STATUTORY INSTRUMENTS

# 1963 No. 2084

# CARIBBEAN AND NORTH ATLANTIC TERRITORIES

## The Bahama Islands (Constitution) Order in Council 1963

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| *Made* - - - - | *20th December* 1963 |
| *Laid before Parliament* | *1st January* 1964 |
| *Coming into Operation* | *7th January* 1964 |

At the Court at Buckingham Palace, the 20th day of December 1963

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers vested in Her in that behalf by section 1 of the Bahama Islands (Constitution) Act 1963(a) is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation, commencement and interpretation.

**1.**—(1) This Order may be cited as the Bahama Islands (Constitution) Order in Council 1963.

(2) This Order shall come into operation on such day as the Governor, acting in his discretion, may, by proclamation published in the Gazette appoint (hereinafter referred to as "the appointed day"), which day shall not be earlier than 2nd January 1964.

(3) Unless the context otherwise requires, expressions used in sections 1 to 15 (inclusive) of this Order have the same meaning as in the Constitution of the Bahama Islands set out in the Schedule to this Order (hereinafter referred to as "the Constitution") and the provisions of section 123 of the Constitution shall apply for the purposes of interpreting those sections as they apply for the purposes of interpreting the Constitution.

Revocations.

**2.** The Bahama Islands Letters Patent 1909 and 1959(b) (hereinafter referred to as "the existing Letters Patent") are revoked with effect from the appointed day.

Establishment of Constitution.

**3.** Subject to the provisions of this Order, the Constitution shall come into force in the Bahama Islands on the appointed day.

Existing laws.

**4.**—(1) Subject to the provisions of this section, the existing laws shall continue in force after the commencement of this Order as if they had been made in pursuance thereof and notwithstanding the revocation of the existing Letters Patent but the existing laws shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.

(a) 1963 c. 56. (b) Rev. III, p. 23: S.R. & O. 1909, p. 781; S.I. 1960 III, p. 4139.

(2) Where any matter that falls to be prescribed or otherwise provided for under the Constitution by the Legislature or by any other authority or person is prescribed or provided for by or under an existing law (including any amendment, adaptation or modification to any such law made under this section) or is otherwise prescribed or provided for immediately before the commencement of this Order by or under the existing Letters Patent, that prescription or provision shall, as from the commencement of this Order, have effect as if it had been made under the Constitution by the Legislature or, as the case may be, by the other person or authority.

(3) The Governor may by order made at any time within two years after the appointed day make such amendments, adaptations or modifications to any existing law as may appear to him to be necessary or expedient for bringing that law into conformity with the provisions of the Constitution or otherwise for giving effect or enabling effect to be given to those provisions.

(4) The provisions of this section shall be without prejudice to any powers conferred by the Constitution or by any other law upon any person or authority to make provision for any matter, including the amendment or repeal of any existing law.

(5) Any resolution passed by the Legislative Council and the House of Assembly and in force immediately before the appointed day whereby it is provided that any revenues of the Bahama Islands shall constitute or be payable into a separate fund for any purpose shall, for the purposes of this section, have effect as if it were an existing law.

(6) For the purposes of this section, the expression "existing law" means any law, rule, regulation, order or other instrument made or having effect as if it had been made in pursuance of the existing Letters Patent and having effect as part of the law of the Bahama Islands immediately before the commencement of this Order.

Existing officers.

**5.**—(1) Where any office has been established by or under the existing Letters Patent or any existing law and the Constitution establishes a similar equivalent office, any person who, immediately before the commencement of this Order, holds or is acting in the former office shall, so far as is consistent with the provisions of the Constitution, be deemed as from the commencement of this Order to have been appointed, elected or otherwise selected to or to act in the latter office in accordance with the provisions of the Constitution and to have taken any necessary oath under the Constitution:

Provided that any person who under the existing Letters Patent or any existing law would have been required to vacate his office at the expiration of any period or on the attainment of any age shall vacate his office at the expiration of that period or on the attainment of that age.

(2) The provisions of this section shall be without prejudice to—

(*a*) the provisions of sections 6, 7, 8 and 9 of this Order; and

(*b*) any powers conferred by or under this Order upon any person or authority to make provision for the abolition of offices and the removal of persons holding or acting in any office.

(3) In this section "existing law" means such a law as is referred to in section 4(6) of this Order.

Senate.

**6.**—(1) Notwithstanding any other provision of this Order, the Legislative Council constituted under the existing Letters Patent shall, as from the appointed day, be the Senate of the Bahama Islands established by this Order.

(2) Each member (not being a member holding public office) of the Legislative Council as constituted immediately before the appointed day shall as from that day be deemed to have been appointed by the Governor under the provisions of section 29(2)(*a*) of the Constitution as a Senator—

(*a*) in the case of any member appointed to the Legislative Council to hold office during Her Majesty's pleasure, for a term of ten years; or

(*b*) in the case of any other member appointed for a term of years to the Legislative Council, for the remainder, beginning with the appointed day, of that term,

and subject thereto he shall hold his seat in the Senate in accordance with the provisions of the Constitution.

(3) Nothing in this section shall affect the rights of the Governor, or of the Premier or the leader of the opposition to advise the Governor, to fill any vacancies in the Senate which exist as from the appointed day.

House of Assembly.

**7.**—(1) Notwithstanding any other provision of this Order, the General Assembly as constituted immediately before the appointed day (in this section referred to as "the existing General Assembly") shall be the House of Assembly of the Bahama Islands during the period beginning with that day and ending with the first dissolution of of the House of Assembly thereafter.

(2) The persons who immediately before the appointed day are members of the existing General Assembly shall be members of the House of Assembly and shall as from that day be deemed to have been elected thereto in pursuance of the provisions of section 35 of the Constitution and shall hold their seats in that House in accordance with the provisions of the Constitution:

Provided that if the seat of any member of the General Assembly is vacant immediately before the appointed day, or if the seat of any member of the House of Assembly falls vacant at any time before the dissolution of that House next following that day, a by-election shall be held in the constituency represented by that member in the manner provided by or under any law for the time being in force in the Bahama Islands.

(3) Until the dissolution of the House of Assembly next following the appointed day, section 35(1) of the Constitution shall have effect as if the proviso were omitted.

(4) The persons who immediately before the appointed day are Speaker and Deputy Speaker of the existing General Assembly shall on that day be Speaker and Deputy Speaker respectively of the House of Assembly and shall, as from that day, be deemed to have been elected as such in pursuance of section 39 of the Constitution and shall hold office in accordance with the provisions of that section.

(5) Notwithstanding anything contained in section 59(2), but subject to the provisions of section 58, of the Constitution, the House of Assembly shall, unless sooner dissolved, stand dissolved on 6th December 1967.

(6) During the period between the dissolution of the House of Assembly next following the appointed day and the dissolution of that House next following that dissolution, seventeen members from the Island of New Providence and twenty-one members from the remainder of the Bahama Islands shall be returned to the House of Assembly:

Provided that each constituency existing in the said remainder of the Bahama Islands immediately before the appointed day shall return at least one member.

(7) Notwithstanding anything contained in section 63 of the Constitution, the Constituencies Commission shall carry out a review and submit a report under that section within eighteen months after the appointed day or within one month after the dissolution of the House of Assembly next following the appointed day, whichever is the sooner.

(8) If no draft Order has been submitted to the Governor under section 63 of the Constitution within two years of the appointed day or within one month after the dissolution of the House of Assembly next following the appointed day, whichever is the sooner, the Governor, acting in his discretion, may make an Order giving effect to the report, with such modifications as he shall think fit.

Governor.

**8.**—(1) The person who, immediately before the appointed day, holds the office of Governor shall, as from that day, hold the like office as if he had been appointed thereto under section 17 of the Constitution, and the Commission under Her Majesty's Sign Manual and Signet by which he was appointed to the office of Governor shall, as from that day, have effect as if it had been granted in pursuance of that section.

(2) Until other provision is made under and in accordance with the provisions of section 20 of the Constitution, the salary and duty allowance of the Governor shall be the salary and duty allowance to which the Governor was entitled immediately before the appointed day.

Supreme Court and judges.

**9.**—(1) The Supreme Court in existence immediately before the appointed day shall be the Supreme Court for the purposes of the Constitution, and the Chief Justice and other judges of the Supreme Court holding office immediately before the appointed day shall, as from that day, continue to hold the like offices as if they had been appointed thereto under the provisions of section 85 of the Constitution.

(2) Until other provision is made under and in accordance with the provisions of section 88 of the Constitution, the salaries and allowances of the judges of the Supreme Court shall be the salaries and allowances to which the holders of those offices were entitled immediately before the appointed day.

Salary and allowances of Chief Secretary.

**10.** Until such time as other provision is made in that behalf by the Legislature, there shall be paid to the holder of the office of Chief Secretary established by section 76 of the Constitution salary and allowances calculated at the same rate as the salary and allowances paid immediately before the appointed day to the holder of the office of Colonial Secretary.

Court of Appeal.

**11.**—(1) Section 90 of the Constitution shall come into operation at the expiration of twelve months from the appointed day.

(2) No appeal shall lie to the Court of Appeal from any decision given for the purposes of section 40 of the Constitution before section 90 of the Constitution comes into operation.

Fundamental rights and freedoms.

**12.**—(1) Until the expiration of the period of two years immediately after the appointed day, nothing contained in any existing law shall be held to be inconsistent with any provision of sections 2 to 13 (inclusive) of the Constitution, and nothing done during that period under the authority of any such law shall be held to be done in contravention of any of those sections; thereafter Part I of the Constitution shall have full force and effect in the Bahama Islands save that no provision in any existing law which is declared by order of the Governor under subsection (9) of this section to be an excepted provision shall be deemed to be inconsistent with any provision of the said sections 2 to 13 (inclusive) and nothing done under the authority of any such provision shall be held to be done in contravention of any of those sections.

(2) As soon as may be after the appointed day an examination shall be commenced of all existing laws and such laws shall be examined with reference to the provisions of sections 2 to 13 (inclusive) of the Constitution.

(3) The said examination shall be made by a Commissioner who shall be appointed by a Secretary of State.

(4) At least six months before the expiration of the period of two years referred to in subsection (1) of this section, the Commissioner shall submit to the Governor a report stating the provisions, if any, of the existing laws (hereinafter referred to as "impugned provisions") which would, in the opinion of the Commissioner but subject to the provisions of this section, be inconsistent with any provision of sections 2 to 13 (inclusive) of the Constitution.

(5) The Governor shall cause a copy of the report to be laid forthwith before each House of the Legislature.

(6) As soon thereafter as may be the Governor, acting in his discretion, shall summon to a Conference (hereinafter referred to as "the Conference") delegations (hereinafter referred to as "the delegations") consisting of those persons resident in the Bahama Islands (other than the Governor) who were delegates at the Bahamas Constitutional Conference held in London in May 1963, or such other persons so resident as may be selected by the persons or authorities they represented at that Conference.

(7) The Conference shall be held in the Bahama Islands on such date as the Governor, acting in his discretion, may appoint.

(8) The Governor shall, so far as is practicable, attend and preside at all meetings of the Conference and in his absence such other person shall preside as the Governor, acting in his discretion, may appoint.

(9) The Conference shall consider every impugned provision and unless, in respect of any such provision, all the delegations present are agreed that it should become subject to the provisions of Part I of the Constitution, the Governor shall by order published in the Gazette declare that provision to be an excepted provision for the purposes of subsection (1) of this section.

(10) In this section "existing law" means such a law as is referred to in section 4(6) of this Order.

Emergency laws.

**13.**—(1) Until such time as provision is made by Act of the Legislature of the Bahama Islands conferring power on the Governor, acting in his discretion, to make, during any period when there is in force a proclamation made by the Governor declaring that a state of public

emergency exists in the Islands for the purposes of that Act, such laws for the Islands, to have effect notwithstanding the provisions of any other law made by the Legislature of the Islands or having effect under any such law, as may appear to the Governor to be necessary or expedient for securing the public safety, the defence of the Islands or the maintenance of public order or for maintaining supplies and services essential to the life of the community, the Emergency Powers Order in Council 1939(a), as amended(b), shall have effect as if the Islands were a territory specified in the First Schedule to that Order.

(2) The powers conferred upon the Governor by the Emergency Powers Order in Council 1939, as amended, shall be exercised by him after consultation with the Premier:

Provided that if in the judgment of the Governor it is impracticable for him to consult with the Premier, those powers shall be exercised by the Governor, acting in his discretion.

Crown Lands Fund for Development.

**14.** Any public moneys kept in a separate account as Crown Lands funds immediately before the appointed day shall on that day be transferred to the Crown Lands Fund for Development referred to in section 110(2) of the Constitution.

Regulations for retirement, compensation etc.

**15.**—(1) Notwithstanding the provisions of Part VI of the Constitution, the Governor, acting in his discretion, may by regulation make such provision as appears to him to be necessary or expedient for the retirement of persons or classes of persons holding office immediately before the appointed day in the public service or as a judge of the Supreme Court and for the payment of compensation, pensions, gratuities and other like allowances.

(2) All sums required for the purpose of the payment of compensation under this section shall be a charge on the Crown Lands Fund for Development and, notwithstanding anything contained in section 111 of the Constitution, shall be paid out of that Fund upon the authority of a warrant under the hand of the Governor, acting in his discretion.

(3) Any compensation, gratuity, grant or allowance payable under regulations made under this section shall, if it is so provided in any such regulations, be exempt from tax under any law in force in the Bahama Islands relating to the taxation of incomes or imposing any other form of taxation.

(4) Regulations made under this section shall not be pensions laws for the purposes of section 109 of the Constitution.

*W. G. Agnew.*

(a) See S.I. 1952 I, at p. 621.
(b) S.I. 1956/731, 1963/88, 1633 (1956 I, p. 512; 1963 I, p. 105; III, p. 3084).

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# THE CONSTITUTION OF THE BAHAMA ISLANDS

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PART I

PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL

Fundamental rights and freedoms of the individual.

**1.** Whereas every person in the Bahama Islands 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 assembly and association; and

(*c*) respect for his private and family life,

the subsequent provisions of this Part 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.

Protection of right to life.

**2.**—(1) No person shall be deprived intentionally 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 to prevent the commission by that person of a criminal offence,

or if he dies as a result of a lawful act of war.

Protection from inhuman treatment.

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

(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 authorises the infliction of any description of punishment that was lawful in the Bahama Islands immediately before the coming into operation of this Constitution.

Protection from slavery and forced labour.

**4.**—(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, "forced labour" does not include—

(*a*) any labour required in consequence of the sentence or order of a court;

(*b*) 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 in a naval, military or air force, any labour which that person is required by law to perform in place of such service;

(*c*) labour required of any person while he is lawfully detained which, 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 in which he is detained; or

(*d*) any labour required during a period of public emergency or in the event of any other emergency or calamity that threatens the life or well-being of the community.

Protection from arbitrary arrest or detention.

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

(*a*) in execution of the sentence or order of a court in respect of a criminal offence of which he has been convicted or in consequence of his unfitness to plead to a criminal charge or in execution of the order of a court on the grounds of his contempt of that court or of another court or tribunal;

(*b*) in execution of the order of a court made in order to secure the fulfilment of any obligation imposed upon him by law;

(*c*) for the purpose of bringing him before a court in execution of the order of a court;

(*d*) upon reasonable suspicion of his having committed, or of being about to commit, a criminal offence;

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

(*f*) for the purpose of preventing the spread of an infectious or contagious disease or 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;

(*g*) for the purpose of preventing the unlawful entry of that person into the Bahama Islands or for the purpose of effecting the expulsion, extradition or other lawful removal from the Bahama Islands of that person or the taking of proceedings relating thereto.

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

(3) Any person who is arrested or detained in such a case as is mentioned in subsection (1)(*c*) or (*d*) of this section and who is not released shall be brought without undue delay before a court; and if any person arrested or detained in such a case as is mentioned in the said paragraph (*d*) is not tried within a reasonable time he shall (without prejudice to any further proceedings that may be brought against him) 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.

(4) Any person who is unlawfully arrested or detained by any other person shall be entitled to compensation therefor from that other person.

Provisions to secure protection of law.

**6.**—(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 representative of his own choice or by a legal representative at the public expense where so provided by or under a law in force in the Bahama Islands;

(*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;

(*f*) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the charge; and

(*g*) shall, when charged on Information in the Supreme Court, have the right to trial by jury;

and except with his own consent the trial shall not take place in his absence, unless he so conducts himself in the court 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.

(3) When a person is tried for any criminal offence, the accused person or any person authorised 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) No person shall 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) No person who shows that he has been tried by a 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 in the course of appeal or review proceedings relating to the conviction or acquittal.

(6) No person shall be tried for a criminal offence if he shows that he has been pardoned for that offence.

(7) No person who is tried for a criminal offence shall be compelled to give evidence at the trial.

(8) Any court or other adjudicating 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 adjudicating authority, the case shall be given a fair hearing within a reasonable time.

(9) All proceedings instituted in any court for the determination of the existence or extent of any civil right or obligation, including the announcement of the decision of the court, shall be held in public.

(10) Nothing in subsection (9) of this section shall prevent the court from excluding from the proceedings persons other than the parties thereto and their legal representatives to such extent as the court—

(*a*) may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice or in interlocutory proceedings;

(*b*) may be empowered by law to do so in the interests of defence, public safety, public order, 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

(*c*) may be empowered to do so under the Rules of Court and Practice existing immediately before the coming into operation of this Constitution.

(11) 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 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 ;

(*c*) subsection (5) of this section to the extent that the law in question authorises 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.

(12) In this section, " legal representative " means a person entitled to practise in the Bahama Islands as counsel and attorney of the Supreme Court.

Protection for private and family life and home.

**7.**—(1) Every person shall be entitled to respect for his private and family life and his home.

(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, public health or the economic well-being of the community ; or

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

(*b*) which authorises an officer or agent of the Government of the Bahama Islands, a local government authority or a body corporate established by law for a public purpose 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 that Government, authority or body corporate, as the case may be,

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.

Protection of freedom of conscience.

**8.**—(1) Except with his 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 or in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.

(2) Except with his consent (or, if he is a person who has not attained the age of twenty-one years, the consent of his 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 other than his own.

(3) No religious body or denomination shall be prevented from or hindered in 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.

(4) 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.

(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 ; or

(*b*) for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practise any religion without the unsolicited interference of members of any other religion,

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.

Protection of freedom of expression.

**9.**—(1) Except with his 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 freedom to hold opinions, to belong to political parties, to receive and impart ideas and information without interference, 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*) 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, reputations and freedoms of other persons, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, or regulating telephony, telegraphy, posts, wireless broadcasting, television, public exhibitions or public entertainments ; or

(*b*) which imposes restrictions upon persons holding office under the Crown or upon members of a disciplined force,

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.

Protection of freedom of assembly and association.

**10.**—(1) Except with his consent, no person shall be hindered in the enjoyment of his freedom of peaceful 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*) 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 and freedoms of other persons; or

(*b*) which imposes restrictions upon persons holding office under the Crown or upon members of a disciplined force,

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.

Protection of freedom of movement.

**11.**—(1) Except with his consent, no person shall be hindered in the enjoyment of his freedom of movement, and for the purposes of this section the said freedom means the right to move freely throughout the Bahama Islands, the right to reside in any part thereof, the right to enter the Bahama Islands and immunity from expulsion therefrom.

(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, public health or town and country planning; or

(ii) for the purpose of protecting the rights and freedoms of other persons,

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;

(*b*) for the removal of a person from the Bahama Islands to be tried outside the said Islands for a criminal offence or to undergo imprisonment in some other country in respect of a criminal offence of which he has been convicted;

(*c*) for the imposition of restrictions upon the movement or residence within the Bahama Islands of public officers or members of a disciplined force;

(*d*) for the imposition of restrictions on the movement or residence within the Bahama Islands of any person who does not belong to the said Islands or the exclusion or expulsion therefrom of any such person.

(3) 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.

(4) For the purposes of this section, a person shall be deemed to belong to the Bahama Islands if—

(*a*) he is a British subject and was born in the Bahama Islands ; or

(*b*) he is a British subject and was born outside the Bahama Islands of a father or mother who was born in the Bahama Islands ; or

(*c*) he is a person who is deemed to belong to the Bahama Islands under the provisions of any law for the time being in force in the Bahama Islands ; or

(*d*) he has obtained the status of a British subject by reason of the grant by the Governor of a certificate of naturalisation under the British Nationality and Status of Aliens Act 1914(**a**) or the British Nationality Act 1948(**b**) ; or

(*e*) she is the wife of a person to whom any of the foregoing paragraphs of this subsection applies not living apart from such person under a decree of a court or a deed of separation ; or

(*f*) such person is the child, stepchild or lawfully adopted child under the age of eighteen years of a person to whom any of the foregoing paragraphs of this subsection applies.

Protection from discrimination on the grounds of race, etc.

**12.**—(1) Subject to the provisions of subsections (4), (5) and (8) 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 subsections (6), (8) and (9) 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*) for the appropriation of revenues or other funds of the Bahama Islands or for the imposition of taxation (including the levying of fees for the grant of licences) ; or

(*b*) with respect to the entry into or exclusion from, or the employment, engaging in any business or profession, movement or residence within, the Bahama Islands of persons who do not belong to the Bahama Islands for the purposes of section 11 of this Constitution ; or

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

(*d*) 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 ;

(**a**) 4 & 5 Geo. 5. c. 17. (**b**) 11 & 12 Geo. 6. c. 56.

(*e*) 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 which, 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; or

(*f*) for authorising the granting of licences or certificates permitting the conduct of a lottery, the keeping of a gaming house or the carrying on of gambling in any of its forms subject to conditions which impose upon persons who belong to the Bahama Islands disabilities or restrictions to which other persons are not made subject.

(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 or as a member of a disciplined force or for the service of a local government authority or a body corporate established directly by any law.

(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) Subject to the provisions of subsection (4)(*f*) and of subsection (8) of this section, no person shall be treated in a discriminatory manner in respect of access to any of the following places to which the general public have access, namely, shops, hotels, restaurants, eating-houses, licensed premises, places of entertainment or places of resort.

(8) 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, 8, 9, 10 and 11 of this Constitution, being such a restriction as is authorised by section 7(2)(*a*), 8(5), 9(2), 10(2) or 11(2)(*a*), as the case may be.

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

Protection from deprivation of property.

**13.**—(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 where the following conditions are satisfied, that is to say—

(*a*) the taking of possession or acquisition is necessary in the interests of defence, public safety, public order, public morality, public health, town and country planning or the development or utilisation of any property in such manner as to promote the public benefit or the economic well-being of the community; and

(*b*) the necessity therefor is such as to afford reasonable justification for the causing of any hardship that may result to any person having an interest in or right over the property; and

(*c*) provision is made by a law applicable to that taking of possession or acquisition—

(i) for the prompt payment of adequate compensation; and

(ii) securing to any person having an interest in or right over the property a right of access to the Supreme Court, whether direct or on appeal from any other authority, for the determination of his interest or right, the legality of the taking of possession or acquisition of the property, interest or right, and the amount of any compensation to which he is entitled, and for the purpose of obtaining prompt payment of that compensation ; and

(*d*) giving to any party to proceedings in the Supreme Court relating to such a claim the same rights of appeal as are accorded generally to parties to civil proceedings in that Court sitting as a court of original jurisdiction.

(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 under the law of the Bahama Islands ;

(*c*) as an incident of a lease, tenancy, mortgage, charge, bill of sale, pledge or contract ;

(*d*) upon the attempted removal of the property in question out of or into the Bahama Islands in contravention of any law ;

(*e*) by way of the taking of a sample for the purposes of any law ;

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

(*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, bodies corporate or unincorporate in the course of being wound up, or defunct companies that have been struck off the Register of Companies ;

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

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

(*j*) in consequence of any law making provision for the validation of titles to land or (without prejudice to the generality of the foregoing words) the confirmation of such titles, or for the extinguishment of adverse claims, or with respect to prescription or the limitation of actions ; or

(*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 reclamation, drainage, soil conservation or the conservation of other natural resources ; or

(ii) of agricultural development or improvement that 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 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 established by law for public purposes in which no moneys have been invested other than moneys provided by the Legislature.

Enforcement of fundamental rights.

**14.**—(1) If any person alleges that any of the provisions of sections 2 to 13 (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—

(*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 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 2 to 13 (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 are or have been available to the person concerned under any other law.

(3) If, in any proceedings in any court established for the Bahama Islands other than the Supreme Court or the Court of Appeal, any question arises as to the contravention of any of the provisions of the said sections 2 to 13 (inclusive), the court in which the question has arisen shall refer the question to the Supreme Court.

(4) No law of the Legislature shall make provision with respect to rights of appeal from any determination of the Supreme Court in pursuance of this section that is less favourable to any party thereto than the rights of appeal from determinations of the Supreme Court that are accorded generally to parties to civil proceedings in that Court sitting as a court of original jurisdiction.

(5) A law of the Legislature may confer upon the Supreme Court such additional or supplementary powers as may appear to be necessary or desirable for enabling the Court more effectively to exercise the jurisdiction conferred upon it by subsection (2) of this section and may make provision with respect to the practice and procedure of the Court while exercising that jurisdiction.

Provisions for time of war or emergency.

**15.**—(1) This section applies to any period when—

(*a*) Her Majesty is at war ; or

(*b*) there is in force a proclamation (in this section referred to as a "proclamation of emergency") made by the Governor and published in the Gazette declaring that a state of public emergency exists for the purposes of this section.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of section 4(2), section 5, any provision of section 6 other than subsection (4) thereof, or any provision of sections 7 to 12 (inclusive) of this Constitution to the extent that the law in question makes in relation to

any period to which this section applies provision, or authorises the doing during any such period of anything, which is reasonably justifiable in the circumstances of any situation arising or existing during that period for the purpose of dealing with that situation.

(3) Where any proclamation of emergency has been made, copies thereof shall as soon as is practicable be laid before both chambers of the Legislature, and if for any cause those chambers are not due to meet within five days the Governor shall, by proclamation published in the Gazette, summon them to meet within five days and they shall accordingly meet and sit upon the day appointed by the proclamation and shall continue to sit and act as if they had stood adjourned or prorogued to that day:

Provided that if the proclamation of emergency is made during the period between a dissolution of the House of Assembly and the next ensuing general election of members of that House, the chambers to be summoned as aforesaid shall be that Senate and that House of Assembly which are referred to in section 58 of this Constitution.

(4) A proclamation of emergency shall, unless it is sooner revoked by the Governor, cease to be in force at the expiration of a period of fourteen days beginning on the date on which it was made or such longer period as may be provided under subsection (5) of this section, but without prejudice to the making of another proclamation of emergency at or before the end of that period.

(5) If at any time while a proclamation of emergency is in force (including any time while it is in force by virtue of the provisions of this subsection) a resolution is passed by each chamber of the Legislature approving its continuance in force for a further period, not exceeding three months, beginning on the date on which it would otherwise expire, the proclamation shall, if not sooner revoked, continue in force for that further period.

(6) Where any person who is lawfully detained in pursuance only of such a law as is referred to in subsection (2) 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.

(7) 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 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 such recommendations.

(8) The powers of the Governor under this section shall be exercised by him after consultation with the Premier:

Provided that if in the judgment of the Governor it is impracticable for him to consult with the Premier, those powers shall be exercised by the Governor acting in his discretion.

Interpretation.

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

"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 the Bahama Islands other than a court constituted by or under disciplinary law:

Provided that—

(*a*) in sections 2, 4, 5, subsections (2), (3), (5), (9) and (10) of section 6, section 12 and section 14(3), " court " includes, in relation to an offence against disciplinary law, a court constituted by or under disciplinary law ; and

(*b*) in sections 5 and 6, " court ", in relation to an offence against disciplinary law, includes an officer of a disciplined force ;

" 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 of the Bahama Islands ;

(*c*) the Prison Service of the Bahama Islands ;

" 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 ;

" period of emergency " means any period during which—

(*a*) Her Majesty is at war ; or

(*b*) there is in force such a proclamation of the Governor as is referred to in section 15.

(2) Any reference in sections 2, 5, 11 and 13 of this Constitution to a criminal offence shall be construed as including an offence against disciplinary law, and any such reference in subsections (2) to (7) (inclusive) of section 6 of this Constitution shall, in relation to proceedings before a court constituted by or under disciplinary law, be construed in the same manner.

(3) In relation to any person who is a member of a disciplined force raised under a law of any country other than the Bahama Islands and lawfully present in the Bahama Islands, 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 Part.

## PART II

## THE GOVERNOR

The Governor.

**17.**—(1) There shall be a Governor and Commander-in-Chief in and over the Bahama Islands who shall be appointed by Her Majesty by Commission under Her Sign Manual and Signet and shall hold office during Her Majesty's pleasure.

(2) The Governor shall have such powers and duties as are conferred or imposed on him by or under this Constitution or any other law and such other powers as Her Majesty may from time to time be pleased to assign to him, and, subject to the provisions of this Constitution and of any law by which any such powers or duties are conferred or imposed, shall do and execute all things that belong to his office (including the exercise of any powers with respect to which he is empowered by this Constitution to act in his discretion)

according to such Instructions, if any, as Her Majesty may from time to time see fit to give him under Her Sign Manual and Signet or through a Secretary of State:

Provided that the question whether or not the Governor has in any matter complied with any such instructions shall not be inquired into in any court.

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

Acting Governor.

**18.**—(1) During any period when the office of Governor is vacant or the Governor is absent from the Bahama Islands or is for any other reason unable to perform the functions of his office those functions shall, during Her Majesty's pleasure, be assumed and performed by—

(*a*) such person as Her Majesty may designate in that behalf by instructions given through a Secretary of State; or

(*b*) if there is no person in the Bahama Islands so designated and able to perform those functions, such person as Her Majesty may appoint in that behalf by Commission under Her Sign Manual and Signet.

(2) Before assuming the functions of the office of Governor, any such person as aforesaid shall make the oaths or affirmations directed by section 17(3) of this Constitution to be made by the Governor.

(3) Any such person as aforesaid shall not continue to perform the functions of the office of Governor after the Governor 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.

(4) The Governor or any other person as aforesaid shall not, for the purposes of this section, be regarded as absent from the Bahama Islands or as unable to perform the functions of the office of Governor—

(*a*) by reason that he is in passage from one part of the Bahama Islands to another; or

(*b*) at any time when there is a subsisting appointment of a deputy under section 19 of this Constitution.

Deputy to Governor.

**19.**—(1) Whenever the Governor—

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

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

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

he may, acting in his discretion, by instrument under the Public Seal, appoint any person in the Bahama Islands to be his deputy during such absence or illness and in that capacity to perform on his behalf such of the functions of the office of Governor as may be specified in that instrument.

(2) The power and authority of the Governor 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, acting in his discretion, 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 inquired 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 Her Majesty by instructions given through a Secretary of State or by the Governor, acting in his discretion.

Salary and duty allowance of Governor and Acting Governor.

**20.**—(1) The Governor shall receive such salary and (save when some other person is performing the functions of his office under section 18 of this Constitution) such duty allowance as, subject to subsection (3) of this section, may be prescribed by any law of the Legislature.

(2) During any period when any person is performing the functions of the office of Governor under section 18 of this Constitution that person shall receive a salary calculated at the rate of ninety-five per centum of the salary of the Governor and such duty allowance as would otherwise be payable to the Governor and shall not be entitled to receive during that period any salary in respect of any other office payable out of the revenues of the Bahama Islands.

(3) The salary, duty allowance and other conditions of service of the Governor or any other person performing the functions of the office of Governor under section 18 of this Constitution shall not be altered to his disadvantage during his continuance in the office of Governor or while he continues to perform the functions of that office, as the case may be, and the said salary and duty allowance shall be charged on and paid out of the Consolidated Fund.

Personal staff and expenditure of the Governor.

**21.**—(1) The Legislature may, by law, prescribe the offices that are to constitute the personal staff of the Governor, 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.

(2) Any salaries, allowances or other sums prescribed under the 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 being offices constituting the personal staff of the Governor, and to remove and to exercise disciplinary control over persons holding or acting in such offices, shall vest in the Governor, acting in his discretion.

(4) The Governor, acting in his discretion, may appoint to any one of the offices prescribed under subsection (1) of this section such public officer 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 any officer so appointed as respects his service on the personal staff of the Governor 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, perform the functions of any public office ; and

(*c*) an officer so appointed may at any time be appointed by the Governor, acting in his discretion, if the Public Service Commission so requests, to assume or resume the functions of a public office and shall thereupon vacate his office on the personal staff of the Governor, but the Governor may, acting 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 shall for the purposes of sections 95, 100, 107, 108 and 109 of this Constitution be deemed to be public offices.

Exercise of Governor's functions.

**22.**—(1) In the exercise of his functions the Governor shall, subject to the provisions of this section, obtain and act in accordance with the advice of the Cabinet or of a Minister acting under the general authority of the Cabinet.

(2) Subsection (1) of this section shall not apply to the exercise by the Governor of—

(*a*) any function conferred upon him by this Constitution which is expressed to be exercisable by him in his discretion, or on or in accordance with the recommendation or advice of, or with the concurrence of, or after consultation with, any person or authority ; or

(*b*) any function conferred upon him by any other law which is expressed to be exercisable by him in his discretion or which he is otherwise authorised by such law to exercise without obtaining the advice of the Cabinet.

(3) Where the Governor is by this Constitution or any other law 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, acting 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.

(4) Where the Governor is by this Constitution or any other law 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.

(5) Where any function conferred upon the Governor by this Constitution or any other law is expressed to be exercisable by him in his discretion, he shall exercise that function according to his own deliberate judgment.

(6) Where the Governor is by this Constitution or any other law directed to exercise any function in his discretion or on or in accord-

ance with the recommendation or advice of, or with the concurrence of, or after consultation with, any person or authority, the question whether he has so exercised that function shall not be inquired into in any court.

Powers to dispose of land.

**23.**—(1) Subject to the provisions of this Constitution and any law for the time being in force in the Bahama Islands, the Governor, in Her Majesty's name and on Her Majesty's behalf, may, under the Public Seal, make grants and dispositions of any Crown lands or other immovable property in the Bahama Islands or of any interests in such property that are vested in Her Majesty as the property of the Crown for the beneficial interest of the said Islands and may exercise in relation to such property or interests any other powers that are lawfully exercisable by Her Majesty.

(2) Without prejudice to the exercise of his powers under subsection (1) of this section, the Governor, acting in his discretion, may authorise the Chief Secretary or a Minister either generally or in any particular case to sign such a grant or disposition as is referred to in that subsection.

Powers to constitute offices and make appointments, etc.

**24.** Subject to the provisions of Part VI of this Constitution and of any other law for the time being in force in the Bahama Islands, the Governor, in Her Majesty's name and on Her Majesty's behalf, may—

(*a*) constitute offices for the Bahama Islands and make appointments, to be held during Her Majesty's pleasure, thereto ; and

(*b*) remove any person so appointed or take such other disciplinary action in relation to him as the Governor may think fit.

Powers of pardon, etc.

**25.**—(1) The Governor may, in Her Majesty's name and on Her Majesty's behalf—

(*a*) grant to any person concerned in or convicted of an offence against any law for the time being in force in the Bahama Islands, 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*) remit the whole or any part of any sentence passed for such an offence or any penalty or forfeiture otherwise due to Her Majesty on account of such an offence.

(2) In exercise of the powers conferred upon him by this section, the Governor shall act after consultation with the Committee established under section 26 of this Constitution.

Establishment and procedure of Advisory Committee.

**26.**—(1) There shall be in and for the Bahama Islands an Advisory Committee (hereinafter in this section referred to as " the Committee ") on the Prerogative of Mercy which shall consist of the following members :—

(*a*) four Ministers appointed by name by the Governor after consultation with the Premier ; and

(*b*) the Attorney-General.

(2) The Ministers appointed by the Governor under subsection (1)(*a*) of this section shall be appointed by instrument under the Public Seal.

(3) The Committee shall not be summoned except by the authority of the Governor who shall preside at all meetings of the Committee.

(4) No business shall be transacted at any meeting of the Committee unless there are at least three members present, of whom one shall be the Attorney-General.

(5) Any Minister who is a member of the Committee may resign his seat by writing under his hand addressed to the Governor.

(6) The seat of any member of the Committee appointed under subsection (1)(*a*) of this section shall become vacant upon—

(*a*) receipt by the Governor of his resignation ; or

(*b*) his ceasing to be a Minister ; or

(*c*) his being notified by the Governor, acting after consultation with the Premier, of the revocation of his appointment as a member of the Committee.

(7) Subject to subsection (4) of this section, the Committee shall not be disqualified for the transaction of business by reason of any vacancy in the membership of the Committee and the validity of the transaction of any business by the Committee shall not be affected by reason only of the fact that some person who was not entitled to do so took part in the proceedings.

(8) Subject to the provisions of this section, the Committee may regulate its own proceedings.

Consideration of capital cases by the Advisory Committee.

**27.** Whenever any person has been condemned by the sentence of any court to suffer death in respect of an offence against any law in force in the Bahama Islands, the Governor shall call upon the judge who presided at the trial to make to him a written report of the case of such offender and shall cause such report, together with such other information derived from the record of the case or elsewhere as the Governor may require, to be taken into consideration at a meeting of the Advisory Committee.

## PART III

## THE LEGISLATURE

### GENERAL

Establishment of Legislature.

**28.** There shall be a Legislature in and for the Bahama Islands which shall consist of the Governor, a Senate and a House of Assembly.

### THE SENATE

Composition of Senate.

**29.**—(1) The Senate shall consist of fifteen members (in this Constitution referred to as " Senators ") who shall be appointed by the Governor by instrument under the Public Seal in accordance with the provisions of this section.

(2) Of the fifteen Senators—

(*a*) eight shall be appointed by the Governor acting after consultation with the Premier and such other persons as the Governor, acting in his discretion, may decide to consult ;

(*b*) five shall be appointed by the Governor acting in accordance with the advice of the Premier ; and

(*c*) two shall be appointed by the Governor acting in accordance with the advice of the leader of the opposition.

Qualifications for appointment as Senator.

**30.** Subject to the provisions of section 31 of this Constitution, a person shall be qualified to be appointed as a Senator if, and shall not be qualified to be so appointed unless, he—

(*a*) is a British subject of the age of thirty years or upwards ; and

(*b*) has been ordinarily resident in the Bahama Islands for a period of not less than five years immediately prior to his appointment.

Disqualifications for appointment as Senator.

**31.**—(1) No person shall be qualified to be appointed as a Senator who—

(*a*) is, by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to a foreign power or state ;

(*b*) is disqualified for membership of the Senate by any law of the Legislature enacted in pursuance of subsection (2) of this section ;

(*c*) is a member of the House of Assembly ;

(*d*) has been adjudged or otherwise declared bankrupt under any law in force in the Bahama Islands and has not been discharged ;

(*e*) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in the Bahama Islands ;

(*f*) is under sentence of death imposed on him by a court in any part of the Commonwealth, or is serving a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court, or is under such a sentence of imprisonment the execution of which has been suspended ; or

(*g*) is disqualified for membership of the House of Assembly by virtue of any law of the Legislature by reason of his having been convicted of any offence relating to elections.

(2) The Legislature may by law provide that, subject to such exceptions and limitations (if any) as may be prescribed therein, a person shall be disqualified for membership of the Senate by virtue of—

(*a*) his holding or acting in any office or appointment specified (either individually or by reference to a class of office or appointment) by such law ;

(*b*) his belonging to any of the armed forces of the Crown specified by such law or to any class of person so specified that is comprised in any such force ; or

(*c*) his belonging to any police force specified by such law or to any class of person so specified that is comprised in any such force.

(3) For the purposes of subsection (1)(*f*) 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.

Tenure of office of Senators.

**32.**—(1) Subject to the provisions of subsection (2) of this section, Senators shall hold office during the Governor's pleasure and shall be appointed—

(*a*) in the case of a Senator appointed under section 29(2)(*a*) of this Constitution, for a term not exceeding five years or, in the case of a person who has never previously held office as a Senator, for a term not exceeding ten years;

(*b*) in the case of a Senator appointed under section 29(2)(*b*) or (*c*) of this Constitution, for a term expiring, subject to the provisions of section 58 of this Constitution, on the date of the next dissolution of the House of Assembly after his appointment.

(2) A Senator shall vacate his seat on his death or—

(*a*) at the expiration of the term for which he is appointed under the provisions of subsection (1) of this section;

(*b*) if he resigns it by writing under his hand addressed to the President of the Senate or, if the office of President is vacant or the President is absent from the Bahama Islands, to the Vice-President;

(*c*) if he is absent from the Bahama Islands for a period of six months without the leave of the Governor, acting in his discretion;

(*d*) if, with his consent, he is nominated as a candidate for election to the House of Assembly;

(*e*) if he ceases to be a British subject;

(*f*) subject to subsection (3) of this section, if any circumstances arise that, if he were not a Senator, would cause him to be disqualified for appointment as such by reason of paragraph (*a*), (*b*), (*d*), (*e*), (*f*) or (*g*) of section 31(1) of this Constitution;

(*g*) in the case of a Senator appointed by the Governor under section 29(2)(*a*) of this Constitution, if the Governor sees fit, after consultation with the Premier, by instrument under the Public Seal to declare the seat of that Senator to be vacant; or

(*h*) in the case of a Senator appointed by the Governor in accordance with the advice of the Premier or, as the case may be, the leader of the opposition under section 29(2)(*b*) or (*c*) of this Constitution, if the Governor acting in accordance with the advice of the Premier or leader of the opposition, as the case may be, by instrument under the Public Seal declares the seat of that Senator to be vacant.

(3) If circumstances such as are referred to in subsection (2)(*f*) of this section arise because a Senator is under sentence of death or imprisonment, declared bankrupt, adjudged to be of unsound mind or convicted of an offence relating to elections and if 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 but, subject to subsection (4) of this section, he shall not vacate his seat until the expiration of a period of thirty days thereafter:

Provided that the President of the Senate 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 Senate.

(4) 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 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.

(5) 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 subsection (3) of this section and he may resume the performance of his functions as a Senator.

(6) Whenever a vacancy occurs in the membership of the Senate the Governor shall, as soon as practicable thereafter, proceed under section 29 of this Constitution to make a new appointment.

President and Vice-President.

**33.**—(1) When the Senate first meets after any general election and before it proceeds to the despatch of any other business, the Senate shall, in accordance with such procedure as may be prescribed by the Rules of Procedure of the Senate, elect a Senator to be President of the Senate; and, if the office of President falls vacant at any time, the Senate shall, as soon as practicable, proceed in like manner to fill the vacant 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, it shall elect a Senator to be Vice-President of the Senate; and if the office of Vice-President falls vacant at any time, the Senate shall, as soon as practicable, elect another Senator to that office.

(3) The Senate shall not elect a Senator who is a Minister to be the President or Vice-President of the Senate.

(4) A person shall vacate the office of President or Vice-President of the Senate—

(*a*) if he ceases to be a Senator;

(*b*) if he is appointed to be a Minister;

(*c*) if he announces the resignation of his office to the Senate or if, by writing under his hand addressed, in the case of the President, to the Clerk of the Senate and, in the case of the Vice-President, to the President (or, if the office of President is vacant or the President is absent from the Bahama Islands, to the Clerk), he resigns that office; or

(*d*) in the case of the Vice-President, if he is elected to be President.

(5) If, by virtue of section 32(3) of this Constitution, the President or Vice-President is required to cease to perform his functions as

a Senator he shall also cease to perform his functions as President or Vice-President, 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, by the Vice-President or, if the office of Vice-President is vacant or the Vice-President is required to cease to perform his functions as a Senator by virtue of section 32(3) of this Constitution, by such Senator (not being a Minister) as the Senate may elect for the purpose;

(*b*) in the case of the Vice-President, by such Senator (not being a Minister) as the Senate may elect for the purpose.

(6) If the President or Vice-President resumes the performance of his functions as a Senator, in accordance with the provisions of section 32(5) of this Constitution, he shall also resume the performance of his functions as President or Vice-President, as the case may be.

Determination of questions as to membership.

**34.**—(1) Any question whether—

(*a*) any person has been validly appointed as a Senator; or

(*b*) any Senator has vacated his seat or is required under section 32(3) of this Constitution to cease to exercise any of his functions as a Senator,

shall be determined by the Supreme Court in accordance with the provisions of any law for the time being in force in the Bahama Islands.

(2) Proceedings for the determination of any question referred to in subsection (1) of this section shall not be instituted except with the leave of a judge of the Supreme Court.

(3) No appeal shall lie from the decision of a judge of the Supreme Court granting or refusing leave to institute proceedings in accordance with subsection (2) of this section.

## House of Assembly

House of Assembly.

**35.**—(1) The House of Assembly shall consist of persons who, being qualified for election as members in accordance with the provisions of this Constitution, have been elected in the manner provided by or under any law for the time being in force in the Bahama Islands:

Provided that no person shall be permitted to cast more than one vote in any election of members of the House.

(2) The House of Assembly shall consist of thirty-eight members.

Qualifications for election as a member.

**36.** Subject to the provisions of section 37 of this Constitution, a person shall be qualified to be elected as a member of the House of Assembly if, and shall not be qualified to be so elected unless, he—

(*a*) is a British subject of the age of twenty-one years or upwards, and

(*b*) has ordinarily resided in the Bahama Islands for a period of, or periods amounting in the aggregate to not less than, five years before the date of his nomination for election, and

(*c*) has ordinarily resided in the Bahama Islands for a period of not less than six months immediately before the date of such nomination.

Disqualifications for election as a member.

**37.**—(1) No person shall be qualified to be elected as a member of the House of Assembly who—

(*a*) is, by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to a foreign power or state;

(*b*) is disqualified for membership of the House of Assembly by any law of the Legislature enacted in pursuance of subsection (2) of this section;

(*c*) has been adjudged or otherwise declared bankrupt under any law in force in the Bahama Islands and has not been discharged;

(*d*) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in the Bahama Islands;

(*e*) is under sentence of death imposed on him by a court in any part of the Commonwealth, or is serving a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court, or is under such a sentence of imprisonment the execution of which has been suspended;

(*f*) is disqualified for membership of the House of Assembly by any law of the Legislature 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;

(*g*) is disqualified for membership of the House of Assembly by virtue of any law of the Legislature by reason of his having been convicted of any offence relating to elections; or

(*h*) is a Senator.

(2) The Legislature may by law provide that, subject to such exceptions and limitations (if any) as may be prescribed therein, a person shall be disqualified for membership of the House of Assembly by virtue of—

(*a*) his holding or acting in any office or appointment specified (either individually or by reference to a class of office or appointment) by such law;

(*b*) his belonging to any of the armed forces of the Crown specified by such law or to any class of person so specified that is comprised in any such force; or

(*c*) his belonging to any police force specified by such law or to any class of person so specified that is comprised in any such force.

(3) For the purposes of subsection (1)(*e*) 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.

Tenure of office of members.

**38.**—(1) Every member of the House of Assembly shall vacate his seat in the House at the next dissolution of the House after his election.

(2) A member of the House of Assembly shall also vacate his seat in the House on his death or—

(*a*) if he resigns it by writing under his hand addressed to the Speaker or, if the office of Speaker is vacant or the Speaker is absent from the Bahama Islands, to the Deputy Speaker;

(*b*) 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;

(*c*) if he ceases to be a British subject; or

(*d*) subject to the provisions of subsection (3) of this section, if any circumstances arise that, if he were not a member of the House of Assembly, would cause him to be disqualified for election thereto by virtue of paragraph (*a*), (*b*), (*c*), (*d*), (*e*), (*f*) or (*g*) of section 37(1) of this Constitution.

(3) If circumstances such as are referred to in subsection (2)(*d*) of this section arise because any member of the House of Assembly is under sentence of death or imprisonment, declared bankrupt, adjudged to be of unsound mind or convicted of an offence relating to elections and 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, but, subject to subsection (4) 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.

(4) 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.

(5) If at any time before the member of the House 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 subsection (3) of this section and he may resume the performance of his functions as a member of the House.

Speaker and Deputy Speaker.

**39.**—(1) When the House of Assembly first meets after any general election and before it proceeds to the despatch of any other business, the House shall, in accordance with such procedure as may be prescribed by the Rules of Procedure of the House, elect from among the members of the House who are not Ministers one member to be the Speaker of the Assembly and another member to be Deputy Speaker; and, if the office of Speaker or Deputy Speaker falls vacant at any time before the next dissolution of the House of Assembly, the House shall, as soon as practicable, proceed in like manner to fill the vacant office.

(2) A person shall vacate the office of Speaker or Deputy Speaker—

(*a*) if he ceases to be a member of the House of Assembly:

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 the House, until the House first meets after that dissolution;

(*b*) if he is appointed to be a Minister;

(*c*) if he announces the resignation of his office to the House of Assembly or, if by writing under his hand 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 the Bahama Islands, to the Clerk) he resigns that office; or

(*d*) in the case of the Deputy Speaker, if he is elected to be Speaker.

(3) If by reason of section 38(3) of this Constitution the Speaker or Deputy Speaker is required to cease to perform his functions as a member of the House of Assembly, he shall also cease to perform his functions as Speaker or Deputy Speaker 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 Assembly by virtue of section 38(3) of this Constitution, by such member of the House (not being a Minister) 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) as the House may elect for the purpose.

(4) If the Speaker or Deputy Speaker resumes the performance of his functions as a member of the House, in accordance with the provisions of section 38(5) of this Constitution, he shall also resume the performance of his functions as Speaker or Deputy Speaker, as the case may be.

Determination of questions as to membership.

**40.**—(1) Any question whether—

(*a*) any person has been validly elected as a member of the House of Assembly; or

(*b*) any member of the House of Assembly has vacated his seat or is required, under the provisions of section 38(3) of this Constitution, to cease to exercise any of his functions as a member of that House,

shall be determined by an Election Court, consisting of two judges of the Supreme Court appointed by the Governor acting in his discretion or, if for any reason two such judges are not available, one such judge and a Stipendiary and Circuit Magistrate appointed by the Governor acting in his discretion, in accordance with the provisions of any law for the time being in force in the Bahama Islands, and the decision of the Election Court shall be final.

(2) Proceedings for the determination of any question referred to in subsection (1) of this section shall not be instituted except with the leave of a judge of the Supreme Court.

(3) An appeal shall lie to the Court of Appeal on a point of law from the decision of a judge of the Supreme Court granting or refusing leave to institute proceedings in accordance with this section; but, subject as aforesaid, that decision shall be final.

*Powers and Procedure*

Power to make laws.

**41.** Subject to the provisions of this Constitution, the Legislature may make laws for the peace, order and good government of the Bahama Islands.

Rules of Procedure.

**42.**—(1) Subject to the provisions of this Constitution, each chamber of the Legislature may from time to time make, amend or revoke Rules of Procedure for the regulation and orderly conduct of its own proceedings and the despatch of business, and the passing, intituling and numbering of Bills and the presentation of the same to the Governor for assent.

(2) The Legislature may provide that any resolution for the suspension, amendment or revocation of any Rule of Procedure of a chamber of the Legislature shall not be passed unless it is supported by the votes of all, or a specified number or proportion, of the members of the chamber present and voting on the resolution.

Oath of allegiance.

**43.** No member of either chamber of the Legislature shall be permitted to take part in the proceedings of that chamber (other than proceedings necessary for the purposes of this section) until he has made and subscribed before that chamber an oath or affirmation of allegiance in the form set out in the Schedule to this Constitution:

Provided that the election of a President of the Senate or the election of a Speaker of the House of Assembly may take place before the members of the Senate or the House of Assembly, as the case may be, have made such oath or affirmation.

Validity of proceedings.

**44.** A chamber of the Legislature shall not be disqualified for the transaction of business by reason of any vacancy in the membership thereof (including any vacancy not filled when the chamber is first constituted or is reconstituted at any time), and any proceedings therein shall be valid notwithstanding that some person who was not entitled so to do sat or voted in the chamber or otherwise took part in the proceedings.

Presiding in the Senate and House of Assembly.

**45.**—(1) The President of the Senate or, in his absence, the Vice-President or, if they are both absent, a Senator (not being a Minister) 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 Assembly (not being a Minister) 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, Vice-President, Speaker or Deputy Speaker is absent include references to circumstances in which the office of President, Vice-President, Speaker or Deputy Speaker is vacant.

Quorum.

**46.**—(1) If at any sitting of either chamber of the Legislature any member of the chamber who is present draws the attention of the member presiding at the sitting to the absence of a quorum and, after such interval as may be prescribed in the Rules of Procedure

of the chamber, the member presiding at the sitting ascertains that a quorum of the chamber is still not present, the chamber shall be adjourned.

(2) For the purposes of this section—

(*a*) a quorum of the Senate shall consist of six Senators;

(*b*) a quorum of the House of Assembly shall consist of ten members of the House;

(*c*) the member presiding at the sitting of either chamber shall be included in reckoning whether there is a quorum of that chamber present.

Voting.

**47.**—(1) Save as otherwise provided in this Constitution, all questions proposed for decision in either chamber of the Legislature shall be determined by a majority of the votes of the members thereof present and voting.

(2) The President or other member presiding in the Senate shall have an original but no casting vote; and in the event of an equality of votes on any question, the motion shall be deemed to have been negatived.

(3) The Speaker or other member presiding in the House of Assembly shall not vote unless on any question the votes are equally divided, in which case he shall have and exercise a casting vote.

Restrictions with regard to certain financial measures.

**48.**—(1) The Senate shall not—

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

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

(ii) for the imposition of any charge upon the Consolidated Fund or any other fund of the Government of the Bahama Islands;

(iii) for the payment, issue or withdrawal from the Consolidated Fund or any other fund of the Government of the Bahama Islands of any moneys not charged thereon or any alteration in the amount of such a payment, issue or withdrawal; or

(iv) for the composition or remission of any debt due to the Government of the Bahama Islands;

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

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

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

(2) Except on the recommendation or with the consent of the Governor signified by a Minister, the House of Assembly shall not—

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

(i) 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 fund of the Government of the Bahama Islands 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 fund of the Government of the Bahama Islands of any moneys not charged thereon or any increase in the amount of such a payment, issue or withdrawal; or

(iv) for the composition or remission of any debt due to the Government of the Bahama Islands;

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

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

Restriction on powers of Senate as to Money Bills other than Taxation Bills.

**49.**—(1) If a Money Bill other than a Taxation Bill, having been passed by the House of Assembly and sent to the Senate at least two months before the end of the session, is not passed by the Senate without amendment within two months after it is sent to the Senate, the Bill shall, unless the House of Assembly otherwise resolves, be presented to the Governor for assent notwithstanding that the Senate has not consented to the Bill.

(2) Subject to the provisions of subsection (1) of this section, the Senate may return a Bill referred to in that subsection to the House of Assembly with a message containing recommendations for the amendment of the Bill for the consideration of the House of Assembly.

(3) In respect of every Bill referred to in subsection (1) of this section, there shall be endorsed thereon—

(*a*) when it is sent to the Senate, the certificate of the Speaker signed by him that it is a Money Bill other than a Taxation Bill; and

(*b*) when it is presented to the Governor for assent in pursuance of subsection (1) of this section, the certificate of the Speaker signed by him that it is a Money Bill other than a Taxation Bill and that the provisions of that subsection have been complied with.

Restriction on powers of Senate as to other Bills.

**50.**—(1) If any Bill (except a Money Bill other than a Taxation Bill) is passed by the House of Assembly in two successive sessions (whether or not the House of Assembly 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 Assembly otherwise resolves, be presented to the Governor for assent notwithstanding that the Senate has not consented to the Bill:

Provided that the foregoing provisions of this subsection shall not have effect unless at least fifteen months have elapsed between the date on which the Bill is passed by the House of Assembly in the first session and the date on which it is passed by that House in the second session.

(2) For the purposes of this section, a Bill shall be deemed to be rejected by the Senate if—

(*a*) in the case of a Taxation Bill, it is not passed by the Senate without amendment; or

(*b*) in the case of a Bill other than a Money Bill, it is not passed by the Senate without amendment, or it is passed by the Senate with any amendment which is not agreed to by the House of Assembly.

(3) Subject to the provisions of subsection (1) of this section, the Senate may return a Taxation Bill to the House of Assembly with a message containing recommendations for the amendment of the Bill for the consideration of the House of Assembly.

(4) There shall be endorsed on every Taxation Bill when it is sent to the Senate the certificate of the Speaker signed by him that it is a Taxation Bill.

(5) For the purposes of this section, a Bill that is sent to the Senate 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 or recommended by the Senate in the former Bill in the preceding session and agreed to by the House of Assembly.

(6) The House of Assembly 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 Assembly; but the exercise of this power by the House of Assembly shall not affect the operation of this section in the event of the rejection of the Bill in the Senate.

(7) There shall be inserted in any Bill that is presented to the Governor for assent in pursuance of this section any amendments that are certified by the Speaker to have been made or recommended by the Senate in the Bill and agreed to by the House of Assembly.

(8) There shall be endorsed on any Bill to which subsection (1) of this section relates that is presented to the Governor 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.

Provisions relating to sections 49 and 50.

**51.**—(1) In sections 49 and 50 of this Constitution "Money Bill" means a public Bill which, in the opinion of the Speaker subject to the provisions of subsection (6) of this section, contains only provisions dealing with all or any of the following matters, that is to say—

(*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 Crown 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 aforesaid.

(2) In sections 49 and 50 of this Constitution "Taxation Bill" means a Money Bill which, in the opinion of the Speaker subject to the provisions of subsection (6) of this section, contains provisions for the imposition of an income tax, a capital gains tax, a capital levy or estate duty or makes provision for the cesser, remission, suspension, alteration or regulation of any such tax, levy or duty.

(3) Whenever the office of Speaker is vacant or the Speaker is for any reason unable to perform any function conferred upon him by subsection (1) or (2) of this section or by section 49 or 50 of this Constitution, that function may be performed by the Deputy Speaker.

(4) If, in respect of a Bill passed by the House of Assembly and certified by the Speaker to be a Money Bill other than a Taxation Bill or, as the case may be, a Taxation Bill and sent to the Senate, the Senate passes a resolution declaring that it dissents from the Speaker's certificate, the Bill shall be referred back to the Speaker by the Senate.

(5) Thereupon the Speaker shall refer the matter forthwith to the Attorney-General for his advice.

(6) On receiving the advice of the Attorney-General, the Speaker shall, in accordance with that advice, endorse forthwith on the Bill a further certificate signed by him that the Bill is a Money Bill other than a Taxation Bill or, as the case may be, a Taxation Bill and the Bill so endorsed shall be returned to the Senate.

(7) The period between the date on which the Bill is referred back to the Speaker and the date on which it is returned to the Senate shall not be taken into account in computing the period of two months referred to in section 49 of this Constitution in a case where the further certificate is that the Bill is a Money Bill other than a Taxation Bill, or in computing the period of fifteen months referred to in section 50 of this Constitution in a case where the further certificate is that the Bill is a Taxation Bill.

(8) Subject to the provisions of subsections (4) and (5) of this section, any certificate given by the Speaker or Deputy Speaker under section 49 or 50 of this Constitution or this section shall be conclusive for all purposes and shall not be questioned in any court.

Assent to Bills.

**52.**—(1) A Bill shall not become law until—

(*a*) the Governor has assented thereto in Her Majesty's name and on Her Majesty's behalf and signed the same in token of such assent; or

(*b*) Her Majesty has given Her assent thereto through a Secretary of State and the Governor has signified such assent by proclamation published in the Gazette.

(2) A Bill shall be presented to the Governor for assent if, and, subject to the provisions of sections 49 and 50 of this Constitution,

shall not be so presented unless, it has been passed by both chambers of the Legislature either without amendment or with such amendments only as are agreed to by both chambers.

(3) When a Bill is presented to the Governor for assent he shall declare that he assents or refuses assent thereto or that he reserves the Bill for the signification of Her Majesty's pleasure:

Provided that, unless he has been authorised by a Secretary of State to assent thereto, the Governor shall reserve for the signification of Her Majesty's pleasure any Bill which appears to him, acting in his discretion—

(*a*) to be inconsistent with any obligation imposed on Her Majesty by any treaty, convention or agreement or arrangement relating to any country or international or similar organisation outside the Bahama Islands;

(*b*) to be likely to prejudice the Royal prerogative;

(*c*) to be in any way repugnant to or inconsistent with the provisions of this Constitution;

(*d*) to involve a breach of public faith; or

(*e*) to affect external affairs, defence, internal security or the Police Force.

Words of enactment.

**53.**—(1) In every Bill presented to the Governor for assent, other than a Bill presented under section 49 or 50 of this Constitution, the words of enactment shall be as follows:—

"Be it enacted by the Governor and Commander-in-Chief in and over the Bahama Islands, by and with the advice and consent of the Senate and the House of Assembly of the said Islands, and by the authority of the same, as follows:—".

(2) In every Bill presented to the Governor for assent under section 49 or 50 of this Constitution, the words of enactment shall be as follows:—

"Be it enacted by the Governor and Commander-in-Chief in and over the Bahama Islands, by and with the advice and consent of the House of Assembly of the said Islands in accordance with the provisions of section 49 (*or section* 50, *as the case may be*) of the Constitution of the Bahama Islands, and by the authority of the same, as follows:—".

(3) Any alteration of the words of enactment of a Bill made in consequence of the provisions of subsection (2) of this section shall not be deemed to be an amendment of the Bill.

Power of disallowance in respect of laws relating to Bahamas Government stock.

**54.**—(1) Any law enacted by the Legislature of the Bahama Islands which has been assented to by the Governor and which appears to Her Majesty's Government in the United Kingdom to alter, to the injury of the stockholder, any provision relating to any stock to which this section applies or to involve a departure from the original contract in respect of any such stock, may be disallowed by Her Majesty through a Secretary of State.

(2) Whenever such a law has been disallowed by Her Majesty the Governor shall cause notice of such disallowance to be published in the Gazette and the law shall be annulled with effect from the date of publication of that notice.

(3) On the annulment of any law under this section any enactment repealed or amended by or in pursuance of that law shall have effect as from the date of the annulment as if that law had not been made; but save as provided in the foregoing provisions of this subsection the provisions of section 38(2) of the Interpretation Act 1889(a) shall apply to that annulment as they apply to the repeal of an Act of Parliament.

(4) The stock to which this section applies is stock forming the whole or any part of the public debt of the Bahama Islands—

(*a*) in which a trustee might at any time have invested by virtue of section 2 of the Colonial Stock Act 1900(b); or

(*b*) by the conditions of issue of which it is provided that this section shall apply to it.

Privileges of chambers.

**55.** The Legislature may by law determine and regulate the privileges, immunities and powers of either chamber of the Legislature and the members thereof, but no such privileges, immunities or powers shall exceed those of the Commons House of Parliament of the United Kingdom or of the members thereof.

*Summoning, Prorogation and Dissolution*

Sessions of the chambers.

**56.**—(1) Subject to the provisions of this Constitution, the sessions of the chambers of the Legislature shall be held in such places and shall commence at such times as the Governor may appoint by proclamation published in the Gazette:

Provided that the sessions of the two chambers shall commence on the same day.

(2) There shall be a session of each chamber from time to time so that a period of twelve months does not intervene between the last sitting in one session and the first sitting in the next session.

Prorogation.

**57.** The Governor may, at any time, by proclamation published in the Gazette, prorogue both chambers of the Legislature:

Provided that if the House of Assembly is dissolved without having been prorogued, the Governor shall then, by proclamation published in the Gazette, prorogue the Senate.

Recalling the Senate and House of Assembly in case of emergency.

**58.** If, between a dissolution of the House of Assembly and the next ensuing general election of members of that House, an emergency arises of such a nature that in the opinion of the Governor, after consultation with the Premier, it is necessary for the two chambers of the Legislature to be summoned before that general election can be held, the Governor may, after consultation with the Premier, by proclamation published in the Gazette, summon the Senate as constituted immediately before the said dissolution and the preceding House of Assembly, and that House shall thereupon be deemed (except for the purposes of section 60 of this Constitution) not to have been dissolved but shall be deemed (except as aforesaid) to be dissolved on the date on which the next ensuing general election is held.

Dissolution of the House of Assembly.

**59.**—(1) The Governor may at any time dissolve the House of Assembly by proclamation published in the Gazette.

(2) The Governor shall dissolve the House of Assembly at the expiration of five years from the date when the House of Assembly

(a) 52 & 53 Vict. c. 63. (b) 63 & 64 Vict. c. 62.

first meets after any general election unless it has been sooner dissolved under the powers conferred by subsection (1) of this section.

(3) In the exercise of the powers conferred upon him by subsection (1) of this section, the Governor shall act in accordance with the advice of the Premier:

Provided that—

(*a*) if the Premier recommends a dissolution and the Governor considers that the government of the Bahama Islands can be carried on without a dissolution and that a dissolution would not be in the interests of the Bahama Islands, he may refuse to dissolve the House of Assembly;

(*b*) if a majority of all the members of the House of Assembly passes a resolution that it has no confidence in the Government of the Bahama Islands and the Premier does not within three days either resign or advise a dissolution, the Governor may dissolve the House of Assembly; and

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

General elections.

**60.** A general election of members of the House of Assembly shall be held at such time within three months after every dissolution of the House of Assembly as the Governor shall appoint by proclamation published in the Gazette.

*Delimitation of Constituencies*

Constituencies and distribution of seats.

**61.**—(1) Subject to the provisions of this Constitution, the Bahama Islands shall be divided into a number of electoral areas (hereinafter referred to as "constituencies") each of which shall return one or more members to the House of Assembly in accordance with the law for the time being in force relating to elections.

(2) Subject to the provisions of section 35(2) of this Constitution, from the Island of New Providence not less than sixteen nor more than twenty members, and from the remainder of the Bahama Islands not less than eighteen nor more than twenty-two members, shall be returned to the House of Assembly, and the number and boundaries of constituencies and the number of members to be returned by each constituency shall be determined in accordance with the provisions of section 63 of this Constitution.

Constituencies Commission.

**62.**—(1) There shall be a Constituencies Commission for the Bahama Islands (in this Part referred to as "the Commission").

(2) The members of the Commission shall be—

(*a*) the Speaker who shall be Chairman;

(*b*) a judge of the Supreme Court who shall be Deputy Chairman and shall be appointed by the Governor acting after consultation with the Chief Justice;

(*c*) two members of the House of Assembly who shall be appointed by the Governor acting in accordance with the advice of the Premier; and

(*d*) one member of the House of Assembly who shall be appointed by the Governor acting in accordance with the advice of the leader of the opposition.

(3) The office of a member of the Commission shall become vacant—

(*a*) if he ceases to be the Speaker, a judge of the Supreme Court or a member of the House of Assembly, as the case may be;

(*b*) in the case of a member appointed under subsection (2)(*b*) of this section, if his appointment is revoked by the Governor acting after consultation with the Chief Justice; or

(*c*) in the case of a member appointed under paragraph (*c*) or (*d*) of subsection (2) of this section, if his appointment is revoked by the Governor acting in accordance with the advice of the Premier or, as the case may be, the leader of the opposition.

(4) If the office of a member of the Commission, appointed under paragraph (*b*), (*c*) or (*d*) of subsection (2) of this section is vacant or any such member is for any reason unable to perform the functions of his office the Governor may appoint a person qualified for appointment under the said paragraph (*b*), (*c*) or (*d*), as the case may be, to act as a member of the Commission and any person so appointed shall continue to act until his appointment is revoked.

(5) In making acting appointments under subsection (4) of this section to an office of member of the Commission specified in paragraph (*b*), (*c*) or (*d*) of subsection (2) of this section, the Governor shall act in accordance with the advice of the same person as in making appointments under that subsection, and in revoking any such acting appointment the Governor shall act in accordance with the advice of the same person as in revoking an appointment to that office in accordance with subsection (3) of this section.

(6) Where any matter is dependent upon the decision of the Commission any decision shall be regarded as the decision of the Commission if the majority of the members of the Commission concur therein; in the event of an equality of votes on any matter, the Chairman shall have and exercise a casting vote.

Procedure for review of constituencies.

**63.**—(1) Subject to the provisions of section 61(2) of this Constitution, the Commission shall, at intervals of not more than five years, review—

(*a*) the boundaries of the constituencies;

(*b*) the number of the constituencies; and

(*c*) the number of members to be returned by each constituency, and shall submit to the Governor a single report either—

(i) stating that, in the opinion of the Commission, no change is required; or

(ii) recommending certain changes,

and the Governor shall cause such report to be laid before the House of Assembly forthwith.

(2) In carrying out a review for the purposes of this section, the Commission shall be guided by the general consideration that the number of voters entitled to vote for the purposes of electing every member of the House of Assembly shall, so far as is reasonably practicable, be the same and the need to take account of special considerations such as the needs of sparsely populated areas, the practicability of elected members maintaining contact with electors in such areas, size, physical features, natural boundaries, local government areas, geographical isolation and inadequacy of communications.

(3) When the Commission intends to proceed under subsection (1) of this section, it shall, by notice in writing, inform the Premier, who shall cause a copy of that notice to be published in the Gazette.

(4) As soon as may be after the Commission has submitted a report under subsection (1)(*c*)(ii) of this section, the Premier shall lay before the House of Assembly for its approval the draft of an Order by the Governor 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 Premier to be incidental to or consequential upon the other provisions of the draft.

(5) Where any draft made under this section gives effect to any such recommendations with modifications, the Premier shall lay before the House of Assembly together with the draft a statement of the reasons for the modifications.

(6) If the motion for the approval of any draft made under this section is rejected by the House of Assembly, or is withdrawn by leave of that chamber, an amended draft shall be laid without undue delay by the Premier before the House of Assembly.

(7) If any draft made under this section is approved by resolution of the House of Assembly, the Premier shall submit it to the Governor 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 in accordance with the provisions of this section, shall have the force of law in the Bahama Islands:

Provided that the coming into force of any such Order shall not affect any election to the House of Assembly until a proclamation is made by the Governor appointing the date for the holding of a general election of members of the House of Assembly or affect the constitution of the House of Assembly until the dissolution of the House then in being.

(8) The question of the validity of any Order by the Governor purporting to be made under this section and reciting that a draft thereof has been approved by resolution of the House of Assembly shall not be inquired into in any court.

## PART IV

## THE EXECUTIVE

Executive authority.

**64.**—(1) The executive authority of the Bahama Islands shall be vested in Her Majesty.

(2) Subject to the provisions of this Constitution, the executive authority of the Bahama Islands may be exercised on behalf of Her Majesty by the Governor, either directly or through officers subordinate to him, but nothing in this subsection shall operate so as to prejudice the provisions of any law for the time being in force in the Bahama Islands whereby functions are conferred on persons or authorities other than the Governor.

The Cabinet.

**65.**—(1) There shall be a Cabinet in and for the Bahama Islands which, subject to the provisions of this Constitution, shall have the general direction and control of the government of the Bahama Islands and shall be collectively responsible therefor to the Legislature.

(2) The Cabinet shall consist of the Premier and not less than eight other Ministers of whom one shall be appointed to be the Minister for Finance.

(3) The Premier and other Ministers shall be appointed in accordance with the provisions of section 66 of this Constitution.

Appointment of Ministers.

**66.**—(1) The Governor, acting in his discretion, shall appoint as Premier the member of the House of Assembly who, in his judgment, is best able to command the confidence of a majority of the members of that chamber and who is willing to accept the office of Premier.

(2) The Ministers other than the Premier shall be such persons as the Governor, acting in accordance with the advice of the Premier, shall appoint from among the Senators and the members of the House of Assembly.

(3) At least one and not more than three of the persons appointed to be Ministers under subsection (2) of this section shall be persons who are Senators:

Provided that a member of the House of Assembly shall always be appointed as the Minister for Finance.

(4) If occasion arises for making an appointment whilst the House of Assembly is dissolved, a person who was a member of the House of Assembly immediately before the dissolution may be appointed Premier and a person who was a member of either chamber immediately before the dissolution may, subject to subsection (3) of this section, be appointed as a Minister, in each case, if such person is or, as the case may be, as if such person were, a member of the chamber in question, but any person so appointed shall vacate office at the beginning of the next session of that chamber if he is not then a member thereof or of the other chamber.

(5) Appointments made under this section shall be made by instrument under the Public Seal.

Oaths.

**67.** The Premier and every other Minister shall, before entering upon the duties of his office, make before the Governor an oath or affirmation of allegiance and an oath or affirmation for the due execution of his office in the forms set out in the Schedule to this Constitution.

Tenure of office of Premier.

**68.**—(1) The Premier shall vacate his office—

(*a*) if he resigns his office by writing under his hand addressed to the Governor;

(*b*) if he ceases to be a member of the House of Assembly otherwise than by reason of a dissolution thereof;

(*c*) if, under the provisions of section 38(3) of this Constitution, he is required to cease to perform any of his functions as a member of the House of Assembly;

(*d*) if he is absent from the Bahama Islands for a period exceeding forty-eight hours without having given the Governor prior notice of such absence; or

(*e*) if the Governor revokes his appointment as Premier in accordance with the provisions of subsection (2) or (3) of this section.

(2) If the House of Assembly by the affirmative votes of a majority of all the members thereof passes a resolution that it has no confi-

dence in the Government of the Bahama Islands, the Governor shall, by instrument under the Public Seal, revoke the Premier's appointment:

Provided that before so doing the Governor shall consult with the Premier and, if the Premier so requests, the Governor may, acting in his discretion, dissolve the House of Assembly instead of revoking the Premier's appointment.

(3) The Governor, acting in his discretion, may by instrument under the Public Seal revoke the appointment of the Premier if at any time between the holding of a general election and the first sitting of the House of Assembly thereafter the Governor considers that, in consequence of the changes in the House of Assembly resulting from that election, the Premier will not be able to command the support of a majority of the members of the House.

Tenure of office of Ministers other than the Premier.

**69.**—(1) A Minister, other than the Premier, shall vacate his office—

(*a*) whenever a person is appointed to the office of Premier;

(*b*) if his appointment to his office is revoked by the Governor by instrument under the Public Seal;

(*c*) if, for any reason other than a dissolution of the Legislature, he ceases to be a member of the chamber of which he was a member at the date of his appointment as a Minister;

(*d*) if, under the provisions of section 32(3) or, as the case may be, 38(3), of this Constitution, he is required to cease to perform his functions as a Senator or member of the House of Assembly; or

(*e*) if he resigns his office by writing under his hand addressed to the Governor.

(2) The powers of the Governor under subsection (1)(*b*) of this section shall be exercised by him in accordance with the advice of the Premier unless the Cabinet, upon the appointment of any person as Premier, signifies its desire that, during the tenure by that person of the office of Premier, the powers should be exercised in accordance with the advice of the Cabinet.

Leave of absence for Ministers.

**70.** The Governor, acting in accordance with the advice of the Premier, may grant leave of absence from his duties to the Premier or to any other Minister.

Performance of functions of Premier in certain events.

**71.**—(1) Whenever the Premier is absent from the Bahama Islands or is unable by reason of illness to perform the functions conferred upon him by this Constitution, the Governor may, in writing, authorise any other Minister who was appointed from among the members of the House of Assembly temporarily to perform the functions conferred on the Premier by this Constitution (other than the functions conferred upon him by subsection (3) of this section).

(2) The Governor may, in writing, revoke any authority given under this section.

(3) The powers conferred upon the Governor by this section shall be exercised by him acting in his discretion if the office of Premier is vacant or if, in his judgment, it is impracticable to obtain the Premier's advice owing to his illness or absence, and in any other case shall be exercised in accordance with the advice of the Premier.

Temporary Ministers.

**72.**—(1) Whenever a Minister other than the Premier is unable, by reason of his illness or absence from the Bahama Islands or absence from his duties on leave, to perform the functions of his office, the Governor may, in writing, appoint a person who is a member of the same chamber of the Legislature as that Minister to be a temporary Minister:

Provided that if occasion arises for the making of an appointment while the House of Assembly is dissolved, a person who was a member of either chamber immediately before the dissolution may, subject to section 66(3) of this Constitution, be appointed as a temporary Minister if such person is or, as the case may be, as if such person were, a member of the chamber in question.

(2) Subject to the provisions of section 69 of this Constitution, a temporary Minister shall hold office until he is notified by the Governor in writing 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 by this section shall be exercised by him in accordance with the advice of the Premier.

Allocation of portfolios to Ministers.

**73.**—(1) Subject to the provisions of this Constitution, the Governor, acting in accordance with the advice of the Premier, may by directions in writing charge any Minister with responsibility for any matter or any department of government and designate the style by which any Minister so charged shall be known.

(2) In pursuance of the powers conferred by subsection (1) of this section, the Governor may direct that a Minister shall be assisted in the exercise of his responsibilities for any matter or department of government by a Board consisting of such persons as the Governor, acting in accordance with the advice of the Premier, may appoint.

(3) Any such Board as is referred to in subsection (2) of this section shall have such consultative and administrative functions as may be assigned to it by a law of the Legislature or by directions of the Minister concerned but, in exercising any functions so assigned to it, the Board shall be subject to the directions of the Minister, who shall remain responsible to the Cabinet and the Legislature for all the business of the Board.

(4) Nothing in this section shall empower the Governor to confer on any Minister authority to exercise any power or discharge any duty that is conferred or imposed by this Constitution or any other law on the Governor or any person or authority other than a Minister.

(5) Without prejudice to the generality of subsection (4) of this section, except for the purpose of submitting questions relating to such matters to the Cabinet and conducting government business relating to such matters in either chamber of the Legislature and subject to the provisions of section 74 of this Constitution, a Minister shall not be charged with responsibility for—

(*a*) the discharge by the courts of the Bahama Islands of their judicial functions;

(*b*) the initiation, conduct and discontinuance of criminal proceedings;

(*c*) the audit of the accounts of the Bahama Islands;

(*d*) the making of appointments (including appointments on promotion, appointments on transfer and the confirmation of appointments) to offices in the public service, the removal or disciplinary control (including the withholding of increments of salary) of persons holding or acting in such offices and the grant of any benefits in relation to pensions and gratuities in pursuance of section 109 of this Constitution ; or

(*e*) the exercise of the Prerogative of Mercy.

(6) For the purposes of subsection (5)(*d*) of this section, the office of a judge of the Supreme Court or a member of the personal staff of the Governor shall be deemed to be an office in the public service.

(7) Subject to the provisions of this Constitution, where any Minister has been charged with the responsibility for a matter or department of government in pursuance of this section, he shall exercise general direction and control over the work relating to that matter and over that department and, subject to such direction and control by the Minister, the work and the department shall be under the supervision of a public officer appointed for the purpose:

Provided that for the purposes of this subsection a public officer may be appointed to supervise the work relating to several matters and departments.

Governor's special responsibilities.

**74.**—(1) The Governor, acting in his discretion, shall be responsible for the following matters:—

(*a*) external affairs, that is to say, such matters relating to external affairs as may be specified in any Instructions given to him by Her Majesty under Her Majesty's Sign Manual and Signet or through a Secretary of State ;

(*b*) defence, including the armed forces ;

(*c*) internal security ; and

(*d*) all matters relating to the Police Force:

Provided that the Governor shall keep the Cabinet informed of any matters relating to external affairs or defence which may involve the economic or financial interests of the Bahama Islands or the enactment of laws by the Legislature of the Bahama Islands.

(2) The Governor, acting in his discretion, may from time to time—

(*a*) designate a Minister with whom he may consult on matters relating to the Police Force ; or

(*b*) delegate, with the prior approval of a Secretary of State, to a Minister designated by him after consultation with the Premier such responsibility for matters relating to internal security and the Police Force as the Governor may think fit upon such conditions as he may impose.

Governor entitled to information.

**75.** The Governor shall, for the due exercise of his functions, be entitled to all papers which are available to the Cabinet and to any other information concerning the government of the Bahama Islands which is so available.

Chief Secretary.

**76.**—(1) The office of Chief Secretary is hereby constituted.

(2) The power to make appointments to the office of Chief Secretary and to remove and exercise disciplinary control over the Chief Secretary is hereby vested in the Governor, acting in his discretion.

(3) The Chief Secretary shall—

(*a*) assist the Governor, as the Governor acting in his discretion may direct, in the exercise and discharge of such powers and duties as are vested by this Constitution or any other law in the Governor acting in his discretion; and

(*b*) perform any functions not of a ministerial nature which may at the request of the Premier be assigned to him by the Governor, acting in his discretion, in regard to which

(i) a Minister shall be charged with responsibility; and

(ii) the Chief Secretary shall be subject to the directions of that Minister or, if the Cabinet so decides and notifies the Chief Secretary in writing, of the Cabinet.

(4) In the exercise of his functions under subsection (3)(*a*) of this section, the Chief Secretary shall act in accordance with such instructions as the Governor, acting in his discretion, may from time to time give him and shall not be subject to the direction or control of any other person or authority.

Summoning of Cabinet.

**77.** The Governor, acting in his discretion, may summon a special meeting of the Cabinet whenever he thinks fit, but, subject thereto, the Cabinet shall not be summoned except by the authority of the Premier.

Presiding in Cabinet.

**78.** The Premier 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 Premier shall appoint:

Provided that whenever the Governor is present at any meeting of the Cabinet which he has summoned under the provisions of section 77 of this Constitution he shall preside.

Quorum of Cabinet.

**79.**—(1) No business shall be transacted at any meeting of the Cabinet if there are present at the meeting less than a majority of the members for the time being of the Cabinet.

(2) Subject to subsection (1) of this section, the Cabinet shall not be disqualified for the transaction of business by reason of any vacancy in the membership of the Cabinet (including any vacancy not filled when the Cabinet is first constituted or is reconstituted at any time) and the validity of the transaction of business in the Cabinet shall not be affected by reason only of the fact that some person who was not entitled so to do took part in those proceedings.

Summoning of persons to Cabinet.

**80.** The Premier or, in the case of a meeting summoned under section 77 of this Constitution, the Governor, acting in his discretion, may summon any public officer to a meeting of the Cabinet whenever, in the opinion of the Premier or, as the case may be, the Governor, the business before the Cabinet renders the presence of the officer desirable.

Secretary to Cabinet.

**81.**—(1) The office of Secretary to the Cabinet is hereby constituted and appointments to that office shall be made by the Governor, acting in accordance with the advice of the Premier.

(2) The Secretary to the Cabinet shall be removable from that office by the Governor, acting in accordance with the advice of the Premier.

(3) The office of Secretary to the Cabinet shall, for the purposes of sections 95, 100, 107, 108 and 109 of this Constitution, be deemed to be an office in the public service.

(4) 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 Secretary to the Cabinet, but—

(*a*) before the Premier advises the Governor to make such appointment, the Premier shall consult with the Public Service Commission;

(*b*) an officer so appointed shall not, during his continuance in office as Secretary to the Cabinet, perform the functions of any public office; and

(*c*) an officer so appointed may at any time be appointed by the Governor, acting on the recommendation of the Public Service Commission, to assume or resume the functions of a public office and he shall thereupon vacate his office as Secretary to the Cabinet, but no appointment under this paragraph shall be made without the concurrence of the Premier.

(5) 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 Premier, 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 Premier may from time to time direct.

(6) The Secretary to the Cabinet shall—

(*a*) transmit to the Governor copies of all papers submitted for consideration by the Cabinet at the same time as those papers are transmitted to Ministers;

(*b*) inform the Governor of the summoning of any meeting of the Cabinet and of the matters to be discussed at that meeting at the same time as Ministers are so informed; and

(*c*) furnish the Governor, as soon as practicable after each meeting of the Cabinet, with a copy of the record of the proceedings at that meeting showing the matters discussed and the conclusions reached by the Cabinet at that meeting.

Attorney-General.

**82.**—(1) There shall be in and for the Bahama Islands an Attorney-General whose office shall be an office in the public service and who shall be appointed by the Governor, acting in his discretion.

(2) If the office of Attorney-General is vacant or the Attorney-General is for any reason unable to perform the functions of his office, the Governor, acting in his discretion, may appoint a person to perform those functions, and any person so appointed shall, subject to the provisions of section 83(3) to (7) (inclusive) of this Constitution continue to perform those functions until the office of Attorney-General is filled or until his appointment is revoked by the Governor, acting in his discretion:

Provided that a person acting as Attorney-General may at any time, by writing under his hand addressed to the Governor, resign his acting office.

(3) The Attorney-General shall receive such salary and allowances as may from time to time be prescribed by or under any law of the Legislature:

Provided that the salary of the Attorney-General and his conditions of service other than allowances shall not be altered to his disadvantage during his continuance in office.

(4) The salary and allowances for the time being payable to the Attorney-General shall be charged on and paid out of the Consolidated Fund.

Tenure of office of Attorney-General.

**83.**—(1) Subject to the provisions of subsections (3) to (7) (inclusive) of this section, the Attorney-General shall hold office until he attains the age of sixty years:

Provided that—

(*a*) he may at any time resign his office by writing under his hand addressed to the Governor; and

(*b*) The Governor, acting in his discretion, may permit an Attorney-General 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 Attorney-General has attained the age of sixty years) have been agreed between them.

(2) Nothing done by the Attorney-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 Attorney-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 Attorney-General shall be removed from office by the Governor by instrument under the Public 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 that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(5) If the Governor, acting in his discretion, considers that the question of removing the Attorney-General from office for inability as aforesaid or for misbehaviour ought to be investigated, or if the Premier or the Chief Justice after consultation with the Premier represents to the Governor that that question ought to be investigated, then—

(*a*) the Governor shall appoint a tribunal, which shall consist of a Chairman and not less than two other members, selected by the Governor, acting in his discretion, from among persons who hold or have held high judicial office; and

(*b*) that tribunal shall inquire into the matter and report on the facts thereof to the Governor and recommend to the Governor whether the Attorney-General ought to be removed from office for inability as aforesaid or for misbehaviour.

(6) The provisions (excluding sections 2 and 7(2)) of the Commissions of Inquiry Act(a) of the Bahama Islands as in force immediately before the coming into operation of this Constitution shall, subject to the provisions of this section, 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 Attorney-General from office has been referred to a tribunal under subsection (5) of this section, the Governor, acting in his discretion, may suspend the Attorney-General from performing the functions of his office and any such suspension may at any time be revoked by the Governor, acting in his discretion, and shall in any case cease to have effect if the tribunal recommends to the Governor that the Attorney-General should not be removed from office.

Powers of Attorney-General.

**84.**—(1) The Attorney-General 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 civil court in and for the Bahama Islands in respect of any offence alleged to have been committed by that person;

(*b*) to take over and continue any criminal proceedings as aforesaid that have been instituted or undertaken by any other person or authority; and

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

(2) The powers of the Attorney-General under subsection (1) of this section may be exercised by him in person or by officers subordinate to him acting under and in accordance with his general or special instructions.

(3) The powers conferred upon the Attorney-General under subsection (1)(*b*) and (*c*) of this section shall be vested in him to the exclusion of any other person:

Provided that where any other person or authority has instituted criminal proceedings, nothing in this subsection shall, save when the Attorney-General has exercised his powers under subsection (1)(*b*) of this section, prevent the withdrawal of those proceedings by or at the instance of that person or authority and with the leave of the court.

(4) 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 purpose of any such proceedings, to any other court in and for the Bahama Islands or to the Judicial Committee of Her Majesty's Privy Council shall be deemed to be part of those proceedings.

(5) In the exercise of the powers conferred on him by this section, the Attorney-General shall not be subject to the direction or control of any other person.

(a) Statute Law of the Bahama Islands 1957, Vol. II, p. 1199.

## PART V

## THE JUDICIARY

### THE SUPREME COURT

Constitution of Supreme Court.

**85.**—(1) There shall be in and for the Bahama Islands a Supreme Court having such powers and jurisdiction as may be provided by any law for the time being in force in the Bahama Islands.

(2) The judges of the Supreme Court shall be a Chief Justice and such number of Puisne Judges as may be prescribed by any law of the Legislature:

Provided that the office of a judge of the Supreme Court shall not, without his consent, be abolished during his continuance in office.

(3) The Chief Justice of the Supreme Court shall be a person qualified for appointment under subsection (5) of this section and shall be appointed by the Governor, by instrument under the Public Seal, after consultation with the Premier.

(4) The Puisne Judges of the Supreme Court shall be persons qualified as aforesaid and shall be appointed by the Governor, by instrument under the Public Seal, after consultation with the Chief Justice.

(5) 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 in the Bahama Islands:

Provided that a person who has been appointed as a judge of the Supreme Court may continue in office notwithstanding any subsequent variation in the qualifications so prescribed.

Tenure of office of judges.

**86.**—(1) Subject to the following provisions of this section, a judge of the Supreme Court shall vacate his office when he attains the age of sixty-five years:

Provided that a judge who has attained that age may continue in office for the purpose of giving judgment or otherwise in relation to any proceeding heard by him before he attained that age.

(2) 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 (3) of this section.

(3) A judge of the Supreme Court shall be removed from office by the Governor by instrument under the Public Seal if the question of the removal of that judge from office has, at the request of the Governor, made in pursuance of subsection (4) 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(a) 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 misbehaviour.

(4) If the Governor considers that the question of removing a judge of the Supreme Court from office for inability as aforesaid or misbehaviour ought to be investigated, then—

(*a*) the Governor shall appoint a tribunal, which shall consist of a Chairman and not less than two other members, selected by the

(a) 3 & 4 Will. 4. c. 41.

Governor from among persons who hold or have held high judicial office;

(*b*) the tribunal shall inquire into the matter and report on the facts thereof to the Governor and recommend to the Governor 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 shall request that the question should be referred accordingly.

(5) The provisions (excluding sections 2 and 7(2)) of the Commissions of Inquiry Act(a) of the Bahama Islands as in force immediately before the coming into operation of this Constitution shall, subject to the provisions of this section, apply as nearly as may be in relation to tribunals appointed under subsection (4) 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.

(6) If the question of removing a judge of the Supreme Court from office has been referred to a tribunal under subsection (4) of this section the Governor may suspend the judge from performing the functions of his office, and any such suspension may at any time be revoked by the Governor, and shall in any case cease to have effect—

(*a*) if the tribunal recommends to the Governor 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*) if the Judicial Committee advises Her Majesty that the judge ought not to be removed from office.

(7) The powers conferred upon the Governor by this section shall be exercised by him acting in his discretion.

Acting judges.

**87.**—(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 some other person has been appointed to, or has been appointed to act in, and has assumed the functions of, that office, or until the Chief Justice has resumed those functions, as the case may be, those functions shall be performed by such one of the Puisne Judges as the Governor may, after consultation with the Premier, appoint for that purpose.

(2) If the office of a Puisne Judge is vacant, or if any such Judge is appointed to act as Chief Justice, or is for any reason unable to perform the functions of his office the Governor, acting after consultation with the Chief Justice, may appoint a person possessing such legal qualifications and experience as he may deem appropriate to be temporarily a Puisne Judge of the Supreme Court:

Provided that a person may be so appointed notwithstanding that he has attained the age of sixty-five years.

(3) Any person appointed under this section to be temporarily a Puisne Judge of the Supreme Court shall hold office until his appointment is revoked by the Governor, acting after consultation with the Chief Justice.

(a) Statute Law of the Bahama Islands 1957, Vol. II, p. 1199.

Salaries of judges.

**88.**—(1) There shall be charged on the Consolidated Fund and paid thereout to the judges of the Supreme Court such salaries and allowances as, subject to subsection (2) of this section, may be prescribed by any law of the Legislature.

(2) The salary of a judge of the Supreme Court and his conditions of service other than allowances shall not be altered to his disadvantage during his continuance in office.

Oaths to be taken by judges.

**89.** Before entering upon the functions of his office, every judge of the Supreme Court shall make and subscribe before the Governor, or some other person authorised in that behalf by the Governor, oaths or affirmations of allegiance and for the due execution of his office in the form set out in the Schedule to this Constitution.

## The Court of Appeal

Constitution of Court of Appeal.

**90.**—(1) There shall be in and for the Bahama Islands a Court of Appeal having such powers and jurisdiction as may be provided by any law for the time being in force in the Bahama Islands.

(2) The judges of the Court of Appeal shall be a President and two other judges:

Provided that the office of a judge of the Court of Appeal shall not, without his consent, be abolished during his continuance in office.

(3) The President of the Court of Appeal shall be a person qualified for appointment under subsection (5) of this section and shall be appointed by the Governor, acting in his discretion, by instrument under the Public Seal for such period as may be specified therein.

(4) The other judges of the Court of Appeal shall be persons qualified as aforesaid and shall be appointed by the Governor, acting in his discretion, by instrument under the Public Seal for such period as may be specified therein.

(5) A person shall be qualified to be appointed as a judge of the Court of Appeal if, and shall not be qualified to be so appointed unless, he holds or has held high judicial office.

(6) Any power exercisable by a single judge of the Court of Appeal may at any time when there is no such judge present in the Bahama Islands and able to perform the functions of his office, be exercised by a judge of the Supreme Court as if that judge were a judge of the Court of Appeal.

Tenure of office of judges of Court of Appeal.

**91.**—(1) Subject to the following provisions of this section, the office of a judge of the Court of Appeal shall become vacant upon the expiration of the period of his appointment to that office or if he resigns therefrom by writing under his hand addressed to the Governor.

(2) Where the office of any person has become vacant under subsection (1) of this section, he may, if qualified, again be appointed as a judge of the Court of Appeal in accordance with the provisions of this Constitution.

(3) 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 (4) of this section.

(4) A judge of the Court of Appeal shall be removed from office by the Governor by instrument under the Public Seal if the question of the removal of that judge from office has, at the request of the Governor, made in pursuance of subsection (5) 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(a) 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 misbehaviour.

(5) If the Governor considers that the question of removing a judge of the Court of Appeal from office for inability as aforesaid or misbehaviour ought to be investigated, then—

(*a*) the Governor shall appoint a tribunal, which shall consist of a Chairman and not less than two other members, selected by the Governor from among persons who hold or have held high judicial office;

(*b*) the tribunal shall inquire into the matter and report on the facts thereof to the Governor and recommend to the Governor 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 shall request that the question should be referred accordingly.

(6) The provisions (excluding sections 2 and 7(2)) of the Commissions of Inquiry Act(b) of the Bahama Islands as in force immediately before the commencement of this Constitution shall, subject to the provisions of this section, 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 a judge of the Court of Appeal from office has been referred to a tribunal under subsection (5) of this section the Governor may suspend the judge from performing the functions of his office, and any such suspension may at any time be revoked by the Governor, and shall in any case cease to have effect—

(*a*) if the tribunal recommends to the Governor 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*) if the Judicial Committee advises Her Majesty that the judge ought not to be removed from office.

(8) The powers conferred upon the Governor by this section shall be exercised by him acting in his discretion.

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(a) 3 & 4 Will. 4. c. 41.
(b) Statute Law of the Bahama Islands 1957, Vol. II, p. 1199.

Acting judges of Court of Appeal.

**92.**—(1) If the office of the President is vacant, or if the President is for any reason unable to perform the functions of his office, then, until some other person has been appointed to, or has been appointed to act in, and has assumed the functions of, that office, or until the President has resumed those functions, as the case may be, those functions shall be performed by such one of the other judges of the Court of Appeal as the Governor, acting in his discretion, may appoint for that purpose.

(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 the President, or is for any reason unable to perform the functions of his office the Governor, acting in his discretion, may appoint a person possessing such legal qualifications and experience as he, after consultation with the President, may deem appropriate to be temporarily a judge of the Court of Appeal.

(3) Any person appointed under this section to be temporarily a judge of the Court of Appeal shall hold office until his appointment is revoked by the Governor, acting in his discretion.

Salaries of judges of Court of Appeal.

**93.**—(1) There shall be charged on the Consolidated Fund and paid thereout to the judges of the Court of Appeal such salaries and allowances as, subject to subsection (2) of this section, may be prescribed by any law of the Legislature.

(2) The salary of a judge of the Court of Appeal and his conditions of service other than allowances shall not be altered to his disadvantage during his continuance in office.

Oaths to be taken by judges of Court of Appeal.

**94.** Before entering upon the functions of his office every judge of the Court of Appeal shall make and subscribe before the Governor, or some other person authorised in that behalf by the Governor, oaths or affirmations of allegiance and for the due execution of his office in the form set out in the Schedule to this Constitution.

## PART VI

## THE PUBLIC SERVICE

### THE PUBLIC SERVICE COMMISSION

Composition of Public Service Commission.

**95.**—(1) There shall be in and for the Bahama Islands a Public Service Commission consisting of five members appointed in accordance with the provisions of this Part.

(2) Three members of the Public Service Commission, including the Chairman, shall be appointed as whole-time members; and two members shall be part-time members selected, from time to time and as occasion may require, by the Chairman from a panel of four persons who have been appointed for that purpose (hereinafter referred to as "the panel"), to be part-time members of the Commission.

(3) The Chairman and the other whole-time members of the Public Service Commission shall be appointed by the Governor, acting after consultation with the Premier, by instrument under the Public Seal, and any such appointment shall be for a period of not less than three, nor more than six, years as the Governor, acting after consultation with the Premier, may decide.

(4) Appointments of persons to the panel shall be made by the Governor, acting after consultation with the Premier, by instrument under the Public Seal, and any such appointment shall be for a period of not less than three, nor more than six, years as the Governor, acting after consultation with the Premier, may decide.

(5) No person shall be qualified to be appointed as a member of the Public Service Commission if he is a member of the Senate or the House of Assembly or if he holds or is acting in any public office, other than the office of member of the Judicial Service Commission or the Police Service Commission.

(6) A person shall not, while he holds or is acting in the office of a member of the Public Service Commission or within a period of five years commencing with the date on which he last held or acted in that office, be eligible for appointment to any public office, other than the office of member of the Judicial Service Commission or the Police Service Commission.

(7) The office of a member of the Public Service Commission shall become vacant—

(*a*) at the expiration of the period specified in the instrument by which he was appointed;

(*b*) if he becomes a member of the Senate or the House of Assembly;

(*c*) if he is appointed to any public office other than the office of member of the Judicial Service Commission or the Police Service Commission;

(*d*) if the Governor, acting after consultation with the Premier, 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.

(8) 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, acting after consultation with the Premier, 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 (7) of this section, continue to act until he is notified by the Governor, acting after consultation with the Premier, that the circumstances giving rise to the appointment have ceased to exist.

(9) There shall be charged on the Consolidated Fund and paid thereout to the members of the Commission such salary and allowances as, subject to the provisions of subsection (10) of this section, may be prescribed by any law of the Legislature.

(10) The salary of a member of the Commission and his conditions of service other than allowances shall not be altered to his disadvantage during his continuance in office.

(11) In this section, subject to the context, any reference to a member of the Public Service Commission or to disqualification to be appointed as such a member shall be construed as including a reference to a person who is on the panel or, as the case may be, to disqualification to be appointed to be on the panel.

Appointments, etc. of public officers.

**96.**—(1) Subject to the provisions of this Constitution, power to make appointments to public offices, and to remove or exercise disciplinary control over persons holding or acting in such offices, is vested in the Governor, acting in accordance with the recommendation of the Public Service Commission.

(2) This section shall apply in relation to the office of teacher in the Department of Education and of officer of the medical establishment, and to any person holding or acting in either of such offices, as it applies to public officers and to persons holding or acting in those offices.

(3) Before the Public Service Commission recommends to the Governor the appointment of a person to be the head of a department of Government (or to be the holder of any such other office of similar status as the Governor may, after consultation with the Premier, specify by notice in the Gazette) the Commission shall consult the Premier.

(4) The Public Service Commission may have such other functions in relation to public offices and public officers as may be prescribed by a law of the Legislature or regulations made by the Governor.

(5) In this section, the functions of the Public Service Commission in respect of appointments shall not extend to postings or transfers between duty posts in the same grade or scale within a department of Government of public officers in that department, and the power to make such postings or transfers shall vest in the head of that department.

Delegation of Governor's powers.

**97.** The Governor, acting on the recommendation of the Public Service Commission, may by instrument under the Public Seal direct that, subject to such conditions as may be specified in that instrument, power to make appointments to such public offices as may be specified in that instrument 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 powers by the Governor acting on the recommendation of the Public Service Commission) be exercisable by such public officer as may be so specified.

## The Judicial Service Commission

Composition of Judicial Service Commission.

**98.**—(1) There shall be in and for the Bahama Islands a Judicial Service Commission.

(2) The members of the Commission shall be—

(*a*) the Chief Justice, who shall be Chairman of the Commission;

(*b*) the Chairman of the Public Service Commission; and

(*c*) a person appointed by the Governor after consultation with the Chief Justice.

(3) The member to be appointed under paragraph (*c*) of subsection (2) of this section—

(*a*) shall not be qualified for appointment as such unless he holds or has held high judicial office;

(*b*) may be removed from office by the Governor, after consultation with the Chief Justice, for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour:

Provided that if such person is a judge of the Supreme Court or a judge of the Court of Appeal, he shall not be so removed unless, in accordance with the provisions of section 86 or 91, as the case may be, of this Constitution, he is removed from his office as a judge;

(*c*) shall not be removed from office except in accordance with the provisions of this subsection; and

(*d*) shall, subject to the provisions of this subsection, vacate his office at the expiration of three years from the date of his appointment.

Appointments, etc. of judicial officers.

**99.**—(1) Subject to the provisions of this Constitution, power to make appointments to the offices to which this section applies and to remove and to exercise disciplinary control over persons holding or acting in such offices, is vested in the Governor, acting in accordance with the recommendation of the Judicial Service Commission.

(2) Subsection (1) of this section applies to the offices of Stipendiary and Circuit Magistrate, Registrar of the Supreme Court and to such other offices connected with the courts of the Bahama Islands as may, by notice in the Gazette, be prescribed by the Governor acting after consultation with the Chief Justice.

THE POLICE SERVICE COMMISSION

Composition of Police Service Commission.

**100.**—(1) There shall be in and for the Bahama Islands a Police Service Commission which shall consist of a Chairman and two other members.

(2) The Chairman and other members of the Commission shall be appointed by the Governor by instrument under the Public Seal.

(3) No person shall be qualified to be appointed as a member of the Police Service Commission under the provisions of subsection (2) of this section if he is a member of the Senate or House of Assembly or if he holds or is acting in any public office, other than the office of member of the Public Service Commission or the Judicial Service Commission.

(4) A person shall not, while he holds or is acting in the office of a member of the Police Service Commission or within a period of five years commencing with the date on which he last held or acted in that office, be eligible for appointment to any public office, other than the office of member of the Public Service Commission or the Judicial Service Commission.

(5) The office of a member of the 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 becomes a member of the Senate or the House of Assembly;

(*c*) if he is appointed to a public office other than the office of member of the Public Service Commission or the Judicial Service Commission;

(*d*) if the Governor 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 Commission is vacant or a member is for any reason unable to perform the functions of his office, the Governor may appoint a person who is qualified for appointment as such a member to act as a member, and any person so appointed shall, subject to the provisions of subsection (5) of this section, continue to act until he is notified by the Governor that the circumstances giving rise to the appointment have ceased to exist.

(7) There shall be charged on the Consolidated Fund and paid thereout to the members of the Commission such salary and allowances as, subject to subsection (8) of this section, may be prescribed by any law of the Legislature.

(8) The salary of a member of the Commission and his conditions of service other than allowances shall not be altered to his disadvantage during his continuance in office.

(9) The powers conferred upon the Governor by this section shall be exercised by him acting in his discretion.

Appointments of Commissioner and Deputy Commissioner.

**101.** Power to make appointments to the offices of Commissioner of Police and Deputy Commissioner of Police and to remove and to exercise disciplinary control over any person holding or acting in either of those offices shall vest in the Governor, acting after consultation with the Police Service Commission.

Appointments of officers in the Police Force.

**102.**—(1) Save as provided in section 101 of this Constitution, power to make appointments to offices in the Police Force shall vest in the Governor, acting in accordance with the recommendation of the Police Service Commission:

Provided that power to make appointments to offices in the Police Force below the rank of Inspector shall vest in the Commissioner of Police.

(2) There shall be in the Police Force such number of Police Promotion Boards, each consisting of officers in the Police Force above the rank of Inspector, as may be prescribed by regulations made under subsection (4) of this section.

(3) In the exercise of the powers to make appointments to offices in the Police Force vested in him, the Commissioner of Police may refer any question relating to the promotion of an officer in the Police Force to a rank below that of Inspector to a Police Promotion Board for their advice, but he shall not be obliged to act in accordance with the advice given him by any such Board.

(4) The Governor, acting in his discretion, may by regulation make provision for all or any of the following matters—

(*a*) the number of Police Promotion Boards which shall be established for the Police Force;

(*b*) the composition of any Police Promotion Board, and the method of appointment and tenure of office of the members thereof; and

(*c*) the manner in which a Police Promotion Board shall perform its functions.

(5) In this section, the functions of the Police Service Commission in respect of appointments shall not extend to postings or transfers within the Police Force of officers in that Force.

Removal of members of Police Force.

**103.**—(1) Save as provided in section 101 of this Constitution, power to remove and exercise disciplinary control over persons holding or acting in offices in the Police Force shall vest in the Governor, acting in accordance with the recommendation of the Police Service Commission:

Provided that the following powers shall vest in the Commissioner of Police—

(*a*) in respect of officers of or above the rank of Assistant Superintendent, the power to administer reprimands;

(*b*) in respect of Inspectors, the power to exercise disciplinary control other than removal or reduction in rank; and

(*c*) in respect of officers below the rank of Inspector, the power to exercise disciplinary control including the power of removal.

(2) In any case where, in accordance with the provisions of any law of the Legislature, an appeal lies to the Governor from a decision of the Commissioner of Police to remove or exercise disciplinary control over persons holding or acting in offices in the Police Force, the Governor shall act in accordance with the recommendation of the Police Service Commission in determining the appeal.

Right of Commissioner to tender advice.

**104.**—(1) The Police Service Commission shall permit the Commissioner of Police to express his views in its presence on any matter that is before the Commission for its consideration, except when the matter is an appeal from a decision of the Commissioner of Police:

Provided that the Commission may, if it sees fit, invite the Commissioner of Police to appear before it in relation to any such appeal.

(2) Nothing in this Part of this Constitution shall affect or be construed as affecting any right of the Commissioner of Police to tender his own advice to the Governor on any question.

GENERAL

Proceedings of Commissions.

**105.**—(1) No business shall be transacted at any meeting of a Commission to which this section applies unless a quorum of that Commission is present; and for the purposes of this subsection—

(*a*) a quorum of the Public Service Commission shall consist of three members, of whom at least two shall be whole-time members;

(*b*) a quorum of the Judicial Service Commission shall consist of two members, of whom one shall be the Chairman of the Commission;

(*c*) a quorum of the Police Service Commission shall consist of two members.

(2) Subject to the provisions of subsection (1) of this section, a Commission to which this section applies may act notwithstanding a

vacancy in its membership ; and no proceedings of such a Commission shall be invalidated by reason only that some person not entitled to do so has taken part in them.

(3) Subject to the provisions of this Constitution, the Governor, after consultation with the Premier and a Commission to which this section applies, may make regulations for giving effect to the appropriate provisions of this Part of this Constitution relating to that Commission and, in particular and without prejudice to the generality of the foregoing power, may by such regulations provide for any of the following matters, that is to say:—

(*a*) the organisation of the work of the Commission and the manner in which the Commission shall perform its functions ;

(*b*) consultation by the Commission with persons other than members of the Commission ;

(*c*) the appointment, tenure of office and terms of service of staff to assist the Commission in the performance of its functions ;

(*d*) the protection and privileges of members of the Commission in respect of the performance of their functions and the privilege of communications to and from the Commission and its members in case of legal proceedings ;

(*e*) the definition and trial of offences connected with the functions of the Commission and the imposition of penalties for such offences:

Provided that no such penalty shall exceed a fine of five hundred pounds or imprisonment for a term of one year or both such a fine and such imprisonment ; and

(*f*) requiring persons to attend before the Commission to answer questions relating to any inquiry held by the Commission or to any business or duties of the Commission.

(4) Unless it is otherwise provided or required by the context, references in this section to a Commission to which this section applies are references to the Public Service Commission, the Judicial Service Commission, or the Police Service Commission, as the case may be, established under this Constitution.

Protection of Commissions, etc. from legal proceedings.

**106.** The question whether—

(*a*) a Commission established under this Part of this Constitution has validly performed any function vested in it by or under this Constitution ;

(*b*) any person or Police Promotion Board has validly performed any function delegated to or vested in such person or Board by or in pursuance of the provisions of section 97 or, as the case may be, section 102, 103 or 104 of this Constitution ; or

(*c*) any member of such Commission or any other person 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 inquired into in any court.

Applicability of pensions law.

**107.**—(1) Subject to the provisions of section 109 of this Constitution, the law applicable to the grant and payment to any officer, or to his widow, children, dependants or personal representatives, of any

pension, gratuity or other like allowance (in this section and sections 108 and 109 of this Constitution referred to as 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 date on which this Constitution comes into operation, the day on which the award was granted ;

(*b*) in relation to an award granted or to be granted on or after the date on which this Constitution comes into operation to or in respect of a person who was a public officer before that date, the day immediately before that date ;

(*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 date on which this Constitution comes into operation, 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 108 and 109 of this Constitution, service as a judge of the Supreme Court or of the Court of Appeal shall be deemed to be public service.

Pensions, etc. charged on the Consolidated Fund.

**108.** Awards granted under any law for the time being in force in the Bahama Islands shall be charged on and paid out of the Consolidated Fund.

Grant and withholding of pensions, etc.

**109.**—(1) The power to grant any award under any pensions law for the time being in force in the Bahama Islands (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 in any such law, to withhold, reduce in amount or suspend any award payable under any such law shall vest in the Governor.

(2) The power vested in the Governor by subsection (1) of this section shall be exercised by him—

(*a*) in the case of an award payable in respect of the services of any person who, having been a public officer, was, immediately before the date on which he ceased to hold public office, serving as—

(i) a judge of the Supreme Court ;

(ii) a judge of the Court of Appeal ;

(iii) a member of the Public Service Commission, the Judicial Service Commission or the Police Service Commission ;

(iv) Chief Secretary ;

(v) Attorney-General ;

(vi) Auditor ;

(vii) Commissioner of Police or Deputy Commissioner of Police ; or

(viii) a member of the personal staff of the Governor (other than a person referred to in section 21(4) of this Constitution),

in his discretion;

(*b*) in the case of an award payable in respect of the services of any person who, having been a public officer, was, immediately before the date aforesaid, serving in any office to which section 99 of this Constitution applies at the date of the exercise of the power, in accordance with the recommendation of the Judicial Service Commission;

(*c*) in the case of an award payable in respect of the services of any person who, having been a public officer, was, immediately before the date aforesaid, serving in any office in the Police Force, other than the office of Commissioner of Police or Deputy Commissioner of Police, in accordance with the recommendation of the Police Service Commission; and

(*d*) in the case of an award payable in respect of the services of any other person, in accordance with 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.

## PART VII

## FINANCE

Consolidated Fund.

**110.**—(1) Save as provided in subsection (2) of this section, there shall be in and for the Bahama Islands a Consolidated Fund into which, subject to the provisions of any law for the time being in force in the Bahama Islands, shall be paid all revenues of the Bahama Islands.

(2) Any moneys received in respect of any grant or disposition made in pursuance of section 23 of this Constitution of any land, property or interest referred to in that section shall be paid into a special fund to be known as the Crown Lands Fund for Development.

Withdrawal of money from the Consolidated Fund or other public funds.

**111.**—(1) No money shall be withdrawn from the Consolidated Fund or other public funds of the Bahama Islands except upon the authority of a warrant under the hand of the Minister for Finance:

Provided that where, in the opinion of the Governor, acting in his discretion, moneys are required to enable him to discharge his responsibilities for internal security and the Police Force, such moneys may be withdrawn from the Consolidated Fund either—

(*a*) upon the authority of a warrant under the hand of the Minister for Finance; or

(*b*) upon the authority of a warrant (hereinafter referred to as "a Governor's warrant") under the hand of the Governor, acting in his discretion.

(2) No warrant shall be issued by the Minister for Finance for the purpose of meeting any expenditure unless—

(*a*) the expenditure has been authorised for the financial year during which the withdrawal is to take place—

(i) by an Appropriation Act; or

(ii) by a supplementary estimate approved by resolution of the House of Assembly; or

(*b*) the expenditure has been authorised in accordance with the provisions of section 112(4), 113 or 114 of this Constitution; or

(*c*) it is statutory expenditure:

Provided that no such warrant shall be issued for the purpose of meeting expenditure from the Crown Lands Fund for Development unless the expenditure has been authorised by a law enacted by the Legislature or, in the case of expenditure for purposes of capital development, by resolution of the House of Assembly.

Authorisation of expenditure.

**112.**—(1) The Minister for Finance shall cause to be prepared and laid before the House of Assembly before or not later than sixty days after the commencement of each financial year estimates of the revenues and expenditure of the Bahama Islands for that year.

(2) The heads of expenditure contained in the estimates (other than statutory expenditure) shall be included in a Bill to be known as an Appropriation Bill which shall be introduced into the House of Assembly to provide for the issue from the Consolidated Fund or other public funds of the Bahama Islands 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 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 that law, a supplementary estimate showing the sums required shall be laid before and voted on by the House of Assembly.

(4) Where in respect of any financial year the Minister for Finance considers it necessary to authorise expenditure for any purpose in excess of the amount appropriated for that purpose by the Appropriation Act, or for a purpose for which no amount has been appropriated by that law, he may, subject to the Rules of Procedure of the House of Assembly in that regard, authorise, with the prior approval of the Cabinet, such expenditure by special warrant and shall, at least at quarterly intervals, prepare statements of such excess expenditure to be laid before and voted on by the House of Assembly.

(5) Where in respect of any financial year moneys have been withdrawn from the Consolidated Fund upon the authority of a Governor's warrant by virtue of section 111(1)(*b*) of this Constitution, the Minister for Finance shall, if the circumstances of the case so require, prepare in respect of such moneys a statement of expenditure to be laid before the House of Assembly.

(6) Where in respect of any financial year supplementary estimates or statements of excess expenditure have been approved by the House of Assembly in accordance with the provisions of subsection (3) or (4) of this section, a supplementary Appropriation Bill shall be introduced

into the House of Assembly in the financial year next following the financial year to which such estimates or statements relate, providing for the appropriation of the sums so approved for the purposes specified in those estimates or statements.

(7) Statutory expenditure shall not be voted on by the House of Assembly but, without further authority of the Legislature, shall be paid out of the Consolidated Fund by warrant under the hand of the Minister for Finance.

Authorisation of expenditure in advance of appropriation.

**113.** If the Appropriation Act in respect of any financial year has not come into operation by the beginning of that financial year, the House of Assembly by resolution may empower the Minister for Finance to authorise the withdrawal of moneys from the Consolidated Fund or other public funds of the Bahama Islands for the purpose of meeting expenditure necessary to carry on the services of the Government until the expiration of four months from the beginning of that financial year or the coming into operation of the Appropriation Act, whichever is the earlier.

Delay in the Appropriation Act owing to dissolution.

**114.** Where at any time the House of Assembly has been dissolved before any provision or any sufficient provision is made under this Part of this Constitution for the carrying on of the government of the Bahama Islands, the Minister for Finance may issue a warrant for the payment out of the Consolidated Fund or other public funds of the Bahama Islands 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 Assembly 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 Assembly and the aggregate sums so voted shall be included, under the appropriate heads, in the next Appropriation Bill.

Public debt.

**115.** The public debt of the Bahama Islands, including the interest thereon, sinking fund payments in respect of that debt and the costs, charges and expenses incidental to the management of that debt, is hereby charged on the Consolidated Fund, the general revenues and on the other public funds and assets of the Bahama Islands.

Auditor.

**116.**—(1) There shall be an Auditor for the Bahama Islands who shall be appointed by the Governor, acting in his discretion.

(2) If the office of Auditor is vacant or the Auditor is for any reason unable to perform the functions of his office, the Governor, acting in his discretion, may appoint a person to act as Auditor, and any person so appointed shall, subject to the provisions of section 117 of this Constitution, continue to act until he is notified by the Governor, acting in his discretion, that the circumstances giving rise to the appointment have ceased to exist.

(3) There shall be charged on the Consolidated Fund and paid thereout to the Auditor such salary as, subject to subsection (4) of this section, may be prescribed by any law of the Legislature.

(4) The salary of the Auditor and his conditions of service other than allowances shall not be altered to his disadvantage during his continuance in office.

Tenure of office of Auditor.

**117.**—(1) Subject to the provisions of subsection (4) of this section, the Auditor shall vacate his office when he attains the age of sixty years:

Provided that the Governor, acting in his discretion, may permit an Auditor to continue in office for a period not exceeding six months after his attainment of that age.

(2) Nothing done by the Auditor 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 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 (4) of this section.

(4) The Auditor shall be removed from office by the Governor by instrument under the Public Seal if the Governor, acting in his discretion, is satisfied that he ought to be removed from office for inability as aforesaid or misbehaviour.

Functions of Auditor.

**118.**—(1) The accounts of the Supreme Court and the courts subordinate thereto, the Court of Appeal, all departments and offices of the Government of the Bahama Islands, the offices of the Clerk of the Senate and the Clerk of the House of Assembly, the Judicial Service Commission, the Public Service Commission and the Police Service Commission shall be audited and reported on annually by the Auditor and for that purpose the Auditor or any person authorised by him shall at all times be entitled to have access to all books, records, returns and other documents relating to such accounts.

(2) The Auditor shall submit his reports made under subsection (1) of this section to the Speaker of the House of Assembly who shall cause them to be laid before the House; and he shall also send a copy of each report to the Governor and to the President of the Senate and the President shall cause the copy sent to him to be laid before the Senate.

(3) In the exercise of his functions under the provisions of this section, the Auditor shall not be subject to the direction or control of any other person or authority.

(4) Nothing in this section shall prevent the performance by the Auditor of—

(*a*) such other functions in relation to the accounts of the Government of the Bahama Islands and the accounts of other public authorities and other bodies administering public funds in the Bahama Islands as may be prescribed by or under any law for the time being in force in the Bahama Islands; or

(*b*) such other functions in relation to the supervision and control of expenditure from public funds in the Bahama Islands as may be so prescribed.

Legislation relating to public finance.

**119.** Subject to the provisions of this Part of this Constitution, the Governor may by regulations provide for any of the following matters—

(*a*) the management of the Consolidated Fund;

(*b*) the supervision, control and direction of the financial business and affairs of the Government of the Bahama Islands;

(*c*) the preparation of estimates;

(*d*) the opening and operation of banking accounts;

(*e*) the system of Government accounting;

(*f*) the financial control and supervision of self accounting units and statutory bodies performing public functions.

Interpretation.

**120.** In this Part of this Constitution—

"financial year" means the twelve months ending on the 31st December in any year or on such other date as may from time to time be prescribed by any law of the Legislature;

"statutory expenditure" means—

(*a*) expenditure charged on the Consolidated Fund or on the general revenues and assets of the Bahama Islands by virtue of any of the provisions of this Constitution or by virtue of any provision of any other law for the time being in force in the Bahama Islands; and

(*b*) the interest on the public debt, sinking fund payments, redemption moneys, and the costs, charges and expenses incidental to the management of the public debt.

## PART VIII

## MISCELLANEOUS

Resignations.

**121.**—(1) Save as otherwise provided in sections 32(2)(*b*), 33(4)(*c*), 38(2)(*a*) and 39(2)(*c*) of this Constitution, any person who is appointed to or to act in any office established by this Constitution may resign from that office by writing under his hand addressed to the person by whom he was appointed.

(2) The resignation of any person from any such office (including any seat in a chamber of the Legislature) by writing under his hand addressed in accordance with this Constitution to any other person shall take effect when the writing signifying the resignation is received by that other person.

Re-appointments and concurrent appointments.

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

(2) 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 in pursuance of subsection (2) of this section, then—

(*a*) for the purposes of any function conferred upon the holder of that office; and

(*b*) for the purposes of any reference in this Constitution to the absence, illness or inability to perform the functions of his office of the holder of that office,

the person last appointed to the office shall be deemed to be the sole holder of the office.

Interpretation.

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

" the Bahama Islands " means the Colony of the Bahama Islands ;

" the Cabinet " means the Cabinet constituted under this Constitution ;

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

" the Commonwealth " means the United Kingdom, Canada, Australia, New Zealand, India, Pakistan, Ceylon, Ghana, the Federation of Nigeria, the Republic of Cyprus, Sierra Leone, Tanganyika, Jamaica, Trinidad and Tobago, Uganda, Malaysia, Zanzibar, Kenya and any dependency of any such country ;

" Crown land " means the land and interests in land in the Bahama Islands which immediately prior to the coming into operation of this Constitution are vested in the Governor on behalf of Her Majesty as Crown land ;

" the Gazette " means the Official Gazette of the Bahama Islands ;

" the Governor " means the Governor and Commander-in-Chief in and over the Bahama Islands ;

" high judicial office " means the office of 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 ;

" the House of Assembly " means the House of Assembly referred to in section 28 of this Constitution ;

" the House " means the House of Assembly ;

" the Judicial Service Commission" means the Judicial Service Commission established by section 98 of this Constitution ;

" the leader of the opposition " means the member of the House of Assembly who in the judgment of the Governor, acting in his discretion, 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 the House who, in his judgment, commands the support of the largest single group of such members who are prepared to support one leader ;

" the Legislature " means the Legislature established by section 28 of this Constitution ;

" Minister " means a Minister appointed under section 66 of this Constitution and includes—

(*a*) the Premier ; and

(*b*) save for the purposes of sections 65, 66(2), (3) and (4), 71 and 78 of this Constitution, a temporary Minister appointed under section 72 of this Constitution ;

" the Police Force " means the Police Force established in and for the Bahama Islands and in respect of which provision is made under the Police Act of the Bahama Islands or in any law amending or replacing that Act ;

" the Police Service Commission " means the Police Service Commission established by section 100 of this Constitution ;

" public office " means, subject to the provisions of subsection (5) of this section, 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 the service of the Crown in a civil capacity in respect of the Government of the Bahama Islands (including service as a member of the Judicial Service Commission, the Public Service Commission or the Police Service Commission) but, save as may be otherwise expressly provided, does not include service—

(*a*) on the personal staff of the Governor ; or

(*b*) as a judge of the Supreme Court or as a judge of the Court of Appeal ; or

(*c*) in the Department of Tourism ;

" the Public Service Commission " means the Public Service Commission established by section 95 of this Constitution ;

" Senate " means the Senate referred to in section 28 of this Constitution ;

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

" sitting " means, in relation to a chamber of the Legislature, a period during which that chamber is sitting continuously without adjournment and includes any period during which the chamber is in committee.

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

(*a*) any reference to the date on which this Constitution comes into operation shall be construed as a reference to the appointed day referred to in section 1(2) of the Order in Council to which this Constitution is annexed ;

(*b*) any reference to a law of the Legislature shall be construed as including a reference to a law of any Legislature established for the Bahama Islands at any time before this Constitution comes into operation and to any instrument having the force of law made in exercise of a power conferred by a law of the Legislature ;

(*c*) any reference to power to make appointments to any office shall be construed as including a reference to power to make appointments on promotion and transfer to that office and to power to appoint a person to perform the functions of that office during any period during which it is vacant or the holder thereof is unable (whether by reason of absence or of infirmity of body or mind or any other cause) to perform those functions ;

(*d*) any reference to the holder of an office by a term designating or describing his office shall be construed as including, to the extent of his authority, a reference to any person for the time being authorised to perform the functions of that office.

(3) In this Constitution, unless it is otherwise provided or required by the context, references to the functions of the Governor shall be construed as references to his powers and duties in exercise of the executive authority of the Bahama Islands and to any other powers or duties conferred or imposed on him as Governor by or under this Constitution or any other law.

(4) 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 unable to perform the functions of the office.

(5) For the purposes of this Constitution, a person shall not be considered to hold a public office by reason only—

(*a*) that he is in receipt of a pension or other like allowance in respect of public service ; or

(*b*) that he is in receipt of any remuneration or allowance in respect of his tenure of the office of Minister, or President or Vice-President of the Senate, or Senator, or Speaker, Deputy Speaker or member of the House of Assembly ; or

(*c*) that he is a member of any board, committee or other similar body (whether incorporated or not) established by any law for the time being in force in the Bahama Islands.

(6) 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 a judge of the Court of Appeal 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.

(7) Where any power is conferred by this Constitution to make any proclamation, order, rules or regulations or to give any direction, 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.

(8) The Interpretation Act 1889(a) 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 otherwise in relation to Acts of Parliament of the United Kingdom.

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

## THE SCHEDULE TO THE CONSTITUTION OF THE BAHAMA ISLANDS (Sections 17(3), 43, 67, 89 and 94)

## FORMS OF OATHS AND AFFIRMATIONS

1. *Oath of Allegiance*

I, ....., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law. So help me God.

2. *Affirmation of Allegiance*

I, ....., do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law.

3. *Oath for the due execution of the office of Governor and Commander-in-Chief*

I, ....., do swear that I will well and truly serve Her Majesty Queen Elizabeth the Second in the office of Governor and Commander-in-Chief. So help me God.

4. *Affirmation for the due execution of the office of Governor and Commander-in-Chief*

I, ....., do solemnly and sincerely affirm and declare that I will well and truly serve Her Majesty Queen Elizabeth the Second in the office of Governor and Commander-in-Chief.

5. *Oath for the due execution of the office of Premier or other Minister*

I, ....., being appointed Premier/Minister, do swear that I will to the best of my judgment, at all times when so required, freely give my counsel and advice to the Governor (or any other person for the time being lawfully performing the functions of that office) for the good management of the public affairs of the Bahama Islands, and I do further swear that I will not on any account, at any time whatsoever, disclose the counsel, advice, opinion or vote of any particular Minister and that I will not, except with the authority of the Cabinet and to such extent as may be required for the good management of the affairs of the Bahama Islands, directly or indirectly reveal the business or proceedings of the Cabinet or the nature or contents of any documents communicated to me as a Minister or any matter coming to my knowledge in my capacity as such and that in all things I will be a true and faithful Premier/Minister. So help me God.

6. *Affirmation for the due execution of the office of Premier or other Minister*

I, ....., being appointed Premier/Minister, do solemnly and sincerely affirm and declare that I will to the best of my judgment, at all times when so required, freely give my counsel and advice to the Governor (or any other person for the time being lawfully performing the functions of that office) for the good management of the public affairs of the Bahama Islands, and I do further solemnly and sincerely affirm and declare that I will not on any account, at any time whatsoever, disclose the counsel, advice, opinion or vote of any particular Minister and that I will not, except with the authority of the

Cabinet and to such extent as may be required for the good management of the affairs of the Bahama Islands, directly or indirectly reveal the business or proceedings of the Cabinet or the nature or contents of any documents communicated to me as a Minister or any matter coming to my knowledge in my capacity as such and that in all things I will be a true and faithful Premier/Minister.

7. *Judicial Oath*

I, ....., do swear that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, in the office of ..... and will do right to all manner of people after the laws and usages of the Bahama Islands without fear or favour, affection or ill will. So help me God.

8. *Judicial Affirmation*

I, ....., do solemnly and sincerely affirm and declare that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, in the office of ..... and will do right to all manner of people after the laws and usages of the Bahama Islands without fear or favour, affection or ill will.

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## EXPLANATORY NOTE

*(This Note is not part of the Order, but is intended to indicate its general purport.)*

This Order makes fresh constitutional provision for the Bahama Islands, conferring internal self-government. Responsibility for external affairs and for defence, internal security and the Police Force is reserved to the Governor. It also contains provision with respect to the fundamental rights of the individual, the office of Governor, a Cabinet, the Legislature (which includes two chambers called the Senate and the House of Assembly), the Judiciary, the Public Service and Finance.