques. Toutefois, elles peuvent être tenues à huis clos dans l'intérêt de l'ordre public et des bonnes moeurs, sur décision du tribunal.

Article 180.1:
En matière de délit politique et de délit de presse, les huis clos ne peut être prononcé.

Article 181:
Les arrêts ou jugements rendus et exécutés au nom de la République. Ils portent le mandement exécutoire aux officiers du Ministète Public et aux agents de la Force ublique. Les actes de notaires susceptibles d'exécution forcée sont mis dans la même forme.

Article 182:
La Cour de Cassation se prononce sur les conflits d'attributions, d'après le mode réglé par la loi.

Article 182.1:
Elle connait des faits et du droit dans tous les cas de décisions rendues par les tribunaux militairres.

Article 183:
La Cour de Cassation à l'occasion d'un litige et sur le renvoi qui lui en est fait, se prononce en Sections réunies sur l'inconstitutionnalité des lois.

Article 183.1:
L'interprétation d'une loi donnée par les Chambres législatives s'impose pour l'objet de cette loi, sans qu'elle puisse rétroagir en ravissant des droits acquis.

Article 183.2:
Les tribunaux n'appliquent les arrêtés et règlements d'Administration publique que pour autant qu'ils sont conformes aux lois.

Article 184:
La loi détermine les compétences des Cours et des tribunaux, règle la façon de procéder devant eux.

Article 184.1:
Elle prévoit également les sanctions disciplinaires à prendre contre les juges et les officiers du Ministère Public, à l'exception des juges de la Cour de Cassation qui sontjusticiables de la Haute Cour de Justice pour forfaiture.

CHAPITRE V
DE LA HAUTE COUR DE JUSTICE

Article 185:
Le Sénat peut s'ériger en Haute Cour de Justice. Les travaux de cette Cour sont dirigés par le Président du Sénat assisté du Président et du Vice-Président de la Cour de Cassation comme Vice-Président et Secrétaire, respectivement, sauf si des juges de la Cour de Cassation ou des Officiers du Ministère Public près cette Cour sont impliqués dans l'accusation, auquel cas, le Président du Sénat se fera assister de deux (2) Sénateurs dont l'un sera désigné par l'inculpé et les Sénateurs sus-visés n'ont voix délibérative.

Article 186:
La Chambre des Députés, à la majorité des deux tiers (2/3) de ses membres prononce la mise en accusation:
a) du Président de la République pour crime de haute trahison ou tout autre crime ou délit commis dans l'exercice de ses fonctions;
b) du Premieur Ministre, des Ministres et des Secrétaires d'Etat pour crimesde haute trahison et de malversations, ou d'excès de Pouvoir ou tousautres crimes ou délits commis dans l'exercice de leurs fonctions;
c) des membres du Conseil Electoral Permanent et ceux de la Cour Supérieure des Comptes et du Contentieux Administratif pour fautes graves commises dans l'exercice de leurs fonctions;

d) des juges et officiers du Ministère Public près de la Cour de Cassation pour forfaiture;
e) du Protecteur du citoyen.

Article 187:
Les membres de la Haute Cour de Justice prêtent individuellement et à l'ouverture de 'audience le serment suivant:
"Je jure devant Dieu et devant la Nation de juger avec l'impartialité et la fermeté qui conviennent à un homme probe et libre, suivant ma conscience et mon intime conviction".

Article 188:
La Haute Cour de Justice, au scrutin secret et à la majorité absolue , désigne parmi ses membres une Commission chargée de l'instruction.

Article 188.1:
La décision, sous forme de décret est rendue sur le rapport de la Commission d'Instruction et à la majorité des deux tiers (2/3) des membres de la Haute Cour de Justice.

Article 189:
La Haute Cour de Justice ne siège qu'à la majorité des deux tiers (2/3) de ses membres.

Article 189.1:
Elle ne peut prononcer d'autre peine que la destitution, la déchéance et la privation du droit d'exercer toute fonction publique durant cinq (5) ans au moins et quinze (15) au plus.

Article 189.2:
Toutefois, le condamné peut être traduit devant les tribunaux ordinaires, conformément à la loi, s'il y a lieu d'appliquer d'autres peines ou de statuer sur l'exercice de l'action civile.

Article 190:
La Haute Cour de Justice, une fois saisie, doit siéger jusqu'au prononcé de la décision, sauf tenir compte de la durée des Sessions du Corps législatif.

TITRE VI
DES INSTITUTIONS INDÉPENDANTES

CHAPITRE I
DU CONSEIL ÉLECTORAL PERMANENT

Article 191:
Le Conseil Electoral est chargé d'organiser et de contrôler en toute indépendance, toutes les opérations électorales sur tout le territoire de la République jusqu'à la proclamation des résultats du scrutin.

Article 191.1:
Il élabore également le Projet de Loi Electorale qu'il soumet au Pouvoir exécutif pour les suites nécessaires.

Article 191.2:
Il s'assure de la tenue à jour des listes électorales.

Article 192:
Le Conseil Electoral comprend (9) neuf membres choisis sur une liste de (3) trois noms proposés par chacune des Assemblées départementales:
3 sont choisis par le Pouvoir exécutif;
3 sont choisis par la Cour de Cassation;
3 sont choisis par l'Assemblée Nationale.
Les organes sus-cités veillent, autant que possible, à ce que chacun des départements soit représenté.

Article 193:
Pour être membre du Conseil Electoral Permanent, il faut:
1) être haïtien d'origine;
2) être âgé au moins de 40 ans révolus;
3) jouir de ses droits civils et politiques et n'avoir jamais été condamné à une peine afflictive et infamante;
4) avoir reçu décharge de sa gestion si on a été comptable de deniers publics;
5) avoir résidé dans le pays au moins trois (3) ans avant sa nomination.

Article 194:
Les membres du Conseil Electoral Permanent sont nommés pour une période de (9) neuf ans non renouvelable. Ils sont inamovibles.

Article 194.1:
Le Conseil Electoral Permanent est renouvelable par tiers tous les (3) trois ans. Le Président est choisi parmi les membres.

Article 194.2:
Avant d'entrer en fonction, les membres du Conseil Electoral Permanent prêtrent le serment suivant devant la Cour de Cassation:
"Je jure de respecter la Constitution et les dispositions de la Loi Electorale et de m'acquitter de ma tâche avec dignité, indépendance, impartialité et patriotisme".

Article 195:
En cas de faute grave commise dans l'exercice de leur fonction, les membres du Conseil Electoral Permanent sont passibles de la Haute Cour de Justice.

Article 196:
Les membres du Conseil Electoral Permanent ne peuvent occuper aucune fonction publique, ni se porter candidat à une fonction élective pendant toute la durée de leur mandat.
En cas de démission, tout membre du Conseil doit attendre trois (3) ans avant de pouvoir briguer une fonction élective.

Article 197:
Le Conseil Electoral Permanent est le Contentieux de toutes les contestations soulevées à l'occasion soit des élections, soit de l'application ou de la violation de la loi électorale, sous réserve de toute poursuite légale à entreprendre le ou les coupables par devant les tribunaux compétents.

Article 198:
En cas de vacance créée par décès, démission ou toute autre cause, il est pourvu au remplacement du membre, suivant la procédure fixée par l'Article 192 pour le temps qui reste à courir, compte tenu du Pouvoir qui avait désigné le membre à remplacer.

Article 199:
La loi détermine les règles d'organisation et de fonctionnement du Conseil Electoral Permanent.

CHAPITRE II
DE LA COUR SUPÉRIEURE DES COMPTES ET DU CONTENTIEUX ADMINISTRATIF

Article 200:
La Cour Supérieure des Comptes et du Contentieux Administratif est une juridiction financière, administrative, indépendante et autonome. Elle est chargée du contrôle administratif et juridictionnel des recettes et des dépenses de l'Etat, de la vérification de la comptabilité des Entreprises de l'Etat ainsi que de celles des collectivités territoriales.

Article 200.1:
La Cour Supérieure des Comptes du Contentieux Administratif connait des litiges mettant en cause l'Etat et les Collectivités territoriales, l'Administration et les fonctionnaires publics, les services publics et les administrés.

Article 200.2:
Ses décisions ne sont susceptibles d'aucun recours sauf, de pourvoi en cassation.

Article 200.3:
La Cour Supérieure des Comptes et du Contentieux Administratif comprend deux sections:
1) la section du Contrôle financier;
2) la section du Contentieux administratif.

Article 200.4:
La Cour Supérieure des Comptes et du Contentieux administratif participe à l'élaboration du Budget et est consultée sur toutes les questions relatives à la législation sur les Finances Publiques et sur tous les Projets de Contrats, Accords et Conventions à caractère financier et commercial auxquels l'Etat est partie. Elle a le droit de réaliser les audits dans toutes administrations publiques.

Article 200.5:
Pour être membre de la Cour Supérieure des Comptes et du Contentieux Administratif, il faut:
a) être haïtien et n'avoir jamais renoncé à sa Nationalité;
b) être âgé de trente-cinq (35) ans accomplis;
c) avoir reçu décharge de sa gestion lorsquón a été comptable des deniers publics;
d) être licencié en droit ou être comptable agréé ou détenteur d'un diplôme d'Etudes Supérieures d'Administration Publique, d'Economie et de Finances publiques;
e) avoir une expérience de (5) années dans une Administration publique ou privée;
f) jouir de ses droits civils et politiques.

Article 200.6:
Les candidats à cette fonction font directement le dépôt de leur candidature au Bureau du Sénat de la République. Le Sénat élit les dix (10) membres de la Cour, qui parmi eux désignent leurs Président et Vice-Président.

Article 201:
Ils sont investis d'un (1) mandat de dix (10) années et sont inamovibles.

Article 202:
Avant d'entrer en fonction les membres de la Cour Supérieure des Comptes et du Contentieux Administratif prêtent devant une Section de la Cour de Cassation, le serment suivant:
"Je jure de respecter la Constitution et les lois de la République, de remplir mes fonctions avec exactitude et loyauté et de me conduire en tout avec dignité".

Article 203:
Les membres de la Cour Supérieure des Comptes et du Contentieux Administratif sont justiciables de la Haute Cour de Justice pour les fautes graves commises dans l'exercice de leur fonction.

Article 204:
La Cour Supérieure des Comptes et du Contentieux Administratif fait parvenir chaque année au Corps législatif dans les trente 930) jours qui suivent

l'ouverture de la Première Session législative, un rapport complet sur la situation financière du Pays et sur l'efficacité des dépenses publiques.

Article 205:
L'organisation de la Cour sus-mentionnée, le statut de ses membres, son mode de fonctionnement sont établis par la loi.

CHAPITRE III
DE LA COMMISSION DE CONCILIATION

Article 206:
La Commission de Conciliation est appelée à trancher les différends qui opposent le pouvoir exécutif et le pouvoir législatif ou les deux (2) branches du pouvoir législatif. Elle est formée ainsi qu'il suit:
a) le président de la Cour de Cassation: Président;
b) le président du Sénat: Vice-Président;
c) le Président de la Chambre des députés: Membre;
d) le président du Conseil Electoral Permanent: Membre;
e) le vice-président du Conseil Electoral Permanent: Membre;
f) deux (2) ministres désignés par le Président de la République: Membres.

Article 206.1:
Le mode de fonctionnement de la Commission de Conciliation est déterminé par la Loi.

CHAPITRE IV
DE LA PROTECTION DU CITOYEN

Article 207:
Il est créé un office dénommé OFFICE DE LA PROTECTION DU CITOYEN dont le but est de protéger tout individu contre toutes les formes d'abus de l'Administration Publique.

Article 207.1:
L'Office est dirigé par un citoyen qui porte le titre de PROTECTEUR DU CITOYEN. Il est choisi par consensus entre le Président de la République, le

Président du Sénat et le Président de la Chambre des députés. Il est investi d'un mandat de sept (7) ans, non renouvelable.

Article 207.2:
Son intervention en faveur de tout plaignant se fait sans frais aucun, quelle que soit la juridiction.

Article 207.3:
Une loi fixe les conditions et les règlements de fonctionnement de l'Office du Protecteur du Citoyen.

CHAPITRE V
DE L'UNIVERSITÉ - DE L'ACADÉMIE - DE LA CULTURE

Article 208:
L'Enseignement Supérieur est libre. Il est dispensé par l'Université d'Etat d'Haïti qui est autonome et par des Ecoles Supérieures Publiques et des Ecoles Supérieures Privées agréés par l'Etat.

Article 209:
L'Etat doit financer le fonctionnement et le développement de l'Université d'Haïti et des Ecoles Supérieures publiques. Leur organisation et leur localisation doivent être envisagées dans une perspective de développement régional.

Article 210:
La création de centres de recherches doit être encouragée.

Article 211:
L'autorisation de fonctionner des Universités et des Ecoles Supérieures Privées est subordonnée à l'approbation technique du Conseil de l'Université d'Etat, à une participation majoritaire haïtienne au niveau du Capital et du Corps Professoral ainsi qu'à l'obligation d'enseigner notamment en langue officielle du pays.

Article 211.1:
Les Universités et Ecoles Supérieures Privées ou Publiques dispensent un Enseignement Académique et pratique adapté à l'évolution et aux besoins du développement national.

Article 212:
Une Loi Organique règlemente la création, la localisation et le fonctionnement des Universités et des Ecoles Supérieures publiques et privées du pays.

Article 213:
Une Académie haïtienne est instituée en vue de fixer la langue créole et de permettre son développement scientifique et harmonieux.

Article 213.1:
D'autres académies peuvent être créées.

Article 214:
Le titre de Membre de l'Académie est purement honorifique.

Article 214.1:
La loi détermine le mode, l'organisation et le fonctionnement des académies.

Article 215:
Les richesses archéologiques, historiques, culturelles et folkloriques du Pays de même que les richesses architecturales, témoin de la grandeur de notre passé, font partie du Patrimoine National. En conséquence, les monuments, les ruines, les sites des grands faits d'armes de nos ancêtres, les centres réputés de nos croyances africaines et tous les vestiges du passé sont placées sous la protection de l'Etat.

Article 216:
La loi détermine pour chaque domaine les conditions spéciales de cette protection.

TITRE VII
DES FINANCES PUBLIQUES

Article 217:
Les Finances de la République sont décentralisées. La gestion est assurée par le Ministère y afférent. L'Exécutif, assisté d'un Conseil interdépartemental élabore la loi qui fixe la portion et la nature des revenus publics attribués aux Collectivités territoriales.

Article 218:
Aucun impôt au profit de l'Etat ne peut être établi que par une loi. Aucune charge, aucune imposition soit départementale, soit municipale, soit de section communale, ne peut être établie qu'avec le consentement de ces collectivités territoriales.

Article 219:
Il ne peut être établi de privilège en matière d'impôts.
Aucune exception, aucune augmentation, diminution ou suppression d'impôt ne peut être établie que par la Loi.

Article 220:
Aucune pension, aucune gratification, aucune allocation, aucune subvention à la charge du Trésor Public, ne peut être accordée qu'en vertu d'une Loi. Les pensions versées par l'Etat sont indexées sur le coût de la vie.

Article 221:
Le cumul des fonctions publiques salariées par l'Etat est formellement interdit, excepté pour celles de l'Enseignement, sous réserve des dispositions particulières.

Article 222:
Les procédures relatives à la préparation du Budget et à son Exécution sont déterminées par la Loi.

Article 223:
Le contrôle de l'exécution de la Loi sur le budget et sur la comptabilité Publique est assuré par la Cour Supérieure des Comptes et du Contentieux Administratif et par l'Office du Budget.

Article 224:
La Politique Monétaire est déterminée par la Banque Centrale conjointement avec le Ministère de l'Economie et des Finances.

Article 225:
Un Organisme public Autonome jouissant de la personnalité juridique et de l'autonomie financière remplit les fonctions de Banque Centrale. Son statut est déterminé par la loi.

Article 226:
La Banque Centrale est investie du privilège exclusif d'émettre, avec force libératoire sur tout le Territoire de la République, des billets représentatifs de l'Unité Monétaire, la monnaie divisionnaire, selon le titre, le poids, la description, le chiffre et l'emploi fixés par la Loi.

Article 227:
Le budget de chaque Ministère est divisé en Chapitres et Sections, et doit être voté Article par Article.

Article 227.1:
Les valeurs à tirer sur les allocations budgétaires ne pourront en aucun cas dépasser le douzième de la dotation pour un mois déterminé, sauf en Décembre à cause du bonus à verser à tous les Fonctionnaires et Employés Publics.

Article 227.2:
Les comptes généraux des recettes et des dépenses de la République sont gérés par le Ministre des Finances selon un mode de Comptabilité établi par la Loi.

Article 227.3:
Les Comptes Généraux et les Budgets prescrits par l'Article précédent, accompagnés du rapport de la Cour Supérieure des Comptes et du Contentieux Administratif doivent être soumis aux Chambres Législatives par le Ministre des Finances au plus tard dans les quinze (15) jours de l'ouverture de la Session Législative. Il en est de même du Bilan Annuel et des opérations de la Banque Centrale, ainsi que de tous autres comptes de l'Etat Haïtien.

Article 227.4:
L'exercice administratif commence le premier Octobre de chaque année et finit le trente (30) Septembre de l'année suivante.

Article 228:
Chaque année, le Corps Législatif arrête:
a) le compte des recettes et des dépenses de l'Etat pour l'année écoulée ou les années précédentes;

b) le Budget Général de l'Etat contenant l'aperçu et la portion des fonds alloués pour l'année à chaque Ministère.

Article 228.1:
Toutefois, aucune proposition, aucun amendement ne peut être introduit au Budget à l'occasion du vote de celui-ci sansla prévision correspondante des voies et moyens.

Article 228.2:
Aucune augmentation, aucune réduction ne peut être apportée aux appointements des fonctionnaires publics que par une modification des Lois y afférentes.

Article 229:
Les Chambres législatives peuvent s'abstenir de tous Travaux Législatifs tant que les documents sus-visés ne leur sont pas présentés. Elles refusent la décharge aux Ministres lorsque les comptes présentés ne fournissent pas par eux-mêmes ou les pièces à l'appui, les éléments de vérification et d'appréciation nécessaires.

Article 230:
L'examen et la liquidation des Comptes de l'Administration Générale et de tout comptable de deniers publics se font suivant le mode établi par la Loi.

Article 231:
Au cas où les Chambres Législatives pour quelque raison que ce soit, n'arrêtent pas à temps le Budget pour un ou plusieurs Départements Ministériels avant leur ajournement, le ou les Budgets des Départements intéressés restent en vigueur jusqu'au vote et adoption du nouveau Budget.

Article 231.1:
Au cas où par la faute de l'Exécutif, le Budget de la République ná pas été voté, le Président de la République convoque immédiatement les Chambres Législatives en Session Extraordinaire à seule fin de voter le Budget de l'Etat.

Article 232:
Les Organismes, les Entreprises Autonomes et les Entités subventionnés par le Trésor Public en totalité ou en partie sont régis par des Budgets Spéciaux et des systèmes de traitements et salaires approuvés par le Pouvoir Exécutif.

Article 233:
En vue d'exercer un contrôle sérieux et permanent des dépenses publiques, il est élu au scrutin secret, au début de chaque Session Ordinaire, une Commission Parlementaire de quinze (15) Membres dont neuf (9) Députés et six (6) Sénateurs chargés de rapporter sur la gestion des Ministres pour permettre aux deux (2) Assemblées de leur donner décharge.
Cette Commission peut s'adjoindre des spécialistes pour l'aider dans son contrôle.

TITRE VIII
DE LA FONCTION PUBLIQUE

Article 234:
L'Administration Publique Haïtienne est l'instrument par lequel l'Etat concrétise ses missions et objectifs. Pour garantir sa rentabilité, elle doit être gérée avec honnêteté et efficacité.

Article 235:
Les Fonctionnaires et Employés sont exclusivement au service de l'Etat. Ils ont tenus à l'observation stricte des normes et éthique déterminées par la Loi sur la Fonction Publique.

Article 236:
La Loi fixe l'organisation des diverses structures de l'Administration et précise leurs conditions de fonctionnement.

Article 236.1:
La loi règlemente la Fonction Publique sur la base de l'aptitude, du mérite et de la discipline. Elle garantit la sécurité de l'emploi.

Article 236.2:
La Fonction Publique est une carrière. Aucun fonctionnaire ne peut être engagé que par voie de concours ou autres conditions prescrites par la Constitution et par la loi, ni être révoqué que pour des causes spécifiquement déterminées par la Loi. Cette révocation doit être prononcée dans tous les cas par le Contentieux Administratif.

Article 237:
Les Fonctionnaires de carrière n'appartiennent pas à un service public déterminé mais à la Fonction Publique qui les met à la disposition des divers Organismes de l'Etat.

Article 238:
Les Fonctionnaires indiqués par la Loi sont tenus de déclarer l'Etat de leur patrimoine au Greffe du Tribunal Civil dans les trente (30) jours qui suivent leur entrée en fonction. Le Commissaire du Gouvernement doit prendre toutes les mesures qu'il juge nécessaires pour vérifier l'exactitude de la déclaration.

Article 239:
Les Fonctionnaires et Employés Publics peuvent s'associer pour défendre leurs droits dans les conditions prévues par la Loi.

Article 240:
Les Fonctions ou Charges Politiques ne donnent pas ouverture à la carrière administrative, notamment les fonctions de Ministre et de Secrétaire d'Etat, d'Officier du Ministère Public, de Délégué et de Vice-Délégué, d'Ambassadeur, de Secrétaire Privé du Président de la République, de Membre de Cabinet de Ministre, de Directeur Général de Département Ministériel ou d'Organisme Autonome, de Membres de Conseil d'Administration.

Article 241:
La Loi sanctionne les infractions contre le le fisc et l'enrichissement illicite. Les Fonctionnaires qui ont connaissance de tels faits ont pour devoir de les signaler à l'Autorité Compétente.

Article 242:
L'enrichissement illicite peut être établi par tous les modes de preuves, notamment par présomption de la disproportion marquée entre les moyens du fonctionnaire acquis depuis son entrée en fonction et le montant accumulé du Traitement ou des Emoluments auxquels lui a donné droit la charge occupée.

Article 243:
Le Fonctionnaire coupable des délits sus-désignés ne peut bénéficier que de la prescription vicennale. Cette prescription ne commence à courir qu'à partir de la cessation de ses fonctions ou des causes qui auraient empêché toute poursuite.

Article 244:
L'Etat a pour devoir d'éviter les grandes disparités d'appointements dans l'Administration Publique.

TITRE IX
DE L'ECONOMIE, DE L'AGRICULTURE ET DE L'ENVIRONNEMENT

CHAPITRE I
DE L'ECONOMIE - DE L'AGRICULTURE

Article 245:
La liberté économique est garantie tant qu'elle ne s'oppose pas à l'intérêt social. L'Etat protège l'entreprise privée et vise à ce qu'elle se développe dans les conditions nécessaires à l'accroissement de la richesse nationale de manière à assurer la participation du plus grand nombre au bénéfice de cette richesse.

Article 246:
L'Etat encourage en milieur rural et urbain, la formation de coopérative de production, la transformation de produits primaires et l'esprit d'entreprise en vue de promouvoir l'accumulation du Capital National pour assurer la permanence du développement.

Article 247:
L'Agriculture, source principale de la richesse nationale est garante du bien-être des populations et du progrès socio-économique de la Nation.

Article 248:
Il est créé un Organisme Spécial dénommé INSTITUT NATIONAL DE LA REFORME AGRAIRE en vue d'organiser la refonte des structures foncières

et mettre en oeuvre une réforme agraire au bénéfice des réels exploitants de la terre. Cet Institut élabore une politique agraire axée sur l'optimisation de la productivité au moyen de la mise en place d'infrastructure visant la protection de l'aménagement de la terre.

Article 248.1:
La Loi détermine la superficie minimale et maximale des unités de base des exploitations agricoles.

Article 249:
L'Etat a pour obligation d'établir les structures nécessaires pour assurer la productivité maximale de la terre et la commercialisation interne des denrées. Des unités d'encadrement techniques et financières sont établies pour assister les agriculteurs au niveau de chaque Section Communale.

Article 250:
Aucun monopole ne peut être établi en faveur de l'Etat et des Collectivités Territoriales que dans l'intérêt exclusif de la Société. Ce monopole ne peut être cédé à un particulier.

Article 251:
L'importation des denrées agricoles et de leurs dérivés produits en quantité suffisante sur le Territoire National est interdite sauf cas de force majeure.

Article 252:
L'Etat peut prendre en charge le fonctionnement des entreprises de production de biens et services essentiels à la Communauté, aux fins d'en assurer la continuité dans le cas où l'existence de ces Etablissements serait menacée. Ces Entreprises seront groupées dans un système intégré de gestion.

CHAPITRE II
DE L'ENVIRONNEMENT

Article 253:
L'environnement étant le cadre naturel de vie de la population, les pratiques susceptibles de perturber l'équilibre écologique sont formellement interdites.

Article 254:
L'Etat organise la mise en valeur des sites naturels, en assure la protection et les rend accessibles à tous.

Article 255:
Pour protéger les réserves forestières et élargir la couverture végétale, l'Etat encourage le développement des formes d'énergie propre: solaire, éolienne et autres.

Article 256:
Dans le cadre de la protection de l'Environnement et de l'Education Publique, l'Etat a pour obligation de procéder à la création et à l'entretien de jardins botaniques et zoologiques en certains points du Territoire.

Article 257:
La loi détermine les conditions de protection de la faune et de la flore. Elle sanctionne les contravenants.

Article 258:
Nul ne peut introduire dans le Pays des déchets ou résidus de provenances étrangères de quelque nature que ce soit.

TITRE X
DE LA FAMILLE

Article 259:
L'Etat protège la Famille base fondamentale de la Société.

Article 260:
Il doit une égale protection à toutes les Familles qu'elles soient constituées ou non dans les liens du mariage. Il doit procurer aide et assistance à la maternité, à l'enfance et à la vieillesse.

Article 261:
La Loi assure la protection à tous les Enfants. Tout enfant a droit à l'amour, à l'affection, à la compréhension et aux soins moraux et matériels de son père et de sa mère.

Article 262:
Un Code de la Famille doit être élaboré en vue d'assurer la protection et le respect des droits de la Famille et de définir les formes de la recherche de la paternité. Les Tribunaux et autres Organismes de l'Etat chargés de la protection de ces droits doivent être accessibles gratuitement au niveau de la plus petite Collectivité Territoriale.

TITRE XI
DE LA FORCE PUBLIQUE

Article 263:
La Force Publique se compose de deux (2) Corps distincts:
a) les Forces Armées d'Haïti;
b) les Forces de Police.

Article 263.1:
Aucun autre Corps Armé ne peut exister sur le Territoire National.

Article 263.2:
Tout Membre de la Force Publique prête lors de son engagement, le serment d'allégeance et de respect à la Constitution et au drapeau.

CHAPITRE I
DES FORCES ARMÉES

Article 264:
Les Forces Armées comprennent les Forces de Terre, de Mer, de l'Air et des Services Techniques.
Les Forces Armées d'Haïti sont instituées pour garantir la sécurité et l'intégrité du Territoire de la République.

Article 264.1:
Les Forces Armées sont commandées effectivement par un Officier Général ayant pour titre Commandant En Chef Des Forces Armées d'Haïti.

Article 264.2:
Le Commandant en Chef des Forces Armées, conformément à la Constitution, est choisi parmi les Officiers Généraux en activité de Service.

Article 264.3:
Son mandat est fixé à trois (3) ans. Il est renouvelable.

Article 265:
Les Forces Armées sont apolitiques. Leurs membres ne peuvent faire partie d'un groupement ou d'un parti politique et doivent observer la plus stricte neutralité.

Article 265.1:
Les Membres des Forces Armées exercent leur droit de vote conformément à la Constitution.

Article 266:
Les Forces Armées ont pour attributions:
a) Défendre le Pays en cas de guerre;
b) Protéger le Pays contre les menaces venant de l'extérieur;
c) Assurer la surveillance des Frontières terrestres, maritimes et aériennes;
d) Prêter main forte sur requête motivée de l'Exécutif, à la Police au cas où cette dernière ne peut répondre à sa tâche;
e) Aider la nation en cas de désastre naturel;
f) Outre les attributions qui lui sont propres, les Forces Armées peuvent être affectées à des tâches de développement.

Article 267:
Les Militaires en activité de Service ne peuvent être nommés à aucune Fonction Publique, sauf de façon temporaire pour exercer une spécialité.

Article 267.1:
Tout militaire en activité de Service, pour se porter candidat à une fonction élective, doit obtenir sa mise en disponibilité ou sa mise à la retraite un (1) an avant la parution du Décret Electoral.

Article 267.2:
La carrière militaire est une profession. Elle est hiérarchisée. Les conditions d'engament, les grades, promotions, revocations, mises à la retraite, sont déterminées par les règlements des Forces Armées d'Haïti.

Article 267.3:
Le Militaire n'est justiciable d'une Cour Militaire que pour les délits et crimes commis au temps de guerre ou pour les infractions relevant de la discipline militaire.
Il ne peut être l'objet d'aucune révocation, mise en disponibilité, à la réforme, mise à la retraite anticipée qu'avec son consentement. Au cas où le consentement n'est pas accordé, l'intéressé peut se pourvoir par devant le Tribunal Compétent.

Article 267.4:
Le Militaire conserve toute sa vie, le dernier grade obtenu dans les Forces Armées d'Haïti. Il ne peut en être privé que par décision du Tribunal Compétent passée en force de chose souverainement jugée.

Article 267.5:
L'Etat doit accorder aux Militaires de tous grades des prestations garantissant pleinement leur sécurité matérielle.

Article 268:
Dans le cadre d'un Service National Civique mixte obligatoire, prévu par la Constitution à l'Article 52-3, les Forces Armées participent à l'organisation et à la supervision de ce service.
Le service Militaire est obligatoire pour tous les Haïtiens âgés au moins de dix-huit (18) ans.
La loi fixe le mode de recrutement, la durée et les règles de fonctionnement de ces services.

Article 268.1:
Tout citoyen a droit à l'auto-défense armée, dans les limites de son domicile mais n'a pas droit au port d'armes sans l'autorisation expresse et motivée du Chef de la Police.

Article 268.2:
La détention d'une arme à feu doit être déclarée à la Police.

Article 268.3:
Les Forces Armées ont le monopole de la fabrication, de l'importation, de l'exportation, de l'utilisation et de la détention des armes de guerre et de leurs munitions, ainsi que du matériel de guerre.

CHAPITRE II
DES FORCES DE POLICE

Article 269:
La Police est un Corps Armé.
Son fonctionnement relève du Ministère de la Justice.

Article 269.1:
Elle est créée pour la garantie de l'ordre public et la protection de la vie et des biens des citoyens.
Son organisation et son mode de fonctionnement sont réglés par la Loi.

Article 270:
Le Commandant en Chef des Forces de Police est nommé, conformément à la Constitution, pour un mandat de trois (3) ans renouvelable.

Article 271:
Il est créé une (1) Académie et une (1) École de Police dont l'organisation et le fonctionnement sont fixés par la Loi.

Article 272:
Des Sections spécialisées notamment l'Administration Pénitentiaire, le Service des Pompiers, le Service de la Circulation, la Police Routière, les Recherches Criminelles, le Service Narcotique et Anti-contrebande sont créés par la Loi régissant l'Organisation, le Fonctionnement et la Localisation des Forces de Police.

Article 273:
La Police en tant qu'auxiliaire de la Justice, recherche les contraventions, les délits et crimes commis en vue de la découverte et de l'arrestation de leurs auteurs.

Article 274:
Les Agents de la Force Publique dans l'exercice de leurs fonctions sont soumis à la responsabilité civile et pénale dans les formes et conditions prévues par la Constitution et par la Loi.

TITRE XII
DISPOSITIONS GÉNÉRALES

Article 275:
Le chômage de l'Administration Publique et Privée et du Commerce sera observé à l'occasion des Fêtes Nationales et des Fêtes Légales.

Article 275.1:
Les fêtes nationales sont:
1) La Fête de l'Indépendance Nationale le Premier Janvier;
2) Le Jour des Aïeux le 2 Janvier;
3) La Fête de l'Agriculture et du Travail le Premier Mai;
4) La Fête du Drapeau et de l'Université le 18 mai;
5) La Commémoration de la Bataille de Vertières JOUR DES FORCES ARMÉES, le 18 novembre.

Article 275.2:
Les Fêtes Légales sont déterminées par la Loi.

Article 276:
L'Assemblée Nationale ne peut ratifier aucun Traité, Convention ou Accord Internationaux comportant des clauses contraires à la présente Constitution.

Article 276.1:
La ratification des Traités, des Conventions et des Accords Internationaux est donnée sous forme de Décret.

Article 276.2:
Les Traités ou Accord Internationaux, une fois sanctionnés et ratifiés dans les formes prévues par la Constitution, font partie de la Législation du Pays et abrogent toutes les Lois qui leur sont contraires.

Article 277:
L'Etat Haïtien peut intégrer une Communauté Economique d'Etat dans la mesure où l'Accord d'Association stimule le développement économique et social de la République d'Haïti et ne comporte aucune clause contraire à la Présente Constitution.

Article 278:
Aucune place, aucune partie du Territoire ne peut être déclarée en état de siège qu'en cas de guerre civile ou d'invasion de la part d'une force eacute; trangère.

Article 278.1:
L'acte du Président de la République déclaratif d'état de siège, doit être contresigné par le Premier Ministre, par tous les Ministres et porter convocation immédiate de l'Assemblée Nationale appelée à se prononcer sur l'opportunité de la mesure.

Article 278.2:
L'Assemblée Nationale arrête avec le Pouvoir Exécutif, les Garanties Constitutionnelles qui peuvent être suspendues dans les parties du Territoire mises en état de siège.

Article 278.3:
L'Etat de siège devient caduc s'il n'est pas renouvelé tous les quinze (15) jours après son entrée en vigueur par un vote de l'Assemblée Nationale.

Article 278.4:
L'Assemblée Nationale siège pendant toute la durée de l'Etat de siège.

Article 279:
Trente (30) jours après son élection, le Président de la République doit déposer au greffe du Tribunal de Première Instance de son domicile, l'inventaire notarié de tous ses biens, meubles et immeubles, il en sera de même à la fin de son mandat.

Article 279.1:
Le Premier Ministre, les Ministres et Secrétaires d'Etat sont astreints à la même obligation dans les trente (30) jours de leur installation et de leur sortie de fonction.

Article 280:
Aucun frais, aucune indemnité généralement quelconque n'est accordé aux Membres des Grands Corps de l'Etat à titre des tâches spéciales qui leur sont attribuées.

Article 281:
A l'occasion des consultations nationales, l'Etat prend en charge proportionnellement un nombre de suffrages obtenus une partie des frais encourus durant les campagnes électorales.

Article 281.1:
Ne sont éligibles à de telles facilités que les partis qui auront au niveau national obtenu dix pour cent (10%) des suffrages exprimés avec un plancher départemental de suffrage de cinq pour cent (5%).

TITRE XIII
AMENDEMENTS A LA CONSTITUTION

Article 282:
Le Pouvoir Législatif, sur la proposition de l'une des deux (2) Chambres ou du Pouvoir Exécutif, a le droit de déclarer qu'il y a lieu d'amender la Constitution, avec motifs à l'appui.

Article 282.1:
Cette déclaration doit réunir l'adhésion des deux (2/3) de chacune des deux (2) Chambres. Elle ne peut être faite qu'au cours de la dernière Session Ordinaire d'une Législature et est publiée immédiatement sur toute l'étendue du Territoire.

Article 283:
A la première Session de la Législature suivante, les Chambres se réunissent en Assemblée Nationale et statuent sur l'amendement proposé.

Article 284:
L'Assemblée Nationale ne peut siéger, ni délibérer sur l'amendement si les deux (2/3) tiers au moins des Membres de chacune des deux (2) Chambres ne sont présents.

Article 284.1:
Aucune décision de l'Assemblée Nationale ne peut être adoptée qu'à la majorité des deux (2/3) tiers des suffrages exprimés.

Article 284.2:
L'amendement obtenu ne peut entrer en vigueur qu'après l'installation du prochain Président élu. En aucun cas, le Président sous le gouvernement de qui l'amendement a eu lieu ne peut bénéficier des avantages qui en découlent.

Article 284.3:
Toute Consultation Populaire tendant à modifier la Constitution par voie de Référendum est formellement interdite.

Article 284.4:
Aucun amendement à la Constitution ne doit porter atteinte au caractère démocratique et républicain de l'Etat.

TITRE XIV
DES DISPOSITIONS TRANSITOIRES

Article 285:
Le Conseil National de Gouvernement reste et demeure en fonction jusqu'au 7 février 1988, date d'investiture du Président de la République élu sous l'empire de la Présente Constitution conformément au Calendrier Electoral.

Article 285.1:
Le Conseil National de Gouvernement est autorisé à prendre en Conseil des Ministres, conformément à la Constitution, des décrets ayant force de Loi jusqu'à l'entrée en fonction des députés et Sénateurs élus sous l'empire de la Présente Constitution.

Article 286:
Tout Haïtien ayant adopté une nationalité étrangère durant les vingt-neuf (29) années précédant le 7 février 1986 peut, par une déclaration faite au Ministère de la Justice dans un délai de deux (2) ans à partir de la publication de la Constitution, recouvrer sa nationalité haïtienne avec les avantages qui en découlent, conformément à la Loi.

Article 287:
Compte tenu de la situation des haïtiens expatriés volontairement ou involontairement, les délaies de résidence prévus dans la Présente Constitution, sont ramenés à une année révolue pour les plus prochaines élections.

Article 288:
A l'occasion de la prochaine Consultation Electorale, les mandats des trois (3) Sénateurs élus pour chaque Département seront établis comme suit:
a) Le Sénateur qui a obtenu le plus grand nombre de voix, bénéficiera d'un (1) mandat de six (6) ans;
b) Le Sénateur qui vient en seconde place en ce qui a trait au nombre de voix, sera investi d'un (1) mandat de quatre (4) ans;
c) Le troisième Sénateur sera élu pour deux (2) ans.
Dans la suite, chaque Sénateur élu, sera investi d'un (1) mandat de six (6) ans.

Article 289:
En attendant l'établissement du Conseil Electoral Permanent prévu dans la Présente Constitution, le Conseil Electoral Provisoire de neuf (9) Membres, chargé de l'exécution et de l'élaboration de la Loi Electorale devant régir les prochaines élections et désigné de la façon suivante:
1) Un par l'Exécutif, non fonctionnaire;
2) Un par la Conférence Episcopale;
3) Un par le Conseil Consultatif;
4) Un par la Cour de Cassation;
5) Un par les organismes de Défense des Droits Humins ne participant pas aux compétitions électorales;
6) Un par le Conseil de l'Université;
7) Un par l'Association des Journalistes;
8) Un par les Cultes Réformés;
9) Un par le Conseil National des Coopératives.

Article 289.1:
Dans la quinzaine qui suivra la ratification de la Présente Constitution, les Corps ou Organisations concernés font parvenir à l'Exécutif le nom de leur représentant.

Article 289.2:
En cas d'abstention d'un Corps ou organisation sus-visé, l'Exécutif comble la ou les vacances.

Article 289.3:
La mission de ce Conseil Electoral Provisoire prend fin dès l'entrée en fonction du Président élu.

Article 290:
Les membres du Premier Conseil Electoral Permanent se départagent par tirage au sort les mandats de neuf (9), six (6) et trois (3) ans, prévus pour le renouvellement par tiers (1/3) du Conseil.

Article 291:
Ne pourra briguer aucune fonction publique durant les dix (10) années qui suivront la publication de la Présente Constitution et cela sans préjudice des actions pénales ou en réparation civile:

a) Toute personne notoirement connue pour avoir été par ses excès de zèle un des artisans de la dictature et de son maintien durant les vingt-neuf (29) dernières années;
b) Tout comptable des deniers publics durant les années de la dictature sur qui plane une présomption d'enrichissement illicite;
c) Toute personne dénoncée par la clameur publique pour avoir pratiqué la torture sur les prisonniers politiques, à l'occasion des arrestations et des enquêtes ou d'avoir commis des assassinats politiques.

Article 292:
Le Conseil Electoral Provisoire chargé de recevoir les dépots de candidature, veille àla stricte application de cette disposition.

Article 293:
Tous les décrets d'expropriation de biens immobiliers dans les zones urbaines et rurales de la République des deux (2) derniers Gouvernements haïtiens au profit de l'Etat ou de sociétés en formation sont annulés si le but pour lequel ils ont étés pris, n'a pas été exécuté au cours des dix (10) dernières années.

Article 293.1:
Tout individu victime de confiscation de biens ou de dépossession arbitraire pour raison politique, durant la période s'étendant du 22 Octobre 1957 au 7 Février 1986 peut récupérer ses biens devant le Tribunal compétent.
Dans ce cas, la procédure est célère comme pour les affaires urgentes et la décision n'est susceptible que du pourvoi en Cassation.

Article 294:
Les condamnations à des peines afflictives et infamantes pour des raisons politiques de 1957 à 1986, n'engendrent aucun empêchement à l'exercice des Droits Civils et Politiques.

Article 295:
Dans les six (6) mois à partir de l'entrée en fonction du Premier Président élu sous l'empire de la Constitution de 1987, le Pouvoir Exécutif est autorisé à procéder à toutes réformes jugées nécessaires dans l'Administration Publique en général et dans la Magistrature.

TITRE XV
DISPOSITIONS FINALES

Article 296:
Tous les Codes de Lois ou Manuels de justice, tous les Décrets-Lois et tous les Décrets et Arrêtés actuellement en vigueur sont maintenus en tout ce qui n'est pas contraire à la présente Constitution.

Article 297:
Toutes les Lois, tous les Décrets-Lois, tous les Décrets restreignant arbitrairement les droits et libertés fondamentaux des citoyens notamment:
a) Le Décret-Loi du 5 septembre 1935 sur les croyances superstitieuses;
b) La Loi du 2 Août 1977 instituant le Tribunal de la Sureté de l'Etat;
c) La Loi du 28 juillet 1975 soumettant les terres de la vallée de l'Artibonite à un statut d'exception;
d) La Loi du 29 Avril 1969 condamnant toute doctrine d'importation;
Sont et demeurent abrogés.

Article 298:
La présente Constitution doit être publiée dans la quinzaine de sa ratification par voie référendaire. Elle entre en vigueur dès sa publication AU MONITEUR, Journal Officiel de la République.
Donné au Palais Législatif, à Port-au-Prince, siège de l'Assemblée Nationale Constituante, le 10 Mars 1987, An 184ème de l'Indépendance.
Donné au Palais Législatif, à Port-au-Prince, siège de l'Assemblée Nationale Constituante, le 10 Mars 1987, An 184ème de l'Indépendance.

Jamaica

THE CONSTITUTION OF JAMAICA (1962)

CHAPTER I
PRELIMINARY

1. Interpretation

(1) In this Constitution unless it is otherwise provided or the context otherwise requires-

"Act of Parliament" means any law made by Parliament;

"the appointed day" means the sixth day of August, 1962;

"the Broad Seal" means the Broad Seal of Jamaica;

"the Cabinet" means the Cabinet established by section 69 of this Constitution;

"the Clerk" and "the Deputy Clerk" mean respectively the Clerk and the Deputy Clerk of either House, as the context may require;

"the Commonwealth" means Jamaica, any country to which section 9 of this Constitution applies and any dependency of any such country;

"the Consolidated Fund" means the Consolidated Fund established by section 114 of this Constitution;

"constituency" means an area of Jamaica having separate representation in the House of Representatives;

"defence force" means any naval, military or air force of the Crown in right of the Government of Jamaica;

"the financial year" means the twelve months ending on the 31st day of March in any year or on such other date as may from time to time be prescribed by Act of Parliament;

"the Gazette" means the Jamaica Gazette;

"House" means either the Senate or the House of Representatives as the context may require;

"Jamaica" has the meaning attributed to that expression in the Jamaica Independence Act, 1962;

"law" includes any instrument having the force of law and any unwritten rule of law and "lawful" and "lawfully" shall be construed accordingly;

"oath of allegiance" means the oath of allegiance set out in the First Schedule to this Constitution;

"Parliament" means the Parliament of Jamaica;

"police officer" means a member of the Jamaica Constabulary Force or any force, by whatever name called, for the time being succeeding to the functions of the Jamaica Constabulary Force;

"the President" and "the Deputy President" mean respectively the President and the Deputy President of the Senate elected under section 42 of this Constitution;

"Privy Council" means the Privy Council established by section 82 of this Constitution;

"public office" means any office of emolument in the public service;

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

"the public service" means, subject to the provisions of subsections (5) and (6) of this section, the service of the Crown in a civil capacity in respect of the Government of Jamaica (including service as a member of the Judicial Service Commission, the Public Service Commission or the Police Service Commission) and includes public service in respect of the former Colony of Jamaica;

"session" means, in relation to a House, the sittings of that House commencing when it first meets after this Constitution comes into force or after the prorogation or dissolution of Parliament at any time and terminating when Parliament is prorogued or is dissolved without having been prorogued;

"sitting" means, in relation to a House, a period during which that House is sitting continuously without adjournment and includes any period during which the House is in committee;

"the Speaker" and "the Deputy Speaker" mean respectively the Speaker and Deputy Speaker elected under section 43 of this Constitution.

(2) Save where this Constitution otherwise provides or the context otherwise requires-

a) any reference in this Constitution to an appointment to any office shall be construed as including a reference to an appointment on promotion or transfer to that office and to the appointment of a person to perform the functions of

that office during any period during which it is vacant or during which the holder thereof is unable (whether by reason of absence or infirmity of body or mind or any other cause) to perform those functions; and

b) any reference in this Constitution to the holder of an office by the term designating his office shall be construed as including a reference to any person for the time being lawfully performing the functions of that office.

(3) Where by this Constitution power is conferred on any person or authority to appoint a person to perform the functions of any office if the holder thereof is unable himself to perform its functions, any such appointment shall not be called in question on the ground that the holder of that office was not unable to perform those functions.

(4) For the purposes of this Constitution a person shall not be considered as holding a public office by reason only of the fact that he is in receipt of a pension or other like allowance in respect of public service.

(5) If it is provided by any law for the time being in force that an office (not being an office constituted by this Constitution) shall not be a public office for the purposes of Chapter V of this Constitution, this Constitution shall have effect accordingly as if that provision of that law were enacted herein.

(6) In this Constitution "the public service" does not include service in the office of Governor-General, President, Deputy President, Speaker, Deputy Speaker, Minister, Parliamentary Secretary, Leader of the Opposition, Senator, member of the House of Representatives, member of the Privy Council, Judge of the Supreme Court or Judge of the Court of Appeal or Clerk or Deputy Clerk of either House or service on the personal staff of the Governor-General or, subject to the provisions of section 79 of this Constitution, service in the office of Attorney-General.

(7) References in this Constitution to the power to remove a public officer from his office shall be construed as including references to any power conferred by any law to require or permit that officer to retire from the public service:

Provided that-

a) nothing in this subsection shall be construed as conferring on any person or authority power to require a Judge of the Supreme Court or Court of Appeal or the Director of Public Prosecutions or the Auditor-General to retire from the public service; and

b) any power conferred by any law to permit a person to retire from the public service shall, in the case of any public officer who may be removed from office by some person or authority other than a Commission established by this Constitution, vest in the Public Service Commission.

(8) Where any power is conferred by this Constitution to make any Proclamation or order or to give any directions, the power shall be construed as including a power exercisable in like manner to amend or revoke any such Proclamation, order or directions.

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

(10) Any reference in this Constitution to a law enacted before the commencement of this Constitution shall, unless the context otherwise requires, be construed as a reference to that law as in force immediately before the appointed day.

(11) Where a person is required by this Constitution to make an oath he shall be permitted, if he so desires, to comply with that requirement by making an affirmation.

(12) The Interpretation Act, 1889 as in force on the appointed day, shall apply, with the necessary adaptations, for the purpose of interpreting this Constitution and otherwise in relation thereto as it applies for the purpose of interpreting, and in relation to, Acts of Parliament of the United Kingdom.

2. Effect of this Constitution

Subject to the provisions of sections 49 and 50 of this Constitution, if any other law is inconsistent with this Constitution, this Constitution shall prevail and the other law shall, to the extent of the inconsistency, be void.

CHAPTER II
CITIZENSHIP

3. Acquisition of Jamaican citizenship

(1) A person may, in accordance with the provisions of this Chapter, become a citizen of Jamaica by-

a) birth;

b) descent; or

c) registration as a citizen of Jamaica based on marriage to a citizen of Jamaica.

(2) Parliament may make provision for the acquisition of citizenship of Jamaica by persons who do not become citizens of Jamaica by virtue of the provisions of this Chapter.

(3) Subsection (1) shall not affect the right of any person who, before the 26th day of March, 1999, was entitled to Jamaican citizenship by virtue of any provision of the Constitution in force before that date.

3A. Persons entitled to citizenship on 1st March 1993

(1) A person-

a) who was born outside Jamaica before the sixth day of August 1962;

b) who was not before the 1st day of March 1993, entitled to Jamaican citizenship by virtue of any provisions of this Constitution in force before that date; and

c) whose father or mother, on the sixth day of August 1962, became or would but for his or her death have become a citizen of Jamaica in accordance with subsection (1) of section 3,

shall become a citizen of Jamaica on the 1st day of March 1993.

(2) Subsection (1) shall not affect the rights of any person who, before the 1st day of March 1993, was entitled to Jamaican citizenship by virtue of any provision of this Constitution which was in force before that date.

3B. Citizenship by birth

(1) Every person born in Jamaica shall become a citizen of Jamaica-

a) on the sixth day of August, 1962, in the case of a person born before that date;

b) on the date of his birth, in the case of a person born on or after the sixth day of August, 1962.

(2) A person shall be deemed to be born in Jamaica-

a) if he is born on a ship or aircraft registered in Jamaica or belonging to the Government; or

b) if at the time of his birth his mother-

i) is a citizen of Jamaica residing in a country other than Jamaica by reason of her employment in the diplomatic service of Jamaica; or

ii) whether or not a citizen of Jamaica, is residing in a country other than Jamaica by reason of her being married to a citizen of Jamaica who is residing in that country by reason of his employment in the diplomatic service of Jamaica.

(3) A person shall not become a citizen of Jamaica by virtue of this section if at the time of his birth-

a) his father or mother possesses such immunity from suit and legal process as is accorded to an envoy of a foreign sovereign power accredited to Her Majesty in right of her government in Jamaica and neither of his parents is a citizen of Jamaica; or

b) his father or mother is an enemy alien and the birth occurs in a place then under occupation by the enemy.

3C. Citizenship by by descent

Every person born outside Jamaica shall become a citizen of Jamaica-

a) on the sixth day of August, 1962, in the case of a person born before that date; or

b) on the date of his birth, in the case of a person born on or after the sixth day of August, 1962,

if, at that date, his father or mother is a citizen of Jamaica by birth, descent or registration by virtue of marriage to a citizen of Jamaica.

4. Persons entitled to be registered as citizens

(1) Any man or woman who, on the fifth day of August 1962, is or had been married to a person-

a) who becomes a citizen of Jamaica by virtue of section 3 of this Constitution; or

b) who, having died before the sixth day of August 1962 would but for that person's death, have become a citizen of Jamaica by virtue of that section,

shall be entitled, upon making application in such manner as may be prescribed and, if he or she is a British protected person or an alien, upon taking the oath of allegiance, to be registered as a citizen of Jamaica.

(2) Any person who, on the fifth day of August 1962, is a citizen of the United Kingdom and Colonies-

a) having become such a citizen under the British Nationality Act, 1948, by virtue of his having been naturalised in the former Colony of Jamaica as a British subject, before that Act came into force; or

b) having become such a citizen by virtue of his having been naturalised or registered in the former Colony of Jamaica under that Act,

shall be entitled, upon making application before the sixth day of August 1964, in such manner as may be prescribed, to be registered as a citizen of Jamaica:

Provided that a person who has not attained the age of twenty-one years (other than a woman who is or has been married) may not make an application under this subsection himself but an application may be made on his behalf by his parent or guardian.

(3) Any man or woman who on the fifth day of August 1962 is or has been married to a person who subsequently becomes a citizen of Jamaica by registration under subsection (2) of this section shall be entitled, upon making application in such manner as may be prescribed and, if he or she is a British protected person or an alien, upon taking the oath of allegiance to be registered as a citizen of Jamaica.

5. Persons born in Jamaica after 5th August 1962.

(Repealed) .

6. Persons born outside Jamaica after 5th August 1962.

(Repealed).

7. Marriage to citizen of Jamaica

(1) Any man or woman who, after the fifth day of August 1962, marries a person who is or becomes a citizen of Jamaica shall, subject to subsection

(2), be entitled, upon making application in such manner as may be prescribed and, if he or she is a British protected person or an alien, upon taking the oath of allegiance, to be registered as a citizen of Jamaica.

(2) A person may be denied registration under this section if-

a) thre is satisfactory evidence that-

i) the marriage was entered into primarily for the purpose of enabling that person to acquire Jamaican citizenship; or

ii) the parties to the marriage have no intention to live permanently with each other as spouses, after the marriage;

b) the person has been convicted in any country of a criminal offence specified in any law which makes provision for such denial on the ground of such conviction.

(3) Subsection (2) shall not affect the right of any person who, before the 26th day of March, 1999, was entitled to apply for Jamaican citizenship by virtue of any provision of this Constitution in force before that date.

8. Deprivation of citizenship

(1) No person who is a citizen of Jamaica by virtue of section 3 (1) (a), (b) or (c) shall be deprived of his citizenship of Jamaica.

(2) A person who is a citizen of Jamaica other than by virtue of 3 (1), (a), (b) or (c), shall not be deprived of his citizenship except by or under the provisions of a law-

a) specifying the grounds on which such deprivation may take place and the procedure for such deprivation; and

b) securing to any person affected thereby a right of access to the Supreme Court for the purpose of reviewing the decision to deprive him of his right to such citizenship.

9. Commonwealth citizens

(1) Every person who under this Constitution or any Act of Parliament is a citizen of Jamaica or under any enactment for the time being in force in any country to which this section applies is a citizen of that country shall, by virtue of that citizenship, have the status of a Commonwealth citizen.

(2) Every person who is a British subject without citizenship under the British Nationality Act, 1948, or who continues to be a British subject under section 2 of that Act shall by virtue of that status have the status of a Commonwealth citizen.

(3) Save as may be otherwise provided by Parliament, the countries to which this section applies are the United Kingdom and Colonies, Canada, Australia, New Zealand, India, Pakistan, Ceylon, Ghana, the Federation of Malaya, the Federation of Nigeria, the Republic of Cyprus, Sierra Leone, Tanganyika, the Federation of Rhodesia and Nyasaland and the State of Singapore.

10. Criminal liability of Commonwealth citizens

A Commonwealth citizen who is not a citizen of Jamaica, or a citizen of the Republic of Ireland who is not a citizen of Jamaica, shall not be guilty of an offence against any law in force in Jamaica by reason of anything done or omitted in any part of the Commonwealth other than Jamaica or in the Republic of Ireland or in any foreign country unless-

a) the act or omission would be an offence if he were an alien; and

b) in the case of an act or omission in any part of the Commonwealth or in the Republic of Ireland, it would be an offence if the country in which the act was done or the omission made were a foreign country.

11. Powers of Parliament

Parliament may make provision-

a) (Deleted).

b) prescribing the grounds on which and the procedure whereby a person may be deprived of his citizenship of Jamaica;

c) for the renunciation by any person of his citizenship of Jamaica.

12. Interpretation.

(1) In this Chapter-

"alien" means a person who is not a Commonwealth citizen, a British protected person or a citizen of the Republic of Ireland;

"British protected person" means a person who is a British protected person for the purposes of the British Nationality Act, 1948;

"foreign country" means a country (other than the Republic of Ireland) that is not part of the Commonwealth;

"prescribed" means prescribed by or under any Act of Parliament.

(2) (Deleted).

(3) For the purposes of this Chapter, a person born aboard a registered ship or aircraft, or aboard an unregistered ship or aircraft of the government of any country, shall be deemed to have been born in the place in which the ship or aircraft was registered or, as the case may be, in that country.

(4) Any reference in this Chapter to the national status of the parent of a person at the time of that person's birth shall, in relation to a person born after the death of his parent, be construed as a reference to the national status of the parent at the time of that parent's death; and where that death occurred before the fifth day of August, 1962, the national status that the parent would have had if he or she had died on the sixth day of August, 1962, shall be deemed to be his or her national status at the time of death.

CHAPTER III
FUNDAMENTAL RIGHTS AND FREEDOMS

13. Fundamental rights and freedoms of the individual

Whereas every person in Jamaica is entitled to the fundamental rights and freedoms of the individual, that is to say, has the right, whatever his race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely-

a) life, liberty, security of the person, the enjoyment of property and the protection of the law;

b) freedom of conscience, of expression and of peaceful assembly and association; and

c) respect for his private and family life, the subsequent provisions of this Chapter shall have effect for the purpose of affording protection to the aforesaid rights and freedoms, subject to such limitations of that protection as are contained in those provisions being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.

14. Protection of right to life

(1) No person shall intentionally be deprived of his life save in execution of the sentence of a court in respect of a criminal offence of which he has been convicted.

(2) Without prejudice to any liability for a contravention of any other law with respect to the use of force in such cases as are hereinafter mentioned, a person shall not be regarded as having been deprived of his life in contravention of this section if he dies as the result of the use of force to such extent as is reasonably justifiable in the circumstances of the case-

a) for the defence of any person from violence or for the defence of property;

b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;

c) for the purpose of suppressing a riot, insurrection or mutiny; or

d) in order lawfully to prevent the commission by that person of a criminal offence, or if he dies as the result of a lawful act of war.

15. Protection from arbitrary arrest or detention

(1) No person shall be deprived of his personal liberty save as may in any of the following cases be authorised by law-

a) in consequence of his unfitness to plead to a criminal charge; or

b) in execution of the sentence or order of a court, whether in Jamaica or elsewhere, in respect of a criminal offence of which he has been convicted; or

c) in execution of an order of the Supreme Court or of the Court of Appeal or such other court as may be prescribed by Parliament on the grounds of his contempt of any such court or of another court or tribunal; or

d) in execution of the order of a court made in order to secure the fulfilment of any obligation imposed on him by law; or

e) for the purpose of bringing him before a court in execution of the order of a court; or

f) upon reasonable suspicion of his having committed or of being about to commit a criminal offence; or

g) in the case of a person who has not attained the age of twenty-one years, for the purpose of his education or welfare; or

h) for the purpose of preventing the spread of an infectious or contagious disease; or

i) in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his care or treatment or the protection of the community; or

j) for the purpose of preventing the unlawful entry of that person into Jamaica, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from Jamaica or the taking of proceedings relating thereto; or

k) to such extent as may be necessary in the execution of a lawful order requiring that person to remain within a specified area within Jamaica or prohibiting him from being within such an area, or to such extent as may be reasonably justifiable for the taking of proceedings against that person relating to the making of any such order, or to such extent as may be reasonably justifiable for restraining that person during any visit that he is permitted to make to any part of Jamaica in which, in consequence of any such order, his presence would otherwise be unlawful.

(2) Any person who is arrested or detained shall be informed as soon as reasonably practicable, in a language which he understands, of the reasons for his arrest or detention.

(3) Any person who is arrested or detained-

a) for the purpose of bringing him before a court in execution of the order of a court; or

b) upon reasonable suspicion of his having committed or being about to commit a criminal offence, and who is not released, shall be brought without delay before a court; and if any person arrested or detained upon reasonable suspicion of his having committed or being about to commit a criminal offence is not tried within a reasonable time, then, without prejudice to any further proceedings which may be brought against him, he shall be released either unconditionally or upon reasonable question authorises the taking during a period of public emergency of measures that are reasonably justifiable for the purpose of dealing with the situation that exists during that period of public emergency.

(6) If any person who is lawfully detained by virtue only of such a law as is referred to in subsection (5) of this section so requests at any time during the period of that detention not earlier than six months after he last made such a request during that period, his case shall be reviewed by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice of Jamaica from among the persons entitled to practice or to be admitted to practice in Jamaica as barristers or solicitors.

(7) On any review by a tribunal in pursuance or subsection (6) of this section of the case of any detained person, the tribunal may make recommendations concerning the necessity or expediency of continuing his detention to the authority by whom it was ordered but, unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with any such recommendations.

16. Protection of freedom of movement

(1) No person shall be deprived of his freedom of movement, and for the purposes of this section the said freedom means the right to move freely throughout Jamaica, the right to reside in any part of Jamaica, the right to enter Jamaica and immunity from expulsion from Jamaica.

(2) Any restriction on a person's freedom of movement which is involved in his lawful detention shall not be held to be inconsistent with or in contravention of this section.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision-

a) which is reasonably required in the interests of defence, public safety, public order, public morality or public health; or

b) for the imposition of restrictions on the movement or residence within Jamaica of any person who is not a citizen thereof or the exclusion or expulsion from Jamaica of any such person; or

c) for the imposition of restrictions on the acquisition or use by any person of land or other property in Jamaica; or

d) for the imposition of restrictions upon the movement or residence within Jamaica of public officers, police officers or members of a defence force; or

e) for the removal of a person from Jamaica to be tried outside Jamaica for a criminal offence or to undergo imprisonment outside Jamaica in execution of the sentence of a court in respect of a criminal offence of which he has been convicted.

(4) If any person whose freedom of movement has been restricted by virtue only of such a provision as is referred to in paragraph (a) of subsection (3) of this section so requests at any time during the period of that restriction not earlier than six months after he last made such a request during that period, his case shall be reviewed by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice of Jamaica from among the persons entitled to practice or to be admitted to practice in Jamaica as barristers or solicitors.

(5) On any review by a tribunal in pursuance of subsection (4) of this section of the case of any person whose freedom of movement has been restricted, the tribunal may make recommendations concerning the necessity or expediency of continuing that restriction to the authority by whom it was ordered but, unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with any such recommendations.

17. Protection from inhuman treatment

(1) No person shall be subjected to torture or to inhuman or degrading punishment or other treatment.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question authorise the infliction of any description of punishment which was lawful in Jamaica immediately before the appointed day.

18. Compulsory acquisition of property

(1) No property of any description shall be compulsorily taken possession of and no interest in or right over property of any description shall be compulsorily acquired except by or under the provisions of a law that-

a) prescribes the principles on which and the manner in which compensation therefore is to be determined and given; and

b) secures to any person claiming an interest in or right over such property a right of access to a court for the purpose of-

i) establishing such interest or right (if any);

ii) determining the amount of such compensation (if any) to which he is entitled; and

iii) enforcing his right to any such compensation.

(2) Nothing in this section shall be construed as affecting the making or operation of any law so far as it provides for the taking of possession or acquisition of property-

a) in satisfaction of any tax, rate or due:

b) by way of penalty for breach of the law, whether under civil process or after conviction of a criminal offence;

c) upon the attempted removal of the property in question out of or into Jamaica in contravention of any law;

d) by way of the taking of a sample for the purposes of any law;

e) where the property consists of an animal upon its being found trespassing or straying;

f) as an incident of a lease, tenancy, licence, mortgage, charge, bill of sale, pledge or contract;

g) by way of the vesting or administration of trust property, enemy property, or the property of persons adjudged or otherwise declared bankrupt or insolvent, persons of unsound mind, deceased persons, or bodies corporate or unincorporate in the course of being wound up;

h) in the execution of judgments or orders of courts;

i) by reason of its being in a dangerous state or injurious to the health of human beings, animals or plants;

j) in consequence of any law with respect to the limitation of actions;

k) for so long only as may be necessary for the purposes of any examination, investigation, trial or inquiry or, in the case of land, the carrying out thereon-

i) of work of soil conservation or the conservation of other natural resources; or

ii) of agricultural development or improvement which the owner or occupier of the land has been required, and has without reasonable and lawful excuse refused or failed, to carry out.

(3) Nothing in this section shall be construed as affecting the making or operation of any law so far as it provides for the orderly marketing or production or growth or extraction of any agricultural product or mineral or any article or thing prepared for market or manufactured therefor or for the reasonable restriction of the use of any property in the interests of safeguarding the interests of others or the protection of tenants, licensees or others having rights in or over such property.

(4) Nothing in this section shall be construed as affecting the making or operation of any law for the compulsory taking of possession in the public interest of any property, or the compulsory acquisition in the public interest of any interest in or right over property, where that property, interest or right is held by a

body corporate which is established for public purposes by any law and in which no monies have been invested other than monies provided by Parliament or by the Legislature of the former Colony of Jamaica.

(5) In this section "compensation" means the consideration to be given to a person for any interest or right which he may have in or over property which has been compulsorily taken possession of or compulsorily acquired as prescribed and determined in accordance with the provisions of the law by or under which the property has been compulsorily taken possession of or compulsorily acquired.

19. Protection for privacy of home and other property

(1) Except with his own consent, no person shall be subject to the search of his person or his property or the entry by others on his premises.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision which is reasonably required-

a) in the interests of defence, public safety, public order, public morality, public health, public revenue, town and country planning or the development and utilisation of any property in such a manner as to promote the public benefit; or

b) to enable any body corporate established by any law for public purposes or any department of the Government of Jamaica or any local government authority to enter on the premises of any person in order to carry out work connected with any property or installation which is lawfully on such premises and which belongs to that body corporate or that Government or that authority, as the case may be; or

c) for the purpose of preventing or detecting crime; or

d) for the purpose of protecting the rights or freedoms of other persons.

20. Provisions to Secure protection of law

(1) Whenever any person is charged with a criminal offense he shall, unless the charge is withdrawn, be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.

(2) Any court or other authority prescribed by law for the determination of the existence or the extent of civil rights or obligations shall be independent and impartial; and where proceedings for such a determination are instituted by any person before such a court or other authority, the case shall be given a fair hearing within a reasonable time.

(3) All proceedings of every court and proceedings relating to the determination of the existence or the extent of a person's civil rights or obligations before any court or other authority, including the announcement of the decision of the court or other authority, shall be held in public.

(4) Nothing in subsection (3) of this section shall prevent any court or any authority such as is mentioned in that subsection from excluding from the proceedings persons other than the parties thereto and their legal representatives-

a) in interlocutory civil proceedings; or

b) in appeal proceedings under any law relating to income tax; or

c) to such extent as the court or other authority-

i) may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice; or

ii) may be empowered or required by law to do so in the interests of defence, public safety, public order, public morality, the welfare of persons under the age of twenty-one years or the protection of the private lives of persons concerned in the proceedings.

(5) Every person who is charged with a criminal offence shall be presumed to be innocent until he is proved or has pleaded guilty:

Provided that nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this subsection to the extent that the law in question imposes upon any person charged as aforesaid the burden of proving particular facts.

(6) Every person who is charged with a criminal offence-

a) shall be informed as soon as reasonably practicable, in a language which he understands, of the nature of the offence charged;

b) shall be given adequate time and facilities for the preparation of his defence;

c) shall be permitted to defend himself in person or by a legal representative of his own choice;

d) shall be afforded facilities to examine in person or by his legal representative the witnesses called by the prosecution before any court and to obtain the attendance of witnesses, subject to the payment of their reasonable expenses, and carry out the examination of such witnesses to testify on his behalf before the court on the same conditions as those applying to witnesses called by the prosecution; and

e) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the English language.

(7) No person shall be 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, and no penalty shall be imposed for any criminal offence which is severer in degree or description than the maximum penalty which might have been imposed for that offence at the time when it was committed.

(8) No person who shows that he has been tried by any competent court for a criminal offence and either convicted or acquitted shall again be tried for that offence or for any other criminal offence of which he could have been

convicted at the trial for that offence save upon the order of a superior court made in the course of appeal proceedings relating to the conviction or acquittal; and no person shall be tried for a criminal offence if he shows that he has been pardoned for that offence:

Provided that nothing in any law shall be held to be inconsistent with or in contravention of this subsection by reason only that it authorises any court to try a member of a defence force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under service law; but any court so trying such a member and convicting him shall in sentencing him to any punishment take into account any punishment awarded him under service law.

(9) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of any provision of this section other than subsection (7) thereof to the extent that the law in question authorises the taking during a period of public emergency of measures that are reasonably justifiable for the purpose of dealing with the situation that exists during that period of public emergency.

(10) In paragraphs (c) and (d) of subsection (6) of this section "legal representative" means a barrister entitled to practice as such in Jamaica or, except in relation to proceedings before a court in which a solicitor has no right of audience, a solicitor who is so entitled.

21. Protection of freedom of conscience

(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this section the said freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.

(2) Except with his own consent (or, if he is a minor, the consent of his parent or guardian), no person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony

or observance if that instruction, ceremony or observance relates to a religion or a religious body or denomination other than his own.

(3) The constitution of a religious body or denomination shall not be altered except with the consent of the governing authority of that body or denomination.

(4) No religious body or denomination shall be prevented from providing religious instruction for persons of that body or denomination in the course of any education provided by that body or denomination whether or not that body or denomination is in receipt of any government subsidy, grant or other form of financial assistance designed to meet, in whole or in part, the cost of such course of education.

(5) No person shall be compelled to take any oath which is contrary to his religion or belief or to take any oath in a manner which is contrary to his religion or belief.

(6) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision which is reasonably required-

a) in the interests of defence, public safety, public order, public morality or public health; or

b) for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practice any religion without the unsolicited intervention of members of any other religion.

22. Protection of freedom of expression

(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression, and for the purposes of this section the said freedom includes the freedom to hold opinions and to receive and impart ideas and information without interference, and freedom from interference with his correspondence and other means of communication.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision-

a) which is reasonably required-

i) in the interests of defence, public safety, public order, public morality or public health; or

ii) for the purpose of protecting the reputations, rights and freedoms of other persons, or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, or regulating telephony, telegraphy, posts, wireless broadcasting, television or other means of communication, public exhibitions or public entertainments; or

b) which imposes restrictions upon public officers, police officers or upon members of a defence force.

23. Protection of freedom of assembly and association

(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of peaceful assembly and association, that is to say, his right peacefully to assemble freely and associate with other persons and in particular to form or belong to trade unions or other associations for the protection of his interests.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision-

a) which is reasonably required-

i) in the interests of defence, public safety, public order, public morality or public health; or

ii) for the purpose of protecting the rights or freedoms of other persons; or

b) which imposes restrictions upon public officers, police officers or upon members of a defence force.

24. Protection from discrimination on the grounds of race, etc.

(1) Subject to the provisions of subsections (4), (5) and (7) of this section, no law shall make any provision which is discriminatory either of itself or in its effect.

(2) Subject to the provisions of subsection (6), (7) and (8) of this section, no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

(3) In this section, the expression "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, place of origin, political opinions, colour or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

(4) Subsection (1) of this section shall not apply to any law so far as that law makes provision-

a) with respect to persons who are not citizens of Jamaica; or

b) with respect to adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law; or

c) for authorising the taking during a period of public emergency of measures that are reasonably justifiable for the purpose of dealing with the situation that exists during that period of public emergency; or

d) for the imposition of taxation or appropriation of revenue by the Government of Jamaica or any local authority or body for local purposes.

(5) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) of this section to the extent that it makes provision with respect to qualifications for service as a public officer, police officer or as a member of a defence force or for the service of a local government authority or a body corporate established by any law for public purposes.

(6) Subsection (2) of this section shall not apply to anything which is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in subsection (4) or (5) of this section.

(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any restriction on the rights and freedoms guaranteed by sections 16, 19, 21, 22 and 23 of this Constitution, being such a restriction as is authorised by paragraph (a) of subsection (3) of section 16, subsection (2) of section 19, subsection (6) of section 21, subsection (2) of section 22 or subsection (2) of section 23, as the case may be.

(8) Nothing in subsection (2) of this section shall affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under this Constitution or any other law.

25. Enforcement of protective provisions

(1) Subject to the provisions of subsection (4) of this section, if any person alleges that any of the provisions of sections 14 to 24 (inclusive) of this Constitution has been, is being or is likely to be contravened in relation to him, then, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the Supreme Court for redress.

(2) The Supreme Court shall have original jurisdiction to hear and determine any application made by any person in pursuance of subsection (1) of this

section and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing, or securing the enforcement of, any of the provisions of the said sections 14 to 24 (inclusive) to the protection of which the person concerned is entitled:

Provided that the Supreme Court shall not exercise its powers under this subsection if it is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned under any other law.

(3) Any person aggrieved by any determination of the Supreme Court under this section may appeal therefrom to the Court of Appeal.

(4) Parliament may make provision, or may authorise the making of provision, with respect to the practice and procedure of any court for the purposes of this section and may confer upon that court such powers, or may authorise the conferment thereon of such powers, in addition to those conferred by this section as may appear to be necessary or desirable for the purpose of enabling that court more effectively to exercise the jurisdiction conferred upon it by this section.

26. Interpretation of Chapter III

(1) In this Chapter, save where the context otherwise requires, the following expressions have the following meanings respectively, that is to say-

"contravention", in relation to any requirement, includes a failure to comply with that requirement, and cognate expressions shall be construed accordingly;

"court" means any court of law in Jamaica other than a court constituted by or under service law and-

i) in section 14, section 15, section 16, subsections (3), (4), (6), (8) (but not the provison thereto) and (10) of section 20, and subsection (8) of section 24 of this Constitution includes, in relation to an offence against service law, a court so constituted; and

ii) in section 15 and subsection (8) of section 24 of this Constitution includes, in relation to an offence against service law, an officer of a defence force, or the Police Service Commission or any person or authority to whom the disciplinary powers of that Commission have been lawfully delegated;

"member", in relation to a defence force or other armed force, includes any person who, under the law regulating the discipline of that force, is subject to that discipline;

"service law" means the law regulating the discipline of a defence force or of police officers.

(2) References in sections 14, 15, 16 and 18 of this Constitution to a "criminal offence" shall be construed as including references to an offence against service law and such references in subsections (5) to (9) (inclusive) of section 20 of this Constitution shall, in relation to proceedings before a court constituted by or under service law, be similarly construed.

(3) Nothing done by or under the authority of the law of any country other than Jamaica to a member of an armed force raised under that law and lawfully present in Jamaica shall be held to be in contravention of this Chapter.

(4) In this Chapter "period of public emergency" means any period during which-

a) Jamaica is engaged in any war; or

b) there is in force a Proclamation by the Governor-General declaring that a state of public emergency exists; or

c) there is in force a resolution of each House supported by the votes of a majority of all the members of that House declaring that democratic institutions in Jamaica are threatened by subversion.

(5) A Proclamation made by the Governor-General shall not be effective for the purposes of subsection (4) of this section unless it is declared therein that the Governor-General is satisfied-

a) that a public emergency has arisen as a result of the imminence of a state of war between Jamaica and a foreign State or as a result of the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence, outbreak of infectious disease or other calamity whether similar to the foregoing or not; or

b) that action has been taken or is immediately threatened by any person or body of persons of such a nature and on so extensive a scale as to be likely to endanger the public safety or to deprive the community, or any substantial portion of the community, of supplies or services essential to life.

(6) A Proclamation made by the Governor-General for the purposes of and in accordance with this section-

a) shall, unless previously revoked, remain in force for one month or for such longer period, not exceeding twelve months, as the House of Representatives may determine by a resolution supported by the votes of a majority of all the members of the House;

b) may be extended from time to time by a resolution passed in like manner as is prescribed in paragraph (a) of this subsection for further periods, not exceeding in respect of each such extension a period of twelve months; and

c) may be revoked at any time by a resolution supported by the votes of a majority of all the members of the House of Representatives.

(7) A resolution passed by a House for the purposes of subsection (4) of this section may be revoked at any time by a resolution of that House supported by the votes of a majority of all the members thereof.

(8) Nothing contained in any law in force immediately before the appointed day shall be held to be inconsistent with any of the provisions of this Chapter; and nothing done under the authority of any such law shall be held to be done in contravention of any of these provisions.

(9) For the purposes of subsection (8) of this section a law in force immediately before the appointed day shall be deemed not to have ceased to be such a law by reason only of-

a) any adaptations or modifications made thereto by or under section 4 of the Jamaica (Constitution) Order in Council, 1962, or

b) its reproduction in identical form in any consolidation or revision of laws with only such adaptations or modifications as are necessary or expedient by reason of its inclusion in such consolidation or revision.

CHAPTER IV
THE GOVERNOR-GENERAL

27. Establishment of office of Governor-General

There shall be a Governor-General of Jamaica who shall be appointed by Her Majesty and shall hold office during Her Majesty's pleasure and who shall be Her Majesty's representative in Jamaica.

28. Oaths to be taken by Governor-General

A person appointed to the office of Governor-General shall, before entering upon the duties of that office, take and subscribe the oaths of allegiance and for the due execution of the office of Governor-General in the forms set out in the First Schedule to this Constitution.

29. Acting Governor-General

(1) Whenever the office of Governor-General is vacant or the holder of the office is absent from Jamaica or is for any other reason unable to perform the functions of his office, those functions shall be performed by such person as Her Majesty may appoint or, if there is no such person in Jamaica so appointed and able to perform those functions, by the Chief Justice of Jamaica.

(2) Before assuming the functions of the office of Governor-General any such person as aforesaid shall take and subscribe the oaths directed by section 28 of this Constitution to be taken and subscribed by the Governor-General.

(3) The Governor-General shall not, for the purposes of this section, be regarded as absent from Jamaica or as unable to perform the functions of the office of Governor-General-

a) by reason only that he is in passage from one part of Jamaica to another; or

b) at any time when there is a subsisting appointment of a deputy under section 30 of this Constitution.

30. Deputy to Governor-General

(1) Whenever the Governor-General-

a) has occasion to be absent from the seat of Government but not from Jamaica, or

b) has occasion to be absent from Jamaica for a period which he has reason to believe will be of short duration: or

c) is suffering from an illness that he has reason to believe will be of short duration, he may, on the advice of the Prime Minister, by instrument under the Broad Seal, appoint any person in Jamaica to be his deputy during such absence or illness, and in that capacity to perform on his behalf such of the functions of the office of Governor-General as may be specified in that instrument.

(2) The power and authority of the Governor-General shall not be abridged, altered or in any way affected by the appointment of a deputy under this section, and a deputy shall conform to and observe all instructions that the Governor-General may from time to time address to him:

Provided that the question whether or not a deputy has conformed to or observed any such instructions shall not be enquired into in any court.

(3) A person appointed as a deputy under this section shall hold that appointment for such period as may be specified in the instrument by which he is appointed, and his appointment may be revoked at any time by the Governor-General acting on the advice of the Prime Minister.

31. Personal staff of Governor-General

(1) Parliament may from time to time prescribe the offices that are to constitute the personal staff of the Governor-General, the salaries and allowances that are to be paid to the members of that staff and the other sums that are to be paid in respect of the expenditure attaching to the office of Governor-General.

(2) Any salaries or other sums prescribed under subsection (1) of this section shall be charged on and paid out of the Consolidated Fund.

(3) Subject to the provisions of subsection (4) of this section, the power to make appointments to the offices for the time being prescribed under subsection (1) of this section as offices that are to constitute the personal staff of the Governor-General, and to remove and to exercise disciplinary control over persons holding or acting in any such offices, shall vest in the Governor-General acting in his discretion.

(4) The Governor-General acting in his discretion, may appoint to any of the offices prescribed under subsection (1) of this section such public officers as he may select from a list submitted by the Public Service Commission, but-

a) the provisions of subsection (3) of this section shall apply in relation to an officer so appointed as respects his service on the personal staff of the Governor-General but not as respects his service as a public officer;

b) an officer so appointed shall not, during his continuance on the personal staff of the Governor-General, perform the functions of any public office; and

c) an officer so appointed may at any time be appointed by the Governor-General, if the Public Service Commission so recommend, to assume or resume the functions of a public office and he shall thereupon vacate his office on the personal staff of the Governor-General, but the Governor-General may, in his discretion, decline to release the officer for that appointment.

(5) All offices prescribed under subsection (1) of this section as offices that are to constitute the personal staff of the Governor-General shall, for the

purposes of sections 40, 41, 111, 124, 129, 132, 133 and 134 of this Constitution be deemed to the public offices.

32. Exercise of Governor-General's functions

(1) The Governor-General shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet in the exercise of his functions other than-

a) any function which is expressed (in whatever terms) to be exercisable by him on or in accordance with the recommendation or advice of, or with the concurrence of, or after consultation with, any person or authority other than the Cabinet; and

b) any function which is expressed (in whatever terms) to be exercisable by him in his discretion.

(2) Where the Governor-General is directed to exercise any function on the recommendation of any person or authority, he shall exercise that function in accordance with such recommendation:

Provided that-

a) before he acts in accordance therewith, he may, in his discretion, once refer that recommendation back for reconsideration by the person or authority concerned; and

b) if that person or authority, having reconsidered the original recommendation under the preceding paragraph, substitutes therefor a different recommendation, the provisions of this subsection shall apply to that different recommendation as they apply to the original recommendation.

(3) Where the Governor-General is directed to exercise any function after consultation with any person or authority he shall not be obliged to exercise that function in accordance with the advice of that person or authority.

(4) Where the Governor-General is directed to exercise any function in accordance with the recommendation or advice of, or with the concurrence of, or after consultation with, or on the representation of, any person or authority, the question whether he has so exercised that function shall not be enquired into in any court.

(5) Where the Governor-General is directed to exercise any function on the recommendation of the Prime Minister after consultation with the Leader of the Opposition the following steps shall be taken:-

a) the Prime Minister shall first consult the Leader of the Opposition and thereafter tender his recommendation to the Governor-General;

b) the Governor-General shall then inform the Leader of the Opposition of this recommendation and if the Leader of the Opposition concurs therein the Governor-General shall act in accordance with such recommendation;

c) if the Leader of the Opposition does not concur in the recommendation the Governor-General shall so inform the Prime Minister and refer the recommendation back to him;

d) the Prime Minister shall then advise the Governor-General and the Governor-General shall act in accordance with that advice.

(6) Any reference in this Constitution to the functions of the Governor-General shall be construed as a reference to his powers and duties in the exercise of the executive authority of Jamaica and to any other powers and duties conferred or imposed on him as Governor-General by or under this Constitution or any other law.

33. Broad Seal

The Governor-General shall keep and use the Broad Seal for sealing all things whatsoever that shall pass under the said Seal.

CHAPTER V
PARLIAMENT

PART 1
COMPOSITION OF PARLIAMENT

34. Establishment of Parliament

There shall be a Parliament of Jamaica which shall consist of Her Majesty, a Senate and a House of Representatives.

35. Senate

(1) The Senate shall consist of twenty-one persons who being qualified for appointment as Senators in accordance with this Constitution have been so appointed in accordance with the provisions of this section.

(2)Thirteen Senators shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister, by instrument under the Broad Seal.

(3) The remaining eight Senators shall be appointed by the Governor-General, acting in accordance with the advice of the Leader of the Opposition, by instrument under the Broad Seal.

36. House of Representatives

The House of Representatives shall consist of persons who, being qualified for election as members in accordance with the provisions of this Constitution, have been so elected in the manner provided by or under any law for the time being in force in Jamaica and who shall be known as "Members of Parliament".

37. Qualifications and disqualifications for electors

(1) Subject to the provisions of subsection (2) of this section a person shall be qualified to be registered as an elector for elections to the House of Representatives if, and shall not be so qualified unless, he is-

a) a citizen of Jamaica resident in Jamaica at the date of registration, or

b) Commonwealth citizen (other than a citizen of Jamaica) who is resident in Jamaica at the date of registration and who has been so resident for at least twelve months immediately preceding that date, and has attained the prescribed age.

(2) No person shall be qualified to be registered as an elector for elections to the House of Representatives who-

a) is under sentence of death imposed on him by a court in any part of the Commonwealth, or is serving a sentence of imprisonment (by whatever name called) of or exceeding six months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court or is under such a sentence of imprisonment the execution of which is suspended; or

b) is disqualified for such registration by or under any law for the time being in force in Jamaica because he has been convicted of any offence connected with the election of members of the House of Representatives or of any local authority or body for local purposes; or

c) is, under any law for the time being in force in Jamaica, certified to be insane or otherwise adjudged to be of unsound mind or detained as a criminal lunatic; or

d) is disqualified for such registration by any law for the time being in force in Jamaica by reason of his holding, or acting in, any office the functions of which involve responsibility for, or in connection with the election in the constituency in which such person would otherwise be entitled to vote.

(3) In this section-

"the prescribed age" means-

a) the age of twenty-one years, or

b) such other age being less than the age of twenty-one years but not less than the age of eighteen years that may from time to time be prescribed by a special Act; and "a special Act" means an Act of Parliament the Bill for which has been passed by both Houses and at the final vote thereon in each House has been supported by the votes of a majority of all the members of that House.

(4) A special Act may be repealed or amended by another special Act and in no other manner.

38. Electoral law

(1) Any law for the time being providing for the election of members of the House of Representatives shall-

a) contain provisions designed to ensure that so far as is practicable any person entitled to vote at an election of members of the House of Representatives shall have a reasonable opportunity of so voting; and

b) contain provisions relating to the conduct of elections of members of the House of Representatives, including provisions relating to the identification of electors, designed to ensure that as far as is practicable no person shall vote at an election of a member of the House of Representatives-

i) who is not entitled to vote; or

ii) when he is not entitled to vote; or

iii) where he is not entitled to vote:

Provided that this paragraph shall not come into operation until the first day of January 1964.

(2) No election of a member of the House of Representatives shall be called in question on the ground that the law under which that election was conducted was inconsistent with this section.

39. Qualification for membership of Senate and House of Representatives

Subject to the provisions of section 40 of this Constitution, any person, who at the date of his appointment or nomination for election-

a) a Commonwealth citizen of the age of twenty-one years or upwards; and

b) has been ordinarily resident in Jamaica for the immediately preceding twelve months, shall be qualified to be appointed as a Senator or elected as a member of the House of Representatives and no other person shall be so qualified.

40. Disqualification for membership of Senate and House of Representatives

(1) No person shall be qualified for election as a member of the House of Representatives who-

a) is a member of the Senate;

b) is disqualified for election by any law for the time being in force in Jamaica by reason of his holding, or acting in, any office the functions of which involve any responsibility for, or in connection with, the conduct of any election, or any responsibility for the compilation or revision of any electoral register.

(2) No person shall be qualified to be appointed as a Senator or elected as a member of the House of Representatives who-

a) is, by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to a foreign Power or State;

b) holds or is acting in any public office or the office of Judge of the Supreme Court or Judge of the Court of Appeal or, save as is otherwise provided by Parliament, is a member of a defence force;

c) is a party to, or a partner in a firm or a director or manager of a company which to his knowledge is a party to, any contract with the Government of Jamaica for or on account of the public service, and has not-

i) in the case of appointment as a Senator, by informing the Governor-General; or

ii) in the case of election as a member of the House of Representatives, by publishing a notice in the Gazette within one month before the day of election, previously disclosed the nature of such contract and his interest or the interest of such firm or company therein;

d) subject to the provisions of subsection (3) of this section, is under sentence of death imposed on him by a court in any part of the Commonwealth, or is serving a sentence of imprisonment (by whatever name called) of or exceeding six months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court or is under such a sentence of imprisonment the execution of which is suspended;

e) has been adjudged or otherwise declared bankrupt under any law in force in any part of the Commonwealth and has not been discharged;

f) is, under any law for the time being in force in Jamaica, certified to be insane or otherwise adjudged to be of unsound mind or detained as a criminal lunatic; or

g) is disqualified for membership of the House of Representatives by or under any law for the time being in force in Jamaica because he has been convicted of any offence connected with the election of members of that House or of any local authority or body for local purposes.

(3) For the purposes of paragraph (d) of subsection (2) of this section-

a) where a person is serving two or more sentences of imprisonment that are required to be served consecutively he shall, throughout the whole time during which he so serves, be regarded as serving a sentence of or exceeding six

months if (but not unless) any one of those sentences amounts to or exceeds that term; and

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

41. Tenure of office of Senators and Members of House of Representatives

(1) The seat of a member of either House shall become vacant-

a) upon the next dissolution of Parliament after he has been appointed or elected;

b) if he resigns his seat;

c) if he is absent from sittings of the House for such period and in such circumstances as may be prescribed in the Standing Orders of the House;

d) if he ceases to be a Commonwealth citizen or takes any oath or makes any declaration or acknowledgment of allegiance, obedience or adherence to any foreign Power or State or does, concurs in or adopts any act done with the intetion that he shall become a subject or citizen of any foreign Power or State;

e) if any circumstances arise that, if he were not a member of the House, would cause him to be disqualified for appointment or election as such by virtue of paragraph (b) or (g) of subsection (2) of section 40 of this Constitution;

f) if he becomes a party to any contract with the Government of Jamaica for or on account of the public service:

Provided that-

i) if in the circumstances it appears to the Senate (in the case of a Senator) or to the House of Representatives (in the case of a member of that House) to be just so to do, the Senate, or the House of Representatives (as the case

may be) may exempt any member from vacating his seat under the provisions of this paragraph, if that member, before becoming a party to such contract as aforesaid, discloses to the Senate or to the House of Representatives (as the case may be) the nature of such contract and his interest therein;

ii) if proceedings are taken under section 44 of this Constitution to determine whether a Senator or a member of the House of Representatives has vacated his seat under the provisions of this paragraph he shall be declared by the Court not to have vacated his seat if he establishes to the satisfaction of the Court that he, acting reasonably, was not aware that he was or had become a party to such contract;

7. if any firm in which he is a partner, or any company of which he is a director or manager, becomes a party to any contract with the Government of Jamaica for or on account of the public service or if he becomes a partner in a firm, or a director or manager of a company which is a party to any such contract:

Provided that-

i) if in the circumstances it appears to the Senate (in the case of a Senator) or to the House of Representatives (in the case of a member of that House) to be just so to do, the Senate or the House of Representatives (as the case may be) may exempt any Senator or member from vacating his seat under the provisions of this paragraph if that Senator or member, before or as soon as practicable after becoming interested in such contract (whether as a partner in a firm or as director or manager of a company), discloses to the Senate or to the House of Representatives (as the case may be) the nature of such contract and the interest of such firm or company therein;

ii) if proceedings are taken under section 44 of this Constitution to determine whether a Senator or a member of the House of Representatives has vacated his seat under the provisions of this paragraph, he shall be declared by the Court not to have vacated his seat if he establishes to the satisfaction of the Court that he, acting reasonably, was not aware that the firm or company was or had become a party to such contract.

(2) The seat of a member of the House of Representatives shall become vacant if-

a) he is appointed as a Senator; or

b) any circumstances arise that, if he were not a member of the House of Representatives, would cause him to be disqualified for election as such by virtue of paragraph (b) of subsection (1) of section 40 of this Constitution.

(3) a) Subject to the provisions of paragraph (b) of this subsection, if any member of either House is sentenced by a court in any part of the Commonwealth to death or to imprisonment (by whatever name called) for a term of or exceeding six months, he shall forthwith cease to exercise any of his functions as a member and his seat in the House shall become vacant at the expiration of a period of thirty days thereafter:

Provided that the President or the Speaker, as the case may be, may at the request of the member, from time to time extend that period for further periods of thirty days to enable the member to pursue any appeal in respect of his conviction or sentence, so, however, that extensions of time exceeding in the aggregate three hundred and thirty days shall not be given without the approval, signified by resolution, of the House concerned.

b) If at any time before the member vacates his seat he is granted a free pardon or his conviction is set aside or his sentence is reduced to a term of imprisonment of less than six months or a punishment other than imprisonment is substituted, his seat shall not become vacant under paragraph (a) of this subsection and he may resume the exercise of his functions as a member.

c) For the purposes of this subsection-

i) where a person is sentenced to two or more terms of imprisonment that are required to be served consecutively, account shall be taken only of any of those terms that amounts to or exceeds six months; and

ii) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.

(4) a) Subject to the provisions of paragraph (b) of this subsection, if any member of either House is adjudged or declared bankrupt, certified to be insane, adjudged to be of unsound mind or detained as a criminal lunatic, he shall forthwith cease to exercise any of his functions as a member and his seat in the House shall become vacant at the expiration of a period of thirty days thereafter:

Provided that the President or the Speaker, as the case may be, may at the request of the member, from time to time extend that period for further periods of thirty days to enable the member to pursue any appeal in respect of any such adjudication, certification or detention, so, however, that extensions of time exceeding in the aggregate one hundred and eighty days shall not be given without the approval, signified by resolution, of the House concerned.

b) If at any time before the member vacates his seat any such adjudication or certification is set aside or the detention of the member as a criminal lunatic is terminated, his seat shall not become vacant under paragraph (a) of this subsection and he may resume the exercise of his functions as a member.

42. President and Deputy President of Senate

(1) When the Senate first meets after any dissolution of Parliament and before it proceeds to the despatch of any other business, it shall elect a Senator, not being a Minister or a Parliamentary Secretary, to be President; and whenever the office of President is vacant otherwise than by reason of a dissolution of Parliament, the Senate shall not later than its second sitting after the vacancy has arisen, elect any other such Senator to fill that office.

(2) Upon the President's being elected and before he enters upon the duties of his office, he shall (unless he has already done so in accordance with the provisions of section 62 of this Constitution) make and subscribe before the Senate the oath of allegiance.

(3) When the Senate first meets after any dissolution of Parliament, it shall, as soon as practicable, elect one of its members, not being a Minister or a Parliamentary Secretary, to be Deputy President; and whenever the office of

Deputy President becomes vacant, the Senate shall, as soon as convenient, elect another such member to fill that office.

(4) A person shall vacate the office of President or Deputy President-

a) if he resigns that office;

b) if he ceases to be a member of the Senate:

Provided that if the President or Deputy President ceases to be a member by reason of a dissolution of Parliament, he shall be deemed to continue in office for the purposes of section 47 of this Constitution until he resigns his office or vacates it otherwise than by reason of a dissolution of Parliament or until the office of President or, as the case may be, of Deputy President is filled;

c) if, under the provisions of subsection (3) or subsection (4) of section 41 of this Constitution, he is required to cease to exercise any of his functions as a member of the Senate;

d) if he is appointed to be a Minister or a Parliamentary Secretary; or

e) in the case of the Deputy President, if he is elected to be President.

43. Speaker and Deputy Speaker of House of Representatives

(1) When the House of Representatives first meets after any dissolution of Parliament, and before it proceeds to the despatch of any other business, it shall elect one of its members, not being a Minister or a Parliamentary Secretary, to be Speaker; and whenever the office of Speaker is vacant otherwise than by reason of a dissolution of Parliament, the House of Representatives shall, not later than its second sitting after the vacancy has arisen, elect another such member to fill that office.

(2) Upon the Speaker's being elected and before he enters upon the duties of his office, he shall (unless he has already done so in accordance with the provisions of section 62 of this Constitution) make and subscribe before the House of Representatives the oath of allegiance.

(3) When the House of Representatives first meets after any dissolution of Parliament it shall, as soon as practicable, elect one of its members, not being a Minister or a Parliamentary Secretary, to be Deputy Speaker; and whenever the office of Deputy Speaker becomes vacant, the House of Representatives shall, as soon as convenient, elect another such member to fill that office.

(4) A person shall vacate the office of Speaker or Deputy Speaker-

a) if he resigns that office;

b) if he ceases to be a member of the House of Representatives:

Provided that if the Speaker or Deputy Speaker ceases to be a member by reason of a dissolution of Parliament, he shall be deemed to continue in office for the purposes of section 47 of this Constitution until he resigns his office or vacates it otherwise than by reason of a dissolution of Parliament or until the office of Speaker or, as the case may be, Deputy Speaker is filled;

c) if, under the provisions of subsection (3) or subsection (4) of section 41 of this Constitution, he is required to cease to exercise any of his functions as a member of the House of Representatives;

d) if he is appointed to be a Minister or a Parliamentary Secretary; or

e) in the case of the Deputy Speaker, if he is elected to be Speaker.

44. Determination of questions as to membership

(1) Any question whether-

a) any person has been validly elected or appointed as a member of either House; or

b) any member of either House has vacated his seat therein or is required, under the provisions of subsection (3) or subsection (4) of section 41 of this Constitution, to cease to exercise any of his functions as a member, shall be determined by the Supreme Court or, on appeal, by the Court of Appeal

whose decision shall be final, in accordance with the provisions of any law for the time being in force in Jamaica and, subject to any such law, in accordance with any directions given in that behalf by the Chief Justice.

(2) Proceedings for the determination of any question referred to in subsection (1) of this section may be instituted by any person (including the Attorney-General) and, where such proceedings are instituted by a person other than the Attorney-General, the Attorney-General if he is not a party thereto may intervene and (if he intervenes) may appear or be represented therein.

45. Filling of vacancies

(1) a) Whenever the seat of any member of the Senate becomes vacant, the Governor-General shall, by instrument under the Broad Seal, appoint to fill the vacancy a person qualified in accordance with this Constitution for appointment as a Senator.

b) In making such an appointment the Governor-General shall, in any case where the member whose seat has become vacant-

i) was appointed on the advice of the Prime Minister, act in accordance with the advice of the Prime Minister; and

ii) was appointed on the advice of the Leader of the Opposition, act in accordance with the advice of the Leader of the Opposition.

(2) Whenever the seat of any member of the House of Representatives becomes vacant the vacancy shall be filled by election in the manner provided by or under any Law for the time being in force in Jamaica.

46. Unqualified persons sitting or voting

(1) Any person who sits or votes in either House knowing or having reasonable ground for knowing that he is not entitled to do so, shall be liable to a penalty of twenty dollars for each day upon which he so sits or votes.

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

47. Clerks to Houses of Parliament and their staffs

(1) The offices of Clerk and Deputy Clerk of the Senate are hereby constituted and appointments to those offices shall be made by the Governor-General, acting on the recommendation of the President.

(2) The offices of Clerk and Deputy Clerk of the House of Representatives are hereby constituted and appointments to those offices shall be made by the Governor-General, acting on the recommendation of the Speaker.

(3) Subject to the provisions of subsection (5) of this section the Clerk shall, unless he sooner resigns his office, hold office until he attains the age of 65 years or such later age as may, in any particular case, be prescribed by the Commission appointed under subsection (7) of this section.

(4) Nothing done by the Clerk shall be invalid by reason only that he has attained the age at which he is required by this section to vacate office.

(5) The Clerk shall be removed from office by the Governor-General if, but shall not be so removed unless, the House, by a resolution which has received the affirmative vote of not less than two-thirds of all the members thereof, has resolved that he ought to be so removed for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(6) The provisions of subsections (3), (4) and (5) of this section shall apply to the Deputy Clerk as they apply to the Clerk.

(7) Subject to the provisions of subsections (3), (5), (6) and (9) of this section the terms of service (including salary and allowances) of the Clerk and Deputy Clerk shall be determined from time to time by a Commission consisting of the following persons, that is to say:-

a) the Speaker, as Chairman;

b) the President; and

c) the Minister responsible for finance or a person nominated by that Minister to represent him at any meeting of the Commission.

(8) The salaries and allowances of the Clerk and Deputy Clerk shall be paid out of the Consolidated Fund and no such salary shall be reduced during the continuance in office of the person to whom it is payable.

(9) The offices of Clerk and Deputy Clerk shall, for the purposes of sections 40, 41,111, 124, 129, 132,133 and 134 of this Constitution, be deemed to be public offices.

(10) A person who is a public officer may, without ceasing to hold office in the public service, be appointed, in accordance with the provisions of this section, to the office of Clerk or Deputy Clerk but-

a) no such appointment shall be made except with the concurrence of the Governor-General, acting on the recommendation of the Public Service Commission;

b) the provisions of subsections (3), (5) and (6) of this section shall, in relation to an officer so appointed, apply, subject to the provisions of paragraph (d) of this subsection, as respects his service as Clerk or Deputy Clerk but not as respects his service as a public officer;

c) an officer so appointed shall not, during his continuance in the office of Clerk or Deputy Clerk, perform the functions of any public office; and

d) an officer so appointed may at any time be appointed by the Governor-General, acting on the advice of the Public Service Commission, to assume or resume the functions of a public office and he shall thereupon vacate his office as Clerk or Deputy Clerk, but no appointment under this paragraph shall be made without the concurrence of the President or the Speaker, as the case may be.

(11) The Governor-General, acting on the recommendation of the Minister responsible for finance after that Minister has consulted the Clerk, may from time to time prescribe, by notice published in the Gazette, the offices (other than the office of Deputy Clerk) which are to constitute the staff of the Clerk and may likewise prescribe which of those offices are subordinate offices.

(12) Power to make appointments to any office for the time being prescribed under subsection (11) of this section as a subordinate office on the staff of the Clerk and to remove and to exercise disciplinary control over persons holding or acting in any such offices is hereby vested in the Clerk.

(13) Before the Public Service Commission advises the Governor-General under subsection (1) of section 125 of this Constitution-

a) that any person should be appointed to any office on the staff of the Clerk (other than the office of Deputy Clerk and any subordinate office thereon);

b) that any person holding or acting in any such office should be appointed to any other public office; or

c) that any person holding or acting in any such office should be removed or that any penalty should be imposed on him by way of disciplinary control, the Commission shall consult the Clerk.

(14) Nothing in this section shall be construed as preventing-

a) the appointment of one person to the offices of Clerk of the Senate and Clerk of the House of Representatives; or

b) the appointment of one person to the offices of Deputy Clerk of the Senate and Deputy Clerk of the House of Representatives; or

c) the appointment of one person to any other office on the staff of the Clerk of the Senate and any other office on the staff of the Clerk of the House of Representatives, and where any person is so appointed to two offices, the foregoing provisions of this section shall apply in relation to him in respect of each such office separately.

(15) The functions conferred by this section on the President shall, if there is no person holding the office of President or if the President is absent from Jamaica or is otherwise unable to perform those functions, be performed by the Deputy President and the functions conferred by this section on the Speaker shall, if there is no person holding the office of Speaker or if the Speaker is absent from Jamaica or is otherwise unable to perform those functions, be performed by the Deputy Speaker.

PART 2
POWERS AND PROCEDURE OF PARLIAMENT

48. Power to make laws

(1) Subject to the provisions of this Constitution, Parliament may make laws for the peace, order and good government of Jamaica.

(2) Without prejudice to the generality of subsection (1) and subject to the provisions of subsections (3), (4) and (5) of this section Parliament may by law determine the privileges, immunities and powers of the two Houses and the members thereof.

(3) No civil or criminal proceedings may be instituted against any member of either House for words spoken before, or written in a report to, the House of which he is a member or to a committee thereof or to any joint committee of both Houses or by reason of any matter or thing brought by him therein by petition, bill, resolution, motion or otherwise.

(4) For the duration of any session of both Houses shall enjoy freedom from arrest for any civil debt except a debt the contraction of which constitutes a criminal offence.

(5) No process issued by any court in the exercise of its civil jurisdiction shall be served or executed within the precincts of either House while such House is sitting or through the President or the Speaker, the Clerk or any officer of either House.

49. Alteration of this Constitution

(1) Subject to the provisions of this section Parliament may by Act of Parliament passed by both Houses alter any of the provisions of this Constitution or (in so far as it forms part of the law of Jamaica) any of the provisions of the Jamaica Independence Act, 1962.

(2) In so far as it alters-

a) sections 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, subsection (3) of section 48, sections 66, 67, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 94, subsections (2), (3), (4), (5), (6) or (7) of section 96, sections 97, 98, 99, subsections (3), (4), (5), (6), (7), (8) or (9) of section 100, sections 101, 103, 104, 105, subsections (3), (4), (5), (6), (7), (8) or (9) of section 106, subsections (1), (2), (4), (5), (6), (7), (8), (9) or (10) of section 111, sections 112, 113, 114, 116, 117, 118, 119, 120, subsections (2), (3), (4), (5), (6) or (7) of section 121, sections 122, 124, 125, subsection (1) of section 126, sections 127, 129, 130, 131, 135 or 136 or the Second or Third Schedule to this Constitution; or

b) section 1 of this Constitution in its application to any of the provisions specified in paragraph (a) of this subsection;

a Bill for an Act of Parliament under this section shall not be submitted to the Governor-General for his assent unless a period of three months has elapsed between the introduction of the Bill into the House of Representatives and the commencement of the first debate on the whole text of that Bill in that House and a further period of three months has elapsed between the conclusion of that debate and the passing of that Bill by that House.

(3) In so far as it alters-

a) this section;

b) sections 2, 34, 35, 36, 39, subsection (2) of section 63, subsections (2), (3) or (5) of section 64, section 65, or subsection (1) of section 68 of this Constitution;

c) section 1 of this Constitution in its application to any of the provisions specified in paragraph (a) or (b) of this subsection; or

d) any of the provisions of the Jamaica Independence Act, 1962, a Bill for an Act of Parliament under this section shall not be submitted to the Governor-General for his assent unless-

i) a period of three months has elapsed between the introduction of the Bill into the House of Representatives and the commencement of the first debate on the whole text of that Bill in that House and a further period of three months has elapsed between the conclusion of that debate and the passing of that Bill by that House, and

ii) subject to the provisions of subsection (6) of this section, the Bill, not less than two nor more than six months after its passage through both Houses, has been submitted to the electors qualified to vote for the election of members of the House of Representatives and, on a vote taken in such manner as Parliament may prescribe, the majority of the electors voting have approved the Bill.

(4) A Bill for an Act of Parliament under this section shall not be deemed to be passed in either House unless at the final vote thereon it is supported-

a) in the case of a Bill which alters any of the provisions specified in subsection (2) or subsection (3) of this section by the votes of not less than two-thirds of all the members of that House, or

b) in any other case by the votes of a majority of all the members of that House.

(5) If a Bill for an Act of Parliament which alters any of the provisions specified in subsection (2) of this section is passed by the House of Representatives-

a) twice in the same session in the manner prescribed by subsection (2) and paragraph (a) of subsection (4) of this section and having been sent to the Senate on the first occasion at least seven months before the end of the session and on the second occasion at least one month before the end of the session, is rejected the Senate on each occasion, or

b) in two successive sessions (whether of the same Parliament or not) in the manner prescribed by subsection (2) and paragraph (a) of subsection (4) of this section and, having been sent to the Senate in each of those sessions at least one month before the end of the session, the second occasion being at least six months after the first occasion,is rejected by the Senate in each of those sessions,

that Bill may, not less than two nor more than six months after its rejection by the Senate for the second time, be submitted to the electors qualified to vote for the election of members of the House of Representatives and, if on a vote taken in such manner as Parliament may prescribe, three-fifths of the electors voting approve the Bill, the Bill may be presented to the Governor-General for assent.

(6) If a Bill for an Act of Parliament which alters any of the provisions specified in subsection (3) of this section is passed by the House of Representatives-

a) twice in the same session in the manner prescribed by subsection (3) and paragraph (a) of subsection (4) of this section and having been sent to the Senate on the first occasion at least seven months before the end of the session and on the second occasion at least one month before the end of the session, is rejected by the Senate on each occasion, or

b) in two successive sessions (whether of the same Parliament or not) in the manner prescribed by subsection (3) and paragraph (a) of subsection (4) of this section and, having been vent to the Senate in each of those sessions at least one month before the end of the session, the second occasion being at least six months after the first occasion, is rejected by the Senate in each of those sessions,

that Bill may, not less than two nor more than six months after its rejection by the Senate for the second time, be submitted to the electors qualified to vote for the election of members of the House of Representatives and, if on a vote taken in such manner as Parliament may prescribe, two-thirds of the electors voting approve the Bill, the Bill may be presented to the Governor-General for assent.

(7) For the purposes of subsection (5) and subsection (6) of this section a Bill shall be deemed to be rejected by the Senate if-

a) it is not passed by the Senate in the manner prescribed by paragraph (a) of subsection (4) of this section within one month after it is sent to that House; or

b) it is passed by the Senate in the manner so prescribed with any amendment which is not agreed to by the House of Representatives.

(8) For the purposes of subsection (5) and subsection (6) of this section a Bill that is sent to the Senate from the House of Representatives in any session shall be deemed to be the same Bill as the former Bill sent to the Senate in the same or in the preceding session if, when it is sent to the Senate, it is identical with the former Bill or contains only such alterations as are specified by the Speaker to be necessary owing to the time that has elapsed since the date of the former Bill or to represent any amendments which have been made by the Senate in the former Bill.

(9) In this section-

a) reference to any of the provisions of this Constitution or the Jamaica Independence Act, 1962, includes references to any law that alters that provision; and

b) "alter" includes amend, modify, re-enact with or without amendment or modification, make different provision in lieu of, suspend, repeal or add to.

50. Special Acts of Parliament

(1) An Act of Parliament to which this section refers shall not be void to the extent of any inconsistency with the provisions of sections 13 to 26 (inclusive) of this Constitution but shall, notwithstanding such inconsistency, prevail over those provisions.

(2)An Act of Parliament to which this section refers is one the Bill for which has been passed by both Houses and at the final vote thereon in each House

has been supported by the votes of not less than two-thirds of all the members of that House.

51. Regulation of procedure in Houses of Parliament

(1) Subject to the provisions of this Constitution, each House may regulate its own procedure and for this purpose may make Standing Orders.

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

52. Presiding in Senate and House of Representatives

(1) The President or, in his absence, the Deputy President or, if they are both absent. a member of the Senate (not being a Minister or a Parliamentary Secretary) elected by the Senate for that sitting shall preside at each sitting of the Senate.

(2) The Speaker or, in his absence, the Deputy Speaker or, if they are both absent, a member of the House of Representatives (not being a Minister or a Parliamentary Secretary) elected by the House of Representatives for that sitting shall preside at each sitting of the House of Representatives.

(3) References in this section to circumstances in which the President, Deputy President, Speaker or Deputy Speaker is absent include references to circumstances in which the office of President, Deputy President, Speaker or Deputy Speaker is vacant.

53. Quorum

(1) If at any time during a sitting of either House objection is taken by a member that there is not a quorum present and, after such interval as may be prescribed in the Standing Orders of that House, the person presiding ascertains that there is still not a quorum present, he shall thereupon adjourn the House.

(2) For the purposes of this section-

a) a quorum of the Senate shall consist of eight members besides the person presiding; and

b) a quorum of the House of Representatives shall consist of sixteen members besides the person presiding.

54. Voting

(1) Save as is otherwise provided in this Constitution, all questions proposed for decision in either House shall be determined by a majority of the votes of the members thereof present and voting.

(2) The person presiding in either House shall not vote-

a) unless on any question the votes are equally divided, in which case he shall have and exercise a casting vote; or

b) except in the case of the final vote on a Bill for an Act of Parliament under subsection (3) of section 37 or section 49 of this Constitution or the final vote on a Bill for an Act of Parliament to which section 50 of this Constitution refers in each of which cases he shall have an original vote.

55. Introduction of Bills, etc.

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

(2) A Bill other than a Money Bill may be introduced in either House, but a Money Bill shall not be introduced in the Senate.

(3) Except on the recommendation of the Governor-General signified by a Minister, the House of Representatives shall not-

a) proceed upon any Bill (including any amendment to a Bill) which Bill or amendment, as the case may be, in the opinion of the person presiding, makes provision for any of the following purposes, that is to say, for imposing or increasing any tax, for imposing or increasing any charge on the revenues or other funds of Jamaica or for altering any such charge otherwise than by reducing it, or for compounding or remitting any debt due to Jamaica;

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

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

(4) The Senate shall not-

a) proceed upon any Bill, other than a Bill sent from the House of Representatives, or upon any amendment to a Bill, which Bill or amendment, as the case may be, in the opinion of person presiding, makes provision for any of the following purposes, that is to say, for imposing or altering any existing or proposed tax, for imposing or altering any existing or proposed charge on the revenues or other funds of Jamaica, or for compounding or remitting any debt due to Jamaica;

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

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

56. Restriction on powers of Senate as to Money Bills

(1) Subject to the provisions of this Constitution, if a Money Bill, having been passed by the House of Representatives and sent to the Senate at least one

month before the end of the session, is not passed by the Senate without amendment within one month after it is sent to that House, the Bill shall, unless the House of Representatives otherwise resolves, be presented to the Governor-General for his assent notwithstanding that the Senate has not consented to the Bill.

(2) There shall be endorsed on every Money Bill when it is sent to the Senate the certificate of the Speaker signed by him that it is a Money Bill; and there shall be endorsed on any Money Bill that is presented to the Governor-General for assent in pursuance of subsection (1) of this section the certificate of the Speaker signed by him that it is a Money Bill and that the provisions of that subsection have been complied with.

57. Restriction on powers of Senate as to Bills other than Money Bills and certain other Bills

(1) Subject to the provisions of this Constitution, if any Bill other than a Money Bill is passed by the House of Representatives-

a) twice in the same session and, having been sent to the Senate on the first occasion at least seven months before the end of the session and on the second occasion at least one month before the end of the session, is rejected by the Senate on each occasion, or

b) in two successive sessions (whether of the same Parliament or not) and, having been sent to the Senate in each of those sessions at least one month before the end of the session, the second occasion being at least six months after the first occasion, is rejected by the Senate in each of those sessions, that Bill shall, on its rejection for the second time by the Senate, unless the House of Representatives otherwise resolves, be presented to the Governor-General for assent notwithstanding that the Senate has not consented to the Bill.

(2) For the purposes of this section a Bill that is sent to the Senate from the House of Representatives in any session shall be deemed to be the same Bill as a former Bill sent to the Senate in the same or in the preceding session if, when it is sent to the Senate, it is identical with the former Bill or contains only

such alterations as are certified by the Speaker to be necessary owing to the time that has elapsed since the date of the former Bill or to represent any amendments which have been made by the Senate in the former Bill.

(3) The House of Representatives may, if it thinks fit, on the passage through that House of a Bill that is deemed to be the same Bill as a former Bill sent to the Senate in the same or in the preceding session, suggest any amendments without inserting the amendments in the Bill, and any such amendments shall be considered by the Senate, and, if agreed to by the Senate, shall be treated as amendments made by the Senate and agreed to by the House of Representatives; but the exercise of this power by the House of Representatives shall not affect the operation of this section in the event of the rejection of the Bill in the Senate.

(4) There shall be inserted in any Bill that is presented to the Governor-General for assent in pursuance of this section any amendments that are certified by the Speaker to have been made in the Bill by the Senate and agreed to by the House of Representatives.

(5) There shall be endorsed on any Bill that is presented to the Governor-General for assent in pursuance of this section the certificate of the Speaker signed by him that the provisions of this section have been complied with.

(6) The provisions of this section shall not apply to a Bill which is required by this Constitution to be passed by both Houses.

58. Provisions relating to sections 55, 56 and 57

(1) In sections 55, 56 and 57 of this Constitution "Money Bill" means a public Bill which, in the opinion of the Speaker, contains only provisions dealing with all or any of the following matters, namely, the imposition, repeal, remission, alteration or regulation of taxation; the imposition, for the payment of debt or other financial purposes, of charges on the Consolidated Fund or any other public funds or on monies provided by Parliament, or the variation or repeal of any such charges; the grant of money to the Crown or to any authority or person, or the variation or revocation of any such grant; the appropriation, receipt, custody, investment, issue or audit of accounts of public money; the raising or guarantee of any loan or the repayment thereof, or the establishment,

alteration, administration or abolition of any sinking fund provided in connection with any such loan; or subordiate matters incidental to any of the matters aforesaid; and in this subsection the expressions "taxation", "debt", "public fund", "public money" and "loan" do not include any taxation imposed, debt incurred, fund or money provided or loan raised by any local authority or body for local purposes.

(2) For the purposes of section 57 of this Constitution, a Bill shall be deemed to be rejected by the Senate if-

a) it is not passed by the Senate without amendment within one month after it is sent to that House; or

b) it is passed by the Senate with any amendment which is not agreed to by the House of Representatives.

(3) Where the office of Speaker is vacant or the Speaker is for any reason unable to perform any function conferred upon him by subsection (1) of this section or by section 56 or 57 of this Constitution, that function may be performed by the Deputy Speaker.

(4) Any certificate of the Speaker or Deputy Speaker given under section 56 or 57 of this Constitution shall be conclusive for all purposes and shall not be questioned in any court.

(5) Before giving any such certificate the Speaker or Deputy Speaker, as the case may be, shall, if practicable, consult the Attorney-General.

59. Restriction on powers of Senate as to certain statutory instruments

(1) Any statutory instrument to which this section applies and which, having been laid before the Senate-

a) in any session at least seven months before the end of the session, is not approved by the Senate shall, if it is again laid before the Senate at least one month before the end of that session, or

b) in any session at least one month before the end of the session, is not approved by the Senate in that session shall, if it is again laid before the Senate at least one month before the end of the next succeeding session (whether of the same Parliament or not), but not earlier than six months after it was laid for the first time, be deemed to have been approved by the Senate at the end of the session in which it was laid for the second time if it has not earlier been so approved.

(2) In this section "statutory instrument" means any document by which the Governor-General, the Governor of the former Colony of Jamaica, a Minister or any other executive authority has exercised a power to make, confirm or approve orders, rules, regulations or other subordinate legislation, being a power conferred by any law enacted (whether before or after the appointed day) by any legislature in Jamaica, and the statutory instruments to which this section applies are all statutory instruments in respect of which it is provided (in whatever terms) that they may not come into force until approved by the Senate.

(3) For the purposes of this section a statutory instrument that is laid before the Senate in any session shall be deemed to be the same statutory instrument as a former statutory instrument laid before the Senate, in the same or in the preceding session if, when it is laid before the Senate, it is identical with the former statutory instrument or contains only such alterations as are certified by the President to be necessary owing to the time that has elapsed since the date of the former statutory instrument.

(4)Where the office of President is vacant or the President is for any reason unable to perform the function conferred upon him by subsection (3) of this section that function may be performed by the Deputy President.

(5) Any certificate of the President or Deputy President given under subsection (3) of this section shall be conclusive for all purposes and shall not be questioned in any court.

60. Assent to Bills

(1) A Bill shall not become law until the Governor-General has assented thereto in Her Majesty's name and on Her Majesty's behalf and has signed it in token of such assent.

(2) Subject to the provisions of sections 37, 49, 50, 56 and 57 of this Constitution, a Bill shall be presented to the Governor-General for assent if, and shall not be so presented unless, it has been approved by both Houses of Parliament either without amendment or with such amendments only as are agreed to by both Houses.

(3) When a Bill is presented to the Governor-General for assent he shall signify that he assents or that he withholds assent.

61. Words of enactment

(1) In every Bill presented to the Governor-General for assent, other than a Bill for a special Act as defined in subsection (3) of section 37 of this Constitution or a Bill presented under section 49, 56 or 57 of this Constitution or a Bill for an Act to which section 50 of this Constitution refers, the words of enactment shall be as follows:-

"Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:-".

(2) In every Bill for a special Act as defined in subsection (3) of section 37 of this Constitution presented to the Governor-General for assent the words of enactment shall be as follows:-

"Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Jamaica in accordance with the provisions of subsection (3) of section 37 of the Constitution of Jamaica, and by the authority of the same, as follows:-".

(3) In every Bill presented to the Governor-General for assent under section 49 of this Constitution, the words of enactment shall be as follows:-

"Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Jamaica (or of the House of Representatives of Jamaica, as the case may be) in

accordance with the provisions of section 49 of the Constitution of Jamaica, and by the authority of the same, as follows:-".

(4) In every Bill for an Act to which section 50 of this Constitution refers presented to the Governor-General for assent the words of enactment shall be as follows:

"Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Jamaica in accordance with the provisions of section 50 of the Constitution of Jamaica, and by the authority of the same, as follows:-".

(5) In every Bill presented to the Governor-General for assent under sections 56 and 57 of this Constitution, the words of enactment shall be as follows:-

"Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the House of Representatives of Jamaica in accordance with the provisions of section 56 (or section 57, as the case may be) of the Constitution of Jamaica, and by the authority of the same, as follows:-".

(6) Any alteration of the words of enactment of a Bill made in consequence of the provisions of subsection (3) or subsection (5) of this section shall be deemed not to be an amendment of the Bill.

62. Oath of allegiance

No member of either House shall take part in the proceedings thereof (other than proceedings necessary for the purpose of this section) until he has made and subscribed before that House the oath of allegiance:

Provided that the election of a President or a Speaker (as the case may be) may take place before the members of the House have made and subscribed such oath.

PART 3
SUMMONING, PROROGATION AND DISSOLUTION

63. Sessions of Parliament

(1) Each session of Parliament shall be held at such place within Jamaica and shall commence at such time as the Governor-General may by Proclamation published in the Gazette appoint.

(2) Sessions shall be held at such times so that a period of six months shall not intervene between the last sitting of Parliament in one session and the first sitting thereof in the next session.

64. Prorogation and dissolution of Parliament

(1) The Governor-General may at any time by Proclamation published in the Gazette prorogue or dissolve Parliament.

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

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

Provided that the life of Parliament shall not be extended under this subsection for more than two years.

(4) If, between a dissolution of Parliament and the next ensuing general election of members to the House of Representatives, an emergency arises of such a nature that, in the opinion of the Prime Minister, it is necessary for the two Houses or either of them to be summoned before that general election can be held, the Governor-General may, by Proclamation published in the Gazette, summon the two Houses of the preceding Parliament and that Parliament shall thereupon be deemed (except for the purposes of section 65 of this Constitution) not to have been dissolved but shall be deemed (except as

aforesaid) to be dissolved on the date on which the polls are held in the next ensuing general election.

(5) In the exercise of his powers under this section the Governor-General shall act in accordance with the advice to the Prime Minister:

Provided that if House of Representatives by a resolution which has received the affirmative vote of a majority of all the members thereof has resolved that it has no confidence in the Government, the Governor-General shall by Proclamation published in the Gazette dissolve Parliament.

65. General elections and appointment of Senators

(1) A general election of members of the House of Representatives shall be held at such time within three months after every dissolution of Parliament as the Governor-General, acting in accordance with the advice of the Prime Minister, shall appoint by Proclamation published in the Gazette.

(2) As soon as may be after every general election the Governor-General shall proceed under section 35 of this Constitution to the appointment of Senators.

PART 4
DELIMITATION OF CONSTITUENCIES

66. Establishment of first constituencies

(1) Until otherwise provided by an Order made by the Governor-General under section 67 of this Constitution, Jamaica shall, for the purpose of electing the members of the House of Representatives, be divided into the forty-five constituencies prescribed by the Constituencies (Boundaries) Order, 1959 made by the Governor of the former Colony of Jamaica and published in the Gazette of the 28th day of May, 1959.

(2) Every constituency established under this section or under section 67 of this Constitution shall return one member to the House of Representatives.

67. Standing Committee of House of Representatives

(1) Subject to the provisions of section 66 of this Constitution, Jamaica shall, for the purpose of election of members to the House of Representatives, be divided into such number of constituencies, being not less than forty-five nor more than sixty, as may from time to time be provided by Order made by the Governor-General under this section.

(2) As soon as practicable after the House of Representatives first meets after the appointed day or following any general election there shall be established a Standing Committee of the House consisting of-

a) the Speaker, as Chairman;

b) three members of the House appointed by the Prime Minister; and

c) three members of the House appointed by the Leader of the Opposition.

(3) It shall be the function of the Standing Committee to keep under continuous review-

a) the number of constituencies into which Jamaica is to be divided; and

b) the boundaries of such constituencies.

(4) Subject to the provisions of this section, the procedure of the Standing Committee shall be determined by the Standing Orders of the House of Representatives.

(5) The Standing Committee shall, in accordance with the provisions of the following subsection, submit to the House of Representatives reports either-

a) showing the constituencies into which it recommends that Jamaica should be divided in order to give effect to the rules set out in the Second Schedule to this Constitution; or

b) stating that, in the opinion of the Committee, no alteration is required in the existing number or boundaries of constituencies in order to give effect to the said rules.

(6) Reports under subsection (5) of this section shall be submitted by the Standing Committee-

a) in the case of its first report after the appointed day, not less than four nor more than six years from that day; and

b) in the case of any subsequent report, not less than four nor more than six years from the date of the submission of its last report.

(7) Where the Standing Committee intends to consider making a report, it shall, by notice in writing, inform the Minister responsible for the conduct of elections (hereafter in this section called "the Minister") accordingly, and a copy of that notice shall be published in the Gazette.

(8) As soon as may be after the Standing Committee has submitted a report to the House under paragraph (a) of subsection (5) of this section, the Minister shall lay before the House for its approval the draft of an Order by the Governor-General for giving effect to the recommendations contained in the report and that draft may make provision for any matters which appear to the Minister to be incidental to or consequential upon the other provisions of the draft.

(9) Where any draft made under this section gives effect to any such recommendations with modifications, the Minister shall lay before the House together with the draft a statement of the reasons for the modifications.

(10) If the motion for the approval of any draft made under this section is rejected by the House of Representatives, or is withdrawn by leave of that House, the Minister shall amend the draft and lay the amended draft before the House of Representatives.

(11) If any draft made under this section is approved by resolution of the House, the Minister shall submit it to the Governor-General who shall make

an Order (which shall be published in the Gazette) in terms of the draft; and that Order shall come into force on such day as may be specified therein and, until revoked by a further Order made by the Governor-General in accordance with the provisions of this section, shall have the force of law:

Provided that the coming into force of any such Order shall not affect any election to the House of Representatives until a proclamation is made by the Governor-General appointing the date for the holding of a general election of members to the House of Representatives or affect the constitution of the House of Representatives until the dissolution of the Parliament then in being.

(12) An Act of Parliament may provide for the institution of proceedings in the Supreme Court for the purpose of determining whether or not any report made under subsection (5) of this section gives effect to the provisions of this section and empower the Supreme Court, subject to an appeal to the Court of Appeal, to make whatever orders are necessary in order to ensure that effect is given to those provisions and to make orders relating to the costs of those proceedings.

(13) Subject to the provisions of any Act to which subsection (12) of this section refers, the question of the validity of any Order by the Governor-General purporting to be made under this section and reciting that a draft thereof has been approved by resolution of the House of Representatives shall not be enquired into in any court.

CHAPTER VI
EXECUTIVE POWERS

68. Executive authority of Jamaica

(1) The executive authority of Jamaica is vested in Her Majesty.

(2) Subject to the provisions of this Constitution, the executive authority of Jamaica may be exercised on behalf of Her Majesty by the Governor-General either directly or through officers subordinate to him.

(3) Nothing in this section shall prevent Parliament from conferring functions on persons or authorities other than the Governor-General.

69. Cabinet

(1) There shall be in and for Jamaica a Cabinet which shall consist of the Prime Minister and such number of other Ministers (not being less than eleven) selected from among Ministers appointed in accordance with the provisions of section 70 of this Constitution as the Prime Minister may from time to time consider appropriate.

(2) The Cabinet shall be the principal instrument of policy and shall be charged with the general direction and control of the Government of Jamaica and shall be collectively responsible therefore to Parliament.

(3) Not less than two nor more than four of the Ministers selected pursuant to subsection (1) shall be persons who are members of the Senate.

70. Appointment of Ministers

(1) Whenever the Governor-General has occasion to appoint a Prime Minister he, acting in his discretion, shall appoint the member of the House of Representatives who, in his judgment, is best able to command the confidence of a majority of the members of that House and shall, acting in accordance with the advice of the Prime Minister, appoint from among the members of the two Houses such number of other Ministers as the Prime Minister may advise.

(2) (Deleted).

(3) If occasion arises for making an appointment while Parliament is dissolved, a person who was a member of the House of Representatives immediately before the dissolution may be appointed Prime Minister and a person who was a member of either House immediately before the dissolution may, subject to the provisions of subsection of this section, be appointed as any other Minister as if, in each case, such person were still a member of the House in

question, but any person so appointed shall vacate office at the beginning of the next session of that House if he is not then a member thereof.

(4) Appointments under this section shall be made by instrument under the Broad Seal.

71. Vacancy of office of Ministers

(1) The office of Prime Minister shall become vacant-

a) if he resigns his office;

b) if he ceases to be a member of the House of Representatives otherwise than by a dissolution of Parliament;

c) if, under the provisions of subsection (3) or subsection (4) of section 41 of this Constitution, he is required to cease to exercise any of his functions as a member of the House of Representatives

d) when, after any dissolution of Parliament, the Prime Minister is informed by the Governor-General, acting in his discretion, that the Governor-General is about to re-appoint him as Prime Minister or appoint another person as Prime Minister; or

e) if the Governor-General revokes his appointment in accordance with the provisions of subsection (2) of this section.

(2) If the House of Representatives by a resolution which has received the affirmative vote of a majority of all the members thereof has resolved that the appointment of the Prime Minister ought to be revoked, the Governor-General shall, subject to the provisions of subsection (3) of this section, by instrument under the Broad Seal, revoke his appointment.

(3) If the House of Representatives has passed a resolution as provided by subsection (2) of this section that the appointment of the Prime Minister ought to be revoked, the Governor-General shall consult with the Prime Minister

and, if the Prime Minister within three days so requests, the Governor-General shall dissolve Parliament instead of revoking the appointment.

(4) The office of a Minister, other than the office of Prime Minister, shall become vacant-

a) upon the appointment or re-appointment of any person to the office of Prime Minister;

b) if his appointment to his office is revoked by the Governor-General, acting in accordance with the advice of the Prime Minister, by instrument under the Broad Seal;

c) if, for any reason other than a dissolution of Parliament, he ceases to be a member of the House of which he was a member at the date of his appointment as a Minister;

d) if under the provisions of subsection (3) or subsection (4) of section 41 of this Constitution, he is required to cease to exercise any of his functions as a member of either House; or

e) if he resigns his office.

72. Performance of Prime Minister's functions in certain events

(1) Whenever the Prime Minister is unable, by reason of his illness or absence from Jamaica, to perform the functions of his office, the Governor-General may, by instrument under the Broad Seal, authorise any other Minister who is a member of the House of Representatives to perform the functions conferred on the Prime Minister by this Constitution (other than the functions conferred on him by subsection (3) of this section).

(2) The Governor-General may, by instrument under the Broad Seal, revoke any authority given under this section.

(3) The power conferred on the Governor-General by this section shall be exercised by him acting in his discretion if in his opinion it is impracticable to

obtain the advice of the Prime Minister owing to the Prime Minister's illness or absence, and in any other case shall be exercised by the Governor-General in accordance with the advice of the Prime Minister.

73. Temporary Ministers

(1) Whenever a Minister other than the Prime Minister is unable, by reason of his illness or absence from Jamaica, to perform the functions of his office, the Governor-General may, by instrument under the Broad Seal, appoint a person who is a member of the same House as that Minister to be a temporary Minister:

Provided that if occasion arises for making an appointment while Parliament is dissolved, a person who, immediately before the dissolution, was a member of the same House as the aforesaid Minister, may be appointed as a temporary Minister as if he were still a member of that House but any person so appointed shall, vacate office at the beginning of the next session of that House if he is not then a member thereof.

(2) Subject to the provisions of section 71 of this Constitution a temporary Minister shall hold office until he is notified by the Governor-General, by instrument under the Broad Seal, that the Minister on account of whose inability to perform the functions of his office he was appointed is again able to perform those functions or until that Minister vacates his office.

(3) The powers conferred on the Governor-General by this section shall be exercised by him in accordance with the advice of the Prime Minister.

74. Oaths

The Prime Minister and every other Minister shall, before entering upon the duties of his office, make before the Governor-General the oath of allegiance and the appropriate oath for the due execution of his office in the forms set out in the First Schedule to this Constitution.

75. Presiding in Cabinet

The Prime Minister shall, so far as is practicable, attend and preside at all meetings of the Cabinet and in his absence such other Minister shall preside as the Prime Minister shall appoint.

76. Governor-General to be informed concerning matters of Government

The Prime Minister shall keep the Governor-General fully informed concerning the general conduct of the government of Jamaica and shall furnish the Governor-General with such information as he may request with respect to any particular matter relating to the government of Jamaica.

77. Assignment of responsibility to Ministers

(1) Subject to the provisions of this Constitution, the Governor-General, acting in accordance with the advice of the Prime Minister, may, by directions in writing, charge any Minister who is a member of the House of Representatives, or (except in so far as may be inconsistent with any Ministerial functions under section 67, 115, 116 or 118 of this Constitution) who is a member of the Senate with the responsibility for any subject or any department of government.

(2) Nothing in this section shall empower the Governor-General to confer on any Minister authority to exercise any power or to discharge any duty that is conferred or imposed by this Constitution or any other law on the Governor-General or any person or authority other than that Minister.

(3) With the approval of the House of Representatives signified by a resolution directions in writing made under subsection (1) of this section may be given retroactive effect.

78. Parliamentary Secretaries

(1) The Governor-General, acting in accordance with the advice of the Prime Minister, may, by instrument under the Broad Seal, appoint Parliamentary

Secretaries from among the members of the two Houses to assist Ministers in the discharge of their functions.

(2) (Deleted).

(3) If occasion arises for making an appointment to the office of Parliamentary Secretary while Parliament is dissolved, a person who was a member of either House of the last Parliament may be appointed as if he were still a member of that House but any person so appointed shall vacate office at the beginning of the next session of that House if he is not then a member thereof.

(4) The provisions of subsection (4) of section 71 and section 74 of this Constitution shall apply to Parliamentary Secretaries as they apply to Ministers.

79. Attorney-General

(1) There shall be an Attorney-General who shall be the principal legal adviser to the Government of Jamaica.

(2) Power to appoint a person to hold or act in the office of Attorney-General and to remove from that office a person holding or acting in it shall, subject to subsection (4) of this section, be exercised by the Governor-General acting in accordance with the advice of the Prime Minister.

(3) Any person appointed to hold or act in the office of Attorney-General in pursuance of subsection (2) of this section shall not, except in accordance with the provisions of section 70 of this Constitution, be appointed a Minister.

(4) Until an appointment of a person to hold or act in the office of Attorney-General is first made under the provisions of subsection (2) of this section, it shall be a public office and a person shall not be qualified to hold or act in that office unless he is qualified for appointment as a Judge of the Supreme Court.

(5) On the occasion of the first appointment of a person to hold or act in the office of Attorney-General under the provisions of subsection (2) of this section, the office of Attorney-General as a public office shall be deemed to have been abolished.

80. Leader of the Opposition

(1) There shall be a Leader of the Opposition who shall be appointed by the Governor-General by instrument under the Broad Seal.

(2) Whenever the Governor-General has occasion to appoint a Leader of the Opposition he shall, in his discretion, appoint the member of the House of Representatives who, in his judgment, is best able to command the support of a majority of those members who do not support the Government, or, if there is no such person, the member of that House who, in his judgment, commands the support of the largest single group of such members who are prepared to support one leader.

(3) The office of Leader of the Opposition shall become vacant-

a) if he resigns his office;

b) if, after any dissolution of Parliament, he is informed by the Governor-General acting in his discretion that the Governor-General is about to appoint another person as Leader of the Opposition;

c) if he ceases to be a member of the House of Representatives otherwise than by reason of a dissolution of Parliament;

d) if, under the provisions of subsection (3) or subsection (4) of section 41 of this Constitution, he is required to cease to exercise any of his functions as a member of the House of Representatives; or

e) if his appointment is revoked under the provisions of subsection (5) of this section.

(4) If occasion arises for making an appointment while Parliament is dissolved, a person who was a member of the House of Representatives immediately before the dissolution may be appointed Leader of the Opposition as if such person were still a member of that House but the person so appointed shall vacate office at the beginning of the next session of that House if he is not a member thereof.

(5) If, in the judgment of the Governor-General, the Leader of the Opposition no longer is able to command the support of a majority of those members of the House of Representatives who do not support the Government, or, as the case may be, the support of the largest single group of such members who are prepared to support one leader, the Governor-General, acting in his discretion, shall revoke the appointment of the Leader of the Opposition.

81. Certain vacancies in office of Leader of Opposition

During any period in which there is a vacancy in the, office of Leader of the Opposition by reason of the fact that no person is both qualified in accordance with this Constitution for, and willing to accept, appointment to that office, the Governor-General shall act in accordance with the advice of the Prime Minister on any matter in respect of which it is provided in this Constitution either-

a) that the Governor-General shall act on the advice of the Leader of the Opposition, or

b) that the Governor-General shall act on the recommendation of the Prime Minister after consultation with the Leader of the Opposition.

82. Privy Council

(1) There shall be in and for Jamaica a Privy Council which shall consist of six members appointed by the Governor-General, after consultation with the Prime Minister, by instrument under the Broad Seal.

(2) At least two of the members of the Privy Council shall be persons who hold or have held public office.

(3) The Privy Council shall have such powers and duties as may be conferred or imposed upon it by or under this Constitution or any other law.

83. Tenure of office of members of Privy Council

(1) The seat of a member of the Privy Council shall become vacant-

a) at the expiration of three years from the date of his appointment or such earlier time as may be specified in the instrument by which he was appointed;

b) if he resigns his seat; or

c) if his appointment is revoked by the Governor-General, acting after consultation with the Prime Minister, by instrument under the Broad Seal.

(2) If any person is appointed to be a provisional member of the Privy Council under section 85 of this Constitution and his tenure of his seat as a provisional member is immediately followed by his substantive appointment as a member under this section, the period of three years referred to in paragraph (a) of subsection (1) of this section shall be reckoned from the date of the instrument by which he was appointed a provisional member.

84. Incapacity of member of Privy Council

The Governor-General, acting after consultation with the Prime Minister, may, by instrument under the Broad Seal, declare that a member of the Privy Council, is by reason of absence or infirmity of body or mind, temporarily unable to discharge his functions as a member of the Council, and thereupon that member shall not take part in the proceedings of the Council until he is declared in like manner to be again able to discharge those functions.

85. Provisional appointments to Privy Council

(1) Whenever a member of the Privy Council has, under section 84 of this Constitution, been declared to be temporarily-unable to discharge his functions as a member, the Governor-General, acting after consultation with the Prime Minister, may, by instrument under the Broad Seal, appoint a person to be a provisional member in place of that member during the period until that member is declared under section 84 of this Constitution to be again able to discharge those functions or vacates his seat.

(2) Subject to the provisions of subsection (1) of this section, the provisions of subsection (1) of section 83 of this Constitution shall apply in relation to a

provisional member of the Privy Council as they apply in relation to a substantive member.

86. Senior Member of Privy Council

(1) The Governor-General, after consultation with the Prime Minister, shall appoint one of the members of the Privy Council to be the Senior Member thereof.

(2) If on any question the votes of the members of the Privy Council are equally divided the Senior Member shall have and exercise a casting vote in addition to his original vote.

(3) the Senior Member shall preside over any meeting of the Privy Council at which the Governor-General is not present.

(4) If at any meeting of the Privy Council the Senior Member is absent, the members present shall elect one of their number to exercise the powers and to perform the duties of the Senior Member at that meeting.

87. Attendance of Governor-General

The Governor-General shall, so far as is practicable, attend and preside at all meetings of the Privy Council.

88. Summoning of Privy Council and procedure

(1) The Privy Council shall not be summoned except by the authority of the Governor-General acting in his discretion.

(2) If, during any meeting of the Privy Council, the Governor-General or member presiding observes, upon objection in that behalf being taken by any member present, that there are present less than three members besides the Governor-General or member presiding, he shall thereupon adjourn the meeting.

(3) Subject to the provisions of this Constitution, the Privy Council may regulate its own procedure.

89. Validity of proceedings of Privy Council

The Privy Council shall not be disqualified for the transaction of business by reason only of any vacancy among its members (including any vacancy not filled when it is first constituted or is reconstituted at any time), and any proceeding therein shall be valid notwithstanding that some person who was not entitled so to do took part therein.

90. Prerogative of mercy

(1) The Governor-General may, in Her Majesty's name and on Her Majesty's behalf-

a) grant to any person convicted of any offence against the law of Jamaica a pardon, either free or subject to lawful conditions;

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

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

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

(2) In the exercise of the powers conferred on him by this section the Governor-General shall act on the recommendation of the Privy Council.

91. Pardon in capital cases

(1) Where any person has been sentenced to death for an offense against the law of Jamaica, the Governor-General shall cause a written report of the case

from the trial judge, together with such other information derived from the record of the case or elsewhere as the Governor-General may require, to be forwarded to the Privy Council so that the Privy Council may advise him in accordance with the provisions of section 90 of this Constitution.

(2) The power of requiring information conferred on the Governor-General by subsection (1) of this section shall be exercised by him on the recommendation of the Privy Council or, in any case in which in his judgment the matter is too urgent to admit of such recommendation being obtained by the time within which it may be necessary for him to act, in his discretion.

92. Secretary to the Cabinet

(1) There shall be a Secretary to the Cabinet who shall be appointed by the Governor-General, acting on the recommendation of the Prime Minister, from a list of public officers submitted by the Public Service Commission.

(2) The Secretary to the Cabinet shall have charge of the Cabinet Office and shall be responsible, in accordance with such instructions as may be given to him by the Prime Minister, for arranging the business for, and keeping the minutes of, the meetings of the Cabinet and for conveying the decisions of the Cabinet to the appropriate person or authority, and shall have such other functions as the Prime Minister may from time to time direct.

93. Permanent Secretaries

(1) Where any Minister has been charged with the responsibility for a subject or department of government, he shall exercise general direction and control over the work relating to that subject and over that department; and, subject as aforesaid and to such direction and control, the aforesaid work and the department shall be under the supervision of a Permanent Secretary appointed in accordance with the provisions of section 126 of this Constitution.

(2) A person may be a Permanent Secretary in respect of more than one department of government.

(3) The office of Financial Secretary is hereby constituted and, for the purposes of this section, he shall be deemed to be a Permanent Secretary.

94. Establishment of office and functions of Director of Public Prosecutions

(1) There shall be a Director of Public Prosecutions, whose office shall be a public office.

(2) A person shall not be qualified to hold or act in the office of Director of Public Prosecutions unless he is qualified for appointment as a Judge of the Supreme Court.

(3) The Director of Public Prosecutions shall have power in any case in which he considers it desirable so to do-

a) to institute and undertake criminal proceedings against any person before any court other than a court-martial in respect of any offense against the law of Jamaica;

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

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

(4) The powers of the Director of Public Prosecutions under subsection (3) of this section may be exercised by him in person or through other persons acting under and in accordance with his general or special instructions.

(5) The powers conferred upon the Director of Public Prosecutions by paragraphs (b) and (c) of subsection (3) of this section shall be vested in him to the exclusion of any other person or authority:

Provided that where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those

proceedings by or at the instance of that person or authority and with the leave of the Court.

(6) In the exercise of the powers conferred upon him by this section the Director of Public Prosecutions shall not be subject to the direction or control of any other person or authority.

(7) For the purposes of this section, any appeal from any determination in any criminal proceedings before any court, or any case stated or question of law reserved for the purposes of any such proceedings, to any other court in Jamaica or to the Judicial Committee of Her Majesty's Privy Council shall be deemed to be part of those proceedings.

95. Remuneration of Director of Public Prosecutions

(1) The Director of Public Prosecutions shall receive such emoluments and be subject to such other terms and conditions of service as may from time to time be prescribed by or under any law:

Provided that the emoluments and terms and conditions of service of the Director of Public Prosecutions, other than allowances that are not taken into account in computing pensions, shall not be altered to his disadvantage during his continuance in office.

(2) The salary for the time being payable to the Director of Public Prosecutions under this Constitution shall be charged on and paid out of the Consolidated Fund.

96. Tenure of office of Director of Public Prosecutions

(1) Subject to the provisions of subsections (4) to (7) (inclusive) of this section the Director of Public Prosecutions shall hold office until he attains the age of sixty years:

Provided that-

a) he may at any time resign his office; and

b) Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, may permit a Director of Public Prosecutions who has attained the age of sixty years to continue in office until he has attained such later age, not exceeding sixty five years, as may (before the Director of Public Prosecutions has attained the age of sixty years) have been agreed between them.

(2) Nothing done by the Director of Public Prosecutions shall be invalid by reason only that he has attained the age at which he is required by this section to vacate his office.

(3) If the office of Director of Public Prosecutions is vacant or the holder of that office is for any reason unable to perform the functions thereof, a person qualified for appointment to that office may be appointed to act therein, and any person so appointed shall, subject to the provisions of subsection (1) of this section, continue to act until the office of Director of Public Prosecutions is filled or, as the case may be, until the Director of Public Prosecutions has resumed the functions of his office or the appointment of that person is revoked by the Governor-General acting on the advice of the Public Service Commission.

(4) The Director of Public Prosecutions may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(5) The Director of Public Prosecutions shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed under subsection (6) of this section and the tribunal has recommended to the Governor-General that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(6) If the Prime Minister represents to the Governor-General that the question of removing the Director of Public Prosecutions from office for inability as aforesaid or for misbehaviour ought to be investigated then-

a) the Governor-General, acting in accordance with the advice of the Prime Minister, shall appoint a tribunal, which shall consist of a chairman and not less

than two other members, from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; and

b) that tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to the Governor-General whether the Director of Public Prosecutions ought to be removed from office for inability as aforesaid or for misbehaviour.

(7) The provisions of the Commissions of Enquiry Act as in force immediately before the appointed day shall, subject to the provisions of this section and of the Third Schedule to this Constitution, apply as nearly as may be in relation to tribunals appointed under subsection (6) of this section or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Act, and for that purpose shall have effect as if they formed part of this Constitution.

(8) If the question of removing the Director of Public Prosecutions from office has been referred to a tribunal under subsection (6) of this section, the Governor-General, acting in accordance with the advice of the Prime Minister, may suspend the Director of Public Prosecutions from performing the functions of his office, and any such suspension may at any time be revoked by the Governor-General, acting in accordance with the advice of the Prime Minister, and shall in any case cease to have effect if the tribunal recommends to the Governor-General that the Director of Public Prosecutions should not be removed from office.

CHAPTER VII
THE JUDICATURE

PART 1
THE SUPREME COURT

97. Establishment of the Supreme Court

(1) There shall be a Supreme Court for Jamaica which shall have such jurisdiction and powers as may be conferred upon it by this Constitution or any other law.

(2) The Judges of the Supreme Court shall be the Chief Justice, a Senior Puisne Judge and such number of other Puisne Judges as may be prescribed by Parliament.

(3) No office of Judge of the Supreme Court shall be abolished while there is a substantive holder thereof.

(4) The Supreme Court shall be a superior court of record and, save as otherwise provided by Parliament, shall have all the powers of such a court.

98. Appointment of Judges of the Supreme Court

(1) The Chief Justice shall be appointed by the Governor-General by instrument under the Broad Seal on the recommendation of the Prime Minister after consultation with the Leader of the Opposition.

(2) The Puisne Judges shall be appointed by the Governor-General by instrument under the Broad Seal acting on the advice of the Judicial Service Commission.

(3) The qualifications for appointment as a Judge of the Supreme Court shall be such as may be prescribed by any law for the time being in force:

Provided that a person who has been appointed as a Judge of the Supreme Court may continue in office notwithstanding any subsequent variations in the qualifications so prescribed.

99. Acting Judges of the Supreme Court

(1) If the office of Chief Justice is vacant or if the Chief Justice is for any reason unable to perform the functions of his office, then, until a person has been appointed to that office and assumed its functions or, as the case may be, until the Chief Justice has resumed those functions, they shall be performed by such other person, qualified under subsection (3) of section 98 of this Constitution for appointment as a Judge, as the Governor-General, acting in accordance with the advice of the Prime Minister may appoint for that purpose by instrument under the Broad Seal.

(2) If the office of a Puisne Judge of the Supreme Court is vacant, or if any such Judge is appointed to act as Chief Justice or as a Judge of the Court of Appeal, or is for any reason unable to perform the functions of his office, the Governor-General, acting on the advice of the Judicial Service Commission, may by instrument under the Broad Seal appoint a person qualified under subsection (3) of section 98 of this Constitution for appointment as a Judge to act as a Judge of the Supreme Court, and any person so appointed shall, subject to the provisions of subsection (3) of section 100 of this Constitution, continue to act for the period of his appointment or, if no such period is specified, until his appointment is revoked by the Governor-General acting on the advice of the Judicial Service Commission:

Provided that he may, at any time, resign his acting office.

(3) Any person appointed to act as a Judge under the provisions of this section may, notwithstanding that the period of his appointment has expired or his appointment has been revoked, sit as a Judge for the purpose of delivering judgment or doing any other thing in relation to proceedings which were commenced before him while he was so acting.

100. Tenure of office of Judges of the Supreme Court

(1) Subject to the provisions of subsections (4) to (7) (inclusive) of this section, a Judge of the Supreme Court shall hold office until he attains the age of seventy years:

Provided that he may at any time resign his office

(2) Notwithstanding that he has attained the age at which he is required by or under the provisions of this section to vacate his office a person holding the office of Judge of the Supreme Court may, with the permission of the Governor-General, acting in accordance with the advice of the Prime Minister, continue in office for such period after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

(3) Nothing done by a Judge of the Supreme Court shall be invalid by reason only that he has attained the age at which he is required by this section to vacate his office.

(4) A Judge of the Supreme Court may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and shall not be so removed except in accordance with the provisions of subsection (5) of this section.

(5) A Judge of the Supreme Court shall be removed from office by the Governor-General by instrument under the Broad Seal if the question of the removal of that Judge from office has, at the request of the Governor-General, made in pursuance of subsection (6) of this section, been referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under section 4 of the Judicial Committee Act, 1833, or any other enactment enabling Her Majesty in that behalf, and the Judicial Committee has advised Her Majesty that the Judge ought to be removed from office for inability as aforesaid or for misbehaviour.

(6) If the Prime Minister (in the case of the Chief Justice) or the Chief Justice after consultation with the Prime Minister (in the case of any other Judge) represents to the Governor-General the question of removing a Judge from of the Supreme Court from office for inability as aforesaid or for misbehaviour ought to be investigated, then-

a) the Governor-General shall appoint a tribunal, which shall consist of a Chairman and not less than two other members, selected by the Governor-General on the advice of the Prime Minister (in the case of the Chief Justice) or of the Chief Justice (in the case of any other Judge) from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court;

b) that tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to the Governor-General whether he should request that the question of the removal of that Judge should be referred by Her Majesty to the Judicial Committee; and

c) if the tribunal so recommends, the Governor-General shall request that the question should be referred accordingly.

(7) The provisions of the Commissions of Enquiry Act as in force immediately before the appointed day shall, subject to the provisions of this section and of the Third Schedule to this Constitution, apply as nearly as may be in relation to tribunals appointed under subsection (6) of this section or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Act, and for that purpose shall have effect as if they formed part of this Constitution.

(8) If the question of removing a Judge of the Supreme Court from office has been referred to a tribunal appointed under subsection (6) of this section, the Governor-General, acting in accordance with the advice of the Prime Minister (in the case of the Chief Justice) or of the Chief Justice after the Chief Justice has consulted with the Prime Minister (in the case of any other Judge), may suspend the Judge from performing the functions of his office.

(9) Any such suspension may at any time be revoked by the Governor-General, acting in accordance with the advice of the Prime Minister or the Chief Justice (as the case may be), and shall in any case cease to have effect-

a) if the tribunal recommends to the Governor-General that he should not request that the question of the removal of the Judge from office should be referred by Her Majesty to the Judicial Committee; or

b) the Judicial Committee advises Her Majesty that the Judge ought not to be removed from office.

(10) The provisions of this section shall be without prejudice to the provisions of subsection (2) of section 99 of this Constitution.

101. Remuneration of Judges of the Supreme Court

(1) The Judges of the Supreme Court shall receive such emoluments and be subject to such other terms and conditions of service as may from time to time be prescribed by or under any law:

Provided that the emoluments and terms and conditions of service of such a Judge, other than allowances that are not taken into account in computing pensions, shall not be altered to his disadvantage during his continuance in office.

(2) The salaries for the time being payable to the Judges of the Supreme Court under this Constitution shall be charged on and paid out of the Consolidated Fund.

102. Oaths to be taken by Judges of the Supreme Court

A Judge of the Supreme Court shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and the judicial oath in the forms set out in the First Schedule to this Constitution.

PART 2
COURT OF APPEAL

103. Establishment of the Court of Appeal

(1) There shall be a Court of Appeal for Jamaica which shall have such jurisdiction and powers as may be conferred upon it by this Constitution or any other law.

(2) The Judges of the Court of Appeal shall be-

a) a President;

b) the Chief Justice by virtue of his office as head of the Judiciary but who, however, shall not sit in the Court of Appeal unless there are at least four other Judges sitting and unless he has been invited so to sit by the President of the Court;

c) three other Judges; and

d) such number, if any, of other Judges as may be prescribed by Parliament.

(3) The President of the Court of Appeal shall be responsible for the arrangement of the work of the Court and shall preside whenever he is sitting in that Court.

(4) No office of Judge of the Court of Appeal shall be abolished while there is a substantive holder thereof.

(5) The Court of Appeal shall be a superior court of record and, save as otherwise provided by Parliament, shall have all the powers of such a court.

104. Appointment of Judges of the Court of Appeal

(1) The President of the Court of Appeal shall be appointed by the Governor-General by instrument under the Broad Seal on the recommendation of the Prime Minister after consultation with the Leader of the Opposition.

(2) The other Judges of the Court of Appeal shall be appointed by the Governor-General by instrument under the Broad Seal acting on the advice of the Judicial Service Commission.

(3) The qualifications for appointment as a Judge of the Court of Appeal shall be such as may be prescribed by any law for the time being in force:

Provided that a person who has been appointed as a Judge of the Court of Appeal may continue in office notwithstanding any subsequent variations in the qualifications so prescribed.

105. Acting Judges of the Court of Appeal

(1) If the office of President of the Court of Appeal is vacant or if the President of the Court of Appeal is for any reason unable to perform the functions of his office, then, until a person has been appointed to that office and assumed its functions or, as the case may be, until the President of the Court of Appeal has resumed those functions, they shall be performed by such other person, qualified under subsection (3) of section 104 of this Constitution for appointment as a Judge of the Court of Appeal, as the Governor-General, acting in

accordance with the advice of the Prime Minister, may appoint for that purpose by instrument under the Broad Seal.

(2) If the office of a Judge of the Court of Appeal (other than the President) is vacant, or if any such Judge is appointed to act as President of the Court of Appeal, or is for any reason unable to perform the functions of his office, the Governor-General, acting on the advice of the Judicial Service Commission, may by instrument under the Broad Seal appoint a person qualified under subsection (3) of section 104 of this Constitution for appointment as a Judge of the Court of Appeal to act as a Judge of the Court of Appeal, and any person so appointed shall, subject to the provisions of subsection (3) of section 106 of this Constitution, continue to act for the period of his appointment or, if no such period is specified, until his appointment is revoked by the Governor-General acting on the advice of the Judicial Service Commission.

(3) Any person appointed to act as a Judge of the Court of Appeal under the provisions of this section may, notwithstanding that the period of his appointment has expired or his appointment has been revoked, sit as a Judge for the purpose of delivering judgment or doing any other thing in relation to proceedings which were commenced before him while he was so acting.

106. Tenure of office of Judges of the Court of Appeal

(1) Subject to the provisions of subsections (4) to (7) (inclusive) of this section, a Judge of the Court of Appeal shall hold office until he attains the age of seventy years:

Provided that he may at any time resign his office.

(2) Notwithstanding that he has attained the age at which he is required by or under the provisions of this section to vacate his office a person holding the office of Judge of the Court of Appeal may, with the permission of the Governor-General, acting in accordance with the advice of the Prime Minister, continue in office for such period after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

(3) Nothing done by a Judge of the Court of Appeal shall be invalid by reason only that he has attained the age at which he is required by this section to vacate his office.

(4) A Judge of the Court of Appeal may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and shall not be so removed except in accordance with the provisions of subsection (5) of this section.

(5) A Judge of the Court of Appeal shall be removed from office by the Governor-General by instrument under the Broad Seal if the question of the removal of that Judge from office has, at the request of the Governor-General made in pursuance of subsection (6) of this section, been referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under section 4 of the Judicial Committee Act, 1833, or any other enactment enabling Her Majesty in that behalf, and the Judicial Committee has advised Her Majesty that the Judge ought to be removed from office for inability as aforesaid or for misbehaviour.

(6) If the Prime Minister (in the case of the President of the Court of Appeal) or the President of the Court of Appeal after consultation with the Prime Minister (in the case of any other Judge) represents to the Governor-General that the question of removing a Judge of the Court of Appeal from office for inability as aforesaid or for misbehaviour ought to be investigated, then-

a) the Governor-General shall appoint a tribunal, which shall consist of a Chairman and not less than two other members, selected by the Governor-General on the advice of the Prime Minister (in the case of the President of the Court of Appeal) or of the President of the Court of Appeal (in the case of any other Judge) from among persons who hold or have held office as a Judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court;

b) that tribunal shall inquire into the matter and report on the facts thereof to the Governor-General and recommend to the Governor-General whether he

should request that the question of the removal of that Judge should be referred by Her Majesty to the Judicial Committee; and

c) if the tribunal so recommends, the Governor-General shall request that the question should be referred accordingly.

(7) The provisions of the Commissions of Enquiry Act as in force immediately before the appointed day shall, subject to the provisions of this section and of the Third Schedule to this Constitution, apply as nearly as may be in relation to tribunals appointed under subsection (6) of this section or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Act, and for that purpose shall have effect as if they formed part of this Constitution.

(8) If the question of removing a Judge of the Court of Appeal from office has been referred to a tribunal appointed under subsection (6) of this section, the Governor-General acting in accordance with the advice of the Prime Minister (in the case of the President of the Court of Appeal) or of the President of the Court of Appeal after the President of the Court of Appeal has consulted with the Prime Minister (in the case of any other Judge), may suspend the Judge from performing the functions of his office.

(9) Any such suspension may at any time be revoked by the Governor-General, acting in accordance with the advice of the Prime Minister or the President of the Court of Appeal (as the case may be), and shall in any case cease to have effect if-

a) the tribunal recommends to the Governor-General that he should not request that the question of the removal of the Judge from office should be referred by Her Majesty to the Judicial Committee; or

b) the Judicial Committee advises Her Majesty that the Judge ought not to be removed from office.

(10) The provisions of this section shall be without prejudice to the provisions of subsection (2) of section 105 of this Constitution.

(11) The provisions of this section and of sections 107 and 108 of this Constitution shall not apply to the Chief Justice.

107. Remuneration of Judges of the Court of Appeal

(1) The Judges of the Court of Appeal shall receive such emoluments and be subject to such other terms and conditions of service as may from time to time be prescribed by or under any law:

Provided that the emoluments and terms and conditions of service of such a Judge, other than allowances that are not taken into account in computing pensions, shall not be altered to his disadvantage during his continuance in office.

(2) The salaries for the time being payable to the Judges of the Court of Appeal under this Constitution shall be charged on and paid out of the Consolidated Fund.

108. Oaths to be taken by Judges of the Court of Appeal

A Judge of the Court of Appeal shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and the judicial oath in the forms set out in the First Schedule to this Constitution.

109. Number of judges

The Court of Appeal shall, when determining any matter other than an interlocutory matter, be composed of an uneven number of Judges, not being less than three.

PART 3
APPEALS TO HER MAJESTY IN COUNCIL

110. Appeals from Court of Appeal to Her Majesty in Council

(1) An appeal shall lie from decisions of the Court of Appeal to Her Majesty in Council as of right in the following cases-

a) where the matter in dispute on the appeal to Her Majesty in Council is of the value of one thousand dollars or upwards or where the appeal involves directly or indirectly a claim to or question respecting property or a right of the value of one thousand dollars or upwards, final decisions in any civil proceedings;

b) final decisions in proceedings for dissolution or nullity of marriage;

c) final decisions in any civil, criminal or other proceedings on questions as to the interpretation of this Constitution; and

d) such other cases as may be prescribed by Parliament.

(2) An appeal shall lie from decisions of the Court of Appeal to Her Majesty in Council with the leave of the Court of Appeal in the following cases-

a) where in the opinion of the Court of Appeal the question involved in the appeal is one that, by reason of its great general or public importance or otherwise, ought to be submitted to Her Majesty in Council, decisions in any civil proceedings; and

b) such other cases as may be prescribed by Parliament.

(3) Nothing in this section shall affect any right of Her Majesty to grant special leave to appeal from decisions of the Court of Appeal to Her Majesty in Council in any civil or criminal matter.

(4) The provisions of this section shall be subject to the provisions of subsection (1) of section 44 of this Constitution.

(5) A decision of the Court of Appeal such as is referred to in this section means a decision of that Court on appeal from a Court of Jamaica.

PART 4
JUDICIAL SERVICE COMMISSION

111. Composition of Judicial Service Commission

(1) There shall be a Judicial Service Commission for Jamaica.

(2) The members of the Judicial Service Commission shall be-

a) the Chief Justice who shall be Chairman;

b) the President of the Court of Appeal;

c) the Chairman of the Public Service Commission; and

d) three other members (hereinafter called "the appointed members") appointed in accordance with the provisions of subsection (3) of this section.

(3) The appointed members shall be appointed by the Governor-General, by instrument under the Broad Seal, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition-

a) one from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court;

b) two from a list of six persons, none of whom is an attorney-at-law in active practice, submitted by the General Legal Council:

c) (Deleted).

Provided that no person shall be appointed under this subsection who holds or who is acting in any public office other than the office of member of the Public Service Commission or member of the Police Service Commission.

(4) The office of an appointed member of the Judicial Service Commission shall become vacant-

a) at the expiration of three years from the date of his appointment or at such earlier time as may be specified in the instrument by which he was appointed;

b) if he resigns his office;

c) if he is appointed to the office of President of the Court of Appeal, Chief Justice, Chairman of the Public Service Commission or to any public office except the office of member of the Public Service Commission or member of the Police Service Commission;

d) if the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, directs that he shall be removed from office to discharge the functions thereof (whether arising from infirmity of body or mind or any other cause) or for misbehaviour:

Provided that if the appointed member is a Judge of the Court of Appeal or a Judge of the Supreme Court, he shall not be so removed unless, in accordance with the provisions of section 106 or section 100 of this Constitution (as the case may be), he is removed from his office as a Judge.

(5) If the office of an appointed member is vacant or an appointed member is for any reason unable to perform the functions of his office, the Governor-General, on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, may, by instrument under the Broad Seal, appoint a person, having the same qualifications for appointment as that member, to act as a member of the Commission and any person so appointed shall, subject to the provisions of subsection (4) of this section, continue to act until the office of the appointed member is filled or until his appointment is revoked by the Governor-General, acting as aforesaid.

(6) An appointed member shall not, within a period of three years commencing with the date on which he last held or acted in the office of appointed member, be eligible for appointment to any office power to make appointments to which is vested by this Constitution in the Governor General acting on the advice of the Judicial Service Commission:

Provided that nothing in this subsection shall prevent his being appointed to the office of Judge of the Court of Appeal or Judge of the Supreme Court.

(7) An appointed member shall receive such salary and allowances as may from time to time be prescribed by or under any law or by a resolution of the House of Representatives:

Provided that-

a) no such resolution may reduce any salary or allowance for the time being prescribed by or under a law; and

b) the salary of an appointed member shall not be reduced during his continuance in office.

(8) The salary for the time being payable to an appointed member under this Constitution shall be charged on and paid out of the Consolidated Fund.

(9) Nothing in subsection (7) of this section shall entitle the appointed member to any salary in respect of his office as such, if he is also a Judge of the Court of Appeal or a Judge of the Supreme Court.

(10) For the purposes of this section, "public office" does not include office as a member of any board, panel, committee or other similar body (whether incorporated or not) established by any law for the time being in force in Jamaica.

(11) (Deleted).

112. Appointment of Judicial officers

(1) Power to make appointments to the offices to which this section applies and, subject to the provisions of subsections (3) and (4) of this section, to remove and to exercise disciplinary control over persons holding or acting in such offices is hereby vested in the Governor-General acting on the advice of the Judicial Service Commission.

(2) This section applies to the offices of Resident Magistrate, Judge of the Traffic Court, Registrar of the Supreme Court, Registrar of the Court of Appeal and to such other offices connected with the courts of Jamaica as, subject to the provisions of this Constitution, may be prescribed by Parliament.

(3) Before the Governor-General acts in accordance with the advice of the Judicial Service Commission that any officer holding or acting in any office to

which this section applies should be removed or that any penalty should be imposed on him by way of disciplinary control he shall inform the officer of that advice and, if the officer then applies for the case to be referred to the Privy Council, the Governor-General shall not act in accordance with the advice but shall refer the case to the Privy Council accordingly:

Provided that the Governor-General, acting on the advice of the Commission, may nevertheless suspend that officer from the exercise of his office pending the determination of the reference to the Privy Council.

(4) Where a reference is made to the Privy Council under the provisions of subsection (3) of this section, the Privy Council shall consider the case and shall advise the Governor-General what action should be taken in respect of the officer, and the Governor-General shall then act in accordance with such advice.

113. Delegation of functions of Judicial Service Commission

The Governor-General, acting on the advice of the Judicial Service Commission, may by instrument under the Broad Seal direct that, subject to such conditions as may be specified in that instrument, power to make appointments to such offices, being offices to which section 112 of this Constitution applies, as may be so specified shall (without prejudice to the exercise of such power by the Governor-General acting on the advice of the Judicial Service Commission) be exercisable by such one or more members of the Commission or by such other authority or public officer as may be so specified, but in any case where the person to be appointed under this section holds or is acting in any office power to make appointments to which is vested by this Constitution in the Governor-General acting on the advice of the Public Service Commission or the Police Service Commission, the person or authority specified in the aforesaid instrument shall consult with the Public Service Commission or the Police Service Commission, as the case may be, before making such appointment.

CHAPTER VIII
FINANCE

114. Consolidated Fund

There shall be in and for Jamaica a Consolidated Fund, into which, subject to the provisions of any law for the time being in force in Jamaica, shall be paid all revenues of Jamaica.

115. Estimates

(1) The Minister responsible for finance shall, before the end of each financial year, cause to be prepared annual estimates of revenue and expenditure for public services during the succeeding financial year, which shall be laid before the House of Representatives.

(2) The estimates of expenditure shall show separately the sums required to meet statutory expenditure (as defined in subsection (4) of section 116 of this Constitution) and the sums required to meet other expenditure proposed to be paid out of the Consolidated Fund.

116. Authorization of Expenditure

(1) The Minister responsible for finance shall, in respect of each financial year, at the earliest convenient moment, introduce in the House of Representatives an Appropriation Bill containing, under appropriate heads for the several services required, the estimated aggregate sums which are proposed to be expended (otherwise than by way of statutory expenditure) during that financial year.

(2) Whenever-

a) any monies are expended or are likely to be expended in any financial year on any services which are in excess of the sum provided for that service by the Appropriation law relating to that year; or

b) any monies are expended or are likely to be expended (otherwise than by way of statutory expenditure) in any financial year upon any new service not provided for by the Appropriation law relating to that year,

statements of excess or, as the case may be, supplementary estimates shall be prepared by the Minister responsible for finance and shall be laid before and voted on by the House of Representatives; in respect of all supplementary expenditure so voted the Minister responsible for finance may, at any time before the end of the financial year, introduce into the House of Representatives a Supplementary Appropriation Bill containing, under appropriate heads, the estimated aggregate sums so voted, and shall, as soon as possible after the end of each financial year, introduce into the House of Representatives a final Appropriation Bill containing any such sums which have not yet been included in any Appropriation Bill.

(3) That part of any estimate of expenditure laid before the House of Representatives which shows statutory expenditure shall not be voted on by the House of Representatives, and such expenditure shall, without further authority of Parliament, be paid out of the Consolidated Fund.

(4) For the purposes of this section and section 115 of this Constitution, "statutory expenditure" means-

a) expenditure charged on the Consolidated Fund or on the general revenue and assets of Jamaica by virtue of any of the provisions of this Constitution or by virtue of the provisions of any other law for the time being in force; and

b) the interest on the public debt, sinking fund payments, redemption monies, and the costs, charges and expenses incidental to the management of the public debt.

117. Meeting expenditure from Consolidated Fund

(1) No sum shall be paid out of the Consolidated Fund except upon the authority of a warrant under the hand of the Minister responsible for finance.

(2) Subject to the provisions of subsections (3) and (4) of this section and section 118 of this Constitution, no such warrant shall be issued except in respect of sums granted for the specified public services by the Appropriation law for the financial year in respect of which the withdrawal is to take place or for service otherwise lawfully charged on the Consolidated Fund.

(3) The House of Representatives may, by resolution approving estimates containing a vote on account, authorise expenditure for part of any financial year before the passing of the Appropriation law for that year, but the aggregate sums so voted shall be included, under the appropriate heads, in the Appropriation Bill for that year.

(4) Where at any time Parliament has been dissolved before any provision or any sufficient provision is made under this Chapter of this Constitution for the carrying on of the government of Jamaica, the Minister responsible for finance may issue a warrant for the payment out of the Consolidated Fund of such sums as he may consider necessary for the continuance of the public services until the expiry of a period of three months commencing with the date on which the House of Representatives first meets after that dissolution, but a statement of the sums so authorised shall, as soon as practicable, be laid before and voted on by the House of Representatives and the aggregate sums so voted shall be included, under the appropriate heads, in the next Appropriation Bill.

118. Contingencies Fund

(1) Any law for the time being in force may create or authorise the creation of a Contingencies Fund and may authorise the Minister responsible for finance to make advances from that Fund if he is satisfied that there is an unforeseen need for expenditure for which no provision or no sufficient provision has been made by an Appropriation law.

(2) Where any advance is made by virtue of an authorisation conferred under subsection (1) of this section, a supplementary estimate of the sum required to replace the amount so advanced shall, as soon as practicable, be laid before and voted on by the House of Representatives and the sum so voted shall be included in a Supplementary Appropriation Bill or a Final Appropriation Bill.

119. Public Debt

(1) The public debt of Jamaica is hereby charged on the Consolidated Fund.

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

120. Auditor-General

(1) There shall be in and for Jamaica an Auditor-General who shall be appointed by the Governor-General by instrument under the Broad Seal.

(2) If the office of Auditor-General is vacant or the Auditor-General is for any reason unable to perform the functions of his office, the Governor-General may appoint a person to act as Auditor-General and any person so appointed shall, subject to the provisions of subsection (1) of section 121 of this Constitution, continue to act until the office of Auditor-General is filled or until his appointment is revoked by the Governor-General.

(3) A person who has held the office of Auditor-General shall not be eligible for appointment to any other public office.

(4) The Auditor-General shall receive such salary and allowances as may from time to time be prescribed by or under any law or by a resolution of the House of Representatives:

Provided that-

a) no such resolution may reduce any salary or allowance for the time being prescribed by or under a law; and

b) the salary of the Auditor-General shall not be reduced during his continuance in office.

(5) The salary for the time being payable to the Auditor-General under this Constitution shall be charged on and paid out of the Consolidated Fund.

(6) In the exercise of his powers under this section the Governor-General shall act in accordance with the recommendation of the Public Service Commission:

Provided that-

a) before he acts in accordance therewith he shall inform the Prime Minister of the nature of that recommendation and shall, if the Prime Minister so requires, once refer that recommendation (hereafter in this subsection called the "original recommendation") back to the Public Service Commission for reconsideration; and

b) if, upon such reconsideration, the Public Service Commission submits a different recommendation, the provisions of this subsection and of subsection (2) of section 32 of this Constitution shall apply to that different recommendation as they apply to the original recommendation.

121. Tenure of office of Auditor-General

(1) Subject to the provisions of subsections (3) to (6) (inclusive) of this section, the Auditor-General shall hold office until he attains the age of sixty years:

Provided that-

a) he may at any time resign his office; and

b) the Governor-General, acting in the manner prescribed by subsection (6) of section 120 of this Constitution, may permit an Auditor-General who has attained the age of sixty years to remain in office until he has reached such later age, not exceeding sixty-five years, as may (before the Auditor-General has reached the age of sixty years) have been agreed between the Governor-General and the Auditor-General.

(2) Nothing done by the Auditor-General shall be invalid by reason only that he has attained the age at which he is required by this section to vacate his office.

(3) The Auditor-General may be removed from office only for inability to discharge the functions thereof (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and shall not be so removed except in accordance with the provisions of subsection (4) of this section.

(4) The Auditor-General shall be removed from office by the Governor-General by instrument under the Broad Seal if the question of his removal from office has been referred to a tribunal appointed under subsection (5) of this section and the tribunal has recommended to the Governor-General that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(5) If the Prime Minister or the Chairman of the Public Service Commission advises the Governor-General that the question of removing the Auditor-General from office for inability as aforesaid or for misbehaviour ought to be investigated, then-

a) the Governor-General shall appoint a tribunal, which shall consist of a Chairman and not less than two other members, selected by the Governor-General, acting on the advice of the Chief Justice, from among persons who hold or have held the office of a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; and

b) that tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to the Governor-General whether the Auditor-General ought to be removed from office for inability as aforesaid or for misbehaviour.

(6) The provisions of the Commissions of Enquiry Act as in force immediately before the appointed day shall, subject to the provisions of this section and of the Third Schedule to this Constitution, apply as nearly as may be in relation to tribunals appointed under subsection (5) of this section or, as the context may require, to the members thereof as they apply in relation to Commissions

or Commissioners appointed under that Act, and for that purpose shall have effect as if they formed part of this Constitution.

(7) If the question of removing the Auditor-General from office has been referred to a tribunal under subsection (5) of this section, the Governor-General acting in the manner prescribed by subsection (6) of section 120 of this Constitution, may suspend the Auditor-General from performing the functions of his office and any such suspension may at any time be revoked by the Governor-General, acting as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor-General that the Auditor-General should not be removed from office.

122. Functions of Auditor-General

(1) The accounts of the Court of Appeal, the accounts of the Supreme Court, the accounts of the offices of the Clerks to the Senate and the House of Representatives and the accounts of an departments and offices of the Government of Jamaica (including the offices of the Cabinet, the Judicial Service Commission, the Public Service Commission and the Police Service Commission but excluding the department of the Auditor-General) shall, at least once in every year, be audited and reported on by the Auditor-General who, with his subordinate staff, shall at all times be entitled to have access to all books, records, returns and reports relating to such accounts.

(2) The Auditor-General shall submit his reports made under subsection (1) of this section to the Speaker (or, if the office of Speaker is vacant or the Speaker is for any reason unable to perform the functions of his office, to the Deputy Speaker) who shall cause them to be laid before the House of Representatives.

(3) In the exercise of his functions under the provisions of subsections (1) and (2) of this section, the Auditor-General shall not be subject to the direction or control of any other person or authority.

(4) The accounts of the department of the Auditor-General shall be audited and reported on by the Minister responsible for finance, and the provisions of subsections (1) and (2) of this section shall apply in relation to the exercise by

that Minister of those functions as they apply in relation to audits and reports made by the Auditor-General.

(5) Nothing in this section shall prevent the performance by the Auditor-General of-

a) such other functions in relation to the accounts of the Government of Jamaica and the accounts of other public authorities and other bodies administering public funds in Jamaica as may be prescribed by or under any law for the time being in force in Jamaica; or

b) such other functions in relation to the supervision and control of expenditure from public funds in Jamaica as may be so prescribed; or

c) such other functions in relation to the accounts of any other government as he may be empowered to perform by any authority competent in that behalf.

CHAPTER IX
THE PUBLIC SERVICE

PART 1
GENERAL

123. Interpretation

For the purposes of this Chapter of this Constitution, "public office" does not include office as a member of any board, panel, committee or other similar body (whether incorporated or not) established by any law for the time being in force in Jamaica.

124. Public Service Commission

(1) There shall be a Public Service Commission for Jamaica consisting of a Chairman and such number of other members, being not less than three nor more than five, as the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, may from time to time decide.

(2)The members of the Public Service Commission shall be appointed by the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, by instrument under the Broad Seal:

Provided that one such member shall be so appointed by the Governor-General from a list of persons, not disqualified for appointment under this section, submitted by the Jamaica Civil Service Association (or any other body representing members of the public service which may from time to time, in the opinion of the Governor-General acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, have succeeded to the functions of that Association).

(3) No person shall be qualified to be appointed as a member of the Public Service Commission if he holds or is acting in any public office other than the office of member of the Judicial Service Commission or member of the Police Service Commission.

(4) A member of the Public Service Commission shall not, within a period of three years commencing with the date on which he last held or acted in that office, be eligible for appointment to any office power to make appointments to which is vested by this Constitution in the Governor-General acting on the advice of the Public Service Commission.

(5) The office of a member of the Public Service Commission shall become vacant-

a) at the expiration of five years from the date of his appointment or such earlier time as may be specified in the instrument by which he was appointed;

b) if he resigns his office;

c) if he is appointed to any public office other than the office of member of the Judicial Service Commission or member of the Police Service Commission; or

d) if the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, directs that he

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

(6) If the office of a member of the Public Service Commission is vacant or a member is for any reason unable to perform the functions of his office, the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, may appoint a person who is qualified for as a member of the Commission to act as a member of the Commission, and any person so appointed shall, subject to the provisions of subsection (5) of this section, continue to act until the office of the member of the Commission is filled or until his appointment is revoked by the Governor-General acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition.

(7) The members of the Public Service Commission shall receive such salaries and allowances as may from time to time be prescribed by or under any law or by a resolution of the House of Representatives:

Provided that-

a) no such resolution may reduce any salary or allowance for the time being prescribed by or under a law; and

b) the salary of a member of the Public Service Commission shall not be reduced during his continuance in office.

(8) The salaries for the time being payable to members of the Public Service Commission under this Constitution shall be charged on and paid out of the Consolidated Fund.

125. Appointment, etc. of public officers

(1) Subject to the provisions of this Constitution, power to make appointments to public offices and to remove and to exercise disciplinary control over persons holding or acting in any such offices is hereby vested in the Governor-General acting on the advice of the Public Service Commission.

(2) Before the Public Service Commission advises the appointment to any public office of any person holding or acting in any office power to make appointments to which is vested by this Constitution in the Governor-General acting on the advice of the Judicial Service Commission or the Police Service Commission, it shall consult with the Judicial Service Commission or the Police Service Commission, as the case may be.

(3) Before the Governor-General acts in accordance with the advice of the Public Service Commission that any public officer should be removed or that any penalty should be imposed on him by way of disciplinary control, he shall inform the officer of that advice and if the officer then applies for the case to be referred to the Privy Council, the Governor-General shall not act in accordance with the advice but shall refer the case to the Privy Council accordingly:

Provided that the Governor-General, acting on the advice of the Commission, may nevertheless suspend that officer from the exercise of his office pending the determination of the reference to the Privy Council.

(4) Where a reference is made to the Privy Council under the provisions of subsection (3) of this section, the Privy Council shall consider the case and shall advise the Governor-General what action should be taken in respect of the officer, and the Governor-General shall then act in accordance with such advice.

(5) Except for the purpose of making appointments thereto or to act therein or of revoking an appointment to act therein, the provisions of this section shall not apply in relation to the office of the Director of Public Prosecutions.

126. Permanent Secretaries

(1) Subject to the provisions of subsection (2) of this section, power to make appointments to the office of Permanent Secretary (other than appointments on transfer from another such office carrying the same salary) is hereby vested in the Governor-General acting on the recommendation of the Public Service Commission.

(2) Before the Governor-General acts in accordance with a recommendation of the Public Service Commission made under subsection (1) of this section, he shall consult the Prime Minister who may once require that recommendation (hereafter in this subsection called the "original recommendation") to be referred back to the Public Service Commission for reconsideration; and if, upon such reconsideration, the Public Service Commission submits a different recommendation, the provisions of this subsection and of subsection (2) of section 32 of this Constitution shall apply thereto as they apply to an original recommendation.

(3) Power to make appointments to any office of Permanent Secretary on transfer from another such office carrying the same salary is hereby vested in the Governor General acting on the recommendation of the Prime Minister.

(4) For the purposes of this section the office of Financial Secretary shall be deemed to be the office of Permanent Secretary.

127. Delegation of functions of Public Service Commission

(1) The Governor-General, acting on the advice of the Public Service Commission, may by instrument under the Broad Seal direct that, subject to such conditions a. may be specified in that instrument, power to make appoint meets to such offices, being offices to which this section applies, as may be so specified and power to remove and power to exercise disciplinary control over persons or acting in those offices, or any of those powers, shall (without prejudice to the exercise of such power by the Governor-General acting on the advice of the Public Service Commission) be exercisable by such one or more members of the Public Service Commission or by such other authority or public officer as may be so specified.

(2) In relation to any power made exercisable under subsection (1) of this section by some person or authority other than the Governor-General acting on the advice of the Public Service Commission, the offices to which this section applies are all offices in respect of which that power is, apart from this section. vested by this Constitution in the Governor-General acting on such advice.

(3) In any case where an appointment is to be made by virtue of an instrument made under this section and the person to be appointed holds or is acting in any office power to make appointments to which is vested by this Constitution in the Governor-General acting on the advice of the Judicial Service Commission or the Police Service Commission. the person or authority specified in the said instrument shall consult with the Judicial Service Commission or the Police Service Commission, as the case may be before making the appointment.

(4) Where, by virtue of an instrument made under this section, the power to remove or to exercise disciplinary control over any officer has been exercised by a person or authority other than the Governor-General acting on the advice of the public Service Commission, the officer in respect of whom it was so exercised may apply for the case to be referred to the Privy Council. and thereupon the action of the aforesaid person or authority shall cease to have effect and the case shall be referred to the Privy Council accordingly and the Governor-General shall then take such action in respect of that officer as the Privy Council may advise:

Provided that-

a) where the action of the aforesaid person or authority included the removal of that officer or his suspension from the exercise of his office, that person or authority may nevertheless suspend him from the exercise of his office pending the determination of the reference to the Privy Council; and

b) before advising the Governor-General under this subsection, the Privy Council shall consult with the Public Service Commission.

128. Appointment, etc. of principal representatives of Jamaica abroad

(1) Power to appoint persons to hold or act in the offices to which this section applies (including power to make appointments on promotion and transfer and to confirm appointments) and to remove persons so appointed from any such office shall vest in the Governor-General, acting in accordance with the advice of the Prime Minister.

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

(3) The offices to which this section applies are the offices of any Ambassador, High Commissioner or other principal representative of Jamaica in countries other than Jamaica.

PART 2
POLICE

129. Police Service Commission

(1) There shall be a Police Service Commission for Jamaica consisting of a Chairman and such number of other members, being not less than two nor more than four, as the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, may from time to time decide.

(2) The members of the Police Service Commission shall be appointed by the Governor-General on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, by instrument under the Broad Seal.

(3) No person shall be qualified to be appointed as a member of the Police Service Commission if he holds or is acting in any public office other than the office of member of the Judicial Service Commission or member of the Public Service Commission.

(4) A member of the Police Service Commission shall not, within a period of three years commencing with the date on which he last held or acted in that office, be eligible for appointment to any office power to make appointments to which is vested by this Constitution in the Governor-General acting on the advice of the Police Service Commission.

(5) The office of a member of the Police Service Commission shall become vacant-

a) at the expiration of five years from the date of his appointment or such earlier time as may be specified in the instrument by which he was appointed;

b) if he resigns his office;

c) if he is appointed to any public office other than the office of member of the Judicial Service Commission or member of the Public Service Commission;

d) if the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, directs that he shall be removed from office for inability to discharge the functions thereof (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(6) If the office of a member of the Police Service Commission is vacant or a member is for any reason unable to perform the functions thereof, the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, may appoint a person who is qualified for appointment as a member of the Commission to act as a member of the Commission, and any person so appointed shall, subject to the provisions of subsection (5) of this section, continue to act until the office of the member of the Commission is filled or until his appointment is revoked by the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition.

(7) The members of the Police Service Commission shall receive such salaries and allowances as may from time to time be prescribed by or under any law or by a resolution of the House of Representatives:

Provided that-

a) no such resolution may reduce any salary or allowance for the time being prescribed by or under a law; and

b) the salary of a member of the Police Service Commission shall not be reduced during his continuance in office.

(8) The salaries for the time being payable to members of the Police Service Commission under this Constitution shall be charged on and paid out of the Consolidated Fund.

130. Appointment, etc. of police officers

Section 125 of this Constitution (with the substitution therein of the words "the Police Service Commission" for the words "the Public Service Commission" wherever the same occur and of the words "the Public Service Commission" for the words "the Police Service Commission" in subsection (2) thereof) shall apply in relation to police officers as it applies in relation to other public officers.

131. Delegation of functions of Police Service Commission

(1) The Governor-General, acting on the advice of the Police Service Commission, may by instrument under the Broad Seal direct that, subject to such conditions as may be specified in that instrument, power to make appointments to such offices, being offices to which this section applies, as may be so specified and power to remove and power to exercise disciplinary control over persons holding or acting in those offices, or any of those powers shall (without prejudice to the exercise of such power by the Governor-General acting on the advice of the Police Service Commission) be exercisable by such one or more members of the Police Service Commission or by such other authority or public officer as may be so specified.

(2) The offices to which this section applies are the offices of all police officers not above the rank of inspector.

(3) In any case where an appointment is to be made by virtue of an instrument made under this section and the person to be appointed holds or is acting in any office power to make appointments to which is vested by this Constitution in the Governor-General acting on the advice of the Judicial Service Commission or the Public Service Commission, the person or authority specified in the said instrument shall consult with the Judicial Service Commission or the Public Service Commission, as the case may be, before making the appointment.

(4) Where, by virtue of an instrument made under this section, the power to remove or to exercise disciplinary control over any officer has been exercised by a person or authority other than the Governor-General acting on the advice of the Police Service Commission, the officer in respect of whom it was so exercised may apply for the case to be referred to the Privy Council, and thereupon the action of the aforesaid person or authority shall cease to have effect and the case shall be referred to the Privy Council accordingly; and the Governor-General shall then take such action in respect of that officer as the Privy Council may advise:

Provided that-

a) where the action of the aforesaid person or authority includes the removal of that officer or his suspension from the exercise of his office, that person or authority may nevertheless suspend him from the exercise of his office pending the determination of the reference to the Privy Council; and

b) before advising the Governor-General under this subsection, the Privy Council shall consult with the Police Service Commission.

PART 3
PENSIONS

132. Applicability of pensions law

(1) Subject to the provisions of section 134 of this Constitution, the law applicable to the grant and payment to any officer, or to his widow, children, dependents or personal representatives, of any pension, compensations, gratuity or other like allowance (in this section and in sections 133 and 134 of this Constitution referred to as day is an "award") in respect of the service of that officer in a public office shall be that in force on the relevant day or any later law not less favourable to the person concerned.

(2) For the purposes of this section, the relevant day is-

a) in relation to an award granted before the appointed day, the day on which the award was granted;

b) in relation to an award granted or to be granted on or after the appointed day to or in respect of a person who was a public officer before that day, the day immediately before that day;

c) in relation to an award granted or to be granted to or in respect of a person who first becomes a public officer on or after the appointed day, the day on which he becomes a public officer.

(3) For the purposes of this section, in so far as the law applicable to an award depends on the option of the person to or in respect of whom it is granted or to be granted, the law for which he opts shall be taken to be more favourable to him than any other law for which he might have opted.

(4) For the purposes of this section and of sections 133 and 134 of this Constitution, service as a Judge of the Court of Appeal or as a Judge of the Supreme Court shall be deemed to be public service.

133. Pensions, etc. to be charged on Consolidated Fund

Awards granted under any law for the time being in force in Jamaica in respect of the public service shall be charged on and paid out of the Consolidated Fund.

134. Grant and withholding of pensions, etc.

(1) The power to grant any award under any pensions law for the time being in force in Jamaica (other than an award to which, under that law, the person to whom it is payable is entitled as of right) and, in accordance with any provisions in that behalf contained in any such law, to withhold, reduce in amount or suspend any award payable under any such law is hereby vested in the Governor-General.

(2) The power vested in the Governor-General by subsection (1) of this section shall be exercised by him-

(a) in the case of an award payable to a person who, having been a public officer, was immediately before the date on which he ceased to hold public office, serving-

(i) as a Judge of the Court of Appeal;

(ii) as a Judge of the Supreme Court;

(iii) in any office to which section 112 of this Constitution applies at the date of the exercise of the power,

on the recommendation of the Judicial Service Commission;

(b) in the case of an award payable to a person who, having been a public officer, was, immediately before the date aforesaid, serving as a police officer, on the recommendation of the Public Service Commission; and

(c) in the case of an award payable to any other person, on the recommendation of the Public Service Commission.

(3) In this section, "pensions law" means any law relating to the grant to any person, or to the widow, children, dependants or personal representatives of that person, of an award in respect of the services of that person in a public office, and includes any instrument made under any such law.

CHAPTER X
MISCELLANEOUS

135. Powers and procedure of Commissions

(1) In relation to any Commission established by this Constitution, the Governor-General, acting in accordance with the advice of the Commission, may by regulation or otherwise regulate its procedure and, subject to the consent of the Prime Minister or such other Minister as may be authorised in that behalf by the Prime Minister, confer powers and impose duties on any public officer or any authority of the Government of Jamaica for the purpose of the discharge of the functions of the Commission.

(2) At any meeting of any Commission established by this Constitution a quorum shall be constituted if three members are present. If a quorum is present the Commission shall not be disqualified for the transaction of business by reason

of any vacancy among its members and any proceedings of the Commission shall be valid notwithstanding that some person who was not entitled so to do took part therein.

(3) Any question proposed for decision at any meeting of any Commission established by this Constitution shall be determined by a majority of the votes of the members thereof present and voting, and if on any such question the votes are equally divided the member presiding shall have and exercise a casting vote.

136. Protection of Commissions, etc. from legal proceedings

The question whether-

(a) any Commission established by this Constitution has validly performed any function vested in it by or under this Constitution;

(b) any member of such a Commission or any other person or authority has validly performed any function delegated to such member, person or authority in pursuance of the provisions of section 113 or, as the case may be, of section 127 or of section 131 of this Constitution; or

(c) any member of such a Commission or any other person or authority has validly performed any other function in relation to the work of the Commission or in relation to any such function as is referred to in paragraph (b) of this section, shall not be enquired into in any court.

137. Resignations

(1) Any person who is appointed, elected or otherwise selected to any office established by this Constitution (including the office of Prime Minister or other Minister or Parliamentary Secretary) may resign from that office by writing under his hand addressed to the person or authority by whom he was appointed, elected or selected:

Provided that in the case of-

(a) a person who holds office as President or Deputy President of the Senate his resignation from that office shall be addressed to the Senate;

(b) a person who holds office as Speaker or Deputy Speaker his resignation from that office shall be addressed to the House of Representatives;

(c) a member of the House of Representatives his resignation from the House shall be addressed to the Speaker.

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

(3) A resignation that is required to be addressed to the President or Speaker shall, if the office of President or Speaker (as the case may be) is vacant, or the President or Speaker is absent from Jamaica, be received by the Deputy President or Deputy Speaker on behalf of the President or Speaker.

138. Re-appointments, etc.

(1) Where any person has vacated any office established by this Constitution (including the office of Prime Minister or other Minister or Parliamentary Secretary) he may, if qualified, again be appointed, elected or otherwise selected to hold that office in accordance with the provisions of this Constitution.

(2) Without prejudice to the provisions of subsection (3) of this section, when the holder of any office constituted by or under this Constitution is on leave of absence pending relinquishment of that office, the person or authority having power to make appointments to that office may appoint another person thereto.

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

Santa Lúcia

THE CONSTITUTION OF SAINT LUCIA (1978)

WHEREAS the People of Saint Lucia-

a) affirm their faith in the supremacy of the Almighty God;

b) believe that all persons have been endowed equally by God with inalienable rights and dignity;

c) recognize that the enjoyment of these rights depends upon certain fundamental freedoms namely, freedom of the person, of thought, of expression, of communication, of conscience and of association;

d) maintain that these freedoms can only be safeguarded by the rule of law;

e) realize that human dignity requires respect for spiritual values; for private family life and property; and the enjoyment of an adequate standard of economic and social well-being dependent upon the resources of the State;

f) respect the principles of social justice and therefore believe that the operation of the economic system should result in the material resources of the community

being so distributed as to subserve the common good, that there should be adequate means of livelihood for all, that labour should not be exploited or forced by economic necessity to operate in inhumane conditions but that there should be opportunity for advancement on the basis of recognition of merit, ability and integrity;

g) express their commitment to democracy, in particular the principle of a government freely elected on the basis of universal adult suffrage.

h) consider that individually, each person has duties towards every other and to the community and is under obligation to observe and promote the rights, freedoms and values recognized in this Constitution;

i) pledge their support for international peace and security, for friendly relations among nations and the promotion of universal respect for human rights and freedoms; and their co-operation in solving by peaceful means international problems of an economic, social or political character;

j) desire that this Constitution shall reflect and make provisions for ensuring and protecting these rights, freedoms and values.

NOW, THEREFORE, the following provisions shall have effect as the Constitution of Saint Lucia:

CHAPTER I
PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS

1. Fundamental rights and freedoms

Whereas every person in Saint Lucia is entitled to the fundamental rights and freedoms, that is to say, the right, whatever his race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely-

a) life, liberty, security of the person, equality before the law and the protection of the law;

b) freedoms of conscience, of expression and of assembly and association; and

c) protection for his family life, his personal privacy, the privacy of his home and other property and from deprivation of property without compensation, the provisions of this Chapter shall have effect of the purpose of affording protection to those rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any person does not prejudice the rights and freedoms of others or the public interest.

2. Protection of right to life

(1) A person shall not be deprived of his life intentionally save in execution of the sentence of a court in respect of a criminal offence under any law or which he has been convicted.

(2) A person shall not be regarded as having been deprived of his life in contravention of this section if he dies as the result of the use to such extent and on such circumstances as are permitted by law, of such force as is reasonably justifiable-

a) for the defence of any person from violence or for the defence of a property;

b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;

c) for the purpose or suppressing a riot, insurrection or mutiny; or

d) in order to prevent the commission by that person of a criminal offence.

or if he dies as the result of lawful act of war.

3. Protection of right to personal liberty

(1) A person shall not be deprived of his personal liberty save as may be authorized by law in any of the following cases, that is to say:-

a) in consequence of his unfitness to plead to a criminal charge of in execution of the sentence or order of a court, whether established for Saint Lucia or some other country, in respect of a criminal offence of which he has been convicted;

b) in execution of the order of the High Court or the Court of Appeal punishing him for contempt of the High Court or the Court of Appeal or of another court or tribunal;

c) in execution of the order of a court made to secure the fulfilment of any obligation imposed on him by law;

d) for the purpose of bringing him before a court in execution of the order of a court;

e) upon a reasonable suspicion of his having committed, or being about to commit, a criminal offence under any law;

f) under the order of a court or with the consent of his parent or guardian, for his education or welfare during any period ending not later than the date when he attains the age or eighteen years;

g) for the purpose of preventing the spread of an infectious or contagious disease;

h) in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his case or treatment of the protection of the community;

i) for the purpose of preventing his unlawful entry into Saint Lucia, or for the purpose of effecting his expulsion, extradition or other lawful removal from Saint Lucia or for the purpose of restraining him while he is being conveyed through Saint Lucia in the course of his extradition or removal as a convicted prisoner from one country to another; or

j) to such extent as may be necessary in the execution of a lawful order requiring him to remain within a specified area within Saint Lucia, or prohibiting

him form being within such an area, or to such extent as may be reasonably justifiable for the taking of proceedings against him with a view to the making of any such order or relating to such an order after it has been made or to such extent as may be reasonably justifiable for restraining him during any visit that he is permitted to make to any part of Saint Lucia in which, in consequence of any such order, his presence would otherwise be unlawful.

(2) Any person who is arrested or detained shall with reasonable promptitude and in any case no later than twenty-four hours after such arrest or detention be informed in a language that he understands of the reasons for his arrest or detention and be afforded reasonable facilities for private communication and consultation with a legal practitioner of his own choice and, in the case of a minor, with his parents or guardian.

(3) Any person who is arrested or detained-

a) for the purpose of bringing him before a court in execution of the order of a court; or

b) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under any law and who is not released, shall be brought before a court without undue delay and in any case not later than seventy-two hours after such arrest or detention.

(4) Where any person is brought before a court in execution of the order of a court in any proceedings or upon suspicion of his having committed or being about to commit an offence, he shall not be thereafter further held in custody in connection with those proceedings or that offence save upon the order of a court.

(5) If any person arrested or detained as mentioned in subsection (3)(b) of this section is not tried within a reasonable time, then without prejudice to any further proceedings that may be brought against him , he shall be released either unconditionally or upon reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial, and such conditions may include bail so long as it is not excessive.

(6) Any person who is unlawfully arrested or detained by any other person shall be entitled to compensation therefor from any other person or authority on whose behalf that other person was acting;

Provided that a judge, a magistrate or a justice of the peace or an officer of a court or a police officer shall not be under any personal liability to pay compensation under this subsection in consequence of any act performed by him in good faith in the discharge of the functions of his office and any liability to pay any such compensation in consequence of any such act shall be a liability of the Crown.

(7) For the purposes of subsection (1) a of this section a person charged before a court with a criminal offence in respect of whom a special verdict has been returned that he was guilty of the act or omission charged but was insane when he did the act or made the omission shall be regarded as a person who has been convicted of a criminal offence and the detention of a person in consequence of such a verdict shall be regarded as detention in execution of the order of a court.

4. Protection from slavery and forced labour

(1) No person shall be held in slavery or servitude.

(2) No person shall be required to perform forced labour.

(3) For the purposes of this section, the expression "forced labour" does not include-

a) any labour required in consequence of the sentence or order of a court;

b) labour required of any person while he is lawfully detained that, though not required in consequence of the sentence or order of a court, is reasonably necessary in the interests of hygiene or for the maintenance of the place at which he is detained;

c) any labour required of a member of a disciplined force in pursuance of his duties as such or, in the case of a person who has conscientious objection to

service as a member of a naval, military or air force, any labour that person is required by law to perform in place of such service;

d) any labour required during any period of public emergency or in the event of any accident or natural calamity that threatens the life and well-being of the community, t tee extent that the requiring of such labour is reasonably justifiable in the circumstances of any situation arising or existing during that period or as a result of that accident or natural calamity, for the purpose of dealing with that situation.

5. Protection from inhuman treatment

No person shall be subjected to torture or to inhuman or degrading punishment or other treatment.

6. Protection from deprivation of property

(1) No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except for a public purpose and except where provision is made by a law applicable to that taking of possession or acquisition for the prompt payment of full compensation.

(2) Every person having an interest in or right over property that is compulsorily taken possession of or whose interest in or right over any property is compulsorily acquired shall have a right of direct access to the High Court for-

a) determining the nature and extent of that interest or right;

b) determining whether that taking of possession or acquisition was duly carried out in accordance with a law authorizing the taking of possession or acquisition;

c) determining what compensation he is entitled to under the law applicable to that taking of possession or acquisition;

d) obtaining that compensation:

Provided that if Parliament so provides in relation to any matter referred to in paragraph (a) or (c) of this subsection the right of access shall be by way of appeal (exercisable as of right at the instance of the person having the interest in or right over the property) form a tribunal or authority, other than the High Court having jurisdiction under any law to determine that matter.

(3) The Chief Justice may make rules with respect to the practice and procedure of the High Court or, subject to such provision as may have been made in that behalf by Parliament, with respect to the practice and procedure of any other tribunal or authority in relation to the jurisdiction conferred on the High Court by subsection (2) of this section or exercisable by the other tribunal or authority for the purposes of that subsection (including rules with respect to the time within which applications or appeals to the High Court or applications to the other tribunal or authority may be brought).

(4) No person who is entitled to compensation under this section shall be prevented from remitting, within a reasonable time after he has received any amount of that compensation in the form of a sum of money or, as the case may be, has received any such amount in some other form and has converted any of that amount into a sum of money, the whole of that sum of money (free from any deduction, charge or tax made or levied in respect of its remission) to any country of his choice outside Saint Lucia.

(5) Nothing contained in or done under that authority of any law shall be held to be inconsistent with or in contravention of subsection (4) of this section to the extent that the law in question authorizes-

a) The attachment, by order of any amount of compensation to which a person is entitled in satisfaction of the judgment of a court or pending the determination of civil proceedings to which he is a party;

b) The imposition of reasonable restrictions on the manner in which any sum of money is to be remitted; or

c) the imposition of reasonable restrictions upon the remission of any sum of money in order to prevent or regulate the transfer to a country outside Saint

Lucia of capital raised in Saint Lucia or in some other country or derived from the natural resources of Saint Lucia.

(6) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (1) of this section-

a) to the extent that the law in question makes provision for the taking of possession or acquisition of any property, interest or right-

i) in satisfaction of any tax, rate or due;

ii) by way of penalty for breach of any law or forfeiture in consequence of breach of any law;

iii) as an incident of a lease, tenancy, mortgage, hypothec, charge, bill of sale, pledge or contract;

iv) in the execution of judgements or orders of a court in proceedings for the determination of civil rights or obligations;

v) in circumstances where it is reasonably necessary so to do because the property is in a dangerous state, or likely to be injurious to the health of human beings, animals or plants;

vi) in consequence of any law with respect to the limitation of actions; or

vii) for so long only as may be necessary for the purposes of any examination, investigation, trial or inquiry or, in the case of land, for the purposes of the carrying out thereon of work of soil conservation or the conservation of other natural resources or work relating to agricultural development o improvement (being work relating to such development o r improvement that the owner or occupier of the land has been required, and has without reasonable excuse refused or failed,to carry out).

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society; or

b) to the extent that the law in question makes provision for the taking of possession or acquisition of any of the following property (including an interest in or right over property), that is to say-

i) enemy property;

ii) property of a deceased person, a person of unsound mind or a person who has not attained the age of eighteen years, for the purpose of its administration for the benefit of the persons entitled to the beneficial interest therein;

iii) property of a person adjudged bankrupt or a body corporate in liquidation, for the purpose of its administration for the benefit of the creditors of the bankrupt or body corporate and, subject thereto, for the benefit of other persons entitled to the beneficial interest in the property; or

iv) property subject to a trust, for the purpose of vesting the property in persons appointed as trustees under the instrument creating the trust or by a court or, by order of a court, for the purpose of giving effect to the trust.

(7) Nothing contained in or done under the authority of any law enacted by Parliament shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision for the compulsory taking of possession of any property, or the compulsory acquisition of any interest in or right over property, where that property, interest or right is held by a body corporate established by law for public purposes in which no monies have been invested other than monies provided by Parliament.

(8) In this section-

"property" means any land or other thing capable of being owned or held in possession and includes any right relating thereto. Whether under a contract, trust or law or otherwise and whether present or future, absolute or conditional;

"acquisition", in relation to an interest in or right over property, means transferring that interest or right to another person or extinguishing or curtailing that interest or right.

7. Protection from arbitrary search or entry

(1) Except with his own consent, a person shall not be subjected to the search of his person or his property or the entry by others on his premises.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision-

a) that is reasonably required in the interests of defence, public safety, public order, public morality, public health, town and country planning, the development an d utilization of mineral resources or the development or utilization of any property for a purpose beneficial to the community;

b) that is reasonably required for the purpose of protecting the rights or freedoms of other persons;

c) that authorizes an officer or agent of the Government, a local government authority or a body corporate established by law for public purposes to enter on the premises of any person in order to inspect those premises or anything thereon for the purpose of any tax, rate or due or in order to carry out work connected with any property that is lawfully on those premises and that belongs to the Government or to that authority or body corporate, as the case may be; or

d) that authorizes, for the purpose of enforcing the judgment or order of a court in any civil proceedings, the search of any person or property by order of a court or entry upon any premises by such order, and except so far as that provision or, as the case may be, anything done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

8. Provision to secure protection of the law

(1) If any person is charged with a criminal offence, then, unless the charge is withdrawn, the case shall be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.

(2) Every person who is charged with a criminal offence-

a) shall be presumed to be innocent until he is proved or has pleaded guilty;

b) shall be informed as soon as reasonably practicable, in a language that he understands and detail, of the nature of the offence charged;

c) shall be given adequate time and facilities for the preparation of his defence;

d) shall be permitted to defend himself before the court in person or, at his own expense, by a legal practitioner of his own choice;

e) shall be afforded facilities to examine in person or by his legal representative the witnesses called by the prosecution before the court, and to obtain the attendance and carry out the examination of witnesses to testify on his behalf before the court on the same conditions as those applying to witnesses called by the prosecution; and

f) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial,

and except with his own consent the trial shall not take place in his absence unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable and the court has ordered him to be removed and the trial to proceed in his absence:

Provided that the trial may take place in his absence in any case in which it is so provided by a law under which he is entitled to adequate notice of the charge and the date, time and place of the trail and to a reasonable opportunity of appearing before the court.

(3) When a person is tried for any criminal offence, the accused person or any person authorized by him in that behalf shall, if he so requires and subject to payment of such reasonable fee as may be prescribed by law, be given within a reasonable time after judgment a copy for the use of the accused person of any record of the proceedings made by or on behalf of the court.

(4) A person shall not be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence that is severer in degree or description than the maximum penalty that might have been imposed for that offence at the time when it was committed.

(5) A person who shows that he has been tried by a competent court for a criminal offence and either convicted or acquitted shall not again be tried for that offence or for any other criminal offence of which he could have been convicted at the trial for that offence, save upon the order of a superior court in the course of appeal or review proceeding relating to the conviction or acquittal.

(6) A person shall not be tried for a criminal offence if he shows that he has been pardoned for that offence.

(7) A person who is tried for a criminal offence shall not be compelled to give evidence at the trial.

(8) Any court or other authority prescribed by law for the determination of the existence or extent of any civil right or obligation shall be established by law and shall be independent and impartial; and where proceedings for such a determination are instituted by any person before such a court or other authority, the case shall be given a fair hearing within a reasonable time.

(9) Where the existence or extent of any civil right or obligation has been determined in proceedings in any court or before any other authority any party to those proceedings shall, if he so requires and subject to payment of such reasonable fee as may be prescribed by law, be entitled to obtain within a reasonable time after the judgment or other determination a copy of any record of the proceedings made by or on behalf of the court or other authority.

(10) Except with the agreement of all the parties thereto, all proceedings of every court and proceedings for the determination of the existence or extent of any civil right or obligation before any other authority, including the announcement of the decision of the court or other authority, shall be held in public.

(11) Nothing in subsection (10) of this section shall prevent the court or other adjudicating authority from excluding from the proceedings persons other than the parties thereto and the legal practitioners representing them to such extent as the court or other authority-

a) may by law be empowered to do and may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice or in interlocutory proceedings or in the interests of public morality, the welfare of persons under the age of eighteen years or the protection of the private lives of persons concerned in the proceedings; or

b) may by law be empowered or required to do in the interests of defence, public safety or public order.

(12) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of-

a) subsection (2) (a) of this section to the extent that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts;

b) subsection (2) (e) of this section to the extent that the law in question imposes reasonable conditions that must be satisfied if witnesses called to testify on behalf of an accused person are to be paid their expenses out of public funds; or

c) subsection (5) of this section to the extent that the law in question authorizes a court to try a member of a disciplined force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of that force, so, however, that any court so trying such a member and convicting him shall in sentencing him to any punishment, take into account any punishment awarded him under that disciplinary law.

(13) In the case of any person who is held in lawful detention the provisions of subsection (1), paragraphs (d) and (e) of subsection (2) and subsection (3) of this section shall not apply in relation to his trial for a criminal offence under the law regulating the discipline of persons held in such detention.

(14) In this section "criminal offence" means a criminal offence under a law.

9. Protection of freedom of conscience

(1) Except with his own consent, a person shall not be hindered in the enjoyment of his freedom of conscience, including freedom of thought and of religion, freedom to change his religion or belief and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.

(2) Except with his own consent (or, if he is a person under the age of eighteen years, the consent of his guardian) a person attending any place of education, detained in any prison or corrective institution or serving in a naval, military or air force shall not be required to receive religious instruction or to take part in or attend any religious ceremony or observance if that instruction ceremony or observance relates to a religion which is not his own.

(3) Every religious community shall be entitled, at its own expense, to establish and maintain places of education and to manage any place of education which it maintains; and no such community shall be prevented from providing religious instruction for persons of that community in the course of any education provided by that community whether or not it is in receipt of a government subsidy or other form of financial assistance designed to meet in whole or in part the cost of such course of education.

(4) A person shall not be compelled to take any oath which is contrary to his religion or belief or to take any oath in a manner which is contrary to his religion or belief.

(5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision which is reasonably required-

a) in the interests of defence, public safety, public order, public morality or public health;

b) for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practice any religion without the unsolicited intervention of members of any other religion; or

c) for the purpose of regulating educational institutions in the interests of the persons who receive or may receive instruction in them,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(6) References in this section to a religion shall be construed as including references to a religious denomination, and cognate expressions shall be construed accordingly.

10. Protection of freedom of expression

(1) Except with his own consent, a person shall not be hindered in the enjoyment of his freedom of expression, including freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference (whether the communication be tot he public generally or to any person or class of persons) and freedom from interference with his correspondence.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provisions-

a) that is reasonably required in the interest of defence, public safety, public order, public morality or public health;

b) that is reasonably required for the purpose of protecting the reputation, rights and freedoms of to the persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts or regulating the technical administration or the technical operation of telephony, telegraphy, posts wireless broadcasting or television; or

c) that imposes restrictions upon public officers that are reasonably required for the proper performance of their functions,

and except so far as that provisions or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

11. Protection of freedom of assembly and association

(1) Except with his own consent, a person shall not be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to trade unions or other associations for the protection of his interests or to form or belong to political parties or other political associations.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision-

a) that is reasonable required in the interests of defence, public safety, public order, public morality or public health;

b) that is reasonable required for the purpose of protecting the rights of freedoms of other persons; or

c) that imposes restrictions upon public officers that are reasonably required for the proper performance of their functions,

and except so far as that provision or, as the case maybe, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

12. Protection of freedom of movement

(1) A person shall not be deprived of his freedom of movement that is to say, the right to move freely throughout Saint Lucia, the right to reside in any part

of Saint Lucia the right to enter Saint Lucia, the right to leave Saint Lucia and immunity form expulsion form Saint Lucia.

(2) Any restriction on a person's freedom of movement that is involved in this lawful detention shall not be held to be inconsistent with or in contravention of this section.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision-

a) for the imposition of restrictions on the movement or residence within Saint Lucia of any person or non any person's right to leave Saint Lucia that are reasonably required in the interest of defence, public safety or public order;

b) for the imposition of restrictions, by order of a court, on the movement or residence within Saint Lucia or on the right to leave Saint Lucia of persons generally or any class of persons in the interests of defence, public safety, public order, public morality or public health or, in respect of the right to leave Saint Lucia, of securing compliance with any international obligation of the Government particulars of which have been laid before the Senate and the House and except so far as tat provision or , as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society;

c) for the imposition of restrictions, by order of a court, on the movement or residence within Saint Lucia of any person or on any person's right to leave Saint Lucia either in consequence of his having been found guilty of a criminal offence under a law or for the purpose of ensuring that he appears before a court at a later date for trial of such a criminal offence or of proceeding preliminary to trial or for proceedings relating to his extradition or lawful removal from Saint Lucia;

d) for the imposition of restriction on the freedom of movement of any person who is not a citizen;

e) for the imposition of restriction on the acquisition on the acquisition or use by any person of land or other property in Saint Lucia;

f) for the imposition of restrictions upon the movement of resident within Saint Lucia or on the right to leave Saint Lucia of any public officer that are reasonably required for the proper performance of his functions;

g) for the removal of a person from Saint Lucia to be tried or punished in some other country for a criminal offence under the law of that other country of to undergo imprisonment in some other country in execution of the sentence of a court in respect of a criminal offence under a law of which he has been convicted; or

h) for the imposition of restrictions on the right of any person to leave Saint Lucia that are reasonably required in order to secure the fulfilment of any obligations imposed on that person by law. And except so far as that provision or as case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(4) if any person whose freedom of movement has been restricted by virtue of such a provision as is referred to in subsection (3)(a) of this section so request at any time during the period of that restriction not earlier than twenty-one days after the order was made or three months after he last made such a request, as the case may be, his case shall be review by an independent and impartial tribunal presided over by a person appointed by the Chief Justice from among persons who are legal practitioners.

(5) On any review by a tribunal in pursuance of subsection (49 of this section of the case of any person whose freedom of movement has been restricted, the tribunal may make recommendations concerning the necessity or expediency of the continuation of that restriction to the authority by whom it was ordered and, unless it is otherwise provided by law, that authority shall be obliged to act in accordance with any such recommendations.

13. Protection from discrimination on grounds of race, etc

(1) Subject to the provisions of subsection (4), (59 and 87) of this section, no law shall make any provisions that is discriminatory either of itself or in its effect.

(2) Subject to the provisions of subsection 86), (7) and (8) of this section, no person shall be treated in a discriminatory manner by any person or authority.

(3) In this section, the expression "discriminatory" means affording different treatment to different person attributable wholly or mainly to their respective descriptions by sec, race place of origin, political opinions, colour or creed whereby persons of one such descriptions are subject to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are nor accorded to persons of another such descriptions.

(4) Subsection 81) of this section shall not apply to any law so far as that law makes provision-

a) for the appropriation of public revenues or other public funds;

b) with respect to persons who are not citizens;

c) for the application, in the case of persons of any such description as is mentioned in subsection (3) of this section (or of persons connected with such persons), of the law with respect to adoption, marriage, divorce, burial, devolution of property on death or other like matters which is the personal law of persons of that description;

d) whereby persons of any such description as is mentioned in subsection (3) of this section may be subject to any disability or restriction or may be accorded any privileges or advantage that, having regard to its nature and to special circumstance pertaining t those persons or to person of any other such description, is reasonably justifiable in a democratic society.

(5) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) of this section the extent that it makes provisions with respect to standards or qualifications (not being standard or qualification specifically relating to sex, race, place of origin, political opinions, colour or creed) to be required of any person who is appointed to or to act in any office or employment.

(6) Subsection (2) of this section shall not apply to anything which is expressly or by necessary implication authorized to be done by any such provision of law as is referred to in subsection (4) or subsection (5) of this section.

(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section the extent that the law in question makes provision whereby persons of any such description as is mentioned in subsection (3) of this section may be subject to any restriction as is mentioned in subsection 83) of this section may be subjected to any restriction on the rights and freedom guaranteed by sections 7, 9, 10, 11 and 12 of this Constitution, being such a restriction as is authorized by section 7(2), section 9(5)0, section 10(2), section 1182) or paragraph (a), (b) or (h) of section 12(3), as the case may be.

(8) Nothing contained in subsection (2) of this section shall affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under this Constitution or any other law.

14. Emergency powers

(1) Without prejudice to the powers of Parliament, but subject to the provisions of this section, where any period of public emergency exists the Governor-general may, due regard being had to the circumstances of any situation likely to arise or exist during such period, make regulations for the purpose of dealing with that situation and issue orders and instruction for the purpose of the exercise of any powers conferred on him or any other person by any law referred to in subsection(3) of this section or instrument made under this section or any such law.

(2) Without prejudice to the generally of subsection (1) of this section regulations made under that subsection may make provision for the detention of persons.

(3) A law enacted by Parliament that is passed during a period of public emergency and is expressly declared to have effect only during that period or any regulation made under subsection (1) of this section shall have effect eve though inconsistent with section 3 or 13 of this Constitution except in so far as its provisions may be shown not to be reasonably justifiable for the purpose of dealing with the situation that exists during that period.

15. Protection of persons detained under emergency laws

(1) When a person is detained by virtue of any such law as is referred to in section 14 of this Constitution the following provisions shall apply, that is to say:-

a) he shall, with reasonable promptitude and in any case not more than seven days after the commencement of his detention, be informed in a language that he understands and in detail of the grounds upon which he is detained and furnished with a written statement in English specifying those grounds in detail;

b) not more than fourteen days after the commencement of his detention, a notification shall be published in the Official Gazette sating that he has been detained and giving particulars of the provisions of law under which his detention is authorized;

c) not more than one month after the commencement of his detention and thereafter during his detention at intervals of not more than three months, his case shall be reviewed by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice from among persons who are legal practitioners;

d) he shall be afforded reasonable facilities for private communication and consultation with a legal practitioner of his own choice who shall be permitted to make representations to the tribunal appointed for the review of the case of the detained person; and

e) at the hearing of his case by the tribunal appointed for the review of his case he shall be permitted to appear in person or to be represented by a legal practitioner of his own choice.

(2) On any review by a tribunal in pursuance of this section of the case of a detained person, the tribunal may make recommendations concerning the necessity or expediency of continuing his section to the authority by which it was ordered by, unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with any such recommendations.

(3) Nothing contained in subsection (1)(d) or subsection (1)(e) of this section shall be construed as entitling a person to legal representation at public expense.

16. Enforcement of protective provisions

(1) If any person alleges that any of the provision of sections 2 to 15 inclusive of this Constitution has been, is being or is likely to be contravened in relation to him (or, in the case of a person who is detained, if any other person alleges such a contravention in relation to the detained person), then, without prejudice to any other action with respect to the same matter which is lawfully available, that person (or that other person) may apply to the High Court for redress.

(2) The High Court shall have original jurisdiction-

a) to hear and determine any application made by any person in pursuance of subsection (1) of this section; and

b) to determine any question arising in the case of any person which is referred to it in pursuance of subsection (3) of this section.

and may make such declarations and orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of any of the provisions of sections 2 to 15 (inclusive) of this Constitution:

Provided that the High Court may decline to exercise its powers under this subsection if it is satisfied that adequate means of redress for the contravention

alleged are or have been available to the person concerned under any other law.

(3) If in any proceedings in any court (other than the Court of Appeal of the High Court or a court-martial) any question arises as to the contravention of any of the provisions of sections 2 to 15 (inclusive) of this Constitution, the person presiding in that court may, and shall if any party to the proceedings so requests, refer the question to the High Court unless, in his opinion, the raising of the questions merely frivolous or vexatious.

(4) Where any question is referred to the High Court in pursuance of subsection (3) of this section, the High Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision, or , if that decision is the subject of an appeal to the Court of Appeal or to Her Majesty in Council, in accordance with the decision of the Court of Appeal or, as the case may be, of Her Majesty in Council.

(5) The High Court shall have such powers in addition to those conferred by this section as may be conferred upon it by Parliament for t purpose of enabling it more effectively to exercise the jurisdiction conferred upon it by this section.

(6) The Chief Justice may make rules with respect to the practice and procedure of the High Court in relation to the jurisdiction and powers conferred on it by or under this section (including rules with respect to the time within which applications may be brought and references shall be made to the High Court).

17. Declaration of emergency

(1) The Governor-General may, by proclamation which shall be published in the Official Gazette, declare that a state of emergency exists for the purposes of this Chapter.

(2) A proclamation under this section shall not be effective unless it contains a declaration that the Governor-General is satisfied-

a) that a public emergency has arisen as a result of the imminence of a state of war between Saint Lucia and a foreign state;

b) that a public emergency has arises as a result of the occurrence of any earthquake, , hurricane, flood, fire, outbreak of pestilence or of infectious disease, or other calamity whether similar to the foregoing or not; or

c) that action has been taken, or is immediately threatened, by any person, of such a nature and on so extensive a scale, as to be likely to endanger the public safety or to deprive the community or any substantial portion of the community of supplies or services essential to life.

(3) Every declaration of emergency shall lapse-

a) in the case of a declaration made when Parliament is sitting, at the expiration of a period of seven days beginning with the date of publication of the declaration; and

b) in any other case, at the expiration of a period of twenty-one days beginning with the date of publication of the declaration.

unless it has in the meantime been approved by resolutions of the Senate and the House.

(4) A declaration of emergency may at any time be revoked by the Governor-General by proclamation which shall be published in the Official Gazette.

(5) A declaration of emergency that has been approved by resolutions of the Senate and the House in pursuance of subsection (3) of his section shall remain in force so long as both those resolutions remain in force and no longer.

(6) A resolution of the Senate or the House passed for the purposes of this section shall remain in force for twelve months or such shorter period as may be specified therein:

Provided that any such resolution may be extended from time to time by a further such resolution, each extension not exceeding twelve months from the date of the resolution effecting the extension; and any such resolution may be revoked at any time by a further resolution.

(7) A resolution of the House for the purposes of subsection (3) of this section and a resolution of the House extending any such resolution shall not be passed in the House unless it is supported by the votes of majority of all the members of the House.

(8) Any provision of this section that a declaration of emergency shall lapse or cease to be in force at any particular time is without prejudice to the making of a further such declaration whether before or after that time.

18. Interpretation and savings

(1) In this Chapter, unless the context otherwise requires-

"contravention" in relation to any requirement, includes a failure to comply with that requirement, and cognate expressions shall be construed accordingly;

"court" means any court of law having jurisdiction in Saint Lucia other than a court established by a disciplinary law, and includes Her Majesty in Council and in section 2 and 4 of this Constitution a court established by a disciplinary law;

"disciplinary law" means a law regulating the discipline of any disciplined force;

"disciplined force" means-

a) a naval, military or air force;

b) the Police Force;

c) a prison service; or

d) any such other force or service as may be prescribed by Parliament.

"legal practitioner" means a person entitled to be in or to enter Saint Lucia and entitled to practice as a barrister in Saint Lucia or except in relation to proceedings before a court in which a solicitor has nor right of audience, entitled to practice as a solicitor in Saint Lucia;

"member", in relation to a disciplined force, includes any person who, under the law regulating the discipline of that force, is subject to that disciplined.

(2) In this Chapter "period of public emergency" means any period during which-

a) Her Majesty is at war, or

b) there is in force a proclamation by the Governor-General declaring that a state of public emergency exists; or

c) there is in force a resolution of the House supported by the votes of not less than two-thirds of all the members of the House declaring that democratic institutions in Saint Lucia are threatened by subversion.

(3) In relation to any person who is a member of a disciplined force of Saint Lucia, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter other than sections 2, 4 and 5 of this Constitution.

(4) In relation to any person who is a member of a disciplined force of a country other than Saint Lucia that is lawfully present in Saint Lucia, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter.

CHAPTER II
THE GOVERNOR-GENERAL

19. Establishment of office

There shall be a Governor-General of Saint Lucia who shall be a citizen appointed by Her Majesty and shall hold office during Her Majesty's pleasure and who shall be Her Majesty's representative in Saint Lucia.

20. Acting Governor-General

(1) During any period when the office of Governor-General is vacant of the holder of the office of Governor-General is absent from Saint Lucia or is for any other reason unable to perform the functions of his office those functions shall be performed by such person as Her Majesty may appoint.

(2) Any such person as aforesaid shall not continue to perform the function of the office of Governor-General if the holder of the office of Governor-General or some other person having a prior right to perform the functions of that office has notified him that he is about to assume or resume those functions.

(3) The holder of the office of Governor-General shall not, for the purposes of this section, be regarded as absent from Saint Lucia or as unable to perform the function of his office-

a) by reason that he is in passage from one part of Saint Lucia to another; or

b) at any time when there is a subsisting appointment of a deputy under section 22 of this Constitution.

21. Oaths

A persons appointed to hold the office of Governor-General shall, before entering upon the duties of that office, take and subscribe the oath of allegiance and the oath of office.

22. Deputy to Governor-General

(1) Whenever the Governor-General-

a) has occasion to be absent from the seat of government by not from Saint Lucia;

b) has occasion to be absent from Saint Lucia for a period which he considers, acting in his own deliberate judgment, will be of short duration; or

c) is suffering from an illness which he considers, acting in his own deliberate judgment, will be of short duration, he may, acting in accordance with the advice of the Prime Minister, appoint any person in Saint Lucia to be his deputy during such absence or illness and in that capacity to perform on his behalf such of the function of the office of Governor-General a s may be specified in the instrument by which he is appointed.

(2) The power and authority of the Governor-General shall not be abridged, altered or in any way affected by the appointment of a deputy under this section, and, subject to the provisions of this Constitution, a deputy shall conform to and observe all instructions that the Governor-General, acting in his own deliberate judgment, may from time to time address to him:

provided that the question whether or not a deputy has conformed to and observed any such instructions shall not be enquired into by any court of law.

(3) A person appointed as deputy under this section shall hold that appointment for such period as may be specified in the instrument by which he is appointed, and his appointment may be revoked at any time by the Governor-genera, acting in accordance with the advice of the Prime Minister.

CHAPTER III
PARLIAMENT

PART 1
COMPOSITION OF PARLIAMENT

23. Establishment

There shall be a Parliament of Saint Lucia which shall consist of Her Majesty, a Senate and a House of Assembly.

THE SENATE

24. Composition

(1) The Senate shall consist of eleven Senators and such other Senators as may be temporarily appointed under section 28 of this Constitution.

(2) Of the eleven Senators-

a) six shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister;

b) three shall be appointed by the Governor-General, acting in accordance with the advice of the Leader of the Opposition; and

c) two shall be appointed by the Governor-General, acting in his own deliberate judgment after he has consulted those religious, economic or social bodies or associations from which he considers that such Senators should be selected.

25. Qualifications

Subject to the provisions of section 26 of this Constitution, as person shall be qualified to be appointed as a Senator if, and shall not be so qualified unless, he-

a) is a Commonwealth citizen who has attained the age of thirty years;

b) has been ordinarily resident in Saint Lucia for a period of five years immediately before the date of his appointment; and

c) is able to speak and, unless incapacitated by blindness or other physical cause, to read the English language with sufficient proficiency to enable him to take an active part in the proceedings of the Senate.

26. Disqualifications

(1) No person shall be qualified to be appointed as a Senator if, at the date of his appointment, he.

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

b) is a minister of religion (except in the case of an appointment under section 24(2)(c) of is Constitution);

c) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of the Commonwealth;

d) is a person certified to be insane or otherwise adjudged to be of unsound mind under any such law;

e) is under sentence of death imposed on him by a court of law in any part of the Commonwealth or is serving a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court, or is under such a sentence of imprisonment the execution of which has been suspended; or

f) subject to such exceptions and limitations as may be prescribed by Parliament, has any such interests in any such government contract as may be prescribed.

(2) If it is so provided by Parliament, a person who is convicted by any court of any offence that is prescribed by Parliament and that is connected with the election of members of the House or who is reported guilty of such an offence by the court trying an election petition shall not be qualified, for such period (not exceeding five years) following his conviction or, as the case may be, following the report of the court as may be so prescribed, to be appointed as a Senator.

(3) No person shall be qualified to be appointed as a Senator who is a member or is nominated as a candidate or election to the House.

(4) If it is so provided by Parliament, and subject to such exceptions and limitations (if any) as Parliament may prescribed, a person shall not be qualified to be appointed as a Senator if, at the date of his appointment-

a) he holds or is acting in any office or appointment (whether specified individually or by reference to a class of office or appointment);

b) he belongs to any of the armed forces of the Crown or to any class of persons that is comprised in any such force; or

c) he belongs to any police force or to any class of person that is comprised in any such force.

(5) In subsection (1) of this section-

"contract" means any contract made with the Government or with a department of the Government or with an officer of the Government contracting as such;

"minister of religion" means any person in holy orders and any other person the functions of whose principal occupation include teaching or preaching in any congregation for religious worship.

(6) For the purposes or paragraph (e) of subsection (1) of this section-

a) two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds twelve months, but if any one of such sentences exceeds that term they shall be regarded as one sentence; and

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

27. Tenure of office

(1) A senator shall vacate his seat in the Senate at the next dissolution of Parliament after his appointment.

(2) A senator shall also vacate his seat in the Senate-

a) if he is absent from the sittings of the Senate for such period and in such circumstances as may be prescribed in the rules of procedure of the Senate;

b) if he ceases to be a Commonwealth citizen;

c) if, with his consent, he is nominated as a candidate for election to the House or if he is elected to be a member of the House;

d) subject to the provisions of subsection (3) of his section, if any other circumstances arise that, if he were not a Senator, would cause him to be disqualified to be appointed as such by virtue of subsection (1) of section 26 of his Constitution or by virtue of any law enacted in pursuance of subsection (2) or (4) of that section; or

e) if the Governor-General, acting in accordance with the advice of the Prime Minister in the case of a Senator appointed under paragraph (a) of subsection (2) of section 254 of this Constitution or in accordance with the advice of the Leader of the Opposition in the case of a Senator appointed under paragraph (b) of that subsection or in his own deliberate judgment after such consultation as is specified in paragraph (c) of that subsection in the case of a Senator appointed under that paragraph, declares the seat of that Senator to be vacant.

(3) a) If any circumstances such as are referred to in paragraph (d) of subsection (2) of this section arise because any Senator is under sentence of death or imprisonment, adjudged to he of unsound mind, declared bankrupt or convicted or reported guilty of an offence relation to elections and if it is open to the Senator to appeal against the decisions (either with the leave of a court or other authority or without such leave), he shall forthwith cease to perform his functions as a member of the Senate but, subject to the provisions of this section, he shall not vacate his seat until the expiration of a period of thirty days thereafter:

Provided that the President may, at the request of the Senator, from time to time, extend that period for further periods of thirty days to enable the Senator to pursue an appeal against the decision, so, however, that extensions of time exceeding in the aggregate one hundred and fifty days shall not be given without the approval, signified by resolution, of the Sound.

b) If on the determination of any appeal, such circumstances continue to exist and no further appeal is open to the Senator, or if, by reason of the expiration

of any period for entering an appeal or notice thereof of the refusal of leave to appeal or for any other reason, it cases to be open to the Senator to appeal, he shall forthwith vacate his seat.

c) If at any time before the Senator vacates his seat such circumstances as aforesaid cease to exist, his seat shall not become vacant on the expiration of the period referred to in paragraph (a) of this subsection and he may resume the performance of his functions as a member of the senate.

28. Inability

(1) If the Governor-General considers that a Senator is, by reason of his illness or absence from Saint Lucia, unable to perform his functions as a member of the Senate the Governor-General may-

a) in accordance with the advice of the Prime Minister in relation to a Senator appointed in pursuance of paragraph (a) of subsection (2) of section 24 of this Constitution;

b) in accordance with the advice of the Leader of the Opposition in relation to a Senator appointed in pursuance of paragraph (b) of that subsection : and

c) in his own deliberate judgment after such consultation as is specified in paragraph (c) of that subsection in relation to a Senator appointed in pursuance of that paragraph.

29. President and Deputy President

(1) When the Senate first meets after any dissolution of Parliament and before it proceeds to the despatch of any other business, it shall be elect a Senator, not being a Minister or a Parliamentary Secretary, to be President of the Sound; and whenever the office of President is vacant otherwise than by reason of a dissolution of Parliament, the Senate shall, not later than its second sitting after the vacancy has arisen, elect another Senator to fill that office.

(2) When the Senate first meets after any dissolution of Parliament, it shall, as soon as practicable, elect a Senator, not being a Minister or a Parliamentary

Secretary, to be Deputy President of the Senate; and whenever the office of Deputy President becomes vacant, the Senate shall, as soon as convenient, elect another Senator to fill that office.

(3) A person shall vacate the office of President or Deputy President-

a) if he ceases to be a Senator:

Provided that the President shall not vacate his office by reason only that he has ceased to be a Senator on a dissolution of Parliament until the Senate first meets after that dissolution;

b) if he is appointed to be a Minister or a Parliamentary Secretary; or

c) in the case of the Deputy President, if he is elected to be President.

(4) a) If, by virtue of section 27(3)(a) of this Constitution, the President or Deputy President is required to cease to perform his functions as a member of the Senate he shall also cease to perform his functions as President or Deputy President, as the case may be, and those functions shall, until he vacates his seat in the Senate or resumes the performance or the functions of his office, be performed-

i) in the case of the President, by the Deputy President or, if the office of Deputy President is vacant or the Deputy President is required to cease to perform his functions as a member of the Senate by virtue of section 27(3) of this Constitution, by such Senator (not being a Minister or a Parliamentary Secretary) as the Senate may elect for the purpose;

ii) In the case of the Deputy President, by such Senator (not being a Minister or Parliamentary Secretary) as the senate may elect for the purpose.

b) If the President or Deputy President resumes the performance of his functions as a members of the Senate, in accordance with the provisions of section 27(3)(c) of this Constitution, he shall also resume the performance of his functions as President or Deputy President, as the case may be.

THE HOUSE OF ASSEMBLY

30. Composition

(1) The House shall consist of such number of member of members as corresponds with the number of constituencies for the time being established in accordance with the provisions of section 58 of this Constitution, who shall be elected in accordance with the provisions of section 33 of this Constitution.

(2) If a person who is not a member of the House is elected to be Speaker he shall, by virtue of holding or acting in that office, be a member of the House.

(3) At any time when the office of Attorney-General is a public office, the Attorney-General shall by virtue of holding or acting in that office, be a member of the House.

31. Qualifications for election

Subject to the provisions of section 32 of this Constitution, a person shall be qualified to be elected as a member of the House if, and shall not be so qualified unless, he-

a) is a citizen of the age of twenty-one years or upwards,

b) was born in Saint Lucia and is domiciled and resident there at the date of his nomination or, having been born elsewhere, has resided there for a period of twelve months immediately before that date; and

c) is able to speak and, unless incapacitated by blindness or other physical cause, to read the English language with a degree of proficiency sufficient to enable him to take an active part in the proceedings of the House.

32. Disqualifications from election

(1) A person shall not be qualified to be elected as a member of the House (hereinafter in this section referred to as a member) if he-

a) if by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to a foreign power or state;

b) is a minister of religion;

c) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of the Commonwealth;

d) is a person certified to be insane or otherwise adjudged to be of unsound mind under any such law;

e) is under sentence of death imposed on him by a court of law in any part of the Commonwealth or is serving a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him by such a court or substituted y competent authority for some other sentence imposed on him by such a court, or is under such a sentence of imprisonment the execution of which has been suspended; or

f) subject to such exceptions and limitations as may be prescribed by Parliament, has an interest in any government contract.

(2) If it is so provided by Parliament, a person shall not be qualified to be elected as a member if he holds or is acting in any office that is specified by Parliament and the functions of which involve responsibility for, or in connection with, the conduct of any election of members or the compilation of any register of voters for the purpose of electing members.

(3) Id it is so provided by Parliament, a person who is convicted by any court of law of any offence that is prescribed by Parliament and that is connected with the election of member or who is reported guilty of such an offence by the court trying an election petition shall not be qualified, for such period (not exceeding seven years) following his conviction or, as the case may be, following the report of the court as may be so prescribed, to be elected as a member.

(4) A person shall not be qualified to be elected as a member if he is a Senator.

(5) If it is so provided by Parliament and subject to such exceptions and limitations (if any) as Parliament may prescribed, a person shall not be qualified to be elected as a member if-

a) he holds or is acting in any office or appointment (whether specified individually or by reference to a class of office or appointment);

b) he belongs to any of the armed forces of Saint Lucia or to any class of person that is comprised in any such force;

c) he belongs to any police-force or to any class of person that is comprised in any such force; or

d) he has, within such period (not exceeding three years) as parliament may prescribe, held or acted in any office or appointment the tenure of which would, by virtue of any provisions made under this subsection, disqualify him for election as a member, being an office or appointment the emoluments of which exceed such amount as Parliament may prescribe.

(6) In subsection (1) of this section-

"government contract" means any contract made with the Government or with a department of the Government or with an office or the Government contracting as such;

"minister of religion" means any person in holy orders an any other person the function of whose principal occupation include teaching or preaching in any congregation for religious worship.

(7) For the purposes of paragraph (e) of subsection (1) of this section-

a) two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds that term they shall be regarded as one sentence; and

b) no account shall be taken of a sentence of imprisonment imposed as an alternative to on in default of the payment of a fine.

33. Elections

(1) Each of the constituencies established in accordance with the provision of section 58 of this Constitution shall return one member to the House who shall be directly elected in such manner as may, subject to the provisions of this Constitution, be prescribed by or under any law.

(2) a) Every Commonwealth citizen of the prescribed age who possesses such qualifications relating to residence or domicile in Saint Lucia as Parliament may prescribe shall, unless he is disqualified by Parliament from registration as a voter for the purpose of electing members of the House, be entitled to be registered as such a voter in accordance with the provisions of any law in that behalf, and no other person may be so registered,

b) Every person who is registered as aforesaid in any constituency shall, unless he is disqualified by Parliament from voting in that constituency in any election of member so the House, be entitled so to vote, in accordance with the provisions of any law in that behalf, and no other person may so vote.

c) For the purpose of this subsection the prescribed age shall be the age of twenty-one years or such lower age, not being less than eighteen years, as Parliament may prescribe.

(3) In any election of members of the House the votes shall be given be ballot in such manner as not to disclose how any particular person votes.

34. Tenure of office

(1) A member of the House (hereinafter in this section referred to as a member) shall vacate his seat in the House at the next dissolution of Parliament after his election.

(2) A member shall also vacate his seat in the House-

a) if he is absent from the sitting of the House for such period and in such circumstances as may be prescribed in the rules of procedure of the House;

b) if he ceases to be a citizen; or

c) subject to the provisions of subsection (3) of this section, if any other circumstances arise that, if he were not a member, would cause him to be disqualified to be elected as such by virtue of subsection (81) of section 32 of this Constitution or of any law enacted in pursuance of subsection (2), (3) or (5) of that section.

(3) (a) If any circumstances such as are referred to in paragraph (c) of subsection (2) of this section arise because any member is under sentence of death or imprisonment, adjudged to be of unsound mind, declared bankrupt or convicted or reported guilty of an offence relating to elections and if it is open to the member to appeal against the decision (either with the leave of a court of law or other authority or without such leave), he shall forthwith cease to perform his functions as a member but, subject to the provisions of this section, he shall not vacate his seat until the expiration of a period of thirty days thereafter:

Provided that the Speaker may, at the request of the member, from time to time extent that period for further periods of thirty days to enable the member to pursue an appeal against the decision, so however, that extensions of time exceeding in the aggregate one hundred and fifty days shall not be given without the approval, signified by resolution, of the House.

b) If, on the determination of any appeal, such circumstances continue to exist and no further appeal is open to the member, or if, be reason of the expiration of any period for entering an appeal or notice thereof or the refusal of leave to appeal or for any other reason, it ceases to be open to the member to appeal, he shall forthwith vacate his seat.

c) If at any time before the member vacates his seat such circumstances aforesaid cease to exist, his seat shall not become vacant on the expiration of the period referred to in paragraph (a) of this subsection and he may resume the performance of his functions as a member.

(4) References i this section to a member do not include references to a Speaker who was elected from among persons who were not members of the House.

35. Speaker

(1) When the House first meets after any general election of members and before it proceeds to the despatch of any other business, it shall elect a person to be the Speaker; and if the office of Speaker falls vacant at any time before the next dissolution of Parliament, the House shall, as soon as practicable, elect another person to that office.

(2) The Speaker may be elected either form among the members of the House who are not members of the Cabinet or Parliamentary Secretaries of form among persons who are not members of the House:

Provided that a person who is not a member of the House shall not be elected as Speaker if-

a) he is not a Commonwealth citizen; or

b) he is a person disqualified to be elected as a member by virtue of subsection (1) or (4) of section 32 of this Constitution to be virtue or any law enacted in pursuance of subsection (2), (3) or (5) of that section.

(3) No business shall be transacted in the House (other than the election of a Speaker) at any time when the office of Speaker is vacant.

(4) A person shall vacate the office of Speaker-

a) in the case of a Speaker who was elected from among the members of the House-

i) if he ceases to be a member of the House

Provided that the Speaker shall not vacate his office by reason only that he ceased to be a member of the House on a dissolution of Parliament, until the House first meets after the dissolution; or

ii) if he becomes a member of the Cabinet or Parliamentary Secretary;

b) in the case of a Speaker who was elected form among persons who were not members of the House-

i) when the House first meets after any dissolution of Parliament;

ii) of he ceases to be a Commonwealth citizen;

iii) if any circumstances arise that would cause him to be disqualified to be elected as a member by virtue of subsection (1) or (4) of section 32 of this Constitution or by virtue of any law enacted in pursuance of subsection (2), (3) or (5) of that section.

(5) If, by virtue of section 34(3) of this Constitution, the Speaker (being an elected member of the House) is required to cease to perform his functions as a member of the House he shall also cease to perform his functions as Speaker; and if the Speaker resumes the performance of his functions as a member of the House, in accordance with the provisions of that section, he shall also resume the performance of his functions as Speaker.

(6) At any time when , by virtue of section 34(3) of this Constitution, the Speaker is unable to perform the functions of his office, those functions shall, until he vacates his seat in the House or resumes the performance of the function of his office, be performed by the Deputy Speaker or, if the office of Deputy Speaker is vacant or the Deputy Speaker is required to cease to perform his function as a member of the House by virtue of that subsection, by such member of the House (not being a member of the Cabinet or a Parliamentary Secretary) as the House may elect for the purpose.

36. Deputy Speaker

(1) When the House first meets after any general election of members and before it proceeds to the despatch of any other business except the election of the Speaker, the House shall elect a member of the House , who is not a member of the Cabinet or a Parliamentary Secretary, to be Deputy Speaker of the House and if the office of Deputy Speaker falls vacant at any time before the next dissolution of Parliament, the House shall, as soon as convenient, elect another member of the House to that office.

(2) A person shall vacate the office of Deputy Speaker-

a) if he ceases to be a member of the House;

b) if he becomes a member for the Cabinet or a Parliamentary Secretary; or

c) if he is elected to be Speaker.

(3) if by virtue of section 34(3) of this Constitution, the Deputy Speaker is required to cease to perform his functions as a member of the House he shall also cease to perform his function as Deputy Speaker and if the Deputy Speaker resumes the performance of his function as a member of the House, in accordance with the provisions of that section, he shall also resume the performance of his function as deputy Speaker.

(4) At nay time when by virtue of section 34(3) of this Constitution, the Deputy Speaker is unable to perform the functions of his office those function shall, until he vacates his seat in the House or resumes the performance of the function of his office, be performed by such member of the House (not being a member of the Cabinet or a Parliamentary Secretary) as the House may elect for the purpose.

37. Responsibility for elections

(1) The Electoral Commission shall be responsible for the registration of voters for the purpose of electing member of the House and for the conduct of elections of member of the House and shall have such powers and other functions relating to such registration and elections as may be prescribed by law.

(2) In the discharge of its functions the Electoral Commission shall be assisted by a Chief Elections officer, whose office shall be a public office, and the Commission may give such directions as it considers necessary or expedient to the Officer, who shall comply with such directions or cause them to be complied with.

(3) For the purposes of the exercise of his function under subsection (2) of this section , the Chief elections Officer may give such directions as he considers necessary or expedient to any registering officer, presiding officer or returning officer relating to the exercise by tat officer of his functions under any law regulating the registration of voters or the conduct of elections, and any officer to whom directions are given under this subsection shall comply with those directions.

(4) The Electoral Commission may make such reports to the Governor-General concerning the matters for which it is responsible under this section or any draft bill or instrument that is referred to it under section 52 of this Constitution, as it may think fit and if the Commission so requests in any such report other than a report on a draft bill or instrument that report shall be laid before the House.

(5) Without prejudice to the provisions of subsection (2) of this section, in the exercise of his functions under this section the Chief Elections Officer shall not be subject to the direction or control of any other person or authority.

(6) The question whether the Chief Election Officer has acted in accordance with the directions of the Electoral Commission shall not be enquired into in any court of law.

GENERAL PROVISIONS

38. Clerks of Senate and House of Assembly and their staff

(1) There shall be a Clerk of the Senate and a Clerk of the House:

Provided that the offices of Clerk of the Senate and Clerk of the House may be held by the same person.

(2) Subject to the provisions of any law enacted by Parliament the offices of Clerk of the Senate and Clerk of the House and the members of their staff shall be public offices.

39. Determination of questions of membership

(1) The High Court shall have jurisdiction to hear and determine any question whether-

a) any person has been validly elected as a member of the House;

b) any person shall been validly appointed as a Senator;

c) any person who has been elected as Speaker from among persons who were not members of the House was qualified to be so elected or has vacated the office of Speaker;

d) any Senator or any elected member of the House has vacate his seat or is required, under the provisions of section 27(3) or 34(3) of this Constitution, to cease to perform any of his functions as a member of the Senate or of the House.

(2) An application to the High Court for the determination of any question under subsection (1)(a) of this section may be made by any person entitled to vote in the election to which the application relates or by any person who was a candidate at that election or by the Attorney-General.

(3) An application to the High Court for the determination for any question under subsection (1)(b) or (1)(c) of this section may be made by any registered voter or by the Attorney-General.

(4) An application to the High Court for the determination for any question under subsection (1)(d) of this section may be made-

a) by a registered voter or by the Attorney-General; or

b) in relation to the Senate, by a Senator and in relation to the House by a member of the House

(5) If any application is made by a person other than the Attorney-General to the High Court for the determination of any question under this section, the Attorney-General may intervene and may then appeal of be represented in the proceedings.

(6) the Circumstances and manner in which and the imposition of conditions upon which any application may be made to the High Court for the

determination of any question under this section and the powers, practice and procedure of the High Court in relation to any such application shall be regulated by such provision as may be made by Parliament.

(7) An appeal shall lie as of right to the Court of Appeal from any final decision of the High Court determining such a question as is referred to in subsection (1) of this section.

(8) No appeal shall lie from any decision of the Court of Appeal in exercise of the jurisdiction conferred by subsection (7) of this section and no appeal shall lie from any decision of the High Court in proceeding under this section other than a final decision determining such a question as is referred to in subsection 81) of this section.

(9) In the exercise of his functions under this section, the Attorney-General shall not be subject to the direction or control of any other person or authority.

(10) In this section "registered voter" means a person registered as a voter in accordance with section 33(2)(a) of this Constitution.

PART 2
LEGISLATION AND PROCEDURE OF PARLIAMENT

40. Power to make laws

Subject to the provisions of this Constitution parliament may make laws for the peace, order and good government of Saint Lucia.

41. Alteration of Constitution and Supreme Court Order

(1) parliament may alter any for the provisions of this Constitution or of the Supreme Court Order in the manner specified in the following provisions of this section.

(2) A bill to alter this section, Schedule 1 to this Constitution or any of the provisions of this Constitution specified in Part 1 of that Schedule or any of the provisions of the Supreme Court Order specified in Part II of that Schedule

shall not be regarded as being passed by the House unless on its final reading in the House the bill is supported by the votes of not less than three-quarters of all the members of the House.

(3) A bill to alter any of the provisions of this Constitution to, as the case may be, of the Supreme Court Order other than those referred to in subsection (2) of this section shall not be regarded as being passed by the House unless on its final reading in the House the bill is supported by the votes of not less than two-thirds of all the members of the House.

(4) An amendment made by the Senate to a bill to which subsection (2) of this section applies shall not be regarded as being agreed to by the House for the purposes of section 50 of this Constitution unless such agreement is signified by resolution supported by the votes of not less than three-quarters of all the members of the House.

(5) An amendment made by the Senate to a bill to which subsection (3) of this section applies shall not be regarded as being agreed to by the House for the purposes of section 50 of this Constitution unless such agreement is signified by resolution supported by the votes of not less than two-thirds of all the members of the House.

(6) A bill to alter any of the provisions of this Constitution or the Supreme Court Order shall not be submitted to the Governor-General for his assent-

a) unless there has been an interval of not less than ninety days between the introduction of the bill in the House and the beginning of the proceedings in the House on the second reading of the bill; and

b) if the bill provides for the alteration of this section, Schedule 1 to this Constitution or any of the provisions of this Constitution or the Supreme Court Order specified in that Schedule, unless after it has been passed by the Senate and the House or, in the case of a bill to which section 50 of this Constitution applies after its rejection by the Senate for the second time, the bill has been approved on a referendum, held in accordance with such provision as may be made in that behalf by Parliament, by a majority of the votes validly cast on that referendum.

(7) The provisions of paragraph (b) of subsection (6) of this section shall not apply in relation to any bill to alter-

a) section 107 of this Constitution in order to give effect to any agreement between Saint Lucia and the United Kingdom concerning appeals from any court having jurisdiction in Saint Lucia to Her Majesty in Council;

b) any of the provisions of the Supreme Court Order in order to give effect to any international agreement to which Saint Lucia is a party relating to the Supreme Court or any other court (or any officer or authority having functions in respect of any such court) constituted in common for Saint Lucia and for other countries also parties to the agreement.

(8) Every person who, at the time when the referendum is held would be entitled to vote for the purpose of electing members of the House shall be entitled to vote on a referendum held for the purposes of this section in accordance with such procedures as may be prescribed by Parliament for the purposes of the referendum and no other person shall e entitled so to vote.

(9) In any referendum for the purposes of this section the votes shall be given by ballot in such manner as not to disclose how any particular person votes.

(10) The conduct of any referendum for the purposes of this section shall be the responsibility of the Electoral Commission and the provisions of section 37 and 52 of this Constitution shall apply in relation to the referendum as they apply in relation to election of members of the House and legislation relating thereto.

(11) a) A bill to alter any of the provisions of this Constitution to the Supreme Court Order shall not be submitted to the Governor-General for his assent unless it is accompanied by a certificate under the hand of the Speaker that the provisions of subsection (2), (3), (4) or (5) of this section, as the case may be, have been complied with and, where a referendum has been held in pursuance of subsection (6)(b) of this section, by a certificate under the hand of the Chief Elections Officer stating the results of the referendum.

b) The certificate of the Speaker under this subsection shall be conclusive that the provisions of subsection (2), (3), (4) or (5) of his section, as the case may be, have been complied with and shall not be enquired into in any court of law.

c) In this subsection references to the Speaker shall, if the person holding the office of Speaker is for any reason unable to perform the functions of his office and no other person is performing them, include references the Deputy Speaker.

(12) In this section and Schedule 1 to this Constitution references to any of the provisions of this Constitution or the Supreme Court Order include references to any law that alters that provision.

42. Freedom of speech

Without prejudice to any provisions made by Parliament relating to the powers, privileges and immunities of the Senate or the House and the committees thereof, or the privileges and immunities of the members and officers to the Senate or the House and of other persons concerned in the business of the Senate or the House or the committees thereof, no civil or criminal proceedings may be instituted against any member of the Senate or the House for words spoken before, or written in a report to, the Senate or the House or a committee thereof or by reason of any matter or thing brought by him therein by petition, bill resolution, motion or otherwise.

43. Oath by members

(1) Every member of the Senate or the House shall, before taking his seat therein, take and subscribe before the Senate or the House, as the case may be, the oath of allegiance but a member may before taking that oath take part in the election of the President or Speaker.

(2) Any person elected to the office of President or Speaker shall, if he has not already taken and subscribed the oath of allegiance under subsection (1) of this section, take and subscribe that oath before the Senate or the House, as the case may be, before entering upon the duties of his office.

44. Presiding

There shall preside at any sitting of the Senate or the House-

a) the President or Speaker;

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

c) in the absence of the President or Speaker and the Deputy President or Deputy Speaker, such member thereof (not being a member of the Cabinet or a Parliamentary Secretary) as the Senate or the House, as the case may be, may elect for that purpose.

45. Voting

(1) Save as a otherwise provided in sections 17(7), 18(2) and 41(2), (3), (4) and (5) of this Constitution, any question proposed for decision in the Senate or the House shall be determined by a majority of the votes of the members present and voting.

(2) A question shall not be regarded as having been validly determined by a vote in the Senate or the House unless at least six member or such grater number of members as parliament may prescribe, take part in the voting.

(3) The reference to all the members of the House in sections 17(7), 18(2) and 41 (2), (3), (4) and (5) of this Constitution shall not include the Speaker if he was elected from among persons who were not members of the House.

(4) The President or other Senator presiding in the Senate and a Speaker who was elected from among the members of the House or other member presiding n the House shall not vote unless on any question the votes are equally divided, in which case he shall have and exercise a casting vote;

Provided that in the case of the question of the final reading of such a bill as is referred to in subsection (2) or (3) of section 41 of this Constitution or the question of a motion for such a resolution as is referred to in subsection (4) or

(5) of that section a Speaker who was so elected or other member presiding in the House shall have an original vote but no casting vote.

(5) A Speaker who was elected from among persons who were not members of the House shall have neither an original nor a casting vote.

(6) If, upon any question before the House the votes of the members are equally divided and no casting vote may be exercised, the motion shall be lost.

46. Penalty for sitting if unqualified

(1) Any person who sits or votes in the Senate or the House knowing or having reasonable grounds for knowing that he is not entitled to do so shall be guilty of an offence and liable to a fine not exceeding one hundred dollars, or such other sum as may be prescribed by Parliament, for each day on which he so sits or votes.

(2) Any prosecution for an offence under this section shall be instituted except by the Director of Public Prosecutions.

47. Mode of exercise of legislative power

(1) The power of Parliament to make laws shall be exercised by bills passed b the Senate and the House (or in the cases mentioned in section 49 and 50 of this Constitution by the House) and assented to by the Governor-General.

(2) When a bill is submitted to the Governor-General for assent in accordance with the provisions of this Constitution he shall signify that he assents.

(3) When the Governor-General assents to a bill that has been submitted to him in accordance with the provisions of this Constitution the bill shall become law and the Governor-General shall thereupon cause it to be published in the Official Gazette a law.

(4) No law made by Parliament shall come into operation until it has been published in the Official Gazette but Parliament may postpone the coming into operation of any such law and may make laws with retrospective effect.

48. Restrictions with regard to certain financial measures

(1) A bill other than a money bill may be introduced in the Senate or the House; a money bill shall not be introduced in the Senate.

(2) Except on the recommendation of the Governor-General signified by a Minister, neither the Senate nor the House shall-

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

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

ii) for the imposition of any charge upon the Consolidated Fund or any other public fund of Saint Lucia or the alteration of any such charge otherwise than by reduction;

iii) for the payment, issue or withdrawal form the Consolidated Fund or any public fund of Saint Lucia of any monies 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 Crown; or

b) procedure upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding, would be to make provisions for nay of those purposes.

49. Restrictions on powers of Senate as to money bills

(1) If a money bill, having been passed by the House and sent to the Senate at least one month before the end of the session, is not passed by the Senate without amendment within one month after it is sent to the Senate, the bill shall, unless the House otherwise resolves, be presented to the Governor-General for his assent notwithstanding that the Senate has not consented to the bill.

(2) There shall be endorsed on every money bill when it is sent to the Senate the certificate of the Speaker signed by him that it is a money bill; and there shall be endorsed on any money bill that is submitted to the Governor-General for assent in pursuance of subsection (1) of this section the certificate of the Speaker signed by him that it is a money bill and the provisions of that subsection have been complied with.

50. Restrictions on powers of Senate as to bills other than money bills

(1) This section applies to any bill other tan a money bill that is passed by the House in two successive sessions (whether of not Parliament is dissolved between those sessions) and, having been sent to the Senate in each of those sessions at least one month before the end of the session, is rejected by the Senate in each of those sessions.

(2) A bill to which this section applies shall, on its rejection for the second time by the Senate, unless the House otherwise resolves, be submitted to the Governor-General for assent notwithstanding that the Senate has not consented to the bill:

Provided that-

a) the foregoing provisions of this subsection shall not have effect unless at least six months have elapse between the date on which the bill is passed by the House in the first session and the date on which it is passed by the House in the second session;

b) a bill such as is referred to in subsection 82) or (3) of section 41 of this Constitution shall not be submitted to the Governor-General for his assent unless the provisions of that subsection have been complied with and the power conferred on the House by this subsection to resolve that a bill shall not be exercised in respect of such a bill.

(3) For the purposes of his section a bill that is sent to the Senate from the House in any session shall be deemed to be the same bill as a former bill sent to the Senate in the preceding session if, when it is sent to the Senate, it is identical with the former bill or contains only such alterations as are certified by the Speaker to be necessary owing to the time that has elapse since the

date of the former bill or to represent any amendments which have been made by the Senate in the former bill in the preceding session.

(4) The house may, if it thinks fit, on the passage through the House of a bill tat is deemed to be the same bill as a former bill sent to the Senate in the preceding session, suggest any amendments without inserting the amendments in the bill, and any such amendments shall be considered by the Senate, and if agreed to by the Senate, shall be treated as amendments made by the Senate, and if agreed to by the Senate, shall be treated as amendments made by the Senate and agreed to by the House; but the exercise of this power by the House shall not affect the operation of this section in the event of the rejection of the bill in the Senate.

(5) There shall be inserted in any bill that is submitted to the Governor-General for assent in pursuance of this section any amendments that are certified by the Speaker to have been made in the bill by the Senate in the second session and agreed to by the House.

(6) There shall be endorsed on any bill that is presented to the Governor-General for assent in pursuance of this section the certificate of the Speaker signed by him that the provisions of this section have been complied with.

51. Provisions relating to ss. 48, 49 and 50

(1) In section 48, 49 and 50 of this Constitution, "money bill" means a public bill which, in the opinion of the Speaker, contains only provisions dealing with all or any of the following matters, namely the imposition, repeal, remission, alteration or regulation of taxation; the imposition, for the payment of debt or other financial purposes, of charges on public money, or the variation or repeal of any such charges; the grant of money to the Crown or to any authority or person, or the variation or revocation of any such grant; the appropriation, receipt, custody, investment, issue or audit of accounts of public money; the raising or guarantee of any loan or there payment thereof, or the establishment, alteration, administration or abolition of any sinking fund provided in connection with any such loan; or subordinate matters incidental to any of the matters aforesaid; and in this subsection the expressions "taxation", "debt", "public money" and "loan" do not include any taxation imposed, debt incurred or money provided or loan raised by any local authority or body for local purposes.

(2) For the purposes of section 50 of this Constitution, a bill shall be deemed to be rejected by the Senate if-

a) it is not passed by the Senate without amendment; or

b) it is passed by the Senate with any amendment which is not agreed to by the House.

(3) In this section and section 49 and 50 of this Constitution references to the Speaker shall, if the person holding the office of Speaker is for any reason unable to perform the functions of his office and no other person is performing them, include references to the Deputy Speaker.

(4) Any certificate of the Speaker given under section 49 or 50 of this Constitution shall be conclusive for all purposes and shall not be questioned in any court of law.

(5) Before giving any certificate under section 49 or 50 of this Constitution the Speaker shall consult the Attorney-General.

52. Scrutiny of electoral legislation

Every proposed bill and every proposed regulation or other instrument having the force of law relating to the registration of voters for the purpose of electing members of the House or to the election of members of the House shall be referred to the Electoral Commission and to the Chief Elections Officer at such time as shall give them sufficient opportunity to make comments thereon before the bill is introduced in the Senate or the House or, as the case may be, the regulation or other instrument is made.

53. Regulation of procedure

(1) Subject to the provisions of this Constitution, the Senate and the House may each regulate its own procedure and may in particular make rules for the orderly conduct of its own proceedings.

(2) The Senate or the House may act notwithstanding any vacancy in its membership (including any vacancy not filled when it first meets after any general election) and the presence or participation of any person not entitled to be present at or to participate in its proceedings shall not invalidate those proceedings.

PART 3
SUMMONING, PROROGATION AND DISSOLUTION

54. Sessions

(1) Each session of Parliament shall be held at such place within Saint Lucia and shall being at such time, not being later than twelve months from the end of the preceding session if Parliament has been prorogued or one month from the holding of a general election of members of the House if parliament has been dissolved, as the Governor-General shall appoint by Proclamation.

(2) Subject to the provisions of subsection (1) of this section, the sitting of the Senate or the House shall be held at such time and place as it may, by its rules of procedure or otherwise, determine.

55. Prorogation and dissolution

(1) The Governor-General may at any time prorogue or dissolve Parliament.

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

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

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

(4) In the exercise of this powers to dissolve Parliament, the Governor-General shall act in accordance with the advice of the Prime Minister:

Provided that-

a) if the Prime Minister advises a dissolution and the Governor-General, acting in his own deliberate judgment, considers that the government of Saint Lucia can be carried on without a dissolution and that a dissolution would not be in the interests of Saint Lucia, he may, acting in his own deliberate judgment, refuse to dissolve Parliament;

b) if a resolution of no confidence in the Government is passed by the House and the Prime Minister does not within three days either resign or advise a dissolution the Governor-General , acting in his own deliberate judgment, may dissolve Parliament; and

c) if the office of the Prime Minister is vacant and the Governor-General, acting in his own deliberate judgment, considers that there is no prospect of his being able within a reasonable time to make an appointment to that office the Governor-General shall dissolve Parliament.

(5) If, after a dissolution of Parliament and before the holding of a general election of members of the House, the Prime Minister advises the Governor-General that, owing to the existence of a state of war or of a state of emergency in Saint Lucia, it is necessary to recall Parliament, the Governor-General shall summon the Parliament that has been dissolved to meet, but unless the life of parliament is extended under the provisions of subsection (3) of his section, the general election shall proceed and the parliament that has been recalled shall, if not sooner dissolved, again stand dissolves on the date appointed for the nomination of candidate in the general election.

56. Holding of elections

(1) A general election of members of the House shall be held at such time within three months after any dissolution of Parliament as the Governor-General may appoint.

(2) Where the seat of a member of the House or a Senator falls vacant otherwise than by reason of a dissolution of Parliament-

a) if the vacant seat is that of a member of the House, a by-election shall be held; or

b) if the vacant seat is that of a Senator an appointment shall be made.

to fill the vacancy within three months of the occurrence of the vacancy unless Parliament is sooner dissolved.

PART 4
CONSTITUENCY BOUNDARIES AND ELECTORAL COMMISSIONS

57. Constituency Boundaries Commission and Electoral Commission

(1) There shall be a constituency Boundaries Commission and an Electoral Commission for Saint Lucia (each of which is hereinafter in this section referred to as a Commission).

(2) The Constituency Boundaries Commission shall consist of-

a) the Speaker, as chairman;

b) two members appointed by the Governor-General, acting in accordance with the advice of the Prime Minister; and

c) two members appointed by the Governor-General, acting in accordance with the advice of the Leader of the Opposition.

(3) The Electoral Commission shall consist of-

a) a chairman appointed by the Governor-General, acting in his own deliberate judgment;

b) one member appointed by the Governor-General, acting in accordance with the advice of the Prime Minister; and

c) one member appointed by the Governor-General, acting in accordance with the advice of the Leader of the Opposition.

(4) A person shall not be qualified to be appointed as a member of a Commission if he is a Senator or member of the House or a public officer nor, in the case of the chairman of the Electoral Commission, unless he holds one of the specified qualifications and has held one or other of those qualifications for a total period of not less than seven years.

(5) Subject to the provisions of this section, a member of a Commission who has been appointed shall vacate his office-

a) when the House first meets after the next dissolution of Parliament after his appointment;

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

(6) A member of a Commission who has been appointed may be removed from office but only for inability to discharge the functions thereof (whether arising from infirmity of mind or body or any other cause) or for misbehaviour, and he shall not be so removed except in accordance with the provisions of this section.

(7) A member of a Commission who has been appointed shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal has recommended to the Governor-general that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(8) if the prime Minister, in the case of a member of the Constituency Boundaries Commission appointed in accordance with paragraph (b) of subsection (2) of this section, or the Leader of the Opposition, in the case of a member of that Commission appointed in accordance with paragraph (c) of that subsection,

represents to the Governor-General of if, in the case of the chairman of the electoral Commission, the Governor-General, acting in his own deliberate judgment, and , in the case of any other member of that Commission, the Governor-General, acting after consultation with the Prime Minister and the Leader of the Opposition, considers that the question of removal of a member of the Commission from office for inability as aforesaid or for misbehaviour ought to be investigate, then-

a) the Governor-General shall appoint a tribunal, which shall consist of a chairman and not less than two other members, selected by the Chief Justice, from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; and

b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommended to the Governor-General whether the member of the Commission ought to be removed from office for inability as aforesaid or for misbehaviour.

(9) A Commission may regulate its own procedure, and, with the consent of the Prime Minister, confer powers and impose duties on any public officer or on any authority of the Government for the purpose of the discharge of its functions.

(10) A Commission may, subject to its rules of procedure, act not withstanding any vacancy in its member ship and its proceedings shall not be invalidated by the presence of participation of any person not entitled to be present at or to participate in those proceedings;

provided that any decision of the Commission shall require the concurrence of a majority of all its members.

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

PART 5
DELIMITATION OF CONSTITUENCIES

58. Review of constituency boundaries

(1) The Constituency Boundaries Commission (hereinafter in this section referred t as the Commission) shall, in accordance with the provisions of this section, review the number and boundaries of the constituencies into which Saint Lucia is divided and submit to the Governor-General reports either-

a) showing the constituencies into which it recommends that Saint Lucia should be divided in order to give effect to the rules set out in Schedule 2 to this Constitution; or

b) stating that, in its opinion, no alteration is required to the existing number or boundaries of constituencies in order to give effect to those rules.

(2) Reports under subsection (1) of this section shall be submitted by the Commission at intervals of not less than three nor more than seven years;

Provided that a report under paragraph (b) of that subsection shall not be submitted until the expiration of six years from the submission of the last report under that subsection.

(3) As soon as may be after the Commission has submitted a report under subsection (1)(a) of this section, the Prime Minister shall law before the House for its approval the draft of an order by the Governor-General for giving effect, whether with or without modification, to the recommendations contained in the report, and that draft order may make provisions for any matters that appear tot he Prime Minister to be incidental to or consequential upon the other provisions of the draft.

(4) Where any such draft order gives effect to any such recommendations with modifications, the Prime Minister shall law before the House together with the draft order a statement of the reason for the modifications.

(5) If the motion for the approval of any draft order laid before the House under this section is rejected by the House, or is withdrawn by leave of that House, the Prime Minister shall amend the draft order and lay the amended draft before the House.

(6) If any draft order laid before the House under his section is approved by resolution of the House, the Prime Minister shall submit it to the Governor-general who shall make and order in terms of the draft; and that order shall come into force upon the ext dissolution of Parliament after it is made.

(7) The question of the validity of any order by the Governor-general purporting to be made under this section and reciting that a draft thereof has been approved by resolution of the House shall to be enquired into in any court of law.

(8) There shall be such provisions as may be made by Parliament for an appeal to the High Court against a recommendation or statement made to the Governor-General by the Commission in pursuance of paragraph (a) or (b) subsection (1) of his section.

CHAPTER IV
THE EXECUTIVE

59. Executive authority

(1) The executive authority of Saint Lucia is vested in the Her Majesty.

(2) Subject to the provisions of this Constitution, the executive authority of Saint Lucia may be exercised on behalf of Her Majesty by the Governor-general either directly or through officers subordinate to him.

(3) Nothing in this section shall prevent parliament from conferring functions on persons or authorities other than the Governor-General.

60. Ministers of the Government

(1) There shall be a Prime Minister of Saint Lucia who shall be appointed by the Governor-General.

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

(3) There shall be, in addition to the office of Prime Minister, such other offices of Minister of the Government as may be established by Parliament or, subject to the provisions of any law enacted by Parliament, by the Governor-General, acting in accordance with the advice of the Prime Minister.

(4) Appointments to the office of Minister, other than the office of Prime Minister, shall be made by the Governor-general, acting in accordance with the advice of the Prime Minister, from among the Senators and the members of the House.

(5) If occasion arises for making and appointment to the office of Prime Minister or any other Minister while Parliament is dissolved then, notwithstanding the provisions of subsections (2) and (4) of this section, a person who was a member of the House immediately before the dissolution may be appointed as Prime Minister or any other Minister and a person who was a Senator immediately before the dissolution may be appointed as any Minister other than Prime Minister.

(6) The Governor-general shall remove the Prime Minister from office of a resolution of no confidence in the Government is passed by the House and the Prime Minister does not within three days either resign from his office or advise the Governor-general to dissolve Parliament.

(7) If, at any time between the holding of a general election of members of the House and the first meeting of the House thereafter, the Governor-General considers that in consequence of changes in the membership of the House resulting from that election the Prime Minister will not be able to command the support of the majority of the members of the House the Governor-general may remove the Prime Minister from office.

(8) The office of any Minister shall become vacant-

a) if the holder of the office ceases to be a Senator or a member the House otherwise than by reason of the dissolution of Parliament;

b) in the case of the Prime Minister, if, when the House first meets after the dissolution of Parliament, he is not then a member of the House;

c) in the case of any other Minister, if, when the House first meet after the dissolution of Parliament, he is not then a Senator or a member of the House; or

d) if, by virtue of section 27(3) or 34(3) of this Constitution, he is required to cease to perform his functions as a Senator or a member of the House.

(9) The office of a Minister other than the Prime Minister shall become vacant-

a) if the Governor-General, acting in accordance with the advice of the Prime Minister, so directs;

b) if the Prime Minister, resigns from office within three days after a resolution of no confidence in the Government has been passed by the House or is removed from office under subsection (6) of this section; or

c) on the appointment of any person to the office of Prime Minister

(10) In the exercise of the powers conferred upon him by subsections (2), (5) and (7) of his section the Governor-general shall act in his own deliberate judgment.

61. Cabinet of Ministers

(1) There shall be a Cabinet of Ministers for Saint Lucia which shall consist of the Prime Minister and the other Ministers.

(2) At any time when the office of Attorney-General is a public office the Attorney-General shall, by virtue of holding or acting in that office, be a member of the Cabinet in addiction to the Ministers.

(3) The functions of the Cabinet shall be to advice the Governor-general in the government of Saint Lucia and the Cabinet shall be collectively responsible to Parliament for any advice given to the Governor-General by or under the general authority of the cabinet and for all things done by or under he authority of any Minister in the execution of his office.

(4) The provisions of subsection (3) of this sections shall not apply in relation to-

a) the appointment and removal from office of Ministers and parliamentary Secretaries, the assignment of responsibility to any Ministers under section 62 of this Constitution , of the authorization of another Minister to perform the functions of the Prime Minister during absence or illness;

b) the dissolution of Parliament; or

c) the matters referred to in section 74 of this Constitution (which relate to the prerogative of mercy).

62. Allocation of portfolios to Ministers

The Governor-General, acting in accordance with the advice of the Prime Minister, may, by directions in writing, assign to the Prime Minister or any other Minister responsibility for any business of the Government, including the administration of any department of government:

Provided that responsibility for finance shall be assigned to a Minister who is a member of the House.

63. Performance of functions of Ministers during absence or illness

(1) Whenever the Prime Minister is absent from Saint Lucia or be reason of illness is unable to perform the functions conferred upon him by this Constitution, the Governor-General may authorize some other Minister to perform those functions (other than the functions conferred by this section) and that Minister may perform those functions until his authority is revoked by the Governor-General.

(2) Whenever a Minister other than the Prime Minister is absent from Saint Lucia or is within Saint Lucia but by leave of the Governor-General is not performing the functions of his office or by reason of illness is unable to perform those functions, the Governor-General may authorize some other Minister to perform those functions or may appoint a Senator or a member of the House to be a temporary Minister in order to perform those functions; and that Minister may perform those functions until his authority or, as the case may be, his appointment is revoked by the Governor-General or he vacates office as a Minister under subsection (8) or (9) of section 60 of this Constitution.

(3) The power of the Governor-General under his section shall be exercised by him in accordance with the advice of the Prime Minister;

Provided that if the Governor-General, acting in his own deliberate judgment considers that it is impracticable to obtain the advice of the Prime Minister owing to his absence or illness he may exercise those powers without that advice and in his own deliberate judgment.

64. Exercise of Governor-General's functions

(1) In the exercise of his functions the Governor-General shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet except in cases where he is required by this Constitution or any other law to act in accordance with the advice of, or after consultation with, any person or authority other than the Cabinet:

Provided that the foregoing provisions of this subsection shall not apply where the Governor-General is authorized to act in his own deliberate judgment in accordance with the following provisions of this Constitution-

a) section 57 (which relates to the Constituency Boundaries Commission and the Electoral Commission);

b) section 60 and 63 (which relates to Ministers);

c) section 67 (which relates to the Leader of the Opposition);

d) section 86 (which relates to the appointment, etc, of public officers);

e) section 88 (which relates to the Chief Elections Officer); and

f) section 95 (which relates to the Public Service Board of Appeal).

(2) During any period in which there is a vacancy in the office of Leader of the Opposition by reason of the fact that no person is both qualified for appointment to that office in accordance with this Constitution and willing to accept appointment, or if the Governor-general, acting in his own deliberate judgment, considers that it is not practicable for him to obtain the advice of the Leader of the Opposition within the time within which it may be necessary for him to act, he may act without that advice and in his own deliberate judgment in the exercise of any power conferred upon him by this Constitution in respect of which it is provided that he shall act on the advice or, or after consultation with, the Leader of the Opposition.

(3) Nothing in subsection (1) of his section shall require the Governor-General to act in accordance with the advice of the Cabinet or a Minister in exercise of the functions conferred upon him by the following provisions of this Constitution-

a) the proviso to section 55(4) (which requires the Governor-General to remove the Prime Minister from office in certain circumstances);

b) section 60(6) (which requires the Governor-General to remove the Prime Minster from office in certain circumstances);

c) section 65 (which entitles the Governor-general to information);

d) section 57 (7), 67 (5), 85 (6), 88 (7), 89 (8), 90 (7), 92 (6), 95 (5), 110 (7) and 118 (8) (which requires the Governor-General to remove holders of certain officers from office in certain circumstance).

65. Governor-General to be informed concerning government matters

The Prime Minister shall keep the Governor-general fully informed concerning the general conduct of the government of Saint Lucia and shall furnish the

Governor-General with such information as he may request with respect to any particular matter relating to the government of Saint Lucia.

66. Oaths to be taken by Ministers, etc.

A Minister or a Parliamentary Secretary shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance, the oath of office and the oath of secrecy.

67. Leader of the Opposition

(1) There shall (except at times when there are no members of the House who do not support the Government) be a Leader of the Opposition who shall be appointed by the Governor-General.

(2) Whenever there is occasion for the appointment of a Leader of the Opposition the Governor-General shall appoint the member of the House who appears to him most likely to command the support of a majority or the members of the House who do not support the Government: or, if no member of the House appears to him to command such support, the member of the House who appeals to him to command the support of the largest single group of members of the House who do not support the Government.

(3) If occasion arises to appoint a Leader of the Opposition during the period between a dissolution of Parliament and the day on which the ensuing election of members of the House is held, and appointment may be made as if Parliament had not been dissolved.

(4) The office of Leader of the Opposition shall become vacant-

a) if he ceases to be a member of the House otherwise than by reason of a dissolution of Parliament;

b) if, when the House first meets after a dissolution of Parliament, he is not then a member of the House;

c) if, under the provisions of section 34(3) of this Constitution, he is required to cease to perform his functions as a member of the House; or

d) if he is removed from office by the Governor-General under the provisions of subsection (5) of this section.

(5) If it appears to the Governor-General that the Leader of the Opposition is no longer able to command the support of a majority of the members of the House who do not support the Government or (if no member of the House appears to him to be able to command such support) the support of the largest single group of members of the House who do not support the Government, he shall remove the Leader of the Opposition from office.

(6) The power of the Governor-General under his section shall be exercised by him in his own deliberate judgment.

68. Parliamentary Secretaries

(1) The Governor-General, acting in accordance with the advice of the Prime Minister, may appoint parliamentary Secretaries from among the Senators and the members of the House to assist Ministers in the performance of their duties:

Provided that, if occasion arises for making an appointment while parliament is dissolved, a person who was a Senator or a member of the House immediately before the dissolution may be appointed as a Parliamentary Secretary.

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

a) if the Governor-General, acting in accordance with the advice of the Prime Minister, so directs;

b) if the Prime Minister resigns from office within three days after a resolution of not confidence in the Government has been passed by the House or is removed from office under section 60(7) of this Constitution;

c) upon the appointment of any person to the office of Prime Minister;

d) if the holder of the office ceases to be a Senator or a member of the House otherwise than by reason of a dissolution of Parliament;

e) if, when the House first meets after the dissolution of Parliament, he is not then a Senator or a member of the House; or

f) if, by virtue of section 27(3) or 34(3) of this Constitution, he is required to cease to perform his functions as a member of the Senate or a member of the House.

69. Permanent Secretaries

Where any Minister has been charged with responsibility for any department of government, he shall exercise general direction and control over that department; and subject to such direction and control, every department of government shall be under the supervision of a public officer whose office is referred to in this Constitution as the office of a permanent secretary:

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

70. Secretary to the Cabinet

(1) There shall be a Secretary to the Cabinet whose office shall be a public office.

(2) The Secretary to the Cabinet, who shall have charge of the Cabinet Office, shall be responsible, in accordance with such instructions as may be given to him by the Prime Minister, for arranging the business for, and keeping the minutes of the Cabinet and for conveying the decisions of the Cabinet to the appropriate person or authority and shall have such other functions the Prime Minister may direct.

71. Constitution of offices, etc.

Subject to the provisions of the Constitution and of any other law, the Governor-General may constitute offices for Saint Lucia, make appointments to any such office and terminate any such appointment.

72. Attorney-General

(1) There shall be an Attorney-General who shall be the principal legal adviser to the Government.

(2) The office of Attorney-General shall be either a public office or the office of a Minister.

(3) At any time when the office of Attorney-General is a public office the same person may, if qualified, be appointed to hold or act in the office of Attorney-General and the office of Director of Public Prosecutions.

(4) Where the offices of Attorney-General and Director of Public Prosecutions are held by the same person the following provisions of this Constitution shall have effect as if references therein to the Director included references to the Attorney-General, that is to say, sections 87, 89(5), (6), (7), (8), (9) and (10), 98 (3) and 124 (8)(a); but the provisions of this subsection shall be without prejudice to the powers of Parliament or, subject to the provisions of any law enacted by Parliament, the Governor-general to determine that the office of Attorney-General shall be the office of a Minister.

73. Control of public prosecutions

(1) There shall be a Director of Public Prosecutions whose office shall be a public office.

(2) The Director of Public Prosecutions shall have power in any case in which he considers it desirable so to do-

a) to institute and undertake criminal proceedings against any person before any court of law (other than a court-martial) in respect of any offence alleged to have been committed by that person;

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

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

(3) The powers of the Director of Public Prosecutions under subsection (2) of this section may be exercised by him in person or through other persons acting under and in accordance with his general or special instruction.

(4) the posers conferred on the Director of Public Prosecutions by paragraphs (b) and (c) of subsection (2) of this section shall be vested in him to the execution of nay other person or authority;

Provided that where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance of that person or authority and with the leave of the court.

(5) For the purposes of this section, any appeal from a judgment in criminal proceedings before any court or any case stated or question of law reserved for the purpose of any such proceedings, to any other court (including Her Majesty in Council) shall be deemed to be part of those proceedings;

Provided that the power conferred on the Director of Public Prosecutions by subsection (2)(c) of this section shall not be exercised in relation to any appeal by a person convicted in any criminal proceedings or to any case stated or question of law reserved at the instance of such a person.

(6) In the exercise of the powers vested in him by subsection (2) of this section and section 46 of this Constitution, the Director of Public Prosecutions shall not be subject to the director or control of any other person or authority.

74. Prerogative of mercy

(1) The Governor-General may-

a) grant a pardon , either free or subject to lawful conditions, to any person convicted or any offence;

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

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

d) remit the whole or any part of any punishment imposed on any person for any offence or of any penalty or forfeiture otherwise due to the Crown on account of any offence.

(2) The power of the Governor-general under subsection (1) of this section shall be exercised by him in accordance with the advice of the Committee established by section 75 of this Constitution.

75. Committee on Prerogative of Mercy

(1) There shall be a Committee on the Prerogative of Mercy which shall consist of-

a) such Minister as may be designated by the Governor-General, who shall be chairman;

b) the Attorney-General;

c) the chief medical officer of the Government; and

d) not more than three other members appointed by the Governor-General, by instrument in writing under his hand.

(2) A member of the Committee appointed under subsection (1)(d) of this section shall hold his seat thereon for such period as may be specified in the instrument by which he was appointed:

Provided that his seat shall become vacant-

a) in the case of a person who at the date of his appointment was a Minister, if he ceases to be a Minister; or

b) if the Governor-General, by instrument in writing under his hand, so directs.

(3) The Committee may act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings.

(4) The Committee may regulate its own procedure.

(5) In the exercise of his functions under this section, the Governor-General shall act in accordance with the advice of the Prime Minister.

76. Procedure in capital cases

Where any person has been sentenced to death (otherwise than by a court-martial) for an offence the Minister for the time being designated under section 75(1) of this Constitution shall cause a written report of the case from the trial judge (or the Chief Justice, if a report from the trial judge cannot be obtained), together with such other information derived from the record of the case or elsewhere as he may require, to be taken into consideration at a meeting of the Committee on the Prerogative of Mercy, so that the Committee may advice the Governor-General whether to exercise any of his power under section 74(1) of this Constitution.

CHAPTER V
FINANCE

77. Consolidated Fund

All revenues or other moneys raised or received by Saint Lucia (not being revenues or other moneys that are payable, by or under any law for the time being in force in Saint Lucia, into some other fund established for specific purpose) shall be paid into and form a Consolidated Fund.

78. Withdrawals from Consolidated Fund or other public funds.

(1) No money shall be withdrawn from the Consolidated Fund except-

a) to meet expenditure that is charged upon the Fund by this Constitution or by any law enacted by parliament; or

b) where the issue of those moneys has been authorized by an appropriation law or by law made in pursuance of section 80 of this Constitution.

(2) Where any moneys are charged by this Constitution or any law enacted by Parliament upon the Consolidated Fund or any other public fund, they shall be paid out of that fund by the Government to the person or authority to whom payment is due.

(3) No moneys shall be withdrawn from any public fund other than the Consolidated Fund unless the issue of those moneys has been authorized by or under any law.

(4) There shall be such provision as may be made by parliament prescribing the manner in which withdrawals may be made from the Consolidated Fund or nay other public fund.

79. Authorisation of expenditure from Consolidated Fund by appropriation law

(1) The Minister for the time being responsible for finance shall cause to be prepared an laid before the House before, or not later than thirty days after, the commencement of each financial year estimates of the revenues and expenditure of Saint Lucia for that financial year.

(2) When the estimates of expenditure (other than expenditure charged upon the Consolidated Fund by this Constitution or by any law enacted by Parliament) have been approved by the House, a bill, known as an appropriation bull, shall be introduced in the House, providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums, under separate votes for the several services required, to the purposes specified therein.

(3) if in respect of any financial year it is found-

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

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

a supplementary estimate showing the sums required or spent shall be laid before the House and, when the supplementary estimate has been approved by the House, a supplementary appropriation bill shall be introduced in the House providing for the issue of such sums from the Consolidated Fund and appropriating them to the purposes specified therein.

80. Authorisation of expenditure in advance of appropriation

There shall be such provisions as may be made by Parliament under which, if the appropriation law in respect of any financial year has not come into operation by the beginning of that financial year, the Minister for the time being responsible for finance may authorize the withdrawal of money from the Consolidated Fund for the purpose of meeting expenditure necessary to carry of the services of the Government until the expiration of four months from the beginning of that financial year or the coming into operation of the law, whichever is the earlier.

81. Contingencies Fund

(1) There shall be such provisions as may be made by Parliament for the establishment of a Contingencies Fund and for authorizing the Minister for the time being responsible for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from that Fund to meet that need.

(2) Where any advance is made from the Contingencies Fund, a supplementary estimate shall as soon as possible be laid before the House and when the supplementary estimate has been approved by the House,

a supplementary appropriation bill shall be introduced as soon as possible in the House for the purpose of replacing the amount so advanced.

82. Remuneration of certain officers

(1) There shall be paid to the holders of the office to which this section applies such salaries and such allowances as may be prescribed by or under a law enacted by Parliament.

(2) The salaries and allowances prescribed in pursuance of this section in respect of the holders of the office to which this section applies shall be charge on the Consolidated Fund.

(3) The salary prescribed in pursuance of this section in respect of the holder of any office to which this section applies and his other terms of service (other than allowances that are not taken into account in computing, under any law in that behalf, any pension payable in respect of his service in that office) shall not be altered to his disadvantage after his appointment.

(4) When a person's salary or other terms of service depend upon his option, the salary or terms for which he opts shall, for the purposes of subsection (3) of this section, be deemed to be more advantageous to him than any others for which he might have opted.

(5) This section applies to the offices of the Governor-general, member of the Public Service Commission, member of the Teaching Service Commission, member of the Public Service Board of Appeal, the Director of Public Prosecutions, the Director of Audit, the Parliamentary Commissioner, the Deputy parliamentary Commissioner and the Chief Elections Officer.

(6) Nothing in this section shall be construed as prejudicing the provisions of section 97 of this Constitution (which protects pensions rights in respect of service as a public officer).

83. Public Debt

(1) All debt charges for which Saint Lucia is liable shall be a charge on the Consolidated Fund.

(2) For the purposes of this section debt charges include interest, sinking fund charges, the repayment or amortization of debt and all expenditure in connection with the raising of loans on the security of the Consolidated Fund and the service and redemption of the debt created thereby.

84. Audit of public accounts, etc.

(1) there shall be a Director of Audit whose office shall be a public office.

(2) The Director of Audit shall-

a) satisfy himself that all moneys that have been appropriated by Parliament and disbursed have been applied to the purposes to which they were so appropriated and that the expenditure conforms to the authority that governs it; and

b) at least once in every audit and report on the public accounts of Saint Lucia, the accounts of all officers and authorities f the Government, the accounts of all officers and authorities of the Government, the account of all courts of law in Saint Lucia (including any accounts of the Supreme Court maintained in Saint Lucia), the accounts of every Commission established by this Constitution and the accounts of the Parliamentary Commission the Clerk of the Senate and the Clerk of the House.

(3) The Director of Audit and any officer authorized by him s have access to all books, records, return, reports and other documents which in his opinion relate to any of the accounts referred to in s section (2) of this section.

(4) The Director of Audit shall submit every made by him pursuance of subsection (2) of this section to the Minister for the t being responsible for finance who shall, not later than seven days at the Hose first meets after he has received the report, lay it before House.

(5) If the Minister fails to lay a report before the House in accordance with the provisions of subsection (4) of this section the Director Audit shall transmit copies of that report tot he Speaker who shall, soon as practicable, present them to the House.

(6) The Director of Audit shall exercise such other functions in reception to the accounts of the Government or the accounts of other authorities or bodies established by law for public purposes as may be prescribed by or under any law enacted by Parliament.

(7) In the exercise of his functions under subsections (2), (3), (4) and (5) of his section, the Director of Audit shall not be subject to the direction or control of any other person or authority.

CHAPTER VI
THE PUBLIC SERVICE

PART 1
THE PUBLIC SERVICE COMMISSION

85. Public Service Commission

(1) There shall be a Public Service Commission for Saint Lucia (hereinafter in this section referred to as the Commission) which shall consist of a chairman and not less than two nor more than four other members, who shall be appointed by the Governor-General, acting accordance with the advice of the Prime Minister;

Provided that the Prime Minister shall consult the Leader of the Opposition before tendering any advice to the Governor-General for the purposes of this subsection.

(2) A person shall not be qualified to be appointed as a member of the Commission if-

a) he is a Senator or a member of the House;

b) he is, or has at any time during the three years preceding his appointment been, a judge of the Supreme Court or a public officer.

(3) A member of the Commission shall not, within the period of three years commencing with the day on which he last held or acted in the office or member of the Commission, be eligible for appointment to or to act in any public office.

(4) Subject to the provisions for this section, the office of a member of the Commission shall become vacant-

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

b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified to be appointed as such under subsection (2) of this section.

(5) A member of the Commission may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(6) A member of the Commission shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed under subsection (7) of this section and the tribunal has recommended to the Governor-General that he ought to be removed from office for inability as aforesaid of for misbehaviour.

(7) If the Prime Minister represents to the Governor-General that the question of removing a member of the Commission under this section ought to be investigated then-

a) the Governor-general shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters income part of the

Commonwealth or a court having jurisdiction in appeals from such a court; and

b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-general and recommend to him whether the member ought to be removed under this section.

(8) If the question of removing a members of the Commission has been referred to a tribunal under this section, the Governor-General, acting in accordance with the advice of the Prime Minister, may suspend that member from the exercise of the functions of his office and any such suspensions may at any time be revoked by the Governor-general, acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor-general that member should not be removed.

(9) If the office of chairman of the Commission is vacant or if the holder of that office is for any reason unable to exercise the functions of his office, then until a person has been appointed to and has assumed the functions of that office or until the person holding that office has resumed those functions, as the case may be, they shall be exercised by such other member so the Commission as may for the time being be designated by the Governor-General, acting in accordance with the advice of the Prime Minister.

(10) If at any time there are less than two members of the Commission besides the chairman or if any such member is acting as chairman or is for any reason unable to exercise the functions of his office, the Governor-General, acting in accordance with the advice of the Prime Minister, may appoint a person who is qualified to be appointed as a member of the Commission to act as a member, and any person so appointed shall, subject to the provisions of subsection (4) of this section continue to act until the office in which he is acting has been filled or, as the case may be, until the holder thereof has resumed his functions or until his appointment to act has been revoked by the Governor-General, acting in accordance with the advice of the Prime Minister.

(11) A member of the Commission shall not enter upon the duties of his office until he has taken and subscribed the oath of allegiance and the oath of office.

(12) The Commission shall, in the exercise of its functions under this Constitution, not be subject to the direction or control of any other person or authority.

(13) The Commission may be regulation or otherwise regulate its own procedure and, with the consent of the Prime Minister, may confer powers or impose duties on any public officer or on any authority of the Government for the purpose of the exercise of its functions.

(14) The Commission may, subject to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any members and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings:

Provided that any decision of the Commissions hall require the concurrence of a majority of all its members.

86. Appointment etc. of public officers

(1) The power to appoint persons to hold or act in offices in the public service (including the power to confirm appointments), and, subject to the provisions of section 96 of this Constitution, the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Public Service Commission.

(2) The public Service Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under subsection (1) of this section to any one or more members of the Commission or, with the consent of the Prime Minister, to any public officer.

(3) The provisions of this section shall not apply in relation to the following offices, that is to say-

a) any office to which section 87 of this Constitution applies;

b) the office of Chief Elections Officer;

c) the office of Director of Public Prosecutions;

d) the office of Director of Audit;

e) any office to which section 91, 93 or 94 of this Constitution applies.

(4) No person shall be appointed under this section to or to act in any office on the Governor-General's personal staff except with the concurrence of the Governor-General, acting in his own deliberate judgment.

(5) Before any of the powers conferred by this section are exercised by the Public Service Commission or any other person or authority in relation to the Clerk of the Senate or the Clerk of the House or a member of their staff, the Commission or that person or authority shall consult with the President or the Speaker, as the case may be.

(6) Before any of the powers conferred by this section are exercised by the Public Service Commission or any other person or authority in relation to a members of the staff of the Parliamentary Commissioner or the Chief Elections Officer, the Commission or that person or authority shall consult with the Commissioner or ,as the case may be, the Officer.

(7) A public officer shall not be removed from office or subject to any other punishment under this section on the grounds of any act done or omitted by him in the exercise of a judicial function conferred on him unless the Judicial and Legal Services Commission concurs therein.

PART 2
APPOINTMENTS, ETC., TO PARTICULAR OFFICES

87. Appointment, etc., of permanent secretaries and certain other officers

(1) This section applies to the offices of Secretary to the Cabinet, permanent secretary, head of a department of government, deputy head of a department of government, any office for the time being designated by the Public Service Commission as an office of a chief professional adviser to a department of

government and any office for the time being designate by the Commission, after consultation with the Prime Minister, as an office the holders of which are required to reside outside Saint Lucia for the proper discharge of their functions or as an office in Saint Lucia whose functions relate to external affairs.

(2) The power to appoint person to hold or to act in offices to which this section applies (including the power to confirm appointments) and, subject to the provisions of section 96 of this Constitution, the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Governor-General, acting in accordance with the advice of the Public Service Commission:

Provided that-

a) the power to appoint a person to hold or act in an office of permanent secretary on transfer from another such office carrying the same salary shall vest in the Governor-General, acting in accordance with the advice of the Prime Minister;

b) before the Public Service Commission tenders advice to the Governor-General with respect to the appointment of any person to hold an office to which this section applies (other than an appointment to an office of permanent secretary on transfer from another such office carrying the same salary) it shall consult with the Prime Minister and if the Prime Minister signifies his objection to the appointment of any person to the office, the Commission shall not advise the Governor-General to appoint that person;

c) in relation to any office of Ambassador, High Commissioner or other principal representative of Saint Lucia in any other country or accredited to any international organization the Governor-General shall act in accordance with the advice of the Prime Minister, who shall, before tendering any such advice in respect of any person who holds any public office to which appointments are made by the Governor-General on the advice of or after consultation with some other person or authority, consult that person or authority.

(3) References in this section to a department of government shall not include the office of the Governor-General, the department of the Attorney-General, the department of the Director of Public Prosecutions, the department of the Director of Audit, the department of the Parliamentary Commissioner, the department of the Chief Elections Officer or the Police Force.

88. Chief Elections Officer

(1) The Chief Elections Officer (hereinafter in this section referred to as the Officer) shall be appointed by the Governor-General, acting after consultation with the Electoral Commission.

(2) If the office of the Officer is vacant or if the holder of that office is for any reason unable to exercise the functions of his office, the Governor-General, acting after consultation with the Electoral Commission, may appoint a person to act as Officer.

(3) A person shall not be qualified to be appointed to hold the office of the Officer unless he holds such qualifications (if any) as may be prescribed by parliament.

(4) A person appointed to act in the office of the Officer shall, subject to the provisions of subsection (5), (7) and (8) of this section, cease so to act-

a) when a person is appointed to hold that office and has assumed the functions thereof or, as the case may be, when the person in whose place he is acting resumes the functions of that office; or

b) at such earlier time as may be prescribed by the terms of his appointment.

(5) Subject to the provisions of subsection (6) of this section, the Officer shall vacate his office when he attains the prescribed age.

(6) A person holding the office of the Officer may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not e so removed except in accordance with the provisions of this section.

(7) The Officer shall be removed from office by the Governor-general if the question of his removal from office has been referred to a tribunal appointed under subsection (8) of this section and the tribunal has recommended to the Governor-General that he ought to be removed for inability as aforesaid or for misbehaviour.

(8) If the Governor-General, acting in his own deliberate judgment, considers that the question of removing the Officer under this section ought to be investigated, then-

a) The Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court; and

b) the tribunal shall enquire into the matter and report on the facts thereof the Governor-General and recommend to him whether the officer ought to be removed under this section.

(9) If the question of removing the office has been referred to a tribunal under this section, the Governor-general, acting in his own deliberate judgment, may suspend the Officer form the exercise of the functions of this office and any such suspension may at anytime be revoked by the Governor-General, acting as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor-General that the Officer should not be removed.

(10) The prescribed age for the purpose of subsection (5) of this section is the age of fifty-five years or such other age as may be prescribed by Parliament;

Provided that any law enacted by Parliament, to the extent t which it alters the prescribe age after a person has been appointed to be of to act as Officer, shall not have effect in relation to that person unless he consents that it should have effect.

89. Director of Public Prosecutions

(1) The Director of Public Prosecutions shall be appointed by the Governor-general, acting in accordance with the advice of the Judicial and Legal Services Commission.

(2) If the office of Director of Public Prosecutions is vacant of if the holder of that office is for any reason unable to exercise the functions of his office, the Governor-General, acting in accordance with the advice of the Judicial and Legal Services Commission, may appoint a person to act as Director.

(3) Before tendering advice for the purposes of subsection (1) or (2) of this section the Judicial and Legal Services Commission shall consult the Prime Minister.

(4) A person shall not be qualified to be appointed to hold the office of Director of Public Prosecutions unless he holds one of the specified qualifications and has held one or other of those qualifications for a total period of not less than seven years.

(5) A person appointed to act in the office of Director of Public Persecutions shall, subject to the provision of subsections (6), (8), (9) and (10) of this section, cease so to act-

a) when a person is appointed to hold that office ad has assumed the functions thereof or, as the case may be, when the person in whose place he is acting resumes the functions of that office; or

b) at such earlier time as may be prescribed by the terms of his appointment.

(6) Subject to the provisions of subsection (7) of this section, the Director of Public Prosecutions shall vacate his office when he attains the prescribed age.

(7) A person holding the office of Director of Public Prosecutions may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for

misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(8) he Director of Public Prosecutions shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed under subsection (9) of his section and the tribunal has recommended to the Governor-General that he ought to be removed for inability as aforesaid or for misbehaviour.

(9) If the Prime Minister or the chairman of the Judicial and Legal Services Commission represents to the Governor-General that the question of removing the Director of Public Prosecutions under his section ought to be investigated then-

a) the Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Chief Justice from among persons who hold or have held office as a judge or a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court, and

b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to him whether the Director ought to be removed under this section.

(10) if the question of removing the Director of Public Prosecutions has been referred to a tribunal under this section, the Governor-general, acting in accordance with the advice of the Judicial and Legal Services Commission, may suspend the Director from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor-General, acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor-general that the Director should not be removed.

(11) The prescribed age for the purposes of subsection (6) of this section is the age of fifty-five years or such other age as may be prescribed by Parliament

Provided that any law enacted by Parliament, to the extent to which it alters the prescribed age after a person has been appointed to be or to act as Director of Public Prosecutions, shall not have effect in relation to that person unless he consents that it should have effect.

(12) The Judicial and Legal Services Commission shall consult the Prime Minister before it tenders any advice to the Governor-General under this section in its application to the Attorney-General by virtue of section 72(4) of this Constitution.

90. Director of Audit

(1) The Director of Audit shall be appointed by the Governor-General acting in accordance with the advice of the Public Service Commission.

(2) If the office of Director of Audit is vacant or if the holder of that office is for any reason unable to exercise the functions of his office the Governor-General, acting in accordance with the advice of the Public Service Commission, may appoint a person to act as Director.

(3) Before tendering advice for the purposes of subsection (1) or subsection (2) of this section , the Public Service Commission shall consult the Prime Minister.

(4) A person appointed to act in the office and of Director of Audit shall, subject to the provisions of subsections (5), (7), (8) and (9) of this section, cease so to act-

a) when a person is appointed to hold that office and has assumed the functions thereof or, as the case may be, when the person in whose place he is acting resumes the functions of that office; or

b) at such earlier time as may be prescribed by the terms of his appointment.

(5) Subject to the provisions of subsection (7) of this section the Director of Audit shall vacate his office when he attains the prescribed age.

(6) A person holding the office of Director of Audit may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(7) The Director of Audit shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed under subsection (8) of this subsection and the tribunal has recommended to the Governor-General that he ought to be removed for inability as aforesaid or for misbehaviour.

(8) If the Prime Minister or the chairman of the Public Service Commission represented to the Governor-General that the question of removing the Director of Audit under this section ought to be investigated-

a) the Governor-general shall appoint a tribunal which shall consist of a chairman and not less than two other members selected by the Chief Justice from among persons who hold or have held office as a judge or a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth of a court having jurisdiction in appeals from such a court; and

b) the tribunal shall enquire into the matter and report on the fact thereof to the Governor-General and recommend to him whether the Director ought to be removed under this section.

(9) If the question Of removing the Director of Audit has been referred to a tribunal under this section, the Governor-General, acting in accordance with the advice of the Public Service Commission, may suspend the Director from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor-General, acting in accordance with such advice as aforesaid and shall in any case cease to have effect if the tribunal recommends to the Governor-General that the Director should not be removed.

(10) The prescribed age for the purposes of subsection (5) of the section is the age of fifty or such other age as may be prescribed by Parliament:

Provided that any law enacted by parliament, to the extent to which it alters the prescribed age after a person has been appointed to be or to act as Director of Audit, shall not have effect in relation to that person unless he consents that it should have effect.

91. Appointment, etc., of magistrates, registrars and legal officers

(1) This section applies to the offices of magistrate, registrar of the High Court and assistant registrar of the High Court, to any public office in the department of the Attorney-General (other than the public office of Attorney-General) or in the department of the Parliamentary Commissioner, the department of the Chief Elections Office (other than the office of Officer) or the department of the Director of Public Prosecutions (other than the office of Director) for appointment which persons are required to hold one or other of the specific qualifications and such other offices connected with the courts parliament may prescribe.

(2) The power to appoint persons to hold or act in offices to which this section applies (including the power to confirm appointments) shall vest in the Judicial and Legal Services Commission:

(3) Subject to the provisions of section 96 of this Constitution the power to exercise disciplinary control over persons holding acting in offices to which this section applies and the power to remove such persons from office shall vest in the Judicial and Legal Service Commission.

PART 3
THE TEACHING SERVICE COMMISSION

92. Teaching Service Commission

(1) There shall be a Teaching Service Commission for Saint Lucia (hereinafter in this section referred to as the Commission) which shall consist of a chairman and not less than two nor more than for other member, who shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister:

provided that the Prime Minister shall consult the Leader of the Opposition before tendering any advice to the Governor-General for the purposes of this subsection.

(2) A person shall not be qualified to be appointed as a member of the Commission if-

a) he is a Senator or a member of the House;

b) he is, or has at any time during the three years preceding his appointment been, a judge of the Supreme Court or a public officer.

(3) A member of the Commission shall not, within the period of three years commencing with the day on which he last held or acted in the office on member of the Commission, be eligible for appointment to or to act in any public office.

(4) Subject to the provisions of this section, the office of a member of the Commission shall become vacant-

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

b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified to be appointed as such under subsection (2) of this section.

(5) A member of the Commission may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(6) A member of the Commission shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed under subsection (7) of this section and the tribunal has recommended to the Governor-general that he ought to be removed for office for inability as aforesaid or for misbehaviour.

(7) If the Prime Minister represents to the Governor-General that the question of removing a member of the Commission under this section ought to be investigated, then-

a) the Governor-Genera shall appoint a tribunal which shall consist of a chairman and not less than two other member, selected by the Chief Justice from among persons who hold or have held office as judge or a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court; and

b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to him whether the member ought to be removed under this section.

(8) If the question of removing a member of the Commission has been referred to a tribunal under this section, the Governor-General, acting in accordance with the advice of the Prime Minister, may suspend that member from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor-General, acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor-General that member should not be removed.

(9) If the office of chairman of the Commission is vacant or if the holder of that office is for any reason unable to exercise the functions of is office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding hat office has resumed those function , as the case may be, they shall be exercised by such other member of the Commission as may for the time being be designated by the Governor-general, acting in accordance with the advice of the Prime Minister.

(10) If at any time there are less than two members of the Commission besides the chairman or if any such member is acting as chairman or is for any reason unable to exercise the function of his office, the Governor-General, acting in accordance with the advice of the Prime Minister, may appoint a person who is qualified to be appointed as a member of the Commission to act as a member, and any person so member of the Commission to act as a member, and any

person so appointed shall, subject to the provisions of subsection (4) of this section, continue to act until the office in which he is acting has been filled or, as the case may be, until the office in which he is acting has been filled or, as the case may be, until the holder thereof has resumed his functions or until his appointment to act has been revoked by the Governor-General, acting in accordance with the advice of the Prime Minister.

(11) A member of the Commission shall not enter upon the duties of his office until he has taken and subscribed the oath of allegiance and the oath of office.

(12) The Commission shall, in the exercise of its functions under this Constitution, not be subject to the direction or control of any other person or authority.

(13) The Commission may by regulation or otherwise regulate its own procedure and, with the consent of the Prime Minister, may confer powers or impose duties on any public office or on any authority of the Government for the purpose of the exercise of its functions.

(14) The Commission may, subject to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings:

Provided that any decision of the Commission shall enquire the concurrence of a majority of all its members.

93. Appointment, etc., of teachers

(1) The power to appoint persons to hold or act in offices to which this section applies (including the power to confirm appointments), and, subject to the provisions of section 96 of this Constitution, the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Teaching Service Commission.

(2) The Teaching Service Commission may, by directions in writing and subject to such conditions as it thinks fit delegate any of its powers under subsection

(1) of this section to any one or more members of the Commission or, with the consent of the Prime Minister, to any public officer.

(3) This section applies to any office in the public service, the duties of which are wholly or mainly concerned with teaching in schools or with the administration of schools, not being an office to which section 87 of this Constitution applies.

PART 4
THE POLICE

94. Police Force

(1) The power to appoint a person to hold or act in the office of Commissioner of Police and, subject to the provision of section 96 of this Constitution, the power to remove the Commissioner from office shall rest in the Governor-General, acting in accordance with the advice of the Public Service Commission.

Provided that before the Commission tenders advice to the Governor-General with respect to the appointment f any person to hold the office of Commissioner the Commission shall consult with the Prime Minister and if the Prime Minister signifies his objection to the appointment of any person to the office the Commission shall not advise the Governor-general to appoint that person.

(2) The power to appoint persons to hold or act in office in the Police Force below the rank of Commissioner of Police but above the rank of Inspector (Including the power to confirm appointments), and, subject to the provisions of section 96 of this Constitution ,the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Public Service Commission.

(3) The power to appoint persons to hold or act in offices in the Police Force of or below the rank of Inspector (including the power to confirm appointments), and, subject to the provisions of section 96 of this Constitution, the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Commissioner of Police.

(4) The Commissioner of Police may, by directions give in such manner as he thinks fit and subject to such conditions as he thinks fit delegate any of his powers under subsection 83) of this section to any other member of the Police Force.

(5) A police office shall not be removed from office or subjected to any other punishment under his section on the grounds of any act done or omitted by him in the exercise of any judicial function conferred on him unless the Judicial and Legal Services Commission concurs therein.

(6) In this section references to the rank of Inspector shall, if the ranks within the Police Force are altered (whether in consequence of the reorganization or replacement of any existing part of the Force or the creation of an additional part) be construed as references to such rank or ranks as may be specified by the Public Service Commission by order published in the Official Gazette, being a rank or ranks that in the opinion of the Commission most nearly correspond to the rank of Inspector as it existed before the alteration.

PART 5
THE PUBLIC SERVICE BOARD OF APPEAL

95. Public Service Board of Appeal

(1) There shall be a Public Service Board of Appeal for Saint Lucia (hereinafter in this section and in section 96 of this Constitution referred to as the Board) which shall consist of-

a) one member appointed by the Governor-General, acting in his own deliberate judgment, who shall be chairman;

b) one member appointed by the Governor-General, acting in accordance with the advice of the Prime Minister; and

c) two members appointed by the Governor-General, acting in accordance with the advice of the appropriate representative bodies.

(2) A person shall not be qualified for appointment as a member of the Board if he is a Senator or a member of the House and a person shall not be qualified for appointment under paragraph (c) of subsection (1) of this section unless he is or has been a public office.

(3) Subject to the provisions of this section, the office of a member of the Board shall become vacant-

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

b) if any circumstances arise that, if he were not a member of the Board, would cause him to be disqualified to be appointed as such under subsection 82) of this section.

(4) A member of the Board may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provision of this section.

(5) A member of the Board shall be remove from office by the Governor-general if the question of his removal from office has been referred to a tribunal appointed under subsection 86) of this section and the tribunal has recommended to the Governor-general that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(6) If the Governor-general considers that the question of removing a member of the Board under this section ought to be investigated, then-

a) the Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or of a court having jurisdiction in appeals from such a court; and

b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to him whether the member ought to be removed under this section.

(7) If the question of removing a member of the Board has been referred to a tribunal under this section, the Governor-General may suspend that member from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor-General and shall in any case cease to have effect if the tribunal recommends to the Governor-general that member should not be removed.

(8) If at any time any member of the Board is for any reason unable to exercise the functions of his office, the Governor-General may appoint a person who is qualified to be appointed as a member of the Board to act as a member, and any person so appointed shall, subject to the provisions of subsection (4) of this section, continue to act until the holder thereof has resumed his functions or until his appointment to act has been revoked by the Governor-General.

(9) In the exercise of the powers conferred upon him by subsections (6), (7) and (8) of this section the Governor-General shall, in the case of a member of the Board appointed under paragraph (b) of subsection (1) of this section, act in accordance with the advice of the Prime Minister and shall in any other case act in his own deliberate judgment.

(10) The Board shall, in the exercise of its functions under this Constitution, not be subject to the direction or control of any other person or authority.

(11) In this section "the appropriate representative bodies" means the Saint Lucia Civil Service Association and the Police Association or such other bodies as may be designated by the Governor-General, acting in accordance with the advice of the Prime Minister, as representing the interest of public officers and of members of the Police Force.

96. Appeals in discipline cases

(1) This section applies to-

a) any decision of the Governor-General, acting in accordance with the advice of the Public Service Commission, or any decision of the Public Service Commission, or any decision of the Public Service Commission or of the Teaching Service Commission, to remove a public officer from office or to exercise disciplinary control over a public officer (including a decision made on appeal from or confirming a decision of any person to whom powers are delegated under section 86(29 or 93(2) of this Constitution);

b) any decision of any person to whom powers are delegated under section 86(2) or 93(2) of this Constitution to remove a public officer from office or to exercise disciplinary control over a public officer (not being a decision which is subject to appeal to confirmation by the Public Service Commission or the Teaching Service Commission);

c) if it is so provided by parliament, any decision f the Commissioner of Police under subsection (3) of section 94 of this Constitution, or of a person to whom powers are delegate under subsection (4) of that section, to remove a police officer from office or to exercise disciplinary control over a police officer;

d) such decisions with respect to the discipline of any military, naval or air force of Saint Lucia as may be prescribed by Parliament.

(2) Subject to the provisions of this section, and appeal shall lie to the Board from any decision to which this section apples at the instance of the public officer or member of the naval, military or air force in respect of whom the decision is made:

provided that in the case of any such decision as is referred to in subsection (1)(c) of this section, an appeal shall lie in the first instance to the Commissioner of Police if it is so provided by Parliament or, if it is not so provided, if the Commissioner so requires.

(3) Upon an appeal under this section the Board may affirm or set aside the decision appealed against or may make any other decision which the authority or person from whom the appeal lies could have made.

(4) Every decision of the Board shall require the concurrence of a majority of all its members.

(5) Subject to the provisions of subsection (4) of this section, the Board may be regulation make provision for-

a) the procedure of the Board;

b) the procedure in appeals under this section; or

c) excepting from the provisions of subsection (2) of this section decisions in respect of public officers holding offices whose emoluments do not exceed such sum as may be prescribed by the regulations or such decisions to exercise disciplinary control, other than decisions to remove from office, as may be so prescribed.

(6) Regulations made under this section may, with the consent of the Prime Minister, confer powers or impose duties on any public officer or any authority of the Government for the purpose of the exercise of the functions of the Board.

(7) The Board may, subject to the provisions of this section and to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any member.

PART 6
PENSIONS

97. Pensions laws and protection of pension rights

(1) The law to be applied with respect to any persons benefits that were granted to any person before the commencement of this Constitution shall be the law that was in force at the date on which those benefits were granted or any law in force at a later date that is not less favourable to that person.

(2) The law to be applied with respect to any persons benefits (not being benefits to which subsection (1) of this section applies) shall-

a) in so far as those benefits are wholly in respect of a period of service as a judge or officer of the Supreme Court or a public officer that commenced before the commencement of this Constitution, be the law that was in force at such commencement; and

b) in so far as those benefits are wholly or partly in respect of a period of service as a judge or officer of the Supreme Court or a public office that commenced after the commencement of this Constitution, be the law in force on the date on which that period of service commenced,

or any law in force at a later date that is not less favourable to that person.

(3) Where a person is entitled to exercise an option as to which of two or more laws shall apply in his case the law for which he opts shall, for the purposes of this section, be deemed to be more favourable to him than the other law or laws.

(4) All persons benefits shall (except to the extent that they are by law charged upon and duly paid out of some other fund) be a charge on the Consolidated Fund.

(5) In this section "pensions benefits" means any pension, compensation, gratuities or other like allowance for persons in respect of their services as judge or officers of the Supreme Court or public officers or for the widows, children, dependants or personal representatives of such persons in respect of such service.

(6) References in this section to the law with respect to pensions benefits include (without prejudice to their generality) references to the law regulating the circumstances in which such benefits may be granted or in which the grant of such benefits may be refused, the law regulating he circumstances in which any such benefits that have been granted may be withheld, reduce in amount or suspended and the law regulating the amount of any such benefits.

98. Power to withhold pensions, etc.

(1) Where under any law any person or authority has a discretion-

a) to decide whether or not any pensions benefits shall be granted; or

b) to withhold, reduce in amount or suspend any such benefits that have been granted,

those benefits shall be granted and may not be withheld, reduced in amount or suspended unless the Public Service Commission concurs in the refusal to grant the benefits or, as the case may be, in the decision to withhold them, reduce them in amount or suspend them.

(2) where the amount of any persons benefits that may be granted to any person is not fixed by law, the amount of the benefits to be granted to him shall be the greatest amount for which he is eligible unless the Public Service Commission concurs in this being granted benefits of a smaller amount.

(3) The Public Service Commission shall not concur under subsection (1) or subsection (2) of this section in any action taken on the ground that any person who holds or has held the office of judge of the Supreme Court, Director of Public Prosecutions, Director of Audit or Chief Elections Officer has been guilty of misbehaviour in that office unless he has been removed from that office by reason of such misbehaviour.

(4) Before the Public Service Commission concurs under subsection (1) or subsection (2) of this section in any action taken on the ground that any person who holds or has held any office to which, at the time of such action, section 91 of this Constitution applies has been guilty of misbehaviour in that office, the Public Service Commission shall consult the Judicial and Legal Services Commission.

(5) In this section "pension benefits" means any pensions, compensation, gratuities or other like allowances for persons in respect of their service as judges or officers of the Supreme Court or public officers or for the widows, children, dependants or personal representatives of such persons in respect of such service.

CHAPTER VII
CITIZENSHIP

99. Persons who become citizens on 22nd February 1979

(1) Every person who, having been born in Saint Lucia, is immediately before the commencement of this Constitution a citizen of the United Kingdom and Colonies shall become a citizen at such commencement.

(2) Every person who, immediately before the commencement of this Constitution, is a citizen of the United Kingdom, and Colonies-

a) having become such a citizen under the British nationality Act 1948(a) by virtue of his having been naturalized in Saint Lucia as a British subject before that Act came into force; or

b) having while resident in Saint Lucia become such a citizen by virtue of his having been naturalizes or registered under the British Nationality Act 1948,

shall become a citizen at such commencement.

(3) Every person who, having been born outside Saint Lucia, is immediately before the commencement of this Constitution a citizen of the United Kingdom and Colonies shall, if his father or mother becomes, or would but for his death or the renunciation of his citizenship of the United Kingdom and Colonies have become, a citizen by virtue of subsection (1) or subsection (2) of this section, become a citizen at such commencement.

(4) Every woman who, having been married to a person who becomes or but for his death or the renunciation of this citizenship of the United Kingdom and Colonies would have become, a citizen by virtue of subsection (1), (2) or (3) of this section, is a citizen of the United Kingdom and Colonies immediately before the commencement of this Constitution shall become a citizen at such commencement.

100. Persons born in Saint Lucia on or after 22nd February 1979

Every person born in Saint Lucia after the commencement of this Constitution shall become a citizen at the date of his birth:

Provided that a person shall not become a citizen by virtue of this section if at the time of his birth-

a) neither of his parents is a citizen of Saint Lucia and his father possesses such immunity from suit and legal process as is accorded to the envoy of a foreign sovereign power accredited to Saint Lucia; or

b) his father is a citizen of a country with which Saint Lucia is at war and the birth occurs in a place then under occupation by that country.

101. Persons born outside Saint Lucia on or after 22nd February 1979

A person born outside Saint Lucia after the commencement of this Constitution shall become a citizen at the date of his birth if, at that date, his father or mother is a citizen otherwise than by virtue of this section or section 99(3) of this Constitution.

102. Registration

(1) The following persons shall be entitled, upon making application, to be registered as citizens-

a) any woman who is married to a citizen or who has been married to a person who, at any time during the period during which they were married to each other, was a citizen;

b) any person who, being a Commonwealth citizen, is ordinarily resident in Saint Lucia at the commencement of this Constitution having been so resident for the period of seven years immediately preceding such commencement;

c) any person who, having been a citizen has renounced his citizenship in order to quality for the acquisition or retention of the citizenship of another country;

d) any person who, but for having renounced his citizenship of the United Kingdom and Colonies in order to qualify for the acquisition or retention of the citizenship of another country, would have become a citizen at the commencement of this Constitution;

e) any woman who is married to any such person as is mentioned in paragraph (b), (c) or (d) of this subsection or who was married to a person who, at any time during the period during which they were married to each other, was entitled to be registered as a citizen under any such paragraph;

f) any woman who, before the commencement of this Constitution has been married to a person-

i) who becomes a citizen by virtue of section 99 of this Constitution; or

ii) who, having died before such commencement, would but for his death have becomes a citizen by virtue of that section.

but whose marriage has been terminated by death or dissolution before such commencement.

(2) The following persons shall upon making application, be entitled to be registered as citizens-

a) any man who is married to a citizen or who has been married to a person who, at any time during the period during which they were married to each other, was a citizen;

b) any person who, being a Commonwealth citizen, is and for seven years previous to his application has been ordinarily resident in Saint Lucia;

c) any man who is married to any such person as is mentioned in paragraph (b), (c) or (d) of subsection (1) of this section or who was married to a person who, at any time during the period which they were married to each other, was entitled to apply to be registered as a citizen under any such paragraph;

d) any person under the age of twenty-one years who is the stepchild or child adopted in a manner recognized by law of a citizen or is the child stepchild so adopted of a person who is or would but for his death have been entitled to be registered as a citizen under subsection (1) of this section;

Provided that if it is so provided by Parliament an application for registration as a citizen under this subsection may, in such circumstances as may be prescribed by Parliament in the interests of defence, public safety or public order, be refused by the Minister responsible for the matter in any case in which he is satisfied that there are reasonable grounds for refusing the application.

(3) An application under this section shall be made in such manner as may be prescribed, as respects that application, by or under a law enacted by Parliament and in the case of a person to whom subsection (2)(d) of this section applies, it shall be made on his behalf by his parent or guardian:

Provided that, if any such person is or has been married, he may make the application himself.

(4) Every person who, being a British protected person, an alien or if it so prescribed by Parliament, a citizen of any country within the Commonwealth that does not form part of Her Majesty's dominions and having reached the age of twenty-one years applies for registration under this section shall, before such registration, take the oath of allegiance.

103. Acquisition, deprivation and renunciation

There shall be such provision as may be made by Parliament for-

a) the acquisition of citizenship by persons who are not eligible or who are no longer eligible to become citizen under the provisions of this Chapter.

b) depriving of his citizenship any person who is a citizen other wise than by virtue of section 99, 100 or 101 of this Constitution

c) the renunciation by any person of his citizenship.

104. Interpretation

(1) In this Chapter-

"alien" means a person who is not a Commonwealth citizen, a British protected person or a citizen of the republic of Ireland;

"British protected person" means a person who is a British protected person for the purposes of the British Nationality Act 1948;

"the British Nationality Act 1948" includes any Act of the Parliament of the United Kingdom altering that Act.

(2) For the purposes of this Chapter, a person born aboard a registered ship or aircraft, or aboard an unregistered ship or aircraft of the government of any country, shall be deemed to have been born in the place in which the ship or aircraft was registered or, as the case may be, in that country.

(3) Any reference in this Chapter to the national status of the father of a person at the time of that person's birth shall, in relation to a person born after the death of his father at the time of the father's death; and where that death occurred before the commencement of this Constitution and the birth occurred after such commencement the national status that the father would have had if he had died immediately after such commencement shall be deemed to be his national status at the time of his death.

CHAPTER VIII
JUDICIAL PROVISIONS

105. Original jurisdiction of High Court in constitutional questions

(1) Subject to the provisions of section 22(2), 37(6), 41(11), 58(7), 117(8), 121(3) and 124(10) of this Constitution, any person who alleges that any provisions of this Constitution (other than a provisions of Chapter 1 thereof) has been or is being contravened may, if he has a relevant interest, apply to the High Court for a declaration and for relief under this section.

(2) The high Court shall have jurisdiction on an application made under this section to determine whether any provisions of this Constitution (other than a provision of Chapter 1 thereof) has been or is being contravened and to make a declaration accordingly.

(3) Where the High Court makes a declaration under this section that a provision of this Constitution has been or is being contravened and the person on whose application the declarations made has also applied for relief, the High Court may grant to that person such remedy as it considers appropriate, being a remedy available generally under any law in proceedings in the High Court.

(4) The Chief Justice may make rules with respect to eh practice and procedure of the High Court in relation to the relation to the jurisdiction and power conferred on the Court by or under his section, including provision with respect to the time within which any application under this section may be made.

(5) A person shall be regarded as having a relevant interest for the purpose of an application under this section only if the contravention of this Constitution alleged by him is such as to affect his interests.

(6) The right conferred on a person by this section to apply for a declaration and relief in respect of any alleged contravention of this Constitution shall be in addition to any other action in respect of the same matter that may be available to that person under any other law.

(7) Nothing in this section shall confer jurisdiction on the High Court to hear or determine any such question as is referred to in section 39 of this Constitution.

106. Reference of constitutional questions to High Court

(1) Where any question as to the interpretation of this Constitution arises in any court of law established for Saint Lucia (other than the Court of Appeal , the High Court or a court martial) and the court is of opinion that the question involves a substantial question of law, the court shall refer the question to the High Court.

(2) Where any question is referred to the High Court in pursuance of this section the High Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision or, if the decision is the subject of an appeal to the Court of Appeal or Her Majesty in Council, in accordance with the decision of the Court of Appeal or, as the case may be, her Majesty in Council.

107. Appeals to Court of Appeal

Subject to the provisions of section 39(8) of this Constitution, an appeal shall lie from decision of the High Court of Appeal as of right in the following cases-

a) Final decision in any civil or criminal proceedings on question as to the interpretation of this Constitution:

b) final decision given in exercise of the jurisdiction conferred on the High Court by section 16 of this Constitution (which relates to the enforcement of the fundamental rights and freedoms); and

c) such other cases as may be prescribed by Parliament.

108. Appeals to Her Majesty in Council

(1) An appeal shall lie from decisions of the Court of Appeal to Her Majesty in Council as of right in the following cases-

a) final decision in any civil proceedings where the matter in dispute on the appeal to Her Majesty in Council is of the prescribed value or upwards or where the appeal involves directly or indirectly a claim to or question respecting property or a right of the prescribed value or upwards;

b) final decision in proceedings for dissolution or nullity of marriage;

c) final decisions in any civil or criminal proceedings which involve a question as to the interpretation of this Constitution; and

d) such other cases as may be prescribed by Parliament.

(2) An appeal shall lie from decision of the Court of Appeal to Her Majesty in Council with the leave of the Court of Appeal in the following cases-

a) decision in any civil proceedings where in the opinion of the Court of Appeal the question involve in the appeal is one that, by reason of its great general or public importance or otherwise, ought to be submitted to Her Majesty in Council; and

b) such other cases as may be prescribed by Parliament,

(3) An appeal shall lie to Her Majesty in Council with the special leave of Her Majesty from any decision of the Court of Appeal in any civil criminal matter.

(4) References in this section to decisions of the Court of Appeal shall be construed as references to decisions of the Court of Appeal in exercise of the jurisdiction conferred by this Constitution or any other law.

(5) In this section the prescribed value means the value of fifteen hundred dollars or such other value as may be prescribes by Parliament.

(6) This section shall be subject to the provisions of section 39 (7) of this Constitution.

109. Interpretation

In this Chapter references to the contravention of any provision of , or the interpretation of, this Constitution shall be construed as including references to the contravention of any provision of , or the interpretation of the Supreme Court Order.

CHAPTER IX
PARLIAMENTARY COMMISSIONER

110. Appointment, etc. of Commissioner

(1) There shall be a Parliament Commissioner for Saint Lucia who shall be an officer of Parliament ad who shall not hold any other office of emolument

whether in the public service or otherwise nor engage in any other occupation for reward.

(2) The Parliamentary Commissioner shall be appointed by the Governor-General, acting after consultation with the Prime Minister and the Leader of the Opposition, for a term not exceeding five years.

(3) Before entering upon the duties of his office, the Parliamentary Commissioner shall take and subscribe the oath of office before the Speaker.

(4) Subject to the provisions of subsection (7) of this section the Parliamentary Commissioner shall vacate his office at the expiration of the term for which he was appointed;

Provided that he shall vacate his office-

a) if he is appointed as a Senator or with his consent he is nominated as a candidate for election to the House; or

b) if he is appointed to any other office of emolument or engages in any other occupation for reward.

(5) If the office of Parliamentary Commissioner becomes vacant, and appointment to fill the office shall be made within ninety days of the occurrence of the vacancy;

provided that the House may be resolution extent that period for further periods not exceeding in the aggregate one hundred and fifty days.

(6) A person holding the office of parliamentary Commissioner may be revoked from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) of for misbehaviour ad shall not be so removed except in accordance with he provisions of this section.

(7) The parliamentary Commissioner shall be removed from office by the Governor-general if the question of his removal from office has been referred

to a tribunal appointed under subsection (8) of his section and the tribunal has recommended tot he Governor-general that eh ought to be removed for inability as aforesaid or for misbehaviour.

(8) If the Governor-General, acting after consultation with he Prime Minister and the Leader of the Opposition, considers that the question of removing the Parliamentary Commissioner under this section ought to be investigated-

a) the Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other member selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court; and

b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-general and recommend to him whether the Commissioner ought to be removed under this section.

(9) If the question of removing the Parliamentary Commissioner has been referred to a tribunal under this section the Governor-General, acting after consultation with the Prime Minister and the Leader of the Opposition, may suspend the Commissioner from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor-general, acting as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor-General that the Commissioner should not be removed.

111. Deputy Parliamentary Commissioner

(1) There shall be a Deputy Parliamentary Commissioner and the provisions of section 110 of this Constitution shall apply in relation to the Commissioner and his office as they apply in relation to the parliamentary Commissioner and his office.

(2) The Deputy Parliamentary Commissioner shall assist the Parliamentary Commissioner if the performance of the functions of his office and whenever

that office is vacant or the holder of the office is for any reason unable to perform those functions, the Deputy parliamentary Commissioner shall perform those functions.

112. Functions of Commissioner

(1) Subject to the provisions of this section and sections 113 and 114 of this Constitution , the principal functions of the Parliamentary Commissioner shall be to investigate any decision or recommendation made including any advice give or recommendation made to a Minister, or any act done or omitted by any department of government or any other authority to which this section applies, or by officers or member of such a department or authority, being action taken in exercise of the administrative functions of that department or authority.

(2) The Parliamentary Commissioner shall be provided with a staff adequate for the efficient discharge of his functions and the office of the member of this staff shall be public offices.

(3) The Parliamentary Commissioner may investigate any such matter in any of the following circumstances-

a) where a complaint in duly made to the Commissioner by any person alleging that the complainant has sustained an injustice as a result of a fault in administration;

b) where a Senator or a member of the House request the Commissioner to investigate the matter on the ground that some person or body of persons has or may have sustained such injustice.

(4) The authorities other than departments of government to which this section applies are-

a) local authorities or other bodies established for purposes of the public service or of local government;

b) authorities or bodies the majority of whose members are appointed by the Governor-General or by a Minister or whose revenues consist wholly or mainly of moneys provided out of public funds;

c) any authority empowered to determine the person with whom any contract shall be entered into by or on behalf of the Government; and

d) such other authorities as may be prescribed by Parliament.

113. Restrictions on matters for investigation

(1) In investigating any matter leading to ,resulting from or connected with the decision of a Minister, the Parliamentary Commissioner shall not inquire into or question the policy of the Minister in accordance with which the decision was made.

(2) The Parliamentary Commissioner shall have power to investigate complaints of administrative injustice under section 112 notwithstanding that such complaint raise question as to the integrity or corruption of the public service or any department or office of the public service, and may investigate any conditions resulting from, or calculated to facilitate or encourage, corruption in the public service, but he shall not undertake any investigation into specific charges of corruption against individuals.

(3) Where in the course of an investigation it appears to the parliamentary Commissioner that there is evidence of any corrupt act by any public office or by any person in connection with the public service, he shall report the matter to the appropriate authority with his recommendation as to any further investigation he may consider proper.

(4) The Parliamentary Commissioner shall not investigate-

a) any action in respect of which the complainant has or had

i) a remedy by way of proceedings in a court of law; or

ii) a right of appeal, references or review to or before an independent and impartial tribunal other than a court of law; or

b) any such action, or action taken with respect to any matter, as is described in Schedule 3 to this Constitution.

(5) Notwithstanding the provision of subsection(4) of this section the Parliamentary Commissioner-

a) may investigate a matter notwithstanding that the complainant has or had a remedy by way of proceedings in a court of law if satisfied that in the particular circumstances it is not reasonable to expect him to take or to have taken such proceedings;

b) is not i any case preclude from investigating any matter by reason only that it is open to the complainant to apply to the High Court for redress under section 16 of this Constitution (which relates to the enforcement of the fundamental rights and freedoms).

114. Discretion of Commissioner

In determining whether to initiate, continue or discontinue an investigation, the Parliamentary Commissioner shall, subject to the provisions of sections 112 and 113 of this Constitution, act in his discretion, the Commissioner may refuse to initiate or may discontinue an investigation where it appears to him that-

a) a complaint relates to action of which the complainant has knowledge for more than twelve months before the complaint was received by the Commissioner;

b) the subject matter of the complaint is trivial;

c) the complaint is frivolous or vexatious or is not made in good faith; or

d) the complainant has not a sufficient interest in the subject matter of the complaint.

115. Report on investigation

(1) Where a complaint or request for an investigation is duly made and the Parliamentary Commissioner decides not to investigate the matter or where he decides to discontinue and investigation of the matter, he shall inform the person who made the complaint or request of the reasons for his decision.

(2) Upon the completion of an investigation the Parliamentary Commission shall inform the department of government of the authority concerned of the results of the investigation and if he is of the opinion that any person has sustained an injustice in consequence of a fault in administration, he shall inform the department of government of the authority of the reason for his opinion and make such recommendations as he thinks fit.

(3) The Parliamentary Commissioner may in his original recommendation, or at any later stage if he thinks fit specify the time within which the injustice should he remedied.

(4) Where the investigation is undertaken as a result of a complaint or request, the Parliamentary Commissioner shall inform the person who made the complaint or request of his findings.

(5) Where the matter is in the opinion of the Parliamentary Commissioner of sufficient public importance or where the Commissioner has made a recommendation under subsection (2) of this section and within the time specified by him no sufficient action has been taken to remedy the injustice, then the Commissioner shall make a special report to the Senate and the House on the case.

(6) The parliamentary Commission shall make annual reports to the Senate and the House on the performance of his functions which shall include statistics in such form and in such detail as may be prescribed by law of the complaints received by him and the results of his investigations.

116. Power to obtain evidence

(1) The Parliamentary Commissioner shall have the powers of the High Court to summon witnesses to appear before him and to compel them to give evidence on oath and to produce documents relevant to eh proceedings before him and all person giving evidence at those proceedings shall have the same duties and liabilities and enjoy the same privileges as in the High Court.

(2) The parliamentary Commissioner shall have power to enter and inspect te premises of any department of government of any authority to which section 112 applies, to call for, examine and where necessary retain any document kept on such premises and there to carry out any investigation in pursuance of his functions.

117. Prescribed matters concerning Commissioner

(1) There shall be such provisions as may be made be Parliament-

a) for regulating the procedure for the making of complaints and request to the Parliamentary Commissioner and for the exercise of his functions;

b) for conferring such power on the Commissioner and imposing duties on persons in connection with the due performance of his functions; and

c) generally for facilitating the performance by the Commissioner of his functions.

(2) The Parliamentary Commissioner may not be empowered to summon Minister or a Parliamentary Secretary to appear before him or to compel a Minister or a Parliamentary Secretary to answer any question relating to any matter under investigation by the Commissioner.

(3) The parliamentary Commissioner may not be empowered to summon any witness to procedure any Cabinet papers or to give any confidential income tax information.

(4) No complainant may be required to pay any fee in respect of his complaint or request or for any investigation to be made by the Parliamentary Commissioner.

(5) No proceedings, civil or criminal, may lie against the Parliamentary Commissioner, or against any person holding an office or appointment under him, for anything he may do or report or say in the course of the exercise or intended exercise of the functions of the Commissioner under this Constitution, unless it is shown that he acted in bad faith.

(6) The parliamentary Commissioner, and any person holding office or appointment under him, may not be called to give evidence in any court of law, or in any proceedings of a judicial nature, in respect of anything coming to his knowledge in the exercise of his functions.

(7) Anything said or any information supplied or any document paper, or thing produced by any person in the course of any enquiry by or proceedings before that parliamentary Commissioner under this Constitution shall be privileges in the same manner as if the enquiry of proceedings were proceedings in a court of law.

(8) No proceedings of the Parliamentary Commissioner may be held bad for want of form, and, except on the ground of lack of jurisdiction not proceeding or decision of the Commissioner shall be liable to be challenged review, quashed or called in question in any court of law.

CHAPTER X
MISCELLANEOUS

118. The Integrity Commission

(1) There shall be an Integrity Commission for Saint Lucia (hereinafter in this section referred to as the Commission) which shall consist of a chairman and not less than two nor more than four other members, who shall be appointed by the Governor-general, acting in accordance with the advice of the Prime Minister:

provided that the Prime Minister shall consult the Leader of the Opposition before tendering any advice to the Governor-general for the purposes of this subsection.

(2) A person shall not be qualified to be appointed as a member of the Commission if-

a) he is a Senator or a member of the House:

b) he is, or has at any time during the three years preceding his appointment been, a judge of the Supreme Court or a public officer.

(3) A member of the Commission shall not, within the period of three years commencing with the day on which he last held or acted in the office of member of the Commission, be eligible for appointment to or to act in any public office.

(4) Subject to the provisions of this section, the office of a member of the Commission shall become vacant-

a) at the expiration of three years from the date of his appointment or

b) if any circumstances arise that, if the were not a member of the Commission, would cause him to be disqualified to be appointed as such under subsection (2) of this section.

(5) A member of the Commission may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(6) A member of the Commission shall be removed from office by the Governor-General if the question of this removal from office has been referred to a tribunal appointed under subsection 87) of this section and the tribunal has recommended to the Governor-General that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(7) If the Prime Minister represents to the Governor-General, that the question of removing a member of the Commission under this section ought to be investigated, then-

a) the Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth of a court having jurisdiction in appeals from such a court; and

b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to him whether the member ought to be removed under this section.

(8) If the question of removing a member of the Commission has been referred to a tribunal under his section , the Governor-General, acting in accordance with the advice of the Prime Minister, may suspend that member form the exercise of the functions for this office and any such suspension may at any time be revoked by the Governor-General. acting in accordance with such advice as aforesaid , and shall in any case cease to have effect if the tribunal recommends to the Governor-General that member should not be removed.

(9) If the office of chairman of the Commission is vacant or if the holder of that office is for any reason unable to exercise the functions on his office, then until a person has been appointed to and has assumed the function of that office or until the person holding that office has resumed those functions as the case may be, they shall be exercised y such other member of the Commission as may for the time being the designated by the Governor-General, acting in accordance with the advice of the Prime Minister.

(10) If at any time there are less two members of the Commission besides the chairman or if any such member is acting as chairman or is for any reason unable to exercise the function of this office, the Governor-General, acting in accordance with the advice of the Prime Minister, may appoint a person who is qualified to be appointed as a member of the Commission to act as a member, and any person so appointed shall, subject to the provisions of subsection (4)

of this section, continue to act until the office in which he is acting has been filled or, as the case may be, until the holder thereof has resumed his functions or until his appointment to act has been revoked by the Governor-General, acting in accordance with the advice of the Prime Minister.

(11) A member of the Commission shall not enter upon the duties of his office until he has taken and subscribed the oath of allegiance and the oath of office.

(12) The Commission shall, in the exercise of its functions under this Constitution, not be subject to the direction of control of any other person or authority.

(13) The Commission may be regulation or otherwise regulate its own procedure and, with the consent of the Prime Minister, may confer powers or impose duties on any public office or on any authority of the Government for the purpose of the exercise of its functions.

(14) The Commission may, subject to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings:

provided that any decision of the Commission shall require the concurrence of a majority of all its members.

119. Declaration of assets

(1) The integrity Commission shall obtain declaration in writing from time to time of their assets, liabilities and income from Senators and member of the House (including Ministers and Parliamentary Secretaries) and from the holders of such other offices as Parliament may prescribe.

(2) There shall be such provision as may be made by Parliament in relation to the due performance by the Commission of its function under this section, including its powers, privileges, immunities and procedure and the security and confidentiality of the information it receives.

120. Supreme law

This Constitution is the supreme law of Saint Lucia and, subject to the provisions of section 41 of this Constitution, if any other law is inconsistent with this Constitution shall prevail and the other law shall, to the extent of the inconsistency, be void.

121. Functions of Governor-General

(1) Any reference in this Constitution to the functions of the Governor-general shall be construed as a reference to his powers and duties in the exercise of the executive authority of Saint Lucia and to any other powers and duties conferred of impose on him as Governor-general by or under his Constitution or any other law.

(2) Where by this Constitution the Governor-general is required to perform any function in accordance with any person or authority he shall not be obliged to exercise that function in accordance with the advice of that person or authority.

(3) Where by this Constitution the Governor-general is required to perform any function in accordance with the advice of, or after consultation with, any person or authority the question whether the Governor-General, has so exercised that functions shall not be enquired into in any court of law.

122. Resignations

(1) A Senator or a member of the House may resign his seat by writing under his hand addressed t the president or the Speaker as the case may be, and the resignation shall take effect, and the seat shall accordingly become vacant, when the writing is received, as the case may be, by-

a) the President or Speaker;

b) if the office of President or Speaker is vacant or the President or Speaker is for any reason unable to perform the functions of his office and no other person is performing them, the Deputy President or Deputy Speaker; or

c) if the office of Deputy President or Deputy Speaker is vacant or the Deputy President or Deputy Speaker is for any reason unable to perform the functions of his office and no other person is performing them, the Clerk of the Senate or Clerk of the House.

(2) The President or the Deputy President or the Speaker or the Deputy Speaker may resign his office by writing under his hand addressed to the Senate or the House, as he case may be, and the resignation shall take effect, and the office shall accordingly become vacant, when the writing is received, as the case may be, by the Clerk of the Senate or Clerk of the House.

(3) Any person who has been appointed to an office established by this Constitution (other than an office to which subsection (1) or (2) of this section applies) or any office of Minister established under his Constitution may resign that office by writing under his hand addressed to the person or authority by whom he was appointed and the resignation shall take effect, and the office shall accordingly become vacant-

a) at such time or on such date (if any) as may be specified in the writing; or

b) when the writing is received by the person or authority to whom it is addressed to by such other person a may be authorized to received it,

whichever is the later;

Provided that the resignation maybe withdrawn before it takes effect if the person or authority to whom the resignation is addressed consents to its withdrawal.

123. Re-appointment and concurrent appointments

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

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

124. Interpretation

(1) In this Constitution, unless the context otherwise requires-

"citizen" means a citizen of Saint Lucia and "citizenship" shall be construed accordingly;

"Commonwealth citizen" has such meaning as Parliament may prescribed;

"dollars" means dollars in the currency of Saint Lucia;

"financial year" means any period of twelve months beginning on 1st January in any year or such other date as may be prescribed by law;

"the Government" means the Government of Saint Lucia,

"the House" means the House of Assembly;

"law" means any law in force in Saint Lucia or any part thereof including any instrument having the force of law and any unwritten rule of law and "lawful" and "lawfully" shall be construed accordingly;

"Minister" means a Minster of the Government and includes a temporary Minister;

"Parliament" means the Parliament of Saint Lucia;

"oath" includes affirmation;

"oath of allegiance" means such oath of allegiance as may be prescribed by law;

"oath of office" means, in relation to any office such oath for the due execution of that office as may be prescribed by law;

"oath of secrecy" means such oath of secrecy as may be prescribed by law;

"the Police Force" means the Royal Saint Lucia Police Force and includes any other police force established to succeed tot he functions of the Royal Saint Lucia Police Force;

"President" and "Deputy President" mean the respective persons holding office as President and Deputy President of the Senate;

"public office" means any office of emolument in the public service;

"public officer" means a person holding or acting in any public office;

"the public service" means, subject to the provisions of this section, the service in a civil capacity of the Government;

"session" means, in relation to the Senate or the House, the period beginning when it first meets after Parliament has at any time been prorogued or dissolved and ending when Parliament is prorogued or when Parliament is dissolved without having been prorogued;

"sitting" means, in relation to the Senate or the House the period during which it is sitting continuously without adjournment and includes any period during which it is in committee;

"Speaker" and "Deputy Speaker" means the respective persons holding office as Speaker and Deputy Speaker of the House.

(2) In this Constitution references to an office in the public service shall not be construed as including-

a) references to the office of the President of Deputy president, the Speaker or Deputy Speaker, the Prime Minister or any other Minister, a Senator, a Parliamentary Secretary or a member of the House, the Parliamentary Commissioner of the Deputy Parliamentary Commissioner;

b) references to the office of a member of any Commission established by the Constitution or a member of the Advisory Committee on the Prerogative of Mercy or a member of the Public Service Board of Appeal;

c) references to the office of judge or officer of the Supreme Court;

d) save in so far as may be provided by Parliament, references to the office of a member of any other council, board, panel, committee or other similar body (whether incorporate or not) established by or under any law.

(3) In this Constitution-

a) references to the Supreme Court Order include references to any law in force in Saint Lucia altering that Order;

b) references to the Supreme Court, the Court of Appeal, the High Court and the Judicial and Legal Services Commission are references to the Supreme Court, the Court or Appeal, the High Court and the Judicial and Legal Services Commission established by the Supreme Court Order;

c) references to the Chief Justices have the same meaning as in the Supreme Court Order;

d) references to a judge of the Supreme Court are references to a judge of the High Court or the Court of Appeal and , unless the context otherwise requires, include references to a judge of the former Supreme Court of the Windward Islands and Leeward islands; and

e) references to officers of the Supreme Court are references to the Chief Registrar and other officers of the Supreme Court appointed under the Supreme Court Order.

(4) In this Constitution "the specified qualification" means the professional qualifications specified by or under any law, one of which must be held by any person before he may apply under that law to be admitted to practice as a barrister or a solicitor in Saint Lucia.

(5) For the purposes of this Constitution, a person shall not be regarded as holding an office by reason only of the fact that he is in receipt of a persons or other like allowance.

(6) In this Constitution, unless the context otherwise requires, a reference to the holder of an office by the term designating his office shall be construed as including, to the extent of his authority, a reference to any person for the time being authorized to exercise the functions of that office.

(7) Except in the case where this Constitution provides for the holder of any office thereunder to be such person holding or acting in any other office as may for the time being be designated in that behalf by some other specified person or authority, no person may without his consent, be nominated for election to any such office or be appointed to or to act therein or otherwise be selected therefor.

(8) References in this Constitution to the power to remove a public office from his office shall be construed as including references to any powers conferred by any law to require or permit that officer to retire from the public service:

Provided that-

a) nothing in this subsection shall be construed as conferring on any person or authority the power to require the Director of Public Prosecutions, the Director of Audit or the Chief Elections Officer to retire from the public service; and

b) any power conferred by any law to permit a person to retire from the public service shall, in the case of any public officer who may be removed from office by some person or authority other than a Commission established by this Constitution, vest in the Public Service Commission.

(9) Any provisions ins this Constitution that vests in any person or authority the power to remove any public officer from his office shall be without prejudice to the power of any person or authority to abolish any office or to any law providing for the compulsory retirement of public officers generally or any class of public officer on attaining an age specified by or under the law.

(10) Where this constitution vested in any person or authority the power to appoint any person to act in or to exercise the functions of any office if the holder thereof is himself unable to exercise those functions, no such appointment shall be called in question on the grounds that the holder of the office was not unable to exercise those functions.

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

(12) Without prejudice to the provisions of section 32(3) of the Interpretation Act 1889(a) (as applied by subsection (14) of this section), where any power is conferred by this Constitution to make any order, regulation or rule or give any direction or make any designation, the power shall be construed as including the power, exercisable in like manner and subject to the like conditions, if any, to amend or revoke any such order, regulation, rule, direction, or designation.

(13) In this Constitution references to altering this Constitution or any other law, or any provision thereof, include references-

a) to revoking it, with or without re-enactment thereof or the making of different provisions in lieu thereof;

b) to modifying it whether by omitting or amending any of its provisions or inserting additional provisions in it or otherwise; and

c) to suspending its operation for any period or terminating any such suspension.

(14) The Interpretation Act 1889 shall apply, with the necessary adaptations, for the purpose of interpreting this Constitution and otherwise in relation thereto as it applies for the purpose of interpreting and in relation to Acts of the Parliament of the United Kingdom.

São Cristóvão e Névis

THE CONSTITUTION OF SAINT CHRISTOPHER AND NEVIS (1983)

WHEREAS the People of Saint Christopher and Nevis-

a) declare that the nation is established on the belief in Almighty God and the inherent dignity of each individual;

b) assert that they are entitled to the protection of fundamental rights and freedoms;

c) believe in the concept of true democracy with free and fair elections;

d) desire the creation of a climate of economic well-being in the context of respect for law and order; and

e) are committed to achieve their national objectives with a unity of purpose:

NOW THEREFORE, the following provisions shall have effect as the Constitution of Saint Christopher and Nevis:-

CHAPTER I
THE FEDERATION AND THE CONSTITUTION

1. The Federation and its territory

(1) The island of Saint Christopher (which is otherwise known as Saint Kitts) and the island of Nevis shall be a sovereign democratic federal state which may be styled Saint Christopher and Nevis or Saint Kitts and Nevis or the Federation of Saint Christopher and Nevis or the Federation of Saint Kitts and Nevis.

(2) The territory of Saint Christopher and Nevis shall comprise all areas that were comprised in the associated state of Saint Christopher and Nevis immediately before 19th September 1983, together with such other areas as may be declared by Parliament to form part of the territory of Saint Christopher and Nevis.

2. Constitution is supreme law

This Constitution is the supreme law of Saint Christopher and Nevis and, subject to the provisions of this Constitution, if any other law is inconsistent with this Constitution shall prevail and the other law shall, to the extent of the inconsistency, be void.

CHAPTER II
PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS

3. Fundamental rights and freedoms

Whereas every person in Saint Christopher and Nevis is entitled to the fundamental rights and freedoms, that is to say, the right, whatever his race, place of origin, birth, political opinions, colors, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely-

a) life, liberty, security of the person, equality before the law and the protection of the law;

b) freedom of conscience, of expression and of assembly and association; and

c) protection for his personal privacy, the privacy of his home and other property and from deprivation of property without compensation,

the provisions of this Chapter shall have effect for the purpose of affording protection to those rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of those rights and freedoms by any person does not impair the rights and freedoms of others or the public interest.

4. Protection of right to life

(1) A person shall not be deprived of his life intentionally save in execution of the sentence of a court in respect of a criminal offence of treason or murder under any law of which he has been convicted.

(2) A person shall not be regarded as having been deprived of his life in contravention of subsection (1) if he dies as the result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably justifiable-

a) for the defence of any person from violence or for the defence of property;

b) in order to effect a lawful arrest, or to prevent the escape, or a person lawfully detained;

c) for the purpose of suppressing a riot, insurrection or mutiny; or

d) in order to prevent the commission by that person of a criminal offence,

or if he dies as the result of a lawful act of war.

5. Protection of right to personal liberty

(1) A person shall not be deprived of his personal liberty save as may be authorized by law in any of the following cases, that is to say-

a) in consequence of his unfitness to plead to a criminal charge;

b) in execution of the sentence or order of a court, whether established for Saint Christopher and Nevis or some other country, in respect of a criminal offence of which he has been convicted;

c) in execution of the order of the High Court or the Court of Appeal punishing him for contempt of that court or of another court or tribunal;

d) in execution of the order of a court made to secure the fulfillment of any obligation imposed on him by law;

e) for the purpose of bringing him before a court in execution of the order of a court;

f) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under any law;

g) under the order of a court or with the consent of his parent or guardian, for his education or welfare during any period ending not later than the date when he attains the age of eighteen years;

h) for the purpose of preventing the spread of an infectious of contagious disease;

i) in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his case or treatment or the protection of the community;

j) for the purpose of preventing the unlawful entry of that person into Saint Christopher and Nevis or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from Saint Christopher and Nevis or for the purpose of restricting that person while he is being conveyed through Saint Christopher and Nevis in the course of his extradition or removal as a convicted prisoner from one country to another; or

k) to such extent as may be necessary in the execution of a lawful order requiring that person to remain within a specified area within Saint Christopher and Nevis, or prohibiting him from being within such an area, or to such extent as may be reasonably justifiable for the taking of proceedings against that person with a view to the making of any such order or relating to such an order after it has been made, or to such extent as may be reasonably justifiable for restraining that person during any visit that he is permitted to make to any part of Saint Christopher and Nevis in which, in consequence of any such order, his presence would otherwise be unlawful.

(2) Any person who is arrested or detained shall with reasonable promptitude and in any case not later than forty-eight hours after such arrest or detention be informed in a language that he understands of the reasons for his arrest or detention and be afforded reasonable facilities for private communication and consultation with a legal practitioner of his own choice and, in the case of a person under the age of eighteen years, with his parents or guardian.

(3) Any person who is arrested or detained-

a) for the purpose of bringing him before a court in execution of the order of a court; or

b) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under any law and who is not released, shall be brought before a court without undue delay and in any case not later than seventy-two hours after his arrest or detention.

(4) Where any person is brought before a court in execution of the order of a court in any proceedings or upon suspicion of his having committed or being about to commit a criminal offence, he shall not be thereafter further held in custody in connection with those proceedings or that offence save upon the order of a court.

(5) If any person arrested or detained as mentioned in subsection (3)(b) is not tried within a reasonable time, then, without prejudice to any further proceedings that may be brought against him, he shall be released either unconditionally or upon reasonable conditions, including in particular such

conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial, and such conditions may include bail so long as it is not excessive.

(6) Any person who is unlawfully arrested or detained by any other person shall be entitled to compensation thereof from that other person or from any other person or authority on whose behalf that other person was acting:

Provided that a judge, a magistrate or a justice of the peace or an officer of a court of a police officer acting in pursuance of the order of a judge, a magistrate or a justice of the peace shall not be under any personal liability to pay compensation under this subsection in consequence of any act performed by him in good faith in the discharge of the functions of his office and any liability to pay any such compensation in consequence of any such act shall be a liability of the Crown.

(7) For the purposes of subsection (1)(b) a person charged before a court with a criminal offence in respect of whom a special verdict has been returned that he was guilty of the act or omission or that he is not guilty by reason of insanity shall be regarded as a person who has been convicted of a criminal offence and the detention of that person in consequence of such a verdict shall be regarded as detention in execution of the order of a court.

6. Protection from slavery of forced labour

(1) A person shall not be held in slavery or servitude.

(2) No person shall be required to perform forced labour.

(3) For the purposes of this section, the expression "forced labour" does not include-

a) any labour required in consequence of the sentence or order of a court;

b) labour required of any person while he is lawfully detained that, though not required in consequence of the sentence or order of a court, is reasonably

necessary in the interests of hygiene or for the maintenance of the place at which he is detained;

c) any labour required of a member of a disciplined force in pursuance of his duties as such or, in the case of a person who has conscientious objections to service as a member of a defence force, any labour that person is required by law to perform in place of such service; or

d) any labour required during any period of public emergency or in the event of any accident or natural calamity that threatens the life and well-being of the community, to the extent that the requiring of such labour is reasonably justifiable in the circumstances of any situation arising or existing during that period or as a result of that accident or natural calamity, for the purpose of dealing with that situation.

7. Protection from inhuman treatment

A person shall not be subjected to torture or to inhuman or degrading punishment or other like treatment.

8. Protection from deprivation of property

(1) No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except for a public purpose and by or under the provisions of a law that prescribes the principles on which and the manner in which compensation therefor is to be determined and given.

(2) Every person having an interest in or right over property that is compulsorily taken possession of or whose interest in or right over any property is compulsorily acquired shall have a right of direct access to the High Court for-

a) the determination of his interest or right, the legality of the taking of possession or acquisition of the property, interest of right and the amount of any compensation to which he is entitled; and

b) the purpose of enforcing his right to prompt payment of that compensation:

Provided that, if the legislature so provides in relation to any matter referred to in paragraph (a), the right of access shall be by way of appeal (exercisable as of right at the instance of the person having the interest in or right over the property) from a tribunal or authority, other than the High Court, having jurisdiction under any law to determine that matter.

(3) The Chief Justice may make rules with respect to the practice and procedure of the High Court or, subject to such provisions as may have been made in that behalf by the legislature, with respect to the practice and procedure of any other tribunal or authority in relation to the jurisdiction conferred on the High Court by subsection (2) or exercisable by the other tribunal or authority for the purposes of that subsection (including rules with respect to the time within which applications or appeals to the High Court or applications to the other tribunal or authority may be brought).

(4) A person who is entitled to compensation by virtue of subsection (1) shall not be prevented from remitting, within a reasonable time after he has received any amount of that compensation in the form of a sum of money or, as the case may be, has received any such amount in some other form and has converted any of that amount into a sum of money, the whole of that sum of money (subject to any tax that applies generally to persons remitting moneys but free from any other deduction, charge or tax made or levied in respect of its remission) to any country of his choice outside Saint Christopher and Nevis.

(5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (4) to the extent that the law in question authorises-

a) the attachment, by order of a court, of any amount of compensation to which a person is entitled in satisfaction of the judgment of a court or pending the determination of civil proceedings to which he is a party;

b) the imposition of reasonable restrictions on the manner in which any sum of money is to be remitted; or

c) the imposition of reasonable restrictions upon the remission of any sum of money in order to prevent or regulate the transfer to a country outside Saint Christopher and Nevis of capital raised in Saint Christopher and Nevis or in some other country or derived from the natural resources of Saint Christopher and Nevis.

(6) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (1)-

a) to the extent that law in question makes provision for the taking of possession of or acquisition of any property, interest or right-

i) in satisfaction of any tax, rate or due,

ii) by way of penalty for breach of any law or forfeiture in consequence of breach of any law;

iii) as an incident of a lease, tenancy, mortgage, charge, bill of sale, pledge or contract;

iv) in the execution of judgments or orders of a court in proceedings for the determination of civil rights or obligations;

v) in circumstances where it is reasonably necessary so to do because the property is in a dangerous state or likely to be injurious to the health of human beings, animals or plants;

vi) in consequence of any law with respect to the limitation of actions; or

vii) for so long only as may be necessary for those purposes, for the purposes of any examination, investigation, trial or inquiry or, in the case of land, for the purposes of the carrying out thereon of work of soil conservation or the conservation of other natural resources or work relating to agricultural development or improvement (being work relating to such development or improvement that the owner or occupier of the land has been required, and has without reasonable excuse refused or failed, to carry out),

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society; or

b) to the extent that the law in question makes provision for the taking of possession of or acquisition of any of the following property (including an interest in or right over property), that is to say-

i) enemy property;

ii) property of a deceased person, a person of unsound mind or a person who has not attained the age of eighteen years, for the purpose of its administration for the benefit of the persons entitled to the beneficial interest therein;

iii) property of a person adjudged bankrupt or a body corporate in liquidation, for the purpose of its administration for the benefit of the creditors of the bankrupt or body corporate and, subject thereto, for the benefit of other persons entitled to the beneficial interest in the property; or

iv) property subject to a trust, for the purpose of vesting the property in persons appointed as trustees under the instrument creating the trust or by a court or, by order of a court, for the purpose of giving effect to the trust.

(7) Nothing contained in or done under the authority of any law enacted by Parliament shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision for the compulsory acquisition of any interest in or right over property, where that property, interest or right is held by a body corporate established by law for public purposes in which no moneys have been invested other than money provided by Parliament.

(8) Nothing contained in or done under the authority of any law enacted by the Nevis Island Legislature shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provisions for the compulsory taking of possession of any property, or the compulsory acquisition of any interest in or right over property, where that property, interest or right is held by a body corporate established by law for

public purposes in which no moneys have been invested other than moneys provided by that Legislature.

9. Protection from arbitrary search or entry

(1) Except with his own consent, a person shall not be subject to the search of his person or his property or the entry by others on his premises.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision-

a) that is reasonably required in the interests of defence, public safety, public order, public morality, public health, town and country planning, the development and utilization of mineral resources or the development or utilization of any property for a purpose beneficial to the community;

b) that is reasonably required for the purpose of protecting the rights or freedoms of other persons;

c) that authorizes an officer or agent of the Government, the Nevis Island Administration, a local government authority or a body corporate established by law for public purposes to enter on the premises of any person in order to inspect those premises or any thing thereon for the purposes of any tax, rate or due or in order to carry out work connected with any property that is lawfully on those premises and that belongs to that Government, Administration, authority or body corporate, as the case may be; or

d) that authorizes, for the purpose of enforcing the judgment or order of a court in any civil proceedings, the search of any person or property by order of a court or entry upon any premises by such an order,

and except so far as that provision or, as the case may be, anything done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

10. Provisions to secure protection of law

(1) If any person is charged with a criminal offence, then unless the charge is withdrawn, the case shall be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.

(2) Every person who is charged with a criminal offence-

a) shall be presumed to be innocent until he is proved or has pleaded guilty;

b) shall be informed as soon as reasonably practicable, in a language that he understands and in detail, of the nature of the offence charged;

c) shall be given adequate time and facilities for the preparation of his defence;

d) shall be permitted to defend himself before the court in person or, at his own expense, by a legal practitioner of his own choice;

e) shall be afforded facilities to examine in person or by his legal representative the witnesses called by the prosecution before the court, and to obtain the attendance and carry out the examination of witnesses to testify on his behalf before the court on the same conditions as those applying to witnesses called by the prosecution; and

f) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial,

and except with his own consent the trial shall not take place in his absence unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable and the court has ordered him to be removed and the trial to proceed in his absence:

Provided that the trial may take place in his absence in any case in which it is so provided by a law under which he is entitled to adequate notice of the charge and the date, time and place of the trial and to a reasonable opportunity of appearing before the court.

(3) When a person is tried for any criminal offence, the accused person or any person authorized by him in that behalf shall, if he so requires and subject to payment of such reasonable fee as may be prescribed by law, be given within a reasonable time after judgment a copy for the use of the accused person of any record of the proceedings made by or on behalf of the court.

(4) A person shall not be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence that is severer in degree or description than the maximum penalty that might have been imposed for that offence at the time when it was committed.

(5) A person who shows that he has been tried by a competent court for a criminal offence and either convicted or acquitted shall not again be tried for that offence or for any other criminal offence, save upon the order of a superior court in the course of appeal or review proceedings relating to the conviction or acquittal.

(6) A person shall not be tried for a criminal offence if he shows that he has been pardoned for that offence.

(7) A person who is tried for a criminal offence shall not be compelled to give evidence at the trial.

(8) Any court or other authority prescribed by a law for the determination of the existence or extent of any civil right or obligation shall be established by law and shall be independent and impartial; and where proceedings for such a determination are instituted by any person before such a court or other authority, the case shall be given a fair hearing within a reasonable time.

(9) Where the existence or extent of any civil right or obligation has been determined in proceedings in any court or before any other authority any party to those proceedings shall, if he so requires and subject to payment of such reasonable fee as may be prescribed by law, be entitled to obtain within a reasonable time after the judgment or other determination a copy of any record of the proceedings made by or on behalf of the court of other authority.

(10) Except with the agreement of all the parties thereto, all proceedings of every court and all proceedings for the determination of the existence or extent of any civil right or obligation before any other authority, including the announcement of the decision of the court or other authority, shall be held in public.

(11) Nothing in subsection (10) shall prevent the court or other adjudicating authority from excluding from the proceedings persons other than the parties thereto and the legal practitioners representing them to such extent as the court or other authority-

a) may by law be empowered to do and may consider necessary or expedient in circumstances where publicity would impair the interests of justice or in interlocutory proceedings or in the interests of public morality, the welfare of persons under the age of eighteen years of the protection of the private lives of persons concerned in the proceedings; or

b) may by a law be empowered or required to do in the interests of defence, public safety or public order.

(12) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of-

a) subsection (2)(a) to the extent that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts;

b) subsection (2)(e) to the extent that the law in question imposes reasonable conditions that must be satisfied if witnesses called to testify on behalf of an accused person are to be paid their expenses out of public funds; or

c) subsection (5) to the extent that the law in question authorizes a court to try a member of a disciplined force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of that force, so, however, that any court so trying such a member and convicting him shall in sentencing him to any punishment take into account any punishment awarded him under that disciplinary law.

(13) In the case of any person who is held in lawful detention subsection (1), paragraphs (d) and (e) of subsection (2) and subsection (3) shall not apply in relation to his trial for a criminal offence under the law regulating the discipline of persons held in such detention.

(14) In this section "criminal offence" means a criminal offence under a law.

11. Protection of freedom of conscience

(1) Except with his own consent, a person shall not be hindered in the enjoyment of his freedom of conscience, including freedom of thought and of religion, freedom to change his religion or belief and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.

(2) Except with his own consent (or, if he is a person under the age of eighteen years, the consent of a person who is his parent or guardian) a person attending any place of education, detained in any prison or corrective institution or serving in a defence force shall not be required to receive religious instruction or to take part in or attend any religious ceremony or observance if that instruction, ceremony or observance relates to a religion that is not his own.

(3) Every religious community shall be entitled, at its own expense, to establish and maintain places of education and to manage any place of education that it wholly maintains and such a community shall not be prevented from providing religious instruction for persons of that community in the course of any education that it wholly maintains or in the course of any education that it otherwise provides.

(4) A person shall not be compelled to take any oath that is contrary to his religion or belief or to take any oath in a manner that is contrary to his religion or belief.

(5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provisions that is reasonably required-

a) in the interests of defence, public safety, public order, public morality or public health;

b) for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practice any religion without the unsolicited intervention of members of any other religion; or

c) for the purpose of regulating educational institutions in the interests of the persons who receive or may receive instruction in them,

and except so far as that provisions or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(6) References in this section to a religion shall be construed as including references to a religious denomination, and cognate expression shall be construed accordingly.

12. Protection of freedom of expression

(1) Except with his own consent, a person shall not be hindered in the enjoyment of his freedom of expression, including freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference (whether the communication is to the public generally or to any person or class of persons) and freedom from interference with his correspondence.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision-

a) that is reasonably required in the interests of defence, public safety, public order, public morality or public health;

b) that is reasonably required for the purpose of protecting the reputations, rights and freedoms of other persons of the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in

confidence, maintaining the authority and independence of the courts or regulating telephony, telegraphy, posts, wireless broadcasting or television; or

c) that imposes restrictions upon public officers that are reasonably required for the proper performance of their functions,

and except so far as that provisions or, as the case may be, the things done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

13. Protection of freedom of assembly and association

(1) Except with his own consent, a person shall not be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assembly freely and associate with other persons and in particular to form or belong to trade unions or other associations for the protection of his interests or to form or belong to political parties or other political associations.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision-

a) that is reasonably required in the interests of defence, public safety, public order, public morality or public health;

b) that is reasonably required for the purpose of protecting the rights or freedoms or other persons; or

c) that imposes restrictions upon public officers that are reasonably required for the proper performance of their functions,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

14. Protection of freedom of movement

(1) A person shall not be deprived of his freedom of movement, that is to say, the right to move freely throughout Saint Christopher and Nevis, the right to reside in any part of Saint Christopher and Nevis, the right to enter Saint Christopher and Nevis, the right to leave Saint Christopher and Nevis and immunity from expulsion from Saint Christopher and Nevis.

(2) Any restriction on a person's freedom of movement that is involved in his lawful detention shall not be held to be inconsistent with or in contravention of subsection (1).

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (1) to the extent that the law in question makes provision-

a) for the imposition of restrictions on the movement or residence within Saint Christopher and Nevis of any person or on any person's right to leave Saint Christopher and Nevis that are reasonably required in the interests of defence, public safety or public order;

b) for the imposition of restrictions on the movement or residence within Saint Christopher and Nevis or on the right to leave Saint Christopher and Nevis of persons generally or any class of persons in the interests of defence, public safety, public order, public morality or public health and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society;

c) for the imposition of restrictions, by order of a court, on the movement or residence within Saint Christopher and Nevis of any person or on any person's right to leave Saint Christopher and Nevis either in consequence of his having been found guilty of a criminal offence under any law or for the purpose of ensuring that he appears before a court at a later date for trial of such a criminal offence or for proceedings preliminary to trial or for proceedings relating to his extradition or lawful removal from Saint Christopher and Nevis;

d) for the imposition of restriction on the acquisition or use by any person of land or other property in Saint Christopher and Nevis;

e) for the imposition of restrictions on the acquisition or use by any person of land or other property in Saint Christopher and Nevis;

f) for the imposition of restrictions upon the movement or residence within Saint Christopher or on the right to leave Saint Christopher and Nevis of any public officer that are reasonable required for the proper performance of his functions;

g) for the removal of a person from Saint Christopher and Nevis to be tried or punished in some other country for a criminal offence under the law of that other country or to under go imprisonment in some other country in execution or the sentence or a court in respect of a criminal offence under a law of which he has been convicted; or

h) for the imposition of restrictions on the right of any person to leave Saint Christopher and Nevis that are reasonably required in order to secure the fulfillment of any obligations imposed on that person by law, and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in democratic society.

(4) If any person whose freedom of movement has been restricted by virtue of such a provision as is referred to in subsection (3)(a) so request at any time during the period of that restriction not earlier than twenty one days after the order imposing the restriction was made or, as the case may be three months after he last made such a request, his case shall be reviewed by an independent and impartial tribunal presided over by a person appointed by the Chief Justice from among persons who hold the office of magistrate or who are legal practitioners.

(5) On any review by a tribunal in pursuance of subsection (4) of the case of any person whose freedom of movement has been restricted, the tribunal may make recommendations concerning the necessity or expediency of the continuation of that restriction to the authority by whom it was ordered but,

unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with any such recommendations.

15. Protection from discrimination on grounds of race etc.

(1) Subject to subsections (4), (5) and (7), no law shall make any provision that is discriminatory either or itself or in its effect.

(2) Subject to subsections (6), (7), (8) and (9), a person shall not be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

(3) In this section the expression "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, place or origin, birth out of wedlock, political opinions or affiliations, color, sex or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages that are not accorded to persons of another such descriptions.

(4) Subsection (1) shall not apply to any law so far as that law makes provision-

a) for the appropriation of public revenues or other public funds;

b) with respect to persons who are not citizens;

c) for the application, in the case of persons of any such description as is mentioned in subsection (3) (or of persons connected with such persons) of the law with respect to adoption, marriage, divorce, burial, devolution of property on death or other like matters that is the personal law of persons of that description; or

d) whereby persons of any such description as is mentioned in subsection (3) may be subjected to any disability or restriction or may be accorded any privilege or advantage that, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society.

(5) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) to the extent that it makes provision with respect to standards or qualifications (not being standards or qualifications specifically relating to race, place of origin, birth out of wedlock, political opinions or affiliations, color, creed or sex) to be required of any person who is appointed to or to act in any office under the Crown, any office in the service of a local government authority of any office in a body corporate established by law for public purposes.

(6) Subsection (2) shall not apply to anything that is expressly or by necessary implication authorized to be done by any such provision of law as is referred to in subsection (4) or (5).

(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (1) of (2) to the extent that the law in question makes provision whereby persons of any such description as is mentioned in subsection (3) may be subjected to any restriction on the rights and freedoms guaranteed by section 9, 11, 12, 13 and 14, being such a restriction as is authorized by section 9(2), 11(5), 12(2) or 13(2) or, as the case may be, paragraph (a), (b), of (h) of section 14(3).

(8) Nothing in subsection (2) shall affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under any law.

(9) Nothing in subsection (2) shall apply in relation to the exercise of any function vested in any person or authority by any of the provisions of this Constitution except sections 78(1), 79(2), 80(1), 82(1), 83 and 85 (which relate to the appointment etc, of public officers).

16. Emergency measures derogating from s.5 or 15

Nothing contained in or done under the authority of a law enacted by Parliament shall be held to be inconsistent with or in contravention of section 5 or 15 to the extent that the law authorizes the taking during any period of public emergency of measures that are reasonably justifiable for dealing with the

situation that exists in Saint Christopher and Nevis or in part of Saint Christopher and Nevis during that period.

17. Protection of persons detained in derogation from s.5

(1) When a person is detained under emergency measures derogating from section 5 by virtue of section 16 the following provisions shall apply, that is to say-

a) he shall, with reasonable promptitude and in any case not more than seven days after the commencement of his detention, be informed in a language that he understands and is detail of the grounds upon which he is detained and furnished with a written statement in English specifying those grounds in detail;

b) not more than fourteen days after the commencement of his detention, a notification shall be published in the Gazette stating that he has been detained and giving particulars of the provisions of law under which his detention is authorized;

c) not more than one month after the commencement of his detention and thereafter during his detention at intervals of not more than three months, his case shall be reviewed by and independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice from among persons who hold the office of magistrate or who are legal practitioners;

d) he shall be afforded reasonable facilities for private communication and consultation with a legal practitioner of his own choice who shall be permitted to make representations to the tribunal appointed for the review for the case of the detained person; and

e) at the hearing of his case by the tribunal appointed for the review of his case he shall be permitted to appear in person or to be represented by a legal practitioner of his own choice.

(2) On any review by a tribunal in pursuance of this section for the case of a detained person, the tribunal may make recommendations concerning the necessity or expediency of continuing his detention to the authority by which

it was ordered but, unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with any such recommendations.

(3) Nothing contained in subsection (1)(d) or (1)(e) shall be construed as entitling a person to legal representation at public expense.

18. Enforcement of protective provisions

(1) If any person alleges that any of the provisions of section 3 to 17 (inclusive) has been, is being or is likely to be contravened in relation to him (or, in the case of a person who is detained, if any other person alleges such a contravention in relation to the detained person), then, without prejudice to any other action with respect to the same matter that is lawfully available, that person (or that other person) may apply to the High Court for redress.

(2) The High Court shall have original jurisdiction-

a) to hear and determine any application made by any person in pursuance of subsection (1); and

b) to determine any question arising in the case of any person that is refereed to it in pursuance of subsection (3)

and may make such declarations and orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of any of the provisions of section 3 to 17 (inclusive):

Provided that the High Court may decline to exercise its powers under this subsection if it is satisfied that adequate means of redress for the contravention alleger are or have been available to the person concerned under any other law.

(3) If in any proceedings in any court (other than the Court of Appeal or the High Court or a court-martial) any question arises as to the contravention of any of the provisions of section 3 to 17 (inclusive), the person presiding in that court may and, if any party to the proceedings so requests, shall refer the

question to the High Court unless, in his opinion, the rasing of the question is merely frivolous or vexatious.

(4) Where any question is referred to the High Court in pursuance of subsection (3), the High Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision or, if that decision is the subject of an appeal to the Court of Appeal or to Her Majesty in Council, in accordance with the decision of the Court of Appeal or, as the case may be, of Her Majesty in Council.

(5) The High Court shall have such powers in addition to those conferred by this section as may be conferred upon it by the legislature for the purpose of enabling it more effectively to exercise the jurisdiction conferred upon it by this section.

(6) The Chief Justice may make rules with respect to the practice and procedure of the High Court in relation to the jurisdiction and powers conferred on it by or under this section (including rules with respect to the time within which applications may be brought and references shall be made to the High Court).

19. Declaration of emergency

(1) The Governor-General may by proclamation declare that for the purposes of this chapter a state of emergency exists either in Saint Christopher and Nevis.

(2) A proclamation under subsection (1) shall not be effective unless it includes a declaration that the Governor-General is satisfied that a public emergency has arisen-

a) because of the possibility that Her Majesty may shortly be at war;

b) because of the occurrence of any accident or natural calamity, or

c) because action has been taken by any person, or there is an imminent threat of action by any person, of such a nature and on so extensive a scale as

to be likely to endanger the public safety or to deprive the community or any substantial portion of the community of supplies or services essential to life.

(3) Every declaration of emergency shall lapse-

a) in the case of a declaration made when the National Assembly sitting, at the expiration of a period of seven days beginning with the date of publication of the declaration; and

b) in any other case, at the expiration of a period of twenty-one days beginning with the date of publication of the declaration,

unless it has in the meantime been approved by resolution of the Assembly.

(4) A declaration under subsection (1) that a state of emergency exists in a part of Saint Christopher and Nevis that comprises or includes all or part of the island of Nevis shall, to the extent that it relates to that island, lapse-

a) in the case of a declaration made when the Nevis Island Assembly is sitting, at the expiration of a period of seven days beginning with the date of publication of the declaration; and

b) in ant other case, at the expiration of a period of twenty- one days beginning with the date of publication of the declaration,

unless it has in the meantime been approved by resolution of the Assembly.

(5) A declaration of emergency may at any time be revoked by the Governor-General by proclamation.

(6) Unless sooner revoked-

a) a declaration of emergency that has been approved by resolution of the Nevis Island Assembly in pursuance of subsection (3) shall cease to be in force if that resolution ceases to be in force; and furthermore

b) a declaration of emergency that has been approved by resolution of the Nevis Island Assembly in pursuance of subsection (4) shall, to the extent that it relates to the island of Nevis, cease to be in force if that resolution ceases to be in force notwithstanding that a declaration of the National Assembly approving it in pursuance of subsection (3) remains in force.

(7) A resolution of the National Assembly or the Nevis Island Assembly passed for the purposes of this section shall remain in force for twelve months or such shorter period as may be specified therein:

Provided that any such resolution may be extended from time to time by a further such resolution, each extension not exceeding twelve months from the date of the resolution effecting the extension, and any such resolution may be revoked at any time by a further resolution.

(8) A resolution of the National Assembly for the purposes of subsection (3) and a resolution of the Assembly extending any such resolution shall not be passed in the Assembly unless it is supported by the votes of not less than two-thirds of all the Representatives and Senators; and a resolution revoking any such resolution shall not be passed unless it is supported by the votes of a majority of all the Representatives and Senators.

(9) Any provision of this section that a declaration of emergency shall lapse or cease to be in force at any particular time is without prejudice to the making of a further declaration of emergency whether before or after that time.

(10) In the exercise of his powers to make or revoke any such declaration as is referred to in subsection (4) the Governor-General shall act in accordance with the advice of the Prime Minister but no such advice shall be given without the concurrence of the Premier.

(11) In this section "declaration of emergency" means a declaration under subsection (1).

20. Interpretation and savings

(1) In this Chapter, unless the context otherwise requires-

"contravention", in relation to any requirement, includes a failure to comply with that requirement, and cognate expressions shall be construed accordingly;

"court" means any court of law having jurisdiction in Saint Christopher and Nevis other than a court established by a disciplinary law, and includes Her Majesty in Council and in sections 4 and 6 a court established by a disciplinary law;

"disciplinary law" means a law regulating the discipline of any disciplined force;

"disciplinary force" means-

a) a defence force;

b) the Police Force; or

c) a prison service;

"member", in relation to a disciplined force, includes any person who, under the law regulating the discipline or that force, is subject to that discipline.

(2) In this Chapter "a period of public emergency" means any period during which-

a) Her Majesty is at war; or

b) there is in force a declaration under section 19 that a state of emergency exists in Saint Christopher and Nevis or in part of Saint Christopher and Nevis.

(3) In relation to any person who is a member of a disciplined force of Saint Christopher and Nevis, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter other than sections 4, 6 and 7.

(4) In relation to any person who is a member of a disciplined force of a country other than Saint Christopher and Nevis and lawfully present in Saint

Christopher and Nevis, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter.

(5) Nothing in this Chapter shall be construed as empowering the legislature to make any law that would impede the due exercise by any person or authority (including any authority established for the island of Nevis by Chapter X) of any power or other functions vested in that person or authority by this Constitution.

CHAPTER III
THE GOVERNOR-GENERAL

21. Establishment of office

There shall be for Saint Christopher and Nevis a Governor-General who shall be a citizen appointed by Her Majesty and shall hold office during Her Majesty's pleasure and who shall be Her Majesty's representative in Saint Christopher and Nevis.

22. Acting Governor-General

(1) During any period when the office of Governor-General is vacant or the holder of the office of Governor-General is absent from Saint Christopher and Nevis or is for any other reason unable to perform the functions of his office those functions shall be performed by such person as Her Majesty may appoint.

(2) Any person appointed under subsection (1) shall hold office during Her Majesty's pleasure and shall in any case cease to perform the functions of the office of Governor-General if the holder of the office of Governor-General has notified him that he is about to assume or resume those functions.

(3) The holder of the office of Governor-General shall not, for the purposes of this section, be regarded as absent from Saint Christopher and Nevis or as unable to perform the function of his office-

a) by reason that he is in passage from one part of Saint Christopher and Nevis to another; or

b) at any time when there is a subsisting appointment of a deputy under section 23(1).

23. Deputy to Governor-General

(1) When the Governor-General-

a) has occasion to be absent from the seat of government but not from Saint Christopher and Nevis;

b) has occasion to be absent from Saint Christopher and Nevis for a period that he considers, in his own deliberate judgment, will be of short duration; or

c) is suffering from an illness that he considers, in his own deliberate judgment, will be of short duration,

he may appoint any person in Saint Christopher and Nevis to be his deputy during such absence or illness and in that capacity to perform on his behalf such of the functions of the office of Governor-General as he may specify.

(2) Without prejudice to subsection (1), the Governor-General shall appoint a person in the island of Nevis as Deputy Governor-General to be his deputy in that island and in that capacity to signify on his behalf that he assents or withholds his assent to any bill passed by the Nevis Island Assembly and to perform on his behalf such other functions of the office of Governor-General relating to that island as he may specify.

(3) The power and authority of the Governor-General shall not be abridged, altered or in any way affected by the appointment of a deputy under this section and, subject to the provisions of this Constitution and any other law, a deputy shall conform to and observe all instructions that the Governor-General, acting in his own deliberate judgment, may from time to time address to him:

Provided that the question whether or not a deputy has conformed to and observed any such instructions shall not be enquired into by any court of law.

(4) Subject to subsection (5), a person appointed under subsection (1) or, as the case may be, subsection(2) shall hold his appointment for such period as may be specified by the Governor-General at the time of his appointment.

(5) Any appointment made under subsection (1) or, as the case may be, subsection (2) may be revoked at any time by the Governor-General.

(6) The Governor-General shall act-

a) in relation to the making of an appointment under subsection (1) or the revocation of such an appointment, in accordance with the advice of the Prime Minister; and

b) in relation to the making of an appointment under subsection (2) or the revocation of such an appointment, in accordance with the advice of the Premier.

24. Oaths

A person appointed to hold or act in the office of Governor-General or to be his deputy shall, before entering upon the duties of that office, take and subscribe the oath of allegiance and the oath of office.

CHAPTER IV
PARLIAMENT

PART 1
COMPOSITION OR PARLIAMENT

25. Establishment

There shall be for Saint Christopher and Nevis a Parliament which shall consist of Her Majesty and a National Assembly.

26. National Assembly

(1) The National Assembly shall consist of-

a) such number of Representatives as corresponds with the number or constituencies for the time being established in accordance with section 50; and

b) such number of Senators as is specified in subsection (2), who shall be appointed in accordance with section 30.

(2) The number of Senators shall be three or such greater number (not exceeding two-thirds of the number of Representatives) as may be prescribed by Parliament:

Provided that at any time when a person who is a Senator holds the office of Attorney-General the number of Senators shall be increased by one.

(3) If a person who is not a member of the National Assembly is elected to be Speaker they shall be a member of the Assembly.

(4) At any time when the office of Attorney-General is a public office the Attorney-General shall, by virtue of holding or acting in that office, be a member of the National Assembly.

(5) Any person who sits or votes in the National Assembly knowing or having reasonable grounds for knowing that he is not entitled to do so shall be guilty of a criminal offence and liable to a fine not exceeding one hundred dollars, or such other sum as may be prescribed by Parliament, for each day on which he so sits or votes in the Assembly.

(6) Any prosecution for an offence under subsection (5) shall be instituted in the High Court and shall not be so instituted except by the Director of Public Prosecutions.

27. Qualification for Representatives and Senators

Subject to section 28, a person shall be qualified to be elected or appointed as a member of the National Assembly if, and shall not be so qualified unless, he is a citizen of the age of twenty-one years or upwards and he or one of his

parents was born in Saint Christopher and Nevis and he is domiciled there at the date of his nomination for election or his appointment, as the case may be.

28. Disqualifications for Representatives and Senators

(1) A person shall not be qualified to be elected or appointed as a member if he-

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

b) is a minister of religion;

c) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law;

d) is a person certified to be insane or otherwise adjudge to be of unsound mind under any law; or

e) is under sentence of death imposed on him by a court of law in any part of the Commonwealth or is serving a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court, or is under such a sentence of imprisonment the execution of which has been suspended.

(2) If it is so provided by Parliament, a person shall not be qualified to be elected or appointed as a member if he holds or is acting in any office that is specified by Parliament and the functions of which involve responsibility for, or in connection with, the conduct of any election of Representatives or members of the Nevis Island Assembly or the compilation of any register of voters for the purpose of electing Representatives or members of that Assembly.

(3) If it is so provided by Parliament, a person who is convicted by any court of law of any criminal offence that is prescribed by Parliament and that is connected with the election of Representatives or members of the Nevis Island Assembly or is reported guilty of such an offence by the court trying an election

petition shall not be qualified, for such a period (not exceeding five years) following his conviction or, as the case may be, following the report of the court as may be so prescribed, to be elected or appointed as a member.

(4) A person shall not be qualified to be elected as a Representative who is a Senator; and a person shall not be qualified to be appointed as a Senator who is, or is nominated for election as, a Representative or who has at any time since Parliament was last dissolved stood as a candidate for election as a Representative without being so elected.

(5) If it is so provided by Parliament, and subject to such exceptions and limitations (if any) as Parliament may prescribe, a person shall not be qualified to be elected or appointed as a member if-

a) he holds or is acting in any office or appointment (whether specified individually or by reference to a class of office or appointment) other than the office of elected member of nominated member of the Nevis Island Assembly or member of the Nevis Island Administration;

b) he belongs to any defence force or to any class of person that is comprised in any such force;

c) he belongs to any police force or to any class of person that is comprised in any such force; or

d) subject to any exception or limitations prescribed by Parliament, he has any such interest in any such government contract as may be so prescribed.

(6) In this section-

"government contract" means any contract made with the Government or with a department of the Government or with an officer of the Government contracting as such;

"member" means member of the National Assembly;

"minister or religion" means any person in holy orders and any other person the principal function of whose occupation include teaching or preaching in any congregation for religious worship.

(7) For the purposes of paragraph (e) of subsection (1)-

a) two or more sentences or imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentence exceeds twelve months, but if any one of such sentence exceeds that term they shall be regarded as on sentence; and

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

29. Election of Representatives

(1) Each of the constituencies established in accordance with the provisions of section 50 of this Constitution shall return one Representative to the National Assembly who shall be directly elected in such manner as may, subject to the provisions of this Constitution, be prescribed by or under any law enacted by Parliament.

(2) Every Commonwealth citizen of the age of eighteen years or upward who possesses such qualifications relating to residence or domicile in Saint Christopher and Nevis as Parliament may prescribe shall, unless he is disqualified by Parliament from registration as such, be entitled to be registered as a voter for the purpose of electing Representatives in one (but not more than one) constituency in accordance with the provisions of any law in that behalf and no other person may be registered as such.

(3) Every person who is registered under subsection (2) in any constituency shall, unless he is disqualified by Parliament from voting in any election of Representatives or of members of the Nevis Island Assembly, be entitled so to vote in that constituency in accordance with the provisions of any law in that behalf and no other person may so vote.

(4) In any election of Representatives the votes shall be given by ballot in such manner as not to disclose how any particular person votes.

30. Appointment of Senators

(1) Of the Senators-

a) one-third or their number (excluding any Senator who holds the office of Attorney-General) shall be appointed by the Governor-General, acting in accordance with the advice of the Leader to the Opposition; and

b) the others shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister.

(2) In this section "one-third" means, in relation to a number of Senators that is not a multiple of three, one-third of the next higher number that is such a multiple.

31. Tenure of office of Representatives and Senators

(1) An elected or appointed member shall vacate his seat in the National Assembly at the next dissolution of Parliament after his election or appointment.

(2) A Senator appointed under subsection (1)(a) of section 30 shall vacate his seat in the National Assembly if his appointment is revoked by the Governor-General, acting in accordance with the advice of the Leader of the Opposition, and a Senator appointed under subsection (1)(b) of that section shall vacate his seat in the Assembly if his appointment is revoked by the Governor-General, acting in accordance with the advice of the Prime Minister.

(3) An elected or appointed member shall also vacate his seat in the Assembly-

a) if he is absent from the sittings of the Assembly for such period and in such circumstances as may be prescribed in the rules of procedure or the Assembly;

b) if he ceases to be a citizen;

c) subject to subsection (4), if any other circumstances arise that, if he were not a member, would cause him to be disqualified to be elected or appointed as such by virtue of subsection (1) of section 28 or of any law enacted in pursuance of subsection (2), (3) or (5) of that section; or

d) in the case of a Senator who holds the office of Attorney-General, if he ceases to hold that office.

(4) a) If any such circumstances as are referred to in paragraph (c) of subsection (3) arise because an elected or appointed member is under sentence of death or imprisonment, adjudge to be of unsound mind, declared bankrupt or convicted or reported guilty of an offence relating to elections and if it is open to the member to appeal against the decision (either with the leave of a court of law or other authority or without such leave) he shall forthwith cease to perform his functions as a member but, subject to the provisions of this section, he shall not vacate his seat until the expiration of a period or thirty days thereafter:

Provided that the Speaker may, at the request of the member, from time to time extend that period for further periods of thirty days to enable the member to pursue an appeal against the decision, so however, that extensions of time exceeding in the aggregate one hundred and fifty days shall not be given without the approval, signified by resolution, of the National Assembly.

b) If, on the determination of any appeal, such circumstances continue to exist and no further appeal is open to the member or if, by reason of the expiration of any period for entering an appeal or notice thereof on the refusal of leave to appeal or for any other reason, it ceases to be open to the member to appeal, he shall forthwith vacate his seat.

c) If at any time before the member vacates his seat such circumstances cease to exist, his seat shall not become vacant on the expiration of the period referred to in paragraph (a) and he may resume the performance of his functions as a member.

(5) In this section "member" means member of the National Assembly.

32. Speaker and Deputy Speaker

(1) When the National Assembly first meets after any general election and before it proceeds to the despatch of any other business, if shall elect a person to be the Speaker of the Assembly; and if the office of Speaker falls vacant at any time before the next dissolution of Parliament the Assembly shall, as soon as practicable, elect another person to that office.

(2) The Speaker may be elected from among the members of the National Assembly who are not members of the Cabinet or Parliamentary Secretaries or from among persons who are not members of the Assembly but who are qualified for election as a Representative or appointment as a Senator.

(3) When the National Assembly first meets after any general election and before it proceeds to the despatch of any other business except the election of the Speaker the Assembly shall elect a member of the Assembly who is not a member of the Cabinet or a Parliamentary Secretary to be Deputy Speaker of the Assembly, and if the office of Deputy Speaker falls vacant at any time before the next dissolution of Parliament, the Assembly shall, as soon as convenient, elect another such member to that office.

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

(5) A person shall vacate the office of Speaker or Deputy Speaker-

a) in the case of a Speaker elected from among the members of the National Assembly or in the case of the Deputy Speaker-

i) if he ceases to be a member of the Assembly:

Provided that the Speaker shall not vacate his office by reason only that he has ceased to be a member of the Assembly on a dissolution of Parliament, until the Assembly first meets after the dissolution; or

ii) if he becomes a member of the Cabinet or a Parliamentary Secretary.

b) in the case of a Speaker elected from among persons who are not members of the Assembly-

i) when the Assembly first meets after any dissolution of Parliament;

ii) if he ceases to be a citizen; or

iii) if any circumstances arise that would cause him to be disqualified for election as a Representative or appointment as a Senator; or

c) in the case of the Deputy Speaker, if he is elected to be Speaker.

(6) a) If, by virtue of section 31(4),the Speaker or the Deputy Speaker is required to cease to perform his functions as a member of the National Assembly he shall also cease to perform his functions as Speaker or Deputy Speaker, as the case may be, and those functions shall, until he vacates his seat in the Assembly or resumes the performance of the functions of his office, be performed-

i) In the case of the Speaker, by the Deputy Speaker or, if the office of Deputy Speaker is vacant or the Deputy Speaker is required to cease to perform his functions as a member of the Assembly, by such member of the Assembly (not being a member of the Cabinet or a Parliamentary Secretary) as the Assembly may elect for the purpose;

ii) in the case of the Deputy Speaker, by such member of the Assembly (not being a member of the Cabinet or a Parliamentary Secretary) as the Assembly may elect for the purpose.

b) If the Speaker or Deputy Speaker resumes the performance of his functions as a member of the Assembly, he shall also resume the performance of his functions as Speaker or Deputy Speaker, as the case may be.

33. Electoral Commission

(1) There shall be for Saint Christopher and Nevis an Electoral Commission (hereinafter in this section referred to as the Commission) which shall consist of-

a) a chairman appointed by the Governor-General, acting in his own deliberate judgment;

b) one member appointed by the Governor-General, acting in accordance with the advice of the Prime Minister; and

c) one member appointed by the Governor-General, acting in accordance with the advice of the Leader of the Opposition.

(2) A person shall not be qualified to be appointed as a member of the Commission if he is a Representative, a Senator or a member of the Nevis Island Assembly or a public officer nor, in the case or the chairman, unless he holds one of the specified qualifications and has held one or other of those qualifications for a total period of not less than seven years.

(3) A member of the Commission shall vacate his office-

a) at the expiration of such period as may be specified by the Governor-General at the time of his appointment;

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

c) if the Governor-General, acting in his own deliberate judgment in the case of the chairman, in accordance with the advice of the Prime Minister in the case of a member appointed under subsection (1)(b) or in accordance with the advice of that Leader of the Opposition in the case of a member appointer under subsection (1)(c), so directs.

(4) The function of the Commission shall be to supervise the Supervisor of Elections in the performance of his functions under sections 34(1), 38(9) and 113(5).

(5) The Commission may regulate its own procedure and, with the consent of the Prime Minister, may confer powers and impose duties on any public officer or on any authority of the Government for the purpose of the discharge of its functions.

(6) The Commission may, subject to its rules of procedure, act notwithstanding any vacancy in its membership and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings:

Provided that any decision of the Commission shall require the concurrence of a majority of all its members.

34. Supervisor of Elections

(1) There shall be a Supervisor of Elections whose duty it shall be to exercise general supervision over the registration of voters in elections of Representatives and over the conduct of such elections.

(2) The functions of the office of Supervisor of Elections shall be exercised either by the person holding or acting in such public office as may for the time being be designated in that behalf by the Governor-General or, if the Governor-General so decides, by such other person who is not a public officer as may for the time being be so designated.

(3) A person shall not enter upon the duties of the office of Supervisor of Elections until he has taken and subscribed the oath of allegiance and the oath of office.

(4) For the purposes of the exercise of his functions under subsection (1), the Supervisor or Elections may give such directions as he consider necessary or expedient to any registering officer, presiding officer or returning officer relating to the exercise by that officer of his functions under any law regulating the registration of voters or the conduct of elections, and any officer to whom any such directions are given shall comply with those directions.

(5) The Supervisor of Elections may, whenever he considers it necessary or expedient to do so and shall whenever so required by the Commission, report to the Electoral Commission on the exercise of this functions under subsection (1); he shall also submit every such report to the Minister for the time being responsible for matters relating to the election of Representatives; and that Minister shall, not later than seven days after the National Assembly first meets

after he has received the report, lay it before the Assembly together with such comments thereon as he may have received from the Commission.

(6) In the exercise of his powers under subsection (2) the Governor-General shall act in his own deliberate judgment after consulting the Prime Minister, the Premier and the Leader of the Opposition.

(7) In the exercise of his functions under subsection (1), the Supervisor of Elections shall act in accordance with such directions as he may from time to time be given by the Electoral Commission but shall not be subject to the direction or control of any other person or authority.

(8) The Supervisor of Elections shall exercise such other functions in relation to elections whether to the National Assembly or to local government authorities as may be prescribed by or under any law enacted by Parliament.

35. Clerk of National Assembly and his staff

(1) There shall be a Clerk of the National Assembly.

(2) The office of the Clerk of the National Assembly and the offices of the members of this staff shall be public offices.

36. Determination of questions of membership

(1) The High Court shall have jurisdiction to hear and determine any question whether-

a) any person has been validly elected as a representative;

b) any person has been validity appointed as a Senator;

c) any person who has been elected as Speaker from among persons who were not members of the National Assembly was qualified to be elected or has vacated the office of Speaker; or

d) any member of the Assembly has vacated his seat or is required, by virtue of section 31(4), to cease to perform his functions as a member of the Assembly.

(2) An application to the High Court for the determination of any question under subsection (1)(a) may be made by any person entitled to vote in the election to which the application relates or by any person who was, or who alleges that he was, a candidate at that election or by the Attorney-General and, if it is made by a person other than the Attorney-General, the Attorney-General may intervene and may then appear or be represented in the proceedings.

(3) An application to the High Court for the determination of any question under subsection (1)(b) or (1)(c) may be made by any Representative or by the Attorney-General and, if it is made by a person other than the Attorney-General, the Attorney-General may intervene and may then appear or be represented in the proceedings.

(4) An application to the High Court for the determination of any question under subsection (1)(d) may be made-

a) by any Representative or by the Attorney-General; or

b) in the case of the seat of a Representative, by any person registered in some constituency as a voter in elections of Representatives,

and, if it is made by a person other than the Attorney-General, the Attorney-General may intervene and may then appear and be represented in the proceedings.

(5) There shall be such provision as may be made by Parliament with respect to-

a) the circumstances and manner in which and the imposition of conditions upon which any application may be to the High Court for determination of any question under this section; and

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

(6) An appeal shall lie as of right to the Court of Appeal from any final decision of the High Court determining any such question as is referred to in subsection (1).

(7) No appeal shall lie from any decision of the Court of Appeal in exercise of the jurisdiction conferred by subsection (6) and no appeal shall lie from any decision of the High Court in proceedings under this section other than a final decision determining any such question as is referred to in subsection (1) of this section.

(8) In the exercise of his functions under this section, the Attorney-General shall not be subject to the direction or control of any other person or authority.

PART 2
LEGISLATION AND PROCEDURE IN PARLIAMENT

37. Power to make laws

(1) Subject to the provisions of this Constitution, Parliament may make laws for the peace, order and good government of Saint Christopher and Nevis.

(2) Save as otherwise provided in subsections (3) and (4) the power of Parliament to make laws having effect in the island of Nevis shall not extend to any of the specified matters (that is to say, matters with respect to which the Nevis Island Legislature has exclusive power to make laws so having effect).

(3) If it is expressly declared in any law enacted by Parliament that the Nevis Island Administration has requested and consented to the enactment in respect to the island of Nevis of any of the provisions of that law relating to any of the specified matters those provisions shall accordingly have effect in the island of Nevis as if they had been enacted by the Nevis Island Legislature and may be amended or revoked accordingly.

(4) At any time when there is in force a declaration made by the Governor-General by proclamation that any provisions of any law enacted by Parliament specified in that declaration (being provisions that relate to a specified matter) are required to have effect in the island of Nevis-

a) in the interests of external affairs, or

b) in the interests of defence,

those provisions shall accordingly have effect in the island of Nevis; and if there is any inconsistency between those provisions and the provisions of any law enacted by the Nevis Island Legislature, the provisions of the law enacted by Parliament shall prevail.

(5) a law enacted by Parliament shall not be regarded as extending to a specified matter by reason only that it contains incidental or supplementary provisions relating to that matter and having effect in the island of Nevis; and if there is any inconsistency between any such provisions and the provisions of any law enacted by the Nevis Island Legislature, the provisions of the law enacted by Parliament shall prevail.

(6) Parliament may make additions to the specified matters but a bill for that purpose shall not be regarded as being passed in the National Assembly unless on its final reading it is supported by the votes of not less than two-thirds of all the Representatives.

(7) In the exercise of his powers to make or revoke any such declaration as is referred to in subsection (4) the Governor-General shall act in accordance with the advice of the prime Minister but no such advice shall be given without the concurrence of the Premier.

38. Alteration of Constitution and Supreme Court Order

(1) Parliament may alter any of the provisions of this Constitution or of the Supreme Court Order in the manner specified in the following provisions of this section.

(2) A bill to alter any of the provisions of this Constitution or of the Supreme Court Order shall not be regarded as being passed by the National Assembly unless on its final regarding the bill is supported by the votes of not less than two-thirds of all the Representatives.

(3) A bill to alter this section, schedule 1 to this Constitution or any of the provisions of this Constitution specified in Part 1 of that schedule or any of the provisions of the Supreme Court Order specified in Part 2 of that schedule shall not be submitted to the Governor-General for his assent unless-

a) there has been an interval of not less than ninety days between the introduction of the bill in the National Assembly and the beginning of the proceedings in the Assembly on the second reading of the bill; and

b) after it has been passed by the Assembly the bill has been approved on a referendum by not less than two-thirds of all the votes validity cast on that referendum in the island of Saint Christopher and two-thirds of all the votes validly cast on that referendum in the island of Nevis.

(4) The provisions of paragraph (b) of subsection (3) shall not apply in relation to any bill to alter-

a) section 99 in order to give effect to any agreement between Saint Christopher and Nevis and the United Kingdom concerning appeals from any court having jurisdiction in Saint Christopher and Nevis to Her Majesty in Council;

b) any of the provisions of the Supreme Court Order in order to give effect to any international agreement of which Saint Christopher and Nevis is a party relating to the Supreme Court or any other court of law (or any officer or authority having functions in respect of any such court) constituted in common for Saint Christopher and Nevis and for other countries also parties to the agreement; or

c) any of the provisions of this Constitution relating to the island of Nevis that have become spent or inappropriate as a result of the enactment by the Nevis

Island Legislature of a law under section 113(1) providing that the island of Nevis shall cease to be federated with the island of Saint Christopher.

(5) A bill to alter section 104 in its application to other provisions of this Constitution (not being provisions referred to in subsection (3) of this section) shall not be submitted to the Governor-General for his assent unless the alteration is in accordance with a request from, or the consent of the Nevis Island Assembly signified by resolution; and references in section 104 to those other provisions shall not be construed as including references to any law altering those other provisions unless that section is altered so to provide.

(6) Every person who, at the time when a referendum is held for the purposed of this section, would be entitled to vote in elections of Representatives held in the island of Saint Christopher shall be entitled to vote on that referendum in that island; every person who, at that time, would be entitled to vote on that referendum in that island; and no other person shall be entitled to vote on that referendum in the island of Saint Christopher or, as the case may be, in the island of Nevis.

(7) The right of any person to vote on a referendum under this section shall be exercised in accordance with such procedures as may be prescribed by Parliament for the purposes of the referendum.

(8) In any referendum for the purposes of this section the voters shall given by ballot in such manner as not to disclose how any particular person votes.

(9) The conduct of any referendum for the purposes of this section shall be the responsibility of the Supervisor of Elections and the provisions of subsections (4), (5) and (7) of section 34 shall apply in relation to the exercise by the Supervisor of Elections or by any other officer of his functions with respect to a referendum as they apply in relation to the exercise of his functions with respect to elections of Representatives.

(10) a) A bill to alter any of the provisions of this Constitution or of the Supreme Court Order shall not be submitted to the Governor-General for his assent unless it is accompanied by certificate under the hand of the Speaker that the provisions of subsection (2) and, where applicable, those of subsection 3(a)

have been complied with and, where a referendum has been held in pursuance of subsection (3)(b), by a certificate under the hand of the Supervisor of Elections stating the results of the referendum.

b) The certificate of the Speaker under this subsection shall be conclusive that the provisions of subsections (2) and, where applicable, those of subsections (3) have been complied with and shall not be enquired into in any court of law.

c) In this subsection references to the Speaker shall, if the person holding the office of Speaker is for any reason unable to perform the functions of his office and no other person is performing them, include references to the Deputy Speaker.

39. Oath

(1) Every member of the National Assembly shall, before taking his seat in the Assembly, take and subscribe before the Assembly the oath of allegiance but a member may before taking that oath take part in the election of the Speaker.

(2) Any person elected to the office of Speaker shall, if he has not already taken and subscribed the oath of allegiance under subsection (1) take and subscribe that oath before the National Assembly before entering upon the duties of his office.

40. Presiding

There shall preside at any sitting of the National Assembly-

a) the Speaker.

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

c) in the absence of the Speaker and the Deputy Speaker, such member of the Assembly (not being a member of the Cabinet or a Parliament Secretary) as the Assembly may elect for that purpose.

41. Voting

(1) Save as otherwise provided in section 19(8), 37(6) or 38(2), any question proposed for decision in the National Assembly shall be determined by a majority of the votes of the members present and voting:

Provided that question of no confidence in the Government shall be determined by a majority of the votes of all the Representatives.

(2) Except in the case of a question of no confidence in the Government, a question shall not be regarded as having been validly determined by a vote in the National Assembly on occasions when the numbers of members voting are recorded unless not less than three-fifths of all the members, or such greater number of members as Parliament may prescribe, take part in the voting.

(3) Subject to subsection (4), a person presiding in the Assembly shall not vote unless on any question the votes of the members are equally divided, in which case he shall have and exercise a casting vote:

Provided that in the case of the question of the final reading of any such bill as is referred to in section 38(2) he shall, if he is a Representative, have an original vote but no casting vote.

(4) A Speaker who was elected from among persons who were not members of the National Assembly shall have neither an original nor a casting vote and if upon any question before the Assembly when such a Speaker is presiding, the votes of the member are equally divided, the motion shall be lost.

42. Mode of exercise of legislative power

(1) The power of Parliament to make laws shall be exercised by bills passed by the national Assembly and assented to by the Governor-General.

(2) When a bill is submitted to the Governor-General for assent in accordance with the provisions of this Constitution he shall signify that he assents or that he withholds assent.

(3) When the Governor-General assents to a bill that has been submitted to him in accordance with the provisions of this Constitution the bill shall become law and the Governor-General shall thereupon cause it to be published in the Gazette as law.

(4) No law made by Parliament shall come into operation until it has been published in the Gazette but Parliament may postpone the coming into operation of any such law and may make laws with retrospective effect.

43. Restrictions with regard to certain financial measures

Except on the recommendation of the Governor-General signified by a Minister, the National Assembly shall not-

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

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

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

ii) for the payment, issue or withdrawal from the Consolidated Fund or any other public fund of the Government of any 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 Crown in right of the Government; or

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

44. Regulation of procedure in National Assembly

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

(2) The National Assembly may act notwithstanding any vacancy in its membership (including any vacancy not filled when the Assembly first meets after any general election) and the presence or participation of any person not entitled to be present at or to participate in the proceedings of the Assembly shall not invalidate those proceedings.

45. Freedom of speech

Without prejudice to any provision made by Parliament relating to the powers, privileges and immunities of the National Assembly and its committees, or the privileges and immunities of the members and officers of the Assembly and of other persons concerned in the business of the Assembly or its committees, no civil or criminal proceedings may be or written in a report to, the Assembly or a committee thereof or by reason of any matter or thing brought by him therein by petition, bill, resolution, motion or otherwise.

PART 3
SUMMONING, PROROGATION AND DISSOLUTION

46. Sessions

(1) Each session of Parliament shall be held at such place within Saint Christopher and Nevis and shall begin at such time, not being later than one hundred and eighty days from the end of the preceding session if Parliament has been prorogue or ninety days from the holding of a general election of Representatives if Parliament has been dissolved, as the Governor-General shall appoint by proclamation.

(2) Subject to subsection (1), the sittings of the National Assembly shall be held at such time and place as the Assembly may, by its rules of procedure or otherwise, determine.

47. Prorogation and dissolution

(1) The Governor-General may at any time prorogue or dissolve Parliament.

(2) Subject to subsection (3), Parliament, unless sooner dissolved, shall continue for five years from the date of the first sitting of the National Assembly after any dissolution and shall then stand dissolved.

(3) At any time when Her Majesty is at war, Parliament may extend the period of five years specified in subsection (2) for not more than twelve months at a time:

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

(4) In the exercise of his powers to dissolve Parliament the Governor-General shall act in accordance with advice of the Prime Minister:

Provided that if the office of the Prime Minister is vacant and the Governor-General, acting in his own deliberate judgment, considers that there is no prospect of his being able within a reasonable time to appoint to that office a person who can command the support of the majority of the Representatives, the Governor-General shall dissolve Parliament.

(5) If, after a dissolution of Parliament and before the holding of the general election of Representatives, the Prime Minister advises the Governor-General that, because of some matter of urgent national importance, it is necessary to recall Parliament, the Governor-General shall summon the Parliament that has been dissolved to meet, but the general election of Representatives shall proceed and the Parliament that has been recalled shall, if not sooner dissolved, again stand dissolved on the date appointed for the nomination of candidates in that general election.

48. Holding of elections

(1) A general election of members of the National Assembly shall be held at such time within ninety days after any dissolution of Parliament as the Governor-General may appoint.

(2) Where the seat of a member of the National Assembly falls vacant otherwise than by reason of a dissolution of Parliament-

a) if the vacant seat is that of a Representative, by-election shall be held; or

b) if the vacant seat is that of a Senator, an appointment shall be made,

to fill the vacancy within ninety days of the occurrence of the vacancy unless Parliament is sooner dissolved.

PART 4
DELIMITATION OF CONSTITUENCIES

49. Constituency Boundaries Commission

(1) There shall be for Saint Christopher and Nevis a Constituency Boundaries Commission (hereinafter in this section referred to as the Commission) which shall consist of-

a) a chairman appointed by the Governor-General, acting in accordance with the advice of the Prime Minister given after the Governor-General has consulted the Leader of the Opposition and such other persons as the Governor-General, acting in his own deliberate judgment, has seen fit to consul;

b) two members of the National Assembly appointed by the Governor-General, acting in accordance with the advice of the Prime Minister; and

c) two members of the Assembly appointed by the Governor-General, acting in accordance with the advice of the Leader of the Opposition:

Provided that the chairman shall not be a member of the Assembly or of the Nevis Island Assembly.

(2) A member of the Commission shall vacate his office-

a) at the next dissolution of Parliament after his appointment,

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

c) in the case of a member other than the chairman, if he cease to be a member of the National Assembly otherwise than by reason of the dissolution of Parliament; or

d) if the Governor-General, acting in accordance with the advice of the Prime Minister given after the Governor-General has consulted the Leader of the Opposition in the case of the chairman, in accordance with the advice of the Prime Minister in the case of a member appointed under subsection (1)(b) or in accordance with the advice of the Leader of the Opposition in the case of a member appointed under subsection (1)(c), directs.

(3) The Commission may regulate its own procedure and, with the consent of the Prime Minister, may confer powers and impose duties on any public officer or on any authority of the Government for the purpose of the discharge of its functions.

(4) The Commission may, subject to its rules of procedure, act notwithstanding any vacancy in its membership and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings:

Provided that any decision of the Commission shall require the concurrence of a majority of all its members.

50. Review of constituency boundaries

(1) The Constituency Boundaries Commission (hereinafter in this section referred to as the Commission) shall, in accordance with the provisions of this section, review the number and boundaries of the constituencies into which Saint Christopher and Nevis is divided and submit to the Governor-General reports either-

a) showing the constituencies into which it recommends that Saint Christopher and Nevis should be divided in order to give effect to the rules set out in schedule 2; or

b) stating that, in its opinion, no alteration is required to the existing number or boundaries of constituencies in order to give effect to those rules.

(2) Reports under subsection (1) shall be submitted by the Commission at intervals of not less than two nor more than five years.

(3) As soon as may be after the Commission has submitted a report under subsection (1)(a), the Prime Minister shall lay before the National Assembly for its approval the draft of a proclamation by the Governor-General for giving effect, whether with or without modifications, to the recommendations contained in the report, and that draft proclamation may make provisions for any matters that appear to the Prime Minister to be incidental to or consequential upon the other provisions of the draft.

(4) Where any draft proclamation laid before the National Assembly gives effect to any recommendations of the Commission with modifications, the Prime Minister shall lay before the Assembly together with the draft a statement of the reason for the modifications.

(5) If the motion for the approval of any draft proclamation laid before the National Assembly under subsection (3) is rejected by the Assembly, or is withdrawn by leave of the Assembly, the Prime Minister shall amend the draft and lay the amended draft before the Assembly.

(6) If any draft proclamation laid before the National Assembly under subsection (3) or (5) is approved by a resolution of the Assembly, the Prime Minister shall submit it to the Governor-General who shall make a proclamation in terms of the draft; and that proclamation shall come into force upon the next dissolution of Parliament after it is made.

(7) The question of the validity of any proclamation by the Governor-General purporting to be made under subsection (6) and reciting that a draft thereof has been approved by resolution of the National Assembly shall not be enquired

into in any court of law except upon the ground that the proclamation does not give effect to rule 1 in schedule 2.

CHAPTER V
THE EXECUTIVE

51. Executive authority

(1) The executive authority of Saint Christopher and Nevis is vested in Her Majesty.

(2) Subject to the provisions of this Constitutional, the executive authority of Saint Christopher and Nevis may be exercised on behalf of Her Majesty by the Governor-General either directly or through officers subordinate to him.

(3) Nothing in this section shall prevent the legislature from conferring functions on persons or authorities other than the Governor-General.

(4) In this section references to the executive authority of Saint Christopher and Nevis include references to the executive authority of the island of Nevis with respect to the specified matters.

52. Ministers

(1) There shall be a Prime Minister of Saint Christopher and Nevis who shall be appointed by the Governor-General.

(2) Whenever the Governor-General has occasion to appoint a Prime Minister he shall appoint a representative who appears to him likely to command the support of the majority of the Representatives.

(3) There shall be, in addition to the office of Prime Minister, an office of Deputy Prime Minister and such other offices of Minister of the Government as may be established by Parliament, or, subject to the provisions of any law enacted by Parliament by the Governor-General, acting in accordance with the advice of the Prime Minister.

(4) Appointments to the office of Minister, other than the office of Prime Minister, shall be made by the Governor-General, acting in accordance with the advice of the Prime Minister, from among the members of the National Assembly.

(5) If occasion arises for making an appointment to the office of Prime Minister or any other Minister while Parliament is dissolved, then, notwithstanding the provisions of subsections (2) and (4), a person who was a Representative immediately before the dissolution may be appointed as Prime Minister and a Person who was a Representative or a Senator immediately before the dissolution may be appointed as any Minister other than Prime Minister.

(6) The Governor-General shall remove the Prime Minister from office if a resolution of no confidence in the Government is passed by the National Assembly and the Prime Minister does not within three days either resign from his office or advice the Governor-General to dissolve Parliament.

(7) If, at any time between the holding of a general election of Representatives and the first meeting of the National Assembly thereafter, the Governor-General considers that in consequence of changes in the membership of the Assembly resulting from that election the Prime Minister will not be able to command the support of the majority of the representatives, the Governor-General may remove the Prime Minister from office.

(8) The office of any Minister shall become vacant-

a) if the holder of the office ceases to be a member of the National Assembly otherwise than by reason of the dissolution of Parliament;

b) in the case of the Prime Minister, if, when the Assembly first meet after any dissolution of Parliament, he is not then a Representative;

c) in the case of any other Minister, if, when the Assembly first meets after any dissolution of Parliament, he is not then a Representative or a Senator; or

d) if, by virtue of section 31(4), he is required to cease to perform his functions as a member of the Assembly.

(9) The office of a Minister other than the Prime Minister shall become vacant-

a) if the Governor-General, acting in accordance with the advice of the Prime Minister, so directs;

b) if the Prime Minister resigns from office within three days after a resolution of no confidence in the Government has been passed by the National Assembly or is removed from office under subsection (6) or (7); or

c) on the appointment of any person to the office of Prime Minister.

(10) In the exercise of the powers conferred upon him by subsections (2) and (7) the Governor-General shall act in his own deliberate judgment.

53. Cabinet

(1) There shall be for Saint Christopher and Nevis a Cabinet of Ministers which shall consist of the Prime Minister and the other Ministers.

(2) At any time when the office of Attorney-General is a public office the Attorney-General shall, by virtue of holding or acting in that office, be a member of the Cabinet in addition to the Minister.

(3) The functions of the Cabinet shall be to advice the Governor-General in the government of Saint Christopher and Nevis and the Cabinet shall be collectively responsible to the National Assembly for any advice given to the Governor-General by or under the general authority of the Cabinet and for all things done by or under the authority of any Minister in the execution of his office.

(4) Subsection (3) shall not apply in relation to-

a) the appointment and removal from office of Ministers and Parliamentary Secretaries, the assignment of responsibility to any Minister under section 54, or the authorization of another Minister to perform the functions of the Prime Minister during absence or illness;

b) the dissolution of Parliament;

c) the matters referred to in section 66 (which relate to the prerogative of mercy);or

d) in relation to the government of the island of Nevis, any matter in respect of which parliament has no power to make laws for the island of Nevis.

54. Allocation of portfolios

The Governor-General, acting in accordance with the advice of the Prime Minister, may, by directions in writing, assign to the Prime Minister, or any other Minister responsibility for any business of the Government, including the administration of any department of the Government.

55. Absence or illness of Prime Minister

(1) Whenever the Prime Minister is absent from Saint Christopher and Nevis or by reason of illness is unable to perform the functions conferred upon Minister to perform those functions (other than the functions conferred by this section) and that Minister may perform those functions until his authority is revoked by the Governor-General.

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

Provided that if the Governor-General, acting in his own deliberate judgment, considers that it is impracticable to obtain the advice of the Prime Minister owing to his absence or illness he may exercise those powers without that advice and in his own deliberate judgment.

56. Exercise of Governor-General's functions

(1) In the exercise of his functions the Governor-General shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet except in cases where he is required by this Constitution to act

in accordance with the advice of, or the recommendation of, any person or authority other than the Cabinet:

Provided that the foregoing provisions shall not apply where the Governor-General is authorized to act in his own deliberate judgment in accordance with the following provisions-

a) section 23 (which relates to the Governor-General's deputy);

b) section 33 and 34 (which relate respectively to the Electoral Commission and to the Supervisor of Elections);

c) section 49 (which relates to the Constituency Boundaries Commission);

d) sections 52 and 55 (which relates to Minister);

e) section 58 (which relates to the Leader of the Opposition);

f) section 77 (which relates to the Public Service Commission);

g) section 78 (which relates to the appointment etc. of public officers);

h) section 86 (which relates to the Public Service Board of Appeal); and

i) section 102 (which relates to the Nevis Island Administration).

(2) Where the Governor-General is directed to exercise any function in accordance with the recommendation of any person or authority, he shall exercise that function accordingly:

Provided that before that Governor-General acts in accordance with a recommendation in any case he may, acting in his own deliberate judgment, once request the person or authority by whom it is made to reconsider the recommendation and if, upon any reconsideration of a recommendation, the person or authority makes a different recommendation, the Governor-General, acting in his own deliberate judgment, may likewise once request the person or authority by whom it is made to reconsider that different recommendation.

(3) During any period in which there is a vacancy in the office of Leader of the Opposition by reason of the fact that no person is both qualified for appointment to that office in accordance with section 58 and willing to accept appointment or if the Governor-General, acting in his own deliberate judgment, considers that it is not practicable for him to obtain the advice of, or to consult, the Leader of the Opposition within the time within which it may be necessary for him to act, he may act without that advice and in his own deliberate judgment or, as the case may be, without such consultation, in the exercise of any power conferred upon him by this Constitution in respect of which it is provided that he shall act on the advice of, or after consultation with the Leader of the Opposition.

(4) Nothing in subsection (1) shall require the Governor-General to act in accordance with the advice of the Cabinet or a Minister in exercise of the functions conferred upon him by the following provisions-

a) the provison to section 47(4) (which requires the Governor-General to dissolve Parliament in certain circumstances);

b) section 52(6) (which requires the Governor-General to remove the Prime Minister from office in certain circumstances);

c) section 57 (which entitles the Governor-General to information);

d) sections 58(5), 77(5), 81(7), 82(7) and 86(5) (which requires the Governor-General to remove the holders of certain offices from office in certain circumstances).

(5) The references in this section to sections 47, 52, 55, 57 and 58 include references to those sections as applied with modifications by section 104 (which relates to institution established for the island of Nevis by Chapter X).

57. Governor-General to be kept informed

The Prime Minister shall keep the Governor-General fully informed concerning the general conduct of the Government and shall furnish the Governor-General

with such information as he may request with respect to any particular matter for which the Government is responsible.

58. Leader of the Opposition

(1) There shall (except at times when no Representative is eligible for appointment) be a Leader of the Opposition in the National Assembly who shall be appointed by the Governor-General.

(2) Whenever there is occasion for the appointment of a Leader of the Opposition the Governor-General shall appoint the Representative who appears to him to command the support of the largest single group of Representatives who do not support the Government:

Provided that no Representative shall be eligible for appointment unless it appears to the Governor-General that Representative commands the support of at least one other Representative.

(3) If occasion arises to appoint a Leader of the Opposition during the period between a dissolution of Parliament and the day on which the ensuing election of Representatives is held, an appointment may be made as if Parliament has not been dissolved.

(4) The office of Leader of the Opposition shall become vacant-

a) if he ceases to be a member of the National Assembly otherwise than by reason of a dissolution of Parliament;

b) if, when the Assembly first meets after a dissolution of Parliament, he is not then a Representative;

c) if, by virtue of section 31(4), he is required to cease to perform his functions as a member of the Assembly; or

d) if he is removed from office by the Governor-General under subsection (5).

(5) If it appears to the Governor-General that the Leader of the Opposition is no longer able to command the support of a majority of the Representatives who do not support the Government or (if no Representative appears to him to be able to command such support) the support of the largest single group of Representatives who do not support the Government, he shall remove the Leader of the Opposition from office.

(6) The power of the Government-General under this section shall be exercised by him in his own deliberate judgment.

59. Parliamentary Secretaries

(1) The Governor-General, acting in accordance with the advice of the Prime Minister, may appoint Parliamentary Secretaries from among the members of the National Assembly to assist Ministers in the performance of their duties:

Provided that, if occasion arises for making an appointment while Parliament is dissolved, a person who was a Representative or a Senator immediately before the dissolution may be appointed as a Parliamentary Secretary.

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

a) if the Governor-General, acting in accordance with the advice of the Prime Minister, so directs;

b) if the Prime Minister resigns from office with three days after a resolution of no confidence in the Government has been passed by the National Assembly or is removed from office under section 52(6);

c) upon the appointment of any person to the office of Prime Minister;

d) if the holder of the office ceases to be a member of the Assembly otherwise than by reason of a dissolution of Parliament;

e) if, when the Assembly first meets after the dissolution of Parliament, he is not then a Representative or a Senator; or

f) if, by virtue of section 31 (4), he is required to cease to perform his functions as a member of the Assembly.

60. Oaths

A Minister or a Parliamentary Secretary shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance, the oath of office and the oath of secrecy.

61. Permanent Secretaries

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

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

62. Secretary to Cabinet

(1) There shall be a Secretary to the Cabinet whose office shall be a public office.

(2) The Secretary to the Cabinet, who shall have charge of the Cabinet Office, shall be responsible, in accordance with such instructions as may be given to him by the Prime Minister, for arranging the business for, and keeping the minutes of, the Cabinet and for conveying the decisions of the Cabinet to the appropriate person or authority and shall have such other functions as the Prime Minister may direct.

63. Constitution of offices etc.

Subject to the provisions of this Constitution and of any other law, the Governor-General may constitute offices for Saint Christopher and Nevis, make appointments to any such office and terminate any such appointment.

64. Attorney-General

(1) There shall be an Attorney-General who shall be the principal legal adviser to the Government.

(2) The office of Attorney-General shall be either a public office or the office of a Minister.

(3) No person shall be qualified to hold or act in the office of Attorney-General unless he is qualified for elections as Representative or appointment as a Senator and is also qualified to practice as a barrister in Saint Christopher and Nevis.

65. Control of public prosecutions

(1) There shall be a Director of Public Prosecutions whose office shall be a public office.

(2) The Director of Public Prosecutions shall have power in any case in which he considers it desirable so to do-

a) to institute and undertake criminal proceedings against any person before any court of law (other than in a court-martial) in respect of any offence under a law alleged to have been committed by that person;

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

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

(3) The power of the Director of Public Prosecutions under subsection (2) may be exercised by him in person or through other persons acting under and in accordance with his general or special instructions.

(4) The power conferred on the Director of Public Prosecutions by paragraphs (b) and (c) of subsection (2) shall be vested in him to the exclusion of any other person or authority:

Provided that where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance of that person or authority and with the leave of the court.

(5) For the purposes of this section, any appeal from a judgment in criminal proceedings before any court or any case stated or question of law reserved for the purpose of any such proceedings, to any other court (including Her Majesty in Council) shall be deemed to be part of those proceedings:

Provided that the power conferred of the Director of Public Prosecutions by subsection (2)(c) shall not be exercised in relation to any appeal by a person convicted in any criminal proceedings or to any case stated or question of law reserved at the instance of such a person.

(6) In the exercise of the functions vested in him by subsection (2) and by section 26 (5) and 101(6), the Director of Public Prosecutions shall not be subject to the direction or control of any other person or authority.

66. Prerogative of mercy

(1) The Governor-General may-

a) grant a pardon, either free or subject to lawful conditions, to any person convicted of any criminal offence under a law;

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

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

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

(2) The powers of the Governor-General under this section shall be exercised by him in accordance with the advice of such Minister as may from time to time be designated by the Governor-General, acting in accordance with the advice of the Prime Minister.

67. Committee on Prerogative of Mercy

(1) There shall be for Saint Christopher and Nevis an Advisory Committee on the Prerogative of Mercy (hereinafter in this section referred to as the Committee) which shall consist of-

a) the Minister for the time being designated under section 66(2), who shall be chairman;

b) the Attorney-General; and

c) not less than three nor more than four other members appointed by the Governor-General.

(2) A member of the Committee appointed under subsection (1)(c) shall hold his seat thereon for such period as may be specified by the Governor-General at the time of his appointment:

Provided that his seat shall become vacant-

a) in the case of a person who was a Minister when he was appointed, if he ceases to be a Minister; or

b) if the Governor-General so directs.

(3) The Committee may act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by

the presence or participation of any person not entitled to be present at or to participate in those proceedings.

(4) The Committee may regulate its own procedure.

(5) In the exercise of his functions under this section, the Governor-General shall act in accordance with the advice of the Prime Minister.

68. Functions of Committee

(1) Where any person has been sentenced to death (otherwise than by a court-martial) for a criminal offence under any law, the Minister for the time being designated under section 66(2) shall cause a written report of the case from the trial judge (or the Chief Justice, if a report from the trial judge cannot be obtained) together with such other information derived from the record of the case or elsewhere as he may require, to be taken into consideration at a meeting of the Advisory Committee of the Prerogative of Mercy; and after obtaining the advice of the Committee he shall decide in his own deliberate judgment whether to advise the Governor-General to exercise any of his power under section 66(1).

(2) The Minister for the time being designated under section 66(2) may consult with the Advisory Committee on the Prerogative of Mercy before tendering any advice to the Governor-General under tat subsection in any case not falling within subsection (1) of this section but he shall not be obliged to act in accordance with the recommendation of the Committee.

CHAPTER VI
FINANCE

69. Consolidated Fund

All revenue or other moneys raised or received by the Government (not being revenues or other moneys that are payable, by or under any law, into some other fund of the Government established for a specific purpose) shall be paid into and form a Consolidated Fund.

70. Withdrawals from Consolidated Fund or other public funds

(1) No moneys shall be withdrawn from the Consolidated Fund except-

a) to meet expenditure that is charged upon the Fund by this Constitution or by any law made in pursuance of section 72.

b) where the issue of those moneys has been authorised by an appropriation law or by a law made in pursuance of section 72.

(2) Where any moneys are charged by this Constitution or any law enacted by Parliament upon the Consolidated Fund or any other public fund of the Government, they shall be paid out of that fund by the Government to the person or authority to whom payment is due.

(3) No moneys shall be withdrawn from any public fund of the Government other than the Consolidated Fund unless the issue of those moneys has been authorized by or under any law.

(4) There shall be such provision as may be made by Parliament prescribing the manner in which withdrawals may be made from the Consolidated Fund or any other public fund of the Government.

(5) The investment of moneys forming part of the Consolidated Fund shall be made in such manner as may be prescribed by or under a law enacted by Parliament.

(6) Notwithstanding subsection (1), provision may be made by or under a law enacted by Parliament authorizing withdrawals to be made from the Consolidated Fund, in such circumstance and to such entente as may be prescribed by or unbar a law enacted by Parliament, for the purpose of making repayable advances.

71. Authorization of expenditure from Consolidated Fund by the appropriation law

(1) The Minister for the time being responsible for finance shall cause to be prepared and laid before the National Assembly before, or not later than sixty

days after, the commencement of each financial year estimates of the revenues and expenditure of the Government for that financial year.

(2) When the estimates of expenditure (other than expenditure charged upon the Consolidated Fund by this Constitution or by any law enacted by Parliament) have been approved by the National Assembly, a bill known as an appropriation bill, shall be introduced in the Assembly providing for the issue from the Consolidated Fund of the sums, under separate votes for the several services required, to the purposes specified therein.

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

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

b) that any moneys have been expended for any purpose in excess of the amount appropriated to that purpose by the appropriation law or for a purpose to which no amount has been appropriated by that law, a supplementary estimate showing the sums required or spent shall be laid before the National Assembly and, when the supplementary appropriation shall be introduced in the Assembly providing for the issue of such sums from the Consolidated Fund and appropriating them to the purposes specified therein.

72. Authorization of expenditure in advance of appropriation

There shall be such provisions as may be made by Parliament under which, if the appropriation law in respect of any financial year has not come into operation by the beginning of that financial year, the Minister for the time being responsible for finance may authorize the withdrawal of moneys from the Consolidated Fund for the Purpose of meeting expenditure necessary to carry on the services of the Government until the expiration of four months from the beginning of that financial year or the coming into operation of the law, whichever is the earlier.

73. Warrants for unforeseen expenditure

(1) If it appears to the Minister for the time being responsible for finance that-

a) there is an urgent need to incur expenditure;

b) no provision exist for that expenditure in any appropriation law or other law; and

c) it would not be in the public interest to delay the authorization of that expenditure until such time as a supplementary estimate can be laid before the National Assembly,

the Minister may, by special warrant, authorize the issue from the Consolidated Fund of the money required to meet that expenditure:

Provided that the total such for the time being authorized to be issued under this subsection, for which no provisions has been made by an appropriation law, shall not exceed such amount as may be prescribed by Parliament.

(2) Where in any financial year any expenditure has been authorized by special warrant under subsection (1) the Minister for the time being responsible for finance shall cause a supplementary estimate relating to that expenditure to be laid before the National Assembly at the first sitting of the Assembly occurring after the expiration of fourteen days from the date of the warrant and a supplementary appropriation bill shall be introduced in the Assembly providing for the issue of the sums authorized to be spent and appropriating them to the purposed specified therein.

74. Remuneration of certain officers

(1) There shall be paid to the holders of the offices to which this section applies such salaries and such allowances as may be prescribed by or under a law enacted by Parliament.

(2) The salaries and allowances prescribed under subsection (1) shall be a charge on the Consolidated Fund.

(3) The Salary prescribed under subsection (1) in respect of the holder of an office and his other terms of service (other than allowances that are not taken in to account in computing, under any law in that behalf, any pension payable in respect of his service in that office) shall not be altered to his disadvantage after his appointment.

(4) When a person's salary or other terms of service depend upon his option, the salary or terms for which he opts shall, for the purposes of subsection (3), be deemed to be more advantageous to him than any others for which he might have opted.

(5) This section applies to the office of the Governor-General, member of the Public Service Commission, member of the Police Service Commission, member of the Public Service Board of Appeal, the Director of Public Prosecutions and the Director of Audit.

(6) Nothing in this section shall be construed as affecting section 88 of this Constitution (which protects pensions rights in respect of service as a public officer).

75. Public Debt

(1) All debt charges for which the Government is liable shall be a charge on the Consolidated Fund.

(2) For the purposes of this section debt charges include interest, sinking fund charges, the repayment or amortization of debt and all expenditure in connection with the raising of loans on the security of the Consolidated Fund and the service and redemption of the debt created thereby.

76. Audit of public accounts etc.

(1) There shall be a Director of Audit whose office shall be a public office.

(2) The Director of Audit shall-

a) Satisfy himself that all moneys that have been appropriated by Parliament and disbursed have been applied to the purposes to which they were so appropriated and that the expenditure conforms to the authority that governs it; and

b) at least once in every year audit and report on the public accounts of the Government, the accounts of all officers and authorities of the Government, the accounts of all courts of law in Saint Christopher and Nevis (including any accounts of the Supreme Court maintained in Saint Christopher and Nevis), the accounts of every Commission and Board established by this Constitution and the accounts of the Clerk of the National Assembly.

(3) The Director of Audit and any officer authorized by him shall have access to all books, records, returns, reports and other documents that in his opinion relate to any of the accounts referred to in subsection (2).

(4) The Director of Audit shall submit every report made by him in pursuance of subsection (2) to the Minister for the time being responsible for finance who shall, not later than seven days after the National Assembly first meets after he has received the report, lay it before the Assembly.

(5) If the Minister fails to lay a report before the National Assembly in accordance with subsection (4) the Director of Audit shall transmit copies of the report to the Speaker who shall, as soon as practicable, present them to the Assembly.

(6) The Director of Audit shall exercise such other functions in relation to the accounts of the Government or the accounts of other authorities or bodies established by law for public purposes as may be prescribed by or under any law enacted by Parliament.

(7) In the exercise of his function under subsection (2), (3), (4) and (5), the Director of Audit shall not be subject to the direction or control of any other person or authority.

CHAPTER VII
THE PUBLIC SERVICE COMMISSION

77. Public Service Commission

(1) There shall be for Saint Christopher and Nevis a Public Service Commission (hereinafter in this section referred to as the Commission) which shall consist of a chairman and not less than two nor more than four other members who shall be appointed as follows-

a) the chairman and not more than three other members shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister; and

b) one member shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister, from among persons selected by the appropriate representative body or, if there is no such body, by the Governor-General, acting in his own deliberate judgment:

Provided that, for the purposes of discharging its functions in relation to public offices on the staff of the Nevis Island Administration, the Commission shall consist of-

a) the chairman who has been appointed as aforesaid;

b) such one of the members appointed as aforesaid as may be designated in that behalf by the chairman; and

c) two members appointed specifically in relation to the island of Nevis by the Governor-General, acting in accordance with the advice of the Prime Minister after the Prime Minister has consulted the Premier.

(2) A person shall not be qualified to be appointed as a member of the Commission-

a) unless he is a Commonwealth citizen ordinarily resident in Saint Christopher and Nevis; or

b) if he is member of the National Assembly or the Nevis Island Assembly or a public officer.

(3) Subject to the provisions of this section, the office of a member of the Commission shall become vacant-

a) at the expiration of such period (not being less than two years nor more than five years from the date of his appointment) as may be specified by the Governor-General, acting in accordance with the advice of the Prime Minister, at the time of this appointment; or

b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified to be appointed as such under subsection (2).

(4) A member of the Commission may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause or for misbehavior and shall not be so removed except in accordance with the provisions of this section.

(5) A member of the Commission shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed under subsection (6) and the tribunal has recommended to the Governor-General that he ought to be removed from office for inability as aforesaid or for misbehavior.

(6) If the Prime Minister represents to the Governor-General that the question of removing a member of the Commission under this section ought to be investigated then-

a) the Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the

Commonwealth or a court having jurisdiction in appeals from such a court; and

b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to him whether the member ought to be removed under this section.

(7) If the question of removing a member of the Commission has been referred to a tribunal under this section, the Governor-General, acting in accordance with the advice of the Prime Minister, may suspend that member from the exercise of the function of his office and any such suspension may at any time be revoked by the Governor-General, acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor-General that member should not be removed.

(8) If the office of chairman of the Commission is vacant or if the holder of that office is for any reason unable to exercise the function of this office, then, until a person has been appointees to and has assumed the functions of that office or until the person holding that office has resumed those functions, as the case may be, they shall be exercised by such other member of the Commission as may for the time being be designated by the Governor-General, acting in accordance with the advice of the Prime Minister.

(9) If at any time there are less than two members of the Commission beside the chairman or if any such member is acting as chairman or is for any reason unable to exercise the functions of his office, the Governor-General, acting in accordance with the advice of the Prime Minister, may appoint a person who is qualified to be appointees as a member of the Commission to act as a member, and any person so appoints shall, subject to subsection (4), continue to act until the office in which he is acting has been filled or, as the case may be, until the holder thereof that resumed his functions or until his appointment to act has been revoked by the Governor-General, acting in accordance with the advice of the Prime Minister.

(10) A member of the Commission shall not enter upon the duties of his office until he has taken and subscribed the oath of allegiance and the oath of office.

(11) The Commission shall, in the exercise of its functions under this Constitution, not be subject to the direction or control of any other person or authority.

(12) The Commission may by regulation or otherwise regulate its own procedure, and with the consent of the Prime Minister, may confer powers or impose duties on any public officer or on any authority of the Government for the purpose of the exercise of its functions.

(13) The Commission may, subject to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence of participation of any person not entitled to be present at or to participate in those proceedings:

Provided that any decision of the Commission shall require the concurrence of a majority of all its members.

(14) In this section "the appropriate representative body" means such body (if any) as may be designated by the Governor-General, acting in accordance with the advice of the Prime Minister, as the principal body in Saint Christopher and Nevis representing the interests of public officers.

78. Appointment etc. of public officers

(1) Subject to section 87, the power to appoint persons to hold or act in offices in the public service (including the power to confirm appointments), and the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Governor-General, acting in accordance with the recommendation of the Public Service Commission (hereinafter in this section referred to as the Commission).

(2) The Governor-General, acting in accordance with the recommendation of the Commission, may, be directions in writing and subject to such conditions as he thinks fit, delegate any of his power under subsection(1) to any one or more members of the Commission or, with the consent of the Prime Minister, to any public officer.

(3) The provisions of this section shall not apply in relation to the following offices, that is to say-

a) any office to which section 79 applies;

b) the office of Attorney-General;

c) the office of Director of Public Prosecutions;

d) the officer of Director of Audit;

e) any office to which section 83 applies; or

f) any office in the Police Force.

(4) No person shall be appointed under this section to or to act in any office on the Governor-General's personal staff except with the concurrence of the Governor-General, acting in his own deliberate judgment.

(5) Before the Commission makes any recommendation in relation to the Clerk of the National Assembly or a member of his staff for the purposes of subsection (1) or (2) and before any other person exercises in relation to the Clerk of the National Assembly or a member of his staff any power delegated to him under subsection (2), the Commission or that person shall consult the Speaker.

(6) Before the Commission recommends the Governor-General under subsection (1), or any other person exercises any power delegated to him under subsection (2), to appoint to hold or act in any public office any person who is in the public service of the Government of any other country or territory, the Commission or that person shall consult the Prime Minister.

(7) Before the Commission recommends the Governor-General under subsection (1), or any other person exercises any power delegated to him under subsection (2), to appoint to or to act in any public office any person who holds or is acting in any office to which section 83 of this Constitution

applies, the Commission or that person shall consult the Judicial and Legal Services Commission.

(8) A public officer shall not be removed from office or subjected to any other punishment under this section on the grounds of any act done or omitted by him in the exercise of a judicial functions conferred on him unless the Judicial and Legal Services Commission concurs therein.

PART 2
APPOINTMENT ETC, TO PARTICULAR OFFICES

79. Appointment etc. of permanent secretaries and certain other officers

(1) This section applies to the offices of Secretary to the Cabinet, permanent secretary of a department of the Government, head or deputy head of a department of the Government, any office for the time being designated by the Public Service Commission as an office of a chief professional adviser to a department of the Government and any office for the time being designated by the Commission, after consultation with the Prime Minister, as an office the holder of which are required to reside outside Saint Christopher and Nevis or whose function relate to external affairs.

(2) The power to appoint persons to hold or to act in offices to which this section applies (including the power to confirm appointments), and, subject to section 87, the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Governor-General, acting in accordance with the recommendation of the Public Service Commission.

Provided that-

a) the power to appoint a person to hold or act in an office of permanent secretary on transfer from another office carrying the same salary shall vest in the Governor-General, acting in accordance with the advice of the Prime Minister;

b) before the Public Service Commission makes a recommendation to the Governor-General with respect to the appointment of any person to hold an office to which this section applies (other than an appointment to an office of permanent secretary on transfer from another such office carrying the same salary) it shall consult with the Prime Minister and if the Prime Minister signifies his objection to the appointment of any person to the office, the Commission shall not make a recommendation to the Governor-General to appoint that person;

c) in relation to any office of Ambassador, High Commissioner or other principal representative of Saint Christopher and Nevis in any other country or accredited to any international organization the Governor-General shall act in accordance with the advice of the Prime Minister, who shall, before tendering any such advice in respect of any person who holds any public office to which appointments are made by the Governor-General in accordance with the recommendation of some other person or authority consult that person or authority.

(3) References in this section to a department of the Government shall not include the office of the Governor-General, the department of the Attorney-General, the department of the Director of Public Prosecutions the department of the Director of Audit, the department of the Clerk of the National Assembly or the Police Force.

80. Attorney-General when a public officer

(1) This section shall have effect at any time when the office of Attorney-General is a public office.

(2) The power to appoint a person to hold or act in the office of Attorney-General shall vest in the Governor-General, acting in accordance with the recommendation of the Public Service Commission:

Provided that before the Public Service Commission makes any recommendation under this subsection it shall consult the Prime Minister and the Judicial and Legal Services Commission:

(3) The power to exercise disciplinary control over and remove from office a person holding or acting in the office of Attorney-General shall vest in the Governor-General, acting in accordance with the recommendation for the Judicial and Legal Services Commission:

Provided that before the Judicial and Legal Services Commission makes any recommendation under this subsection it shall consult the Public Service Commission.

81. Director of Public Prosecutions

(1) The Director of Public Prosecutions shall be appointed by the Governor-General, acting in accordance with the recommendation of the Judicial and Legal Services Commission.

(2) If the office of Director of Public Prosecutions is vacant or if the holder of that office is for any reason unable to exercise the functions of his office, the Governor-General, acting in accordance with the recommendation of the Judicial and Legal Services Commission, may appoint a person to act as Director.

(3) A person shall not be qualified to be appointed to hold the office of Director of Public Prosecutions unless he holds one of the specified qualifications and has held one or other of those qualifications for a total period of not less than five years.

(4) A person appointed to act in the office of Director of Public Prosecutions shall, subject to subjections (5), (7), (8) and (9), cease so to act-

a) when a person is appointed to hold that office and has assumed the functions thereof or, as the case may be, when the person in whose place he is acting resumes the functions of that office; or

b) at such earlier time (if any) as may be specified by the Governor-General at the time of his appointment.

(5) Subject to subsection (7), the Director of Public Prosecutions shall vacate his office when he attains the prescribed age.

(6) A person holding the office of Director of Public Prosecutions may be removed from office only for inability to exercise the function of his office (whether arising from infirmity of body or mind or any other cause or for misbehavior) and shall not be so removed except in accordance with the provisions of this section.

(7) The Director of Public Prosecutions shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed under subsection (8) and the tribunal has recommended to the Governor-General that he ought to be removed for inability as aforesaid or for misbehavior.

(8) If the Prime Minister or the chairman of the Judicial and Legal Service Commission represents to the Governor-General that the question of removing the Director of Public Prosecutions under this section ought to be investigated, then-

a) the Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court; and

b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to him whether the Director ought to be removed under this section.

(9) If the question of removing the Director of Public Prosecutions has been referred to a tribunal under this section, the Governor-General, acting in accordance with the advice of the Judicial and Legal Services Commission, may suspend the Director from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor-General, acting in accordance with such advice as aforesaid, and shall in any case

cease to have effect if the tribunal recommends to the Governor-General that the Director should not be removed.

(10) The prescribed age for the purposes of subsection (5) is the age of fifty-five years or such other age as may be prescribed by Parliament:

Provided that any law enacted by Parliament, to the extent to which it alters the prescribed age after a person has been appointed to be or to act as Director of Public Prosecutions, shall not have effect in relation to that person unless he consents that it should have effect.

82. Director of Audit

(1) The Director of Audit shall be appointed by the Governor-General, acting in accordance with the recommendation of the Public Service Commission.

(2) If the office of Director of Audit is vacant or if the holder of that office is for any reason unable to exercise the functions of his office, the Governor-General, acting in accordance with the recommendation of the Public Service Commission, may appoint a person to act as Director.

(3) Before making any recommendation for the purposes of subsection (1) or (2), the Public Service Commission shall consult the Prime Minister.

(4) A person appointed to act in the office of Director of Audit shall subject to subsections (5), (7), (8) and (9), cease to act-

a) when a person is appointed to hold that office and has assumed the functions thereof or, as the case may be, when the person in whose place he is acting resumes the functions of that office; or

b) at such earlier time (if any) as may be specified by the Governor-General at the time of his appointment.

(5) Subject to subsection (7), the Director of Audit shall vacate his office when he attains the prescribed age.

(6) A person holding the office of Director of Audit may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehavior and shall not be so removed except in accordance with the provisions of this section.

(7) The Director of Audit shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed under subsection (8) and the tribunal has recommended to the Governor-General that he ought to be removed for inability as aforesaid or for misbehavior.

(8) If the Prime Minister or the chairman of the Public Service Commission represents to the Governor-General that the question of removing the Director of Audit under this section ought to be investigated-

a) the Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court; and

b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to him whether the Director ought to be removed under this section.

(9) If the question of removing the Director of Audit has been referred to a tribunal under this section, the Governor-General, acting in accordance with the advice of the Public Service Commission, may suspend the Director or Audit from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor-General, acting in accordance with such advice, and shall in any case cease to have effect if the tribunal recommends to the Governor-General that the Director should not be removed.

(10) The prescribed age for the purposes of subsection (5) is the age of fifty-five or such other age as may be prescribed by Parliament:

provided that any law enacted by Parliament, to the extent to which is alters the prescribed age after a person has been appointed to be or to act as Director of Audit, shall not be have effect in relation to that person unless he consents that it should have effect.

83. Appointment etc. of magistrates, registrars and legal officers

(1) This section applies to the office of magistrate, registrant of the High Court and to any public office in the department of the Attorney-General (other than the public office of Attorney-General) or the department of the Director of Public Prosecutions (other than the office of Director) for appointment to which persons are required to hold one or other of the specified qualifications.

(2) The power to appoint persons to hold or act in offices to which this section applies (including the power to confirm appointments) shall vest in the Governor-General, acting in accordance with the recommendation of the Public Service Commission:

Provided that before making any recommendation as to the exercise of the powers conferred by this section in any case the Public Service Commission shall consult the Judicial and Legal Services Commission.

(3) The power to exercise disciplinary control over persons holding or acting in offices to which this section applies and the power to remove such persons from office shall vest in the Governor-General, acting in accordance with the recommendation of the Judicial and Legal Service Commission:

Provided that before making any recommendation as to the exercise of the powers conferred by this subsection in any case the Judicial and Legal Services Commission shall consult the Public Service Commission.

PART 3
THE POLICE

84. Police Service Commission

(1) There shall be for Saint Christopher and Nevis a Police Service Commission (hereinafter in this section referred to as the Commission) which shall consist of-

a) the chairman and the members of the Public Service Commission appointed under paragraph (a) of section 77(1); and

b) one member appointed by the Governor-General, acting in accordance with the advice of the Prime Minister, who shall, if persons have been selected in that behalf by the appropriate representative body, be so appointed from among those persons.

(2) The provisions of sections 77(2), 77(3), 77(4), 77(5), 77(6), 77(7) and 77(10) shall apply in relation to a member of the Commission appointed under paragraph (b) of subsection (1) as they apply in relation to a member of the Public Service Commission.

(3) The member of the Public Service Commission for the time being performing the functions of the chairman of that Commission shall perform the functions of the chairman of the Commission.

(4) Any person for the time being authorized to act as a member of the Public Service Commission under section 77(9) (other than a person so authorized on account of the inability of a member thereof appointed under section 77(b)) shall act as a member of the Commission.

(5) If at any time the member of the Commission appointed under paragraph (b) of subsection (1) of this section if for any reason unable to exercise the functions of his office, the Governor-General, acting in accordance with the advice of the Prime Minister, may appoint a person who is qualified to be appointed as a member of the Commission to act as a member, and any person so appointed shall, subject to subsection (2), continue to act until the

holder of the office has resumed his functions or until his appointment to act has been revoked by the Governor-General, acting in accordance with the advice of the Prime Minister.

(6) The Commission shall, in the exercise of its functions under this Constitution, not be subject to the direction or control of any other person or authority.

(7) The Commission may by regulations otherwise regulate its own procedure and, with the consent of the Prime Minister, may confer powers or impose duties on any public officer or on any authority of the Government for the purpose of the exercise of its functions.

(8) The Commission may, subject to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participate in those proceedings:

Provided that any decision of the Commission shall require the concurrence of a majority of all its members.

(9) In this section "the appropriate representative body" means such body (if any) as may be designated by the Governor-General, acting in accordance with the advice of the Prime Minister, as the principal body in Saint Christopher and Nevis representing the interests of officers of the Police Force.

85. Appointment etc. of police officers

(1) Subject to section 87, the power to appoint persons to hold or act in offices in the Police Force (including the power to confirm appointments), the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Governor-General, acting in accordance with the recommendation of the Police Service Commission:

Provided that before the Commission makes any recommendation to the Governor-General with respect to the appointment of any person to hold the office of Chief of Police or deputy Chief of Police the Commission shall consult

with the Prime Minister and if the Prime Minister signifies his objection to the appointment of any person to the office the Commission shall not recommend the Governor-General to appoint that person.

(2) The Governor-General, acting in accordance with the recommendation of the Police Service Commission, may, by directions in writing and subject to such conditions as he thinks fit, delegate any of his powers under subsection (1) to any one or more members of the Commission of with the consent of the Prime Minister, to the Chief of Police or any other officer of the Police Force.

(3) Before the Police Service Commission recommends the Governor General under subsection (1), or any other person or authority exercises any power delegated to him under subsection (2), to appoint to or to act in any office in the Police Force any person who holds or is acting in any office to which section 83 applies the Commission shall consult with the Judicial and Legal Services Commission.

(4) An officer to the Police Force shall not be removed from office or subjected to any other punishment under this section on the grounds of any act done or omitted by him in the exercise of a judicial function conferred on him unless the Judicial and Legal Service Commission concurs therein.

PART 4
THE PUBLIC SERVICE BOARD OF APPEAL

86. The Public Service Board of Appeal

(1) There shall be for Saint Christopher and Nevis a Public Service Board of Appeal (hereinafter in this section referred to as the Board) which shall consist of-

a) one member appointees by the Governor-General, who shall be chairman;

b) one member appointed by the Governor-General, acting in accordance with the advice of the Prime Minister; and

c) one member appointed by the Governor-General, who shall, when there is an appropriate representative body, act in accordance with the recommendation of that body.

(2) A person shall not be qualified for appointment as a member of the Board if he is a member of the National Assembly and a person shall not be qualified for appointment under subsection (1)(c) unless he is or has at any time been a public officer.

(3) Subject to the provisions of this section, the office or a member of the Board shall become vacant-

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

b) if any circumstances arise that, if he were not a member of the Board, would cause him to be disqualified to be appointed as such under subsection (2).

(4) A member of the Board may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehavior and shall not be so removed except in accordance with the provisions of this section.

(5) A member of the Board shall be removed from office by the Governor-General, if the question of his removal from office has been referred to a tribunal appointed under subsection (6) and the tribunal has recommended to the Governor-General that he ought to be removed from office for inability as aforesaid or for misbehavior.

(6) If the Governor-General considers that the question of removing a member of the Board under this section ought to be investigated, then-

a) the Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the

Commonwealth or a court having jurisdiction in appeals from such a court; and

b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to him whether the member ought to be removed under this section.

(7) If the question of removing a member of the Board has been referred to a tribunal under this section, the Governor-General may suspend that member from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor-General and shall in any case cease to have effect if the tribunal recommends to the Governor-General that member should not be removed.

(8) a) If at any time any member of the Board is for any reason unable to exercise the functions of his office, the Governor-General may appoint a person who is qualified to be appointed as a member of the Board to act as a member, and any person so appointed shall, subject to subsection (4), continue to act until the holder of the office has resumed his functions or until his appointment to act has been revoked by the Governor-General.

b) Where the member of the Board unable to exercise the functions of his office was appointed under paragraph (b) of subsection (1), the Governor-General shall act in accordance with the advice of the Prime Minister and where he was appointed under paragraph (c) of that subsection the Governor-General shall, when there is an appropriate representative body, act in accordance with the recommendation of that body in exercise of the powers conferred by this subsection.

(9) The Board shall, in the exercise of its functions under this Constitution, not be subject to the direction or control of any other person or authority.

(10) In this section "appropriate representative body" means a body designated under section 77(14).

(11) In the exercise of the powers conferred upon him by this section the Governor-General shall, except where it is otherwise expressly provided, act in his own deliberate judgment.

87. Appeals to Public Service Board of Appeal

(1) This section applies to-

a) any decision of the Governor-General, acting in accordance with the recommendation for the Public Service Commission or the Police Service Commission, to remove a public officer from office or to exercise disciplinary control over a public officer (including a decision made on appeal from or confirming a decision or any person to whom powers are delegated under section 77(2) or 85(2));

b) any decision of any person to whom powers are delegated under section 77(2) or 85(2) to remove a public officer from office or to exercise disciplinary control over a public officer (not being a decision that is subject to appeal to or confirmation by the Governor-General, acting in accordance with the recommendation of the Public Service Commission or the Police Service Commission); and

c) such decisions with respect to the discipline of any defence force established for Saint Christopher and Nevis as may be prescribed by Parliament.

(2) Subject to subsection (5), an appeal shall lie to the Public Service Board or Appeal (hereinafter in this section referred to as the Board) from any decision to which this section applies at the instance of the public officer or member of the defence force in respect of whom the decision is made.

(3) Upon an appeal under this section the Board may affirm or set aside the decision appealed against or may make any other decision that the authority or person from whom the appeal lies could have made.

(4) Every decision of the Board shall require the concurrence of a majority of all its members.

(5) The Board may by regulation make provision for its own procedure and the procedure on appeals under this section and may, with the approval of the Governor-General, by regulation-

a) except from the provisions of subsection (2) decisions in respect of public officers holding offices whose emoluments do not exceed such amount as may be prescribed by the regulations or such decisions to exercise disciplinary control over public officers, other than decisions to remove a public officer from office, as may be so prescribed; and

b) confer powers or impose duties on any public officer or on any authority of the Government for the purpose of the exercise of its functions.

PART 5
PENSIONS

88. Pensions laws and protection of pensions rights

(1) The law to be applied with respect to any pension benefits that were granted to any person at any time before 19th September 1983 shall be the law that was in force at the date on which those benefits were granted or any law in force at a later date that is not less favorable to that person.

(2) The law to be applied with respect to any pensions benefits (not being benefits to which subsection (1) applies) shall-

a) in so far as those benefits are wholly in respect of a period of service as a public officer or a judge that commenced at any time before 19th September 1983 by law that was in force on that date; and

b) in so far as those benefits are wholly or partly in respect of a period of service as a public officer or a judge that commenced on or after that date, be the law in force on the date on which that period of service commenced,

or any law in force at a later date that is not less favorable to that person.

(3) Where a person is entitled to exercise an option as to which of two or more laws shall apply in his case, the law for which he opts shall, for the purposes of this section, be deemed to be more favorable to him than the other law or laws.

(4) All pensions benefits shall (except to the extent they are charged by law upon and duly paid out of some other fund) be a charge on the Consolidated Fund.

(5) In this section "pensions benefits" means any pensions, compensation, gratuities or other like allowances for persons in respect of their service as members of the National Assembly, judges or officers of the Supreme Court or public officer or for the widows, children, dependents or personal representatives of such persons in respect of such service.

(6) References in this section to the law with respect to pensions benefits include (without prejudice to their generality) references to the law regulating the circumstances in which such benefits may be granted or in which the grant of such benefits may be refused, the law regulating the circumstances in which any such benefits that have been granted may be withheld, reduced in amount or suspended and the law regulating the amount of any such benefits.

89. Power to withhold pensions etc.

(1) Where under any law any person or authority has a discretion-

a) to decide whether or not any pension benefits shall be granted; or

b) to withhold, reduce in amount or suspend any such benefits that have been granted,

those benefits shall be granted and may not be withheld, reduced in amount or suspended unless the Public Service Commission concurs in the refusal to grant the benefits or, as the case may be, in the decision to withhold them, reduce them in amount or suspend them.

(2) Where the amount of any pensions benefits that may be granted to any person is not fixed by law, the amount of the benefits to be granted to him shall be the greatest amount for which he is eligible unless the Public Service Commission concurs in his being granted benefits of a smaller amount.

(3) The Public Service Commission shall not concur under subsection (1) or (2) in any action taken on the ground that any person who holds or has held the office of judge of the Court of Appeal, judge of the High Court, Director of Public Prosecutions or Director of Audit has been guilty of misbehavior in that office unless he has been removed from that office by reason of such misbehavior.

(4) Before the Public Service Commission concurs under subsection (1) or (2) in any action taken on the ground that any person who holds or has held any office to which, at the time of such action, section 83 of this Constitution applies has been guilty of misbehavior in that office, the Public Service Commission shall consult the Judicial and Legal Services Commission.

(5) In this section "pensions benefits" means any pensions, compensation, gratuities or other like allowances for persons in respect of their service as judges or officer of the Supreme Court or public officers or for the widows, children, dependents or personal representatives of such person in respect of such service.

CHAPTER VIII
CITIZENSHIP

90. Persons who become citizens at independence

The following persons shall become citizens on 19th September 1983-

a) every person who, having been born in Saint Christopher and Nevis, was immediately before that date a British citizen or a British Dependent Territories citizen;

b) every person who, having been born outside Saint Christopher and Nevis, was immediately before that date a British citizen or a British Dependent

Territories citizen by virtue or registration or naturalization in Saint Christopher and Nevis or by virtue of his adoption in Saint Christopher and Nevis in a manner recognized by law;

c) every other person who was immediately before that date a British citizen or a British Dependent Territories citizen and either of whose parents becomes, or but for death or renunciation of citizenship would have become, a citizen by virtue of paragraph (a), (b) or (d);

(d) every other person who was immediately before that date a British citizen or a British Dependent Territories citizen and either or whose parents becomes, or but for death or renunciation of citizenship would have become, a citizen by virtue of paragraph (a), (b) or (c);

e) every other person who, having been born, adopted in a manner recognized by law, registered or, as the case may be, naturalized in Anguilla before 19th December 1980 and having been ordinarily resident in Saint Christopher and Nevis since a date earlier than that date, was immediately before 19th September 1983 a British citizen or a British Dependent Territories citizen;

f) any person who was immediately before 19th September 1983 a British citizen or a British Dependent Territories citizen and one of whose grandparents becomes, or but for death or renunciation of citizenship would have become, a citizen by virtue of paragraph (a) or (b);

g) every other person who immediately before that date by virtue of section 113(10) of the Constitution then in force belonged to Saint Christopher and Nevis for the purposes of that Constitution; and

h) every other person who was immediately before that date under the age of eighteen years and is te child of a person who becomes, or but for death or renunciation of citizenship would have become, a citizen by virtue of any of the preceding paragraphs.

91. Persons who become citizens after independence

The following persons born on or after 19th September 1983 shall become citizens at the date of their birth-

a) every person born in Saint Christopher and Nevis:

Provided that a person shall not become a citizen by virtue of this paragraph if at the time of his birth-

i) neither of his parents is a citizen and either of them passed such immunity from suit and legal process as is accorded to the envoy of a foreign sovereign power accredited to Saint Christopher and Nevis; or

ii) either of his parents is a citizen of a country with which Her Majesty is at war and the birth occurs in a place then under occupation by that country;

b) every person born outside Saint Christopher and Nevis if at the date of his birth either of his parents is, or but for death would have become, a citizen employed in service under the Government or under an authority of the Government that requires him to reside outside Saint Christopher and Nevis for the proper discharge of his functions.

92. Registration

(1) The following person shall, if they do not already possess citizenship, be entitled, upon making application, to be registered as citizens-

a) any person who is married to citizen;

b) any person who, being a Commonwealth citizen, is ordinarily resident in Saint Christopher and Nevis having been so resident for the period of fourteen years immediately preceding the date of his application;

c) any person who, having been a citizen, has renounced his citizenship;

d) any person who, but for renunciation of citizenship, would have become a citizen by virtue of section 90;

e) any person who is married to any such person as is mentioned in paragraph (b), (c) or (d);

f) any person who-

i) was married to a person who but for his death would have become a citizen by virtue of section 90; or

ii) was married to a person who became a citizen by virtue of that section, but whose marriage to that person has been terminated by dissolution at any time before 19th September 1983 after having subsisted for at least three years;

g) any person under the age of eighteen years who is the child of a citizen of the child of a person who is or would but for his death have been entitled to be registered as a citizen under any of the preceding paragraphs; and

h) such other persons as may be prescribed by Parliament:

provided that if it is so provided by Parliament an application for registration as a citizen under this subsection may, in such circumstances as may be prescribed by Parliament in the interests of defence, public safety or public order, be refused by the Minister responsible for the matter in any case in which he is satisfied that there are reasonable grounds for refusing the application.

(2) An application for registration under subsection (1) shall be made in such manner as may be prescribed, as respects that application, by or under a law enacted by Parliament and, in the case of a person under the age of eighteen years, it shall be made on his behalf by his parent or guardian:

Provided that, if any such person is or has been married, he may make the application himself.

(3) Every person not already owing allegiance to the Crown who, having reached the age of eighteen years, applies for registration under subsection (1) shall, before such registration, taken the oath of allegiance.

(4) For the purposes of paragraph (b) of subsection (1) any person who was ordinarily resident in Anguilla for any period before 19th December 1980 shall be regarded as having been ordinarily resident in Saint Christopher and Nevis during that period.

93. Dual citizenship

(1) If a person who is a citizen of some other country or entitled to be registered as such is entitled to registration as a citizen under section 92, he shall not, by reason only that he is or may become a citizen of that other country, be refused registration under that section or be required to renounce his citizenship of the country as a condition of being registered under that section.

(2) Any such person as is referred to in subsection (1) shall not, if he is a citizen-

a) be refused a passport of Saint Christopher and Nevis, or have such a passport withdrawn, canceled or impounded, by reason only that he is in possession of a passport issued by some other country of which he is a citizen; or

b) be required to surrender, or be prohibited from acquiring, a passport issued by some other country of which he is a citizen before being issued with a passport of Saint Christopher and Nevis or as a condition of retaining such a passport.

94. Acquisition renunciation, certification and deprivation

There shall be such provision as may be made by Parliament-

a) for the naturalization as citizens of persons who are not entitled to become citizens under section 92;

b) for the renunciation by any person of his citizenship;

c) for the certification of citizenship in relation to persons who are or were formerly citizens upon application by such persons or by such other interested persons as may be prescribed; and

d) for depriving of his citizenship any person who has become a citizen by virtue of registration or naturalization if his citizenship was obtained by false representation or fraud or willful concealment of material facts or if he is convicted under any law of an act of treason or sedition:

Provided that any law enacted for the purposes of paragraph (d) shall include provisions under which the person concerned shall have a right of appeal to a court of law of competent jurisdiction or other independent authority and shall be permitted to appear before the court or authority in person or, at his own expense, to be represented by a legal practitioner of his own choice.

95. Interpretation

(1) For the purpose of this Chapter, a person born aboard a registered ship or aircraft, or aboard an unregistered ship or aircraft of the Government of any country, shall be deemed to have been born in the place in which the ship or aircraft was registered or, as the case may be, in that country.

(2) Any reference in this Chapter to the national status of the parent of a person at the time of that person's birth shall, in relation to a person born after his father's death, be construed as a reference to the national status of the father at the time of the father's death; and where that death occurred before 19th September 1983 and the birth occurred on or after that date shall be deemed to be his national status at the time of this death.

(3) References in this Chapter to registration or naturalization are references to registration as a citizen under section 92 or naturalization as a citizen under any law made in pursuance of section 94 and include references to-

a) Registration or naturalization as a British citizen or a British Dependent territories citizen under the British Nationality Act 1981 (a);

b) registration or naturalization as a citizen of the United Kingdom and Colonies under the British Nationality Act 1948 (b); and

c) naturalization as a British subject before that Act came into force.

(4) references in this Chapter to renunciation of citizenship in relation to period before 19th September 1983 are reference to renunciation of British citizenship, citizenship of the British Dependent Territories, citizenship of the United Kingdom and Colonies or, as the Case may be, the status of a British subject before the British Nationality Act 1948 came into force.

(5) For the purposes of this Chapter-

a) a person shall be regarded as having been registered or naturalized in Saint Christopher and Nevis or, as the case may be, in Anguilla if he was registered or naturalized while resident in Saint Christopher and Nevis or, as the case may be, while resident in Anguilla;

b) a person who was adopted by a person who at the time of the adoption was resident in Saint Christopher and Nevis or, as the case may be, in Anguilla shall be regarded as having been adopted in Saint Christopher and Nevis or, as the case may be, in Anguilla; and

c) a newborn infant found abandoned in Saint Christopher and Nevis or, as the case may be, in Anguilla shall, unless the contrary is shown, be regarded as having been born in Saint Christopher and Nevis or, as the case may be, in Anguilla.

CHAPTER IX
JUDICIAL PROVISIONS

96. Original jurisdiction of High Court in constitutional question

(1) Subject to sections 23(3), 37(10)(b), 50(7) and 116(2), any person who alleges that any provision of this Constitution (other than a provision of Chapter II) has been or is being contravened may, if he has a relevant interest, apply to the High Court for a declaration and for relief under this section.

(2) The High Court shall have jurisdiction on an application made under this section to determine whether any provision of this Constitution (other than a provision of Chapter II) has been or is being contravened and to make a declaration accordingly.

(3) Where the High Court makes a declaration under this section that a provision of this Constitution has been or is being contravened and the person on whose application the declaration is made has also applied for relief, the High Court may grant to that persons such remedy as it considers appropriate, being a remedy available generally under any law in proceedings in the High Court.

(4) The Chief Justice may make rules with respect to the practice and procedure of the High Court in relation to the jurisdiction and powers conferred on the court by or under this section, including provision with respect to the time within which any application under this section may be made.

(5) A person shall be regarded as having a relevant interest for the purpose of an application under this section only if the contravention of this Constitution alleged by him is such as to affect his interests.

(6) The rights conferred on a person by this section to apply for a declaration and relief in respect of an alleged contravention of this Constitution shall be in addition to any other action in respect of the same matter that may be available to that person under any law.

(7) Nothing in this section shall confer jurisdiction on the High Court to hear or determine any such question as is referred to in section 36.

97. Reference of constitutional question to High Court

(1) Where any question as to the interpretation of this Constitution arises in any court of law established for Saint Christopher and Nevis (other than the Court of Appeal, the High Court or a court-martial) and the court is of the opinion that the question involves a substantial question of law, the court may, and shall if any party to the proceedings so requests, refer the question to the High Court.

(2) Where any question is referred to the High Court in pursuance of this section, the High Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision or, if the decision is the subject of any appeal to the Court of Appeal or to Her Majesty in Council, in accordance with the decision of the Court of Appeal or, as the case may be, of Her Majesty in Council.

98. Appeals to Court of Appeal

Subject to section 36, an appeal shall lie from decisions of the High Court to the Court of Appeal as of right in the following cases-

a) final decisions in any civil or criminal proceedings that involve a question as to the interpretation of this Constitution;

b) final decision given in exercise of the jurisdiction conferred on the High Court by section 18 (which relates to the enforcement of the fundamental rights and freedoms);

c) final decisions given in exercise of the jurisdiction conferred on the High Court by section 112 (which relates to disputes between the Nevis Island Administration and the Government); and

d) such other cases as may be prescribed by Parliament.

99. Appeals to Her Majesty in Council

(1) An appeal shall lie from decisions of the Court of Appeal to Her Majesty in Council as of right in the following cases-

a) final decision in any civil proceedings where the matter in dispute on the appeal to Her Majesty in Council is of the prescribed value or upwards or where the appeal involves directly or indirectly a claim to or question respecting property or a right of the prescribed value or upwards:

b) final decisions in proceedings for dissolution or nullity of marriage;

c) final decisions in any civil or criminal proceedings that involve a question as to the interpretation of this Constitution;

d) final decisions given in exercise of the jurisdiction conferred on the High Court by section 112; and

e) such other cases as may be prescribed by Parliament.

(2) Subject to section 36(7), an appeal shall lie from decisions of the Court of Appeal to Her Majesty in Council with the leave of the Court of Appeal in the following cases-

a) decisions in any civil proceedings where in the opinion of the Court of Appeal the question involved in the appeal is one that, by reason of its great general or public importance or otherwise, ought to be submitted to Her Majesty in Council; and

b) such other cases as may be prescribed by Parliament.

(3) An appeal shall lie to Her Majesty in Council with the special leave of Her Majesty from any decision of the Court of Appeal in any civil or criminal matter.

(4) Reference in this section to decision of the Court of Appeal shall be construed as references to decisions of the Court of Appeal in exercise of the jurisdiction conferred upon that court by this Constitution or any other law.

(5) In this section the prescribed value means the value of five thousand dollars or such other value as may be prescribed by Parliament.

CHAPTER X
THE ISLAND OF NEVIS

100. Nevis Island Legislature

There shall be a legislature for the island of Nevis, which shall be styled the Nevis Island Legislature and shall consist of Her Majesty and an assembly styled the Nevis Island Assembly.

101. Nevis Island Assembly

(1) The Nevis Island Assembly shall consist of-

a) such number of elected members as corresponds with the number of electoral districts for the time being established under section 50, as applied with modifications by section 104(1); and

b) three nominated members or such greater number (not exceeding two-thirds of the number of elected members) as may be prescribed by the Nevis Island Legislature.

(2) Of the nominated member-

a) one-third of their number shall be appointed by the Governor-General in accordance with the advice of the Leader of the Opposition in the Assembly; and

b) the others shall be appointees by the Governor-General in accordance with the advice of the Premier.

(3) Without prejudice to section 27 and 28, as applied with modifications by section 104(1), a person shall not be qualified for election to the Assembly unless, at the time when the election is held, he would be entitled to vote in elections of Representatives held in the island of Nevis.

(4) For the purposes of section 29(2), as applied with modifications by section 104(1), the provisions made by Parliament in relation to the election of elected members of the Assembly shall be such that the persons entitled to vote in elections of such elected members are persons entitled to vote in elections of Representatives in the island of Nevis.

(5) If a persons who is not a member of the Assembly is elected to be president of the Assembly he shall, by virtue of holding the office of president, be a member of the Assembly.

(6) Any person who sits or votes in the Assembly knowing or having reasonable grounds for knowing that he is nor entitled to do so shall be guilty of a criminal offence and liable to a fine not exceeding one hundred dollars, or such other sum as may be prescribed by the Nevis Island Legislature, for each day on which he so sits or votes in the Assembly.

(7) Any prosecution for an offence under subsection (6) shall be instituted in the High Court and shall not be so instituted except by the Director of Public Prosecutions.

(8) In subsection (2) "one-third" means, in relation to a number of nominated members that is not a multiple of three, one-third of the next higher number that is such a multiple.

102. Nevis Island Administration

(1) There shall be a Nevis Island Administration, which shall consist of-

a) a Premier; and

b) two other members or not less than two nor more than such greater number of members as the Nevis Island Legislature may prescribe, who shall be appointed by the Governor-General.

(2) The Governor-General, acting in his own deliberate judgment, shall appoint as Premier an elected member of the Assembly who seems to him likely to command the support of the majority of the elected members of the Assembly.

(3) The Governor-General, acting in accordance with the advice of the Premier, shall appoint the other members of the Administration from among the members of the Assembly.

(4) If a member of the Administration is absent from Saint Christopher and Nevis or is for any reason unable to discharge his functions as such, the Governor-General, acting in accordance with the advice of the Premier, may appoint another member of the Assembly to be a temporary member of the Administration in his place and may terminate any such appointment.

(5) The functions of the Administration shall be to advise the Governor-General in the government of the island of Nevis and the Administration shall be collectively responsible to the Assembly for any advice given to the Governor-General by or under the general authority of the Administration and for all things done by or under the authority of any member of the Administration in the execution of his office.

(6) Subsection (5) shall not apply in relation to-

a) the assignment of responsibility to any member of the Administration under section 54, as applied with modifications by section 104(4), or the authorization of another member of the Administration to perform the functions of the Premier during absence of illness;

b) the dissolution of the Nevis Island Legislature;

c) the matters referred to in section 66 of this Constitution (which relate to the prerogative of mercy); or

d) any matter in respect of which the Nevis Island Legislature has no power to make laws for the island of Nevis.

103. Power to make laws

(1) Subject to the provisions of this Constitution, the Nevis Island Legislature may make laws, which shall be styled Ordinances, for the peace, order and good government of the island of Nevis with respect to the specified matters.

(2) A law made by the Nevis Island Legislature may contain incidental and supplementary provisions that relate to a matter other than a specified matter but if there is any inconsistency between those provisions and the provisions of any enacted by Parliament, the provisions of the law enacted by Parliament shall prevail.

104. Provisions applied with modifications

(1) Section 27, 28, 29, 31, 32, 34, 35, 36, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 56(3), 58, 78(5), 88(5) and 117(1) and (2) and schedule 2

shall apply in relation to the Assembly as they apply in relation to the National Assembly and for that purpose they shall have effect as if-

a) references to the National Assembly (except the reference in the provison to section 49(1)) were references to the Assembly;

b) references to Representative or to Senators (except the references in subsection 28(2) and (3) to Representative) were references to elected members or, as the case may be, to nominated members of the Assembly;

c) references to constituencies were references to electoral districts;

d) references to the Government, to the Prime Minister or any other Minister, to the Leader of the Opposition or to the Speaker were references to the Administration, to the Premier, to the Leader of the Opposition in the Assembly or, as the case may be, to the president of the Assembly;

e) references to the Consolidated Fund or any other public fund of the Government of Saint Christopher and Nevis were references to the Nevis Island Consolidated Fund or any other public fund of the Administration;

f) references to the Deputy Speaker or to a Parliamentary Secretary were deleted;

g) the references in section 28(5)(a) to the office of elected member or nominated member of the Assembly or member or the Administration were a reference to the office of representative Senator, Minister or Parliamentary Secretary;

h) the reference in section 29(2) to residence in Saint Christopher and Nevis were a reference to residence in the island of Nevis;

i) the reference in section 31 to section 30 were a reference to section 101(2), paragraph (d) of section 31(3) were deleted, the references in section 41 to sections 19(8) and 37(6) were deleted and the references in that section to section 38(2) were references to section 113(2);

j) the references in section 31, 32, 42, 46, 47 and 48 to Parliament were references to the Nevis Island Legislature and the referenced in section 46, 49, and 50 to Saint Christopher and Nevis were references to the island of Nevis; and

k) rule 1 and paragraph (a) of rule 2 were deleted from schedule 2 and in place of rule 1 the following rule were substituted-

"There shall be not less than five electoral districts in the island of Nevis".

(2) Any provision made by Parliament such as is referred to in section 45 shall apply in relation to the Assembly and its members, officers and committees as it applies in relation to the National Assembly and its members, officers and committees.

(3) Before advising the Governor-General to dissolve the Assembly under section 47, as applied with modifications by subsection (1) of this section,the Premier shall consult the Prime Minister.

(4) Section 52 (except subsections (1), (29, (3) and (4)) and sections 54, 55, 57, 60, 61 and 62 shall apply in relation to the Administration as they apply in relation to the Cabinet and for that purpose they and Part 3 of schedule 4 shall have effect as if-

a) references to the Prime Minister were references to the Premier;

b) references to a Minister were references to a member of the Administration;

c) references to the Government or to the Cabinet were references to the Administration;

d) references to Parliament or to the National Assembly were references to the Nevis Island Legislature or, as the case may be, to the Assembly.

105. Exercise of Governor-General's functions

(1) In the exercise of the functions to which this section applies the Governor-General shall act in accordance with the advice of the Administration or a

member of the Administration acting under its general authority except in cases where he is required by this Constitution to act in accordance with the advice of or on the recommendation of, any person or authority other than the Administration.

(2) This section applies to the functions of the Governor-General with respect to the government of the island of Nevis that relates to the specified matters but does not include any functions conferred upon him-

a) by any of the provisions of this Constitution except sections 43, 46 and 48, as applied with modifications by sections 104; or

b) by or under any law enacted by Parliament having effect in the island of Nevis that relates to any specified matter.

106. Responsibilities of Administration

(1) The Administration shall have exclusive responsibility for the administration within the island of Nevis, in accordance with the provisions of any relevant laws, of the following matters-

a) airports and seaports;

b) education;

c) extraction and processing of minerals;

d) fisheries;

e) health and welfare;

f) labour;

g) land and buildings vested in the Crown and specifically appropriated to the use of the Government; and

h) licensing of imports into and exports out of Saint Christopher and Nevis.

(2) Nothing in subsection (1) shall-

a) affect the exercise of any power vested by law in the Governor General or a Minister; or

b) empower the Administration to take any action that is inconsistent with the general policy of the Government as signified by the Prime Minister in a written communication to the Premier, or that relates to a question that in the opinion of the Prime Minister as so signified involves issues of national concern, without the prior concurrence of the Prime Minister.

(3) If land in the island of Nevis is required for the use of the Government, the Administration shall either make available suitable land that is vested in the Crown or else acquire and make available other suitable land and the Government shall be responsible for paying appropriate compensation to any private person whose interests may have been adversely affected and appropriate compensation to the Administration and buildings or other property previously paid for by the Administration and appropriated for the use of the Government with the land.

(4) Nothing in subsection (1) shall be construed as precluding the legislature from conferring other responsibilities on the Administration.

107. Public safety and public order

(1) The Premier may give such general directions with respect to the maintaining and securing of public safety and public order in the island of Nevis as he may consider necessary to-

a) the senior officer of the Police Force stationed in the island of Nevis; or

b) the senior officer of any defence force of Saint Christopher and Nevis stationed in the island of Nevis.

and subject to subsection (2), that officer shall comply with those general directions.

(2) Nothing in subsection (1) shall preclude the Prime Minister from giving general directions with respect to the maintaining and securing of public safety and public order in Saint Christopher and Nevis to the Chief of Police or the officer commanding any defence force of Saint Christopher and Nevis and if there is any inconsistency between any such directions and any directions given under subsection (1), the officers concerned shall comply with the directions given by the Prime Minister.

108. Finance

(1) All revenues or other moneys raised or received by the Administration (not being revenues or other moneys that are payable by or under any law into some other fund of the Administration established for a specific purpose) shall be paid into and form a fund styled the Nevis Island Consolidated Fund (hereinafter in this section referred to as the Fund).

(2) Sections 70, 71, 72, 73, 75 and 76 shall apply in relation to the Administration as they apply in relation to the Government and for that purpose they shall have effect as if-

a) references to the Consolidated Fund were references to the Fund;

b) references to Parliament and to the National Assembly were references to the Nevis Island Legislature or, as the case may be, to the Assembly;

c) references to the Minister for the time being responsible for finance were references to the member of the Administration for the time being responsible for finance; and

d) references to the Government were references to the Administration.

109. Staff

(1) The staff of the Administration shall consist of such number of public office as may be constituted in that behalf under section 63 after consultation between the Prime Minister and the Premier.

(2) The staff of the Administration shall be under the supervision of an Establishment officer stationed in the island of Nevis, whose office shall be a public office and who shall be entitled to communicate direct with the chairman of the Public Service Commission on all matters concerning the staff of the Administration.

110. Revenue allocation

(1) Subject to subsection (2), the proceeds of all taxes collected in Saint Christopher and Nevis under any law shall be shared between the Government and the Administration and the share of each shall be determined by reference to the proportion between the population of the island of Saint Christopher and the population of Saint Christopher and Nevis as a whole or, as the case may be, the population of the island of Nevis and the population of Saint Christopher and Nevis as a whole, as ascertained by reference to the latest available results of a census of those populations carried out in pursuance of a law enacted by Parliament.

(2) The share of the Administration under subsection (1) shall be subject to the following deductions-

a) a contribution to the cost of common services provided for Saint Christopher and Nevis by the Government; and

b) a contribution to the cost of meeting the debt charges for which the Government is responsible under section 75.

(3) The Governor-General may make rules for the purpose of giving effect to the provisions of this section and (without prejudice to the generality of the foregoing power) any such rules may make provisions-

a) for prescribing what services are to be regarded as common services;

b) for determining the contributions to be made by the Administration in relation to any common service so prescribed;

c) for determining the contributions to be made by the Administration in respect of the debt charges for which the Government is responsible, and

d) for prescribing the time at which and the manner in which calculations and payments (including provisions payments) are to be made.

(4) The powers of the Governor-General under subsection (3) shall be exercised by him on the advice of the Prime Minister but no such advice shall be given without the concurrence of the Premier.

111. Grants and loans

(1) The Governor-General may make rules providing that-

a) the existing or contingent liability of the administration for servicing its public debt shall not exceed such limits as may be prescribed;

b) the Minister responsible for finance shall be informed in advance of any proposal that the Administration should obtain any grant or loan of money; and

c) there shall be such consultation between the Government and the Administration as may be prescribed concerning any such proposal before the proposal is put into effect.

(2) The power of the Governor-General under subsection (1) shall be exercised by him on the advice of the Prime Minister but no such advice shall be given without the concurrence of the Premier.

112. Disputes between Administration and Government

The High Court shall, to the exclusion of any other court of law have original jurisdiction in any dispute between the Administration and the Government if and in so far as the dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends.

113. Separation of Nevis from Saint Christopher

(1) The Nevis Island Legislature may provide that the island of Nevis shall cease to be federated with the island of Saint Christopher and accordingly that this Constitution shall no longer have effect in the island of Nevis.

(2) A bill for the purposes of subsection (1) shall not be regarded as being passed by the Assembly unless on its final reading the bill is supported by the votes of not less than two-thirds of all the elected member of the Assembly and such a bill shall not be submitted to the Governor-General for his assent unless-

a) there has been an interval of not less than ninety days between the introduction of the bill in the Assembly and the beginning of the proceedings in the Assembly on the second reading of the bill,

b) after it has been passed by the Assembly, the bill has been approved in a referendum held in the island of Nevis by not less than two-thirds of all the votes validly cast on that referendum; and

c) full and detailed proposal for the future constitution of the island of Nevis (whether as a separate states or as part of or in association with some other country) have been laid before the Assembly for at least six months before the holding of the referendum and those proposals, with adequate explanations of their significance, have been made available to the persons entitled to vote on the referendum at least ninety days before the holding of the referendum.

(3) Every person who, at the time when the referendum is held, would be entitled to vote at elections of representatives held in the island of Nevis shall be entitled to vote on a referendum held for the purposes of this section in accordance with such procedure as may be prescribed by the Nevis Island Legislature for the purpose of the referendum and no other person shall be entitled so to vote.

(4) In any referendum for the purposes of this section the votes shall be given by ballot in such manner as not to disclose how any particular person votes.

(5) The conduct of any referendum for the purposes of this section shall be the responsibility of the Supervisor of Elections and the Provisions of subsection (4), (5) and (7) of section 34 shall apply in relation to the exercise by the Supervisor of Elections or by any other officer of his function with respect to a referendum as they apply in relation to the exercise of his functions with respect to elections of Representatives.

(6) There shall be such provisions as may be made by the Nevis Island Legislature to enable independent and impartial persons nominated by an international authority to observe the conduct of a referendum for the purposes of this section and to make reports on the conduct or results of the referendum to the Governor-General, who shall cause any such reports to be published, and for that purpose any such persons shall be accorded such powers, privileges and immunities as may be prescribed by or under any a law enacted by Parliament or, subject thereto, by or under any law enacted by the Nevis Island Legislature.

(7) A bill for the purposes of subsection (1) shall not be submitted to the Governor-General for his assent unless it is accompanied by a certificate under the hand of the president of the Assembly that the provisions of subsection (2) have been complied with and a certificate under that hand of the Supervisor of Elections stating the results of the referendum.

(8) The certificate of the president of the Assembly under this subsection shall be conclusive that the provision of subsection (2) have been complied with and shall not be enquired into in any court of law.

114. Interpretation

(1) In this Chapter-

"the Administration" means the Nevis Island Administration;

"the Assembly" means the Nevis Island Assembly.

São Vicente e Granadinas

THE CONSTITUTION OF SAINT VINCENT AND THE GRENADINES (1979)

WHEREAS the Peoples of the Island of Saint Vincent, who are known as Vincentians-

a) have affirmed that the Nation is founded on the belief in the supremacy of God and the freedom and dignity of man;

b) desire that their society be so ordered as to express their recognition of the principles of democracy, free institutions, social justice and equality before the law;

c) realize that the maintenance of human dignity presupposes safeguarding the rights of privacy of family life, of property and the fostering of the pursuit of just economic rewards for labor;

d) desire that their Constitution should enshrine the above mentioned freedoms, principles and ideals;

AND WHEREAS Saint Vincent (which comprises the inhabited islands of Saint Vincent, Bequia, Union Island, Canouan, Mustique, Mayreau, Petite

Saint Vincent, Prune Islands and all other inhabited or uninhabited islands, islets, cays or lands lying between latitudes 12 31'50''N and 13 23'30''N and longitudes 61 07'30''W and 61 28'00''W) is henceforth to be styled Saint Vincent and the Grenadines:-

CHAPTER 1
PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS

1. Fundamental rights and freedoms

Where every person in Saint Vincent is entitled to the fundamental rights and freedoms, that is to say, the right, whatever his race, place of origin, political opinions, color, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely-

a) life, liberty, security of the person and the protection of the law;

b) freedom of conscience, of expressions and of assembly and association: and

c) protection for the privacy of his home and other property and from deprivation of property without compensation,

the provisions of this Chapter shall have effect for the purpose of affording protection to those rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any person does not prejudice the rights and freedoms of other or the public interest.

2. Protection of right to life

(1) No person shall be deprived of his life intentionally save in execution of the sentence of a court in respect of a criminal offence under any law of which he has been convicted.

(2) A person shall not be regarded as having been deprived of his life in contravention of this section if he dies as the result of the use, to such extent

and in such circumstances as are permitted by law, of such force as is reasonably justifiable-

a) for the defence of any person from violence or for the defence of property;

b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;

c) for the purpose of suppressing a riot, insurrection or mutiny; or

d) in order to prevent the commission by that person of a criminal offence,

or if he dies as the result of a lawful act of war.

3. Protection of right to personal liberty

(1) No person shall be deprived of his personal liberty save as may be authorized by law in any of the following cases, that is to say:-

a) in execution of the sentence or order of a court, whether established for Saint Vincent or some other country, in respect of a criminal offence of which he has been convicted;

b) in execution of the order of the High Court or the Court of Appeal punishing him for contempt of that court or of another court or tribunal;

c) in execution of the order of a court made to secure the fulfillment of any obligation imposed on him by law,

d) for the purpose of bringing him before a court in execution of the order of a court;

e) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under any law.

f) under the order of a court or with the consent of his parent or guardian, for his education or welfare during any period ending not later than the date when he attains the age of eighteen years;

g) for the purpose of preventing the spread of an infectious or contagious disease;

h) in the case of a person who is, or is reasonably suspected to be of unsound mind, addicted to drugs or alcohol, or vagrant, for the purpose of his care or treatment of the protection of the community;

i) for the purpose of preventing the unlawful entry of that person into Saint Vincent, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from Saint Vincent or for the purpose of restricting that person while he is being conveyed through Saint Vincent in the course of his extradition or removal as a convicted prisoner from one country to another; or

j) to such extent as may be necessary in the execution of a lawful order requiring that person to remain within a specified area within Saint Vincent, or prohibiting him from being within such an area, or to such extent as may be reasonably justifiable for the taking of proceedings against that person with a view to the making of any such order or relating to such an order after it has been made, or to such extent as may be reasonably justifiable for restraining that person during any visit that he is permitted to make to any part of Saint Vincent in which, in consequence of any such order, his presence would otherwise be unlawful.

(2) Any person who is arrested or detained shall with reasonable promptitude and in any case no later than twenty-four hours after such arrest or detention be informed in a language that he understands of the reasons for his arrest of detention and be afforded reasonable facilities for private communication and consultation with a legal practitioner of his own choice and, in the case of a minor, with his parents or guardian.

(3) Any person who is arrested or detained-

a) for the purpose of bringing him before a court in execution of the order of a court; or

b) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under any law.

and who is not released, shall be brought without undue delay before a court.

(4) Where any person is brought before a court in execution of the order of a court in any proceedings or upon suspicion of his having committed or being about to commit an offence, he shall not be thereafter further held in custody in connection with those proceedings or that offence save upon the order of a court.

(5) If any person arrested or detained as mentioned in subsection (3)b. of this section is not tried within a reasonable time, without prejudice to any further proceedings that may be brought against him, he shall be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.

(6) Any person who is unlawfully arrested or detained by any other person shall be entitled to compensation therefore from that other person or from any other person or authority on whose behalf that other person was acting;

Provided that a judge, a magistrate or a justice of the peace or an officer of a court or a police officer acting in pursuance of the order of a judge, a magistrate or a justice of the peace shall not be under any personal liability to pay compensation under this subsection in consequence of any act performed by him in good faith in the discharge of the functions of his office and any liability to pay any such compensation in consequence of any such act shall be a liability of the Crown.

(7) For the purposes of subsection (1)(a) of this section a person charged before a court with a criminal offence in respect of whom a special verdict has been returned that he was guilty of the act or omission charged but was insane when he did the act or made the omission or that he is not guilty by reason of

insanity shall be regarded as a person who has been convicted of a criminal offence and the detention of that person in consequence of such a verdict shall be regarded as detention in execution of the order of a court.

4. Protection from slavery and forced labor

(1) No person shall be held in slavery or servitude.

(2) No person shall be required to perform forced labor.

(3) For the purposes of this section, the expression "forced labor" does not include-

a) any labor required in consequence of the sentence or order or a court;

b) labor required of any person while he is lawfully detained that, though not required in consequence of the sentence or order of a court, is reasonably necessary in the interests of hygiene or for the maintenance of the place at which he is detained;

c) any labor required of a member of a disciplined force in pursuance of his duties as such or, in the case of a person who has conscientious objections to service as a member of a naval, military or air force, any labor that person is required by law to perform in place of such service;

d) any labor required during any period of public emergency or in the event of any other emergency or calamity that threatens the life and well-being of the community, to the extent that the requiring of such labor is reasonably justifiable in the circumstances of any situation arising or existing during that period or as a result of that other emergency or calamity, for the purpose of dealing with that situation.

5. Protection from inhuman treatment

No person shall be subjected to torture or to inhuman or degrading punishment or other treatment.

6. Protection from deprivation or property

(1) No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except for a public purpose and except where provision is made by a law applicable to that taking of possession or acquisition for the payment, within a reasonable time, of adequate compensation.

(2) Every person having an interest in or right over property that is compulsorily taken possession of or whose interest in or right over any property is compulsorily acquired shall have a right of direct access to the High Court for-

a) determining the nature and extent of that interest or right;

b) determining whether that taking of possession or acquisition was duly carried out in accordance with a law authorizing the taking of possession or acquisition;

c) determining what compensation he is entitled to under the law applicable to that taking of possession or acquisition;

d) obtaining that compensation:

Provided that if Parliament so provides in relation to any matter referred to in paragraph (a) or (c) of this subsection the right of access shall be by way of appeal (exercisable as of right at the instance of the person having the interest in or right over the property) from a tribunal or authority, other than the High Court, having jurisdiction under any law to determine that matter.

(3) The Chief Justice may make rules with respect to the practice and procedure of the High Court or, subject to such provision as may have been made in that behalf by Parliament, with respect to the practice and procedure of any other tribunal or authority in relation to the jurisdiction conferred on the High Court by subsection (2) of this section or exercisable by the other tribunal or authority for the purposes of that subsection (including rules with respect to the time within which applications or appeals to the High Court or applications to the other tribunal or authority may be brought).

(4) No person who is entitled to compensation under this section shall be prevented from remitting, within a reasonable time after he has received any amount of that compensation in the form of a sum of money or, as the case may be, has received any such amount in some other form and has converted any or that amount into a sum of money, the whole of that sum of money(free from any deduction; charge or tax made of levied in respect of its remission) to any country of his choice outside Saint Vincent.

(5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (4) of this section to the extent that the law in question authorizes-

a) the attachment, by order of a court, of any amount of compensation to which a person is entitled in satisfaction of the judgment of a court or pending the determination of civil proceedings to which he is a party;

b) the imposition of reasonable restrictions on the manner in which any sum of money is to be remitted; or

c) the imposition of reasonable restrictions in the remission of nay sum of money in order to prevent or regulate the transfer to a country outside Saint Vincent of capital raised in Saint Vincent, or in some other country or derived from the natural resources of Saint Vincent.

(6) nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (1) of this section-

a) to the extent that the law in question makes provision for the taking of possession or acquisition of any property, interest or right-

i) in satisfaction of any tax, rate or due;

ii) by way of penalty for breach of any law or forfeiture in consequence of breach of any law;

iii) as an incident of a lease, tenacy, mortgage,charge, bill of sale, pledge or contract;

iv) in the execution of judgments or orders of a court in proceedings for the determinations of civil rights or obligations;

v) in circumstances where it is reasonably necessary so to do because the property is in a dangerous state or likely to be injurious to the health of human beings, animal or plants;

vi) in consequence of any law with respect to the limitation of actions; or,

vii) for so long only as may be necessary for the purposes of any examination, investigation. trial or inquiry or, in the case of land, for the purposes of the carrying out thereon of work of soil conservation or the contravention of other natural resources or work relating to agricultural development or improvement (being work relating to such development or improvement that the owner or occupier of the land has been required, and has without reasonable excuse refused or failed, to carry out),

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society; or

b) to the extent that the law in question makes provision for the taking of possession or acquisition of any or the following property (including an interest in or right over property), that is to say-

i) enemy property;

ii) property of a deceased person,a person of unsound mind or a person who has not attained the age of eighteen years, for the purpose of its administration for the benefit of the persons entitled to the beneficial interest therein;

iii) property of a person adjudged bankrupt or a body corporate in liquidation, for the purpose of its administration for the benefit of the creditors of the bankrupt or body corporate and, subject thereto, for the benefit of other persons entitled to the beneficial interest in the property; or

iv) property subject to a trust, for the purpose of vesting the property in persons appointed as trustees under the instrument creating the trust or by a court or, by order of a court, for the purpose of giving effect to the trust.

(7) Nothing contained in or done under the authority of any law enacted by Parliament shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision for the compulsory taking of possession of any property, or the compulsory acquisition of any interest in or right over property, where that property, interest or right is held by a body corporate established by law for public purposes in which no monies have been invested other than monies provides by Parliament.

(8) In this section-

"property" means any land or other thing capable of being owned or held in possession and includes any right relating thereto, whether under a contract, trust or law or otherwise and whether present or future, absolute or conditional;

"acquisition" in relation to an interest in or right over property, means transferring that interest or right to another person or extinguishing or curtailing that interest or right.

7. Protection from arbitrary search or entry

(1) Except with his own consent, a person shall not be subjected to the search of his person or his property or the entry by others on his premises.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision-

a) that is reasonably requires in the interests of defence, public safety, public order, public morality, public health, town and country planning,the development and utilization of mineral resources or the development or utilization of any property for a purpose beneficial to the community;

b) that is reasonably required for the purpose of protecting the rights or freedoms of other persons;

c) that authorizes an officer or agent of the Government, a local government authority or a body corporate established by law for public purposes to enter on the premises of any person in order to inspect those premises or anything thereon for the purpose of any tax, rate or due or in order to carry out work connected with any property that is lawfully on those premises and that belongs to the Government or to that authority or body corporate, as the case may be; or

d) that authorizes, for the purpose of enforcing the judgment or order of a court i any civil proceedings, the search or any person or property by order of a court or entry upon any premises by such order,

and except so far as that provision or, as the case may be, anything done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

8. Provisions to secure protection of law

(1) If any person is charged with a criminal offence, then, unless the charge is withdrawn, the case shall be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.

(2) Every person who is charged with a criminal offence-

a) shall be presumed to be innocent until he is proved or has pleaded guilty;

b) shall be informed as soon as reasonably practicable, in a language that he understands and in detail, of the nature of the offence charged;

c) shall be given adequate time and facilities for the preparation of his defence;

d) shall be permitted to defend himself before the court in person or, at his own expense, by a legal practitioner of his own choice;

e) shall be afforded facilities to examine in person or by his legal representative the witnesses called by the prosecution before the court, and to obtain the attendance and carry out the examination of witnesses to testify on his behalf before the court on the same conditions as those applying to witnesses called by the prosecution; and

f) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial.

and except with his own consent the trial shall not take place in his absence unless he so conducts himself as to tender the continuance of the proceedings in his presence impracticable and the court has ordered him to be removed and the trial to proceed in his absence;

Provided that the trial may take place in his absence in any case in which or is so provided by a law under which he is entitled to adequate notice of the charge and the date, time and place of the trial and to a reasonable opportunity of appearing before the court.

(3) When a person is tried for any criminal offence, the accused person or any person authorized by him in that behalf shall, if he so requires and subject to payment of such reasonable fee as may be prescribed by law, be given within a reasonable time after judgment a coup for the use of the accused person of any record of the proceedings made by or on behalf of the court.

(4) A person shall not be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence that is severer in severer in degree or description than the maximum penalty that might have been imposed for that offence at the time when is was committed.

(5) A person who shows that he has been tried by a competent court for a criminal offence and either convicted of acquitted shall not again fe tried for that offence of which he could have been convicted at the trial for that offence, save upon the order of a superior court in the course of appeal or review proceedings relating to the conviction or acquittal.

(6) A person shall not be tried for a criminal offence if he shows that he has been pardoned for that offence.

(7) A person who is tried for a criminal offence shall not be compelled to give evidence at the trial;

provided that nothing in this subsection shall prevent the prosecution or the court from commenting on his failure to give evidence on his own behalf or prevent the court from drawing inferences from any such failure.

(8) Any court or other authority prescribed by law for the determination of the existence or extent of any civil right or obligation shall be established by law and shall be independent and impartial; and where proceedings for such a determination are instituted by any person before such a curt or other authority, the case shall be given a fair hearing eithin a reasonable time.

(9) Where the existence or extent of any civil right to obligation has been determined in proceedings in any court or before any other authority any party to those proceedings shall, if he so requires as subject to payment of such reasonable fee as may be prescribed by law, be entitled to obtain within a reasonable time after the judgment or other determination a copy of any record of the proceedings made by or on behalf of the court or other authority.

(10) Except with the agreement of all the parties thereto,all proceedings of every court and proceedings for the determination of the existence or extent of any civil right or obligation before any other authority, including the announcement of the decision of the court or other authority, shall be held in public.

(11) Nothing is subsection (10) of this section shall prevent the court or other adjudicating authority from excluding from the proceedings persons other than the parties thereto and the legal practitioners representing them to such extent as the court or other authority-

a) may by law be empowered to do and may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice or interlocutory proceedings or in the interests of public morality,the welfare of

persons under the age of eighteen years or the protection of the private lives of persons concerned in the proceedings; or

b) may by law be empowered or required to do in the interests of defence, public safety or public order.

(12) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of-

a) subsection (2)(a.) of this section to the extent that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts;

b) subsection (2)(e.) of this section to the extent that the law in question imposes reasonable conditions that must be satisfied if witnesses called to testify on behalf of an accused person are to be paid their expenses out of public funds; or

c) subsection (5) of this sector to the extent that the law in question authorizes a court to try a member of a disciplined force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of that force, so however, that any court so try in such a member and convicting him shall in sentencing him to any punishment take into account any punishment awarded him under that disciplinary law.

(13) In the case of any person who is held in lawful detention the provisions of subsection(1) paragraph (d) and (e) of subsection (2) and subsection (3) of this section shall not apply in relation to his trial for a criminal offence under the law regulating the discipline of persons held in such detention.

(14) In this section "criminal offence" means a criminal offence under a law.

9. Protection of freedom of conscience

(1) Except with his own consent, a person shall not be hindered in the enjoyment of his freedom of conscience, including freedom of thought and of religion, freedom to change his religion or belief and freedom, either alone or in

community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.

(2) Except with his own consent (or, if he is a person under the age of eighteen years, the consent of his guardian) a person attending any place of education, detained in any prison or corrective institution or serving in a naval, military or air force shall not be required to received religions instructions or to taken part in or attend any religious ceremony or observance if that instruction ceremony or observance relates to a religion that is not his own.

(3) Every religious community shall be entitled, at its own expense, to establish and maintain places of education and to manage any place of education which it maintains; as no such community shall be prevented from providing religious instruction for persons of that community whether or not it is in receipt of a government subsidy or other form of financial assistance designed to meet in whole or in part the cost of such course of education.

(4) A person shall not be compelled to take any oath which is contrary to his religion or belief or to take any oath in a manner that is contrary to his religion or belief.

(5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision which is reasonably required-

a) in the interests of defence, public safety, public order, public morality or public health;

b) for the purpose of protecting the rights and freedoms of other persons including the right to observe and practice any religion without the unsolicited intervention or members of any other religion; or

c) for the purpose of regulating educational institutions in the interests of the persons who receive instruction in them,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(6) References is this section to a religion shall be construed as including references to a religious denomination, and cognate expressions shall be construed accordingly.

10. Protection freedom of expression

(1) Except with his own consent, a person shall not be hindered in the enjoyment of his freedom of expression, including freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference (whether the communication be to the public generally or to any person or class of persons and freedom from interference with his correspondence.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision-

a) that is reasonably required in the interests of defence, public safety, public order, public morality or public health;

b) that is reasonably required for the purpose of protecting the reputations, tights and freedoms of other persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts or regulating the technical administration or the technical operation of telephony, telegraphy, posts, wireless broadcasting or television; or

c) that imposes restrictions upon public officers that are reasonably required for the performance of their functions,

and except so far as that provision or, as the case may be, the things done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

11. Protection of freedom of assembly and association

(1) Except with his own consent, a person shall not be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to trade unions or other associations for the protection of his interests.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision-

a) that is reasonably required in the interests of defence, public safety, public order, public morality or public health;

b) that is reasonably required for the purpose of protecting the rights or freedoms of other persons; or

c) that imposes restrictions upon public officers that are reasonably required for the proper performance of their functions,

and except so far as that provisions or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

12. Protection of freedom of movement

(1) A person shall not be deprived of his freedom of movement that is to say, the right to more freely through Saint Vincent, the right to reside in any part of Saint Vincent, the right to enter Saint Vincent, the right to leave Saint Vincent and immunity from expulsion from Saint Vincent.

(2) Any restriction on a person's freedom of movement that is involved in his lawful detention shall not be held to be inconsistent with or in contravention of this section.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision-

a) for the imposition of restrictions on the movement or residence within Saint Vincent of any person or on any person's right to leave Saint Vincent that are reasonably required in the interests of defence, public safety or public order;

b) for the imposition of restrictions on the movement or residence within Saint Vincent or on the right to leave Saint Vincent of persons generally or any class of persons in the interests of defence, public safety, public order, public morality or public health or, in respect of the right to leave Saint Vincent, of securing compliance with any international obligation of the Government particulars of which have been laid before the House and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society;

c) for the imposition of restrictions, by order of a court, on the movement or residence within Saint Vincent of any person or on any person's right to leave Saint Vincent either in consequence of his having been found guilty of a criminal offence under a law or for the purpose of enduring that the appears before a court at a later date for trial of such a criminal offence or for proceedings preliminary to trial or for proceedings relatings to his extradition or lawful removal from Saint Vincent;

d) for the imposition of restrictions on the freedom of movement of any person who is not a citizen;

e) for the imposition of restrictions on the acquisition or use by any person of land or other property in Saint Vincent;

f) for the imposition of restrictions upon the movement or residence within Saint Vincent or on the right to leave Saint Vincent of any public officer that are reasonably required for the proper performance of his functions;

g) for the removal of a person from Saint Vincent to be tried or punished in some other country for a criminal offence under the law of that other country

or to undergo imprisonment in some other country in execution of the sentence of a court in respect of a criminal offence under a law of which he has been convicted; or

h) for the imposition of restrictions on the right of any person to leave Saint Vincent that are reasonably required in order to secure the fulfillment of any obligations imposed on that person by law and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(4) If any person whose freedom of movement has been restricted by virtue of such a provision as is referred to in subsection (3)(a) of this section so requests at any time during the period of that restriction not earlier than three months after the order was made or three months after he last made such a request, as the case may be, his case shall be reviewed by an independent and impartial tribunal presided over by a person appointed by the Chief Justice from among persons who are legal practitioners.

(5) On any review by a tribunal in pursuance of subsection (4) of this section of the case of any person whose freedom of movement has been restricted, the tribunal may make recommendations concerning the necessity or expediency of the continuation of that restriction to the authority by whom it was ordered and, unless it is otherwise provided by law, that authority shall be obliged to act in accordance with any such recommendations.

13. Protection from discrimination on the grounds of race, etc.

(1) Subject to the provisions of subsections (4),(5) and (7) of this section, no law shall make any provision that is discriminatory either of itself or in its effect.

(2) Subject to the provisions of subsections (6),(7) and (8) of this section, no persons shall be treated in a discriminatory manner by any persons acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

(3) In this section, the expression "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by sex, race, place of origin, political opinions,color or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such descriptions are not made subject or are recorded privileges of advantages which are not accorded to persons of another such description.

(4) Subsection (1) of this section shall not apply to any law do far as that law makes provision-

a) for the appropriation of public revenues or other public funds;

b) with respect to persons who are not citizens;

c) for the application, in the case of persons of any such description as is mentioned in subsection (3) of this section (or of persons connected with such persons), of the law with respect to adoption, marriage, divorce, burial, devolution of property on death or other like matters that is the personal law of persons of that description;

d) whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any disability or restriction or may be accorded any privilege or advantage that, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society.

(5) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) of this section to the extent that it makes provision with respect to standards or qualifications (not being standards or qualifications specifically relating to sex, race, place or origin, political opinions, color or creed) to be required of any person who is appointed to or to act in any office or employment.

(6) Subsection (2) of this section shall not apply to anything which is expressly or by necessary implication authorized to be done by any such provision of law as is referred to in subsection (4) or subsection (5) of this section.

(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any restriction on the rights and freedoms guaranteed by sections 7,9,10,11 add 12 if this Constitution, being such a restriction as is authorized by section 7(2), section 9(5), section 10(2), section 11(2) or paragraph (a), (b) or (h) of section 12(3), as the case may be,.

(8) Nothing in subsection (2) of this section shall affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under this Constitution or any other law.

14. Derogations from s. 3 or s. 13 under emergency powers

Nothing contained in or done under the authority of a law enacted by Parliament shall be held to be inconsistent with or in contravention of section 3 or section 13 of this Constitution to the extent that the law authorizes the taking during any period of public emergency of measures that are reasonably justifiable for dealing with the situation that exists in Saint Vincent during that period.

15. Protection of persons detained under emergency laws

(1) When a person is detained by virtue of any such law as is referred to in section 14 of this Constitution the following provisions shall apply, that is to say:-

a) he shall, with reasonable promptitude and in any case not more than seven days after the commencement of his detention, be informed in a language that he understands and in detail of the grounds upon which he is detained and furnished with a written statement in English specifying those grounds in detail;

b) not more that fourteen days after the commencement of his detention, a notification shall be published in the Official Gazette stating that he has been detained and giving particulars of the provision of law under which his detention is authorized;

c) not more than one month after the commencement of his detention and thereafter during his detention at intervals of not more than sic month, his case shall be review by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice from among persons who are legal practitioners;

d) he shall be afforded reasonable facilities for private communication and consultation with a legal practitioner of his own choice who shall be permitted to make representations to the tribunal appointed for the review of the case of the detained person; and

e) at the hearing of his case by the tribunal appointed for the review of his case he shall be permitted to appear in person or to be represented by a legal practitioner of his own choice.

(2) On any review by a tribunal in pursuance of this section of the case of a detained person, the tribunal may make recommendations concerning the necessity of expediency of continuing his detention to the authority by which it was ordered but, unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with sly such recommendations.

(3) Nothing contained in subsection (1)d. or subsection (1)e. of this section shall be construed as entitling a person to legal representation at public expense.

16. Enforcement of protective provisions

(1) If any person allege that any of the provisions of sections 2 to 15 inclusive of this Constitution has been, is being or is likely to be contravened in relation to him (or, in the case of a person who is detained, if any other person alleges such a contravention in relation to the detained person), then, without prejudice to any other actin with respect to the same matter that is lawfully available, that person (or that other person) may apply to the High Court for redress.

(2) The High Court shall have original jurisdiction-

a) to hear and determine any application made by any person in pursuance of subsection (1) of this section, and

b) to determine any question arising in the case of any person which is referred to it in pursuance of subsection (3) of this section,

and may make such declarations and orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of any of the provisions of sections 2 to 15 (inclusive) of this Constitution:

Provided that the High Court may decline to exercise its powers under this subsection if it is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned under any other law.

(3) If in any proceeding in any court (other than the Court of Appeal or the High Court or a court-martial) any question arises as to the contravention of any of the provisions of sections 2 to 15 (inclusive) of this Constitution, the person presiding in that court may, and shall if any party to the proceedings so request, refer the question to the High Court unless, in his opinion, the raising of the question is merely frivolous or vexatious.

(4) Where any question is referred to the High Court in pursuance of subsection (3) of this section, the High Court shall gibe its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision or, if that decision is the subject of an appeal to the Court of Appeal or to Her Majesty in Council, in accordance with the decision of the Court of Appeal or,as the case may be, of Her Majesty in Council.

(5) The High Court shall have such powers in addition to those conferred by this section as may be conferred upon it by Parliament for the purpose of enabling or more effectively to exercise the jurisdiction conferred upon it by this section.

(6) The Chief Justice may make rules with respect to the practice and procedure of the High Court in relation to the jurisdiction and power conferred on it by or under this section (including rules with respect to the time within which applications may be brought and references shall be made to the High Court).

17. Declaration of emergency

(1) The Governor General may, by proclamation which shall be published in the Official Gazette, declare that a state of emergency exist for the purposes of this Chapter.

(2) A proclamation under this section shall not be effective unless it contains a declaration that the Governor-General is satisfied-

a) that a public emergency has arisen as a result to the imminence of a state of war between Saint Vincent and a foreign state;

b) that a public emergency has arisen as a result of the occurrence of any volcanic eruption, earthquake,hurricane, flood,fire, outbreak of pestilence or of infectious disease, or other calamity whether similar to the foregoing or not; or

c) that action has been taken, or is immediately threatened by any person, of such a nature and on so extensive a scale, as to be likely to endanger the public safety or to deprive the community or any substantial portion of the community of supplies or services essential to life.

(3) Every declaration of emergency shall lapse-

a) in the case of a declaration made when the House is sitting, at the expiration of a period of seven days beginning with the date of publication of the declaration; and

b) in any other case, at the expiration of a period of twenty-one days beginning with the date of publications of the declarations, unless it has in the meantime been approved by resolution of the House.

(4) A declaration of emergency may at any time be revoked by the Governor-General by proclamation which shall be published in the Official Gazette.

(5) A declaration of emergency that has been approved by resolution of the House in pursuance of subsection (2) of this section shall, subject to the

provisions of subsections (3) of this section, remain in force so long as the resolution remains in force and no longer.

(6) a resolution of the House passed for the purposes of this section shall remain in force for twelve months or such shorter period as may be specified therein;

Provided that any such resolution may be extended from time to time by a further such resolution, each extension not exceeding twelve months from the date of the resolution effecting the extension; and any such resolution may be revoked at any time by a further resolution.

(7) A resolution of the House for the purpose of subsection(2) of this section and a resolution of the House extending any such resolution shall not be passed in the House unless it is supported by the votes of two-thirds of all the Representatives; and a resolution revoking any such resolution shall not be so passed unless it is supported by the votes of a majority of all the Representatives.

(8) Any provision of this section that a declaration of emergency shall lapse or cease to be in force at any particular time is without prejudice to the making of a further such declaration whether before or after that time.

18. Interpretation and saving

(1) In this Chapter, unless the context otherwise requires-

"contravention", in relation to any requirement, includes a failure to comply with that requirement, and cognate expressions shall be construed accordingly;

"court" means any court of law having jurisdiction in Saint Vincent other than a court established by a disciplinary law, and includes Her Majesty in Council and in sections 2 and 4 of this Constitution a court established by a disciplinary law;

"disciplinary law" means a law refutating the discipline of any disciplined force;

"discipline force" means-

a) a naval, military or air force;

b) the Police Force; or

c) a prison service;

"legal practitioner" means a person entitled to be in or to enter Saint Vincent and entitled to practice as a barrister in Saint Vincent or except in relation to proceedings before a court in which a solicitor has no right of audience, entitled to practice as a solicitor in Saint Vincent;

"member", in relation to a disciplined force, includes any person who, under the law regulating the discipline of that force, is subject to that discipline.

(2) In this Chapter "period of public emergency" means any period during which-

a) Her Majesty is at war; or

b) a declaration of emergency is in force under section 17 of this Constitution.

(3) In relation to any person who is a member of a disciplined force of Saint Vincent, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter other than sections 2, 4 and 5 of this Constitution.

(4) In relation to any person who is a member of a disciplined force of a country other than Saint Vincent that is lawfully present in Saint Vincent, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter.

CHAPTER II
THE GOVERNOR-GENERAL

19. Establishment of office

There shall be a Governor-General of Saint Vincent who shall be appointed by Her Majesty and shall hold office during Her Majesty's pleasure and who shall be Her Majesty's representative ins Saint Vincent.

20. Acting Governor-General

(1) During any period when the office of Governor-General is vacant or the holder of the office of Governor-General is absent from Saint Vincent or is for any other reason unable to perform the functions of his office those functions shall be performed by such person as Her Majesty may appoint.

(2) Any such person as aforesaid shall not continue to perform the functions of the office of Government-General if the holder of the office of Governor-General or some other person having a prior right to perform the functions of that office has notified him that he is about to assume or resume those functions.

(3) The holder of the office of Governor-General shall not, for the purposes of this section, be regarded as absent from Saint Vincent or as unable to perform the functions of his office-

a) by reason that he is in passage from one part of Saint Vincent to another; or

b) at any time when there is a subsisting appointment of a deputy under section 22 of this Constitution.

21. Oaths

A person appointed to hold the office of Governor-General shall, before entering upon the duties of that office, take and subscribe the oath of allegiance and the oath of office.

22. Deputy to Governor-General

(1) Whenever the Governor-General-

a) has occasion to be absent from the seat of government but not from Saint Vincent;

b) has occasion to be absent from Saint Vincent for a period that he considers, acting in his own deliberate judgment, will be of short duration; or

c) is suffering from an illness that he considers, acting in his own deliberate judgment, will be of short duration.

he may, acting in accordance with the advice of the Prime Minister, appoint any person in Saint Vincent to be his deputy during such of the functions of the office of Governor-General as may be specified in the instrument by which he is appointed.

(2) The power and authority of the Governor-General shall not be abridged, altered or in any way affected by the appointment of a deputy under this section, and, subject to the provisions of this Constitution, a deputy shall conform to and observe all instructions that the Governor-General, acting in his own deliberate judgment, may from time to time address to him;

provided that the question whether or not a deputy has conformed to and observed any such instructions shall not be enquired into in any court of law.

(3) A person appointed as deputy under this section shall hold that appointment for such period as may be specified in the instrument by which he is appointed, and his appointment may be revoked at any time by the Governor-General, acting in accordance with the advice of the Prime Minister.

CHAPTER III
PARLIAMENT

PART 1
COMPOSITION OF PARLIAMENT

23. Establishment

There shall be a Parliament of Saint Vincent which shall consist of Her Majesty and a House of Assembly.

24. Composition of House of Assembly

(1) The House shall consist of-

a) such number of Representatives as corresponds with the number of constituencies for the time being established in accordance with the provisions of section 33 of this Constitution, who shall be elected in accordance with the provisions of section 27 of this Constitution; and

b) six Senators appointed in accordance with the provisions of section 28 of this Constitution.

(2) if a person who is not a member of the House is elected to be Speaker he shall, be virtue of holding the office of Speaker, be a member of the House.

(3) At any time when the office of Attorney-General is a public office, the Attorney-General shall, by virtue of holding or acting in that office, be a member of the House.

25. Qualifications for representatives and Senators

(1) Subject to the provisions of section 26 of this Constitution, a person shall be qualified to be elected as a representative if, and shall not be so qualified unless, he-

a) is a Commonwealth citizen of the age of twenty-one years or upwards

b) has resided in Saint Vincent for a period of twelve months immediately before the date of his nominations for election or is domiciled and resident in Saint Vincent at that date: and

c) is able to speak and, unless incapacitated by blindness or the physical cause, to read the English language with a degree of proficiency sufficient to enable him to take an active part in the proceedings of the House.

(2) Subject to the provisions of section 26 of this Constitution, a person shall be qualified to be elected or appointed as a Senator if, and shall not be so qualified unless, he is a Commonwealth citizen of the age of twenty-one years or upwards.

26. Disqualifications for Representatives and Senators

(1) No person shall be qualified to be elected or appointed as a Representative or Senator (hereinafter in this section referred to as a member) if he-

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

b) is a minister of religion;

c) holds or is acting in the office of judge of the Supreme Court;

d) subject to such exceptions and limitations as may be prescribed by Parliament, holds or is acting in any public office or is a paid member of any defence force of Saint Vincent;

e) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law;

f) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law;

g) is under sentence of death imposed on him by a court of law in any part of the Commonwealth or is serving a sentence of imprisonment (by whatever

name called) exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court, or is under such a sentence of imprisonment the execution of which has been suspended;

h) subject to such exceptions and limitations as may be prescribed by Parliament has any such interest in any such government contracts as may be so prescribed:

provided that a minister of religions may be appointed as a Senator.

(2) If it is so provided by Parliament, a person shall not be qualified to be elected or appointed as a member if he holds or is acting in any office that is specified by Parliament and the functions of which involve responsibility for, or in connection with, the conduct of any election of members or the compilation of any register of votes for the purpose of electing Representatives.

(3) If it is so provided by Parliament, a person who is convicted by any court of law of any offence that is prescribed by Parliament and that is connected with the election of representatives or is reported guilty of such an offence by the court trying an election tition shall not be, for such period (not exceeding five years) following his conviction or, as the case may be, following the report of the court as may be so prescribed, to be elected or appointed as a member.

(4) A person shall not be qualified tao be elected as a Representative if he is a Senator and a person shall not be qualified to be appointed as a Senator if he is a Representative or is nominated for election as such.

(5) In subsection (1) of this section-

"government contract" means any contract made with the Government or with a department of the Government or with an office of the Government contracting as such;

"minister or religion" means any person in holy orders and any other person, the functions of whose principal occupation include teaching or preaching in any congregation for religious worship.

(6) For the purposes or paragraph (g.) of subsection (1) of this section-

a) two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds twelve months, but if any one of such sentences exceeds that term they shall be regarded as none sentence; and

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

27. Election of representatives

(1) Each of the constituencies established in accordance with the provisions of section 33 of this Constitution shall return one representative to the House who shall be directly elected in such manner as may, subject to the provisions of this Constitution, be prescribed by or under any law.

(2) a) Every Commonwealth citizen of the age of eighteen years or upwards who possesses such qualifications relating to residence or domicile in Saint Vincent as Parliament may prescribe shall, unless he is disqualified by Parliament from registration as a voter for the purpose of electing Representatives, be entitled to be registered as such a voter in accordance with the provisions of any law in that behalf, and no other person may be so registered.

b) Every person who is registered as aforesaid in any constituency shall, unless he is disqualified by Parliament from voting in that constituency in any election of Representatives, be entitled so to vote in accordance with the provisions of any law in that behalf, and no other person may so vote.

(3) In any election of representatives the votes shall be given by ballot in such manner as not to disclose how any particular person votes.

28. Appointment of Senators

Of the Senators-

a) four shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister; and

b) two shall be appointed by the Governor-General acting in accordance with the advice of the Leader of the Opposition.

29. Tenure of office of Representatives and Senators

(1) A Representative or a Senator (hereinafter in this section referred to as a member) shall vacate his seat in the House at the next dissolution of Parliament after his election or appointment.

(2) A Senator appointed in accordance with the provisions of paragraph (a.) of section 28 of this Constitution shall vacate his seat in the House if his appointment is revoked by the Governor-General, acting in accordance with the advice of the Prime Minister, and a Senator appointed in accordance with the provisions of paragraph (b.) of that section shall vacate his seat in the House if his appointment is revoked by the Governor-General, acting in accordance with the advice of the Leader of the Opposition.

(3) A member shall also vacate his seat in the House-

a) if he is absent from the sittings of the House for such period and in such circumstances as may be prescribed in the rules of procedure of the House;

b) if he ceases to be a Commonwealth citizen; or

c) subject to the provisions of subsection (4) of this section, if any other circumstances arise that, if the were not a member, would cause him to be disqualified to be elected or appointed as such by virtue of subsection (1) of section 26 of this Constitution of any law enacted in pursuance of subsection (2) or (3) of that section.

(4) a. If any circumstances such as are referred to in paragraph (c) of subsection (3) of this section arise because any member is under sentence of death or imprisonment, adjudged to be of unsound mind, declared bankrupt or convicted or reported guilty of an offence relating to elections and if it is open to the

member to appeal against the decision (either with the leave of a court of law or other authority or without such leave), he shall forthwith cease to perform his functions as a member but, subject to the provision of this section, he shall not vacate his seat until the expiration of a period of thirty days thereafter;

Provided that the Speaker may, at the request of the member, from time to time extend that period for further periods of thirty days to enable the member to pursue an appeal against the decision, so, however, that extensions of time exceeding in the aggregate one hundred and fifty days shall not be given without the approval, signified by resolution, of the House.

b) If on the determination of any appeal, such circumstances continue to exist and no further appeal is open to the member, or if, by reason of the expiration of any period for entering an appeal or notice thereof or the refusal of leave to appeal or for any other reason, it ceases to be open to the member to appeal, he shall forthwith vacate his seat.

c) If at any time before the member vacates his seat such circumstances aforesaid cease to exist, his seat shall not become vacant on the expiration of the period referred to in paragraph (a.) of this subsection and he may resume the performance of his functions as a member.

30. Speaker

(1) When the House first meets after any general election of Representatives and before it proceeds to the despatch of any other business, it shall elect a person to be the Speaker; and if the office of Speaker falls vacant at any time before the next dissolution of Parliament, the House shall as soon as practicable, elect another person to that office.

(2) The Speaker may be elected either from among the members of the House who are not members of the Cabinet or Parliamentary Secretaries or from among persons who are not members of the House:

Provided that a person who is not a member of the House shall not be elected as Speaker if-

a) he is not a Commonwealth citizen; or

b) he is a person disqualified to be elected or appointed as a Representative or Senator by virtue of subsection (1) of section 26 of this Constitution or of any law enacted in pursuance of subsection (2) or (3) of that section.

(3) No business shall be transacted in the House (other than the election of a Speaker) at any time when the office of Speaker is vacant.

(4) A person shall vacate the office of Speaker-

a) in the case of a Speaker who was elected from among the members of the House-

i) if he ceases to be a member of the House:

Provided that the Speaker shall not vacate his office by reason only that he has ceased to be a member of the House on a dissolution of Parliament, until the House first meets after the dissolution; or

ii) if he becomes a member of the Cabinet or a Parliamentary Secretary;

b) in the case of a Speaker who was elected from among persons who were not members of the House-

i) when the House first meets after ny dissolution of Parliament;

ii) if he ceases to be a Commonwealth citizen; or

iii) if any circumstances arise that would cause him to be disqualified to be elected or appointed as a Representative or by virtue of subsection (1) of section 26 of this Constitution or of any law enacted in pursuance of subsection (2) or (3) of that section; or

c) if he is removed from office by resolution of the House in favor or which there are cast the votes of two-thirds of all the members of the House excluding the Speaker.

(5) If, by virtue of section 29(4) of this Constitution, the Speaker (being a Representative or a Senator) is required to cease to perform his function as a member of the House he shall also cease to perform his function as Speaker; and if the Speaker resumes the performance of his functions as a member of the House, in accordance with the provisions of that section, he shall also resume the performance of his functions as Speaker.

(6) At any time when, by virtue of section 29(4) of this Constitution, the Speaker is unable to perform the functions of his office, those functions shall, until he vacates his seat in the House or resumes the performance of the functions of his office, be performed by the Deputy Speaker or, if the office of Deputy Speaker is vacant or the Deputy Speaker is required to cease to perform his functions as a member of the House by virtue of section 29(4) of this Constitution, by such member of the House (not being a member of the Cabinet or a Parliamentary Secretary) as the House may elect for the purpose.

31. Deputy Speaker

(1) When the House first meets after any general election of Representatives and before it proceeds to the despatch of any other business except the election of the Speaker, the House shall elect a member of the House, who is not a member of the Cabinet or a Parliamentary Secretary, to be the Deputy Speaker and if the office of Deputy Speaker falls vacant at any time before the next dissolution of Parliament, the House shall, as soon as convenient, elect another member of the House to that office.

(2) A person shall vacate the office of Deputy Speaker-

a) if he ceases to be a member of the House;

b) if he becomes a member of the Cabinet or a Parliamentary Secretary; or

c) if he is elected to be Speaker.

(3) If, by virtue of section 29(4) of this Constitution, the Deputy Speaker is required to cease to perform his functions as a member of the House he shall also cease to perform his functions as Deputy Speaker and if the Deputy

Speaker resumes the performance of his functions as a member of the House, in accordance with the provisions of that section, he shall also resume the performance of his functions as Deputy Speaker.

(4) At any time when, by virtue of section 29(4) of this Constitution, the Deputy Speaker is unable to perform the function of his office, those functions shall, until he vacates his seat in the House or resumes the performance of the functions of this office, be performed by such member of the House (not being a member of the Cabinet or a Parliamentary Secretary) as the House may elect for the purpose.

32. Constituency Boundaries Commission

(1) There shall be a Constituency Boundaries Commission which shall be appointed in the circumstances specified in section 33(3) of this Constitution and which shall consist of-

a) a chairman who shall be appointed by the Governor-General in his own deliberate judgment;

b) one member who shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister; and

c) one member who shall be appointed by the Governor-General, acting in accordance with the advice of the Leader of the Opposition.

(2) A person shall not be qualified to be appointed as a member of the Commission if-

a) he is, or has at any time during the period of five years immediately preceding his appointment been, a member of the House;

b) he is or has at any time during that period been, nominated as a candidate for election as a Representative;

c) he is, or has at any time during that period been, the holder of an office in any political organization that sponsors or otherwise supports, or that has at

any time sponsored otherwise supported, a candidate for election as a Representative or a member of any local government authority; or

d) he is a judge of the Supreme Court or a public officer.

(3) Subject to the provisions of this section, a member of the Commission shall vacate his office-

a) when the order of the Commission is published in the Official Gazette in accordance with the provisions of section 33(6) of this Constitution; or

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

(4) A member of the Commission may be removed from office by the Governor-General only for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehavior.

(5) A member of the Commission shall be removed from office by the Governor-General of the question of his removal from office has been referred to a tribunal appointed under subsection (6) of this section and the tribunal has recommended to the Governor-General that he ought to be removed from office for inability as aforesaid or for misbehavior.

(6) If the Prime Minster represents to the Governor-General that the question of removing a member of the Commission under this section ought to be investigated, then-

a) the Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court; and

b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to him whether the member ought to be removed under this section.

(7) If the question of removing a member of the Commission has been referred to a tribunal under this section, the Governor-General, acting in accordance with the advice of the Prime Minister, may suspend that member from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor-General acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor-General that member should not be removed.

(8) The Commission may regulate its own procedure, and may with the consent of the Prime Minister, confer powers and impose duties on any public officer or on any authority of the Government for the purpose of the discharge of its functions.

(9) The Commission may, subject to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings:

provided that any decision of the Commission shall require the concurrence of a majority of all its members.

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

33. Constituencies

(1) For the purpose of the election of Representatives, Saint Vincent shall, in accordance with the provisions of this section, be divided into thirteen constituencies having such boundaries as may be prescribed by order made by the Constituency Boundaries Commission.

(2) All constituencies shall contain as nearly equal numbers of inhabitants as appears to the Commission to be reasonably practicable, but the Commission

may depart from this principle to such extent as it considers expedient in order to take account of the following factors, that is to say-

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

b) the means of communication;

c) geographical features; and

d) the boundaries of existing administrative areas.

(3) A Commission shall be appointed in the following circumstances, that is to say:-

a) whenever a census of the population of Saint Vincent has been held in pursuance of any law;

b) whenever Parliament has amended subsection (1) of this section so as to alter the number of the constituencies into which Saint Vincent is divided; or

c) On the expiry of eight years after the Commission last reviewed the boundaries of the constituencies in accordance with the provisions of this section.

(4) Whenever the Commission has been appointed in the circumstances specified in subsection (3)(a) or in the circumstances specified in subsection (3)(b) of this section it shall forthwith carry out a review of the boundaries of the constituencies into which Saint Vincent is divided and may (and in the circumstances specified in subsection (3)(b) shall), by order, alter the boundaries in accordance with the provisions of this section to such extent as it thinks desirable in the light of those circumstances and the review.

(5) Whenever the Commission has been appointed in the circumstances specified in subsection (3)(c.) of this section it shall, within the period of two years commencing with its appointment,carry out a review of the boundaries

in accordance with the provisions of this section to such extent as it thinks desirable in the light of those circumstances and the review.

(6) Every order made by the Commission under this section shall be published in the Official Gazette and shall come into effect upon the next dissolution of Parliament after it was made.

(7) To the extent that any law enacted by Parliament amends subsection (1) of this section so as to alter the number of constituencies into which Saint Vincent is divided it shall come into effect when the order of the Commission that, in accordance with the provisions of subsection (4) of this section, is consequential thereon comes into effect.

(8) For the purposes of subsection (2) of this section the number of inhabitants of any part of Saint Vincent shall be ascertained by reference to the latest census of the population held in pursuance of any law.

34. Supervisor of Elections

(1) There shall be a Supervisor of Elections whose duty it shall be to exercise general supervision over the registration of voters in elections of Representatives and over the conduct of such elections.

(2) The functions of the office of Supervisor of Elections shall be exercised either by the person holding or acting in such public office as may for the time being be designated in that behalf by the Public Service Commission or, if the Commission so decides, by such other person who is not a public officer as may for the time being be so designated, but before exercising its powers under this subsection the Commission shall consult with the Prime Minister.

(3) A person shall not enter upon the duties of the office of Supervisor or Elections until he has taken and subscribed the oath of allegiance and the oath of office.

(4) For the purposes of the exercise of his functions under subsection (1) of this section the Supervisor of Elections may give such directions as he considers necessary or expedient to any registering officer, presiding officer or returning

officer relating to the exercise by that officer of his functions under any law regulation the registration of voters or the conduct of elections, and any officer to whom directions are given under this subsection shall comply with those directions.

(5) The Supervisor of Elections may, whenever he considers it necessary or expedient so to do, report to the House on the exercise of his functions under the foregoing provisions of this section; he shall submit every such report to the Minister for the time being responsible for matters relating to the election of Representatives and that Minister shall, not later than seven days after the House first meets after he has received the report, lay it before the House.

(6) In the exercise of his functions under the foregoing provisions of this section, the Supervisor of Elections shall not be subject to the direction or control of any other person or authority.

(7)The Supervisor of Elections shall exercise such other functions in relation to elections (whether to the House or to local government authorities) as may be prescribed by or under any law enacted by Parliament.

35. Clerk of House and his staff

(1) There shall be a Clerk of the House.

(2) The office of the Clerk of the House and the offices of the members of his staff shall be public offices.

36. Determination of question of membership

(1) The High Court shall have jurisdiction to hear and determine any question whether-

a) any person has been validity elected as a Representative;

b) any person has been validity appointed as a Senator;

c) any person who has been elected as Speaker from among persons who were not members of the House was qualified to be so elected of has vacate the office of Speaker; or

d) any member of the House has vacate his seat or is required, under the provisions of section 29(4) of this Constitution, to cease to perform any of his functions as a member of the Hours.

(2) An application to the High Court for the determination of any question under subsection (1)(b.) of this section may be made by any person entitled to vote in the election to which the application relates of by any person who was a candidate at that election or by the Attorney-General.

(3) An application to the High Court for the determination of any question under subsection (1)(b) or subsection (1) (c.) of this section may be made by any Representative or By the Attorney-General.

(4) An application to the High Court for the determination of any question under subsection (1)(d.) of this section may be made-

a) by any Representatives or by the Attorney-General; or

b) in the case of the seat of a Representative, by any person registered in some constituency as voter for the purpose of electing Representatives.

(5) If any applications is made by a person other than the Attorney General to the High Court for the determination of any question under this section, the Attorney-General may intervene and may then appear or be represented in the proceedings.

(6) An appeal shall lie as of right to the Court of Appeal from any final decision of the High Court determining such a question as is referred to in subsection (1) of this section.

(7) The circumstances and manner in which and the imposition of conditions upon which any application may be made to the High Court for the determination of any question under this section and the powers practice and

procedure of the High Court and the Court of Appeal in relation to any such application shall be regulated by such provisions as may be made by Parliament.

(8) No appeal shall lie from any decision of the Court of Appeal in exercise of the jurisdiction conferred by subsection (6) of this section and no appeal shall lie from any decision of the High Court in proceedings under this section other than a final decision determining such a question as is referred to in subsection (1) of this section.

(9) In the exercise of his functions under this section, the Attorney-General shall not be subject to the direction or control of any other person or authority.

PART 2
LEGISLATION AND PROCEDURE OF PARLIAMENT

37. Power to make laws

Subject to the provisions of this Constitution, Parliament may make laws for the peace, order and good government of Saint Vincent.

38. Alteration of Constitutions and Supreme Court Order

(1) Parliament may alter any of the provisions of this Constitution or of the Supreme Court Order in the manner specified in the following provisions of this section.

(2) A bill to alter any of the provisions of this Constitution or of the Supreme Court Order shall not be regarded as being passed by the House unless on its final reading the bill is supported by the votes of not less than two-thirds of all the Representatives.

(3) A bill to alter this section, the Schedule to this Constitution or any of the Provisions of this Constitution specified in Part 1 of that Schedule or any of the provisions of the Courts Order specified in Part 2 of that Schedule shall not be submitted to the Governor-General for his assent unless-

a) there has been an interval of not less than ninety days between the introduction of the bill in the House and the beginning of the proceedings in the House on the second reading of the bill; and

b) after it has been passed by the House the bill has been approved on a referendum by not less than two-thirds of all the votes validly cast on that referendum.

(4) The provisions of paragraph (b.) of subsection (3) of this section shall not apply in relation to any bill to alter-

a) section 98 of this Constitution in order to give effect to any agreement between Saint Vincent and the United Kingdom concerning appeals from any court having jurisdiction in Saint Vincent to Her Majesty in Council;

b) any of the provisions of the Supreme Court Order in order to give effect to any international agreement on which Saint Vincent is a party relating to the Supreme Court or any other court (or any officer or authority having functions in respect of any such court) constituted in common for Saint Vincent and for other countries also parties to the agreement.

(5) Every person who, at the time when the referendum is held, would be entitled to vote for the purpose of electing Representatives shall be entitled to vote on a referendum held for the purposes of this section in accordance with such procedures as may be prescribed by Parliament for the purposes of the referendum and no other person shall be entitled so to vote.

(6) In any referendum for the purposes of this section the votes shall be given by ballot in such manner as not to disclose how any particular person votes.

(7) The conduct of any referendum for the purposes of this section shall be the responsibility of the Supervisor of Elections and the provisions of subsections (4), (5) and (6) of section 34 of this Constitution shall apply in relation to the exercise by the Supervisor of Elections or by any other officer of his functions with respect to a referendum as they apply in relation to the exercise of his functions with respect to elections of Representatives.

(8) a. A bill to alter any of the provisions of this Constitution or of the Supreme Court Order shall not be submitted to the Governor-General for his assent unless it is accompanied by a certificate under the hand of the Speaker that the provisions of subsection (2) of this section have been complied with and, where a referendum has been held in pursuance of subsection (3)(b.) of this section, by a certificate under the hand of the Supervisor of Elections stating the results of the referendum.

b) The certificate of the Speaker under this subsection shall be conclusive that the provisions of subsections (2) and (3) of this section have been complied with and shall not be enquired into in any court of law.

c) In this subsection references to the Speaker shall, if the person holding the office of Speaker is for any reason unable to perform the functions of his office and no other person is performing them, include references to the Deputy Speaker.

(9) In this Section and the Schedule to this Constitution references to any of the provisions of this constitution or the Supreme Court Order include references to any law that alters that provision.

39. Oath by members

(1) Every member of the House shall, before taking his seat in the House, take and subscribe before the House the oath of allegiance but a member may before taking that oath part in the election of the Speaker.

(2) Any person elected to the office of Speaker shall, if he has not already taken and subscribed the oath of allegiance under subsection (1) of this section, take and subscribe that oath before the House before entering upon the duties of his office.

40. Proceeding

There shall preside at any sitting of the House-

a) the Speaker:

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

c) in the absence of the Speaker and the Deputy Speaker, such member of the House (not being a member of the Cabinet or Parliamentary Secretary) as the House may elect for that purpose:

Provided that the Speaker shall not preside when a motion for his removal from office is before the House.

41. Voting

(1) Save as otherwise provided in section 17(7), 30(4), 38(2) or 49(3) of this Constitution, any question proposed for decision in the House shall be determined by a majority of the votes of the members present and voting:

Provided that question of no confidence in the Government shall be determined by a majority of the votes of all the Representatives.

(2) A question shall not be regarded as having been validly determined by a vote in the House unless at least eight members, or such greater number of members as Parliament may prescribe, take part in the voting.

(3) The references to the members of the House in section 30(4) of this Constitution, subsection (1) of this section and sections 51(4) and 57 of this Constitution shall not include the Attorney-General if he is a member by virtue of section 24(3) of this Constitution.

(4) A Speaker who was elected from among the members of the House or other member presiding in the House shall not vote unless on any question the votes of the members are equally divided, in which case he shall have and exercise a casting vote:

Provided that in the case of the question of the final reading of such a bill as is referred to in section 38(2) of this Constitution he shall, if he is a Representative, have an original vote but no casting vote.

(5) A Speaker who was elected from among persons who were not members of the House shall have neither an original nor a casting vote and if, upon any question before the House when such a Speaker is presiding, the votes of the members are equally divided, the motion shall be lost.

42. Penalty for sitting if unqualified

(1) Any person who sits or votes in the House knowing or having reasonable grounds for knowing that he is nor entitled to do so shall be guilty of an offence, and liable to a fine not exceeding one hundred dollars, or such other sum as may be prescribed by Parliament, for each day on which he so sits or votes in the House.

(2) Any prosecution for an offence under this section shall be instituted in the High Court and shall not be so instituted except by the Director of Public Prosecutions.

43. Mode of exercise of legislative power

(1) The power of Parliament to make laws shall be exercised by bills passed by the House and assented to by the Governor-General.

(2) When a bill is submitted to the Governor-General for assent in accordance with the provisions of this Constitution he shall signify that he assents.

(3) When the Governor-General assents to a bill that has been submitted to him in accordance with the provisions of this Constitution the bill shall become law and the Governor-General shall thereupon cause it to be published in the Official Gazette as law.

(4) No law made by Parliament shall come into operation until it has been published in the Official Gazette but Parliament may postpone the coming into operation of any such law and may make laws with retrospective effect.

44. Restrictions with regard to certain financial measures

Except on the recommendation of the Governor-General signified by a Minister, the House shall not-

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

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

ii) for the imposition of any charge upon the Consolidated Fund or any other public fund of Saint Vincent or the alteration of any such charge otherwise than by reduction;

iii) for the payment, issue or withdrawal from the Consolidated Fund or any other public fund of Saint Vincent of any monies 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; or

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

45. Regulation of procedure in House

(1) Subject to the provisions of this Constitution, the House may regulate its own procedure and may in particular make rules for the orderly conduct of its own proceedings.

(2) The House may act not withstanding any vacancy in its membership (including any vacancy not filled when the House first meets after any general election) and the presence or participation of any person not entitled to be present at or to participate in the proceedings of the House shall not invalidate those proceedings.

46. Freedom of speech

Without prejudice to any provision made by Parliament relating to the powers, privileges and immunities of the members and officers of the House and of other persons concerned in the business of the House or its committees, no

civil or criminal proceedings may be instituted against any member of the House for words spoken before, or written in a report to, the House or a committee thereof or by reason of any matter or thing brought by him therein by petition, bill, resolution, motion or otherwise.

PART 3
SUMMONING, PROROGATION AND DISSOLUTION

47. Sessions

(1) Each session of Parliament shall be held at such place within Saint Vincent and shall begin at such time, not being later than six months from the end of the preceding session if Parliament has been prorogued or one month from the holding of a general election of Representatives if Parliament has been dissolved, as the Governor-General shall appoint by Proclamation.

(2) a. If notice in writing is given to the Speaker signed by not less than three Representatives, of a motion of no confidence in the Government the Speaker shall-

i) if the House is then sitting or has been summoned to meet within five days, cause the motion to be considered by the House within seven days of the notice; or

ii) if the House is not then sitting and has not been so summoned (and notwithstanding that Parliament may be prorogued) summon the House to meet within fourteen days of the notice and cause the motion to be considered at that meeting:

Provided that if the House does not, within twenty-one days of the notice, meet and dispose of the motion the Clerk of the House shall summon a special meeting of the House at such time and place as he may specify for the purpose of debating and disposing of the motion.

b) The provisions of paragraph (a.) of this subsection shall be without prejudice to the power of the House to provided by its rules of procedure that notice of a motion of no confidence in the Government may be given by any member of

the House or the power of the House to debate and dispose of such a motion at any sitting of the House.

(3) Subject to the foregoing provisions of this section, the sitting of the House shall be held at such time and place as the House may, by its rules of procedure or otherwise, determine.

48. Prorogation and dissolution

(1) The Governor-General may at any time prorogue or dissolve Parliament.

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

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

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

(4) Where a Parliament that has been dissolved is recalled under section 49(2) of this Constitution, that Parliament shall, unless sooner dissolved, again stand dissolved at the date appointed for the nomination for the nomination of candidates in the next succeeding general election of Representatives.

(5) In the exercise of this power to dissolve Parliament, the Governor-General shall act in accordance with the advice of the Prime Minister:

Provided that-

a) if the Prime Minister advises a dissolution and the Governor-General, acting in his own deliberate judgment, considers that the government of Saint Vincent can be carried on without a dissolution and that a dissolution would not be in the interests of Saint Vincent, he may, acting in his own deliberate judgment, refuse to dissolve Parliament;

b) if a resolution of no confidence in the Government is passed and the Prime Minister does not within three days either resign or advise a dissolution, the Governor-General, acting in his own deliberate judgment, may dissolve Parliament; and

c) if the office of Prime Minister is vacant and the Governor General, acting in his own deliberate judgment, considers that there is no prospect of his being able within a reasonable time to appoint to that office a Representative who can command the support of the majority of the Representatives, the Governor-General shall dissolve Parliament.

49. Election to House of Assembly

(1) Subject to the provisions of subsection (3) of this section a general election of Representatives shall be held at such time within ninety days after any dissolution of Parliament, or if the House has been dissolved by reason of a vote of no confidence in the Government at such time within thirty days after the dissolution, as the Governor-General may appoint.

(2) If, after a dissolution and before the date appointed for the nomination of candidates in the next succeeding general election of representatives, the Prime Minister advises the Governor-General that, owing to the existence of a state of war or a state of emergency in Saint Vincent, it is necessary to recall Parliament, the Governor-General shall summon the Parliament that has been dissolved to meet, but subject to the provisions of subsection (3) of this section, that general election shall proceed.

(3) The House of Parliament that has been recalled may, by a resolution supported by the votes of not less than two-thirds of all the Representatives, extend the period of ninety days specified in subsection (1) of this section for not more than a further ninety days in respect of the next succeeding general election, and on the passing of such a resolution any appointment previously made with respect to the date on which that general election shall be held or candidates therein shall be nominated shall cease to have effect.

(4) Where the seat of a member of the House falls vacant otherwise than by reason of a dissolution of Parliament-

a) if the vacant seat is that of a Representative a by-election shall be held; or

b) if the vacant seat is that of a Senator an appointment shall be made,

to fill the vacancy within ninety days of the occurrence of the vacancy unless Parliament is sooner dissolved.

(5) Whenever it has been determined under section 36 of this Constitution that the election of any person as a Representative is invalid the Governor-General shall issue a writ for the election of a Representative to fill the vacancy returnable within ninety days of the final decision of the High Court or, if the determination was by the Court of Appeal, within ninety days of the decision of the Court of Appeal.

CHAPTER IV
THE EXECUTIVE

50. Executive authority

(1) The executive authority of Saint Vincent is vested in Her Majesty.

(2) Subject to the provisions of this Constitution, the executive authority of Saint Vincent may be exercised on behalf of Her Majesty by the Governor-General either directly or through officers subordinate to him.

(3) Nothing in this section shall prevent Parliament form conferring functions on persons or authorities other than the Governor-General.

51. Ministers of the Government

(1) There shall be a Prime Minister of Saint Vincent who shall be appointed by the Governor-General.

(2) Whenever the Governor-General has occasion to appoint a Prime Minister he shall appoint a Representative who appears to him likely to command the support of the majority of the Representatives.

(3) There shall be, in addition to the office of Prime Minister, such officers of Minister of the Government as may be established by Parliament or, subject to the provisions of any law enacted by Parliament, by the Governor-General, casting in accordance with the advice of the Prime Minister.

(4) Appointments to the office of Minister, other than the office of Prime Minister, shall be made by the Governor-General, acting in accordance with the advice of the Prime Minister, from among the members of the House:

Provided that not more than two Ministers shall be appointed from among the Senators.

(5) If occasion arises for making an appointment to the office of Prime Minister or any other Minister while Parliament is dissolved, then, notwithstanding the provisions of subsections (2) and (4) of this section a person who was a Representative immediately before the dissolution may be appointed Prime Minister and a person who was a Senator immediately before the dissolution may be appointed as any Minister other than Prime Minster:

Provided that no more than two persons who were Senators may be Ministers.

(6) The Governor-General shall remove the Prime Minister from office if a resolution of no confidence in the Government is passed by the House and the Prime Minister does not within three days either resign from his office or advise the Governor-General to dissolve Parliament.

(7) If, at any time between the holding of a general election of Representatives and the first meeting of the House thereafter, the Governor-General considers that in consequence of changes in the membership of the House resulting from that election the Prime Minister will not be able to command the support of the majority of the Representatives, the Governor-General may remove the Prime Minster from office.

(8) The office of any Minister shall become vacant-

a) if the holder of the office ceases to be a member of the House otherwise than by reason of the dissolution of Parliament;

b) in the case of the Prime Minister, if, when the House first meets after the dissolution of Parliament, he is not Representative;

c) In the case of any other Minister, if when the House first meets after the dissolution of Parliament, he is not then a member of the House; or

d) If, by virtue of section 29(4) of this Constitution, he is required to cease to perform his functions as a member of the House.

(9) The office of a Minister other than the Prime Minister shall become vacant-

a) if the Governor-General, acting in accordance with the advice of the Prime Minister, so directs;

b) if the Prime Minister resigns from office within three days after a resolution of no confidence in the Government has been passed by the House or is removed from office under subsection (6) or (7) of this section; or

c) on the appointment of any person to the office of Prime Minister.

(10) In the exercise of the powers conferred upon him by subsections (2), and (7) of this section the Governor-General shall act in his own deliberate judgment.

52. Cabinet of Ministers

(1) There shall be a Cabinet of Ministers for Saint Vincent which shall consist of the Prime Minister and the other Ministers.

(2) At any time when the office of Attorney-General is a public office the Attorney-General shall, by virtue of holding or acting in that office, be a member of the Cabinet in addition to the Ministers.

(3) The functions of the Cabinet shall be to advice the Governor-General in the government of Saint Vincent and the Cabinet shall be collectively responsible to the House for any advice given to the Governor-General by or under the

general authority of the Cabinet and for all things done by or under the authority of any Minister in the execution of his office.

(4) The provisions of subsection (3) of this section shall not apply in relation to-

a) the appointment and removal from office of Ministers, and Parliamentary Secretaries, the assignment of responsibility to any Ministers under section 53 of this Constitution or the authorization of another Minister to perform the functions of the Prime Minister during absence or illness;

b) the dissolution of Parliament; or

c) the matter referred to in section 65 of this Constitution (which relate to the prerogative of mercy).

53. Allocation of portfolios to Ministers

The Governor-General, acting in accordance with the advice of the Prime Minister, may by direction in writing, assign to the Prime Minister,or any other Minister responsibility for any business of the Government, including the administration of any department of government.

54. Performance of functions of Prime Minister during absence or illness

(1) Whenever the Prime Minister is absent from Saint Vincent or by reason of illness is unable to perform the functions conferred upon him by this Constitution, the Governor-General may authorize some other Minister to perform those functions (other than the functions conferred by this section) and that Minister may perform those functions until his authority is revoked by the Governor-General.

(2) The powers of the Governor-General under this section shall be exercised by him in accordance with the advice of the Prime Minister;

Provided that if the Governor-General,acting in his own deliberate judgment, considers that it is impracticable to obtain the advice of the Prime Minister

owning to his absence or illness he may exercise those powers without that advice and in his own deliberate judgment.

55. Exercise of Governor-General's functions

(1) In the exercise of his functions the Governor-General shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet except in cases where he is required by this Constitution or any other law to act in accordance with the advice of any person or authority other than the Cabinet:

Provided that the foregoing provisions of this subsection shall not where the Governor-General is authorized to act in his own deliberate judgment in accordance with the following provisions of this Constitution-

a) section 32 (which relates to the Constituency Boundaries Commission)

b) sections 51 and 54 (which relate to Ministers);

c) section 59 (which relates to the Leader of the Opposition);

d) section 78 (which relates to the appointment, etc, of public officers); and

e) section 86 (which relates to the Public Service Board of Appeal).

(2) During any period in which there is a vacancy in the office of Leader of the Opposition by reason of the fact that no person is both qualified for appointment to that office in accordance with this Constitution and willing to accept appointment, or if the Governor-General, acting in his own deliberate judgment, considers that it is not practicable for him to obtain the advice of the Leader of the Opposition witting the time within which it may be necessary for him to act, he may act without that advice and in his own deliberate judgment in the exercise of any power conferred upon him by this Constitution in respect of which it is provided that he shall act on the advice of, or after consultation with, the Leader of the Opposition.

(3) Nothing in subsection (1) of this section shall require the Governor-General to act in accordance with the advice of the Cabinet or a Minister in exercise of the functions conferred upon him by the following provisions of this Constitution-

a) the proviso to section 48(5)(which requires the Governor-General to dissolve Parliament in certain circumstances);

b) section 51(6) (which requires the Governor-General to remove the Prime Minister from office in certain circumstances);

c) section 56 (which entitles the Governor-General to information);

d) section 32(5), 59(5), 77(6), 81(7), 82(7) and 86(5) (which require the Governor-General to remove the holders of certain offices from office in certain circumstances).

56. Governor-General to be informed concerning matters of government

The Prime Minister shall keep the Governor-General fully informed concerning the general conduct of the government of Saint Vincent and shall furnish the Governor-General with such information as he may request with respect to any particular matter relating to the government of Saint Vincent.

57. Parliamentary Secretaries

(1) The Governor-General, acting in accordance with the advice of the Prime Minister, may appoint Parliamentary Secretary from among the members of the House to assist Ministers in the performance of their duties:

Provided that, if occasion arises for making an appointment while Parliament is dissolved, a person who was a Representative or a Senator immediately before the dissolution may be appointed as a Parliamentary Secretary.

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

a) if the Governor-General, acting in accordance with the advice of the Prime Minister, so directs;

b) if the Prime Minister resigns from office within three days after a resolution of no confidence in the Government has been passed by the House or is removed from office under section 51(6) of this Constitution;

c) upon the appointment of any person to the office of Prime Minister;

d) if the holder of the office ceases to be a member of the House otherwise than by reason of a dissolution of Parliament;

e) if, when the House first meets after the dissolution of Parliament, he is not then a member of the House; or

f) if, by virtue of section 29(4) of this Constitution, he is required to cease to perform his functions as a member of the House.

58. Oaths to be taken by Ministers, etc.

A Minister or a Parliamentary Secretary shall not enter upon the duties of this office unless he has taken and subscribed the oath of allegiance, the oath of office and the oath of secrecy.

59. Leader of the Opposition

(1) There shall (except at times when there are no Representatives who do not support the Government) be a Leader of the Opposition who shall be appointed by the Governor-General.

(2) Whenever there is occasion for the appointment of a Leader of the Opposition the Governor-General shall appoint the Representative who appears to him most likely to command the support of a majority of the Representatives who do not support the Government: or, if no Representatives appear to him to command such support or the largest single group of Representatives who do not support the Government:

Provided that-

a) if there are two or more Representatives who do not support the Government but none of them commands the support of the other or others, the Governor-General may, acting in his own deliberate judgment, appoint any one of them as Leader of the Opposition, and

b) in the exercise of his judgment the Governor-General shall be guided by the seniority of each based on his length of service as a Representative, by the number of votes cast in favor of each at the last election of Representatives or by both such seniority and such number of votes.

(3) If occasion arises to appoint a Leader of the Opposition during the period between a dissolution of Parliament and the day on which the ensuing election of Representatives is held, and appointment may be made as if Parliament had not been dissolved.

(4) The office of Leader of the Opposition shall become vacant-

a) if he ceases to be a member of the House otherwise than by reason of a dissolution of Parliament;

b) if when the House first meets after a dissolution of Parliament, he is not then a member of the House;

c) if, under the provisions of section 29(4) of this Constitution, he is required to cease to perform his functions as a member of the House; or

d) if he is removed from office by the Governor-General under the Provision of subsection (5) of this section.

(5) If it appears to the Governor-General that the Leader of the Opposition is no longer able to command the support of a majority of the Representatives who do not support the Government or (if no Representative appears to him to be able to command such support) the support of the largest single group of Representatives who do not support the Government, he shall remove the Leader of the Opposition from office.

(6) The Powers of the Governor-General under this section shall be exercised by him in his own deliberate judgment.

60. Parliament secretaries

Where any Minister has been charged with responsibility for any department of government, he shall exercise general direction and control over that department; and subject to such direction and control, every department of government shall be under the supervision of a public officer whose office is referred to in this Constitution as the office of a permanent secretary:

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

61. Secretary to the Cabinet

(1) There shall be a Secretary to the Cabinet whose office shall be a public office.

(2) The Secretary to the Cabinet, who shall have charge of the Cabinet Office, shall be responsible, in accordance with such instructions as may be given to him by the Prime Minister, for arranging the business for and keeping the ministers of the Cabinet and for conveying the decisions of the Cabinet to the appropriate person or authority and shall have such other functions as the Prime Minister may direct.

62. Constitution of offices etc.

Subject to the provisions of this Constitution and of any other law, the Governor-General may constitute offices for Saint Vincent, make appointments to any such office and terminate any such appointment.

63. Attorney-General

(1) There shall be an Attorney-General who shall be the Principal legal advisor to the Government.

(2) The Office of Attorney-General shall be either a public office or the office of a Minister.

(3) No person shall be qualified to hold the office of Attorney-General unless he holds one of the specified qualifications.

(4) At any time when the office of Attorney-General is a public office the same person may, if qualified, be appointed to hold or act in the office of Attorney-General and the office of Director of Public Prosecutions.

(5) Where the offices of Attorney-General and Director of Public Prosecutions are held by the same person the following provisions of this Constitution shall have effect as if references therein to the Director included references to the Attorney-General, that is to say, sections 73, 81(6), (7), (8) and (9) 89(3) and 105(8)(a.); but the provisions of this subsection shall be without prejudice to the powers of Parliament or subject to the provisions of any law enacted by Parliament, the Governor-General to determine that the office of Attorney-General shall be the office of a Minister.

64. Control of public prosecutions

(1) There shall be a Director of Public Prosecutions whose office shall be a public office.

(2) The Director of Public Prosecutions shall have power in any case in which he considers it desirable so to do-

a) to institute and undertake criminal proceedings against any person before any court of law (other than a court-martial) in respect of any offence alleged to have been committed by that person;

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

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

(3) The powers of the Director of Public Prosecutions under subsection (2) of this section may be exercised by him in person or through other persons acting under and in accordance with his general or special instructions.

(4) The powers conferred on the Director of Public Prosecutions by paragraphs (b.) and (c.) of subsections (2) of this section shall be vested in him to the exclusion of any other person or authority:

Provided that where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance of that person or authority and with the leave of the court.

(5) For the purposes of this section, any appeal from a judgment in criminal proceedings before any court or any case stated or question of law reserved for the purpose of any such proceedings, to any other court (including Her Majesty in Council) shall be deemed to be part of those proceedings:

Provided that the power conferred on the Director of Public Prosecutions by subsection (2) (c.) of this section shall not be exercised in relation to any appeal by a person convicted in any criminal proceedings or to any case stated or question of law reserved at the instance of such a person.

(6) In the exercise of the powers vested in him by subsection (2) of this section and section 42 of this Constitution, the Director of Public Prosecutions shall not be subject to the direction or control of any other person or authority.

65. Prerogative of mercy

(1) The Governor-General may-

a) grant a pardon, either free or subject to lawful conditions, to any person convicted of any offence;

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

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

d) remit the whole or any part of any punishment imposed on any person for any offence or of any penalty or forfeiture otherwise due to the Crown on account of any offence.

(2) The powers of the Governor-General under subsection (1) of this section shall be exercised by him in accordance with the advice of such Minister as may from time to time be designated by the Governor-General acting in accordance with the advice of the Prime Minister.

66. Advisory Committee on Prerogative of Mercy

(1) There shall be an Advisory Committee on the Prerogative of Mercy for Saint Vincent (hereinafter in this section referred to as the Committee) which shall consist of-

a) the Minister for the time being designate under section 65(2) of this Constitution, who shall be chairman;

b) the Attorney-General; and

c) not less than three nor more than four other members appointed by the Governor-General by writing under his hand, of whom at least one shall be a Minister and at least one shall be a person entitled to practice in Saint Vincent as a medical practitioner.

(2) A member of the Committee appointed under subsection (1) (c.) of this section shall hold his seat thereon for such period as may be specified in the instrument by which he was appointed;

Provided that his seat shall become vacant-

a) in the case of a person who at the date of his appointment was a Minister, if he ceases to be a Minister; or

b) in the case of a person who at the date of his appointment, was entitled to practice in Saint Vincent as a medical practitioner, if he ceases to be so entitled; or

c) if the Governor-General, by writing under his hand, so directs.

(3) The Committee may act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings.

(4) The Committee may regulate its own procedure.

(5) In the exercise of his functions under this section, the Governor-General shall act in accordance with the advice of the Prime Minister.

67. Functions of Advisory Committee

(1) Where any person has been sentenced to death (otherwise than by a court-martial) for an offence, the Minister for the time being designated under section 65(2) of this Constitution shall cause a written report of the case from the trial judge (or the Chief Justice, if a report from the trial judge cannot be obtained) together with such other information derived from the record of the case or elsewhere as he may require, to be taken into consideration at a meeting of the Advisory Committee on the Prerogative of Mercy; and after obtaining the advise of the Committee he shall decide in his own deliberate judgment whether to advise the Governor-General to exercise any of his powers under section 65(1) of this Constitution.

(2) The Minister for the time being designated under section 65(2) of this Constitution may consult with the Advisory Committee on the Prerogative of Mercy before tendering any advice to the Governor-General under that subsection in any case not falling witting subsection(1) of this section but he shall not be obliged to act in accordance with the recommendation of the Committee.

CHAPTER V
FINANCE

68. Consolidated Fund

All revenues or other moneys raised or received by Saint Vincent (not being revenues or other moneys that are payable, by or under any law for the time being in force in Saint Vincent, into some other fund established for a specific purpose) shall be paid into and form a Consolidated Fund.

69. Withdrawals from Consolidated Fund or other public funds

(1) No moneys shall be withdrawn from the Consolidated Fund except-

a) to meet expenditure that is charged upon the Fund by this Constitution or by any law enacted by Parliament; or

b) where the issue of those money has been authorized by an appropriation law or by a law made in pursuance of sections 71 of this Constitution.

(2) Where any moneys are charged by this Constitution or any law enacted by Parliament upon the Consolidated Fun or any other public fund, they shall be paid out of that fund by the Government to the person or authority to whom payment is due.

(3) No moneys shall be withdrawn from any public fund other than the Consolidated Fund unless the issue of those moneys has been authorized by or under any law.

(4) There shall be such provisions as may be made by Parliament prescribing the manner in which withdrawals may be made from the Consolidated Fund or any other public fund.

(5) The investment of a moneys forming part of the Consolidated Fund shall be made in such manner as may be prescribed by or under a law enacted by Parliament.

(6) Notwithstanding the provisions of subsection (1) of this section provisions may be made by or under a law enacted by Parliament authorizing withdrawals to be made from the Consolidated Fund, in such circumstances and to such extent as may be prescribed by or under a law enacted by Parliament, for the purpose of making repayable advances.

70. Authorization of expenditure from Consolidated Fund by appropriation law

(1) The Minister for the time being responsible for finance shall cause to be prepared as laid before the House before, or not later than thirty days after, the commencement of each financial years estimates of the revenues and expenditure of Saint Vincent for that financial year.

(2) When the estimates of expenditure (other than expenditure charged upon the Consolidated Fund by this Constitution or by any law enacted by Parliament) have been approved by the House, a bill, known as an appropriation bill, shall be introduced in the House, providing for the issue from the Consolidated Fund of the sums, under separate votes for the several services required, to the purposes specified therein.

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

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

a supplementary estimate showing the sums required or spent shall be laid before the House and, when the supplementary estimate has been approved by the House, a supplementary appropriation bill shall be introduced in the House providing for the issue of such sums from the consolidated Fund and appropriating them to the purposes specified therein.

71. Authorization of expenditure in advance of appropriation

There shall be such provisions as may be made by Parliament under which, if the appropriation law in respect of any financial year has not come into

operation by the beginning of that financial year, the Minister for the time being responsible for finance may authorize the withdrawal of moneys from the Consolidated Fund for the purpose of meeting expenditure necessary to carry on the services of the Government until the expiration of four months from the beginning of that financial year or the coming into operation of the law, whichever is the earlier.

72. Contingencies Fund

(1) There shall be such provisions as may be made by Parliament for the establishment of a Contingencies Fund and for authorizing the Minister for the time being responsible for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from that Fund to meet that need.

(2) Where any advance is made from the Contingencies Fund, a supplementary estimate shall as soon as possible be laid before the House and when the supplementary estimate has been approved by the House, a supplementary appropriation bill shall be introduced as soon as possible in the House for the purpose of replacing the amount so advanced.

73. Remuneration of certain officers

(1) There shall be paid to the holders of the offices to which this section applies such salaries and such allowances as may be prescribed by or under a law enacted by Parliament.

(2) The salaries and allowances prescribed in pursuance of this section in respect of the holders of the offices to which this section applies shall be charged on the Consolidated Fund.

(3) The salary prescribed in pursuance of this section in respect of the holder of any office to which this section applies and his other terms of service (other than allowances that are not taken into account in computing, under any law in that behalf, any pension payable in respect of his service in that office) shall not be altered to his disadvantage after his appointment.

(4) When a person's salary or other terms of service depend upon his option, the salary or terms for which he opts shall, for the purposes of subsection (3) of this section, be deemed to be more advantageous to him than any other for which he might have opted.

(5) This section applies to the offices of the Governor-General, member of the Public Service Commission, member of the Police Service Commission, member of the Public Service Board of Appeal the Direction or Public Prosecutions and the Director or Audit.

(6) Nothing in this section shall be construed as prejudicing the provisions of section 88 of this Constitution (which protects pensions rights in respect of service as a public officer).

74. Public debt

(1) All debt charges for which Saint Vincent is liable shall be a charge on the Consolidated Fund.

(2) For the purposes of this section debt charges include interest, sinking fund charges, the repayment or amortization of debt and all expenditure in connection with the raising of loans on the security of the Consolidated Fund and the service and redemption of the debt created thereby.

75. Audit of public accounts, etc.

(1) There shall be a Director of Audit whose office shall be a public office.

(2) The Director of Audit shall-

a) satisfy himself that all moneys that have been appropriated by Parliament and disbursed have been applied to the purposes to which they were so appropriated and that the expenditure conforms to the authority that governs it; and

b) at least once in every year audit and report on the public accounts of Saint Vincent, the accounts of all officers and authorities of the Government, the

accounts of all courts of law in Saint Vincent (including any accounts of the Supreme Court maintained in Saint Vincent), the accounts of every Commission established by this Constitution and the accounts of the Clerk of the House.

(3) The Director of Audit and any officer authorized by him shall have access to all books, records, returns, reports as other documents which in his opinion relate to any of the accounts referred to in subsection (2) of this section.

(4) The Director of Audit shall submit every report made by him in pursuance of subsection (2) of this section to the Minister for the time being responsible for finance who shall, nor later than seven days after the House first meets after he has received the report, lay it before the House.

(5) If the Minister fails to lay a report before the House in accordance with the provisions of subsection (4) of this section the Director of Audit shall transmit copies of that report to the Speaker who shall as soon as practicable, present them to the House.

(6) The Director of Audit shall exercise such other functions in relation to the accounts of the Government or the accounts of other authorities or bodies established by law for public purposes as may be prescribed by or under any law enacted by Parliament.

(7) In the exercise of this functions under subsections (2),(3),(4) and(5) of this section, the Director of Audit shall not be subject to the direction or control of any other person or authority.

76. Public Accounts Committee

The House shall, at the commencement of each session, appoint a Public Accounts Committee from among its members, whose duties shall be to consider the accounts referred to in section 75(2) of this Constitution in conjunction with the report of the Director of Audit and in particular to report to the House-

a) in the case of any excess or unauthorized expenditure of public funds, the reason for such expenditure; and

b) any measures it considers necessary in order to ensure that public funds are properly spent.

and such other duties relating to public accounts as the House may from time to time direct.

CHAPTER VI
THE PUBLIC SERVICE

PART 1
THE PUBLIC SERVICE COMMISSION

77. Public Service Commission

(1) There shall be a Public Service Commission for Saint Vincent (hereinafter in this section referred to as the Commission) which shall consist or-

a) a chairman appointed by the Governor-General, acting in accordance with the advice of the Prime Minister;

b) one member appointed by the Governor-General, acting in accordance with the advice of the Prime Minister; and

c) not less than one nor more than three other members appointed by the Governor-General, acting in accordance with the advice of the Prime Minister;

Provided that that Prime Minister shall-

i) consult the Civil Service Association (or, if that association ceases to exist, such body or bodies representing the interest of public officers as he may determine) before tendering any advice to the Governor-General for the purposes of paragraph (b.) of this subsection; and

ii) consult the Leader of the Opposition before tendering any advice to the Governor-General for the Purposes of paragraph (c.) of this subsection.

(2) A person not be qualified to be appointed as a member of the Commission if-

a) he is, or has at any time during the period of five years immediately preceding his appointer been a member of the House or nominated for election as a Representative;

b) he is, or has at any time furring that period been, the holder of an office in any political organization that sponsors or otherwise supports, or that has at any time sponsored or otherwise supported, a candidate for election as a Representative or a member of any local government authority; or

c) he is, or has at any time during the three years preceding his appointment been, a judge of the Supreme Court or a public officer.

(3) A member of the Commission shall not, within the period of three years commencing with the day on which he last held or acted in the office of member of the Commission, be eligible for appointment to or to act in any public office.

(4) Subject to the provisions of this section, the office of a member of the Commission shall become vacant-

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

b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified to be appointed as such under subsection (2) of this section.

(5) A member of the Commission may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehavior and shall both be so removed except in accordance with the provision of this section.

(6) A member of the Commission shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed under subsection (7) of this section and the tribunal has recommended to the Governor-General that he ought to be removed from office for inability as aforesaid or for misbehavior.

(7) If the Prime Minister represents to the Governor-General that the question of removing a member of the Commission under this section ought to be investigate then-

a) the Governor-General shall appoint a tribunal which shall consist of a chairman as not less than two other members, selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court; and

b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to him whether the member ought to be removed under this section.

(8) If the question of removing a member of the Commission has been referred to a tribunal under this section, the Governor-General, acting in accordance with the advice of the Prime Minister, may suspend that member from the exercise of the functions of his office and any such suspensions may at any time be revoked by the Governor-General, acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor-General that member should not be removed.

(9) If the office of chairman of the Commission is vacant or if the holder of that office is for any reason unable to exercise the functions of this office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding that office has resumed those functions, as the case may be, they shall be exercised by such other member of the Commission as may for the time being be designated by the Governor-General, acting in accordance with the advice of the Prime Minister.

(10) If at any time there are less than two members of the Commission beside the chairman or if any such member is acting as chairman or is for any reason unable to exercise the functions of his office, the Governor-General, acting in accordance with the advice of the Prime Minister, may appoint a person who is qualified to be appointed as a member of the Commission to act as a member, and any person so appointed shall, subject to the provisions of subsection (4)

of this section, constitute to act until the office in which he is acting has been fulled or, as the case may be, until the holder thereof has resumed his functions or until his appointment to act has been revoked by the Governor-General, acting in accordance with the advice of the Prime Minister.

(11) A member of the Commission shall not enter upon the duties of his office until he has taken and subscribed the oath of allegiance an the Oath of office.

(12) The Commission shall, in the exercise of its functions under this Constitution, not be subject to the direction or control of any other person or authority.

(13) The Commission may by regulation or otherwise regulate its own procedure and, with the consent of the Prime Minister, may confer powers or impose duties on any public officer or on any authority of the Government for the purpose of the exercise of its functions.

(14) The Commission may, subject to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings:

Provided that any decision of the Commission shall require the concurrence of a majority of all its members.

78. Appointment, etc, of public officers

(1) The power to appoint persons to hold or act in offices in the public service (including the power to confirm appointments), and subject to the provisions of section 87 of this Constitution, the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Public Service Commission.

(2) The Public Service Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under subsection (1) of this section to any one or more members of the Commission or, with the consent of the Prime Minister, to any public officer.

(3) The provisions of this section shall not apply in relation to the following offices, that is to say-

a) any office to which section 79 of this Constitution applies;

b) the office of Attorney-General;

c) the office of Director of Public Prosecutions;

d) the office of Director of Audit;

e) any office to which section 83 of this Constitution applies: or

f) any office in the Police Force.

(4) No person shall be appointed under this section to, or to act in, any office on the Governor-General's personal staff except eith the concurrence of the Governor-General, acting in his own deliberate judgment.

(5) Before any of the powers conferred by this section are exercised by the Public Service Commission or any other person or authority in relation to the Clerk of the House or a member of his staff, the Commission or that person or authority shall consult with the Speaker.

(6) Before the Public Service Commission or any other person exercises any power under this section to appoint to, or to act in, any public office any person who holds or is acting in any office the power to make appointments to which is vested by this Constitution in the Governor-General acting in accordance with the advice of the Judicial and Legal Services Commission, the Public Service Commission or that person shall consult with the Judicial and Legal Services Commission.

(7) A public officer shall not be removed from office or subjected to any other punishment under this section on the grounds of any act done or omitted by him in the exercise of a judicial function conferred on him unless the Judicial and Legal Services Commission concurs therein.

PART 2
APPOINTMENTS, ETC., TO PARTICULAR OFFICES

79. Appointment, etc., permanent secretaries and certain other officers

(1) This section applies to the offices of Secretary to the Cabinet, permanent secretary, head of a department of government, deputy head of a department of government,any office of a chief professional adviser to a department of government and any office for the time being designated by the Commission, after consultation with the Prime Minister, as an office the holders of which are required to reside outside Saint Vincent for the proper discharge of the functions or as an officer in Saint Vincent whose function related to external affairs.

(2) The power to appoint persons to hold or to act in offices to which this section applies (including the power to confirm appointments),and, subject to the provisions of section 87 of this Constitution, the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Governor-General, acting in accordance whit the advice of the Public Service Commission:

Provided that-

a) the power to appoint a person to hold or act in an office of a permanent secretary on transfer from another such office carrying the same salary shall vest in the Governor-General, acting in accordance with the advice of the Prime Minister;

b) before the Public Service Commission tenders advice to the Governor-General with this section applies (other than an appointment to an office of permanent secretary on transfer form another such office carrying the same salary) it shall consult with the Prime Minister signifies his objection to the appointment of any person to the office, the Commission shall not advise the Governor-general to appoint that person;

c) in relation to any office of Ambassador, High Commissioner or other principal representative or Saint Vincent in any other country or accredited to any

international organization the Governor-General shall act in accordance with the advice of the Prime Minister, who shall, before tendering any such advice in respect of any person who holds any public office to which appointments are made by the Governor-General on the advice of or after consultation with some other person or authority, consult that person or authority.

(3) References in this section to a department of government shall not include the office of the Governor-General, the department of the Attorney-General, the department of the Director of Public Prosecutions, the department of the Director of Audit, the department of the Clerk of the House or the Police Force.

80. Attorney General when a public officer

(1) The power to appoint a person to hold or act in the office of Attorney-General at any time when it is a public office and, subject to the provisions of section 63(5) of this Constitution, the power to remove the Attorney-General from office at any such time shall vest in the Governor-General, acting in accordance with the advice of the Judicial and Legal Services Commission.

(2) Before tendering advice with respect to the appointment of any person to a hold or act in the office of Attorney-General the Judicial and Legal Services Commission shall consult with the Prime Minister.

81. Director of Public Prosecutions

(1) The Director of Public Prosecutions shall be appointed by the Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission.

(2) If the office of Director of Public Prosecutions is vacant of if the holder or that office is for any reason unable to exercise the functions of his office, the Governor-General, acting in accordance with the advice of the Judicial and Legal Services Commission, may appoint a person to act as Director.

(3) A person shall not be qualified to be appointed to hold the office of Director of Public Prosecutions unless he holds one of specified qualifications and has

held one or other of those qualifications for a total period of not less than five years.

(4) A person appointed to act in the office of Director of Public Prosecutions shall, subject to the provisions of subsections (5), (7), (8) and (9) of this section, cease so to act-

a) when a person is appointed to hold that office and has assumed the functions thereof or, as the case may be, when the person in whose place he is acting resumes the functions of that office; or

b) at such earlier time as may be prescribed by the terms of his appointment.

(5) Subject to the provisions of subsection (7) of this section, the Director of Public Prosecutions shall vacate his office when he attains the prescribed age.

(6) A person holding the office of Director of Public Prosecutions may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehavior and shall not be so removed except in accordance with the provisions of this section.

(7) The Director of Public Prosecutions shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed under subsection (8) of this section and the tribunal has recommended to the Governor-General that he ought to be removed for inability as aforesaid or for misbehavior.

(8) If the Prime Minister or the chairmen of the Judicial and Legal Services Commission represents to the Governor-General that he ought to be investigated, then-

a) the Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the

Commonwealth or a court having jurisdiction in appeals from such a court; and

b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to him whether the Director ought to be removed under this section.

(9) If the question of removing the Director of Public Prosecutions has been referred to a tribunal under this section, the Governor-General, acting in accordance with the advice of the Judicial and Legal Services Commission, may suspend the Director from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor -General acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor-General that the Director Should not be removed.

(10) The prescribed age for the purposes of subsection (5) of this section is the age of fifty-five years or such other age as may be prescribed by Parliament:

provided that any law enacted by Parliament, to the extent to which it alters the prescribed age after a person has been appointed to be or to act as Director of Public Prosecutions, shall not have effect in relation to that person unless he consents that it should have effect.

82. Director of Audit

(1) The Director of Audit shall be appointed by the Governor-General, acting accordance with the advice of the Public Service Commission.

(2) If the office of Director of Audit is vacant or if the holder of that office is for any reason unable to exercise the functions of his office, the Governor-General, acting in accordance with the advice of the Public Service Commission, may appoint a person to act as Director.

(3) Before tendering advice for the purposes of subsection (1) or subsection (2) of this section, the Public Service Commission shall consult with the Prime Minister.

(4) A person appointed to act in the office of Director of Audit shall, subject to the provisions of subsection (5), (7), (8) and (9) of this section case to act-

a) when a person is appointed to hold that office and has assumed the functions thereof or, as the case may be, when the person in whose place he is acting resumes the functions of that office, or

b) at such earlier time as may be prescribed by the terms of his appointment.

(5) Subject to the provisions of subsections (7) of this section the Director of Audit shall vacate his office when he attains the prescribed age.

(6) A person holding the office of Director of Audit may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehavior and shall not be so removed except in accordance with the provisions of this section.

(7) The Director of Audit shall be removed form office by the Governor-General of the question of his removal from office has been referred to a tribunal appointed under subsection (8) of this section and the tribunal has recommended to the Governor-General that he ought to be removed for inability as aforesaid or for misbehavior.

(8) If the Prime Minister or the chairman of the Public Service Commission represents to the Governor-General that the section and the tribunal has recommended to the Governor-General that the question of removing the Director of Audit under this section ought to be investigate-

a) the Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members selected by the Chief Justice from among persons who hold or have held office as a judge of a Court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court; and

b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to him whether the Director ought to be removed under this section.

(9) If the question of removing the Director of Audit has been referred to a tribunal under this section, the Governor-General, acting in accordance with the advice of the Public Service Commission, may suspend the Director of Audit from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor-General acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor-General that the Director should not be removed.

(10) The prescribed age for the purposes of subsection (5) of this sections the age of fifty-five or such other age as may be prescribed by Parliament:

Provided that any law enacted by Parliament, to the extent to which it alters the prescribed age after a person has been appointed to be or to act as Director of Audit,shall not have effect in relation to that person unless he consents that it should have effect.

83. Appointment, etc.,of magistrates registrars and legal officers

(1) This section applies to the offices of magistrate, registrar of the High Court and assistant registrar of the High Court and to any public office in the department of the Attorney-General (other than the public office of Attorney-General) of the department of the Director of Public Prosecutions (other than the office of Director) for appointment to which persons are required to hold one or other of the specified qualifications.

(2) The power to appoint persons to hold or act in offices to which this section applies (including the power to confirm appointments) and, subject to the provisions of section 87 of this Constitution, the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Governor-General, acting in accordance with the advice of the Judicial and Legal Services Commission.

PART 3
THE POLICE

84. Police Service Commission

(1) There shall be a Police Service Commission for Saint Vincent which shall consist of-

a) the chairman of the Public Service Commission;

b) one member appointed by the Governor-General, acting in accordance with the advice of the Prime Minister tendered after the Prime Minister has consulted the Saint Vincent Police Welfare Association (or, if that association ceases to exist such, body representing the interests of police officers as the Prime Minister may determine); and

c) the member or members of the Public Service Commission appointed under paragraph (c.) of section 77(1) of this Constitution.

(2) The Provision of subsections (2) to (8) (inclusive) and (11) of section 77 of this Constitution shall apply in relation to the member of the Police Service Commission referred to in paragraph (b.) of subsection (1) of this section as they apply in relation to a member of the Public Service Commission.

(3) The member of the Public Service Commission for the time being performing the functions of the chairman of that Commission shall perform the functions of the chairman of the Police Service Commission.

(4) Any person for the time being authorized to act as a member of the Public Service Commission under section 77(10) of this Constitution (other than a person so authorized on account o the inability of the member of the Commission appointed under section 77(1)(b.) of this Constitution) shall act as a member of the Police Service Commission.

(5) If at any time the member of the Commission appointed under paragraph (b.) of subsection (1) of this section is for any reason unable to exercise the functions of his office, the Governor-General, acting in accordance with the

advice of the Prime Minister, may appoint a person who is qualified to be appointed as a member of the Commission to act as a member, and any person so appointed shall subject to the provisions of subsection (2) of this section, continue to act until the holder of the office has resumed his function or until his appointment to act has been revoked by the Governor-General, acting in accordance with the advice of the Prime Minister.

(6) The Commission shall, in the exercise of its functions under his Constitution, not be subject to the direction or control of any other person or authority.

(7) The Commission may by regulation or otherwise regulate its own procedure and, with the consent of the Prime Minister, may confer powers or impose duties on any public officer or on any authority of the Government for the purpose of the exercise of its functions.

(8) The Commission may, subject to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings;

provided that any decision of the Commission shall required the concurrence of a majority of all its members.

85. Police Force

(1) The power to appoint a person to hold or act in the office of Commissioner of Police or Deputy Commissioner of Police and, subject to the provisions of section 87 of this Constitution, the Power to remove the Commissioner or Deputy Commissioner form office shall vest in the Governor-General, acting in accordance with the advice of the Police Service Commission:

Provided that before the Commission tenders advice to the Governor-General with respect to the appointment of any person to hold the office of Commissioner or Deputy Commissioner the Commission shall consult with the Prime Minister and if the Prime Minister signifies his objection to the appointment of any person to the office the Commission shall not advise the Governor-General to appoint that person.

(2) The power to appoint persons to hold or act in offices in the Police Force below the rank of Deputy Commissioner of Police but above the rank of Sergeant (including the power to confirm appointments), and, subject to the provisions of section 87 of this Constitution, the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Police Service Commission.

(3) The power to appoint persons to hold or act in offices in the Police Force of below the rank of Sergeant (including the power to confirm appointments), and, subject to the provisions of section 87 of this Constitution, the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Commissioner of Police.

(4) The Commissioner of Police may, by directions given in such manner as he thinks fit and subject to such conditions as he thinks fit, delegate any of his powers under subsection (3) of this section other than the power to remove from office or reduce in rank, to any other member of the Police Force.

(5) A police officer shall not be removed from office or subjected to any other punishment under this section on the grounds of any act done or omitted by him in the exercise of any judicial function conferred on him unless the Judicial and Legal Services Commission concurs therein.

(6) In this section references to the rank of Sergeant shall, if the ranks within the Police Force are altered (whether in consequence of the reorganization or replacement of an existing part of the Force or the creation of an additional part), be construed as references to such rank or ranks as may be specified by the Police Service Commission by order published in the Official Gazette, being a rank or ranks that in the opinion of the Commission most nearly correspond to the rank of Sergeant as it existed before the alteration.

PART 4
THE PUBLIC SERVICE BOARD OF APPEAL

86. Public Service Board of Appeal

(1) There shall be a Public Service Board of Appeal for Saint Vincent (hereinafter in this section and in section 87 of this Constitution referred to as the Board) which shall consist of-

a) one member appointed by the Governor-General, acting in his own deliberate judgment, who shall be chairmen;

b) one member appointed by the Governor-General, acting in his own deliberate judgment, who shall be chairman;

c) one member appointed by the Governor-General,acting in accordance with the advice of the Civil Service Association (or such other body as may be determined under paragraph (i) of the proviso to section 77(1) of this Constitution), and

d) one member appointed by the Governor-General, acting in accordance with the advice of the Saint Vincent Police Welfare Association (or such other body as may be determined under paragraph (b.) of the proviso to section 84(1) of this Constitution).

(2) A person shall not be qualified to be appointed as a member of the Board if-

a) he is, or has at any time during the period of five years immediately preceding his appointment been, a member of the House;

b) he is or has at any time during that period been, nominated as a candidate for election as a Representative; or

c) he is, or has at any time during that period been, the holder of an office in any political organization that sponsors or otherwise supports, or that has at

any time sponsored or otherwise supported, a candidate for election as a Representative or a member of any local government authority.

(3) Subject to the provisions of this section, the office of a member of the Board shall become vacant-

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

b) if any circumstances arise that, if he were not a member of the Board, would cause him to be disqualified to be appointed as such under subsection (2) of this section.

(4) A member of the Board may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehavior and shall not be so removed except in accordance with the provisions of this section.

(5) A member of the Board shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed under subsection (6) of this section and the tribunal has recommended to the Governor-General that he ought to be removed from office for inability as aforesaid or for misbehavior.

(6) If the Governor-General considers that the Question of removing a member of the Board under this section ought to be investigated, then-

a) the Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or of a court having jurisdiction in appeals from such a court; and

b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to him whether the member ought to be removed under this section.

(7) If the question of removing a member of the Board has been referred to a tribunal under this section, the Governor-General may suspend that member from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor-General and shall in any case cease to have effect if the tribunal recommends to the Governor-General that member should not be removed.

(8) If at any time any member of the Board is for any reason unable to exercise the functions of his office, the Governor-General may appoint a person who is qualified to be appointed as a member of the Board to act as a member, and any person so appointed shall, subject to the provisions of subsection (3) of this section, continue to act until the holder thereof has resumed his functions or until his appointment to act has been revoked by the Governor-General.

(9) In the exercise of the powers conferred upon him by subsections (6),(7) and (8) of this section the Governor-General shall, in the case of a member of the Board appointed under paragraph (b.) of subsection (1) of this section, act in accordance with the advice of the Prime Minister and shall in any other case act in his own deliberate judgment.

(10) The Board shall in the exercise of its functions under this Constitution, not be subject to the direction or control of ny other person or authority.

87. Appeals in discipline cases

(1) This section applies to-

a) any decision of the Governor-General, acting in accordance with the advice of the public Service Commission, or any decision of the Public Service Commission, to remove a public officer from office or to exercise disciplinary control over a public officer (including a decision made on appeal from or confirming a decision of any person to whom powers are delegated under section 78(2) of this Constitution):

b) any decision of any person to whom powers are delegated under section 78 (2) of this Constitution to remove a public officer from office or to exercise

disciplinary control over a public officer (not being a decision which is subject to appeal to or confirmation by the Public Service Commission);

c) any decision of the Public Service Commission to give such concurrence as is required by section 89(1) or (2) of this Constitution in relation to the refusal, withholding, reduction in amount or suspending of any pensions benefits in respect of an officer's service as a public officer; or

d) any decision of the Governor-General, acting in accordance with the advice of the Police Service Commission, to remove the Commissioner of Police or the Deputy Commissioner of Police from office or any decision of the Police Service Commission to remove a member of the Police Force from office or to exercise disciplinary control over such a member under section 85(2) of this Constitution.

e) if it is so provided by Parliament, any decision of the Commissioner of Police under subsection (3) of section 85 of this Constitution, or of a person to whom powers are delegated under subsection(4) of that section, to remove a police officer from office or to exercise disciplinary control over a police officer;

f) such decisions with respect to the discipline of any military, naval or air force of Saint Vincent as may be prescribed by Parliament.

(2) Subject to the provisions of this section, an appeal shall lie to the Board from any decision to which this section applies at the instance of the public officer, police officer or member of the naval, military or air force in respect of whom the decision is made:

Provided that in the case of any such decision as is referred to in subsection (1)(e.) of this section an appeal shall lie in the first instance to the Police Service Commission shall have the like powers as are conferred on the Board by subsection (3) of this section.

(3) Under an appeal under this section the Board may affirm or ser aside the decision appealed against or may make any other decision which the authority or person from whom the appeal lies could have made.

(4) Every decision of the Board shall require the concurrence of a majority of all the members of the Board entitled to participate for the purpose of making the decision.

(5) The member of the Public Service Board of Appeal appointed under paragraph (d) of section 86(1) of this Constitution shall not be entitled to participate as a member in proceedings of the Board for the purpose of hearing and determining appeals from decisions mentioned in paragraphs (a),(b) and 8c) of subsection (1) of this section or of making regulations under subsection (6)(b) of (c) of this section with respective to the procedure in such appeals or exceeding any such decisions from the provisions of the said subsection(1); and the member of the Board appointed under paragraph (c) of section 86(1) of this Constitution shall not be entitled to participate as a member in proceedings of the Board for the purpose of hearing and determining appeals from decisions mentioned in paragraph (d) of subsection (1) of subsection (2) of this section or of making regulation under subsection (6)(b) or (c) of this section with respect to the procedure in such appeals or excepting any such decisions from the provisions of the said subsection (1).

(6) Subject to the provision of subsection (5) of this section, the Board may by regulation make provisions for-

a) the procedure of the Board;

b) the procedure in appeals under this section; or

c) excepting from the provisions of subsection (1) of this section decisions in respect of public officers holding offices whose emoluments do not exceed such sum as may be prescribed by the regulations or such decisions to exercise disciplinary control, other than decisions to remove from office, as may be so prescribed.

(7) Regulations made under this section may, with the consent of the Prime Minister, confer powers or impose duties on any public officer or any authority of the Government for the purpose of the exercise of the functions of the Board.

(8) The Board may, subject to the provisions of this section and to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidate by the presence or participation of any person not entlited to be present at or to participate in those proceedings.

PART 5
PENSIONS

88. Pensions laws and protection of pensions rights

(1) The law to be applied with respect to any pensions benefits that were granted to any person before the commencement of this Constitution shall be the law that was in force at the date on which those benefits were granted or any law in force at a later date that is not less favorable to that person.

(2) The law to be applied with respect to any pensions benefits (not being benefits to which subsection (1) of this section applies) shall-

a) in so far as those benefits are wholly in respect of a period of service as a judge or officer of the Supreme Court or a public officer or a member of the House of Assembly that commenced before the commencement of this Constitution, be the law that was in force at such commencement; and

b) in so far as those benefits are wholly or partly in respect of a period of service as a judge or officer of the Supreme Court or a public officer or a member of the House of Assembly that commenced after the commencement of this Constitution, be the law in force on the date on which that period of service commenced.

or any law in force at a later date that is not less favorable to that person.

(3) Where a person is entitled to exercise an option as to which of two or more laws shall apply in his case, the law for which he opts shall for the purposes of this section, be deemed to be more favorable to him than the other law or laws.

(4) All pensions benefits shall (except to the extent that they are by law charged upon and duly paid out of some other fund) be a charge on the Consolidated Fund.

(5) In this section "pensions benefits" means any pensions, compensation, gratuities or other like allowances for persons in respect of their service as members of the House, judges or officers of the Supreme Court or public officers or for the windows, children, dependants or personal representatives of such persons in respect of such service.

(6) References in this section to the law with respect to pensions benefits include (without prejudice to their generality) references to the law regulating the circumstances in which such benefits may be granted or in which the grant of such benefits may be refused, the law regulating the circumstances in which any such benefits that have been granted may be withheld, reduce in amount or suspended and the law regulating the amount of any such benefits.

89. Power to withhold pensions, etc.

(1) Where under any law any person or authority has a discretion-

a) to decide whether or not any pension benefits shall be granted; or

b) to withhold, reduce in amount or suspend any such benefits that have been granted,

those benefits shall be granted and may not be withheld, reduced in amount or suspended unless the Public Service Commission concurs in the refusal to grant the benefits or, as the case may be, in the decisions to withhold them, reduce them in amount or suspend them.

(2) Where the amount of any pensions benefits that may be granted to any person is not fixed by law, the amount of the benefits to be granted to him shall be the greatest amount for which he is eligible unless the Public Service Commission concurs in his being granted benefits of a smaller amount.

(3) The Public Service Commission shall not concur under subsection (1) or subsection (2) of this section in any action taken in the ground that any person who holds or has held the office of judge of the Supreme Court, Director of Public Prosecutions or Director of Audit has been guilty of misbehavior in that office unless he has been removed from that office by reason of such misbehavior.

(4) Before the Public Service Commission concurs under subsection (1) or subsection (2) of this section in any action taken on the ground that any person who holds or has held any office to which, at the time of such action, section 83 of this Constitution applies has been guilty of misbehavior in that office, the Public Service Commission shall consult the Judicial and Legal Services Commission.

(5) In this section "pensions benefits" means any pensions, compensation, gratuities or other like allowances for persons in respect of their service as judge or officer of the Supreme Court or public officers or for the widows, children, dependants or personal representatives of such persons in respect of such service.

CHAPTER VII
CITIZENSHIP

90. Persons who become citizens on 27th October 1979

(1) Every person who, having been born in Saint Vincent, is immediately before the commencement of this Constitution a citizen of the United Kingdom and Colonies shall become a citizen at such commencement.

(2) Every person who, immediately before the commencement of this Constitution, is a citizen of the United Kingdom and Colonies-

a) having become such a citizen under the British Nationality Act 1948 (a) by virtue of this having been naturalized in Saint Vincent as a British subject before that Act came into force; or

b) having while resident in Saint Vincent become such a citizen by virtue of his having been naturalized or registered under that Act,

shall become a citizen at such commencement.

(3) Every person who, having been born outside Saint Vincent, is immediately before the commencement of this Constitution a citizen of the United Kingdom and Colonies shall, if his father or mother becomes, or would but for his death or the renunciation of his citizenship of the United Kingdom and Colonies have become,a citizen by virtue of subsection (1) or subsection (2) of this section, become a citizen at such commencement.

(4) Every woman who, having been married to a person who becomes, or but for his death or the renunciation of his citizenship of the United Kingdom and Colonies would have become, a citizen by virtue of subsection (1), (2) or (3) of this section, is a citizen of the United Kingdom and Colonies immediately before the commencement of this Constitution shall become a citizen at such commencement.

91. Persons born in Saint Vincent on or after 27th October 1979

Every person born in Saint Vincent after the commencement of this Constitution shall become a citizen at the date of his birth:

Provided that a person shall not become a citizen by virtue of this section if at the time of his birth-

a) neither of his parents is a citizen of Saint Vincent and his father or mother possesses such immunity from suit and legal process as is accorded to the envoy of a foreign sovereign power accredited to Saint Vincent; or

b) his father is a citizen of a country with which Saint Vincent is at war and the birth occurs in a place then under occupation by that country.

92. Persons born outside Saint Vincent on or after 27th October 1979

A person born outside Saint Vincent after the commencement of this Constitution shall become a citizen at the date of his birth if, at that date, his father or mother is a citizen otherwise than by virtue of this section or section 90(3) of this Constitution.

93. Registration

(1) The following persons shall be entitled, upon making application, to be registered as citizens-

a) any woman who is married to a citizen or who has been married to a person who, at any time during the period during which they were married to each other, was a citizen;

b) any person who, being a Commonwealth citizen, or ordinarily resident in Saint Vincent at the commencement of this Constitution, having been so resident for the period of seven years immediately preceding such commencement;

c) any person who, having been a citizen, has renounced his citizenship in order to qualify for the acquisition or retention of the citizenship of another country;

d) any person who, but for having renounced his citizenship of the United Kingdom and Colonies in order to qualify for the acquisition or retention of the citizenship of another country, would have become a citizen at the commencement of this Constitution;

e) any woman who is married to any such person as is mentioned in paragraph (b), (c) or (d) of this subsection or who was married to a person who, at any time during the period during which they were married to each other, was entitled to be registered as a citizen under any such paragraph;

f) any woman who, before the commencement of this Constitution, has been married to a person-

i) who becomes a citizen by virtue of section 90 of this Constitution; or

ii) who having died before such commencement, would but for his death have become a citizen by virtue of that section,

but whose marriage has been terminated by death or dissolution before such commencement.

(2) The following persons shall be entitled, upon making application, to be registered as citizens.

a) any man who is married to a citizen or who has been married to a person who, at any time during the period during which they were married to each other, was a citizen;

b) any person who, being a Commonwealth citizen, is and for seven years previous to his application has been ordinarily resident in Saint Vincent;

c) any man who is married to any such person as is mentioned in paragraph (b), (c) or (d) of subsection (1) of this section or who was married to a person who, at any time during the period during which they were married to each other, was entitled to apply to be registered as a citizen under any such paragraph;

d) any person under the age of twenty-one years who is the stepchild or child adopted in a manner recognized by law of a citizen or is the child, stepchild or child so adopted of a person who is or would but for his death have been entitled to be registered as a citizen under subsection (1) of this section:

Provided that if it is so provided by Parliament an application for registration as a citizen under his subsection may, in such circumstances as may be prescribed by Parliament in the interests of defence, public safety or public order, be refused by the Minister responsible for the matter in any case in which he is satisfied that there are reasonable grounds for refusing the applications.

(3) An application under this section shall be made in such manner as may be prescribed, as respects that application, by or under a law enacted by Parliament and, in the case of a person to whom subsection (2) (d) of this section applies, it shall be made on his behalf by his parent or guardian:

Provided that, if any such person is or has been married, he may make the application himself.

(4) Every person who, being a British protected person, an alien or, of it is so prescribed by Parliament, a citizen of any country within the Commonwealth not forming part of Her Majesty's dominions and having reached the age of twenty-one years, applies for registration under this section shall, before such registration, take the oath of allegiance.

94. Acquisition deprivation and renunciation

There shall be such provisions as may be made by Parliament for-

a) the acquisition of citizenship by persons who are not eligible or who are no longer eligible to become citizens under the provisions of this Chapter:

b) depriving of his citizenship any person who is a citizen otherwise than by virtue of section 90, 91 or 92 of this Constitution;

c) the renunciation by any person of his citizenship.

95. Interpretation

(1) In this Chapter-

"alien" means a person who is not a Commonwealth citizen, a British protected person or a citizen of the Republic of Ireland;

"British protected person" means a person who is a British protected person for the purposes of the British Nationality Act 1948;

"the British Nationality Act 1948" includes any Act of the Parliament of the United Kingdom altering that Act;

"father" in relation to a child born out of wedlock and not legitimated includes a person who acknowledges and can show that he is the father of the child.

(2) For the purposes of this Chapter, a person born aboard a registered ship or aircraft, or aboard an unregistered ship or aircraft of the Government of

any country, shall be deemed to have been born in the place in which the ship or aircraft was registered or, as the case may be, in that country.

(3) Any reference in this Chapter to the national status of the father of a person at the time of that person's birth shall, in relation to a person born after the death of his father, be construed as a reference to the national status of the father at the time of the father's death; and where that death occurred before the commencement of this Constitution and the birth occurred after such commencement the national status that the father would have had if he had died immediately after such commencement shall be deemed to be his national status at the time of his death.

CHAPTER VIII
JUDICIAL PROVISIONS

96. Original jurisdiction of High Court in constitutional questions

(1) Subject to the provisions of section 22(2), 38(8)(b), 102(2) and 105(10) of this Constitution, any person who alleges that any provisions of this Constitution (other than a provision of Chapter 1 thereof) has been or is being contravened may, if he has a relevant interest, apply to the High Court for a declaration and for relief under this section.

(2) The High Court shall have jurisdiction on an application made under this section to determine whether any provision of this Constitution (other than a provision of Chapter 1 thereof) has been or is being contravened and to make a declaration accordingly.

(3) Where the High Court makes a declaration under this section that a provision of this Constitution has been or is being contravened and the person on whose application the declaration is made has also applied for relief, the High Court may grant to that person such remedy as it considers appropriate, being a remedy available generally under any law in proceedings in the High Court.

(4) The Chief Justice may make rules with respect to the practice and procedure of the High Court in relation to the jurisdiction and powers conferred on the

Court by or under this section, including provisions with respect to the time within which any application under this section may be made.

(5) A person shall be regarded as having a relevant interest for the purpose of an application under this section only if the contravention of this Constitution alleged by him is such as to affect his interests.

(6) The rights conferred on a person by this section to apply for a declaration and relief in respect of an alleged contravention of this Constitution shall be in addition to any other action in respect of the same matter that may be available to that person under any law.

(7) Nothing in this section shall confer jurisdiction on the High Court to hear or determine any such question as is referred to in section 36 of this Constitution.

97. Reference of constitutional question to High Court

(1) Where any question as to the interpretation of this Constitution arises in any court of law established for Saint Vincent (other than the Court of Appeal, the High Court or a court martial) and the court is of opinion that the question involves a substantial question of law, the court shall refer the question to the High Court.

(2) Where any question is referred to the High Court in pursuance of this section, the High Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision or, if the decisions is the subject of an appeal to the Court of Appeal or to Her Majesty in Council, in accordance with the decision of the Court of Appeal or, as the case may be, of Her Majesty in Council.

98. Appeal to Court of Appeal

Subject to the provisions of section 36 of this Constitution, an appeal shall lie from decisions of the High Court to the Court of Appeal as of right in the following cases-

a) final decision in any civil or criminal proceedings on questions as to the interpretation of this Constitution;

b) final decisions given in exercise of the jurisdiction conferred on the High Court by section 16 of this Constitution (which relates to the enforcement of the fundamental rights and freedoms); and

c) such other cases as may be prescribed by Parliament.

99. Appeals to Her Majesty in Council

(1) An appeal shall lie from decisions of the Court of Appeal to Her Majesty in Council as of right in the following cases-

a) final decisions in any civil proceedings where the matter in dispute on the appeal to Her Majesty in Council is of the prescribed value or upwards or where the appeal involves directly or indirectly a claim to or question respecting property or a right of the prescribed value or upwards;

b) final decisions in proceedings for dissolutions or nullity of marriage;

c) final decisions in any civil or criminal proceedings which involve a question as to the interpretation of this Constitution; and

d) such other cases as may be prescribed by Parliament.

(2) An appeal shall lie from decisions of the Court of Appeal to Her Majesty in Council with the leave of the Court of Appeal in the following cases-

a) decisions in any civil proceedings where in the opinion of the Court of Appeal the question involve in the appeal is one that, by reason of its great general or pubic importance or otherwise, ought to be submitted to Her Majesty in Council; and

b) such other cases as may be prescribed by Parliament.

(3) An appeal shall lie to Her Majesty in Council with the special leave of Her Majesty from any decision of the Court of Appeal in any civil or criminal matter.

(4) References in this section to decisions of the Court or Appeal shall be construed as references to decisions of the Court of Appeal in exercises of the jurisdiction conferred by this Constitution or any other law.

(5) In this section the prescribed value means the value of fifteen hundred dollars or such other value as may be prescribed by Parliament.

(6) This section shall be subject to the provisions of section 36(7) of this Constitution.

100. Interpretation

In this Chapter references to the contravention of any provisions or, to the interpretation of, this Constitution shall be construed as including references to the contravention of any provisions of, or the interpretation of, the Supreme Court Order.

CHAPTER IX
MISCELLANEOUS

101. Supreme law

This Constitution is the supreme law of Saint Vincent and, subject to the provisions of this Constitution, if any other law is inconsistent with this Constitution, this Constitution shall prevail and the other law shall, to the extent of the inconsistency, be void.

102. Functions of Governor General

(1) Any reference in this Constitution to the functions of the Governor-General shall be construed as a reference to his powers as duties in the exercise of the executive authority of Saint Vincent and to any other powers and duties

conferred or imposed on him as Governor-General by or under this Constitution or any other law.

(2) Where by this Constitution the Governor-General is required to perform any functions in accordance with the advice of any person or authority, the question whether the Governor-General has so exercised that function shall not be enquired into in any court of law.

103. Resignations

(1) A Representative or a Senator may resign his seat by writing under his hand addressed to the Speaker and the resignation shall take effect, and the seat shall accordingly become vacant, when the writing is received, as the case may be, by-

a) the Speaker;

b) if the office of Speaker is vacant or the Speaker is for any reason unable to perform the functions of his office and no other person is performing them, the Deputy Speaker; or

c) if the office of Deputy Speaker is for any reason unable to perform the functions of this office as no other person is performing them, the Clerk of the House.

(2) The Speaker or the Deputy Speaker may resign his office by writing under his hand addressed to the House and the resignation shall take effect, and the office shall accordingly become vacant, when the writing is received by the Clerk of the House.

(3) Any person who has been appointed to an office established by this Constitution (other than office to which subsection (1) or (2) of this section applies) or any office of Minister established under this Constitution may resign that office by writing under his hand addressed to the person or authority by whom he was appointed and the resignation shall take effect, and the office shall accordingly become vacant-

a) at such time or on such date (if any) as may be specified in the writing, or

b) when the writing is received by the person or authority to whom it is addressed or by such other person as may be authorized to receive it,

whichever is the later:

Provided that the resignation may be withdrawn before it takes effect if the person or authority to whom the resignation is addressed consents to its withdrawal.

104. Re-appointment and concurrent appointments.

(1) Where any person has vacated any office established by this Constitution or any office of Minister or Parliamentary Secretary established under this Constitution or any office of Minister or Parliamentary Secretary established under this Constitution, he may, if qualified, again be appointed or elected to hold that office in accordance with the provisions of this Constitution.

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

105. Interpretation.

(1) In this Constitution, unless the context otherwise requires-

"citizen" means a citizen of Saint Vincent and "citizenship" shall be construed accordingly;

"Commonwealth citizen" has such meaning as Parliament may prescribe;

"dollars" means dollars in the currency of Saint Vincent;

"financial year" means any period of twelve months beginning on 1st January in any year or such other date as may be prescribed by law;

"the Government" means the Government of Saint Vincent;

"the House" means the House of Assembly;

"law" means any law in force in Saint Vincent or any part thereof, including any instrument having the force of law and any unwritten rule of law and "lawfully" shall be construed accordingly;

"Minister" means a Minister of the Government;

"Parliament" means the Parliament of Saint Vincent;

"oath" includes affirmation;

"oath of allegiance" means such oath of allegiance as may be prescribed by law;

"oath office" means, in relation to any office, such oath for the due execution of that office as may be prescribed by law;

"oath of secrecy" means such oath of secrecy as may be prescribed by law;

"the Police Force" means the Royal Saint Vincent Police Force and includes any other police force established to succeed to the functions of the Royal Saint Vincent Police Force;

"public office" means any office of emoluments in the public service;

"public officer" means a person holding or acting in any public office;

"the public service" means, subject to the provisions of this section, the service in a civil capacity of the Government;

"Saint Vincent" means Saint Vincent as the Grenadines;

"session" means, in relation to the House, the period beginning when it first meets after parliament has at any time been prorogued or dissolved and wading when Parliament is prorogued or when Parliament is dissolved without having been prorogued;

"sitting" means, in relation to the House, the period during which it is sitting continuously without adjournment as includes any period during which it is in committee;

"Speaker" as "Deputy Speaker" mean the respective person holding office as Speaker and Deputy Speaker of the House.

(2) In this Constitution referenced to an office in the public service shall not be construed as including-

a) references to the office of the Speaker or Deputy Speaker, the Prime Minister or any other Minister, a Parliamentary Secretary or a member of the House;

b) references to the office of a member of any Commission established by this Constitution or a member of the Advisory Committee on the Prerogative of Mercy or a member of the Public Service Board of Appeal;

c) references to the office of judge or officer of the Supreme Court;

d) save in so far as may be provided by Parliament, references to the office of a member of any other council, board, panel, committee or other similar body (whether incorporated or not established by or under any law

(3) In this Constitution-

a) references to the Supreme Court Order included references to any law altering that Order;

b) references to the Supreme Court of Appeal, the High Court and the Judicial and Legal Services Commission are references to the Supreme Court, the Court of Appeal, the High Court and the Judicial and Legal Services Commission established by the Supreme Court Order;

c) references to the Chief Justice have the same meaning as in the Supreme Court Order;

d) references to judge of the Supreme Court are references to a judge of the High Court or the Court of Appeal and, unless the context otherwise requires, include references to a judge of the former Supreme Court of the Windward Islands and Leeward Islands; and

e) references to officers of the Supreme Court are references to the Chief Registrar and other officers of the Supreme Court appointed under the Supreme Court Order.

(4) In this Constitution "the specified qualifications" means the professional qualifications specified by or under any law, one of which must be held by any person before he may apply under that law to be admitted to practice as a barrister or a solicitor in Saint Vincent.

(5) For the purposed of this Constitution, a person shall not be regarded as holding an office by reason only of the fact that he is in receipt of a pension or other like allowance.

(6) In this Constitution, unless the context otherwise requires, a reference to the holder of an office by the term designating his office shall be construed as including, to the extent of his authority, a reference to any person for the time being authorized to exercise the functions of that office.

(7) Except in the case where this Constitution provides for the holder of any office thereunder to be such person holding or acting in any other office as may for the time being be designated in that behalf by some other specified person or authority, no person may, without his consent, be nominated for election to any such office or be appointed to or to act therein or otherwise be selected therefor.

(8) References in this Constitution to the power to remove a public officer from his office shall be construed as including references to any power conferred by any law to require or permit that officer to retire from the public service:

Provided that-

a) nothing in this subsection shall be construed as conferring on any person or authority the power to require the Director of Audit to retire from the public service; and

b) any power conferred by any law to permit a person to retire from the public officer who may be removed from office by some person or authority other than a Commission established by this Constitution, vest in the Public Service Commission.

(9) Any provision in this Constitution that vests in any person or authority the power to remove any public officer from his office shall be without prejudice to the power of any person of authority to abolish any office or to any law providing for the compulsory retirement of public officer generally or any class of public officer on attaining an age specified by or under that law.

(10) Where this Constitution vests in any person or authority the power to appoint any person to act in or to exercise the functions of any office if the holder thereof is himself unable to exercise those functions, no such appointment shall be called in question on the grounds that the holder of the office was not unable to exercise those functions.

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

(12) Without prejudice to the provisions of section 14 of the Interpretation Act 1978 (a) (as plied by subsection (15) of this section), where any power is conferred by this Constitution to make any order, regulation or rule or give any direction or make any designation, the power shall be construed as including the power, exercisable in like manner and subject to the like conditions, if any, to amend or revoke any such order, regulation, rule, direction, or designation.

(13) Save as may be otherwise provided by Parliament, the provisions (except sections 2 and 16) of the Commissions of Enquiry Ordinance of Saint Vincent shall apply, with the necessary adaptations, in relation to tribunals appointed under sections 32(6), 77(7), 81(8), 82(8) and 86(6) of this Constitution or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Ordinance.

(14) In this Constitution references to altering this Constitution or any other law, or any provisions thereof, include references-

a) to evoking it, with or without re-enactment thereof or the making of different provisions in lieu thereof;

b) to modifying it whether by omitting or amending any of its provisions or inserting additional provisions in it or otherwise; and

c) to suspending its operation for any period or terminating any such suspension.

(15) The Interpretation Act 1978 shall apply, with the necessary adaptations, for the purpose of interpreting this Constitution as otherwise in relation thereto as it applies for the purpose of interpreting and in relation to Acts of the Parliament of the United Kingdom.

THE SCHEDULE TO THE CONSTITUTION ALTERATION OF CONSTITUTION AND SUPREME COURT ORDER

PART 1
PROVISIONS OF CONSTITUTION REFERRED TO IN SECTION 38(3)

(i) Chapter 1;
(ii) sections 19, 20 and 50;
(iii) sections 23, 24(1), 27, 28, 32, 33 (except the number of constituencies), 34, 36, 37, 43, 47, 48 and 49;
(iv) section 64;
(v) Chapter V;
(vi) Chapter VI (except sections 86 as 87);
(vii) Chapter VIII;
(viii) section 105 in its application to any of the provisions mentioned in this Schedule.

PART 2
PROVISIONS OF SUPREME COURT ORDER REFERRED TO IN SECTION 38(3)

Section 4, 5, 6, 8, 11, 18 and 19.

Trinidad e Tobago

THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO (1976)

Whereas the People of Trinidad and Tobago-

a) have affirmed that the Nation of Trinidad and Tobago is founded upon principles that acknowledge the supremacy of God, faith in fundamental human rights and freedoms, the position of the family in a society of free men and free institutions, the dignity of the human person and the equal and inalienable rights with which all members of the human family are endowed by their Creator;

b) respect the principles of social justice and therefore believe that the operation of the economic system should result in the material resources of the community being so distributed as to subserve the common good, that there should be adequate means of livelihood for all, that labour should not be exploited or forced by economic necessity to operate in inhumane conditions by that there should be an opportunity for advancement on the basis of recongnition of merit, ability and integrity;

c) have asserted their belief in a democratic society in which all persons may, to the extent of their capacity, play some part in the institutions of the national life and thus develop and maintain due respect for lawfully constituted authority;

d) recognise that men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law;

e) desire that their Constitution should enshrine the above mentioned principles and beliefs and make provision for ensuring the protection in Trinidad and Tobago of fundamental human rights and freedoms;

Now, therefore, the following provisions shall have effect as the Constitution of the Republic of Trinidad and Tobago:

PRELIMINARY

1. The State

(1) The Republic of Trinidad and Tobago shall be a sovereign democratic State.

(2) Trinidad and Tobago shall comprise the Island of Trinidad, the Island of Tobago and any territories that immediately before the 31st day of August, 1962 were dependencies of Trinidad and Tobago, including the seabed and subsoil situated beneath the territorial sea and the continental shelf of Trinidad and Tobago ("territorial sea" and "continental shelf" here having the same meaning as in the Territorial Sea Act, 1969 and the Continental Shelf Act, 1969, respectively), together with such other areas as may be declared by Act to form part of the territory of Trinidad and Tobago.

2. The Supreme Law

This Constitution is the supreme law of Trinidad and Tobago, and any other law that is inconsistent with this Constitution is void to the extent of the inconsistency.

3. Interpretation

(1) In this Constitution-

"the Cabinet" means the Cabinet constituted under this Constitution;

"the Commonwealth" means Trinidad and Tobago, any country to which section 18 applies and any dependency of any such country;

"Court" means any court of law in Trinidad and Tobago other than a court martial and shall be construed as including the Judicial Committee;

"financial year" means any period of twelve months beginning on the first day of January in any year or such other date as may be prescribed;

"general election" means a general election of members to serve in the House of Representatives;

"House" means either the House of Representatives or the Senate as the context may require;

"Judge" includes the Chief Justice, a Judge of Appeal and a Puisne Judge;

"Judicial Committee" means the Judicial Committee of the Privy Council established by the Judicial Committee Act, 1833 of the United Kingdom as from time to time emended by any Act of Parliament of the United Kingdom;

"law" includes any enactment, and any Act or statutory instrument of the United Kingdom that before the commencement of this Constitution has effect as part of the law of Trinidad and Tobago, having the force of law and any unwritten rule of law;

"oath" includes affirmation;

"oath of allegiance" means the oath of allegiance set out in the First Schedule or such other oath as may be prescribed;

"Parliament" means the Parliament of Trinidad and Tobago;

"parliamentary election" means an election of a member or members to serve in the House of Representatives;

"prescribed" means prescribed by or under an Act of Parliament;

"public office" means an office of emolument in the public service;

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

"public service" means subject to the provisions of subsections (4) and (5), the service of the Government of Trinidad and Tobago or of the Tobago House of Assembly established by section 3 of the Tobago House of Assembly Act, in a civil capacity;

"Service Commission" means the Judicial and Legal Service Commission, the Public Service Commission, the Police Service Commission or the Teaching Service Commission;

"session" means, in relation to a House, the sittings of that House commencing when it first meets after this Constitution comes into force or after the prorogation or dissolution of Parliament at any time, and terminating when Parliament is prorogued or is dissolved without having been prorogued;

"sitting" means, in relation to a House, a period during which that House is sitting continuously without adjournment, and includes any period during which the House is in committee;

"Trinidad and Tobago" has the meaning attributed to that expression in the Trinidad and Tobago Independence Act, 1962;

"the former Constitution" means the Trinidad and Tobago Constitution set out in the Second Schedule to the Trinidad and Tobago (Constitution) Order-in-Council, 1962.

(2) In this Constitution-

a) a reference to an appointment to any office shall be construed as including a reference to the appointment of a person to act in or perform the functions of that office at any time when the office is vacant or the holder thereof is unable (whether by reason of absence or infirmity of mind or body or any other cause) to perform the functions of that office; and

b) a reference to the holder of an office by the term designating his office shall be construed as including a reference to any person for the time being lawfully acting in or performing the functions of that office.

(3) Where by this Constitution any person is directed, or power is conferred on any person or authority to appoint a person to perform the functions of an office if the holder thereof is unable to perform those functions, the validity of any performance of those functions by the person so directed or of any appointment made in exercise of that power shall not be called in question in any court on the ground that the holder of the office is not unable to perform the functions of the office.

(4) For the purposes of this Constitution a person shall not be considered to hold an office in the public service by reason only that-

a) he is in receipt of a pension or other like allowance in respect of public service;

b) he holds the office of-

i) President;

ii) Speaker, President of the Senate, Deputy Speaker or Vice-President of the Senate, Minister, Parliamentary Secretary, member or temporary member of the Senate or member of the Houser of Representatives;

iii) Ombudsman or member of the Integrity Commission or member of any other Commission established by this Constitution;

iv) Judge or member of a Superior Court of Record or any special judicial tribunal established by Act of Parliament or member of the Public Service Appeal Board;

v) member of any board, commission, committee or similar body, whether incorporated or not, established by any enactment;

vi) member of the personal staff of the President.

c) he is-

i) a consultant or adviser appointed for specific purposes; or

ii) a person appointed on contract for a period not exceeding five years.

(5) Where Parliament so provides, a person shall not be considered for the purposes of this Constitution or any part of this Constitution to hold office in the public service by reason only that he is the holder of a special office established by or under an Act.

(6) Where Parliament so provides, a person shall not be considered for the purposes of this Constitution or any part of this Constitution to hold office in the public service by reason only that he is the holder of a special office established by or under an Act.

(7) Any power conferred by any law to permit a person to retire from the public service shall, in the case of any public officer who may be removed from office by some person or authority other than a Commission established by this Constitution, vest in the Public Service Commission.

(8) Nothing in subsection (6) shall be construed as conferring on any person or authority power to require a Judge or the Auditor General to retire from the public service.

(9) Where any power is conferred by this Constitution to make any proclamation, order, rules or regulations or to give any directions, the power

shall be construed as including a power exercisable in like manner to amend or revoke any such proclamation, order, rules regulations or directions.

CHAPTER 1
THE RECOGNITION AND PROTECTION OF FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

PART I
RIGHTS ENSHRINED

4. Recognition and declaration of rights and freedoms

It is hereby recognised and declared that in Trinidad and Tobago there have existed and shall continue to exist without discrimination by reason of race, origin, colour, religion or sex, the following fundamental human rights and freedoms, namely:-

a) the right of the individual to life, liberty, security of the person and enjoyment of property and the right not to be deprived thereof except by due process of law;

b) the right of the individual to equality before the law and the protection of the law;

c) the right of the individual to respect for his private and family life;

d) the right of the individual to equality of treatment from any public authority in the exercise of any functions;

e) the right to join political parties and to express political views;

f) the right of a parent or guardian to provide a school of his own choice for the education of his child or ward;

g) freedom of movement;

h) freedom of conscience and religious belief and observance;

i) freedom of thought and expression;

j) freedom of association and assembly; and

k) freedom of the press.

5. Protection of rights and freedoms

(1) Except as is otherwise expressly provided in this Chapter and in section 54, no law may abrogate, abridge or infringe or authorise the abrogation, abridgement or infringement of any of the rights and freedoms hereinbefore recognised and declared.

(2) Without prejudice to subsection (1), but subject to this Chapter and to section 54, Parliament may not-

a) authorise or effect the arbitrary detention, imprisonment or exile of any person;

b) impose or authorise the imposition of cruel and unusual treatment or punishment;

c) deprive a person who has been arrested or detained-

i) of the right to be informed promptly and with sufficient particularity of the reason for his arrest or detention;

ii) of the right to retain and instruct without delay a legal adviser of his own choice and to hold communication with him;

iii) of the right to be brought promptly before an appropriate judicial authority;

iv) of the remedy by way of habeas corpus for the determination of the validity of his detention and for his release if the detention is not lawful;

d) authorise a court, tribunal, commission, board or other authority to compel a person to give evidence unless he is afforded protection against self-

incrimination and, where necessary to ensure such protection, the right to legal representation;

e) deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations;

f) deprive a person charged with a criminal offence of the right-

i) to be presumed innocent until proved guilty according to law, but this shall not invalidate a law by reason only that the law imposes on any such person the burden of proving particular facts;

ii) to a fair and public hearing by an independent and impartial tribunal or;

iii) to reasonable bail without just cause;

g) deprive a person of the right to the assistance of an interpreter in any proceedings in which he is involved or in which he is a party or a witness, before a court, commission, board or other tribunal, if he does not understand or speak English; or

h) deprive a person of the right to such procedural provisions as are necessary for the purpose of giving effect and protection to the aforesaid rights and freedoms.

PART II
EXCEPTIONS FOR EXISTING LAW

6. Savings for existing law

(1) Nothing in sections 4 and 5 shall invalidate-

a) an existing law;

b) an enactment that repeals and re-enacts an existing law without alteration; or

c) an enactment that alters an existing law but does not derogate from any fundamental right guaranteed by this Chapter in a manner in which or to an extent to which the existing law did not previously derogate from that right.

(2) Where an enactment repeals and re-enacts with modifications an existing law and is held to derogate from any fundamental right guaranteed by this Chapter in a manner in which or to an extent to which the existing law did not previously derogate from that right then, subject to sections 13 and 54 , the provisions of the existing law shall be substituted for such of the provisions of the enactment as are held to derogate from the fundamental right in a manner in which or to an extent to which the existing law did not previously derogate from that right.

(3) In this section-

"alters" in relation to an existing law, includes repealing that law and re-enacting it with modifications or making different provisions in place of it or modifying it;

"existing law" means a law that had effect as part of the law of Trinidad and Tobago immediately before the commencement of this Constitutions, and includes any enactment referred to in subsection (1);

"right" includes freedom.

PART III
EXCEPTIONS FOR EMERGENCIES

7. Emergency powers

(1) Without prejudice to the power of Parliament to make provision in the premise, but subject to this section, where any period of public emergency exists, the President may, due regard being had to the circumstances of any situation likely to arise or exist during such period make regulations for the purpose of dealing with that situation and issue orders and instructions for the purpose of the exercise of any powers conferred on him or any other person

by any Act referred to in subsection (3) or instrument made under this section or any such Act.

(2) Without prejudice to the generality of subsection (1) regulations made under that subsection may, subject to section 11, make provision for the detention of persons.

(3) An Act that is passed during a period of public emergency and is expressly declared to have effect only during that period or any regulations made under subsection (1) shall have effect even though inconsistent with sections 4 and 5 except in so far as its provisions may be shown not to be reasonably justifiable for the purpose of dealing with the situation that exists during that period.

8. Period of public emergency

(1) Subject to this section, for the purposes of this Chapter, the President may from time to time make a Proclamation declaring that a state of public emergency exists.

(2) A Proclamation made by the President under subsection (1) shall not be effective unless it contains a declaration that the President is satisfied-

a) that a public emergency has arisen as a result of the imminence of a state of war between Trinidad and Tobago and a foreign State;

b) that a public emergency has arisen as a result of the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence or of infectious disease, or other calamity whether similar to the foregoing or not; or

c) that action has been taken, or is immediately threatened, by any person, of such a nature and on so extensive a scale, as to be likely to endanger the public safety or to deprive the community or any substantial portion of the community of supplies or services essential to life.

9. Grounds for, and initial duration of, Proclamation

(1) Within three days of the making of the Proclamation, the President shall deliver to the Speaker for presentation to the House of Representatives a statement setting out the specific grounds on which the decision to declare the existence of a state of public emergency was based, and a date shall be fixed for a debate on this statement as soon as practicable but in any event not later than fifteen days from the date of the Proclamation.

(2) A Proclamation made by the President for the purposes of and in accordance with this section shall, unless previously revoked, remain in force for fifteen days.

10. Extension of Proclamation

(1) Before its expiration the Proclamation may be extended from time to time by resolution supported by a simple majority vote of the House of Representatives, so however, that no extension exceeds three months and the extensions do not in ths aggregate exceed six months.

(2) The Proclamation may be further extended from time to time for not more than three months at any one time, by a resolution passed by both Houses of Parliament and supported by the votes of not less that three-fifths of all the members of each House.

(3) The Proclamation may be revoked at any time by a resolution supported by a simple majority vote of the House of Representatives.

(4) In this Chapter "period of public emergency" means any period during which-

a) Trinidad and Tobago is engaged in any war; or

b) there is in force a Proclamation by the President declaring that a state of public emergency exists; or

c) there is in force a resolution of both Houses of Parliament supported by the votes of not less than two-thirds of all the members of each House declaring that democratic institutions in Trinidad and Tobago are threatened by subversion.

11. Detention of persons

(1) Where any person who is lawfully detained by virtue only of such an Act or regulations as is referred to in section 7 so requests at any time during the period of that detention and thereafter not earlier than six months after he last made such a request during that period, his case shall be reviewed by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice from among the persons entitled to practise in Trinidad and Tobago as barristers or solicitors.

(2) On any review by a tribunal in pursuance of subsection (1) of the case of any detained person, the tribunal may make recommendations concerning the necessity or expediency of continuing his detention to the authority by whom it was ordered but, unless otherwise provided by law, that authority shall not be obliged to act in accordance with such recommendations.

12. Publication

(1) Where at any time it is impracticable or inexpedient to publish in the Gazette any Proclamation, Notice, Regulation or Order in pursuance of this Part, the President may cause the same to be published by notices thereof affixed to public buildings or distributed amongst the public or by oral public announcements.

(2) Upon the publication of any Proclamation under this part all such detention orders, curfew orders or other instruments, directions or instructions as are authorised to be made, issued or given by any regulations referred to in section 7 may be made, issued or given and executed upon any person or authority, even if such regulations have not yet been published pursuant to subsection (1).

PART IV
EXCEPTIONS FOR CERTAIN LEGISLATION

13. Acts inconsistent with sections 4 and 5

(1) An Act to which this section applies may expressly declare that it shal have effect even though inconsistent with sections 4 and 5 and, if any such Act does so declare, it shall have effect accordingly unless the Act is shown not to be reasonably justificable in a society that has a proper respect for the rights and freedoms of the individual.

(2) An Act to which this section applies is one the bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House.

(3) For the purposes of subsection (2) the member of members of the Senate shall, notwithstanding the appointment of temporary members in accordance with section 44, be deemed to be the number of members specified in section 40(1).

PART V
GENERAL

14. Enforcement of the protective provisions

(1) For the removal of doubts it is hereby declared that if any person alleges that any of the provisions of this Chapter has been, is being, or is likely to be contravened in relation to him, then without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the High Court for redress by way of originating motion.

(2) The High Court shall have original jurisdiction-

a) to hear and determine any application made by any person in pursuance of subsection (1), and

b) to determine any question arising in the case of any person which is referred to it in pursuance of subsection (4),

and may, subject to subsection (3), make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing, or securing the enforcement of, any of the provisions of this Chapter to the protection of which the person concerned is entitled.

(3) The State Liability and Proceedings Act, 1966 shall have effect for the purpose of any proceedings under this section.

(4) Where in any proceedings in any court other than the High Court or the Court of Appeal any question arises as to the contravention of any of the provisions of this Chapter the person presiding in that court may, and shall if any party to the proceedings so requests, refer the question to the High Court unless in his opinion the raising of the question is merely frivolous or vexatious.

(5) Any person aggrieved by any determination of the High Court under this section may appeal therefrom to the Court of Appeal and shall be entitled as of right to a stay of execution of the order and may in the discretion of the Court be granted bail.

(6) Nothing in this section shall limit the power of Parliament to confer on the High Court or the Court of Appeal such powers as Parliament may think fit in relation to the exercise by the High Court or the Court of Appeal, as the case may be, of its jurisdiction in respect of the matters arising under this Chapter.

CHAPTER 2
CITIZENSHIP

15. Continuation of citizenship of citizens under section 9 of former Constitution

Any person who became a citizen by birth under section 9(1) or a citizen by descent under section 9(2) of the former Constitution and who has not ceased to be a citizen under that Constitution, shall continue to be a citizen under this Constitution.

16. Continuation of citizenship of citizens by registration, naturalization, etc.

Any person who became a citizen of Trinidad and Tobago by virtue of registration under the former Constitution or by virtue of an acquisition of citizenship under Part II of the Trinidad and Tobago Citizenship Act, 1962, and who has not ceased to be a citizen under any law in force in Trinidad and Tobago shall continue to be a citizen under this Constitution.

17. Acquisition of citizenship by birth or descent. Continuation of citizenship. Retrospective citizenship

(1) Subject to subsection (2), every person born in Trinidad and Tobago after the commencement of this Constitution shall become a citizen of Trinidad and Tobago at the date of his birth.

(2) A person shall not become a citizen of Trinidad and Tobago by virtue of subsection (1), if at the time of his birth-

a) neither of his parents is a citizen of Trinidad and Tobago and either of them possesses such immunity from suit and legal process as is accorded to an envoy of a foreign sovereign power accredited to Trinidad and Tobago; or

b) either of his parents is an enemy alien and the birth occurred in a place then under occupation by the enemy.

(3) A person born outside Trinidad and Tobago after the commencement of this Constitution shall become a citizen of Trinidad and Tobago at the date of his birth if at that date either of his parents is, or was, but for his parent's death, a citizen of Trinidad and Tobago otherwise than by descent, so however that, in the case of a person employed in service under the Government or under an authority of the Government that requires him to reside outside Trinidad and Tobago for the proper discharge of his functions, this subsection shall be read as if the words "otherwise than by descent" were deleted.

(4) Any person who became a citizen by bith under section 12(1) or citizen by descent under section 12(2) of the former Constitution and who has not

ceased to be a citizen under that Constitution, shall continue to be a citizen under this Constitution.

(5) A person born outside Trinidad and Tobago after the 30th August, 1962 whose mother was a citizen of Trinidad and Tobago otherwise than by descent at the date of his birth but who did not become a citizen at that date shall be deemed to have become a citizen at that date and shall continue to be a citizen of Trinidad and Tobago under this Constitution.

18. Commonwealth citizens

(1) Every person who under this Constitution or any Act of Parliament is a citizen of Trinidad and Tobago or, under any law for the time being in force in any country to which this section applies, is a citizen of that country shall, by virtue of that citizenship, have the status of a Commonwealth citizen.

(2) Every person who is a British subject without citizenship under the British Nationality Act, 1948 of the United Kingdom or who continues to be a British subject under section 2 of that Act or who is a British subject under the British Nationality Act, 1965 of the United Kingdom shall, by virtue of that status, have the status of a Commonwealth citizen.

(3) The countries to which this section applies are Australia, the Bahamas, Bangladesh, Barbados, Botswana, Canada, Cyprus, Fiji, the Gambia, Ghana, Grenada, Guyana, India, Jamaica, Kenya, Lesotho, Malawi, Malaysia, Malta, Mauritius, Nauru, New Zealand, Nigeria, Sierra Leone, Singapore, Sri Lanka, Swaziland, Tanzania, Tonga, Uganda, United Kingdom and Colonies, Western Samoa and Zambia.

(4) The President may from time to time, by Order subject to affirmative resolution of the Senate and the House of Representatives amend subsection (3) by adding any Commonwealth country thereto or by deleting any Commonwealth country therefrom.

19. Criminal liability of Commonwealth citizens

(1) A Commonwealth citizen who is not a citizen of Trinidad and Tobago, or a citizen of the Republic of Ireland who is not a citizen of Trinidad and Tobago, shall not be guilty of any offence against any law in force in Trinidad and Tobago by reason of anything done or omitted in any part of the Commonwealth other than Trinidad and Tobago or in the Republic of Ireland or in any foreign country unless-

a) the act or omission would be and offence if he were an alien; and

b) in the case of an act or omission in any part of the Commonwealth or in the Republic of Ireland, it would be an offence if the country in which the act was done or the omission made were a foreign country.

(2) In this section "foreign country" means a country (other than the Republic of Ireland) that is not part of the Commonwealth.

20. Powers of Parliament

Parliament may make provisions relating to citizenship including provision-

a) for the acquisition of citizenship of Trinidad and Tobago by persons who are not or do not become citizens of Trinidad and Tobago by virtue of the provisions of this Chapter;

b) for depriving of his citizenship of Trinidad and Tobago any citizen of Trinidad and Tobago but only on the acquisition of citizenship of some other country in the case of a citizen by birth or descent; or

c) for the renunciation by any person of his citizenship of Trinidad and Tobago.

21. Interpretation of Chapter 2

(1) In this Chapter-

"alien" means a person who is not a Commonwealth citizen, a British protected person or a citizen of the Republic of Ireland;

"British protected person" means a person who is a British protected person for the purposes of the British Nationality Act, 1948 of the United Kingdom;

"citizen by birth" means a person-

a) who is a citizen of Trinidad and Tobago under section 17(1); or

b) who became a citizen of Trinidad and Tobago under section 9(1) or 12(1) of the former Constitution;

"citizen by descent" means a person-

a) who is a citizen of Trinidad and Tobago under section 17(3) or any enactment; or

b) who became a citizen of Trinidad and Tobago under section 9(2) or 12(2) of the former Constitution.

(2) For the purposes of this Chapter, a person born outside Trinidad and Tobago aboard a registered ship or aircraft, or aboard an unregistered ship or aircraft of the government of any country, shall be deemed to have been born in the place in which the ship or aircraft has been registered or, as the case may be, in that country.

CHAPTER 3
THE PRESIDENT

22. Establishment of office and election of President

There shall be a President of Trinidad and Tobago elected in accordance with the provisions of this Chapter who shall be the Head of State and Commander-in-Chief of the armed forces.

23. Qualifications and disqualifications for office of President

(1) A person is qualified to be nominated for election as President if, and is not so qualified unless, he is a citizen of Trinidad and Tobago of the age of thirty-five years or upwards who at the date of his nomination has been ordinarily resident in Trinidad and Tobago for ten years immediately preceding his nomination.

(2) For the purposes of subsection (1) a person shall be deemed to reside in Trinidad and Tobago if he holds an office in the service of the Government of Trinidad and Tobago and lives outside Trinidad and Tobago because he is required to do so for the proper discharge of his functions.

(3) A person is not qualified to be nominated for election as President who is disqualified for election as a memeber of the House of Representatives by virtue of section 48(1) or any law made under section 48(2).

24. Other conditions of office

(1) Where a member of the Senate or the House of Representatives is elected as President, his seat in the Senate or the House of Representatives respectively, shall thereupon become vacant.

(2) Except in the case of a person acting as, or performing the functions of President under section 27, but subject to sections 44(2) and 56(8), the President shall not hold any other office of emolument or profit whether in the public service or otherwise.

(3) The salary and allowances of a President and his other terms of service shall not be altered to his disadvantage after he has assumed office.

25. Transitional provision

(1) The person holding the office of Governor-General of Trinidad and Tobago at the commencement of this Constitution shall hold the office of President under this Constitution until a President is elected under the provisions of this Chapter and assumes office.

(2) Where at any time between the appointed day and the election of the first President of the Senate under section 45, the President under subsection (1) is for any reason unable to perform the functions of President then, until the President under subsection (1) is again able to perform his functions as President those functions shall be performed by the person who last held the office of President of the Senate under the former Constitution.

26. Holding of elections for President

(1) The Speaker of the House of Representatives shall be responsible for the holding of elections for President.

(2) The date of every election under this section shall be announced in the Gazette by the Speaker within such number of days in advance as may be prescribed.

(3) An election for President shall be held not more than one hundred and twenty days nor less than ninety days after the first sitting of the House of Representatives under this Constitution and the President who is so elected shall assume office on the expiration of thirty days next after his election.

(4) Thereafter, an election for President shall be held not more than sixty days nor less than thirty days before the expiration of the term of that office.

(5) Ehere the office of President becomes vacant under section 34 before the expiration of the term of that office prescribed by section 33, an election shall be held to fill the vacancy within ninety days of the occurrence of the vacancy.

(6) Where the date for the assumption of office of a President falls on a Sunday or public holiday the President shall assume office on the next following day that is not a Sunday or public holiday.

(7) Where the time limited for holding an election for President under section (3), (4) or (5) has not been complied with, Parliament may make provision for an extension of the period during which elections may be held.

27. Where office vacant

(1) Where the office of President is vacant or the President is incapable of performing his functions as President by reason of his absence from Trinidad and Tobago or by reason of illness, the President of the Senate shall act temporarily as President.

(2) Where the President of the Senate is for any reason unable to act as President under subsection (1) or section 36(2) the functions of President shall be performed by Speaker.

(3) Where the Speaker is for any reason unable to perform the functions of President under subsection (2), the Vice-President of the Senate shall perform those functions, so however that a meeting of the Electoral College shall be held, upon the summons of the Deputy Speaker giving at least forty-eight hours notice thereof, within seven days of the Vice-President of the Senate commencing to perform the functions of President for the purpose of holding an election of a person to fill the vacancy in the office of President under section 26(5), or of a person to act temporarily as President during such period as the President is incapable of performing his functions.

(4) Upon his election to fill the vacancy in the office of President under section 26(5) or to act temporarily as President during such period as the President is incapable of performing his functions in accordance with subsection (3) the person shall immediately assume office.

28. Electoral College

(1) There shall be an Electoral College for the purposes of this Chapter which shall be a unicameral body consisting of all the members of the Senate and all the members of the House of Representatives assembled together.

(2) The Electoral College shall be convened by the Speaker.

(3) The Speaker shall preside as Chairman over the proceedings of the Electoral College and shall have an original vote.

(4) Subject to this Chapter, the Electoral College may regulate its own procedure and may make provision for the postponement or adjournment of its meetings and such other provisions as may be necessary to deal with difficulties that may arise in the carrying out of elections under this Chapter.

(5) Ten Senators, the Speaker and twelve other members of the House of Representatives shall constitute a quorum of the Electoral College.

29. Mode of elections

The President shall be elected by the Electoral College voting by secret ballot.

30. Nomination of candidates

A person shall not be a condidate for election as President unless he is nominated for election by a nomination paper which-

a) is signed by him and by twelve or more members of the House of Representatives; and

b) is delivered to the Speaker at least seven days before the election.

31. Procedure for balloting

(1) The candidate who is unopposed or who obtains the greatest number of the votes cast shall be declared elected.

(2) Where the votes cast for two or more candidates are equally divided the Speaker shall have and exercise a casting vote.

32. Determination of questions as to election

(1) Subject to subsection (2), an instrument which-

a) in the case of an uncontested election for the office of President is signed and sealed by the Speaker and states that a person named in the instrument

was the only person nominated for the election and was in consequence declared elected; or

b) in the case of a contested election is signed and sealed by the Speaker and states that a person named in the instrument was declared elected at that meeting in consequence of the ballot,

shall be conclusive evidence that the person so named was so elected, and no question as to the validity of the election of the person so named shall be inquired into in any court.

(2) The Court of Appeal shall have exclusive jurisdiction to hear and determine any question as to the validity of an election of a President in so far as that question depends upon the qualification of any person for election or the interpretation of this Chapter, and the decision of that Court under this subsection shall be final.

(3) Parliament may make provisions with respect to the persons by whom, the manner in which and the conditions upon which the proceedings under subsection (2) may be instituted in the Court of Appeal and subject to any provisions so made, provisions may be made with respect to these matters by rules of court. Until such provisions or rules are made the procedure for moving the Court of Appeal shall be by way of a representation petition.

33. Term of office

(1) Subject to this section and to sections 34 and 36, a President elected at an election under section 26(3) or (4) shall hold office for a term of five years.

(2) Parliament may make provision for the postponement of the date of expiration of the term of office of the President under subsection (1), for a period not exceeding four months, in order to avoid the holding of an election for that office during a period of dissolution of Parliament or at a time too close to the beginning or to the end of such a period.

(3) Where for any reason at the date on which the term of office of the President is due to expire under subsection (1) or (2) there is no person entitled by

election under section 26(4) to fill the office of President upon its expiration, the current term of that office shall continue until thirty days after a person is elected to the office of President whereupon the current term of that office shall expire.

(4) Where a person is elected to fill a vacancy in the office of President in an election under section 26(5) he shall hold office only for the unexpired portion of the term of office of his predecessor.

34. Vacation of office

The office of President shall become vacant before the expiration of the term of his office as prescribed by section 33 where-

a) the person holding that office dies or resigns the office by writing signed by him addressed to the House of Representatives and delivered to the Speaker; or

b) he is removed from office under section 36.

35. Removal from office

The President may be removed from office under section 36 where-

a) he wilfully violates any provision of the Constitution;

b) he behaves in such a way as to bring his office into hatred, ridicule or contempt;

c) he behaves in a way that endangers the security of the State; or

d) because of physical or mental incapacity, he is unable to perform the functions of his office.

36. Procedure for removal from office

(1) The President shall be removed from office where-

a) a motion that his removal from office should be investigated by a tribunal is prosed in the House of Representatives;

b) the motion states with full particulars the grounds on which his removal from office is proposed, and is signed by not less than one-third of the total membership of the House of Representatives;

c) the motion is adopted by the vote of not less than two-thirds of the total membership of the Senate and the House of Representatives assembled together;

d) a tribunal consisting of the Chief Justice and four other Judges appointed by him, being as far as practicable the most senior Judges, investigate the complaint and report on the facts to the House of Representatives;

e) the Senate and the House of Representatives assembled together on the summons of the Speaker consider the report and by resolution supported by the votes of not less than two-thirds of the total membership of the Senate and the House of Representatives assembles together declare that he shall be removed from office.

(2) Where a motion is adopted as is provided for in subsection (1)(a), (b) and (c) the President shall cease to perform any of his functions as President and the President of the Senate shall act temporarily as President.

(3) The procedure of the tribunal shall be such as is prescribed, but, subject to such procedure, the tribunal may regulate its own procedure.

(4) Upon the adoption of the resolution in accordance with subsection (1)(c) the office shall become vacant.

37. Oath

(1) A President shall before entering upon the duties of his office take and subscribe the oath of office set out in the First Schedule, such oath being administered by the Chief Justice or such other Judge as may be designated by the Chief Justice.

(2) Subsection (1) shall apply to any person required under this Constitution to perform the functions of the office of President as it applies to a person elected as such.

38. Immunities of President

(1) Subject to section 36, the President shall not be answerable to any court for the performance of the functions of his office or for any act done by him in the performance of those functions.

(2) Without the fiat of the Director of Public Prosecutions, no criminal proceedings shall be instituted or continued against the President in any court during his term of office and no process for the President's arrest or imprisonment shall be issued from any court or shall be executed during his term of office.

(3) No civil proceedings in which relief is claimed against the President shall be instituted during his term of office in any court in respect of any act done by him in his personal capacity whether before or after he entered the office of President, except on the condition specified in subsection (4).

(4) The condition referred to in subsection (3) is that two months must elapse after a notice in writing has been served on him either by registered post or by being left at his office stating the nature of the proceedings, the cause of action, the name, description and address of the party instituting the proceedings and the relief claimed.

(5) A period of limitation prescribed by law shall not run in favour of the President in respect of a civil action during the period of two months after a notice in respect of that action has been served on him under subsection (4).

CHAPTER 4
PARLIAMENT

PART I
COMPOSITION OF PARLIAMENT

ESTABLISHMENT

39. Establishment of Parliament

There shall be a Parliament of Trinidad and Tobago which shall consist of the President, the Senate and the House of Representatives.

THE SENATE

40. Composition of Senate

(1) The Senate shall consist of thirty-one members (in this Constitution referred to as "Senators") who shall be appointed by the President in accordance with this section.

(2) Of the thirty-one Senators-

a) sixteen shall be appointed by the President acting in accordance with the advice of the Prime Minister;

b) six shall be appointed by the President acting in accordance with the advice of the Leader of the Opposition; and

c) nine shall be appointed by the President in his discretion from outstanding persons from economic or social or community organizations and other major fields of endeavour.

41. Qualifications for appointment as Senator

Subject to section 42, a person shall be qualified to be appointed as a Senator if, and shall not be qualified to be so appointed unless, he is a citizen of Trinidad and Tobago of the age of twenty-five years or upwards.

42. Disqualifications for appointment as Senator

(1) No person shall be qualified to be appointed as a Senator who-

a) is a citizen of a country other than Trinidad and Tobago having become such a citizen voluntarily or is under a declaration of allegiance to such a country;

b) is a member of the House of Representatives,

c) is an undischarged bankrupt having been adjudged or otherwise declared bankrupt under any law in force in Trinidad and Tobago;

d) is mentally ill, within the meaning of the Mental Health Act, 1975;

e) is under sentence of death imposed on him by a court or is serving a sentence of imprisonment, by whatever name called, exceeding twelve months imposed on him by a court or substituted by competent authority for some other sentence imposed on him by a court, or is under such a sentence of imprisonment the execution of which has been suspended;

f) is disqualified for membership of the House of Representatives by virtue of any law in force in Trinidad and Tobago by reason of his having been convicted of any offence relating to elections; or

g) is not qualified to be registered as an elector at a Parliamentary election under any law in force in Trinidad and Tobago.

(2) Parliament may provide that, subject to such exceptions and limitations, if any, as may be prescribed, a person shall be disqualified for membership of the Senate by virtue of-

a) his holding or acting in any office or appointment, either individually or by reference to a class of office or appointment;

b) his belonging to any of the armed forces of the State or to any class of person that is comprised in any such force; or

c) his belonging to any police force or to any class of person that is comprised in any such force.

(3) For the purposes of subsection (1)(e)-

a) two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds twelve months, but if any one of such sentences exceeds that term they shall be regarded as one sentence; and

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

43. Tenure of office of Senators

(1) Every Senator shall vacate his seat in the Senate at the next dissolution of Parliament after his appointment.

(2) A Senator shall also vacate his seat in the Senate where-

a) he is absent from the sittings of the Senate for such period and in such circumstances as may be prescribed in the rules of procedure of the Senate;

b) with his consent, he is nominated as a candidate for election to the House of Representatives, or he is elected to be a member of the House of Representatives;

c) he ceases to be a citizen of Trinidad and Tobago;

d) subject to the provisions of subsection (3) any circumstances arise that, if he were not a Senator, would cause him to be disqualified for appointment as such by virtue of subsection (1) of section 42 or any law enacted in pursuance of subsection (2) of that section; or

e) the President, acting in accordance with the advice of the Prime Minister in the case of a Senator appointed in accordance with that advice, or in accordance with the advice of the Leader of the Opposition in the case of a Senator

appointed in accordance with that advice, or in his discretion in the case of a Senator appointed by him in his discretion, declares the seat of that Senator to be vacant.

(3) Where circumstances such as are referred to in subsection (2)(d) arise because a Senator is under sentence of death or imprisonment, is mentally ill, declared bankrupt or convicted of an offence relating to elections, and where it is open to the Senator to appeal against the decision, either with the leave of a court or other authority or without such leave, he shall forthwith cease to perform his functions as a Senator, so however that, subject to the provisions of this section, he shall not vacate his seat until the expiration of a period of thirty days thereafter.

(4) The President of the Senate may, from time to time, extend that period for further periods of thirty days to enable the Senator to pursue an appeal against the decision, so however, that extensions of time exceeding in the aggregate one hundred and fifty days shall not be given without the approval, signified by resolution, of the Senate.

(5) Where on the determination of an appeal, such circumstances continue to exist and no further appeal is open to the Senator, or where, by reason of the expiration of any period for entering an appeal or notice thereof or the refusal of leave to appeal or for any other reason, it ceases to be open to the Senator to appeal, he shall forthwith vacate his seat.

(6) Where at any time before the Senator vacates his seat, such circumstances as are mentioned in this section cease to exist, his seat shall not become vacant on the expiration of the period referred to in subsection (3) and he may resume the performance of his functions as a Senator.

44. Appointment of temporary Senators

(1) Where a Senator has temporarily vacated his office under subsection (2) or is incapable of performing his functions a Senator by virtue of the provisions of section 43(3) or by reason of-

a) his absence from Trinidad and Tobago, or

b) illness,

the President may appoint a person qualified for appointment as a Senator to be temporarily a member of the Senate during such vacation of office, suspension, absence or illness.

(2) Where the President of the Senate or the Vice-President of the Senate is acting as, or temporarily performing the functions of, President in accordance with section 27 then, without prejudice to the power of the Prime Minister, the Leader of the Opposition, or the President, as the case may be, with respect to appointments under section 40(2), the person holding the office of President of the Senate or Vice-President of the Senate shall vacate that office temporarily during such period as he is acting as, or temporarily performing the functions of, President.

(3) Section 43(1) and (2) shall apply in relation to a person appointed under this section as they apply in relation to a Senator, except that paragraph (d) of the said subsection (2) shall apply as if it were not expressed to be subject to subsection (3) of the said section 43, and an appointment made under this section shall in any case cease to have effect if the person appointed is notified by the President that the circumstances giving rise to his appointment have ceased to exist.

(4) in the exercise of the powers conferred upon him by this section the President shall act-

a) in accordance with the advice of the Prime Minister in relation to a Senator appointed in pursuance of section 40(2)(a);

b) in accordance with the advice of the leader of the opposition in relation to a Senator appointed in pursuance of section 40(2)(b); and

c) in accordance with his own judgement in relation to a Senator appointed by him pursuant to section 40(2)(c).

45. President and Vice-President of the Senate

(1) when the Senate first meets after any general election and before it proceeds to the despatch of any other business, it shall elect a Senator, to be President

of the Senate; and, if the office of President of the Senate falls vacant at any time before the next dissolution of Parliament, the Senate shall, as soon as practicable, elect another Senator to that office.

(2) When the Senate first meets after any general election and before it proceeds to the despatch of any other business except the election of the President of the Senate, it shall electe a Senator to be Vice-President of the Senate; and if the office of Vice-President of the Senate falls vacant at any time before the next dissolution of Parliament, the Senate shall, as soon as convenient, elect another Senator to that office.

(3) The Senate shall not elect a Senator who is a Minister or Parliamentary Secretary to be the President of the Senate or the Vice-President of the Senate.

(4) A person shall vacate the office of President of the Senate or Vice-President of the Senate where-

a) he ceases to be a Senator; so however that the President of the Senate shall not vacate his office by reason only that he has ceased to be a Senator on a dissolution of Parliament until the Senate first meets after that dissolution;

b) he is appointed to be a Minister or a Parliamentary Secretary;

c) he announces the resignation of his office to the Senate or where, by writing under his hand addressed, in the case of the President of the Senate, to the Clerk of the Senate, and in the case of the Vice-President of the Senate to the president of the Senate (or, where the office of President of the Senate is vacant or the President of the Senate is absent from Trinidad and Tobago, to the Clerk of the Senate), he resigns that office.

(5) Where, by virtue of section 43(3) the President of the Senate or Vice-President of the Senate is required to cease to perform his functions as a Senator he shall also cease to perform his functions as President of the Senate or Vice-President of the Senate as the case may be, and those functions shall, until he vacates his seat in the Senate or resumes the performance of the functions of his office, be performed-

a) in the case of the President of the Senate by the Vice-President of the Senate or if the office of Vice-President of the Senate is vacant or the Vice-President of the Senate is required to cease to perform his functions as a Senator by virtue of section 43(3) by such Senator not being a Minister or Parliamentary Secretary, as the Senate may elect for the purpose;

b) in the case of the Vice-President of the Senate by such Senator not being a Minister or Parliamentary Secretary, as the Senate may elect for the purpose.

(6) Where the President of the Senate or Vice-President of the Senate resumes the performance of his functions as a Senator, in accordance with the provisions of section 43(6) he shall also resume the performance of his functions as President of the Senate or Vice-President of the Senate, as the case may be.

THE HOUSE OF REPRESENTATIVES

46. Composition of House of Representatives

(1) Subject to the provisions of this section, the House of Representatives shall consist of members who shall be elected in the manner provided by Parliament.

(2) There shall be thirty-six members of the House of Representatives or such other number of members as corresponds with the number of constituencies as provided for by an Order made by the President under section 72.

(3) Where any person who is not a member of the House of Representatives is elected to be Speaker of the House he shall, by virtue of holding the office of Speaker, be a member of the House in addition to the thirty-six or other number of members aforesaid.

47. Qualifications for election as member

Subject to the provisions of section 48, a person shall be qualified to be elected as a member of the House of Representatives if, and shall not be qualified to be so elected unless, he-

a) is a citizen of Trinidad and Tobago of the age of eighteen years or upwards, and

b) has resided in Trinidad and Tobago for a period of two years immediately before the date of his nomination for election or is domiciled and resident in Trinidad and Tobago at that date.

48. Disqualifications for election as member

(1) No person shall be qualified to be elected as a member of the House of Representatives who-

a) is a citizen of a country other than Trinidad and Tobago having become such a citizen voluntarily, or is under a declaration of allegiance to such a country;

b) is an undischarged bankrupt having been adjudged or otherwise declared bankrupt under any law in force in Trinidad and Tobago;

c) is mentally ill, within the meaning of the Mental Health Act, 1975;

d) is under sentence of death imposed on him by a court or is serving a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him by a court or substituted by competent authority for some other sentence imposed on him by a court, or is under such a sentence of imprisonment the execution of which has been suspended;

e) is disqualified for membership of the House of Representatives by any law in force in Trinidad and Tobago by reason of his holding, or acting in, any office the functions of which involve-

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

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

f) is disqualified for membership of the House of Representatives by virtue of any law in force in Trinidad and Tobago by reason of his having been convicted of any offence relating to elections; or

g) is not qualified to be registered as an elector at a Parliamentary election under any law in force in Trinidad and Tobago.

(2) Parliament may provide that, subject to such exceptions and limitations, if any, as may be prescribed, a person may be disqualified for membership of the House of Representatives by virtue or-

a) his holding or acting in any office or appointment (either individually or by reference to a class of office or appointment);

b) his belonging to any of the armed forces of the State or to any class of person that is comprised in any such force; or

c) his belonging to any police force or to any class of person that is comprised in any such force.

(3) For the purposes of paragraph (d) of subsection (1)-

a) two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds twelve months, but if any one of such sentences exceeds that term they shall be regarded as one sentence; and

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

49. Tenure of office of members

(1) Every member of the House of Representatives shall vacate his seat in the House at the next dissolution of Parliament election.

(2) A member of the House of Representatives shall also vacate his seat in the House where-

a) he resigns it by writing under his hand addressed to the Speaker, or where the office of Speaker is vacant or the Speaker is absent from Trinidad and Tobago, to the Deputy Speaker;

b) he is absent from the sittings of the House for such period and in such circumstances as may be prescribed in the rules of procedure of the House;

c) he ceases to be a citizen of Trinidad and Tobago;

d) subject to the provisions of subsection (3), any circumstances arise that, if he were not a member of the House of Representatives, would cause him to be disqualified for election thereto by virtue of subsection (1) of section 48 or any law enacted in pursuance of subsection (2) of that section.

(3) Where circumstances such as are referred to in paragraph (d) of subsection (2) arise because any member of the House of Representatives is under sentence of death or imprisonment, is mentally ill, declared bankrupt or convicted of an offence relating to elections, and where it is open to the member to appeal against the decision, either with the leave of a court or other authority or without such leave, he shall forthwith cease to perform his functions as a member of the House so however, that subject to the provisions of this section, he shall not vacate his seat until the expiration of a period of thirty days thereafter.

(4) The Speaker may, from time to time, extend that period for further periods of thirty days to enable the member to pursue an appeal against the decision, so however, that extensions of time exceeding in the aggregate one hundred and fifty days shall not be given without the approval, signified by resolution, of the House.

(5) Where on the determination of any appeal, such circumstances continue to exist and no futher appeal is open to the member, or where, by reason of the expiration of any period of entering an appeal or notice thereof or the refusal of leave to appeal or, for any other reason, it ceases to be open to the member to appeal, he shall forthwith vacate his seat.

(6) Where at any time before the member of the House vacates his seat such circumstances as are mentioned in this section cease to exist his seat shall not

become vacant on the expiration of the period referred to insubsection (3) and he may resume the performance of his functions as a member of the House.

50. Speaker and Deputy Speaker

(1) When the House of Representatives first meets after any general election and before it proceeds to the despatch of any other business, it shall elect a person to be the Speaker of the House; and if the office of Speaker falls vacant at any time before the next dissolution of Parliament, the House shall, as soon as practicable, elect another person to that office.

(2) The Speaker may be elected either from among the members of the House of Representatives who are not Ministers or Parliamentary Secretaries or subject to subsection (3), from among persons who are not members of either House.

(3) A person who is not a member of either House shall not be elected Speaker where-

a) he is not a citizen of Trinidad and Tobago; or

b) he is a person disqualified for election as a member of the House of Representatives by virtue of subsection (1) of section 48 or any law enacted in pursuance of subsection (2) of that section.

(4) When the House of Representatives first meets after any general election and before it proceeds to the despatch of any other business except the election of the Speaker, the House shall elect a member of the House, who is not a Minister or a Parliamentary Secretary, to be Deputy Speaker of the House; and if the office of Deputy Speaker falls vacant at any time before the next dissolution of Parliament, the House shall, as soon as practicable, elect another such member to that office.

(5) A person shall vacate the office of Speaker or Deputy Speaker-

a) in the case of a Speaker elected from among the members of the House of Representatives or in the case of the Deputy Speaker-

i) where he ceases to be a member of the House, so however that the Speaker shall not vacate his office by reason only that he has ceased to be a member of the House in a dissolution of Parliament, until the House first meets after that dissolution;

ii) where he is appointed to be a Minister or a Parliamentary Secretary;

b) in the case of a Speaker elected from among persons who are not members of either House-

i) when the House first meets after any dissolution of Parliament;

ii) where he ceases to be a citizen of Trinidad and Tobago; or

iii) where any circumstances arise that would cause him to be disqualified for election as a member of the House by virtue of subsection (1) of section 48 or any law enacted in pursuance of subsection (2) of that section;

c) where he announces the resignation of his office to the House of Representatives or if by writing under his han addressed, in the case of the Speaker to the Clerk of the House and in the case of the Deputy Speaker to the Speaker, or, if the office of Speaker is vacant or the Speaker is absent from Trinidad and Tobago, to the Clerk of the House, he resigns that office; or

d) in the case of the Deputy Speaker, where he is elected to be Speaker.

(6) Where, by virtue of section 49(3) the Speaker or Deputy Speaker is requird to cease to perform his functions as a member of the House of Representatives or where, in the case of the Speaker, by reason of circumstances referred to in subsection (8) or (9), ha has temporarily vacated his office, he shall also cease to perform his functions as Speaker or Deputy Speaker, as the case may be, and those functions shall, until he vacates his

seat in the House or resumes the performance of the functions of his office, be performed-

a) in the case of the Speaker, by the Deputy Speaker or, if the office of Deputy Speaker is vacant or the Deputy Speaker is required to cease to perform his functions as a member of the House of Representatives by virtue of section 49(3) by such member of the House, not being a Minister or Parliamentary Secretary, as the House may elect for the purpose;

b) in the case of the Deputy Speaker, by such member of the House not being a Minister of Parliamentary Secretary, as the House may elect for the purpose.

(7) Where the Speaker or Deputy Speaker resumes the performance of his functions as a member of the House, in accordance with the provisions of section 49(3) he shall also resume the performance of his functions as Speaker or Deputy Speaker, as the case may be.

(8) Where the Speaker is acting as or performing the functions of President under section 27, he shall vacate the office of Speaker temporarily during such period as he is acting as, or temporarily performing the functions of, President.

(9) Upon delivery by the Clerk of the House to the Speaker of a resolution signed by a majority of the members of the House that the Speaker may be removed from office, (hereinafter referred to as "the resolution") the Speaker shall vacate his office temporarily and cease to perform his functions as Speaker.

(10) The resolution shall state the grounds on which the Speaker's removal from office is proposed.

(11) The Speaker may, within twenty-one days of the delivery of the resolution, supply to the Clerk of the House in writing any grounds on which he resists his removal from office, and the Clerk of the House shall supply a copy thereof to each member of the House.

(12) Unless a motion in support of the resolution is moved in the House-

a) within fourteen days of the receipt by the Clerk of the House of the grounds supplied by the speaker; or

b) where no such grounds have been supplied, within fourteen days of the time prescribed therefor, the Speaker shall resume the performance of his functions as Speaker.

(13) For the purposes of subsection (9) a resolution left at the office of the Speaker shall be deemed to be delivered at the time it is so left.

(14) Where the motion in subsection (12) is passed, the Clerk of the House shall within seven days of the passing of the motion referred to in subsection (12) transmit the records of proceedings in the House to a Special Tribunal comprising a Chairman and two other members appointed by the President after consultation with the Prime Minister and the Leader of the Opposition, thereinafter referred to as "the Tribunal".

(15) The record shall include the resolution, the grounds supplied by the Speaker and the speeches made by Members of the House upon debate of the resolution.

(16) The Tribunal shall review the record and within twenty-one (21) days of its receipt of the record shall make a recommendation to the House accompanied by a brief statement of its reasons therefor either-

a) confirming that the Speaker should vacate office; or

b) withholding confirmation.

(17) Where the Tribunal confirms that the Speaker shall do so immediately upon delivery to him of the confirmation of the Tribunal by the Clerk of the House.

(18) Where the Tribunal withholds confirmation the House by resolution may resolve not to follow the recommendation of the Tribunal and to confirm the motion that the Speaker should vacate office and where such a resolution is passed the Speaker shall vacate his office immediately.

(19) During the period of review by the Tribunal the Speaker shall not resume performance of his functions as Speaker.

51. Qualifications of voters

Subject to such disqualifications as Parliament may prescribe, a person shall be qualified to vote at an election of member to serve in the House of Representatives if, and shall not be qualified to vote at such an election unless, he-

a) is a Commonwealth citizen (within the meaning of section 18) of the age of eighteen years or upwards; and

b) has such other qualifications regarding residence or registration as may be prescribed.

GENERAL

52. Determination of questions as to membership

(1) any question whether:-

a) any person has been validly appointed as a Senator or validly elected as a member of the House of Representatives;

b) any Senator or member of the House of Representatives has vacated his seat or is required, under the provisions of section 43(3) or section 49(3) to cease to exercise any of his functions as a Senator or as a member of the House of Representatives; or

c) any person has been validly elected as Speaker of the House of Representatives from among persons who are not Senators or members of the House of Representatives, shall be determined by the High Court.

(2) Proceedings for the determination of any question referred to in subsection (1) shall not be instituted except with the leave of a Judge of the High Court.

(3) An appeal shall lie to the Court of Appeal from-

a) the decision of a Judge of the High Court granting or refusing leave to institute proceedings for the determination of any question referred to in subsection (1);

b) the determination by the High Court of any such question.

(4) No appeal shall lie from any decision of the Court of Appeal given in an appeal brought in accordance with subsection (3).

PART II
POWERS, PRIVILEGES AND PROCEDURE OF PARLIAMENT

53. Power to make laws

Parliament may make laws for the peace, order and good government of Trinidad and Tobago, so however that the provisions of this Constitution or (in so far as it forms part of the law of Trinidad and Tobago) the Trinidad and nidad and Tobago Independence Act, 1962 of the United Kingdom may not be altered except in accordance with the provisions of section 54.

54. Alteration of this Constitution

(1) Subject to the provisions of this section, Parliament may alter any of the provisions of this Constitution or (in so far as it forms part of the law of Trinidad and Tobago) any of the provisions of the Trinidad and Tobago Independence Act, 1962.

(2) In so far as it alters-

a) section 4 to 14, 20(b), 21, 43(1), 53, 58, 67(2), 70, 83, 101, to 108, 110, 113, 116 to 125 and 133 to 137; or

b) section 3 in its application to any of the provisions of this Constitution specified in paragraph (a),

a Bill for an Act under this section shall not be passed by Parliament unless at the final vote thereon in each House it is supported by the votes of not less than two-thirds of all the members of each House.

(3) In so far as it alters-

a) this section;

b) sections 22, 23, 24, 26, 28 to 34, 38 to 40, 46, 49(1), 51, 55, 61, 63, 64, 68, 69, 71, 72, 87 to 91, 93, 96(4) and (5), 97, 109, 115, 138, 139 or the Second and Third Schedules;

c) section 3 in its application to any of the provisions specified in paragraph (a) or (b); or

d) any of the provisions of the Trinidad and Tobago Independence Act, 1962,

a Bill for an Act under this section shall not be passed by Parliament unless it is supported at the final vote thereon-

i) in the House of Representatives by the votes of not less than three-fourths of all the members of the House; and

ii) in the Senate by the votes of not less than two-thirds of all the members of the Senate.

(4) For the purposes of subsections (2) and (3) the number of members of the Senate shall, even though circumstances requiring the appointment of temporary members in accordance with section 44(1) have arisen, continue to be the number of members specified in section 40(1).

(5) No Act other than an Act making provision for any particular case or class of case, inconsistent with provisions of this Constitution, not being those referred to in subsections (2) and (3), shall be construed as altering any of the provisions of this Constitution, or (in so far as it forms part of the law of Trinidad and Tobago) any of the provisions of the Trinidad and Tobago Independence Act, 1962, unless it is stated in the Act that it is an Act for that purpose.

(6) In this section references to the alteration of any of the provisions of this Constitution or the Trinidad and Tobago Independence Act, 1962, include references to repealing it, with or without re-enactment thereof or the making of different provisions in place thereof or the making of provision for any particular case or class of case inconsistent therewith, to modifying it and to suspending its operation for any period.

55. Privileges and immunities of Parliament

(1) Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of the Senate and House of Representatives, there shall be freedom of speech in the Senate and House of Representatives.

(2) No civil or criminal proceedings may be instituted against any member of either House for words spoken before, or written in a report to, the House of which he is a member or in which he has a right of audience under section 62 or a committee thereof or any joint committee or meeting of the Senate and House of Representatives or by reason of any matter or thing brought by him therein by petition, bill, resolution, motion or otherwise; or for the publication by or under the authority of either House of any report, paper, votes or proceedings.

(3) In other respects, the powers, privileges and immunities of each House and of the members and the committees of each House, shall be such as may from time to time be prescribed by Parliament after the commencement of this Constitution and until so defined shall be those of the House of Commons of the Parliament of the United Kingdom and of its members and committees at the commencement of this Constitution.

(4) A person called to give any evidence before either House or any committee shall enjoy the same privileges and immunities as a member of either House.

56. Regulation of procedure in Houses of Parliament

(1) Subject to the privisions of this Constitution, each House may regulate its own procedure.

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

57. Oath of allegiance

No member of either House shall take part in the proceedings of that House (other than proceedings necessary for the purposes of this section) until he has made and subscribed before that House the oath of allegiance, so however, that the election of a Speaker and Deputy Speaker of the House of Representatives and the election of a President of the Senate and Vice-President of the Senate may take place before the members of the House of Representatives, or the members of the Senate, as the case may be, have made and subscribed such oath.

58. Presiding in Senate and House of Representatives

(1) The President of the Senate or, in his absence, the Vice-President of the Senate or, where they are both absent, a Senator, not being a Minister or a Parliamentary Secretary, elected by the Senate for that sitting shall preside at each sitting of the Senate.

(2) The Speaker or, in his absence, the Deputy Speaker or, where they are both absent, a member of the House of Representatives, not being a Minister or a Parliamentary Secretary, elected by the House for that sitting shall preside at each sitting of the House.

(3) References in this section to circumstances in which the President of the Senate or Vice-President of the Senate, Speaker or Deputy Speaker is absent include references to circumstances in which the office of President of the Senate or Vice-President of the Senate, Speaker or Deputy Speaker is vacant.

59. Voting

(1) Save as otherwise provided in this Constitution, all questions proposed for decision in either House shall be determined by a majority of the votes of the members thereof present and voting.

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

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

60. Quorum

(1) A quorum of the House of Representatives shall consist of twelve members of the House and a quorum of the Senate shall consist of ten Senators, so however that the person presiding at the sitting of either House shall not be included in reckoning whether there is a quorum of that House present.

(2) Where at any sitting of either House any member of the House who is present draws the attention of the person presiding at the sitting of the absence of a quorum and, after such interval as may be prescribed by that House, the person presiding at the sitting ascertains that a quorum of the House is still not present the House shall be adjourned.

61. Mode of exercising legislative power

(1) Subject to the provisions of this Constitution, the power of Parliament to make laws shall, except where otherwise authorised by statute, be exercised by Bills passed by the House of Representatives and the Senate and assented to by the President.

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

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

(4) A Bill may be assented to during the period occurring between the end of one session of Parliament and the beginning of the next or at any subsequent time during the life of that Parliament.

62. Attendance of Ministers in either House

(1) A Minister who is a Member of the House of Representatives and a Minister who is a Senator-

a) has the right to attend any sitting of the Senate or the House of Representatives, respectively,

b) may be required at the instance of the President of the Senate or the Speaker to attend any sitting of Senate or the House of Representatives, respectively.

(2) A Minister may not be required to attend any sitting of either House under subsection 1(b) except on the adoption by that House of a motion for the purpose.

(3) A Minister attending any sitting of the Senate or the House of Representatives under subsection (1) may take part in any debate or other proceedings concerning matters falling within his portfolio in such House and may speak on any motion before the House concerning such matters and move amendments to any such motions, save that such a Minister shall have no vote thereon.

(4) Nothing in this section shall preclude the Attorney General from attending any sitting of the Senate or the House of Representatives, as the case may be, and taking part in debates and other proceedings and speaking on any motion before any such House, as the case may be, and moving amendments to any such motions even though the matter falls within the portfolio of some other Minister.

63. Introduction of Bills, etc.

(1) A Bill other than a Money Bill may be introduced in either House; a Money Bill shall not be introduced in the Senate.

(2) Except on the recommendation or with the consent of the Cabinet neither House shall-

a) proceed upon any Bill, including any amendment to a Bill, which, in the opinion of the person presiding, makes provision for any of the following purposes-

i) for imposing or increasing any tax;

ii) for imposing or increasing any charge on the revenues or other funds of Trinidad and Tobago or for altering any such charge otherwise than by reducing it; or

iii) for compounding or remitting any debt due to Trinidad and Tobago;

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

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

64. Restrictions on powers of Senate as to Money Bills

(1) Where a Money Bill, having been passed by the House of Representatives and sent to the Senate at least one month before the end of the session, is not passed by the Senate without amendment within one month after it is sent to the Senate, the Bill shall, unless the House of Representatives otherwise resolves, be presented to the President for assent notwithstanding that the Senate has not consented to the Bill.

(2) There shall be endorsed on every Money Bill when it is sent to the Senate the certificate of the Speaker signed by him that it is a Money Bill; and there shall be endorsed on any Money Bill that is presented to the President for assent in pursuance of subsection (1), the certificate of the Speaker signed by him that it is a Money Bill and that the provisions of that subsection have been complied with.

65. Restrictions on powers of Senate as to Bills other than Money Bills

(1) Where any Bill other than a Money Bill is passed by the House of Representatives in two successive sessions, whether or not Parliament is dissolved between those sessions, and, having been sent to the Senate in each of those sessions at least one month before the end of the session, is rejected by the Senate in each of those sessions that Bill shall, on its rejection for the second time by the Senate, unless the House of Representatives otherwise resolves, be presented to the President for assent notwithstanding that the Senate has not consented to the Bill.

(2) Nothing in subsection (1) shall have effect until at least six months have elapsed between the date on which the Bill is passed by the House of Representatives in the first session and the date on which it is passed by that House in the second session.

(3) For the purposes of this section a Bill that is sent to the Senate from the House of Representatives in any session shall be deemed to be the same Bill as a former Bill sent to the Senate in the preceding session if, when it is sent to the Senate, it is identical with the former Bill or contains only such alterations as are certified by the Speaker to be necessary owing to the time that has elapsed since the date of the former Bill or to represent any amendments which have been made by the Senate in the former Bill in the preceding session.

(4) The House of Representatives may, if it thinks fit, on the passage through that House of a Bill that is deemed to be the same Bill as a former Bill sent to the Senate in the preceding session, suggest any amendments without inserting the amendments in the Bill, and any such amendments shall be considered by the Senate, and, if agreed to by the Senate, shall be treated as amendments

made by the Senate and agreed to by the House of Representatives; but the exercise of this power by the House of Representatives shall not affect the operation of this section in the event of the rejection of the Bill in the Senate.

(5) For the purposes of this section a Bill shall be deemed to be rejected by the Senate where-

a) it is not passed by the Senate without amendments; or

b) it is passed by the Senate with any amendment that is not agreed to by the House of Representatives.

(6) There shall be inserted in any Bill that is presented to the President for assent in pursuance of this section any amendments that are certified by the Speaker to have been made in the Bill by the Senate in the second session and agreed to by the House of Representatives.

(7) There shall be endorsed on any Bill that is presented to the President for assent in pursuance of this section the certificate of the Speaker signed by him that the provisions of this section have been complied with.

(8) The provisions of this section shall not apply to a Bill for an Act which is required by section 13 or section 54 to be supported at the final vote thereon in the Senate by the votes of not less than three-fifths or two-thirds respectively of all the members of the Senate.

66. Provisions relating to sections 63, 64 and 65

(1) In sections 63, 64 and 65 "Money Bill" means a public Bill which, in the opinion of the Speaker, contains only provisions dealing with all or any of the following matters, namely:-

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

b) the imposition, for the payment of debt or other financial purposes, of charges on public money or the variation or repeal of any such charges;

c) the grant of money to the State or to any authority or person, or the variation or revocation of any such grant;

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

e) the raising or guarantee of any loan or the repayment thereof, or the establishment, alteration, administration or abolition of any sinking fund provided in connection with any such loan; or

f) subordinate matters incidental to any of the matters referred to in this subsection.

(2) In subsection (1) the expressions "taxation", "debt", "public money" and "loan" do not include any taxation imposed, debt incurred or money provided or loan raised by any local authority or body for local purposes.

(3) Where the office of Speaker is vacant or the Speaker is for any reason unable to perform any function conferred upon him by section 64 or 65 or subsection (1) that function may be performed by the Deputy Speaker.

(4) A certificate of the Speaker or the Deputy Speaker under section 64 or 65 shall be conclusive for all purposes and shall not be questioned in any court.

(5) Before giving any certificate under section 64 or 65 the Speaker or the Deputy Speaker, as the case may be, shall consult the Attorney General or, if the Attorner General is absent from the seat of government, such legal officer in the Ministry of Legal Affairs as the Attorney General may designate for that purpose.

66A. (1) Subject to subsection (2), it is hereby declared that -

a) in addition to any other Joint Select Committee which Parliament is empowered to appoint under its Standing Orders, Parliament shall, within one calendar month-

i) after the commencement of the Constitution (Amendment) Act, 1999;

ii) of the first meeting of the House of Representatives after any General Election,

or such time as the Parliament may resolve not being later than three months thereafter, appoint Joint Select Committees, to inquire into and report to both Houses of Parliament in respect of-

(A) Government Ministries;

(B) Municipal Corporations;

(C) Statutory Authorities;

(D) Enterprises owned or controlled by or on behalf of the State or which received funding from the State of more than two thirds of its total income in any one year; and

(E) Service Commissions,

in relation to their administration, the manner of the exercise of their powers, their methods of functioning and any criteria adopted by them in the exercise of their powers and functions;

b) for the purpose of this section, an enterprise shall be taken to be controlled by the State if the Government or any body controlled by the Government -

i) exercises or is entitled to exercise control directly or indirectly over the affairs of the enterprise;

ii) is entitled to appoint a majority of the directors of the Board of Directors of the enterprise; or

iii) holds at least fifty per cent of the ordinary share capital of the enterprise,

as the case may be;

c) a Committee appointed for the purposes set out in paragraph (a) may -

i) appoint sub-committees from among its members and delegate any of its powers to such sub-committee;

ii) adjourn from place to place;

iii) appoint specialist advisers to assist them in their deliberations;

d) subject to any order of the House or resolution of the Committee, the sitting of a Committee shall be held in public;

e) a Committee appointed for the purposes set out in paragraph (*a*) shall make a report of its opinion and observations which shall be laid in both Houses of Parliament.

(2) A Joint Select Committe in exercising its powers under subsection (1) shall not enquire into the validity of the exercise of the functions of a body referred to in subsection (1) (*a*) nor modify, alter, rescind or in any way interfere with the decisions of any such body.

(3) Subject to this section, the Standing Orders, of the Senate and the House of Representatives shall apply to a Committee appointed under this section.

(4) Subject to the Standing Orders, of Parliament, a Commitee may regulate its own procedure.

66B. Each Service Commission shall submit to the President, before 1st October in each year, a report on its administration, the manner of the exercise of its powers, its methods of functioning and any criteria adopted by it in the exercise of its powers and functions in the previous year and the President shall cause the report to be laid within sixty days thereafter in each House.

66C. (1) Section 66A and 66B shall not apply to the Judicial and Legal Service Commission.

(2) The Judicial and Legal Service Commission shall submit to the President before 1st October, in each year, commencing in the year 2000, a report on the exercise of its functions and powers in the previous year, describing the procedures followed and any criteria adopted by it in connection therewith, and the President shall cause the report to be laid within sixty days thereafter in each House.

66D. A Body listed at (A) to (D) in 66A (1) (*a*) shall submit to the President before 1st July, in each year a report on the exercise of its functions and powers in the previous year, describing the procedures followed and any criteria adopted by it in connection therewith and the President shall cause the report to be laid within sixty days thereafter in each House.

PART III
SUMMONING, PROROGATION AND DISSOLUTION

67. Sessions of Parliament

(1) Each session of Parliament shall be held at such place within Trinidad and Tobago and shall commence at such time as the President may by Proclamation appoint.

(2) There shall be a session of each House once at least in every year, so that a period of six months shall not intervene between the last sitting of Parliament in one session and the first sitting thereof in the next session.

68. Prorogation and dissolution of Parliament

(1) The President, acting in accordance with the advice of the Prime Minister, may at any time prorogue or dissolve Parliament.

(2) Subject to subsection (3), Parliament, unless sooner dissolved, shall continue for five years from the date of its first sitting after any dissolution, and shall then stand dissolved.

(3) At any time when Trinidad and Tobago is at war, Parliament may extend the period of five years specified in subsection (2) for not more than twelve

months at a time; so however that the life of Parliament shall not be extended under this subsection for more than five years.

(4) Where, between a dissolution of Parliament and the next ensuing general election of members to the House of Representatives, an emergency arises of such a nature that in the opinion of the Prime Minister, it is necessary for the two Houses to be summoned before that general election can be held, the President, acting in accordance with the advice of the Prime Minister, may summon the two Houses of the preceding Parliament but the election of members of the House of Representatives shall proceed and the Parliament that has been summoned shall, if not sooner dissolved, again stand dissolved on the day on which the general election is held.

69. General Elections and appointment of Senators

(1) A general election of members of the House of Representatives shall be held at such time within three months after every dissolution of Parliament as the President, acting in accordance with the advice of the Prime Minister, shall appoint.

(2) As soon as practicable after every general election, the President shall proceed under section 40 to the appointment of Senators.

(3) Where a vacancy occurs in the House of Representatives within the first four years of the Life of the Parliament a bye-election shall be held to fill such vacancy.

PART IV
ELECTIONS AND BOUNDARIES COMMISSION

70. Constituencies

(1) Trinidad and Tobago shall be divided into thirty-six constituencies or such other number as may be provided for by an Order made by the President in accordance with the provisions of this Part and each such constituency shall return one member to the House of Representatives.

(2) Not less than two such constituencies shall be in the Island of Tobago.

71. Elections and Boundaries Commission

(1) There shall be an Elections and Boundaries Commission for Trinidad and Tobago (in this Part referred to as "the Commission").

(2) The members of the Commission shall be a Chairman and not less than two nor more than four other members.

(3) The Chairman and other members of the Commission shall be appointed by the President, after consultation with the Prime Minister and the Leader of the Opposition.

(4) A person shall not be qualified to hold office as a member of the Commission who is a Minister, a Parliamentary Secretary, a member of the House of Representatives, a Senator, a temporary member of the Senate, or a public officer.

(5) Subject to the provisions of this section, a member of the Commission shall vacate his office-

a) at the expiration of five years from the date of his appointment, but is eligible for re-appointment; or

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

(6) Three members of the Commission shall constitute a quorum.

(7) Where there is a quorum, the Commission shall not be disqualified for the transaction of business by reason of any vacancy among its members, and any proceeding of the Commission shall be valid even though some person who was not entitled so to do took part therein.

(8) The Commission may regulate its own procedure.

(9) The Commission shall be provided with a staff adequate for the efficient discharge of its functions.

(10) The salaries and allowances of the staff of the Commission shall be a charge on the Consolidated Fund.

(11) The registration of voters and the conduct of elections in every constituency shall be subject to the direction and supervision of the Commission.

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

72. Procedure for review of constituency boundaries

(1) The Commission shall, in accordance with the provisions of this section, review the number and boundaries of the constituencies into which Trinidad and Tobago is divided and submit to the Prime Minister and the Speaker for presentation to the House of Representatives in accordance with this section reports either-

a) showing the constituencies into which it recommends that Trinidad and Tobago should be divided in order to give effect to the rules set out in the Second Schedule; or

b) stating that, in the opinion of the Commission, no alteration is required to the existing number or boundaries of constituencies in order to give effect to the said rules.

(2) Reports under subsection (1) shall be submitted by the Commission not less than two nor more than five years from the date of the submission of its last report.

(3) As soon as may be after the Commission has submitted a report under subsection (1)(a) the Minister designated by the Prime Minister for this purpose (in this section called "the Minister") shall lay before the House of Representatives for its approval the draft of an Order by the President for giving effect, whether with or without modifications, to the recommendations

contained in the report, and that draft may make provision for any matters which appear to the Minister to be incidental to or consequential upon the other provisions of the draft.

(4) Where any draft made under this section gives effect to any such recommendations with modifications, the Minister shall lay before the House of Representatives together with the draft a statement of the reasons for the modifications.

(5) Where the motion for the approval of any draft made under this section is rejected by the House of Representatives, or is withdrawn by leave of that House, the Minister shall amend the draft and lay the amended draft before the House of Representatives.

(6) Where any draft made under this section is approved by resolution of the House of Representatives, the Minister shall submit it to the President who shall make the Order in terms of the draft; and that Order shall come into force on such day as may be specified therein and, until revoked by a further Order made by the President in accordance with the provisions of this section, shall have the force of law.

(7) The question of the validity of any Order by the President purporting to be made under this section and reciting that a draft thereof has been approved by resolution of the House of Representatives shall not be enquired into in any court.

PART V
SYSTEM OF BALLOTING

73. System of Balloting

(1) The election of members of the House of Representatives shall be by secret ballot and in accordance with the first-past-the-post system.

(2) For the purposes of subsection (1), the votes shall be cast in ballot boxes of a design calculated to ensure their efficiency and reliability.

CHAPTER 5
EXECUTIVE POWERS

74. Executive authority of Trinidad and Tobago

(1) The executive authority of Trinidad and Tobago shall be vested in the President and, subject to this Constitution, may be exercised by him either directly or through officers subordinate to him.

(2) Without prejudice to the generality of subsection (1), the supreme command of the armed forces of Trinidad and Tobago shall be vested in the President and the exercise of this power shall be regulated by law.

(3) Nothing in this section shall prevent Parliament from conferring functions on persons or authorities other than the President.

75. The Cabinet

(1) There shall be a Cabinet for Trinidad and Tobago which shall have the general direction and control of the government of Trinidad and Tobago and shall be collectively responsible therefore to Parliament.

(2) The Cabinet shall consist of the Primer Minister and such number of other Ministers (of whom one shall be the Attorney General), appointed in accordance with the provisions of section 76, as the Prime Minister may consider appropriate.

76. Appointment of Minister

(1) Where there is occasion for the appointment of a Prime Minister, the President shall appoint as Prime Minister-

a) a member of the House of Representatives who is the Leader in that House of the party which commands the support of the majority of members of that House; or

b) where it appears to him that party does not have an undisputed leader in that House or that no party commands the supports of such a majority, the member of the House of Representatives who, in his judgment, is most likely to command the support of the majority of members of that House;

and who is willing to accept the office of Prime Minister.

(2) The Attorney General shall, subject to section 79, be responsible for the administration of legal affairs in Trinidad and Tobago and legal proceedings for and against the State shall be taken-

a) in the case of civil proceedings, in the name of the Attorney General;

b) in the case of criminal proceedings, in the name of the State.

(3) The Ministers other than the Prime Minister shall be such persons as the President, acting in accordance with the advice of the Prime Minister, shall appoint from among the members of the House of Representatives and the Senators.

(4) Where occasion arises for making an appointment to the office of Prime Minister while Parliament is dissolved, a person who, at the time of the appointment, is a Minister, may be appointed as Prime Minister.

(5) Where occasion arises for making and appointment to the office of Minister while Parliament is dissolved, a person who immediately before the dissolution, was a Senator or a member of the House of Representatives may be appointed Minister.

77. Tenure of office of Ministers

(1) Where the House of Representatives passes a resolution, supported by the votes of a majority of all the members of the House, declaring that it has no confidence in the Prime Minister and the Prime Minister does not within seven days of the passing of such resolution either resign or advise the president to dissolve Parliament, the President shall revoke the appointment of the Prime Minister.

(2) The Prime Minister shall also vacate his office-

a) when after any dissolution of Parliament he is informed by the President that the President is about to re-appoint him as Prime Minister or to appoint another person as Prime Minister; or

b) where for any reason other than a dissolution of Parliament he ceases to be a member of the House of Representatives.

(3) A Minister other than the Prime Minister shall vacate his office-

a) when any person is appointed or reappointed as Prime Minister;

b) where for any reason other than a dissolution of Parliament he ceases to be a member of the House from among the members of which he was appointed;

c) where his appointment is revoked by the President acting in accordance with the advice of the Prime Minister.

(4) Where at any time the Prime Minister is required under the provisions of section 49(3) to cease to perform his functions as a member of the House of Representatives, he shall cease during such time to perform any of his functions as Prime Minister.

(5) Where at any time a Minister other than the Prime Minister is required under section 43(3) or section 49(3) to cease to perform his functions as a member of the House to which he belongs, he shall cease during such time to perform any of his functions as Minister.

78. Performance of functions of Prime Minister during absence, illnes or suspension

(1) Where the Prime Minister is absent from Trinidad and Tobago or is unable by reason of illness or of the provisions of section 77(4) to perform the functions conferred on him by this Constitution, the President may authorise some other memeber of the Cabinet to perform those functions (other than the functions

conferred by subsection (2) and that member may perform those functions until his authority is revoked by the President.

(2) The powers of the President under this section shall be exercised by him in accordance with the advice of the Prime Minister, save that where the President considers that it is impracticable to obtain the advice of the Prime Minister owing to his absence or illness, or where the Prime Minister is unable to tender advice by reason of the provisions of section 77(4) the President may exercise those powers without the advice of the Prime Minister.

79. Allocation of portfolios to Ministers

(1) The President, acting in accordance with the advice of the Prime Minister, may, by directions in writing, assign to the Prime Minister or any other Minister responsibility for any business of the government of Trinidad and Tobago, including the administration of any department of government.

(2) Where a Minister is incapable of performing his functions by reason of his absence from Trinidad and Tobago or by reason of illness the President, acting in accordance with the advice of the Prime Minister, may appoint a member of the House of Representatives or a Senator to act in the office of such Minister during such absence or illness.

80. Exercise of President's functions

(1) In the exercise of his functions under this Constitution or any other law, the President shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet, except in cases where other provision is made by this Constitution or such other law, and, without prejudice to the generality of this exception, in cases where by this Constitution or such other law he is required to act-

a) in his discretion;

b) after consultation with any person or authority other than the Cabinet; or

c) in accordance with the advice of any person or authority other than the Cabinet.

(2) Where by this Constitution the President is required to act in accordance with the advice of, or after consultation with, any person or authority, the question whether he has in any case so acted shall not be enquired into in any court.

(3) Without prejudice to any other case in which the President is authorised or required to act in his discretion, the President shall act in accordance with his own deliberate judgment in the performance of the following functions-

a) in the exercise of the power to appoint the Prime Minister conferred upon him by section 76(1) or (4);

b) in the exercise of the powers conferred upon him by section 78 (which relates to the performance of the functions of the Prime Minister during absence, illness or suspension) in the circumstances described in the provison to subsection (2) of that section;

c) in the exercise of the power to appoint the Leader of the Opposition and to revoke any such appointment conferred upon him by section 83.

81. President to be informed concerning matters of Government

The Prime Minister shall keep the President fully informed concerning the general conduct of the government of Trinidad and Tobago and shall furnish the President with such information as he may request with respect to any particular matter relating to the government of Trinidad and Tobago.

82. Parliamentary Secretaries

(1) The President, acting in accordance with the advice of the Prime Minister, may appoint Parliamentary Secretaries from among the Senators and members of the House of Representatives to assist Ministers in the performance of their duties.

(2) Where occasion arises for making an appointment while Parliament is dissolved, a person who was a Senator or a member of the House of Representatives immediately before the dissolution may be appointed as a Parliamentary Secretary.

(3) The office of a Parliamentary Secretary shall become vacant-

a) where for any reason other than a dissolution of Parliament he ceases to be a member of the House from among the members of which he was appointed;

b) upon the appointment or re-appointment of any person as Prime Minister; or

c) where the President, acting in accordance with the advice of the Prime Minister, so directs.

83. Leader of the Opposition

(1) There shall be an office of Leader of the Opposition and appointments thereto shall be made by the President.

(2) The President shall, if the person concerned is willing to be appointed, appoint as Leader of the Opposition the member of the House of Representatives who, in his judgment is best able to command the support of the greatest number of members of the House of Representatives who do not support the Government.

(3) The office of Leader of the Opposition shall become vacant where-

a) he resigns his office;

b) the holder thereof ceases to be a member of the House of Representatives for any cause other than a dissolution of Parliament;

c) he is not a member of the House of Representatives when the House of Representativaes first meets after a dissolution of Parliament;

d) by virtue of section 49(3) he is required to cease to exercise his functions as a member of the House of Representatives;

e) he is appointed to the office of Prime Minister; or

f) his appointment is revoked under the provisions of subsection (4).

(4) Where in the judgment of the President, the Leader of the Opposition is no longer the member of the House of Representatives best able to command the support of a majority of those members of the House of Representatives who do not support the Government, the President shall revoke the appointment of the Leader of the Opposition.

(5) Nothing in subsection (4) shall apply while Parliament is dissolved.

(6) Where the office of Leader of the Opposition is vacant, whether because there is no member of the House of Representatives so qualified for appointment or because no one qualified for appointment is willing to be appointed, or because the Leader of the Opposition has resigned his office or for any other reason, any provision in this Constitution requiring consultation with the Leader of the Opposition shall, in so far as it requires such consultation, be of no effect.

84. Oaths to be taken by Ministers, etc.

A Minister or a Parliamentary Secretary shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and oath for the due execution of his office.

85. Permanent Secretaries

(1) Where any Minister has been assigned responsiblity for any department of government, he shall exercise general direction and control over that department; and, subject to such direction and control the department shall be under the supervision of a Permanent Secretary whose office shall be a public office.

(2) For the purposes of this section:-

a) two or more government departments may be placed under the supervision of one Permanent Secretary; or

b) two or more Permanent Secretaries may supervise any department of government assigned to a Minister.

86. Constitution of Offices, etc.

Subject to the provisions of this Constitution and of any enactment, the President may constitute offices for Trinidad and Tobago, make appointments to any such office and terminate any such appointment.

87. Powers of pardon, etc.

(1) The President may grant to any person a pardon, either free or subject to lawful conditions, respecting any offences that he may have committed. The power of the President under this subsection may be exercised by him either before or after the person is charged with any offence and before he is convicted thereof.

(2) The President may-

a) grant to any person convicted of any offence against the law of Trinidad and Tobago a pardon, either free or subject to lawful conditions;

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

c) substitute a less severe form of punishment for that imposed by any sentence for such an offence; or

d) remitted the whole or any part of any sentence passed for such an offence or any penalty or forfeiture otherwise due to the State on account of such an offence.

(3) The power of the President under subsection (2) may be exercised by him in accordance with the advice of a Minister designated by him, acting in accordance with the advice of the Prime Minister.

88. Advisory Committee on Power of Pardon

There shall be an Advisory Committee on the Power of Pardon which shall consist of-

a) the Minister referred to in section 87(3) who shall be Chairman;

b) the Attorney General;

c) the Director of Public Prosecutions;

d) not more than four other members appointed by the President, after consultation with the Prime Minister and the Leader of the Opposition.

89. Functions of Advisory Committee

(1) Where an offender has been sentenced to death by any court for an offence against the law of Trinidad and Tobago, the Minister shall cause a written report of the case from the trial judge, together with such other information derived from the record of the case or else-where as the Minister may require, to be taken into consideration at a meeting of the Advisory Committee.

(2) The Minister may consult with the Advisory Committee before tendering any advice to the President under section 87(3) in any case not falling within subsection (1).

(3) The Minister shall not be obliged in any case to act in accordance with the advice of the Advisory Committee.

(4) The Advisory Committe may regulate its own procedure.

(5) In this section "the Minister" means the Minister referred to in section 87(3).

CHAPTER 6
THE DIRECTOR OF PUBLIC PROSECUTIONS AND THE OMBUDSMAN

PART I
DIRECTOR OF PUBLIC PROSECUTIONS

90. Appointment, tenure and functions

(1) The provisions of this section shall, subject to section 76(2) have effect with respect to the conduct of prosecutions.

(2) There shall be a Director of Public Prosecutions for Trinidad and Tobago whose office shall be a public office.

(3) The director of Public Prosecutions shall have power in any case in which he considers it proper to do so-

a) to institute and undertake criminal proceedings against any person before any court in respect of any offence against the law of Trinidad and Tobago;

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

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

(4) The powers conferred upon the Director of Public Prosecutions by subsection (4)(b) and (c) shall be vested in him to the exclusion of the person or authority who instituted or undertook the criminal proceedings, except that a person or authority that has instituted criminal proceedings may withdraw them at any stage before the person against whom the proceedings have been instituted has been charged before the Court.

(5) For the purposes of this section a reference to criminal proceedings includes an appeal from the determination of any court in criminal proceedings or a case stated or a question of law reserved in respect of those proceedings.

(6) The functions of the Director of Public Prosecutions under subsection (3) may be exercised by him in person or through other persons acting under and in accordance with his general or special instructions.

PART II
OMBUDSMAN

91. Appointment and conditions of office

(1) There shall be an Ombudsman for Trinidad and Tobago who shall be an officer of Parliament and who shall not hold any other office of emolument whether in the public service or otherwise nor engage in any occupation for reward other than the duties of his office.

(2) The Ombudsman shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.

(3) The Ombudsman shall hold office for a term not exceeding five years and is eligible for re-appointment.

(4) Subject to subsection (3) the Ombudsman shall hold office in accordance with section 136.

(5) Before entering upon the duties of his office, the Ombudsman shall take and subscribe the oath of office before the Speaker of the House of Representatives.

92. Appointment of staff of Ombudsman

(1) The Ombudsman shall be provided with a staff adequate for the efficient discharge of his functions.

(2) The staff of the Ombudsman shall be public officers appointed in accordance with section 121(8).

93. Functions of Ombudsman

(1) Subject to this section and to sections 94 and 95 the principal function of the Ombudsman shall be to investigate any decision or recommendation made, including any advice given or recommendation made to a Minister, or any act done or omitted by any department of Government or any other authority to which this section applies, or by officers or members of such a department or authority, being action taken in exercise of the administrative functions of that department or authority.

(2) The Ombudsman may investigate any such matter in any of the following circumstances-

a) where a complaint is duly made to the Ombudsman by any person alleging that the complainant has sustained an injustice as a result of a fault in administration;

b) where a member of the House of Representatives requests the Ombudsman to investigate the matter on the ground that a person or body of persons specified in the request has or may have sustained such injustice;

c) in any other circumstances in which the Ombudsman considers that he ought to investigate the matter on the ground that some person or body of persons has or may have sustained such injustice.

(3) The authorities other than departments of Government to which this section applies are-

a) local authorities or other bodies established for purposes of the public service or of local Government;

b) authorities or bodies the majority of whose members are appointed by the President or by a Minister or whose revenues consist wholly or mainly of moneys provided out of public funds;

c) any authority empowered to determine the person with whom any contract shall be entered into by or on behalf of Government;

d) such other authorities as may be prescribed.

94. Restrictions on matters for investigation

(1) In investigating any matter leading to, resulting from connected with the decision of a Minister, the Ombudsman shall not inquire into or question the policy of the Minister in accordance with which the decision was made.

(2) The Ombudsman shall have power to investigate complaints of administrative injustice under section 93 notwithstanding that such complaints raise questions as to the integrity or corruption of the public service or any department or office of the public service, and may investigate any conditions resulting from, or calculated to facilitate or encourage corruption in the public service, but he shall not undertake any investigation into specific charges of corruption against individuals.

(3) Where in the course of an investigation it appears to the Ombudsman that there is evidence of any corrupt act by any public officer or by any person in connection with the public service, he shall report the matter to the appropriate authority with his recommendation as to any further investigation he may consider proper.

(4) The Ombudsman shall not investigate-

a) any action in respect of which the complainant has or had

i) a remedy by way of proceedings in a court; or

ii) a right of appeal, reference or review to or before an independent and impartial tribunal other than a court; or

b) any such action, or action taken with respect to any matter, as is described in the Third Schedule.

(5) Notwithstanding subsection (4) the Ombudsman-

a) may investigate a matter notwithstanding that the complainant has or had a remedy by way of proceedings in a court if satisfied that in the particular circumstances it is not reasonable to expect him to take or to have taken such proceedings;

b) is not in any case precluded from investigating any matter by reason only that it is open to the complainant to apply to the High Court for redress under section 14 (which relates to redress for contravention of the provisions for the protection of fundamental rights).

95. Discretion of Ombudsman

In determining whether to initiate, continue or discontinue an investigation, the Ombudsman shall, subject to sections 93 and 94 act in his discretion and, in particular and without prejudice to the generality of this discretion, the Ombudsman may refuse to initiate or may discontinue an investigation where it appears to him that-

a) a complaint relates to action of which the complainant has knowledge for more than twelve months before the complaint was received by the Ombudsman;

b) the subject matter of the complaint is trivial;

c) the complaint is frivolous or vexatious or is not made in good faith; or

d) the complainant has not a sufficient interest in the subject matter of the complaint.

96. Report on investigation

(1) Where a complaint or request for an investigation is duly made and the Ombudsman decides not to investigate the matter or where he decides to discontinue an investigation of the matter, he shall inform the person who made the complaint or request of the reasons for his decision.

(2) Upon the completion of an investigation the Ombudsman shall inform the department of government or the authority concerned of the results of the investigation and if he is of the opinion that any person has sustained an injustice in consequence of a fault in administration, he shall inform the department of government or the auhtority of the reasons for his opinions and make such recommendations as he thinks fit, the Ombudsman may in his original recommendations, or at any later stage if he thinks fit, specify the time within which the injustice should be remedied.

(3) Where the investigation is undertaken as a result of a complaint or request, the Ombudsman shall inform the person who made the complaint or request of his findings.

(4) Where the matter is in the opinion of the Ombudsman of sufficient public importance or where the Ombudsman has made a recommendation under subsection (2) and within the time specified by him no sufficient action has been taken to remedy the injustice, then, subject to such provision as may be made by Parliament, the Ombudsman shall lay a special report on the case before Parliament.

(5) The Ombudsman shall make annual reports on the performance of his functions to Parliament which shall include statistics in such form and in such detail as may be prescribed of the complaints received by him and the results of his investigations.

97. Power to obtain evidence

(1) The Ombudsman shall have the powers of the High Court to summon withnesses to appear before him and to compel them to give evidence on oath and to produce documents relevant to the proceedings before him and all persons giving evidence at those proceedings shall have the same duties and liabilities and enjoy the same privileges as in the High Court.

(2) The Ombudsman shall have power to enter and inspect the premises of any department of government or any authority to which section 93 applies, to call for, examine and where necessary retain any document kept on such premises and there to carry out any investigation in pursuance of his functions.

98. Prescribed matters concerning Ombudsman

(1) Subject to subsection (2), Parliament may make provision-

a) for regulating the procedure for the making of complaints and request to the Ombudsman and for the exercise of the functions of the Ombudsman;

b) for conferring such powers on the Ombudsman and imposing such duties on persons concerned as are necessary to facilitate the Ombudsman in the performance of his functions; and

c) generally for giving effect to the provisions of this Part.

(2) The Ombudsman may not be empowered to summon a Minister or a Parliamentary Secretary to appear before him or to compel a Minister or a Parliamentary Secretary to answer any questions relating to any matter under investigation by the Ombudsman.

(3) The Ombudsman may not be empowered to summon any witness to produce any Cabinet papers or to give any confidential income tax information.

(4) No complainant may be required to pay any fee in respect of his complaint or request or for any investigation to be made by the Ombudsman.

(5) No proceedings, civil or criminal, may lie against the Ombudsman, or against any person holding an office or appointment under him for anything he may do or report or say in the course of the exercise or intended exercise of the functions of the Ombudsman under this Constitution, unless it is shown that he acted in bad faith.

(6) The Ombudsman, and any person holding office or appointment under him may not be called to give evidence in any Court, or in any proceedings of a judicial nature, in respect of anything coming to his knowledge in the exercise of his functions.

(7) Anything said or any information supplied or any document, paper, or thing produced by any person in the course of any enquiry by or proceedings

before and Ombudsman under this Constitution is privileged in the same manner as if the enquiry or proceedings were proceedings in a Court.

(8) No proceeding of the Ombudsman may be held bad for want of form, and, except on the ground of lack of jurisdiction, no proceeding or decision of an Ombudsman is liable to be challenged, reviewed, quashed or called in question in any Court.

CHAPTER 7
THE JUDICATURE

PART I
THE SUPREME COURT

99. Establishment of Supreme Court

There shall be a Supreme Court of Judicature for Trinidad and Tobago consisting of a High Court of Justice (hereinafter referred to as "the High Court") and a Court of Appeal with such jurisdiction and powers as are conferred on those Courts respectively by this Constitution or any other law.

100. Constitution of High Court

(1) The judges of the High Court shall be the Chief Justice who shall be ex officio a Judge of that Court, and such number of Puisne Judges as may be prescribed.

(2) The High Court shall be a superior court of record and save as otherwise provided by Parliament, shall have all the powers of such a court, including all such powers as are vested in the Supreme Court of Trinidad and Tobago immediately before the commencement of this Constitution.

THE COURT OF APPEAL

101. Constitution of Court of Appeal

(1) The Judges of the Court of Appeal shall be the Chief Justice who shall be the President of the Court of Appeal and such number of Justices of Appeal as may be prescribed.

(2) The Court of Appeal shall be a superior court of record and, save as otherwise provided by Parliament, shall have all the powers of such a court.

102. Appointment of Chief Justice

The Chief Justice shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.

103. Acting appointments as Chief Justice

Where the office of Chief Justice is vacant or where the Chief Justice is for any reason unable to perform the functions of his office, until a person has been appointed to and has assumed the functions of such office or until the Chief Justice has resumed those functions, as the case may be, those functions shall be performed by such other of the Judges as may be appointed by the President, after consultation with the Prime Minister and the Leader of the Opposition.

APPOINTMENT OF JUDGES

104. Appointment of Justices of Appeal and Puisne Judges

(1) The Judges, other than the Chief Justice, shall be appointed by the President, acting in accordance with the advice of the Judicial and Legal Service Commission.

(2) Where-

a) the office of any such Judge is vacant;

b) any such Judge is for any reason unable to perform the functions of his office;

c) any such Judge is acting as Chief Justice or a Puisne Judge is acting as a Justice of Appeal; or

d) the Chief Justice advises the President that the state of business of the Court of Appeal or the High Court so requires,

the President, acting in accordance with the advice of the Judicial and Legal Service Commission-

i) may appoint a person to act in the office of Justice of Appeal or Puisne Judge, as the case may require;

ii) may, notwithstanding section 136, appoint a person who has held office as a Judge and who has attained the age of 65 to be temporarily a Pusine Judge for fixed periods of not more than two years.

(3) The appointment of any person under subsection (2) to act in the office of Justice of Appeal or Puisne Judge shall continue to have effect until it is revoked by the President, acting in accordance with the advice of the Judicial and Legal Service Commission.

105. Qualification of Judges

A person shall not be appointed as a Judge or to act as a Judge unless he has such qualifications for appointment as may be prescribed.

106. Tenure of office

(1) Subject to section 104(3) a Judge shall hold office in accordance with section 136 and 137.

(2) No office of Judge shall be abolished while there is a substantive holder of that office.

107. Oaths to be taken by Judges

A Judge shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and the oath for the due execution of his office set out in the First Schedule.

108. Appeals on Constitutional questions and fundamental rights, etc.

An appeal to the Court of Appeal shall be as of right from decisions of the High Court in the following, among other cases, that is to say-

a) any order or decision in any civil or criminal proceedings on questions as to the interpretation of this Constitution;

b) any order or decision given in exercise of the jurisdiction conferred on the High Court by section 14 (which relates to redress for contrevention of the provisions for the protection of fundamental rights);

c) any order or decision given in the determination of any of the questions for the determination of which a right of access to the High Court is guaranteed by sections 4(a) and 5(1);

d) any order or decision of the High Court granting or refusing leave to institute proceedings for the determination of any question referred to it under section 52 or determining any such question (which relates to the appointment, qualification, election or membership of a Senator or a member of the House Representatives, as the case may be);

e) any order or decision of a Court in the exercise of its jurisdiction to punish for contempt of court, including criminal contempt.

PART II
APPEALS TO THE JUDICIAL COMMITTEE

109. Appeals from Court of Appeal to the Judicial Committee

(1) An appeal shall lie from decisions of the Court of Appeal to the Judicial Committee as of right in the following cases-

a) final decisions in civil proceedings where the matter in dispute on the appeal to the Judicial Committee is of the value of fifteen hundred dollars or upwards or where the appeal involves directly or indirectly a claim to or question respecting property or a right of the value of fifteen hundred dollars or upwards;

b) final decisions in proceedings for dissolution or nullity of marriage;

c) final decisions in any civil, criminal or other proceedings which involve a question as to the interpretation of this Constitution; and

d) except in cases falling under section 108(d), any case referred to in that section;

e) final decisions in disciplinary matters under secton 81(3) to (5) of the Supreme Court of Judicature Act, 1962 and under the Solicitors Ordinance;

f) such other cases as may be prescribed.

(2) An appeal shall lie from decisions of the Court of Appeal to the Judicial Committee with the leave of the Court of Appeal in the following cases-

a) decisions in any civil proceedings; where in the opinion of the Court of Appeal the question involved in the appeal is one that, by reason of its great general or public importance or otherwise, ought to be submitted to the Judicial Committee; and

b) such other cases as may be prescribed.

(3) An appeal shall lie to the Judicial Committee with the special leave of the Judicial Committee from decisions of the Court of Appeal in any civil or criminal matter in any case in which, immediately before the date on which Trinidad and Tobago became a Republic, an appeal could have been brought with the special leave of Her Majesty to Her Majesty in Council from such decisions.

(4) Subsection (1), (2) and (3) are subject to the provisions of sections 32(2) and 52(4).

(5) Subject to this section, provision may be made by or under any Act regulating the procedure to be adopted by the Court of Appeal with respect to any appeal to the Judicial Committee under this section or by parties to any such appeal.

(6) Any decision given by the Judicial Committee in any appeal under this section shall be enforced in like manner as if it were a decision of the Court of Appeal.

(7) Subject to subsection (6) the Judicial Committee shall, in relation to any appeal to it under this section in any case, have all the jurisdiction and powers possessed in relation to that case by the Court of Appeal.

PART III
JUDICIAL AND LEGAL SERVICE COMMISSION

110. Judicial and Legal Service Commission

(1) There shall be a Judicial and Legal Service Commission for Trinidad and Tobago.

(2) The members of the Judicial and Legal Service Commission shall be-

a) the Chief Justice, who shall be Chairman;

b) the Chairman of the Public Service Commission;

c) such other members (hereinafter called "the appointed members") as may be appointed in accordance with subsection (3).

(3) The appointed members shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition as follows:-

a) one, from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeal from any such court;

b) two, from among persons with legal qualifications at least one of whom is not in active practice as such, after the President has consulted with such organisations, if any, as he thinks fit.

(4) Subject to section 126(3)(a) an appointed member shall hold office in accordance with section 136.

111. Appointment of Judicial Officers, etc.

(1) Subject to the provisions of this section, power to appoint persons to hold or act in the offices to which this section applies, including power to make appointments on promotion and transfer and to confirm appointments, and to remove and exercise disciplinary control over persons holding or acting in such offices shall vest in the Judicial and Legal Service Commission.

(2) Before the Judicial and Legal Service Commission makes any appointment to the offices of Solicitor General, Chief Parliamentary Counsel, Director of Public Prosecutions, Registrar General or Chief State Solicitor it shall consult with the Prime Minister.

(3) A person shall not be appointed to any such office if the Prime Minister signifies to the Judicial and Legal Service Commission his objection to the appointment of that person to that office.

(4) This section applies to such public offices as may be prescribed, for appointment to which persons are required to possess legal qualifications.

CHAPTER 8
FINANCE

112. Establishment of Consolidated Fund

(1) All revenues or other moneys raised or received by Trinidad and Tobago, not being revenues or other moneys payable under this Constitution or any other law into some other public fund established for a specific purpose shall, unless Parliament otherwise provides, be paid into and form one Consolidated Fund.

(2) No moneys shall be withdrawn from the Consolidated Fund except to meet expenditure that is charged upon the Fund by this Constitution or any Actor or where the issue of those moneys has been authorised by an Appropriation Act or an Act passed in pursuance of section 114 or in accordance with any other law.

(3) No moneys shall be withdrawn from any public fund other than the Consolidated Fund unless the issue of those moneys has been authorised by an Act.

(4) No moneys shall be withdrawn from the Consolidated Fund or any other public fund except in the manner prescribed.

113. Authorisation of expenditure from Consolidated Fund

(1) The Minister responsible for finance shall cause to be prepared and laid before the House of Representatives before or not later than thirty days after the commencement of each financial year estimates of the revenues and expenditure of Trinidad and Tobago for that year.

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

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

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

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

a supplementary estimate showing the sums required or spent shall be laid before the House of Representatives and the heads if any such expenditure shall be included in a Supplementary Appropriation Bill.

114. Authorisation of expenditure in advance of appropriation

Parliament may make provision under which, if the Appropriation Act in respect of any financial year has not come into operation by the beginning of that financial year, the Minister responsible for finance may authorise the withdrawal of moneys from the Consolidated Fund for the purpose of meeting expenditure necessary to carry on the services of the Government until the expiration of thirty days from the beginning of that financial year or the coming into operation of the Act, whichever is the earlier.

115. Contingencies Fund

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

(2) Where any advance is made in accordance with subsection (1) a supplementary estimate shall be presented and a Supplementary Appropriation Bill shall be introduced as soon as possible for the purposes of replacing the amount so advanced.

116. Establishment of office and functions of Auditor General

(1) There shall be an Auditor General for Trinidad and Tobago, whose office shall be a public office.

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

(3) The Auditor General is hereby empowered to carry out audits of the accounts, balance sheets and other financial statements of all enterprises that are owned or controlled by or on behalf of the State.

(4) The Auditor General shall submit his reports annually to the Speaker, the President of the Senate and the Minister of Finance.

(5) The President of the Senate and the Speaker shall cause the report to be laid before the Senate and the House of Representatives, respectively, at the next sitting of the Senate and the House of Representatives after the receipt thereof, respectively.

(6) In the exercise of his functions under this Constitution the Auditor General shall not be subject to the direction or control of any other person or authority.

117. Appointment of Auditor General and Staff

(1) The Auditor General shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition and shall hold office in accordance with section 136.

(2) Where the office of Auditor General is vacant or the holder of the office is for any reason unable to perform the functions of his office the President after consultation with the Prime Minister and the leader of the Opposition may appoint a person to act in the office, and any person so appointed shall, subject to the provisions of subsection (4) continue to act until his appointment is revoked by the President, after consultation with the Prime Minister and the Leader of the Opposition.

(3) Before entering upon the duties of his office the Auditor General shall take and subscribe the oath of office before the President or a person appointed by the President for the purpose.

(4) Nothing done by the Auditor General shall be invalid by reason only that he has attained the age at which he is required under section 136 to vacate his office.

(5) The Auditor General shall be provided with a staff adequate for the efficient discharge of his functions.

(6) The staff of the Auditor General shall be public officers appointed in accordance with section 121(8).

118. Public debt

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

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

119. Public Accounts Committees

(1) There shall be a Public Accounts Committee which shall consist of not less than six nor more than ten members.

(2) The Chairman of the Public Accounts Committee shall be a member of the Opposition in the House, if any, and if willing to act. The Chairman and other members may comprise an equal number of members of the House of Representatives and the Senate as the House of Representatives may determine.

(3) Where the members of the Opposition in the House of Representatives are unwilling to act as Chairman of the Public Accounts Committee a member of the Opposition in the Senate shall be appointed and where the members of the Opposition in the Senate are unwilling so to act one of the Senators, appointed by the President under section 40(2)(b) shall be appointed Chairman.

(4) The Public Accounts Committee shall consider and report to the House of Representatives on-

a) appropriation accounts of moneys expended out of sums granted by Parliament to meet the public expenditure of Trinidad and Tobago;

b) such other accounts as may be referred to the Committee by the House of Representatives or as are authorised or required to be considered by the committee under any other enactment; and

c) the report of the Auditor General on any such accounts.

(5) In addition to the Public Accounts Committee established under subsection (1) there shall be a Public Accounts (Enterprises) Committee which shall consist of not less than six nor more than ten members.

(6) The Chairman of the Public Accounts (Enterprises) Committee shall be one of the Senators, if any, and if willing to act, appointed under section 40(2)(b) in accordance with the advice of the Leader of the Opposition and the other members such members of the House of Representatives and Senators as the House of Representatives may determine.

(7) Where the members of the Opposition in the Senate are unwilling to act as Chairman of the Public Accounts (Enterprises) Committee, a member of the

Opposition in the House of Representatives shall be appointed and where the members of the Opposition in the House of Representatives are unwilling so to act, one of the Senators appointed by the President under section 40(2)(b) shall be appointed Chairman.

(8) The Public Accounts (Enterprises) Committee shall consider and report to the House of Representatives on-

a) the audited accounts, balance sheets and other financial statements of all enterprises that are owned or controlled by or on behalf of the State; and

b) the Auditor General's report on any such accounts, balance sheets and other financial statements.

(9) For the purposes of subsection (8) and section 116(3) an enterprise shall be taken to be controlled by the State if the Government or any body controlled by the Government-

a) exercises or is entitled to exercise control directly or indirectly over the affairs of the enterprise;

b) is entitled to appoint a majority of the directors of the Board of Directors of the enterprise; or

c) holds at least fifty per cent of the ordinary share capital of the enterprise, as the case may be.

CHAPTER 9
APPOINTMENTS TO, AND TENURE OF OFFICES

PART I
SERVICE COMMISSIONS, ETC.

120. Public Service Commission

(1) There shall be a Public Service Commission for Trinidad and Tobago which shall consist of a Chairman, a Deputy Chairman and not less than two nor more than four other members.

(2) The members of the Public Service Commission shall be appointed by the President, after consultation with the Prime Minister and the Leader of the Opposition.

(3) The members of the Public Service Commission shall hold office in accordance with section 126.

121. Appointments, etc. of Public Officers

(1) Subject to the provisions of this Constitution, power to appoint persons to hold or act in offices to which this section applies, including power to make appointments on promotion and transfer and to confirm appointments, and to remove and exercise disciplinary control over persons holding or acting in such offices and to enforce standards of conduct on such officers shall vest in the Public Service Commission.

(2) The Public Service Commission shall not remove, or inflict any punishment on a public officer on the grounds of any act done or omitted to be done by that officer in the exercise of a judicial function conferred upon him unless the Judicial and Legal Service Commission concurs therein.

(3) Before the Public Service Commission makes any appointment to an office to which this subsection applies it shall consult the Prime Minister.

(4) A person shall not be appointed to an office to which subsection (3) applies if the Prime Minister signifies to the Public Service Commission his objection to the appointment of that person to that office.

(5) Subject to subsections (6) and (7), subsection (3) applies to the offices of Permanent Secretary, Chief Technical Officer, Director of Personnel Administration, to a head of a department of government, to the chief professional adviser in a Ministry of government and to the office of Deputy to any of these offices.

(6) Power to make appointments or transfer to the following offices shall vest in the Prime Minister:

a) any office of Permanent Secretary from one such office to another such office carrying the same salary;

b) any office the holder of which is required to reside outside Trinidad and Tobago for the proper discharge of his functions, and such offices in the Ministry of External Affairs as may from time to time be designated by the Prime Minister after consultation with the Public Service Commission.

(7) This section applies to all public offices including in particular offices in the Civil Service, the Fire Service and the Prison Service, but this section does not apply to offices to which appointments are made by the Judicial and Legal Service Commission, the Police Service Commission or the Teaching Service Commission or offices to which appointments are to be made by the President.

(8) Before the Public Service Commission makes any appointment to or transfers a member of the staff of the Auditor General or Ombudsman it shall first consult with the Auditor General or Ombudsman, as the case may be.

(9) In subsection (7) "Civil Service", "Fire Service" and "Prison Service" means respectively the Civil Service established under the Civil Service Act, 1965, the Fire Service established under the Fire Service Act, 1965 and the Prison Service established under the Prison Service Act, 1965.

122. Police Service Commission

(1) There shall be a Police Service Commission for Trinidad and Tobago which shall consist of a Chairman and four other members.

(2) The members of the Police Service Commission shall be appointed by the President, after consultation with the Prime Minister and the Leader of the Opposition.

(3) The Chairman of the Police Service Commission shall be either the Chairman or the Deputy Chaiman of the Public Service Commission.

(4) The members of the Police Service Commission shall hold office in accordance with section 126.

123. Appointments, etc. of Police Officers

(1) Power to appoint persons to hold or act in an office in the Police Service established under the Police Service Act, 1965, including appointments on promotion and transfer and the confirmation of appointments, and to remove and exercise disciplinary control over persons holding or acting in such offices and to enforce standards of conduct on such officers shall vest in the Police Service Commission.

(2) The Police Service Commission shall not remove, or inflict any punishment on, the holder of an office in the Police Service on the grounds of any act done or omitted to be done by him in the exercise of a judicial function conferred upon him unless the Judicial and Legal Service Commission concurs therein.

(3) Before the Police Service Commission makes an appointment to the office of Commissioner or Deputy Commissioner of Police it shall consult the Prime Minister, and a person shall not be appointed to such an office if the Prime Minister signifies to the Police Service Commission his objection to the appointment of that person to such an office.

124. Teaching Service Commission

(1) There shall be a Teaching Service Commission for Trinidad and Tobago which shall consist of a Chairman and not more than four other members.

(2) The members of the Teaching Service Commission shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.

(3) The members of the Teaching Service Commission shall hold office in accordance with section 126.

125. Appointment of Teachers

Subject to the provisions of this Constitution, power to appoint persons to hold or act in public offices in the Teaching Service, established under the Education Act, 1966, including power to make appointments on promotion and transfer and to confirm appointments, and to remove and exercise disciplinary control over persons holding or acting in such offices and to enforce standards of conduct on such officers shall vest in the Teaching Service Commission.

GENERAL PROVISIONS ON SERVICE COMMISSIONS

126. Qualifications, tenure of office, etc.

(1) A person who-

a) is a member of the House of Representatives or the Senate; or

b) holds or is acting in any public office or has held any public office within the period of three years preceding his proposed appointment,

is not qualified to hold the office of member of a Service Commission.

(2) A person who has held office or acted as a member of a Service Commission shall not, within a period of three years commencing with the

date on which he last held or acted in such an office, be eligible for appointment to any public office.

(3) The office of a member of a Service Commission shall become vacant-

a) upon the expiration of five years from the date of his appointment or such shorter period, not being less than three years, as may be specified at the time of his appointment; or

b) where with his consent he is nominated for election to the House of Representatives or where he is appointed a Senator.

(4) A member of a Service Commission, other than the Judicial and Legal Service Commission, may be removed from office by the President acting in his discretion for inability to discharge the functions of his office, whether arising from informity of mind or body or any other cause, or for misbehaviour.

(5) A member of a Service Commission may not be removed from office except in accordance with the provisions of this section.

(6) Before entering upon the duties of his office a member of a Service Commission shall take and subscribe the oath of office before the President or a person appointed by the President for the purpose.

127. Delegation of functions

(1) A Service Commission may, with the approval of the Prime Minister and subject to such conditions as it may think fit, delegate any of its functions under this Part other than any power conferred on the Commission by section 129, to any of its members or-

a) in the case of the Judicial and Legal Service Commission, to a Judge;

b) in the case of-

i) the Public Service Commission, to any public officer or in respect of the Regional Health Authorities to the Boards of the Regional Health Authorities established under section 4 of the Regional Health Authorities Act;

ii) the Teaching Service Commission, to any public officer;

c) in the case of the Police Service Commission to the Commissioner of Police or a Deputy Commissioner of Police.

(2) In this section and in section 129, as regards any matter concerning the holder of any office referred to in section 121(5) or 123(3) a reference to "public officer" includes a reference to a Judge as well as a retired public officer.

128. Consultation with other Service Commissions

Before a Service Commission appoints to an office a person holding or acting in any office, power to make appointments to which is vested by this Constitution in another Service Commission, it shall consult that other Commission.

129. Powers and procedure of Service Commissions from legal proceedings

(1) Subject to subsection (3), a Service Commission may, with the consent of the Prime Minister, by regulation or otherwise regulate its own procedure, including the procedure for consultation with persons with whom it is required by this Constitution to consult, and confer powers and impose duties on any public officer or in the case of the holder of an office referred to in section 111(2), a Judge or on any authority of the Government, for the purpose of the discharge of its functions.

(2) At any meeting of a Service Commission three members shall constitute a quorum.

(3) (Repealed).

(4) No penalty may be imposed on any public officer except as a result of disciplinary proceedings.

(5) Notwithstanding subsection (4), where an officer is convicted of a criminal charge in any court and the time allotted for an appeal has elapsed or, if the officer has appealed, the appeal process has been made in the manner under section 71 of the Summary Courts Act, a Service Commission may consider the relevant proceedings on such charge and if it is of the opinion that the officer ought to be dismissed or subjected to some lesser punishment in respect of the conduct which led to his conviction on the criminal charge or to the making of the order, the Commission may thereupon dismiss or otherwise punish the officer without the institution of any disciplinary proceedings.

(6) In furtherance of subsection (5) -

a) a certificate of conviction issued by the court shall be sufficient evidence of an officer's conviction for an offence;

b) a certified copy of an order made under section 71 of the Summary Courts Act shall be sufficient eveidence of the commission by the officer of the offence for which he was charged.

(7) An officer referred to in subsection (5) shall be entitled to show cause why he should not be dismissed from office.

PART II
PUBLIC SERVICE APPEAL BOARD

130. Constitution of Appeal Board

(1) There shall be a Public Service Appeal Board (hereinafter referred to as "the Appeal Board") to which appeals shall lie from such decisions against public officers as are specified in section 132.

(2) The Appeal Board shall consist of a Chairman who shall be a Judge, appointed by the President after consultation with the Chief Justice and two

other members appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.

(3) One member of the Appeal Board shall be a retired public officer.

131. Tenure of office, etc.

(1) Section 126 (which relates to qualifications for appointment, eligibility for public office and the term and tenure of office of members of Service Commissions) shall apply to members of the Public Service Appeal Board as they apply to members of a Service Commission.

(2) Before entering upon the duties of his office, a member of the Appeal Board shall take and subscribe the oath of office before the President or a person appointed by the President for the purpose.

(2A) The Chairman shall be a Judge or former Judge or a citizen of Trinidad and Tobago who has held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court.

(3) One member of the Appeal Board shall be a retired public officer.

132. Appeals in Disciplinary Cases

(1) An appeal shall lie to the Public Service Appeal Board from any decision of a Service Commission, or of any person to whom the powers of the Commission have been delegated as a result of disciplinary proceedings brought against a public officer.

(2) An appeal under subsection (1) shall lie to the Appeal Board at the instance of the public officer in respect of whom the decision is made.

(3) Upon an appeal under this section, the Appeal Board may affirm or set aside the decison appealed against or may substitute any other decision which the Service Commission or the person from whom the appeal lies could have made.

(4) Every decision of the Appeal Board shall require the concurrence of the majority of its members.

(5) The Appeal Board may by regulations make provision for-

a) procedure of its own; and

b) the procedure in appeals under this section.

(6) With the consent of the Prime Minister, the Appeal Board may by regulation or otherwise confer powers and impose duties on any public officer or any authority of the Government of Trinidad and Tobago for the purpose of the exercise of the functions of the Appeal Board.

(7) This section and sections 130 and 131 shall be, in addition to and not in derogation of any other provisions for review of the decision of any Service Commission.

PENSIONS

133. Protection of pension rights

(1) Subject to section 134 the law applicable to any benefits to which this section applies shall, in relation to any person who has been granted or who is eligible for the grant of such benefits, be that in force on the relevant date or any later law that is not less favourable to that person.

(2) In this section, "the relevant date" means-

a) in relation to any benefits granted before the commencement of this Constitution the date prescribed by section 100 of the former Constitution;

b) in relation to any benefits granted or to be granted on or after the commencement of this Constitution to or in respect of any person who was a public officer before that date, the commencement of this Constitution;

c) in relation to any benefits granted or to be granted to or in respect of any person who becomes a public officer on or after the commencement of this Constitution the date on which he becomes a public officer.

(3) Where a person is entitled to exercise an option as to which of two or more laws shall apply in his case, the law specified by him in exercising the option shall, for the purposes of this section be deemed to be more favourable to him than the other law or laws.

(4) Any benefit to which this section applies, not being a benefit that is a charge on some other public fund of Trinidad and Tobago, shall be a charge on the Consolidated Fund.

(5) A reference in this section to the law applicable to any benefits includes, without prejudice to the generality of the expression, a reference to any law relating to the time at which and the manner in which any person may retire in order to become elegible for those benefits.

(6) For the purposes of this section, service as president or as a Judge shall be deemed to be public service.

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

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

(1) Where under any law an authority has power to withhold, reduce in amount or suspend any benefits to which this section applies, that power shall not be exercised without the approval specified in subsection (2) or subsection (3).

(2) Where a person who has been granted benefits, or who is eligible for benefits, in respects of public service was at the time he ceased to be a public officer subject to the jurisdiction of the Judicial and Legal Service Commission, the Police Service Commission or the Teaching Service Commission, the power

referred to in subsection (1) shall not be exercised with respect to those benefits without the approval of that Commission.

(3) Where a person who has been granted benefits, or who is eligible for benefits, in respect of public service, was not at the time he ceased to be a public officer subject to the jurisdiction of the Judicial and Legal Service Commission, the Police Service Commission, or the Teaching Service Commission, the power referred to in subsection (1) shall not be exercised without the approval of the Public Service Commission.

(4) No benefits to which this section applies that have been granted to or in respect of any person who is or has been the holder of an office referred to in section 136(12) to (16) or for which any such person or his widow, children, dependants or his personal representatives may be eligible, shall be withheld, reduced in amount or suspended on the ground that that person has been guilty of misbehaviour, unless that person has been removed from his office under this Constitution by reason of such misbehaviour.

(5) For the purposes of this section, service as a Judge, shall be deemed to be public service.

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

SPECIAL OFFICES

135. Appointments of principal representatives of Trinidad and Tobago

(1) The President acting in accordance with the advice of the Prime Minister shall have power to appoint persons to the offices to which this section applies and to remove persons from any such office.

(2) Before tendering any advice for the purposes of this section in relation to any person who holds or is acting in any public office other than an office to

which this section applies, the Prime Minister shall consult the appropriate Service Commission.

(3) This section applies to the office of-

a) Ambassador or High Commissioner; and

b) any principal representative of Trinidad and Tobago in any other country.

136. Tenure of special offices

(1) The holder of an office to which this subsection and subsections (3) to (11) apply (in this section referred to as "the officer") shall vacate his office on attaining the age of sixty-five years or such other age as may be prescribed.

(2) Notwithstanding that he has attained the age at which he is required by or under subsection (1) to vacated his office, a Judge may, with the permission of the President, acting in accordance with the advice of the Chief Justice, continue in office for such period after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

(3) Nothing done by the officer shall be invalid by reason only that he has attained the age at which he is required under this section to vacate his office.

(4) The officer shall vacate his office if with his consent, he is appointed a Senator or nominated for election to the House of Representatives.

(5) The salaries and allowances payable to the holders of the office to which subsection (1) and subsections (3) to (11) apply or an office referred to insubsections (13) to (16) shall be a charge on the Consolidated Fund.

(6) The salary and allowances payable to the holder of any office to which subsection (1) and subsections (3) to (11) apply or an office referred to in subsections (13) to (16) and his other terms of service shall not be altered to his disadvantage after his appointment and for the purposes of this subsection, in so far as the terms of service of any person depend upon the option of that

person, the terms for which he opts shall be taken to be more advantageous to him than any other terms for which he might have opted.

(7) The officer may be removed from office only for inability to discharge the functions of his office whether arising from afirmity of mind or body or any other cause, or for misbehaviour and shall not be so removed except in accordance with the provisions of subsection (10).

(8) A decision that the question of removing the officer from office ought to be investigated may be made at any time-

a) in the case of the Ombudsman by resolution of the House of Representatives, and

b) in any other case by the President either on his own initiative or upon the representation of the Prime Minister.

(9) Where a decision is made under subsection (8) that the question of removing the officer from office ought to be investigated, then-

a) the President shall appoint a Trinibunal which shall consist of a Chairman and not less than two other members all of whom shall be selected by the President acting in accordance with the advice of the Judicial and Legal Service Commission from among persons who hold or have held office as a Judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; and

b) the Tribunal shall inquire into the matter and report on the facts to the President and advise the President whether the officer ought to be removed from office on any of the grounds specified in subsection (7).

(10) Where the question of removing the officer from office is referred to a Tribunal appointed under subsection (9) and the Tribunal advises the President that the officer ought to be removed from office, the President shall, by writing signed by him, remove the officer from office.

(11) Where the question of removing the officer from office has been referred to a Tribunal under subsection (9), the President, after consultation with the Judicial and Legal Service Commission, may suspend the officer from performing the functions of his office and any such suspension may at any time be revoked by the President and shall in any case cease to have effect if the Tribunal advises the President that the officer ought not to be removed from office.

(12) Subsection (1) and subsections (3) to (11) apply to the office of Auditor General and to such other offices as may be prescribed.

(13) Subsections (1) to (6) apply to the office of Judge.

(14) Subsection (1) and subsections (3) to (6) apply to the office of Director of Public Prosecutions, Chief Parliamentary Counsel and Solicitor General.

(15) Subsections (5) to (11) apply to the office of Ombudsman, a member of the Election and Boundaries Commission, a member of the Integrity Commission, a member of a Service Commission, a member of the Salaries Review Commission and to such other offices as may be prescribed.

(16) Subsections (5) and (6) apply to the office of President.

137. Removal from certain offices

(1) A Judge may be removed from office only for inability to perform the functions of his office, (whether arising from infirmity of mind or body or any other cause), or for misbehaviour, and shall not be so removed except in accordance with the provisions of this section.

(2) A Judge shall be removed from office by the President where the question of removal of that Judge has been referred by the President to the Judicial Committee and the Judicial Committee has advised the President that the Judge ought to be removed from office for such inability or for misbehaviour.

(3) Where the Prime Minister, in the case of the Chief Justice, or the Judicial and Legal Service Commission, in the case of a Judge, other than the Chief

Justice, represents to the President that the question of removing a Judge under this section ought to be investigated, then-

a) the President shall appoint a tribunal, which shall consist of a chairman and not less than two other members, selected by the President, acting in accordance with the advice of the Prime Minister in the case of the Chief Justice or the Prime Minister after consultation with the Judicial and Legal Service Commission in the case of a Judge, from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court;

b) the tribunal shall enquire into the matter and report on the facts thereof to the President and recommend to the President whether he should refer the question of removal of that Judge from office to the Judicial Committee; and

c) where the tribunal so recommends, the President shall refer the question accordingly.

(4) Where the question of removing a Judge from office has been referred to a tribunal under subsection (3), the President, acting in accordance with the advice of the Prime Minister in the case of the Chief Justice or the Chief Justice in the case of a Judge, other than the Chief Justice, may suspend the Judge from performing the functions of his office, and any such suspension may at any time be revoked by the President, acting in accordance with the advice of the Prime Minister in the case of the Chief Justice or the Chief Justice in the case of a Judge, other than the Chief Justice, and shall in any case cease to have effect-

a) where the tribunal recommends to the President that he should not refer the question of removal of the Judge from office to the Judicial Committee; or

b) where the Judicial Committee advises the President that the Judges ought not to be removed from office.

CHAPTER 10
THE INTEGRITY COMMISSION

138. The Integrity Commission

(1) There shall be an Integrity Commission (in this section and in section 139 referred to as "the Commission") for Trinidad and Tobago consisting of such number of members, qualified and appointed in such manner and holding office upon such tenure as may be prescribed.

(2) The Commission shall be charged with the duty of-

a) receiving from time to time, declarations in writing of the assets, liabilities and income of members of the House of Representatives, Ministers of Government, Parliamentary Secretaries, Senators, Judges, Magistrates, Permanent Secretaries, Chief Technical Officers, Members of the Tobago House of Assembly, Members of Municipalities, Members of Local Government Authorities and members of the Boards of all Statutory Bodies, State Enterprises and the holders of such other offices as may be prescribed.

b) the supervision of all matters connected therewith as may be prescribed;

c) the supervision and monitoring of standards of ethical conduct prescribed by Parliament to be observed by the holders of offices referred to in paragraph (*a*), as well as members of the Diplomatic Service, Advisers to the Government and any person appointed by a Service Commission or the Statutory Authorities' Service Commission;

d) the monitoring and investigating of conduct, practices and procedures which are dishonest or corrupt.

139. Power to make laws relating to Commission

Subject to this Constitution, Parliament may make provision for-

a) the procedure in accordance with which the Commission is to perform its functions;

b) conferring such powers on the Commission and imposing such duties on persons concerned as are necessary to enable the Commission to carry out effectively the purposes of section 138;

c) the proper custody of declarations and other documents delivered to the Commission;

d) the maintenance of secrecy in respect of all information received by the Commission in the course of its duties with respect to the assets, liabilities and income of any member of Parliament and any other person;

da) the preparation by the Commission, of a Register of Interests for public inspection.

e) generally to give effect to the provisions of section 138.

CHAPTER 11
THE SALARIES REVIEW COMMISSION

140. Constitution of Commission

(1) There shall be a Salaries Review Commission which shall consist of a Chairman and four other members all of whom shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.

(2) The members of the Salaries Review Commission shall hold office in accordance with section 126.

141. Functions of Commission

(1) The Salaries Review Commission shall from time to time with the approval of the President review the salaries and other conditions of service of the President, the holders of offices referred to in section 136(12) to (15), members of Parliament, including Ministers of Government and Parliamentary Secretaries, and the holders of such other offices as may be prescribed.

(2) The report of the Salaries Review Commission concerning any review of salaries or of the conditions of service, or both, shall be submitted to the Prime Minister for presentation to the Cabinet and shall be laid as soon as posible thereafter on the table of each House.

CHAPTER 11A
THE TOBAGO HOUSE OF ASSEMBLY

141A. (1) There shall be an Assembly for Tobago to be called "the Tobago House of Assembly", in this Chapter referred to as "the Assembly".

(2) The Assembly shall consist of a Presiding Officer and such other members qualified and appointed in such manner and holding office upon such terms and conditions as may be prescribed.

141B. Subject to this Constitution, the Assembly shall have such powers and functions in relation to Tobago as may be prescribed.

141C. (1) There shall be an Executive Council of the Assembly consisting of a Chief Secretary and such number of Secretaries as may be prescribed, to be appointed in such manner as may be prescribed.

(2) The functions of the Chief Secretary and other Secretaries shall be prescribed.

141D. There is established a fund to be called "the Tobago House of Assembly Fund" which shall consist of -

a) such monies as may be appropriated by Parliament for the use of the Assembly; and

b) such other monies as the Assembly may lawfully collect.

CHAPTER 12
MISCELLANEOUS AND GENERAL

142. Resignations

(1) Subject to the provision of this Constitution, any person who is appointed or elected to or otherwise selected for any office established by this Constitution, including the office of Prime Minister or other Ministers, or Parliamentary Secretary, may resign from that office by writing under his hand addressed to the person or authority by whom he was appointed, elected or selected,

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

143. Reappointments, etc.

(1) Where any person has vacated any office as established by this Constitution, including the office of Prime Minister or other Minister, or Parliamentary Secretary, he may, if qualified, again be appointed, elected or otherwise selected to hold that office in accordance with the provisions of this Constitution.

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

Formato	*15,5 x 22,5 cm*
Mancha gráfica	*12 x 18,3cm*
Papel	*pólen soft 80g (miolo), duo design 250g (capa)*
Fontes	*Times New Roman 17/20,4 (títulos),*
	12/14 (textos)