1967 No. 226

ASSOCIATED STATES

The Dominica Constitution Order 1967

Made - - - - 22*nd February* 1967

Coming into Operation 1*st March* 1967

At the Court at Buckingham Palace, the 22nd day of February 1967

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of Her powers under section 5 of the West Indies Act 1967(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation and commencement.

1.—(1) This Order may be cited as the Dominica Constitution Order 1967.

(2) This Order shall come into operation on 1st March 1967.

Revocations.

2. The Orders mentioned in Schedule 1 to this Order are revoked to the extent therein specified.

Establishment of Constitution.

3. The Constitution of Dominica set out in Schedule 2 to this Order shall come into effect in Dominica at the commencement of this Order:

Provided that Chapter VII of the Constitution shall come into effect on the date appointed in accordance with section 88 of the Constitution.

W. G. Agnew.

SCHEDULE 1 TO THE ORDER

Section 2

ORDERS REVOKED BY THIS ORDER

Order	Reference	Extent of Revocation
The Dominica Order in Council 1939	S.R. & O. 1939/1896 (Rev. XXIV, p. 231: 1939 I, p. 658)	Sections 3, 4, 37, 38, 39, 40, 41, 42, 43, 45
The Dominica (Adaptation of Laws) Order in Council 1939	S.R. & O. 1939/1897 (Rev. XXIV, p. 248: 1939 I, p. 675)	The whole Order
The Dominica (Constitution) Order in Council 1959	S.I. 1959/2199 (1959 I, p. 350)	The whole Order
The Windward Islands and Leeward Islands (Police Service Commission) Order in Council 1959	S.I. 1959/2198 (1959 I, p. 558)	The whole Order so far as it applies to Dominica.
The Dominica (Constitution) (Amendment) Order in Council 1960	S.I. 1960/202 (1960 I, p. 468)	The whole Order.

(a) 1967 c. 4.

Section 3

SCHEDULE 2 TO THE ORDER

THE CONSTITUTION OF DOMINICA

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4. Protection from slavery and forced labour.
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7. Protection from arbitrary search or entry.
8. Provisions to secure protection of law.
9. Protection of freedom of conscience.
10. Protection of freedom of expression.
11. Protection of freedom of assembly and association.
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20. Acting Governor.
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WHEREAS the People of Dominica—

(*a*) have affirmed that the state of Dominica is founded upon principles that acknowledge the supremacy of God, faith in fundamental human rights and freedoms, the position of the family in a society of free men and free institutions, the dignity of the human person, and the equal and inalienable rights with which all members of the human family are endowed by their Creator;

(*b*) respect the principles of social justice and therefore believe that the operation of the economic system should result in the material resources of the community being so distributed as to subserve the common good, that there should be adequate means of livelihood for all, that labour should not be exploited or forced by economic necessity to operate in inhumane conditions but that there should be opportunity for advancement on the basis of recognition of merit, ability and integrity;

(*c*) have asserted their belief in a democratic society in which all persons may, to the extent of their capacity, play some part in the institutions of the national life and thus develop and maintain due respect for lawfully constituted authority;

(*d*) recognise that men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law;

(*e*) desire that their Constitution should make provision for ensuring the protection in Dominica of fundamental human rights and freedoms;

NOW, THEREFORE, the following provisions shall have effect as the Constitution of Dominica:

CHAPTER I

PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS

Fundamental rights and freedoms.

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

(*a*) life, liberty, security of the person and the protection of the law;

(*b*) freedom of conscience, of expression and of assembly and association; and

(*c*) protection for the privacy of his home and other property and from deprivation of property without compensation,

the provisions of this Chapter shall have effect for the purpose of affording protection to those rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any person does not prejudice the rights and freedoms of others or the public interest.

Protection of right to life.

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

(2) A person shall not be regarded as having been deprived of his life in contravention of this section if he dies as the result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably justifiable—

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

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

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

(*d*) in order to prevent the commission by that person of a criminal offence,

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

Protection of right to personal liberty.

3.—(1) No person shall be deprived of his personal liberty save as may be authorised by law in any of the following cases, that is to say:—

(*a*) in execution of the sentence or order of a court, whether established for Dominica or some other country, in respect of a criminal offence of which he has been convicted;

(*b*) in execution of the order of the High Court or the Court of Appeal punishing him for contempt of the High Court or the Court of Appeal or of another court or tribunal;

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

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

(*e*) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under the law of Dominica;

(*f*) under the order of a court or with the consent of his parent or guardian, for his education or welfare during any period ending not later than the date when he attains the age of eighteen years;

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

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

(*i*) for the purpose of preventing the unlawful entry of that person into Dominica, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from Dominica or for the purpose of restricting that person while he is being conveyed through Dominica in the course of his extradition or removal as a convicted prisoner from one country to another; or

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

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

(3) Any person who is arrested or detained—

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

(*b*) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under the law of Dominica,

and who is not released, shall be brought without undue delay before a court.

(4) Where any person is brought before a court in execution of the order of a court in any proceedings or upon suspicion of his having committed or being about to commit an offence, he shall not be thereafter further held in custody in connection with those proceedings or that offence save upon the order of a court.

(5) If any person arrested or detained as mentioned in subsection (3)(*b*) of this section is not tried within a reasonable time, then, without prejudice to any further proceedings that may be brought against him, he shall be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.

(6) Any person who is unlawfully arrested or detained by any other person shall be entitled to compensation therefor from that other person or from any other person or authority on whose behalf that other person was acting.

(7) For the purposes of subsection (1)(*a*) of this section a person charged before a court with a criminal offence in respect of whom a special verdict has been returned that he was guilty of the act or omission charged but was insane when he did the act or made the omission shall be regarded as a person who has been convicted of a criminal offence and the detention of a person in consequence of such a verdict shall be regarded as detention in execution of the order of a court.

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, the expression " forced labour " does not include—

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

(*b*) labour required of any person while he is lawfully detained that, though not required in consequence of the sentence or order of a court, is reasonably necessary in the interests of hygiene or for the maintenance of the place at which he is detained;

(*c*) any labour required of a member of a disciplined force in pursuance of his duties as such or, in the case of a person who has conscientious objections to service as a member of a naval, military or air force, any labour that that person is required by law to perform in place of such service;

(*d*) any labour required during any period of public emergency or in the event of any other emergency or calamity that threatens the life and well-being of the community, to the extent that the requiring of such labour is reasonably justifiable in the circumstances of any situation arising or existing during that period or as a result of that other emergency or calamity, for the purpose of dealing with that situation.

Protection from inhuman treatment.

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

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question authorises the infliction of any description of punishment that was lawful in Dominica immediately before the coming into operation of this Constitution.

Protection from deprivation of property.

6.—(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 provision is made by a law applicable to that taking of possession or acquisition for the payment, within a reasonable time, of adequate compensation.

(2) Every person having an interest in or right over property which is compulsorily taken possession of or whose interest in or right over any property is compulsorily acquired shall have a right of direct access to the High Court for—

(*a*) the determination of his interest or right, the legality of the taking of possession or acquisition of the property, interest or right and the amount of any compensation to which he is entitled; and

(*b*) the purpose of obtaining payment of that compensation:

Provided that if Parliament so provides in relation to any matter referred to in paragraph (*a*) of this subsection the right of access shall be by way of appeal (exercisable as of right at the instance of the person having the interest in or right over the property) from a tribunal or authority, other than the High Court, having jurisdiction under any law to determine that matter.

(3) The Chief Justice may make rules with respect to the practice and procedure of the High Court or any other tribunal or authority in relation to the jurisdiction conferred on the High Court by subsection (2) of this section or exercisable by the other tribunal or authority for the purposes of that subsection (including rules with respect to the time within which applications or appeals to the High Court or applications to the other tribunal or authority may be brought).

(4) No person who is entitled to compensation under this section shall be prevented from remitting, within a reasonable time after he has received any amount of that compensation, the whole of that amount (free from any deduction, charge or tax made or levied in respect of its remission) to any country of his choice outside Dominica.

(5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (4) of this section to the extent that the law in question authorises—

(*a*) the attachment, by order of a court, of any amount of compensation to which a person is entitled in satisfaction of the judgment of a court or pending the determination of civil proceedings to which he is a party; or

(*b*) the imposition of reasonable restrictions on the manner in which any amount of compensation is to be remitted.

(6) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (1) of this section—

(*a*) to the extent that the law in question makes provision for the taking of possession or acquisition of any property, interest or right—

(i) in satisfaction of any tax, rate or due;

(ii) by way of penalty for breach of any law or forfeiture in consequence of breach of any law;

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

(iv) in the execution of judgments or orders of a court in proceedings for the determination of civil rights or obligations;

(v) in circumstances where it is reasonably necessary so to do because the property is in a dangerous state or likely to be injurious to the health of human beings, animals or plants;

(vi) in consequence of any law with respect to the limitation of actions; or

(vii) for so long only as may be necessary for the purposes of any examination, investigation, trial or inquiry or, in the case of land, for the purposes of the carrying out thereon of work of soil conservation or the conservation of other natural resources or work relating to agricultural development or improvement (being work relating to such development or improvement that the owner or occupier of the land has been required, and has without reasonable excuse refused or failed, to carry out),

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society; or

(*b*) to the extent that the law in question makes provision for the taking of possession or acquisition of any of the following property (including an interest in or right over property), that is to say:—

(i) enemy property;

(ii) property of a deceased person, a person of unsound mind or a person who has not attained the age of eighteen years, for the purpose of its administration for the benefit of the persons entitled to the beneficial interest therein;

(iii) property of a person adjudged bankrupt or a body corporate in liquidation, for the purpose of its administration for the benefit of the creditors of the bankrupt or body corporate and, subject thereto, for the benefit of other persons entitled to the beneficial interest in the property; or

(iv) property subject to a trust, for the purpose of vesting the property in persons appointed as trustees under the instrument creating the trust or by a court or, by order of a court, for the purpose of giving effect to the trust.

(7) Nothing contained in or done under the authority of any law enacted by Parliament shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision for the compulsory taking of possession of any property, or the compulsory acquisition of any interest in or right over property, where that property, interest or right is held by a body corporate established by law for public purposes in which no monies have been invested other than monies provided by any legislature established for Dominica.

(8) Nothing in this section shall affect the operation of any law in force immediately before the coming into operation of this Constitution or any law made after the coming into operation of this Constitution that amends or replaces a law in force immediately before the coming into operation of this Constitution and that does not—

(*a*) add to the kinds of property that may be taken possession of or the rights over and interests in property that may be acquired;

(*b*) make the conditions governing entitlement to compensation or the amount thereof less favourable to any person owning or interested in the property; or

(*c*) deprive any person of such right as is mentioned in subsection (2) of this section.

Protection from arbitrary search or entry.

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

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

(*a*) that is reasonably required in the interests of defence, public safety, public order, public morality, public health, town and country planning, the development and utilisation of mineral resources or the development or utilisation of any property for a purpose beneficial to the community;

(*b*) that is reasonably required for the purpose of protecting the rights or freedoms of other persons;

(*c*) that authorises an officer or agent of the Government of Dominica, a local government authority or a body corporate established by law for public purposes to enter on the premises of any person in order to inspect those premises or anything thereon for the purpose of any tax, rate or due or in order to carry out work connected with any property that is lawfully on those premises and that belongs to that Government, authority or body corporate, as the case may be; or

(*d*) that authorises, for the purpose of enforcing the judgment or order of a court in any civil proceedings, the search of any person or property by order of a court or entry upon any premises by such order,

and except so far as that provision or, as the case may be, anything done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

Provisions to secure protection of law.

8.—(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;

(*e*) shall be afforded facilities to examine in person or by his legal representative the witnesses called by the prosecution before the court, and to obtain the attendance and carry out the examination of witnesses to testify on his behalf before the court on the same conditions as those applying to witnesses called by the prosecution; and

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

and except with his own consent the trial shall not take place in his absence unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable and the court has ordered him to be removed and the trial to proceed in his absence.

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

(9) Where the existence or extent of any civil right or obligation has been determined in proceedings in any court or before any other authority any party to those proceedings shall, if he so requires and subject to payment of such reasonable fee as may be prescribed by law, be entitled to obtain within a reasonable time after the judgment or other determination a copy of any record of the proceedings made by or on behalf of the court or other authority.

(10) Except with the agreement of all the parties thereto, all proceedings of every court and proceedings for the determination of the existence or extent of any civil right or obligation before any other authority, including the announcement of the decision of the court or other authority, shall be held in public.

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

(*a*) may by law be empowered to do and may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice or in interlocutory proceedings or in the interests of public morality, the welfare of persons under the age of eighteen years or the protection of the private lives of persons concerned in the proceedings; or

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

(12) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of—

(*a*) subsection (2)(*a*) of this section to the extent that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts;

(*b*) subsection (2)(*e*) of this section to the extent that the law in question imposes reasonable conditions that must be satisfied if witnesses called to testify on behalf of an accused person are to be paid their expenses out of public funds; or

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

(13) In the case of any person who is held in lawful detention the provisions of subsection (1), paragraphs (*d*) and (*e*) of subsection (2) and subsection (3) of this section shall not apply in relation to his trial for a criminal offence under the law regulating the discipline of persons held in such detention.

(14) In this section " criminal offence " means a criminal offence under the law of Dominica.

Protection of freedom of conscience.

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

(2) Except with his own consent (or, if he is a person under the age of eighteen years, the consent of his guardian) 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 which is not his own.

(3) Every religious community shall be entitled, at its own expense, to establish and maintain places of education and to manage any place of education which it maintains; and no such community shall be prevented from providing religious instruction for persons of that community in the course of any education provided by that community whether or not it is in receipt of a government subsidy or other form of financial assistance designed to meet in whole or in part the cost of such course of education.

(4) 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;

(*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 intervention of members of any other religion; or

(*c*) for the purpose of regulating educational institutions in the interests of the persons who receive or may receive instruction in them,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(6) References in this section to a religion shall be construed as including references to a religious denomination, and cognate expressions shall be construed accordingly.

Protection of freedom of expression.

10.—(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression, including freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference (whether the communication be to the public generally or to any person or class of persons) and freedom from interference with his correspondence.

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

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

(*b*) that is reasonably required for the purpose of protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts or regulating the technical administration or the technical operation of telephony, telegraphy, posts, wireless broadcasting or television; or

(*c*) that imposes restrictions upon public officers,

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.

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

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

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

(*b*) that is reasonably required for the purpose of protecting the rights or freedoms of other persons; or

(*c*) that imposes restrictions upon public officers,

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.

12.—(1) No person shall be deprived of his freedom of movement that is to say, the right to move freely throughout Dominica, the right to reside in any part of Dominica, the right to enter Dominica, the right to leave Dominica and immunity from expulsion from Dominica.

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

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

(*a*) for the imposition of restrictions on the movement or residence within Dominica of any person or on any person's right to leave Dominica that are reasonably required in the interests of defence, public safety or public order;

(*b*) for the imposition of restrictions on the movement or residence within Dominica or on the right to leave Dominica of persons generally or any class of persons in the interests of defence, public safety, public order, public morality or public health and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society;

(*c*) for the imposition of restrictions, by order of a court, on the movement or residence within Dominica of any person or on any person's right to leave Dominica either in consequence of his having been found guilty of a criminal offence under the law of Dominica or for the purpose of ensuring that he appears before a court at a later date for trial of such a criminal offence or for proceedings preliminary to trial or for proceedings relating to his extradition or lawful removal from Dominica;

(*d*) for the imposition of restrictions on the freedom of movement of any person who does not belong to Dominica;

(*e*) for the imposition of restrictions on the acquisition or use by any person of land or other property in Dominica;

(*f*) for the imposition of restrictions upon the movement or residence within Dominica or on the right to leave Dominica of any public officer;

(*g*) for the removal of a person from Dominica to be tried or punished in some other country for a criminal offence under the law of that other country or to undergo imprisonment in some other country in execution of the sentence of a court in respect of a criminal offence under the law of Dominica of which he has been convicted; or

(*h*) for the imposition of restrictions on the right of any person to leave Dominica that are reasonably required in order to secure the fulfilment of any obligations imposed on that person by law and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(4) If any person whose freedom of movement has been restricted by virtue of such a provision as is referred to in subsection (3)(*a*) of this section so requests at any time during the period of that restriction not earlier than three months after the order was made or three months after he last made such a request, as the case may be, his case shall be reviewed by an independent and impartial tribunal presided over by a person appointed by the Chief Justice from among persons who are entitled to practise as a barrister or a solicitor in Dominica.

(5) On any review by a tribunal in pursuance of subsection (4) of this section of the case of any person whose freedom of movement has been restricted, the tribunal may make recommendations concerning the necessity or expediency of the continuation of that restriction to the authority by whom it was ordered and, unless it is otherwise provided by law, that authority shall be obliged to act in accordance with any such recommendations.

Protection from discrimination on the grounds of race, etc.

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

(2) Subject to the provisions of subsections (6), (7) and (8) of this section, no 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 public revenues or other public funds;

(*b*) with respect to persons who do not belong to Dominica;

(*c*) for the application, in the case of persons of any such description as is mentioned in subsection (3) of this section (or of persons connected with such persons), of the law with respect to adoption, marriage, divorce, burial, devolution of property on death or other like matters which is the personal law of persons of that description;

(*d*) whereby persons of any such description as is mentioned in subsection (3) of this section may be 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.

(5) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) of this section to the extent that it makes provision with respect to standards or qualifications (not being standards or qualifications specifically relating to race, place of origin, political opinions, colour or creed) to be required of any person who is appointed to or to act in any office in the public service, any office in a disciplined force, any office in the service of a local government authority or any office in a body corporate established by law for public purposes.

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

(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any restriction on the rights and freedoms guaranteed by sections 7, 9, 10, 11 and 12 of this Constitution, being such a restriction as is authorised by section 7(2), section 9(5), section 10(2), section 11(2) or paragraph (*a*), (*b*) or (*h*) of section 12(3), as the case may be.

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

Derogations from fundamental rights and freedoms under emergency powers.

14. Nothing contained in or done under the authority of a law enacted by Parliament shall be held to be inconsistent with or in contravention of section 3 or section 13 of this Constitution to the extent that the law authorises the taking during any period of public emergency of measures that are reasonably justifiable for dealing with the situation that exists in Dominica during that period.

Protection of persons detained under emergency laws.

15.—(1) When a person is detained by virtue of any such law as is referred to in section 14 of this Constitution the following provisions shall apply, that is to say:—

(*a*) he shall, as soon as reasonably practicable and in any case not more than seven days after the commencement of his detention, be furnished with a statement in writing in a language that he understands specifying in detail the grounds upon which he is detained;

(*b*) not more than fourteen days after the commencement of his detention, a notification shall be published in the Official Gazette stating that he has been detained and giving particulars of the provision of law under which his detention is authorised;

(*c*) not more than one month after the commencement of his detention and thereafter during his detention at intervals of not more than six months, his case shall be reviewed by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice from among persons who are entitled to practise as a barrister or a solicitor in Dominica;

(*d*) he shall be afforded reasonable facilities to consult a legal representative of his own choice who shall be permitted to make representations to the tribunal appointed for the review of the case of the detained person; and

(*e*) at the hearing of his case by the tribunal appointed for the review of his case he shall be permitted to appear in person or by a legal representative of his own choice.

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

(3) Nothing contained in subsection (1)(*d*) or subsection (1)(*e*) of this section shall be construed as entitling a person to legal representation at public expense.

Enforcement of protective provisions.

16.—(1) If any person alleges that any of the provisions of sections 2 to 15 (inclusive) of this Constitution has been, is being or is likely to be contravened in relation to him (or, in the case of a person who is detained, if any other person alleges such a contravention in relation to the detained person), then, without prejudice to any other action with respect to the same matter which is lawfully available, that person (or that other person) may apply to the High Court for redress.

(2) The High Court shall have original jurisdiction—

(*a*) to hear and determine any application made by any person in pursuance of subsection (1) of this section; and

(*b*) to determine any question arising in the case of any person which is referred to it in pursuance of subsection (3) of this section,

and may make such declarations and orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of any of the provisions of sections 2 to 15 (inclusive) of this Constitution:

Provided that the High Court may decline to exercise its powers under this subsection if it is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned under any other law.

(3) If in any proceedings in any court (other than the Court of Appeal or the High Court or a court-martial) any question arises as to the contravention of any of the provisions of sections 2 to 15 (inclusive) of this Constitution, the person presiding in that court may, and shall if any party to the proceedings so requests, refer the question to the High Court unless, in his opinion, the raising of the question is merely frivolous or vexatious.

(4) Where any question is referred to the High Court in pursuance of subsection (3) of this section, the High Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision or, if that decision is the subject of an appeal to the Court of Appeal or to Her Majesty in Council, in accordance with the decision of the Court of Appeal or, as the case may be, of Her Majesty in Council.

(5) Parliament may confer upon the High Court such powers in addition to those conferred by this section as may appear to be necessary or desirable for the purpose of enabling that court more effectively to exercise the jurisdiction conferred upon it by this section.

(6) The Chief Justice may make rules with respect to the practice and procedure of the High Court in relation to the jurisdiction and powers conferred on it by or under this section (including rules with respect to the time within which applications may be brought and references shall be made to the High Court).

Interpretation and savings.

17.—(1) In this Chapter, unless the context otherwise requires—

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

" court " means any court of law having jurisdiction in Dominica other than a court established by a disciplinary law, and includes Her Majesty in Council and in sections 2 and 4 of this Constitution a court established by a disciplinary law;

" disciplinary law " means a law regulating the discipline of any disciplined force;

" disciplined force " means—

(*a*) a naval, military or air force;

(*b*) the Police Force; or

(*c*) a prison service;

" legal representative " means a person entitled to be in or to enter Dominica and entitled to practise as a barrister in Dominica or, except in relation to proceedings before a court in which a solicitor has no right of audience, entitled to practise as a solicitor in Dominica;

" member ", in relation to a disciplined force, includes any person who, under the law regulating the discipline of that force, is subject to that discipline.

(2) In this Chapter " period of public emergency " means any period during which—

(*a*) Her Majesty is engaged in any war; or

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

(*c*) there is in force a resolution of the House of Assembly supported by the votes of not less than two-thirds of all the members of the House declaring that democratic institutions in Dominica are threatened by subversion.

(3) A Proclamation made by the Governor shall not be effective for the purposes of subsection (2) of this section unless it is declared therein that the Governor is satisfied—

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

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

(4) A Proclamation made by the Governor for the purposes of this section—

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

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

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

(5) A resolution passed by the House of Assembly for the purposes of subsection (2) of this section may be revoked at any time by a resolution of that House supported by the votes of a majority of all the members thereof.

(6) For the purposes of this Chapter, a person shall be regarded as belonging to Dominica if that person is—

(*a*) a citizen of the United Kingdom and Colonies born in Dominica; or

(*b*) a citizen of the United Kingdom and Colonies born outside Dominica—

(i) whose father was born in Dominica; or

(ii) who is domiciled in Dominica and whose father became a citizen of the United Kingdom and Colonies by virtue of naturalisation or registration in Dominica; or

(*c*) a citizen of the United Kingdom and Colonies by virtue of naturalisation or registration in Dominica; or

(*d*) a Commonwealth citizen who is domiciled in Dominica and has been ordinarily resident in Dominica for not less than seven years; or

(*e*) the wife or the widow of a person referred to in any of the preceding paragraphs of this subsection provided that in the case of a wife she is not living apart from her husband under a decree of a competent court or a deed of separation; or

(*f*) under the age of eighteen years and is the child, stepchild, or child adopted in a manner recognised by law, or any such person as is referred to in any of the preceding paragraphs of this subsection:

Provided that from the commencement of Chapter VII of this Constitution a person shall be regarded as belonging to Dominica if, and only if, he is a citizen of Dominica.

(7) In relation to any person who is a member of a disciplined force raised under a law enacted by any legislature established for Dominica, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter other than sections 2, 4 and 5 of this Constitution.

(8) In relation to any person who is a member of a disciplined force raised otherwise than as aforesaid and lawfully present in Dominica, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter.

CHAPTER II

THE GOVERNOR

Establishment of office of Governor.

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

Oaths to be taken by Governor.

19. A person appointed to hold the office of Governor shall, before entering upon the duties of that office, take and subscribe the oath of allegiance and the oath of office.

Acting Governor.

20.—(1) During any period when the office of Governor is vacant or the holder of the office of Governor is absent from Dominica or is for any other reason unable to perform the functions of his office those functions

shall be performed—

(*a*) by such person as Her Majesty may appoint; or

(*b*) if there is no person in Dominica appointed by Her Majesty and able to perform those functions—

(i) at any time when the office of Attorney-General is a public office, by the Attorney-General; or

(ii) at any time when the office of Attorney-General is not a public office, by the person for the time being performing the functions of such office as may be designated by Her Majesty.

(2) Before assuming the functions of the office of Governor any such person as aforesaid shall make the oaths directed by section 19 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 the Governor if the holder of the office of 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 holder of the office of Governor shall not, for the purposes of this section, be regarded as absent from Dominica or as unable to perform the functions of his office—

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

(*b*) at any time when there is a subsisting appointment of a deputy under section 21 of this Constitution.

Deputy to Governor.

21.—(1) Whenever the Governor—

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

(*b*) has occasion to be absent from Dominica for a period which he considers, acting in his own deliberate judgment, will be of short duration; or

(*c*) is suffering from an illness which he considers, acting in his own deliberate judgment, will be of short duration,

he may, acting in accordance with the advice of the Premier, appoint any person in Dominica 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 the instrument by which he is appointed.

(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, subject to the provisions of this Constitution, a deputy shall conform to and observe all instructions that the Governor, acting in his own deliberate judgment, may from time to time address to him:

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

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

CHAPTER III

PARLIAMENT

PART 1

Composition of Parliament

Establishment of Parliament.

22. There shall be a Parliament of Dominica which shall consist of Her Majesty and a House of Assembly.

House of Assembly.

23.—(1) The House of Assembly shall consist of—

(*a*) such number of elected members as corresponds with the number of constituencies for the time being established for Dominica in accordance with the provisions of section 49 of this Constitution, who shall be elected in accordance with the provisions of section 26 of this Constitution;

(*b*) three nominated members appointed in accordance with the provisions of section 27 of this Constitution.

(2) If a person who is not a member of the House of Assembly is elected to be Speaker of the House he shall, by virtue of holding the office of Speaker, be a member of the House.

(3) At any time when the office of Attorney-General is a public office, the Attorney-General shall be an *ex-officio* member of the House of Assembly.

Qualifications for membership of House of Assembly.

24.—(1) Subject to the provisions of section 25 of this Constitution, a person shall be qualified to be elected as an elected member of the House of Assembly if, and shall not be so qualified unless, he—

(*a*) is a Commonwealth citizen of the age of twenty-one years or upwards;

(*b*) has resided in Dominica for a period of twelve months immediately before the date of his nomination for election or is domiciled and resident in Dominica at that date; and

(*c*) is able to speak and, unless incapacitated by blindness or other physical cause, to read the English language with a degree of proficiency sufficient to enable him to take an active part in the proceedings of the House.

(2) Subject to the provisions of section 25 of this Constitution, a person shall be qualified to be appointed as a nominated member of the House of Assembly if, and shall not be so qualified unless, he—

(*a*) is a Commonwealth citizen of the age of twenty-one years or upwards;

(*b*) is domiciled and resident in Dominica at the date of his appointment; and

(*c*) is able to speak and, unless incapacitated by blindness or other physical cause, to read the English language with a degree of proficiency sufficient to enable him to take an active part in the proceedings of the House.

Disqualifications for membership of House of Assembly.

25.—(1) No person shall be qualified to be elected as an elected member of the House of Assembly or to be appointed as a nominated member if he—

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

(*b*) is a minister of religion;

(*c*) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in Dominica;

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

(*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*) subject to such exceptions and limitations as may be prescribed by Parliament, he has any such interest in any such government contract as may be prescribed.

(2) Parliament may provide that a person shall not be qualified to be elected as an elected member of the House of Assembly or to be appointed as a nominated member if he holds or is acting in any office that is specified by Parliament and the functions of which involve responsibility for, or in connection with, the conduct of any election to the House or the compilation of any register of voters for the purposes of such an election.

(3) Parliament may provide that a person who is convicted by any court of any offence that is prescribed by Parliament and that is connected with the election of elected members of the House of Assembly or is reported guilty of such an offence by the court trying an election petition shall not be qualified, for such period (not exceeding seven years) following his conviction or, as the case may be, following the report of the court as may be so prescribed, to be elected as a member of the House or to be appointed as a nominated member.

(4) No person shall be qualified to be elected as an elected member of the House of Assembly who is a nominated member; and no person shall be qualified to be appointed as a nominated member who is an elected member of the House or is nominated for election as a member of the House.

(5) Parliament may provide that, subject to such exceptions and limitations (if any) as Parliament may prescribe, a person shall not be qualified to be elected as an elected member of the House of Assembly or to be appointed as a nominated member if—

(*a*) he holds or is acting in any office or appointment (either individually or by reference to a class of office or appointment);

(*b*) he belongs to any of the armed forces of the Crown or to any class of person that is comprised in any such force; or

(*c*) he belongs to any police force or to any class of person that is comprised in any such force.

(6) In subsection (1) of this section

"government contract" means any contract made with the Government of Dominica or with a department of that Government or with an officer of that Government contracting as such;

"minister of religion" means any person in holy orders and any other person the functions of whose principal occupation include teaching or preaching in any congregation for religious worship.

(7) For the purposes of paragraph (*e*) of subsection (1) of this section—

(*a*) two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds 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.

Election of elected members.

26.—(1) Each of the constituencies established for Dominica in accordance with the provisions of section 49 of this Constitution shall return one elected member to the House of Assembly who shall be directly elected in such manner as may, subject to the provisions of this Constitution, be prescribed by or under any law.

(2) (*a*) Every Commonwealth citizen of the age of twenty-one years or upwards who possesses such qualifications relating to residence or domicile in Dominica as Parliament may prescribe shall, unless he is disqualified by Parliament from registration as a voter for the purposes of elections of elected members of the House of Assembly, be entitled to be registered as such a voter under any law in that behalf, and no other person may be so registered.

(*b*) Every person who is registered as aforesaid in any constituency shall, unless he is disqualified by Parliament from voting in that constituency in any election of elected members of the House of Assembly, be so entitled to vote, in accordance with the provisions of any law in that behalf, and no other person may so vote.

(3) In any election of elected members of the House of Assembly the votes shall be given by ballot in such manner as not to disclose how any particular person votes.

Appointment of nominated members.

27. Of the nominated members of the House of Assembly—

(*a*) two shall be appointed by the Governor, acting in accordance with the advice of the Premier; and

(*b*) one shall be appointed by the Governor, acting in accordance with the advice of the Leader of the Opposition.

Tenure of office of members of House of Assembly.

28.—(1) An elected member or a nominated member of the House of Assembly shall vacate his seat in the House at the next dissolution of the House of Assembly after his election or appointment.

(2) A nominated member of the House of Assembly appointed in accordance with the provisions of paragraph (*a*) of section 27 of this Constitution shall vacate his seat in the House if his appointment is revoked by the Governor, acting in accordance with the advice of the Premier, and a nominated member appointed in accordance with the provisions of paragraph (*b*) of that section shall vacate his seat in the House if his appointment is revoked by the Governor, acting in accordance with the advice of the Leader of the Opposition.

(3) An elected member or a nominated member of the House of Assembly shall also vacate his seat in the House—

(*a*) if he is absent from the sittings of the House for such period and in such circumstances as may be prescribed in the rules of procedure of the House;

(*b*) if he ceases to be a Commonwealth citizen; or

(*c*) subject to the provisions of subsection (4) of this section, if any other circumstances arise that, if he were not such a member, would cause him to be disqualified to be elected as such or, as the case may be, to be appointed as such by virtue of subsection (1) of section 25 of this Constitution or of any law enacted in pursuance of subsection (2), (3) or (5) of that section.

(4) (*a*) If any circumstances such as are referred to in paragraph (*c*) of subsection (3) of this section arise because any member, elected or nominated, of the House of Assembly is under sentence of death or imprisonment, adjudged to be of unsound mind, declared bankrupt or convicted or reported guilty of an offence relating to elections and if it is open to the member to appeal against the decision (either with the leave of a court or other authority or without such leave), he shall forthwith cease to perform his functions as a member of the House but, subject to the provisions of this section, he shall not vacate his seat until the expiration of a period of thirty days thereafter:

Provided that the Speaker may, at the request of the member, from time to time, extend that period for further periods of thirty days to enable the member to pursue an appeal against the decision, so, however, that extensions of time exceeding in the aggregate one hundred and fifty days shall not be given without the approval, signified by resolution, of the House.

(*b*) If, on the determination of any appeal, such circumstances continue to exist and no further appeal is open to the member, or if, by reason of the expiration of any period for entering an appeal or notice thereof or the refusal of leave to appeal or for any other reason, it ceases to be open to the member to appeal, he shall forthwith vacate his seat.

(*c*) If at any time before the member of the House vacates his seat such circumstances aforesaid cease to exist, his seat shall not become vacant on the expiration of the period referred to in paragraph (*a*) of this subsection and he may resume the performance of his functions as a member of the House.

Speaker and Deputy Speaker.

29.—(1) When the House of Assembly first meets after any general election and before it proceeds to the despatch of any other business, it shall elect a person to be the Speaker of the House; and if the office of Speaker falls vacant at any time before the next dissolution of Parliament, the House shall, as soon as practicable, elect another person to that office.

(2) The Speaker may be elected either from among the members of the House of Assembly who are not Ministers or Parliamentary Secretaries or from among persons who are not members of the House:

Provided that a person who is not a member of the House of Assembly shall not be elected as Speaker if—

(*a*) he is not a Commonwealth citizen; or

(*b*) he is a person disqualified for election as a member of the House of Assembly by virtue of section 25(1) of this Constitution or any law enacted in pursuance of subsection (2), (3) or (5) of that section.

(3) When the House of Assembly first meets after any general election and before it proceeds to the despatch of any other business except the election of the Speaker, the House shall elect a member of the House, who is not a Minister or a Parliamentary Secretary, to be Deputy Speaker of the House, and if the office of Deputy Speaker falls vacant at any time before the next dissolution of Parliament, the House shall, as soon as convenient, elect another such member to that office.

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

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

(*a*) in the case of a Speaker elected from among the members of the House of Assembly or in the case of the Deputy Speaker—

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

Provided that the Speaker shall not vacate his office by reason only that he has ceased to be a member of the House on a dissolution of Parliament, until the House first meets after the dissolution; or

(ii) if he is appointed to be a Minister or a Parliamentary Secretary;

(*b*) in the case of a Speaker elected from among persons who are not members of the House—

(i) when the House first meets after any dissolution of Parliament;

(ii) if he ceases to be a Commonwealth citizen; or

(iii) if any circumstances arise that would cause him to be disqualified for election as a member of the House of Assembly by virtue of section 25(1) of this Constitution or any law enacted in pursuance of subsection (2), (3) or (5) of that section; or

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

(6) (*a*) If, by virtue of section 28(4) 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, as the case may be, and those functions shall, until he vacates his seat in the House or resumes the performance of the functions of his office, be performed—

(i) in the case of the Speaker, by the Deputy Speaker or, if the office of Deputy Speaker is vacant or the Deputy Speaker is required to cease to perform his functions as a member of the House of Assembly by virtue of section 28(4) of this Constitution, by such member of the House (not being a Minister or a Parliamentary Secretary) as the House may elect for the purpose;

(ii) in the case of the Deputy Speaker, by such member of the House (not being a Minister or a Parliamentary Secretary) as the House may elect for the purpose.

(*b*) 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 28(4) of this Constitution, he shall also resume the performance of his functions as Speaker or Deputy Speaker, as the case may be.

Supervision of elections.

30.—(1) The Governor shall exercise general supervision over the registration of voters in elections of the elected members of the House of Assembly and over the conduct of such elections.

(2) For the purposes of the exercise of his functions under subsection (1) of this section, the Governor may give such directions as he considers necessary or expedient to any registering officer, presiding officer or returning officer relating to the exercise by that officer of his functions under any law regulating the registration of voters or the conduct of elections, and any officer to whom directions are given under this subsection shall comply with those directions.

(3) In the exercise of the powers conferred upon him by this section the Governor shall act in his own deliberate judgment.

Clerk to House of Assembly and his staff.

31.—(1) There shall be a Clerk to the House of Assembly.

(2) The office of the Clerk to the House of Assembly and the offices of the members of his staff shall be public offices.

Determination of questions as to membership of House of Assembly.

32.—(1) The High Court shall have jurisdiction to hear and determine any question whether—

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

(*b*) any person has been validly appointed as a nominated member of the House;

(*c*) any person who has been elected as Speaker of the House from among persons who were not members thereof was qualified to be so elected or has vacated the office of Speaker; or

(*d*) any elected member or nominated member of the House has vacated his seat or is required, under the provisions of section 28(4) of this Constitution, to cease to perform any of his functions as an elected or nominated member of the House.

(2) An application to the High Court for the determination of any question under subsection (1)(*a*) of this section may be made by any person entitled to vote in the election to which the application relates or by any person who was a candidate at that election or by the Attorney-General and, if it is made by a person other than the Attorney-General, the Attorney-General may intervene and may then appear or be represented in the proceedings.

(3) An application to the High Court for the determination of any question under subsection (1)(*b*) or subsection (1)(*c*) of this section may be made by any elected member of the House of Assembly or by the Attorney-General and, if it is made by a person other than the Attorney-General, the Attorney-General may intervene and may then appear or be represented in the proceedings.

(4) An application to the High Court for the determination of any question under subsection (1)(*d*) of this section may be made—

(*a*) by any elected member of the House or by the Attorney-General; or

(*b*) in the case of the seat of an elected member of the House, by any person registered in some constituency as a voter in elections of elected members of the House,

and, if it is made by a person other than the Attorney-General, the Attorney General may intervene and may then appear or be represented in the proceedings.

(5) Parliament may make provision with respect to—

(*a*) the circumstances and manner in which and the imposition of conditions upon which any application may be made to the High Court for the determination of any question under this section; and

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

(6) An appeal shall lie as of right to the Court of Appeal from any final decision of the High Court determining such a question as is referred to in subsection (1) of this section.

(7) No appeal shall lie from any decision of the Court of Appeal in exercise of the jurisdiction conferred by subsection (6) of this section and no appeal shall lie from any decision of the High Court in proceedings under this section other than a final decision determining such a question as is referred to in subsection (1) of this section.

(8) In the exercise of his functions under this section, the Attorney-General shall not be subject to the direction or control of any other person or authority.

PART 2

Legislation and Procedure of Parliament

Power to make laws.

33. Subject to the provisions of this Constitution, Parliament may make laws for the peace, order and good government of Dominica.

Alteration of this Constitution and certain other laws.

34.—(1) Parliament may alter any of the provisions of this Constitution or of the Courts Order or section 3 of the West Indies Associated States (Appeals to Privy Council) Order 1967(a) in the manner specified in the following provisions of this section.

(2) A bill to alter this Constitution or the Courts Order or section 3 of the West Indies Associated States (Appeals to Privy Council) Order 1967 shall not be regarded as being passed by the House of Assembly unless on its final reading in that House the bill is supported by the votes of not less than two-thirds of all the elected members of the House.

(3) A bill to alter this section, Schedule 1 to this Constitution or any of the provisions of this Constitution specified in Part I of that Schedule or any of the provisions of the Courts Order specified in Part II of that Schedule or section 3 of the West Indies Associated States (Appeals to Privy Council) Order 1967 shall not be submitted to the Governor for his assent unless—

(*a*) there has been an interval of not less than ninety days between the introduction of the bill in the House of Assembly and the beginning of the proceedings in the House on the second reading of the bill in that House; and

(*b*) after it has been passed by the House of Assembly the bill has been approved on a referendum, held in accordance with such provision as may be made in that behalf by Parliament, by not less than two-thirds of all the votes validly cast on that referendum.

(a) S.I. 1967/224 (1967 I, p. 377).

(4) The provisions of paragraph (*b*) of subsection (3) of this section shall not apply in relation to any bill in the circumstances specified in sub-paragraph (1) of paragraph 4 of Schedule 2 to the West Indies Act 1967.

(5) Every person who, at the time when the referendum is held, would be entitled to vote in an election of members of the House of Assembly shall be entitled to vote on a referendum held for the purposes of this section in accordance with such procedures as may be prescribed by Parliament for the purposes of the referendum and no other person shall be entitled so to vote.

(6) The conduct of any referendum for the purposes of subsection (3) of this section shall be under the general supervision of the Governor and the provisions of section 30 of this Constitution shall apply in relation to the exercise by the Governor or by any other officer of his functions with respect to a referendum as they apply in relation to the exercise of his functions with respect to elections of members of the House of Assembly.

(7) (*a*) A bill to alter this Constitution or the Courts Order or section 3 of the West Indies Associated States (Appeals to Privy Council) Order 1967 shall not be submitted to the Governor for his assent unless it is accompanied by a certificate under the hand of the Speaker of the House of Assembly (or, if the Speaker is for any reason unable to exercise the functions of his office, the Deputy Speaker) that the provisions of subsection (2) of this section have been complied with.

(*b*) The certificate of the Speaker or, as the case may be, the Deputy Speaker under this subsection shall be conclusive that the provisions of subsection (2) of this section have been complied with and shall not be enquired into in any court of law.

(8) In this section—

(*a*) references to this Constitution include references to any law that alters this Constitution;

(*b*) references to the Courts Order are references to the West Indies Associated States Supreme Court Order 1967(a) in so far as it has effect as part of the law of Dominica and include references to any law that alters that Order in so far as it has such effect;

(*c*) references to section 3 of the West Indies Associated States (Appeals to Privy Council) Order 1967 are references to that section in so far as it has effect as part of the law of Dominica and include references to any law that alters that section in so far as it has such effect;

(*d*) references to altering this Constitution or the Courts Order or section 3 of the West Indies Associated States (Appeals to Privy Council) Order 1967, as the case may be, or to altering any provision include references—

(i) to revoking it, with or without re-enactment thereof or the making of different provision in lieu thereof;

(ii) to modifying it whether by omitting or amending any of its provisions or inserting additional provisions in it or otherwise; and

(iii) to suspending its operation for any period or terminating any such suspension.

(a) S.I. 1967/223 (1967 I, p. 364).

Freedom of speech in proceedings in Parliament.

35. No civil or criminal proceedings may be instituted against any member of the House of Assembly for words spoken before, or written in a report to, the House or a committee thereof or by reason of any matter or thing brought by him therein by petition, bill, resolution, motion or otherwise.

Oath by members of House of Assembly.

36.—(1) Every member of the House of Assembly shall, before taking his seat in the House, take and subscribe before the House the oath of allegiance but a member may before taking that oath take part in the election of a Speaker of the House.

(2) Any person elected to the office of Speaker of the House of Assembly shall, if he has not already taken and subscribed the oath of allegiance under subsection (1) of this section, take and subscribe that oath before the House before entering upon the duties of his office.

Presiding in House of Assembly.

37. There shall preside at any sitting of the House of Assembly—

(*a*) the Speaker; or

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

(*c*) in the absence of the Speaker and the Deputy Speaker, such member of the House (not being a Minister or a Parliamentary Secretary) as the House may elect for that purpose.

Quorum in House of Assembly.

38.—(1) If at any sitting of the House of Assembly any member of the House who is present draws the attention of the person 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 House, the person presiding at the sitting ascertains that a quorum of the House is not present, the House shall be adjourned.

(2) For the purpose of this section a quorum of the House shall consist of six members or such greater number of members as Parliament may prescribe, besides the person presiding.

Voting in House of Assembly.

39.—(1) Save as otherwise provided in this Constitution, any question proposed for decision in the House of Assembly shall be determined by a majority of the votes of the members present and voting.

(2) 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, except as otherwise provided in this section, he shall have and exercise a casting vote:

Provided that in the case of the question of the final reading of such a bill as is referred to in section 34(2) of this Constitution a Speaker or other member presiding who is an elected member of the House shall have an original vote but no casting vote.

(3) A Speaker elected from among persons who are not members of the House of Assembly shall have neither an original nor a casting vote and if, upon any question before the House when such Speaker is presiding, the votes of the members are equally divided, the motion shall be lost.

Unqualified persons sitting or voting.

40.—(1) Any person who sits or votes in the House of Assembly knowing or having reasonable grounds for knowing that he is not entitled to do so shall be guilty of an offence and liable to a fine not exceeding one hundred dollars, or such other sum as may be prescribed by Parliament, for each day on which he so sits or votes in the House.

(2) Any prosecution for an offence under this section shall be instituted in the High Court and shall not be so instituted except by the Director of Public Prosecutions.

Mode of exercise of legislative power.

41.—(1) The power of Parliament to make laws shall be exercised by bills passed by the House of Assembly and assented to by the Governor on behalf of Her Majesty.

(2) When a bill is submitted to the Governor for assent in accordance with the provisions of this Constitution he shall signify that he assents or that he withholds assent.

(3) When the Governor assents to a bill that has been submitted to him in accordance with the provisions of this Constitution the bill shall become law and the Governor shall thereupon cause it to be published in the Official Gazette as law.

(4) No law made by Parliament shall come into operation until it has been published in the Official Gazette but Parliament may postpone the coming into operation of any such law and may make laws with retrospective effect.

Restrictions with regard to certain financial measures.

42. Except on the recommendation 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 public fund of Dominica or the alteration of any such charge otherwise than by reduction;

(iii) for the payment, issue or withdrawal from the Consolidated Fund or any other public fund of Dominica of any monies not charged thereon or any increase in the amount of such payment, issue or withdrawal; or

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

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

Regulation of procedure in House of Assembly.

43.—(1) Subject to the provisions of this Constitution, the House of Assembly may regulate its own procedure and may in particular make rules for the orderly conduct of its own proceedings.

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

(3) Parliament may, for the purpose of the orderly and effective discharge of the business of the House of Assembly, make provision for the powers, privileges and immunities of the House and the committees and the members thereof.

PART 3

Summoning, Prorogation and Dissolution

Sessions of Parliament.

44.—(1) Each session of Parliament shall be held at such place within Dominica and shall commence at such time as the Governor may by Proclamation appoint.

(2) There shall be a session of Parliament once at least in every year, so that a period of six months shall not intervene between the last sitting of the House of Assembly in one session and the first sitting thereof in the next session.

Prorogation and dissolution of Parliament.

45.—(1) The Governor may at any time prorogue or dissolve Parliament.

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

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

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

(4) In the exercise of his powers to dissolve Parliament, the Governor shall act in accordance with the advice of the Premier:

Provided that if the office of the Premier is vacant and the Governor, acting in his own deliberate judgment, considers that there is no prospect of his being able within a reasonable time to appoint to that office a person who can command the support of the majority of the elected members of the House of Assembly, the Governor shall dissolve Parliament.

(5) If, after a dissolution of Parliament and before the holding of the general election of elected members of the House of Assembly, the Premier advises the Governor that, owing to the existence of a state of war or of a state of emergency in Dominica, it is necessary to recall Parliament, the Governor shall summon the Parliament that has been dissolved to meet, but, unless the life of Parliament is extended under the provisions of subsection (3) of this section, the general election of elected members of the House of Assembly shall proceed and the Parliament that has been recalled shall, if not sooner dissolved, again stand dissolved on the date appointed for the nomination of candidates in that general election.

General elections.

46—(1) A general election of elected members of the House of Assembly shall be held at such time within three months after any dissolution of Parliament as the Governor may appoint.

(2) As soon as practicable after the holding of any general election the Governor shall proceed to the appointment of the nominated members of the House of Assembly in accordance with the provisions of section 27 of this Constitution.

PART 4

Delimitation of Constituencies

Number and boundaries of constituencies.

47. For the purpose of the election of elected members of the House of Assembly, Dominica shall be divided into such number of constituencies having such boundaries as may be provided by an Order made by the Governor in accordance with the provisions of section 49 of this Constitution.

Constituency Boundaries Commission.

48.—(1) There shall be a Constituency Boundaries Commission for Dominica which shall consist of—

(*a*) the Speaker, as chairman;

(*b*) two members appointed by the Governor, acting in accordance with the advice of the Premier; and

(*c*) two members appointed by the Governor, acting in accordance with the advice of the Leader of the Opposition.

(2) A person shall not be qualified to be appointed as a member of the Commission, other than the chairman, if he is a member of the House of Assembly or a public officer.

(3) Subject to the provisions of this section, a member of the Commission shall vacate his office—

(*a*) at the next dissolution of Parliament after his appointment;

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

(4) A member of the Commission, other than the chairman, may be removed from office but only for inability to discharge the functions thereof (whether arising from infirmity of mind or body or any other cause) or for misbehaviour, and he shall not be so removed except in accordance with the provisions of this section.

(5) A member of the Commission, other than the chairman, shall be removed from office by the Governor if the question of his removal from office has been referred to a tribunal appointed under subsection (6) of this section and the tribunal has recommended to the Governor that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(6) If the Premier, in the case of a member appointed in accordance with paragraph (*b*) of subsection (1) of this section, or the Leader of the Opposition, in the case of a member appointed in accordance with paragraph (*c*) of that subsection, represents to the Governor that the question of removal of a member of the Commission from office for inability as aforesaid or for 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 Chief Justice, from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; and

(*b*) the tribunal shall enquire into the matter and report on the facts thereof to the Governor and recommended to the Governor whether the member of the Commission ought to be removed from office for inability as aforesaid or for misbehaviour.

(7) The Commission may regulate its own procedure, and, with the consent of the Premier, confer powers and impose duties on any public

officer or on any authority of the Government of Dominica for the purpose of the discharge of its functions.

(8) The Commission may, subject to its rules of procedure, act notwithstanding any vacancy in its membership and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings:

Provided that any decision of the Commission shall require the concurrence of a majority of all its members.

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

Review of constituency boundaries.

49.—(1) The Constituency Boundaries Commission shall, in accordance with the provisions of this section, review the number and boundaries of the constituencies into which Dominica is divided and submit to the Governor reports either—

(*a*) showing the constituencies into which it recommends that Dominica should be divided in order to give effect to the rules set out in Schedule 2 to this Constitution; or

(*b*) stating that, in the opinion of the Commission, no alteration is required to the existing number or boundaries of constituencies in order to give effect to the said rules.

(2) Reports under subsection (1) of this section shall be submitted by the Commission—

(*a*) in the case of its first report after the day on which this Constitution comes into force, not less than two nor more than five years from that day; and

(*b*) in the case of any subsequent report, not less than two nor more than five years from the date of the submission of its last report.

(3) As soon as may be after the Commission has submitted a report under subsection (1)(*a*) 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 Order may make provision for any matters which appear to the Premier to be incidental to or consequential upon the other provisions of the draft.

(4) Where any such draft Order gives effect to any such recommendations with modifications, the Premier shall lay before the House of Assembly together with the draft Order a statement of the reasons for the modifications.

(5) If the motion for the approval of any draft Order laid before the House of Assembly under this section is rejected by the House, or is withdrawn by leave of that House, the Premier shall amend the draft Order and lay the amended draft before the House.

(6) If any draft Order laid before the House of Assembly under this section is approved by resolution of the House, the Premier shall submit it to the Governor who shall make an Order in terms of the draft; and that Order shall come into force upon the next dissolution of Parliament after it is made.

(7) 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 enquired into in any court of law.

CHAPTER IV

THE EXECUTIVE

Exercise of executive authority of Dominica.

50.—(1) The executive authority of Dominica is vested in Her Majesty.

(2) Subject to the provisions of this Constitution, the executive authority of Dominica may be exercised on behalf of Her Majesty by the Governor, either directly or through officers subordinate to him.

(3) Nothing in this section shall prevent Parliament from conferring functions on persons or authorities other than the Governor.

Ministers of the Government of Dominica.

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

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

(3) There shall be, in addition to the office of Premier, such other offices of Minister, not exceeding five in number, as may be established by Parliament or, subject to the provisions of any law enacted by Parliament, by the Governor, acting in accordance with the advice of the Premier.

(4) Appointments to the office of Minister, other than the office of Premier, shall be made by the Governor, acting in accordance with the advice of the Premier, from among the members of the House of Assembly.

(5) If occasion arises for making an appointment to the office of Premier or any other Minister while Parliament is dissolved, then, notwithstanding any other provision of this section, a person who was an elected member of the House of Assembly immediately before the dissolution may be appointed as Premier or any other Minister and a person who was a nominated member immediately before the dissolution may be appointed as any Minister other than Premier.

(6) The Governor shall remove the Premier from office if a resolution of no confidence in the Government of Dominica is passed by the majority of all the elected members of the House of Assembly and the Premier does not within three days either resign from his office or advise a dissolution of Parliament.

(7) If, at any time between the holding of a general election of the elected members of the House of Assembly and the date on which the House first meets thereafter, the Governor considers that in consequence of changes in the membership of the House resulting from that election the Premier will not be able to command the support of the majority of the elected members of the House the Governor may remove the Premier from office.

(8) The office of any Minister shall become vacant—

(*a*) if the holder of the office ceases to be a member of the House of Assembly otherwise than by reason of the dissolution of Parliament;

(*b*) in the case of the Premier, if, when the House of Assembly first meets after the dissolution of Parliament, he is not then an elected member thereof;

(*c*) in the case of any other Minister, if, when the House of Assembly first meets after the dissolution of Parliament, he is not then a member thereof; or

(*d*) if, by virtue of section 28(4) of this Constitution, he is required to cease to perform his functions as a member of the House of Assembly.

(9) The office of a Minister other than the Premier shall become vacant—

(*a*) if the Governor, acting in accordance with the advice of the Premier, so directs;

(*b*) if the Premier resigns from office within three days after the passage by the majority of all the elected members of the House of Assembly of a resolution of no confidence in the Government of Dominica or is removed from office under subsection (6) of this section; or

(*c*) on the appointment of any person to the office of Premier.

(10) In the exercise of the powers conferred upon him by subsections (2), (5) and (7) of this section the Governor shall act in his own deliberate judgment.

Cabinet of Ministers.

52.—(1) There shall be a Cabinet of Ministers for Dominica which shall consist of the Premier and the other Ministers.

(2) At any time when the office of Attorney-General is a public office the Attorney-General shall be an *ex officio* member of the Cabinet in addition to the Ministers.

(3) The functions of the Cabinet shall be to advise the Governor in the Government of Dominica and the Cabinet shall be collectively responsible to Parliament for any advice given to the Governor by or under the general authority of the Cabinet and for all things done by or under the authority of any Minister in the execution of his office.

(4) The provisions of subsection (3) of this section shall not apply in relation to—

(*a*) the appointment and removal from office of Ministers and Parliamentary Secretaries, the assignment of responsibility to any Minister under section 53 of this Constitution, or the authorisation of another Minister to perform the functions of the Premier during absence or illness;

(*b*) the dissolution of Parliament; or

(*c*) the matters referred to in section 65 of this Constitution (which relate to the prerogative of mercy).

Allocation of portfolios to Ministers.

53. The Governor, acting in accordance with the advice of the Premier, may, by directions in writing, assign to the Premier or any other Minister responsibility for any business of the Government of Dominica, including the administration of any department of government.

Performance of functions of Premier during absence or illness.

54.—(1) Whenever the Premier is absent from Dominica or is by reason of illness unable to perform the functions conferred upon him by this Constitution, the Governor may authorise some other Minister to perform those functions (other than the functions conferred by this section) and that Minister may perform those functions until his authority is revoked by the Governor.

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

Provided that if the Governor, acting in his own deliberate judgment, considers that it is impracticable to obtain the advice of the Premier owing to his absence or illness he may exercise those powers without that advice and in his own deliberate judgment.

Exercise of Governor's functions.

55.—(1) In the exercise of his functions the Governor shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet except in cases where he is required by this Constitution or any other law to act in accordance with the advice of any person or authority other than the Cabinet or in his own deliberate judgment.

(2) During any period in which there is a vacancy in the office of Leader of the Opposition by reason of the fact that no person is both qualified for appointment to that office in accordance with this Constitution and willing to accept appointment, the Governor may act without the advice of the Leader of the Opposition and in his own deliberate judgment in the exercise of any power conferred upon him by this Constitution in respect of which it is provided that he shall act on the advice of the Leader of the Opposition.

(3) Nothing in subsection (1) of this section shall apply to the functions conferred upon the Governor by the following provisions of this Constitution—

(*a*) the proviso to section 45(4) (which requires the Governor to dissolve Parliament in certain circumstances);

(*b*) section 51(6) (which requires the Governor to remove the Premier from office in certain circumstances);

(*c*) section 56 (which entitles the Governor to information);

(*d*) sections 48(5), 58(4), 76(6), 79(8), 80(7) and 84(5) (which require the Governor to remove the holders of certain offices from office in certain circumstances).

Governor to be informed concerning matters of government.

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

Oaths to be taken by Ministers, etc.

57. A Minister or a Parliamentary Secretary shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and the oath of office.

Leader of the Opposition.

58.—(1) There shall be a Leader of the Opposition who shall be appointed by the Governor.

(2) Whenever there is occasion for the appointment of a Leader of the Opposition the Governor shall appoint the elected member of the House of Assembly who appears to him, acting in his own deliberate judgment, most likely to command the support of a majority of the elected members of the House who do not support the Government:

Provided that if a member of the House of Assembly was elected at a general election in which he stood as a supporter of a political party and the majority of elected members of the House returned at that election

stood as supporters of that party, he shall, so long as he remains a member of the House by virtue of that election, not be eligible for appointment as Leader of the Opposition.

(3) The office of Leader of the Opposition shall become vacant—

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

(*b*) if, when the House of Assembly first meets after a dissolution of Parliament, he is not then a member thereof;

(*c*) if, under the provisions of section 28(4) of this Constitution, he is required to cease to perform his functions as a member of the House of Assembly; or

(*d*) if he is removed from office by the Governor under the provisions of subsection (4) of this section.

(4) If it appears to the Governor, acting in his own deliberate judgment, that the Leader of the Opposition is no longer able to command the support of a majority of the elected members of the House of Assembly who do not support the Government, he shall remove the Leader of the Opposition from office.

Parliamentary Secretaries.

59.—(1) The Governor, acting in accordance with the advice of the Premier, may appoint Parliamentary Secretaries, not exceeding three in number, from among the members of the House of Assembly, to assist Ministers in the performance of their duties:

Provided that, if occasion arises for making appointments while Parliament is dissolved, a person who was a member of the Assembly immediately before the dissolution may be appointed as a Parliamentary Secretary.

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

(*a*) if the Governor, acting in accordance with the advice of the Premier, so directs;

(*b*) if the Premier resigns from office within three days after the passage by the majority of all the elected members of the House of Assembly of a resolution of no confidence in the Government of Dominica or is removed from office under section 51(6) of this Constitution;

(*c*) upon the appointment of any person to the office of Premier;

(*d*) if the holder of the office ceases to be a member of the House of Assembly otherwise than by reason of a dissolution of Parliament;

(*e*) if, when the House of Assembly first meets after the dissolution of Parliament, he is not then a member thereof; or

(*f*) if, by virtue of section 28(4) of this Constitution, he is required to cease to perform his functions as a member of the House of Assembly.

Permanent secretaries.

60. Where any Minister has been charged with responsibility for any department of government, he shall exercise general direction and control over that department; and, subject to such direction and control, every department of government shall be under the supervision of a public officer whose office is referred to in this Constitution as the office of a permanent secretary:

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

Secretary to the Cabinet.

61.—(1) There shall be a Secretary to the Cabinet whose office shall be a public office.

(2) The Secretary to the Cabinet, who shall have charge of the Cabinet Office, shall be responsible, in accordance with such instructions as may be given to him by the Premier, for arranging the business for, and keeping the minutes of, the Cabinet and for conveying the decisions of the Cabinet to the appropriate person or authority and shall have such other functions as the Premier may direct.

Constitution of offices, etc.

62. Subject to the provisions of this Constitution and of any other law, the Governor may constitute offices for Dominica, make appointments to any such office and terminate any such appointment.

Attorney-General.

63.—(1) There shall be an Attorney-General who shall be the principal legal adviser to the Government of Dominica.

(2) The office of Attorney-General shall be either a public office or the office of a Minister.

(3) At any time when the office of Attorney-General is a public office the same person may, if qualified, be appointed to hold or act in the office of Attorney-General and the office of Director of Public Prosecutions.

(4) Where the offices of Attorney-General and Director of Public Prosecutions are held by the same person the following provisions of this Constitution shall have effect as if references therein to the Director of Public Prosecutions included references to the Attorney-General, that is to say, section 73, 79(5), 79(6), 79(7), 79(8), 79(9), 79(10), 87(3) and 110(8)(*a*); but the provisions of this subsection shall be without prejudice to the powers of Parliament or, subject to the provisions of any law enacted by Parliament, the Governor to determine that the office of Attorney-General shall cease to be a public office and become the office of a Minister.

Director of Public Prosecutions.

64.—(1) There shall be a Director of Public Prosecutions whose office shall be a public office.

(2) The Director of Public Prosecutions shall have power in any case in which he considers it desirable so to do—

(*a*) to institute and undertake criminal proceedings against any person before any court of law (other than a court-martial) in respect of any offence alleged to have been committed by that person;

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

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

(3) The powers of the Director of Public Prosecutions under subsection (2) of this section may be exercised by him in person or through other persons acting under and in accordance with his general or special instructions.

(4) The powers conferred on the Director of Public Prosecutions by paragraphs (*b*) and (*c*) of subsection (2) of this section shall be vested in him to the exclusion of any other person or authority:

Provided that where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance of that person or authority and with the leave of the court.

(5) For the purposes of this section, any appeal from a judgment in criminal proceedings before any court or any case stated or question of law reserved for the purpose of any such proceedings, to any other court (including Her Majesty in Council) shall be deemed to be part of those proceedings:

Provided that the power conferred on the Director of Public Prosecutions by subsection (2)(*c*) of this section shall not be exercised in relation to any appeal by a person convicted in any criminal proceedings or to any case stated or question of law reserved at the instance of such a person.

(6) In the exercise of the functions vested in him by subsection (2) of this section and by section 40 of this Constitution, the Director of Public Prosecutions shall not be subject to the direction or control of any other person or authority.

Prerogative of mercy.

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

(*a*) grant a pardon, either free or subject to lawful conditions, to any person convicted of any offence;

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

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

(*d*) remit the whole or any part of any punishment imposed on any person for any offence or of any penalty or forfeiture otherwise due to the Crown on account of any offence.

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

Advisory Committee on Prerogative of Mercy.

66.—(1) There shall be an Advisory Committee on the Prerogative of Mercy which shall consist of—

(*a*) the Minister for the time being designated under section 65(2) of this Constitution, who shall be Chairman;

(*b*) the Attorney-General;

(*c*) the chief medical officer of the Government of Dominica; and

(*d*) not more than three other members appointed by the Governor, by instrument in writing under his hand.

(2) A member of the Committee appointed under subsection (1)(*d*) of this section shall hold his seat thereon for such period as may be specified in the instrument by which he was appointed:

Provided that his seat shall become vacant—

(*a*) in the case of a person who, at the date of his appointment was a Minister, if he ceases to be a Minister; or

(*b*) if the Governor, by instrument in writing under his hand, so directs.

(3) The Committee may act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings.

(4) The Committee may regulate its own procedure.

(5) In the exercise of his functions under this section, the Governor shall act in accordance with the advice of the Premier.

Functions of Advisory Committee.

67.—(1) Where any person has been sentenced to death (otherwise than by a court-martial) for an offence, the Minister for the time being designated under section 65(2) of this Constitution shall cause a written report of the case from the trial judge, together with such other information derived from the record of the case or elsewhere as he may require, to be taken into consideration at a meeting of the Advisory Committee on the Prerogative of Mercy; and after obtaining the advice of the Committee he shall decide in his own deliberate judgment whether to advise the Governor to exercise any of his powers under section 65(1) of this Constitution.

(2) The Minister for the time being designated under section 65(2) of this Constitution may consult with the Advisory Committee on the Prerogative of Mercy before tendering any advice to the Governor under section 65 of this Constitution in any case not falling within subsection (1) of this section but he shall not be obliged to act in accordance with the recommendation of the Committee.

CHAPTER V

FINANCE

Consolidated Fund.

68. All revenues or other moneys raised or received by Dominica (not being revenues or other moneys that are payable, by or under any law for the time being in force in Dominica, into some other fund established for a specific purpose) shall be paid into and form a Consolidated Fund.

Withdrawals from Consolidated Fund or other public funds.

69.—(1) No moneys shall be withdrawn from the Consolidated Fund except—

(*a*) to meet expenditure that is charged upon the Fund by this Constitution or by any law enacted by Parliament; or

(*b*) where the issue of those moneys has been authorised by an Appropriation law or by a law made in pursuance of section 71 of this Constitution.

(2) Where any moneys are charged by this Constitution or any law enacted by Parliament upon the Consolidated Fund or any other public fund, they shall be paid out of that fund by the Government of Dominica to the person or authority to whom payment is due.

(3) No moneys shall be withdrawn from any public fund other than the Consolidated Fund unless the issue of those moneys has been authorised by or under any law.

(4) Parliament may prescribe the manner in which withdrawals may be made from the Consolidated Fund or any other public fund.

Authorisation of expenditure from Consolidated Fund by Appropriation law.

70.—(1) The Minister for the time being responsible for finance shall cause to be prepared and laid before the House of Assembly before, or not later than forty-five days after, the commencement of each financial year estimates of the revenues and expenditure of Dominica for that financial year.

(2) When the estimates of expenditure (other than expenditure charged upon the Consolidated Fund by this Constitution or by any law enacted by Parliament) have been approved by the House of Assembly, a bill, known as an Appropriation bill, shall be introduced in the House, providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums, under separate votes for the several services required, to the purposes specified therein.

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

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

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

a supplementary estimate showing the sums required or spent shall be laid before the House of Assembly and, when the supplementary estimate has been approved by the House, a supplementary Appropriation bill shall be introduced in the House providing for the issue of such sums from the Consolidated Fund and appropriating them to the purposes specified therein.

Authorisation of expenditure in advance of appropriation.

71. Parliament may make provision under which, if the Appropriation law in respect of any financial year has not come into operation by the beginning of that financial year, the Minister for the time being responsible for finance may authorise the withdrawal of moneys from the Consolidated Fund for the purpose of meeting expenditure necessary to carry on the services of the Government of Dominica until the expiration of four months from the beginning of that financial year or the coming into operation of the law, whichever is the earlier.

Contingencies Fund.

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

(2) Where any advance is made from the Contingencies Fund, a supplementary estimate shall as soon as possible be laid before the House of Assembly and when the supplementary estimate has been approved by the House, a supplementary Appropriation bill shall be introduced as soon as possible in the House for the purpose of replacing the amount so advanced.

Remuneration of certain officers.

73.—(1) There shall be paid to the holders of the offices to which this section applies such salaries and such allowances as may be prescribed by or under a law enacted by Parliament.

(2) The salaries and allowances prescribed in pursuance of this section

in respect of the holders of the offices to which this section applies shall be a charge on the Consolidated Fund.

(3) The salary prescribed in pursuance of this section in respect of the holder of any office to which this section applies and his other terms of service (other than allowances that are not taken into account in computing, under any law in that behalf, any pension payable in respect of his service in that office) shall not be altered to his disadvantage after his appointment.

(4) When a person's salary or other terms of service depend upon his option, the salary or terms for which he opts shall, for the purposes of subsection (3) of this section, be deemed to be more advantageous to him than any others for which he might have opted.

(5) This section applies to the offices of the Governor, member of the Public Service Commission, member of the Police Service Commission, member of the Public Service Board of Appeal, the Director of Public Prosecutions and the Director of Audit.

(6) Nothing in this section shall be construed as prejudicing the provisions of section 86 of this Constitution (which protects pensions rights in respect of service as a public officer).

Public debt.

74.—(1) All debt charges for which Dominica is liable shall be a charge on the Consolidated Fund.

(2) For the purposes of this section debt charges include interest, sinking fund charges, the repayment or amortization of debt and all expenditure in connection with the raising of loans on the security of the Consolidated Fund and the service and redemption of the debt created thereby.

Director of Audit.

75.—(1) There shall be a Director of Audit whose office shall be a public office.

(2) The Director of Audit shall, at least once in every year, audit and report on the public accounts of Dominica, the accounts of all officers and authorities of the Government of Dominica, the accounts of all courts in Dominica (including any accounts of the Court of Appeal or the High Court maintained in Dominica), the accounts of every Commission established by this Constitution and the accounts of the Clerk to the House of Assembly.

(3) The Director of Audit and any officer authorised by him shall have access to all books, records, returns, reports and other documents which in his opinion relate to any of the accounts referred to in subsection (2) of this section.

(4) The Director of Audit shall submit every report made by him in pursuance of subsection (2) of this section to the Minister for the time being responsible for finance who shall, not later than seven days after the House of Assembly first meets after he has received the report, lay it before the House.

(5) If the Minister fails to lay a report before the House of Assembly in accordance with the provisions of subsection (4) of this section the Director of Audit shall transmit copies of that report to the Speaker of the House of Assembly who shall, as soon as practicable, present them to the House.

(6) The Director of Audit shall exercise such other functions in relation to the accounts of the Government of Dominica or the accounts of other authorities or bodies established by law for public purposes as may be prescribed by or under any law enacted by Parliament.

(7) In the exercise of his functions under subsections (2), (3), (4) and (5) of this section, the Director of Audit shall not be subject to the direction or control of any other person or authority.

CHAPTER VI

THE PUBLIC SERVICE

PART 1

The Public Service Commission

Public Service Commission.

76.—(1) There shall be a Public Service Commission for Dominica which shall consist of—

(*a*) a Chairman and a Deputy Chairman appointed by the Governor, acting in accordance with the advice of the Premier;

(*b*) one member appointed by the Governor, acting in accordance with the advice of the Premier, from amongst persons selected by the appropriate representative body; and

(*c*) not more than three other members appointed by the Governor, acting in accordance with the advice of the Premier.

(2) A person shall not be qualified to be appointed as a member of the Commission if—

(*a*) he is, or has at any time during the five years immediately preceding his appointment been, a member of the House of Assembly or a member of a Legislative Council established for Dominica by Order of Her Majesty in Council before the coming into operation of this Constitution (other than an *ex officio* member or a temporary member appointed in place of such a member);

(*b*) he is, or has at any time during the year preceding his appointment been, a judge of the Court of Appeal, a judge of the High Court or a public officer.

(3) A member of the Commission shall not, within the period of three years commencing with the day on which he last held or acted in the office of member of the Commission, be eligible for appointment to or to act in any public office.

(4) Subject to the provisions of this section, the office of a member of the Commission shall become vacant—

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

(*b*) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified to be appointed as such under subsection (2) of this section.

(5) A member of the Commission may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(6) A member of the Commission shall be removed from office by the Governor if the question of his removal from office has been referred to a tribunal appointed under subsection (7) of this section and the tribunal has recommended to the Governor that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(7) If the Premier represents to the Governor that the question of removing a member of the Commission under this section 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 Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court; and

(*b*) the tribunal shall enquire into the matter and report on the facts thereof to the Governor and recommend to him whether the member ought to be removed under this section.

(8) If the question of removing a member of the Commission has been referred to a tribunal under this section, the Governor, acting in accordance with the advice of the Premier, may suspend that member from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor, acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor that that member should not be removed.

(9) If the office of Chairman of the Commission is vacant or if the person holding that office is for any reason unable to exercise the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding that office has resumed those functions, as the case may be, they shall be exercised by the Deputy Chairman or, if the office of Deputy Chairman is vacant or the person holding that office is for any reason unable to exercise the functions of his office, by such other member of the Commission as may for the time being be designated by the Governor, acting in accordance with the advice of the Premier.

(10) If at any time there are less than two members of the Commission besides the Chairman or if any such member is acting as Chairman or is for any reason unable to exercise the functions of his office, the Governor, acting in accordance with the advice of the Premier, may appoint a person who is qualified to be appointed as a member of the Commission to act as a member, and any person so appointed shall, subject to the provisions of subsection (4) of this section, continue to act until the office in which he is acting has been filled or, as the case may be, until the holder thereof has resumed his functions or until his appointment to act has been revoked by the Governor, acting in accordance with the advice of the Premier.

(11) A member of the Commission shall not enter upon the duties of his office until he has taken and subscribed the oath of allegiance and the oath of office.

(12) The Commission shall, in the exercise of its functions under this Constitution, not be subject to the direction or control of any other person or authority.

(13) The Commission may by regulation or otherwise regulate its own procedure and, with the consent of the Premier, may confer powers or impose duties on any public officer or on any authority of the Government of Dominica for the purpose of the exercise of its functions.

(14) The Commission may, subject to its rules of procedure, act

notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings:

Provided that any decision of the Commission shall require the concurrence of a majority of all its members.

(15) In this section "the appropriate representative body" means such body as is designated by the Governor, acting in accordance with the advice of the Premier, as the principal body in Dominica representing the interests of public officers (other than police officers).

Appointment, etc., of public officers.

77.—(1) The power to appoint persons to hold or act in offices in the public service (including the power to confirm appointments), and, subject to the provisions of section 85 of this Constitution, the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Public Service Commission.

(2) The Public Service Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under subsection (1) of this section to any one or more members of the Commission or, with the consent of the Premier, to any public officer.

(3) The provisions of this section shall not apply in relation to the following offices, that is to say:—

(*a*) any office to which section 78 of this Constitution applies;
(*b*) the office of Director of Public Prosecutions;
(*c*) the office of Director of Audit;
(*d*) any office to which section 81 of this Constitution applies; or
(*e*) any office in the Police Force.

(4) No person shall be appointed under this section to or to act in any office on the Governor's personal staff except with the concurrence of the Governor acting in his own deliberate judgment.

(5) Before any of the powers conferred by this section are exercised by the Public Service Commission or any other person or authority, in relation to the Clerk of the House of Assembly or a member of his staff, the Commission or that person or authority shall consult with the Speaker of the House.

(6) A public officer shall not be removed from office or subjected to any other punishment under this section on the grounds of any act done or omitted by him in the exercise of a judicial function conferred on him unless the Judicial and Legal Services Commission concurs therein.

PART 2

Appointments, etc., to particular offices

Appointment, etc., of permanent secretaries and certain other officers.

78.—(1) This section applies to the offices of Secretary to the Cabinet, permanent secretary, head of a department of government, deputy head of a department of government, Clerk of the House of Assembly, any office for the time being designated by the Public Service Commission as an office of a chief professional adviser to a department of government and any office for the time being designated by the Commission, after consultation with the Premier, as an office the holders of which are required to reside outside Dominica for the proper discharge of their functions or as an office in Dominica whose functions relate to external affairs.

(2) The power to appoint persons to hold or to act in offices to which this section applies (including the power to confirm appointments), and subject to the provisions of section 85 of this Constitution, the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Governor, acting in accordance with the advice of the Public Service Commission:

Provided that—

(*a*) the power to appoint a person to hold or act in an office of permanent secretary on transfer from another such office carrying the same salary shall vest in the Governor acting in accordance with the advice of the Premier;

(*b*) before the Public Service Commission tenders advice to the Governor with respect to the appointment of any person to hold an office to which this section applies (other than an appointment to an office of permanent secretary on transfer from another such office carrying the same salary) it shall consult with the Premier and if the Premier signifies his objection to the appointment of any person to the office, the Commission shall not advise the Governor to appoint that person.

(3) References in this section to a department of government shall not include the department of the Attorney-General, the department of the Director of Public Prosecutions, the department of the Director of Audit or the Police Force.

Director of Public Prosecutions.

79.—(1) The Director of Public Prosecutions shall be appointed by the Governor, acting in accordance with the advice of the Public Service Commission.

(2) If the office of Director of Public Prosecutions is vacant or if the Director of Public Prosecutions is for any reason unable to exercise the functions of his office, the Governor, acting in accordance with the advice of the Public Service Commission, may appoint a person to act as Director of Public Prosecutions.

(3) Before tendering advice for the purposes of subsection (1) or (2) of this section the Public Service Commission shall consult the Premier.

(4) (*a*) A person shall not be qualified to be appointed to hold the office of Director of Public Prosecutions unless he holds one of the specified qualifications and has held one or other of those qualifications for a total period of not less than seven years.

(*b*) In this subsection " the specified qualifications " means the professional qualifications specified under the Supreme Court Ordinance(**a**) (or by or under any law amending or replacing that Ordinance), one of which must be held by any person before

(**a**) Laws of Dominica c. 28.

he may apply under that Ordinance (or under any such law) to be admitted to practice as a barrister or a solicitor in Dominica.

(5) A person appointed to act in the office of Director of Public Prosecutions shall, subject to the provisions of subsections (6), (8), (9) and (10) of this section, cease so to act—

(*a*) when a person is appointed to hold that office and has assumed the functions thereof or, as the case may be, when the person in whose place he is acting resumes the functions of that office; or

(*b*) at such earlier time as may be prescribed by the terms of his appointment.

(6) Subject to the provisions of subsection (7) of this section, the Director of Public Prosecutions shall vacate his office when he attains the prescribed age.

(7) A person holding the office of Director of Public Prosecutions may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(8) The Director of Public Prosecutions shall be removed from office by the Governor if the question of his removal from office has been referred to a tribunal appointed under subsection (9) of this section and the tribunal has recommended to the Governor that he ought to be removed for inability as aforesaid or for misbehaviour.

(9) If the Premier or the Chairman of the Public Service Commission represents to the Governor that the question of removing the Director of Public Prosecutions under this section 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 Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court; and

(*b*) the tribunal shall enquire into the matter and report on the facts thereof to the Governor and recommend to him whether the Director of Public Prosecutions ought to be removed under this section.

(10) If the question of removing the Director of Public Prosecutions has been referred to a tribunal under this section, the Governor, acting in accordance with the advice of the Public Service Commission, may suspend the Director of Public Prosecutions from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor, acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor that the Director of Public Prosecutions should not be removed.

(11) The prescribed age for the purposes of subsection (6) of this section is the age of fifty-five years or such other age as may be prescribed by Parliament:

Provided that any law enacted by Parliament, to the extent to which it alters the prescribed age after a person has been appointed to be or to

act as Director of Public Prosecutions, shall not have effect in relation to that person unless he consents that it should have effect.

Director of Audit.

80.—(1) The Director of Audit shall be appointed by the Governor, acting in accordance with the advice of the Public Service Commission.

(2) If the office of Director of Audit is vacant or if the Director of Audit is for any reason unable to exercise the functions of his office, the Governor, acting in accordance with the advice of the Public Service Commission, may appoint a person to act as Director of Audit.

(3) Before tendering advice for the purposes of subsection (1) or subsection (2) of this section, the Public Service Commission shall consult the Premier.

(4) A person appointed to act in the office of Director of Audit shall, subject to the provisions of subsections (5), (7), (8) and (9) of this section, cease so to act—

(*a*) when a person is appointed to hold that office and has assumed the functions thereof or, as the case may be, when the person in whose place he is acting resumes the functions of that office; or

(*b*) at such earlier time as may be prescribed by the terms of his appointment.

(5) Subject to the provisions of subsection (7) of this section the Director of Audit shall vacate his office when he attains the prescribed age.

(6) A person holding the office of Director of Audit may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(7) The Director of Audit shall be removed from office by the Governor if the question of his removal from office has been referred to a tribunal appointed under subsection (8) of this section and the tribunal has recommended to the Governor that he ought to be removed for inability as aforesaid or for misbehaviour.

(8) If the Premier or the Chairman of the Public Service Commission represents to the Governor that the question of removing the Director of Audit under this section ought to be investigated—

(*a*) the Governor shall appoint a tribunal which shall consist of a Chairman and not less than two other members selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court; and

(*b*) the tribunal shall enquire into the matter and report on the facts thereof to the Governor and recommend to him whether the Director of Audit ought to be removed under this section.

(9) If the question of removing the Director of Audit has been referred to a tribunal under this section, the Governor, acting in accordance with the advice of the Public Service Commission, may suspend the Director of Audit from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor, acting in accordance with such advice as aforesaid, and shall in any case cease to

have effect if the tribunal recommends to the Governor that the Director of Audit should not be removed.

(10) The prescribed age for the purposes of subsection (5) of this section is the age of fifty-five or such other age as may be prescribed by Parliament:

Provided that any law enacted by Parliament to the extent to which it alters the prescribed age after a person has been appointed to be or to act as Director of Audit, shall not have effect in relation to that person unless he consents that it should have effect.

Appointment, etc., of magistrates, registrars and legal officers.

81.—(1) This section applies to the offices of magistrate, registrar of the High Court and assistant registrar of the High Court and to any public office in the department of the Attorney-General (including the public office of Attorney-General) or in the department of the Director of Public Prosecutions (other than the office of Director) for appointment to which persons are required to be qualified to practise as a barrister or a solicitor in Dominica.

(2) The power to appoint persons to hold or act in offices to which this section applies (including the power to confirm appointments) shall vest in the Public Service Commission:

Provided that before exercising the powers conferred by this section in any case the Public Service Commission shall consult the Judicial and Legal Services Commission.

(3) Subject to the provisions of section 63(4) of this Constitution, the power to exercise disciplinary control over persons holding or acting in offices to which this section applies and the power to remove such persons from office shall vest in the Judicial and Legal Services Commission:

Provided that before exercising the powers conferred by this subsection in any case the Judicial and Legal Services Commission shall consult the Public Service Commission.

PART 3

The Police

Police Service Commission.

82.—(1) There shall be a Police Service Commission for Dominica which shall consist of—

(*a*) the Chairman and Deputy Chairman of the Public Service Commission;

(*b*) one member appointed by the Governor, acting in accordance with the advice of the Premier, from amongst persons selected by the appropriate representative body; and

(*c*) the members of the Public Service Commission appointed under paragraph (*c*) of section 76(1) of this Constitution.

(2) The provisions of section 76(2), 76(3), 76(4), 76(5), 76(6), 76(7), 76(8) and 76(11) of this Constitution shall apply in relation to a member of the Police Service Commission appointed under paragraph (*b*) of subsection (1) of this section as they apply in relation to a member of the Public Service Commission.

(3) The member of the Public Service Commission for the time being performing the functions of the Chairman of that Commission shall perform the functions of the Chairman of the Police Service Commission.

(4) Any person for the time being authorised to act as a member of the Public Service Commission under section 76(10) of this Constitution (other than a person so authorised on account of the inability of a member

of the Commission appointed under section 76(1)(*b*) of this Constitution) shall act as a member of the Police Service Commission.

(5) If at any time the member of the Commission appointed under paragraph (*b*) of subsection (1) of this section is for any reason unable to exercise the functions of his office, the Governor, acting in accordance with the advice of the Premier, may appoint a person who is qualified to be appointed as a member of the Commission to act as a member, and any person so appointed shall, subject to the provisions of subsection (2) of this section, continue to act until the holder of the office has resumed his functions or until his appointment to act has been revoked by the Governor, acting in accordance with the advice of the Premier.

(6) The Commission shall, in the exercise of its functions under this Constitution, not be subject to the direction or control of any other person or authority.

(7) The Commission may by regulation or otherwise regulate its own procedure and, with the consent of the Premier, may confer powers or impose duties on any public officer or on any authority of the Government of Dominica for the purpose of the exercise of its functions.

(8) The Commission may, subject to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings:

Provided that any decision of the Commission shall require the concurrence of a majority of all its members.

(9) In this section " the appropriate representative body " means such body as is designated by the Governor, acting in accordance with the advice of the Premier, as the principal body in Dominica representing the interests of police officers.

Appointment, etc., of police officers.

83.—(1) The power to appoint a person to hold or act in the office of Chief of Police or Deputy Chief of Police and, subject to the provisions of section 85 of this Constitution, the power to remove the Chief of Police or Deputy Chief of Police from office shall vest in the Governor, acting in accordance with the advice of the Police Service Commission:

Provided that before the Police Service Commission tenders advice to the Governor with respect to the appointment of any person to hold the office of Chief of Police or Deputy Chief of Police the Commission shall consult with the Premier and if the Premier signifies his objection to the appointment of any person to the office the Commission shall not advise the Governor to appoint that person.

(2) The power to appoint persons to hold or act in offices in the Police Force below the rank of Deputy Chief of Police (including the power to confirm appointments), and, subject to the provisions of section 85 of this Constitution, the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Police Service Commission.

(3) The Police Service Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under subsection (2) of this section in respect of officers below the rank of Sergeant or of persons holding or acting in those offices to any one or more members of the Commission or, with the consent of the Premier, to the Chief of Police or any other officer of the Police Force.

(4) A police officer shall not be removed from office or subjected to any other punishment under this section on the grounds of any act done or omitted by him in the exercise of any judicial function conferred on him unless the Judicial and Legal Services Commission concurs therein.

PART 4

The Public Service Board of Appeal

Public Service Board of Appeal.

84.—(1) There shall be a Public Service Board of Appeal for Dominica which shall consist of—

(*a*) one member appointed by the Governor, acting in his own deliberate judgment, who shall be Chairman;

(*b*) one member appointed by the Governor, acting in accordance with the advice of the Premier; and

(*c*) one member appointed by the Governor, acting in accordance with the advice of the appropriate representative body.

(2) A person shall not be qualified for appointment as a member of the Board if he is a member of the House of Assembly and a person shall not be qualified for appointment under paragraph (*c*) of subsection (1) of this section unless he is or has been a public officer.

(3) Subject to the provisions of this section, the office of a member of the Board shall become vacant—

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

(*b*) if any circumstances arise that, if he were not a member of the Board would cause him to be disqualified to be appointed as such under subsection (2) of this section.

(4) A member of the Board may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(5) A member of the Board shall be removed from office by the Governor if the question of his removal from office has been referred to a tribunal appointed under subsection (6) of this section and the tribunal has recommended to the Governor that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(6) If the Governor considers that the question of removing a member of the Board under this section 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 Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or by a court having jurisdiction in appeals from such a court; and

(*b*) the tribunal shall enquire into the matter and report on the facts thereof to the Governor and recommend to him whether the member ought to be removed under this section.

(7) If the question of removing a member of the Board has been referred to a tribunal under this section, the Governor may suspend that

member from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor and shall in any case cease to have effect if the tribunal recommends to the Governor that that member should not be removed.

(8) If at any time any member of the Board is for any reason unable to exercise the functions of his office, the Governor may appoint a person who is qualified to be appointed as a member of the Board to act as a member, and any person so appointed shall, subject to the provisions of subsection (4) of this section, continue to act until the holder thereof has resumed his functions or until his appointment to act has been revoked by the Governor.

(9) In the exercise of the powers conferred upon him by subsections (6), (7) and (8) of this section the Governor shall, in the case of a member of the Board appointed under paragraph (*b*) of subsection (1) of this section, act in accordance with the advice of the Premier and in any other case in his own deliberate judgment.

(10) The Board shall, in the exercise of its functions under this Constitution, not be subject to the direction or control of any other person or authority.

(11) In this section "the appropriate representative body" means the body designated under section 76(15) of this Constitution.

Appeals in discipline cases.

85.—(1) This section applies to—

(*a*) any decision of the Governor, acting in accordance with the advice of the Public Service Commission or the advice of the Police Service Commission, or of the Public Service Commission or of the Police Service Commission, to remove a public officer from office or to exercise disciplinary control over a public officer (including a decision made on appeal from or confirming a decision of any person to whom powers are delegated under section 77(2) or 83(3) of this Constitution);

(*b*) any decision of any person to whom powers are delegated under section 77(2) or 83(3) of this Constitution to remove a public officer from office or to exercise disciplinary control over a public officer (not being a decision which is subject to appeal to or confirmation by the Public Service Commission or the Police Service Commission);

(*c*) such decisions with respect to the discipline of any military, naval or air force raised under a law enacted by a legislature established for Dominica as may be prescribed by Parliament.

(2) Subject to the provisions of this section, an appeal shall lie to the Public Service Board of Appeal from any decision to which this section applies at the instance of the public officer or member of the naval, military or air force in respect of whom the decision is made.

(3) Upon an appeal under this section the Board may affirm or set aside the decision appealed against or may make any other decision which the authority or person from whom the appeal lies could have made.

(4) Every decision of the Board shall require the concurrence of a majority of all its members.

(5) Subject to the provisions of subsection (4) of this section, the Board may by regulation make provision for—

(*a*) the procedure of the Board;

(*b*) the procedure in appeals under this section;

(*c*) excepting from the provisions of subsection (2) of this section decisions in respect of public officers holding offices whose emoluments do not exceed such sum as may be prescribed by the regulations or such decisions to exercise disciplinary control, other than decisions to remove from office, as may be so prescribed.

(6) Regulations made under this section may, with the consent of the Premier, confer powers or impose duties on any public officer or any authority of the Government of Dominica for the purpose of the exercise of the functions of the Board.

(7) The Board may, subject to the provisions of this section and to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any member.

PART 5

Pensions

Pensions laws and protection of pensions rights.

86.—(1) The law to be applied with respect to any pensions benefits that were granted to any person before this section comes into operation shall be the law that was in force at the date on which those benefits were granted or any law in force at a later date that is not less favourable to that person.

(2) The law to be applied with respect to any pensions benefits (not being benefits to which subsection (1) of this section applies) shall—

(*a*) in so far as those benefits are wholly in respect of a period of service as a judge or a public officer that commenced before the date upon which this Constitution comes into operation, be the law that was in force on the date upon which this Constitution comes into operation; and

(*b*) in so far as those benefits are wholly or partly in respect of a period of service as a judge or a public officer that commenced after this Constitution comes into operation, be the law in force on that date on which that period of service commenced,

or any law in force at a later date that is not less favourable to that person.

(3) Where a person is entitled to exercise an option as to which of two or more laws shall apply in his case, the law for which he opts shall, for the purposes of this section, be deemed to be more favourable to him than the other law or laws.

(4) All pensions benefits shall (except to the extent that they are by law charged upon and duly paid out of some other fund) be a charge on the Consolidated Fund.

(5) In this section " pensions benefits " means any pensions, compensation, gratuities or other like allowances for persons in respect of their service as judges or public officers or for the widows, children, dependants or personal representatives of such persons in respect of such service.

(6) In this section references to service as a judge are references to service as a judge of the Court of Appeal, a judge of the High Court or a judge of the Supreme Court established by the Windward Islands and Leeward Islands (Courts) Order in Council 1959(a) and references to service as a public officer include service in an office established under section 12 of the Courts Order.

(a) S.I. 1959/2197 (1959 I, p. 563).

(7) References in this section to the law with respect to pensions benefits include (without prejudice to their generality) references to the law regulating the circumstances in which such benefits may be granted or in which the grant of such benefits may be refused, the law regulating the circumstances in which any such benefits that have been granted may be withheld, reduced in amount or suspended and the law regulating the amount of any such benefits.

Power to withhold pensions, etc.

87.—(1) Where under any law any person or authority has a discretion—

(*a*) to decide whether or not any pensions benefits shall be granted; or

(*b*) to withhold, reduce in amount or suspend any such benefits that have been granted,

those benefits shall be granted and may not be withheld, reduced in amount or suspended unless the Public Service Commission concurs in the refusal to grant the benefits or, as the case may be, in the decision to withhold them, reduce them in amount or suspend them.

(2) Where the amount of any pensions benefits that may be granted to any person is not fixed by law, the amount of the benefits to be granted to him shall be the greatest amount for which he is eligible unless the Public Service Commission concurs in his being granted benefits of a smaller amount.

(3) The Public Service Commission shall not concur under subsection (1) or subsection (2) of this section in any action taken on the ground that any person who holds or has held the office of judge of the Court of Appeal, judge of the High Court, Director of Public Prosecutions or Director of Audit has been guilty of misbehaviour in that office unless he has been removed from that office by reason of such misbehaviour.

(4) Before the Public Service Commission concurs under subsection (1) or subsection (2) of this section in any action taken on the ground that any person who holds or has held any office to which, at the time of such action, section 81 of this Constitution applies has been guilty of misbehaviour in that office, the Public Service Commission shall consult the Judicial and Legal Services Commission.

(5) In this section " pensions benefits " means any pensions, compensation, gratuities or other like allowances for persons in respect of their service as judges or public officers or for the widows, children, dependants or personal representatives of such persons in respect of such service.

(6) In this section references to service as a judge are references to service as a judge of the Court of Appeal, a judge of the High Court or a judge of the Supreme Court established by the Windward Islands and Leeward Islands (Courts) Order in Council 1959 and references to service as a public officer include service in an office established under section 12 of the Courts Order.

CHAPTER VII

CITIZENSHIP

Commencement.

88.—(1) This Chapter of this Constitution shall come into operation on such date as, subject to the provisions of subsection (2) of this section, Parliament may by law appoint (in this Chapter referred to as the appointed date):

Provided that Parliament may, subject to the provisions of subsection (2) of this section, enact laws in pursuance of section 94 of this Constitution before the appointed date.

(2) A law enacted in pursuance of subsection (1) of this section or in pursuance of section 94 of this Constitution shall not have effect until on or after the termination of the status of association of Dominica with the United Kingdom in accordance with the provisions of the West Indies Act 1967.

Persons who become citizens on appointed date.

89.—(1) Every person who, having been born in Dominica, is immediately before the appointed date a citizen of the United Kingdom and Colonies shall become a citizen of Dominica on the appointed date.

(2) Every person who, immediately before the appointed date, is a citizen of the United Kingdom and Colonies—

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

(*b*) having become such a citizen by virtue of his having been naturalised or registered in Dominica under the British Nationality Acts 1948 to 1965,

shall become a citizen of Dominica on the appointed date.

(3) Every person who, having been born outside Dominica, is immediately before the appointed date a citizen of the United Kingdom and Colonies shall, if his father becomes, or would but for his death have become, a citizen of Dominica by virtue of subsection (1) or subsection (2) of this section, become a citizen of Dominica on the appointed date.

Persons entitled to be registered as citizens.

90.—(1) Any woman who, before the appointed date, has been married to a person—

(*a*) who becomes a citizen of Dominica by virtue of section 89 of this Constitution; or

(*b*) who, having died before the appointed date, would, but for his death, have become a citizen of Dominica by virtue of that section

but whose marriage has been terminated by death or dissolution before the appointed date shall be entitled, upon making application and, if she is a British protected person or an alien, taking the oath of allegiance to be registered as a citizen of Dominica.

(2) Any person who, having been born outside Dominica, is immediately before the appointed date a citizen of the United Kingdom and Colonies and under the age of twenty-one years shall, if his father becomes a citizen of Dominica on the appointed date by virtue of section 89(2) of this Constitution be entitled, upon application being made on his behalf by his parent or guardian before he attains the age of twenty-one years or before such later date as may be prescribed by Parliament, to be registered as a citizen of Dominica:
Provided that this subsection shall not apply to a woman who is or has been married.

(3) An application for registration under this section shall be made in such manner as may be prescribed, as respects that application, by Parliament.

Persons born in Dominica on or after appointed date.

91. Every person born in Dominica on or after the appointed date shall become a citizen of Dominica at the date of his birth:

(a) 1948 c. 56.

Provided that a person shall not become a citizen of Dominica by virtue of this section if at the time of his birth—

(*a*) neither of his parents is a citizen of Dominica and his father possesses such immunity from suit and legal process as is accorded to the envoy of a foreign sovereign power accredited to Dominica; or

(*b*) his father is a citizen of a country with which Dominica is at war and the birth occurs in a place then under occupation by that country.

Persons born outside Dominica on or after appointed date.

92. A person born outside Dominica on or after the appointed date shall become a citizen of Dominica at the date of his birth if, at that date, his father is a citizen of Dominica otherwise than by virtue of this section or section 89(3) of this Constitution.

Marriage to citizen of Dominica.

93. Any woman who is married to a citizen of Dominica or who has been married to a man who was, during the subsistence of the marriage, a citizen of Dominica shall be entitled, upon making application in such manner as may be prescribed by or under a law enacted by Parliament and if she is a British protected person or an alien taking the oath of allegiance, to be registered as a citizen of Dominica.

Powers of Parliament.

94.—(1) Parliament may make provision for the acquisition of citizenship of Dominica by persons who are not eligible or who are no longer eligible to become citizens of Dominica under the provisions of this Chapter.

(2) Parliament may make provision for depriving of his citizenship of Dominica any person who is a citizen of Dominica otherwise than by virtue of section 89, section 91 or section 92 of this Constitution.

(3) Parliament may make provision for the renunciation by any person of his citizenship of Dominica.

Interpretation.

95.—(1) In this Chapter—

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

"British protected person" means a person who is a British protected person for the purpose of the British Nationality Act 1948 or any Act of the United Kingdom Parliament amending or replacing that Act.

(2) Any reference in this Chapter to the father of a person shall, in relation to a person born out of wedlock and not legitimated, be construed as a reference to the mother of that person.

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

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

CHAPTER VIII

JUDICIAL PROVISIONS

Original Jurisdiction of High Court in constitutional questions.

96.—(1) Subject to the provisions of sections 21(2), 34(7), 49(7) and 107 of this Constitution, any person who alleges that any provision of this Constitution (other than a provision of Chapter I) has been or is being contravened may, if he has a relevant interest, apply to the High Court for a declaration and for relief under this section.

(2) The High Court shall have jurisdiction on an application made under this section to determine whether any provision of this Constitution (other than a provision of Chapter I) has been or is being contravened and to make a declaration accordingly.

(3) Where the High Court makes a declaration under this section that a provision of this Constitution has been or is being contravened and the person on whose application the declaration is made has also applied for relief, the High Court may grant to that person such remedy as it considers appropriate, being a remedy available generally under the law of Dominica in proceedings in the High Court.

(4) The Chief Justice may make rules with respect to the practice and procedure of the High Court in relation to the jurisdiction and powers conferred on the Court by or under this section, including provision with respect to the time within which any application under this section may be made.

(5) A person shall be regarded as having a relevant interest for the purpose of an application under this section only if the contravention of this Constitution alleged by him is such as to affect his interests.

(6) The right conferred on a person by this section to apply for a declaration and relief in respect of an alleged contravention of this Constitution shall be in addition to any other action in respect of the same matter that may be available to that person under any other enactment or any rule of law.

(7) Nothing in this section shall confer jurisdiction on the High Court to hear or determine any such question as is referred to in section 32 of this Constitution.

Reference of constitutional questions to High Court.

97.—(1) Where any question as to the interpretation of this Constitution arises in any court of law established for Dominica (other than the Court of Appeal, the High Court or a court martial) and the court is of opinion that the question involves a substantial question of law, the court shall refer the question to the High Court.

(2) Where any question is referred to the High Court in pursuance of this section, the High Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision or, if the decision is the subject of an appeal to the Court of Appeal or Her Majesty in Council, in accordance with the decision of the Court of Appeal or, as the case may be, Her Majesty in Council.

Appeals to Court of Appeal.

98. Subject to the provisions of section 32(7) of this Constitution, an appeal shall lie from decisions of the High Court to the Court of Appeal as of right in the following cases—

(*a*) final decisions in any civil or criminal proceedings on questions as to the interpretation of this Constitution;

(*b*) final decisions given in exercise of the jurisdiction conferred on the High Court by section 16 of this Constitution (which relates to the enforcement of the fundamental rights and freedoms).

Appeal to Her Majesty in Council.

99.—(1) Subject to the provisions of section 32(7) of this Constitution, an appeal shall lie from decisions of the Court of Appeal to Her Majesty in Council as of right in the following cases—

(*a*) where the matter in dispute on the appeal to Her Majesty in Council is of the value of fifteen hundred dollars or upwards or where the appeal involves directly or indirectly a claim to or question respecting property or a right of the value of fifteen hundred dollars or upwards, final decisions in any civil proceedings;

(*b*) final decisions in proceedings for dissolution or nullity of marriage;

(*c*) final decisions in any civil or criminal proceedings which involve a question as to the interpretation of this Constitution; and

(*d*) such other cases as may be prescribed by Parliament.

(2) Subject to the provisions of section 32(7) of this Constitution, an appeal shall lie from decisions of the Court of Appeal to Her Majesty in Council with the leave of the Court of Appeal in the following cases—

(*a*) where in the opinion of the Court of Appeal the question involved in the appeal is one that, by reason of its great general or public importance or otherwise, ought to be submitted to Her Majesty in Council, decisions in any civil proceedings; and

(*b*) such other cases as may be prescribed by Parliament.

(3) An appeal shall lie to Her Majesty in Council with the special leave of Her Majesty from any decision of the Court of Appeal in any civil or criminal matter.

(4) References in this section to decisions of the Court of Appeal shall be construed as references to decisions of the Court of Appeal in exercise of the jurisdiction conferred by this Constitution or any law for the time being in force in Dominica.

Interpretation.

100. In this Chapter references to this Constitution shall be construed as including references to the Courts Order.

CHAPTER IX

Transitional Provisions

Existing laws.

101.—(1) The existing laws shall, as from the commencement of this Constitution, be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the West Indies Act 1967, this Constitution and the Courts Order.

(2) Where any matter that falls to be prescribed or otherwise provided for under the Constitution by Parliament or by any other authority or person is prescribed or provided for by or under an existing law (including any amendment to any such law made under this section), that prescription or provision shall, as from the commencement of this Constitution, have effect (with such modifications, adaptations, qualifications and exceptions

as may be necessary to bring it into conformity with the West Indies Act 1967, this Constitution and the Courts Order) as if it had been made under this Constitution by Parliament or, as the case may require, by the other authority or person.

(3) The Governor may by Order made at any time before 1st September 1967 make such amendments 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 West Indies Act 1967, this Constitution and the Courts Order 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 this 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) For the purposes of this section, the expression "existing law" means any Ordinance, law, rule, regulation, order or other instrument made in pursuance of or continued in force by or under the existing Orders or the West Indies (Dissolution and Interim Commissioner) Order in Council 1962(a) and having effect as part of the law of Dominica or of any part thereof immediately before the commencement of this Constitution.

Parliament.

102.—(1) Until other constituencies are established for Dominica by Order in pursuance of section 49 of this Constitution and the Order has come into effect there shall, for the purposes of the election of elected members of the House of Assembly, be eleven constituencies having the same boundaries as the constituencies into which Dominica is divided immediately before the commencement of this Constitution for the purpose of the election of members of the existing Council and those constituencies shall be deemed to have been established under section 49 of this Constitution.

(2) The persons who, immediately before the commencement of this Constitution, are elected members of the existing Council shall, as from the commencement of this Constitution, be deemed to have been elected as members of the House of Assembly in pursuance of the provisions of section 26 of this Constitution in the respective constituencies corresponding to the constituencies by which they were returned to the existing Council and shall hold their seats in the House of Assembly in accordance with the provisions of this Constitution.

(3) The persons who, immediately before the commencement of this Constitution, are nominated members of the existing Council shall, as from the commencement of this Constitution, be deemed to have been appointed as nominated members of the House of Assembly in pursuance of the provisions of section 27(*a*) of this Constitution and shall hold their seats in the House in accordance with the provisions of this Constitution.

(4) The persons who, immediately before the commencement of this Constitution, are respectively the Speaker and Deputy Speaker of the existing Council shall be deemed as from the commencement of this Constitution to have been elected as Speaker and Deputy Speaker of the House of Assembly in accordance with the provisions of this Constitution and shall hold office in accordance with those provisions.

(5) Until Parliament otherwise provides, any person who holds or acts in any office the holding of which would, under the existing Orders,

(a) S.I. 1962/1084 (1962 II, p. 1220).

have disqualified him for membership of the existing Council shall be disqualified to be elected as an elected member or appointed as a nominated member of the House of Assembly as though provision in that behalf had been made in pursuance of section 25(5) of this Constitution.

(6) The Standing Orders of the existing Council as in force immediately before the commencement of this Constitution shall, until it is otherwise provided by the House of Assembly under section 43 of this Constitution, be the Standing Orders of the House but they shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Constitution.

(7) Subject to the provisions of section 45 of this Constitution, Parliament shall, unless sooner dissolved, stand dissolved on the date on which the existing Council would have been required by the existing Orders to be dissolved.

(8) Any person who, by virtue of this section, is deemed as from the commencement of this Constitution to have been elected as Speaker or any other member of the House of Assembly shall be deemed to have taken and subscribed any necessary oath under this Constitution.

(9) In this section "the existing Council" means the Legislative Council established by the existing Orders.

First Cabinet

103.—(1) The person who immediately before the commencement of this Constitution holds the office of Chief Minister under the existing Orders shall, as from the commencement of this Constitution, hold office as Premier as if he had been appointed thereto under section 51 of this Constitution.

(2) The persons who immediately before the commencement of this Constitution hold office as Ministers (other than the Chief Minister) under the existing Orders shall, as from the commencement of this Constitution, hold the like offices as if they had been appointed thereto under section 51 of this Constitution.

(3) Any person holding the office of Premier or other Minister by virtue of the provisions of subsections (1) and (2) of this section who, immediately before the commencement of this Constitution, was charged with responsibility for any matter or any department of government, under the existing Orders shall, as from the commencement of this Constitution, be deemed to have been assigned responsibility for such matter or department under section 53 of this Constitution.

Office of Attorney-General.

104. Until Parliament or, subject to the provisions of any law enacted by Parliament, the Governor, acting in accordance with the advice of the Premier, otherwise decides, the office of Attorney-General shall be a public office.

Existing public officers.

105.—(1) Subject to the provisions of this Constitution, every person who immediately before the commencement of this Constitution holds or is acting in a public office shall, as from the commencement of this Constitution, continue to hold or act in that office or the corresponding office established by this Constitution as if he had been appointed thereto in accordance with the provisions of this Constitution:

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

(2) The person who, immediately before the commencement of this Constitution, holds the office of Attorney-General shall be deemed, as from the commencement of this Constitution, to have been appointed to hold the office of Director of Public Prosecutions.

(3) Nothing in subsection (1) of this section shall be construed as applying to any person who immediately before the commencement of this Constitution holds or is acting in the office of Administrator, member of the Public Service Commission or member of the Police Service Commission established by the existing Orders.

(4) In this section "existing law" has the meaning in section 101(5) of this Constitution.

Termination of provisions of certain Orders in Council.

106.—(1) The Emergency Powers Order in Council 1939(a) and any Order in Council amending that Order shall cease to have effect as part of the law of Dominica on 1st September 1967 or such earlier date as Parliament may prescribe.

(2) Section 2(8) of the United Kingdom Forces (Jurisdiction of Colonial Courts) Order 1965(b) shall cease to have effect as part of the law of Dominica at the commencement of this Constitution.

CHAPTER X

INTERPRETATION

Certain questions not to be enquired into in any court.

107. Where by this Constitution the Governor is required to perform any function in accordance with the advice of the Cabinet, the Premier or any other Minister or the Leader of the Opposition, the question whether the Governor has received or acted in accordance with such advice shall not be enquired into in any court of law.

Resignations.

108.—(1) Any person who is appointed or elected to any office established by this Constitution or any office of Minister established under this Constitution may resign from that office by writing under his hand addressed to the person or authority by whom he was appointed or elected:

Provided that—

(*a*) the resignation of a person from the office of Speaker or Deputy Speaker of the House of Assembly shall be addressed to the House; and

(*b*) the resignation of any person from the office of member of the House of Assembly shall be addressed to the Speaker of the House.

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

Re-appointment and concurrent appointments.

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

(2) Where this Constitution vests in any person or authority the power to make any appointment to any office, a person may be appointed

(a) See S.I. 1952 I, at p. 621. (b) S.I. 1965/1203 (1965 II, p. 3422).

to that office, notwithstanding that some other person may be holding that office, when that other person is on leave of absence pending the relinquishment of the office; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this subsection, then, for the purposes of any function conferred upon the holder of that office, the person last appointed shall be deemed to be the sole holder of the office.

Interpretation.

110.—(1) In this Constitution, unless the context otherwise requires—

" Commonwealth citizen " has, until the commencement of Chapter VII of this Constitution, the meaning assigned to it by the British Nationality Act 1948 or any Act of the United Kingdom Parliament amending or replacing that Act and, from the commencement of that Chapter, has such meaning as Parliament may by law prescribe;

" dollars " means dollars in the currency of Dominica;

" the existing Orders " means the Orders mentioned in Schedule 1 to the Dominica Constitution Order 1967;

" financial year " means any period of twelve months beginning on 1st January in any year or such other date as Parliament may prescribe;

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

" Parliament " means the Parliament of Dominica;

" oath " includes affirmation;

" oath of allegiance " means the oath of allegiance set out in Schedule 3 to this Constitution;

" oath of office " means, in relation to any office, the oath for the due execution of that office set out in Schedule 3 to this Constitution;

" the Police Force " means the Dominica Police Force established by the Police Ordinance(a) and includes any other police force established by or under a law enacted by Parliament to succeed to the functions of the Dominica Police Force;

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

" public officer " means a person holding or acting in any public office;

" the public service " means, subject to the provisions of this section, the service of the Crown in a civil capacity in respect of the government of Dominica;

" session " means the period beginning when the House of Assembly first meets after the commencement of this Constitution or after Parliament has at any time been prorogued or dissolved and ending when Parliament is prorogued or when Parliament is dissolved without having been prorogued;

" sitting " means the period during which the House of Assembly is sitting continuously without adjournment and includes any period during which it is in committee.

(2) In this Constitution references to an office in the public service shall not be construed as including—

(*a*) references to the office of the Speaker or Deputy Speaker of the House of Assembly, the Premier or any other Minister, a Parliamentary Secretary or a member of the House of Assembly;

(a) Laws of Dominica c. 250.

(*b*) references to the office of a member of any Commission established by this Constitution or a member of the Advisory Committee on the Prerogative of Mercy or a member of the Public Service Board of Appeal;

(*c*) references to the office of judge of the Court of Appeal or judge of the High Court;

(*d*) save in so far as may be provided by Parliament, references to the office of a member of any other council, board, panel, committee or other similar body (whether incorporated or not) established by or under any law.

(3) In this Constitution references to the Court of Appeal, the High Court and the Judicial and Legal Services Commission are references to the Court of Appeal, the High Court and the Judicial and Legal Services Commission established by the Courts Order.

(4) In this Constitution references to the Courts Order have the meaning in section 34(8) of this Constitution.

(5) For the purposes of this Constitution, a person shall not be regarded as holding an office by reason only of the fact that he is in receipt of a pension or other like allowance.

(6) In this Constitution, unless the context otherwise requires, a reference to the holder of an office by the term designating his office shall be construed as including, to the extent of his authority, a reference to any person for the time being authorised to exercise the functions of that office.

(7) Except in the case where this Constitution provides for the holder of any office thereunder to be such person holding or acting in any other office as may for the time being be designated in that behalf by some specified person or authority, no person may, without his consent, be nominated for election to any such office or be appointed to or to act therein or otherwise be selected therefor.

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

Provided that—

(*a*) nothing in this subsection shall be construed as conferring on any person or authority the power to require the Director of Public Prosecutions or the Director of Audit to retire from the public service; and

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

(9) Any provision in this Constitution that vests in any person or authority the power to remove any public officer from his office shall be without prejudice to the power of any person or authority to abolish any office or to any law providing for the compulsory retirement of public officers generally or any class of public officer on attaining an age specified by or under that law.

(10) Where this Constitution vests in any person or authority the power to appoint any person to act in or to exercise the functions of any office if the holder thereof is himself unable to exercise those functions, no such appointment shall be called in question on the grounds that the holder of the office was not unable to exercise those functions.

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

(12) Without prejudice to the provisions of section 32(3) of the Interpretation Act 1889(a) (as applied by subsection (15) of this section), where any power is conferred by this Constitution to make any order, regulation or rule or give any direction or make any designation, the power shall be construed as including the power, exercisable in like manner and subject to the like conditions, if any, to amend or revoke any such order, regulation, rule, direction, or designation.

(13) Any reference in this Constitution to a law made before the coming into operation of this Constitution shall, unless the context otherwise requires, be construed as a reference to that law as it had effect immediately before the coming into operation of this Constitution.

(14) Any reference in this Constitution to a law that amends or replaces any other law or any provision of any other law shall be construed as including a reference to a law that modifies, re-enacts, with or without amendment or modification, suspends, repeals, adds new provisions to or makes different provision in lieu of that other law or that provision.

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

SCHEDULE 1 TO THE CONSTITUTION

PART I

PROVISIONS OF THIS CONSTITUTION REFERRED TO IN SECTION 34(3)

(i) Chapter I;
(ii) sections 18, 20 and 50;
(iii) sections 22, 23, 26, 30, 32, 33, 41, 44, 45, 46, 47, 48 and 49;
(iv) Chapter V;
(v) sections 64, 76, 77, 78, 79, 80, 81, 82, 83, 86 and 87;
(vi) section 88;
(vii) Chapter VIII (except section 99(1)(*a*) in so far as it provides for the value of the matter in dispute or of the right or property in cases in which an appeal lies to Her Majesty in Council);
(viii) section 102;
(ix) section 110 in its application to any of the provisions mentioned in the foregoing paragraphs of this Schedule, or
(x) Schedule 2.

(a) 1889 c. 63.

PART II

PROVISIONS OF THE COURTS ORDER REFERRED TO IN SECTION 34(3)

(xi) sections 4, 5, 6, 8, 11, 18 and 19.

Section 49

SCHEDULE 2 TO THE CONSTITUTION

All constituencies shall contain as nearly equal numbers of inhabitants as appears to the Constituency Boundaries Commission to be reasonably practicable but the Commission may depart from this principle to such extent as it considers expedient to take account of the following factors, that is to say:—

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

(*b*) the means of communication;

(*c*) geographical features; and

(*d*) the boundaries of administrative areas.

Section 110(1)

SCHEDULE 3 TO THE CONSTITUTION

FORMS OF OATH

OATH OF ALLEGIANCE

I,....., do swear [*or* solemnly affirm] that I will faithfully bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law.

So help me God. [*To be omitted in affirmation.*]

OATH OF OFFICE

I,....., do swear [*or* solemnly affirm] that I will faithfully execute the office of ..... without fear or favour, affection or ill-will and that in the execution of the functions of that office I will honour, uphold and preserve the Constitution of Dominica.

So help me God. [*To be omitted in affirmation.*]

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

This Order provides a new constitution for Dominica to come into effect upon the assumption by that territory of the status of association with the United Kingdom under the West Indies Act 1967.