1962 No. 1550

CARIBBEAN AND NORTH ATLANTIC TERRITORIES

The Jamaica (Constitution) Order in Council 1962

Made - - - - 23*rd July* 1962
Laid before Parliament 24*th July* 1962
Coming into Operation
Section 3 (2) *of the Order in Council, and sections* 80, 81, 94 (1) *and* (2), 103, 104, 111, 124 *and* 125 (*in part*) *of the Constitution* —25*th July* 1962
Remainder—Immediately before the 6*th August* 1962

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SECOND SCHEDULE

THE CONSTITUTION OF JAMAICA.

At the Court at Buckingham Palace, the 23rd day of July 1962

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by subsection (1) of section 5 of the West Indies Act, 1962(a) or otherwise in Her vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

(a) 10 & 11 Eliz. 2. c. 19.

Citation, commencement and interpretation.

1.—(1) This Order may be cited as the Jamaica (Constitution) Order in Council 1962.

(2) Subject to the provisions of subsection (2) of section 3 of this Order, this Order shall come into operation immediately before the appointed day (in this Order referred to as "the commencement of this Order"):

Provided that where by or under this Order the Governor-General has power to make any appointment or to make any Order or to do any other thing for the purposes of this Order that power may be exercised by the Governor of the Colony of Jamaica at any time after the twenty-fourth day of July 1962 to such extent as may, in his opinion, be necessary or expedient to enable the Constitution established by this Order to function as from the commencement of this Order.

Revocations.

2.—(1) The Orders in Council specified in the First Schedule to this Order (hereinafter referred to as "the existing Orders") are hereby revoked.

(2) Notwithstanding the revocation of the existing Orders the following Regulations—

(*a*) the Public Service Regulations, 1961,
(*b*) the Judicial Service Regulations, 1961,
(*c*) the Police Service Regulations, 1961, and
(*d*) the Jamaica (Constitution) (Retirement of Entitled Officers) Regulations, 1961,

made thereunder and all amendments thereto shall continue in force subject to such adaptations or modifications as may be made thereto by or under section 4 of this Order and subject to amendment or repeal by the authority having power to amend or revoke the same.

(3) With effect from the commencement of this Order, paragraph (*f*) (which specifies Jamaica) of the definition of "the Territories" in subsection (1) of section 2 of the British Caribbean Court of Appeal Order in Council 1962(a) is revoked.

Establishment of the Constitution.

3.—(1) Subject to the provisions of subsection (2) of this section and the other provisions of this Order, the Constitution of Jamaica set out in the Second Schedule to this Order (in this Order referred to as "the Constitution") shall come into force in Jamaica at the commencement of this Order.

(2) This subsection and the following provisions of the Constitution—

(*a*) sections 80 and 81,
(*b*) subsections (1) and (2) of section 94,
(*c*) sections 103 and 104,
(*d*) section 111,
(*e*) section 124,
(*f*) section 125 to the extent only as to enable a Director of Public Prosecutions to be appointed before the appointed day,

shall come into force in Jamaica on the twenty-fifth day of July 1962:

Provided that in relation to any period prior to the appointed day references in these provisions of the Constitution—

(*a*) to the Governor-General and the Prime Minister shall be construed as references to the Governor and Premier respectively of the Colony of Jamaica;

(a) S.I. 1962/1086 (1962 II, p. 1247).

(*b*) to Parliament and to the House of Representatives shall be construed as references to the Legislature and the House of Representatives constituted under the existing Orders; and

(*c*) to the Chief Justice or a Judge of the Supreme Court shall be construed as references to the Chief Justice or a Judge of the Supreme Court holding office under the existing Orders.

Existing laws

4.—(1) All laws which are in force in Jamaica immediately before the appointed day shall (subject to amendment or repeal by the authority having power to amend or repeal any such law) continue in force on and after that day, and all laws which have been made before that day but have not previously been brought into operation may (subject as aforesaid) be brought into force, in accordance with any provision in that behalf, on or after that day, but all such laws shall, subject to the provisions of this section, be construed, in relation to any period beginning on or after the appointed day, with such adaptations and modifications as may be necessary to bring them into conformity with the provisions of this Order.

(2) Without prejudice to the generality of the preceding subsection, in any law which continues in force on and after the appointed day or which, having been made before that day, is brought into force on or after that day, unless the context otherwise requires—

(*a*) references to the Governor shall, in relation to any period beginning on or after the appointed day, be construed as references to the Governor-General;

(*b*) references to the Legislature or to either chamber thereof shall, in relation to any period as aforesaid, be construed as references to the Parliament, or to the corresponding House thereof, established by the Constitution;

(*c*) references to any office (or to the person holding or acting in it) connected with either chamber of the Legislature shall, in relation to any such period as aforesaid, be construed as references to the corresponding office (or the person holding or acting in it) constituted by or under the Constitution;

(*d*) references to the Cabinet, to the Premier or to any other Minister shall, in relation to any such period as aforesaid, be construed as references respectively to the Cabinet established by the Constitution, to the Prime Minister appointed for the time being under the Constitution and to the corresponding Minister so appointed;

(*e*) references to the Secretary to the Cabinet shall, in relation to any such period as aforesaid, be construed as references to the Secretary to the Cabinet established by the Constitution;

(*f*) references to the Privy Council shall, in relation to any such period as aforesaid, be construed as references to the Privy Council established by the Constitution;

(*g*) references to the Judicial Service Commission, the Public Service Commission or the Police Service Commission shall, in relation to any such period as aforesaid, be construed as references respectively to the Judicial Service Commission, the Public Service Commission or the Police Service Commission established by the Constitution;

(*h*) references to any other office (or to the person holding or acting in it) constituted by or under the existing Orders or to any other authority or body so constituted shall, in relation to any such

period as aforesaid, be construed as references respectively to the corresponding office (or to the person holding or acting in it) or the corresponding authority or body constituted by or under the Constitution.

(3) For the purposes of this Order the Senate is the corresponding House to the Legislative Council constituted under the existing Orders.

(4) The Governor-General may, by Order published in the *Gazette*, declare—

(*a*) for the purposes of paragraphs (*c*) and (*h*) of subsection (2) of this section, what is the corresponding office, authority or body referred to in either of those paragraphs; and

(*b*) for the purposes of paragraph (*d*) of that subsection, who is the corresponding Minister referred to in that paragraph.

(5) (*a*) The Governor-General may, by Order made at any time within a period of two years commencing with the appointed day and published in the *Gazette*, make such adaptations and modifications in any law which continues in force in Jamaica on and after the appointed day, or which having been made before that day, is brought into force on or after that day, as appear to him to be necessary or expedient by reason of anything contained in this Order.

(*b*) Without prejudice to the generality of paragraph (*a*) of this subsection any Order made thereunder may transfer to the Director of Public Prosecutions any function by any such law vested in the Attorney-General.

(*c*) An Order made by the Governor-General under this subsection shall have effect from such date, not earlier than the appointed day, as may be specified therein.

Finance.

5. Without prejudice to the provisions of the preceding section and for the avoidance of doubt, it is hereby declared that any resolution of the House of Representatives passed before the appointed day and any law enacted by the Legislature before that day (whether such resolution was passed or such law enacted before or after the making of this Order) may have effect for the purposes of section 117 of the Constitution as if they were respectively a resolution of the House of Representatives established by the Constitution or a law enacted by the Parliament so established.

House of Representatives.

6.—(1) Notwithstanding any other provisions of this Order, the House of Representatives constituted under the existing Orders (in this section referred to as "the existing House of Representatives") shall be the House of Representatives of Jamaica during the period beginning with the commencement of this Order and ending with the first dissolution of Parliament thereafter.

(2) The persons who immediately before the commencement of this Order are members of the existing House of Representatives shall be members of the House of Representatives established by this Order and as from that time shall be deemed to have been elected as such in pursuance of section 36 of the Constitution and shall hold their seats in that House in accordance with the provisions of the Constitution.

(3) The persons who immediately before the commencement of this Order are Speaker and Deputy Speaker of the existing House of Representatives shall be Speaker and Deputy Speaker respectively of the House of Representatives established by this Order and as from that time shall be deemed to have been elected as such in pursuance

of section 43 of the Constitution and shall hold office in accordance with the provisions of the Constitution.

(4) The Standing Orders of the existing House of Representatives as in force immediately before the commencement of this Order shall, with such adaptations and modifications as may be necessary to bring them into conformity with this Order, be the first Standing Orders of the House of Representatives established by the Constitution as if they had been made in pursuance of section 51 of the Constitution.

(5) Notwithstanding anything contained in subsection (2) of section 64 of the Constitution (but subject to the provisions of subsections (3) and (4) of that section) Parliament shall, unless sooner dissolved, stand dissolved on the tenth day of April 1967.

First Standing Orders of Senate.

7. The Standing Orders of the Legislative Council constituted under the existing Orders as in force immediately before the commencement of this Order shall, with such adaptations and modifications as may be necessary to bring them into conformity with this Order, be the first Standing Orders of the Senate established by the Constitution as if they had been made in pursuance of section 51 of the Constitution.

Remuneration of Members of Parliament, etc.

8. Until other provision is made in that behalf, the salary and allowances payable to members of either House, the President and Deputy President of the Senate, the Speaker and Deputy Speaker of the House of Representatives, Ministers and Parliamentary Secretaries shall be those payable to the persons last holding the corresponding offices immediately before the commencement of this Order.

Clerks to Houses of Parliament and their staffs.

9.—(1) Any person who, immediately before the commencement of this Order, holds office as Clerk or Deputy Clerk of the Legislative Council or of the House of Representatives shall, as from that time, hold the like office of Clerk or Deputy Clerk of the Senate or of the House of Representatives as if he had been appointed thereto under section 47 of the Constitution, and shall, until other provision is made in accordance with the provisions of that section, hold office on the same terms of service as applied to him immediately before the commencement of this Order.

(2) Any other person who, immediately before the commencement of this Order, holds an office on the staff of the Clerk of the Legislative Council or on the staff of the Clerk of the House of Representatives shall hold the like office on the staff of the Clerk of the Senate or on the staff of the Clerk of the House of Representatives as from that time as if he had been appointed thereto under section 47 of the Constitution.

First Cabinet.

10.—(1) The person who, immediately before the commencement of this Order, holds the office of Premier shall, as from that time, hold office as Prime Minister as if he had been appointed thereto under section 70 of the Constitution; the persons who, immediately before the commencement of this Order, are members of the House of Representatives and hold office as other Ministers shall, as from that time, similarly hold the like offices under the Constitution; and references in the Constitution to the Cabinet shall be construed accordingly.

(2) Where any Minister who holds office as from the commencement of this Order under the provisions of the preceding subsection is, by virtue of a direction given under the existing Orders, charged immediately before the commencement of this Order with respon-

sibility for any subject or department, he shall be deemed as from the commencement of this Order to have been charged with the responsibility for the corresponding subject or department of government under subsection (1) of section 77 of the Constitution.

Parliamentary Secretaries.

11. Any person who, immediately before the commencement of this Order, is a member of the House of Representatives, and holds office as a Parliamentary Secretary shall, as from that time, hold office as Parliamentary Secretary as if he had been appointed thereto under the provisions of section 78 of the Constitution.

Secretary to the Cabinet.

12. The person who, immediately before the commencement of this Order, holds office as Secretary of the Cabinet shall, as from that time, hold office as Secretary to the Cabinet as if he had been appointed thereto under the provisions of section 92 of the Constitution.

Supreme Court and Judges.

13.—(1) The Supreme Court in existence immediately before the commencement of this Order shall be the Supreme Court for the purposes of the Constitution, and the Chief Justice and other Judges of the Supreme Court holding office immediately before the commencement of this Order shall, as from that time, continue to hold the like offices as if they had been appointed thereto under the provisions of Chapter VII of the Constitution.

(2) Until other provision is made under and in accordance with the provisions of section 101 of the Constitution, the salaries and allowances of the Judges of the Supreme Court shall be the salaries and allowances to which the holders of those offices were entitled immediately before the commencement of this Order.

Pending Appeals.

14.—(1) Any proceedings pending immediately before the commencement of this Order on appeal from the Supreme Court to the British Caribbean Court of Appeal may be continued after the commencement of this Order before the Court of Appeal established by the Constitution.

(2) Any judgment of the Supreme Court of the Federation of The West Indies or of the British Caribbean Court of Appeal in an appeal from a court of Jamaica given, but not satisfied, before the commencement of this Order, may be enforced after the commencement of this Order as if it were a judgment of the Court of Appeal established by the Constitution.

Appeals from Cayman Islands and Turks and Caicos Islands.

15. The Court of Appeal established by the Constitution may have and exercise such jurisdiction and powers in respect of the Cayman Islands and the Turks and Caicos Islands as may be conferred upon it by any law for the time being in force in the Cayman Islands or the Turks and Caicos Islands, as the case may be, and may for the purpose of exercising that jurisdiction sit either in Jamaica or in the Cayman Islands or in the Turks and Caicos Islands, as the case may be.

Remuneration of Auditor-General.

16. Until provision is made under and in accordance with subsection (4) of section 120 of the Constitution, the salary and allowances of the Auditor-General shall be the salary and allowances to which the holder of that office was entitled immediately before the commencement of this Order.

Existing officers.

17.—(1) Where any office has been established for the former Colony of Jamaica by or under the existing Orders or any existing law, and the Constitution establishes the same or an equivalent office for Jamaica, not being the office of Prime Minister, Minister, or Parliamentary Secretary, any person who, immediately before the com-

mencement of this Order, is holding or acting in the former office shall, so far as is consistent with the provisions of this Order, be deemed as from the commencement of this Order to have been appointed to or to act in the latter office in accordance with the provisions of this Order and to have taken any necessary oath under this Order.

(2) Subject to the provisions of this Order, every person who, immediately before the commencement of this Order, holds or is acting in a public office shall, as from that time, continue to hold or act in the like office as if he had been appointed thereto or to act therein in accordance with the provisions of this Order.

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

(*a*) the provisions of section 6 of this Order; and

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

(4) In this section "existing law" means such a law as is referred to in subsection (1) of section 4 of this Order.

Transitional provisions relating to Privy Council.

18. Any matter which, immediately before the commencement of this Order, is pending before the Privy Council established under the existing Orders shall as from the commencement of this Order be continued before the Privy Council established by the Constitution.

Transitional provisions relating to existing Commissions.

19.—(1) Any power of the Governor of the Colony of Jamaica acting on the recommendation of a Commission established by the existing Orders (in this section referred to as "an existing Commission") which has been validly delegated to any person or authority under those Orders shall, as from the commencement of this Order, be deemed to have been delegated to that person or authority in accordance with the provisions of the Constitution.

(2) Any matter which, immediately before the commencement of this Order, is pending before an existing Commission or, as the case may be, before any person or authority to whom the power to deal with such matter has been validly delegated under the existing Orders shall as from the commencement of this Order be continued before the Judicial Service Commission established by the Constitution or the Public Service Commission or the Police Service Commission so established or, as the case may be, the said person or authority:

Provided that where an existing Commission or, as the case may be, any person or authority as aforesaid has, immediately before the commencement of this Order, partly completed the hearing of a disciplinary proceeding (in this section referred to as "the original hearing"), no person shall take part in the continued hearing unless he has also taken part in the original hearing; and where by virtue of this subsection the original hearing cannot be so continued the hearing of the disciplinary proceeding shall be recommenced.

Transitional provisions relating to certain officers.

20.—(1) Any person who, immediately before the commencement of this Order, holds any office established by or under the existing Orders and who does not, as from the date of such commencement, hold any public office shall be entitled to the leave, beginning with the commencement of this Order, for which under the terms of service applicable to him immediately before the commencement of this Order he was then eligible:

Provided that if any such person holds, or is acting in, as from the commencement of this Order, any office established by or under the Constitution, the leave to which he is entitled under this section shall begin when he relinquishes that office.

(2) When any person is on leave under the provisions of subsection (1) of this section, he shall be regarded as still in the office which he held immediately before the commencement of this Order.

Alteration of this Order.

21.—(1) Parliament may alter any of the provisions of sections 1 to 22 (inclusive), other than section 15, of this Order including this section in the same manner as it may alter the provisions of the Jamaica Independence Act, 1962(a).

(2) Parliament may amend from time to time or repeal, in so far as it forms part of the law of Jamaica, section 15 of this Order by an Act passed in accordance with the provisions of paragraph (*b*) of subsection (4) of section 49 of the Constitution.

Interpretation.

22.—(1) In this Order references to any body or to any office shall be construed, in relation to any period before the commencement of this Order, as references to such body or such office as constituted by or under the existing Orders, and references to the holder of any office shall be similarly construed.

(2) The provisions of section 1 of the Constitution shall apply for the purposes of interpreting this Order as they apply for interpreting the Constitution.

W. G. Agnew.

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(a) 10 & 11 Eliz. 2. c. 40. (b) S.I. 1959/862 (1959 I, p. 410).
(c) S.I. 1959/2202 (1959 I, p. 477). (d) S.I. 1961/571 (1961 I, p. 1258).

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PRELIMINARY

Interpretation.

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

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

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

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

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

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

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

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

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

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

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

"the *Gazette*" means the Jamaica *Gazette*;

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

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

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

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

"Parliament" means the Parliament of Jamaica;

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

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

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

(a) 10 & 11 Eliz. 2. c. 40.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Provided that—

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

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

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

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

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

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

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

Effect of this Constitution.

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

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

CHAPTER II

CITIZENSHIP

Persons who become citizens on 6th August 1962.

3.—(1) Every person who, having been born in the former Colony of Jamaica, is on the fifth day of August 1962 a citizen of the United Kingdom and Colonies shall become a citizen of Jamaica on the sixth day of August 1962.

(2) Every person who, having been born outside the former Colony of Jamaica, is on the fifth day of August 1962 a citizen of the United Kingdom and Colonies shall, if his father becomes or would but for his death have become a citizen of Jamaica in accordance with the provisions of subsection (1) of this section, become a citizen of Jamaica on the sixth day of August 1962.

Persons entitled to be registered as citizens.

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

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

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

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

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

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

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

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

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

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

Persons born in Jamaica after 5th August 1962.

5. Every person born in Jamaica after the fifth day of August 1962 shall become a citizen of Jamaica at the date of his birth:

(a) 11 & 12 Geo. 6. c. 56.

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

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

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

Persons born outside Jamaica after 5th August 1962.

6. A person born outside Jamaica after the fifth day of August 1962 shall become a citizen of Jamaica at the date of his birth if at that date his father is a citizen of Jamaica otherwise than by virtue of this section or subsection (2) of section 3 of this Constitution.

Marriage to citizen of Jamaica.

7. Any woman who, after the fifth day of August 1962, marries a person who is or becomes a citizen of Jamaica shall be entitled, upon making application in such manner as may be prescribed and, if she is a British protected person or an alien, upon taking the oath of allegiance, to be registered as a citizen of Jamaica.

Deprivation of citizenship on acquisition or exercise of rights of another citizenship.

8.—(1) If the Governor-General is satisfied that any citizen of Jamaica has at any time after the fifth day of August 1962 acquired by registration, naturalisation or other voluntary and formal act (other than marriage) the citizenship of any country other than Jamaica, the Governor-General may by order deprive that person of his citizenship.

(2) If the Governor-General is satisfied that any citizen of Jamaica has at any time after the fifth day of August 1962 voluntarily claimed and exercised in a country other than Jamaica any rights available to him under the law of that country, being rights accorded exclusively to its citizens, the Governor-General may by order deprive that person of his citizenship.

Commonwealth citizens.

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

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

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

Criminal liability of Commonwealth citizens.

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

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

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

Powers of Parliament.

11. Parliament may make provision—

(*a*) for the acquisition of citizenship of Jamaica by persons who do not become citizens of Jamaica by virtue of the provisions of this Chapter;

(*b*) for depriving of his citizenship of Jamaica any person who is a citizen of Jamaica otherwise than by virtue of section 3 or section 5 or section 6 of this Constitution; or

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

Interpretation.

12.—(1) In this Chapter—

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

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

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

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

(2) Any reference in this Chapter to the father of a person shall, in relation to a person born out of wedlock, 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 sixth day of August 1962 and the birth occurred after the fifth day of August 1962 the national status that the father would have had if he had died on the sixth day of August 1962 shall be deemed to be his national status at the time of his death.

CHAPTER III

Fundamental Rights and Freedoms

Fundamental rights and freedoms of the individual.

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

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

(a) 11 & 12 Geo. 6. c. 56.

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

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

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

Protection of right to life.

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

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

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

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

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

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

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

Protection from arbitrary arrest or detention.

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Any person who is arrested or detained—

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

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

and who is not released, shall be brought without delay before a court; and if any person arrested or detained upon reasonable suspicion of his having committed or being about to commit a criminal offence is not tried within a reasonable time, then, without prejudice to any further proceedings which may be brought against him, he shall be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.

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

(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 authorises the taking during a period of public emergency of measures that are reasonably justifiable for the purpose of dealing with the situation that exists during that period of public emergency.

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

(7) On any review by a tribunal in pursuance of subsection (6) of this section of the case of any detained person, the tribunal may make recommendations concerning the necessity or expediency of continuing

his detention to the authority by whom it was ordered but, unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with any such recommendations.

Protection of freedom of movement.

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

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

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

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

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

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

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

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

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

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

Protection from inhuman treatment.

17.—(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 which was lawful in Jamaica immediately before the appointed day.

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

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

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

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

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

(iii) enforcing his right to any such compensation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Nothing in this section shall be construed as affecting the making or operation of any law so far as it provides for the orderly marketing or production or growth or extraction of any agricultural product or mineral or any article or thing prepared for market or manufactured therefor or for the reasonable restriction of the use of

any property in the interests of safeguarding the interests of others or the protection of tenants, licensees or others having rights in or over such property.

(4) Nothing in this section shall be construed as affecting the making or operation of any law for the compulsory taking of possession in the public interest of any property, or the compulsory acquisition in the public interest of any interest in or right over property, where that property, interest or right is held by a body corporate which is established for public purposes by any law and in which no monies have been invested other than monies provided by Parliament or by the Legislature of the former Colony of Jamaica.

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

Protection for privacy of home and other property.

19.—(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 which is reasonably required—

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

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

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

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

Provisions to secure protection of law.

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

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

(3) All proceedings of every court and proceedings relating to the determination of the existence or the extent of a person's civil rights

or obligations before any court or other authority, including the announcement of the decision of the court or other authority, shall be held in public.

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

(*a*) in interlocutory civil proceedings; or

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

(*c*) to such extent as the court or other authority—

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

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

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

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

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

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

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

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

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

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

(7) No person shall be held to be guilty of a criminal offence on account of any act or omission which did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence which is severer in degree or description than the maximum penalty which might have been imposed for that offence at the time when it was committed.

(8) No person who shows that he has been tried by any competent court for a criminal offence and either convicted or acquitted shall

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

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

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

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

Protection of freedom of conscience.

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

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

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

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

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

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

section to the extent that the law in question makes provision which is reasonably required—

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

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

Protection of freedom of expression.

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

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

(*a*) which is reasonably required—

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

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

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

Protection of freedom of assembly and association.

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

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

(*a*) which is reasonably required—

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

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

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

Protection from discrimination on the grounds of race, etc.

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

(2) Subject to the provisions of 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*) with respect to persons who are not citizens of Jamaica ; or

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

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

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

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

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

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

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

Enforcement of protective provisions.

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

(2) The Supreme Court shall have original jurisdiction to hear and determine any application made by any person in pursuance of subsection (1) of this section and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing, or securing the enforcement of, any of the provisions of the said sections 14 to 24 (inclusive) to the protection of which the person concerned is entitled :

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

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

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

Interpretation of Chapter III.

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

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

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

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

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

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

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

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

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

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

(*a*) Jamaica is engaged in any war ; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER IV

THE GOVERNOR-GENERAL

Establishment of office of Governor-General.

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

Oaths to be taken by Governor-General.

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

Acting Governor-General.

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

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

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

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

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

Deputy to Governor-General.

30.—(1) Whenever the Governor-General—

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

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

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

he may, on the advice of the Prime Minister, by instrument under the Broad Seal, appoint any person in Jamaica to be his deputy during such absence or illness, and in that capacity to perform on his behalf such of the functions of the office of Governor-General as may be specified in that instrument.

(2) The power and authority of the Governor-General shall not be abridged, altered or in any way affected by the appointment of a

deputy under this section, and a deputy shall conform to and observe all instructions that the Governor-General may from time to time address to him :

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

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

Personal staff of Governor-General.

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

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

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

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

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

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

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

(5) All offices prescribed under subsection (1) of this section as offices that are to constitute the personal staff of the Governor-General shall, for the purposes of sections 40, 41, 111, 124, 129, 132, 133 and 134 of this Constitution, be deemed to be public offices.

Exercise of Governor-General's functions.

32.—(1) The Governor-General shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet in the exercise of his functions other than—

(*a*) any function which is expressed (in whatever terms) to be exercisable by him on or in accordance with the recommendation

or advice of, or with the concurrence of, or after consultation with, any person or authority other than the Cabinet; and

(*b*) any function which is expressed (in whatever terms) to be exercisable by him in his discretion.

(2) Where the Governor-General is directed to exercise any function on the recommendation of any person or authority, he shall exercise that function in accordance with such recommendation:

Provided that—

(*a*) before he acts in accordance therewith, he may, in his discretion, once refer that recommendation back for reconsideration by the person or authority concerned; and

(*b*) if that person or authority, having reconsidered the original recommendation under the preceding paragraph, substitutes therefor a different recommendation, the provisions of this subsection shall apply to that different recommendation as they apply to the original recommendation.

(3) Where the Governor-General is directed to exercise any function after consultation with any person or authority he shall not be obliged to exercise that function in accordance with the advice of that person or authority.

(4) Where the Governor-General is directed to exercise any function in accordance with the recommendation or advice of, or with the concurrence of, or after consultation with, or on the representation of, any person or authority, the question whether he has so exercised that function shall not be enquired into in any court.

(5) Where the Governor-General is directed to exercise any function on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, the following steps shall be taken:—

(*a*) the Prime Minister shall first consult the Leader of the Opposition and thereafter tender his recommendation to the Governor-General;

(*b*) the Governor-General shall then inform the Leader of the Opposition of this recommendation and if the Leader of the Opposition concurs therein the Governor-General shall act in accordance with such recommendation;

(*c*) if the Leader of the Opposition does not concur in the recommendation the Governor-General shall so inform the Prime Minister and refer the recommendation back to him;

(*d*) the Prime Minister shall then advise the Governor-General and the Governor-General shall act in accordance with that advice.

(6) Any reference in this Constitution to the functions of the Governor-General shall be construed as a reference to his powers and duties in the exercise of the executive authority of Jamaica and to any other powers and duties conferred or imposed on him as Governor-General by or under this Constitution or any other law.

Broad Seal.

33. The Governor-General shall keep and use the Broad Seal for sealing all things whatsoever that shall pass under the said Seal.

CHAPTER V

PARLIAMENT

PART I

Composition of Parliament

Establishment of Parliament.

34. There shall be a Parliament of Jamaica which shall consist of Her Majesty, a Senate and a House of Representatives.

Senate.

35.—(1) The Senate shall consist of twenty-one persons who, being qualified for appointment as Senators in accordance with this Constitution, have been so appointed in accordance with the provisions of this section.

(2) Thirteen Senators shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister, by instrument under the Broad Seal.

(3) The remaining eight Senators shall be appointed by the Governor-General, acting in accordance with the advice of the Leader of the Opposition, by instrument under the Broad Seal.

House of Representatives.

36. The House of Representatives shall consist of persons who, being qualified for election as members in accordance with the provisions of this Constitution, have been so elected in the manner provided by or under any law for the time being in force in Jamaica and who shall be known as "Members of Parliament".

Qualifications and disqualifications for electors.

37.—(1) Subject to the provisions of subsection (2) of this section, a person shall be qualified to be registered as an elector for elections to the House of Representatives if, and shall not be so qualified unless, he is—

(*a*) a citizen of Jamaica resident in Jamaica at the date of registration; or

(*b*) a Commonwealth citizen (other than a citizen of Jamaica) who is resident in Jamaica at the date of registration and who has been so resident for at least twelve months immediately preceding that date,

and has attained the prescribed age.

(2) No person shall be qualified to be registered as an elector for elections to the House of Representatives who—

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

(*b*) is disqualified for such registration by or under any law for the time being in force in Jamaica because he has been convicted of any offence connected with the election of members of the House of Representatives or of any local authority or body for local purposes; or

(*c*) is, under any law for the time being in force in Jamaica, certified to be insane or otherwise adjudged to be of unsound mind or detained as a criminal lunatic; or

(*d*) is disqualified for such registration by any law for the time being in force in Jamaica by reason of his holding, or acting in, any office the functions of which involve responsibility for, or in connection with, the election in the constituency in which such person would otherwise be entitled to vote.

(3) In this section—

"the prescribed age" means—

(*a*) the age of twenty-one years; or

(*b*) such other age being less than the age of twenty-one years but not less than the age of eighteen years that may from time to time be prescribed by a special Act; and "a special Act" means an Act of Parliament the Bill for which has been passed by both Houses and at the final vote thereon in each House has been supported by the votes of a majority of all the members of that House.

(4) A special Act may be repealed or amended by another special Act and in no other manner.

Electoral law.

38.—(1) Any law for the time being providing for the election of members of the House of Representatives shall—

(*a*) contain provisions designed to ensure that so far as is practicable any person entitled to vote at an election of members of the House of Representatives shall have a reasonable opportunity of so voting; and

(*b*) contain provisions relating to the conduct of elections of members of the House of Representatives, including provisions relating to the identification of electors, designed to ensure that as far as is practicable no person shall vote at an election of a member of the House of Representatives—

(i) who is not entitled to vote; or

(ii) when he is not entitled to vote; or

(iii) where he is not entitled to vote:

Provided that this paragraph shall not come into operation until the first day of January 1964.

(2) No election of a member of the House of Representatives shall be called in question on the ground that the law under which that election was conducted was inconsistent with this section.

Qualifications for membership of Senate and House of Representatives.

39. Subject to the provisions of section 40 of this Constitution, any person, who at the date of his appointment or nomination for election—

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

(*b*) has been ordinarily resident in Jamaica for the immediately preceding twelve months,

shall be qualified to be appointed as a Senator or elected as a member of the House of Representatives and no other person shall be so qualified.

Disqualifications for membership of Senate and House of Representatives.

40.—(1) No person shall be qualified for election as a member of the House of Representatives who—

(*a*) is a member of the Senate;

(*b*) is disqualified for election by any law for the time being in force in Jamaica by reason of his holding, or acting in, any office the functions of which involve any responsibility for, or in connection with, the conduct of any election, or any responsibility for the compilation or revision of any electoral register.

(2) No person shall be qualified to be appointed as a Senator or elected as a member of the House of Representatives who—

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

(*b*) holds or is acting in any public office or the office of Judge of the Supreme Court or Judge of the Court of Appeal or, save as is otherwise provided by Parliament, is a member of a defence force;

(*c*) is a party to, or a partner in a firm or a director or manager of a company which to his knowledge is a party to, any contract with the Government of Jamaica for or on account of the public service, and has not—

(i) in the case of appointment as a Senator, by informing the Governor-General; or

(ii) in the case of election as a member of the House of Representatives, by publishing a notice in the *Gazette* within one month before the day of election,

previously disclosed the nature of such contract and his interest or the interest of such firm or company therein;

(*d*) subject to the provisions of subsection (3) of this section, is under sentence of death imposed on him by a court in any part of the Commonwealth, or is serving a sentence of imprisonment (by whatever name called) of or exceeding six months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by a such a court or is under such a sentence of imprisonment the execution of which is suspended;

(*e*) has been adjudged or otherwise declared bankrupt under any law in force in any part of the Commonwealth and has not been discharged;

(*f*) is, under any law for the time being in force in Jamaica, certified to be insane or otherwise adjudged to be of unsound mind or detained as a criminal lunatic; or

(*g*) is disqualified for membership of the House of Representatives by or under any law for the time being in force in Jamaica because he has been convicted of any offence connected with the election of members of that House or of any local authority or body for local purposes.

(3) For the purposes of paragraph (*d*) of subsection (2) of this section—

(*a*) where a person is serving two or more sentences of imprisonment that are required to be served consecutively he shall, throughout the whole time during which he so serves, be regarded as serving a sentence of or exceeding six months if (but not unless) any one of those sentences amounts to or exceeds that term; and

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

Tenure of office of Senators and members of House of Representatives.

41.—(1) The seat of a member of either House shall become vacant—

(*a*) upon the next dissolution of Parliament after he has been appointed or elected;

(*b*) if he resigns his seat;

(*c*) if he is absent from sittings of the House for such period and in such circumstances as may be prescribed in the Standing Orders of the House;

(*d*) if he ceases to be a Commonwealth citizen or takes any oath or makes any declaration or acknowledgment of allegiance, obedience or adherence to any foreign Power or State or does, concurs in or adopts any act done with the intention that he shall become a subject or citizen of any foreign Power or State;

(*e*) if any circumstances arise that, if he were not a member of the House, would cause him to be disqualified for appointment or election as such by virtue of paragraph (*b*) or (*g*) of subsection (2) of section 40 of this Constitution;

(*f*) if he becomes a party to any contract with the Government of Jamaica for or on account of the public service:

Provided that—

(i) if in the circumstances it appears to the Senate (in the case of a Senator) or to the House of Representatives (in the case of a member of that House) to be just so to do, the Senate or the House of Representatives (as the case may be) may exempt any member from vacating his seat under the provisions of this paragraph, if that member, before becoming a party to such contract as aforesaid, discloses to the Senate or to the House of Representatives (as the case may be) the nature of such contract and his interest therein;

(ii) if proceedings are taken under section 44 of this Constitution to determine whether a Senator or a member of the House of Representatives has vacated his seat under the provisions of this paragraph he shall be declared by the court not to have vacated his seat if he establishes to the satisfaction of the court that he, acting reasonably, was not aware that he was or had become a party to such contract;

(*g*) if any firm in which he is a partner, or any company of which he is a director or manager, becomes a party to any contract with the Government of Jamaica for or on account of the public service or if he becomes a partner in a firm, or a director or manager of a company which is a party to any such contract:

Provided that—

(i) if in the circumstances it appears to the Senate (in the case of a Senator) or to the House of Representatives (in the case of a member of that House) to be just so to do, the Senate or the House of Representatives (as the case may be) may exempt any Senator or member from vacating his seat under the provisions of this paragraph if that Senator

or member, before or as soon as practicable after becoming interested in such contract (whether as a partner in a firm or as director or manager of a company), discloses to the Senate or to the House of Representatives (as the case may be) the nature of such contract and the interest of such firm or company therein;

(ii) if proceedings are taken under section 44 of this Constitution to determine whether a Senator or a member of the House of Representatives has vacated his seat under the provisions of this paragraph, he shall be declared by the court not to have vacated his seat if he establishes to the satisfaction of the court that he, acting reasonably, was not aware that the firm or company was or had become a party to such contract.

(2) The seat of a member of the House of Representatives shall become vacant if—

(*a*) he is appointed as a Senator; or

(*b*) any circumstances arise that, if he were not a member of the House of Representatives, would cause him to be disqualified for election as such by virtue of paragraph (*b*) of subsection (1) of section 40 of this Constitution.

(3) (*a*) Subject to the provisions of paragraph (*b*) of this subsection, if any member of either House is sentenced by a court in any part of the Commonwealth to death or to imprisonment (by whatever name called) for a term of or exceeding six months, he shall forthwith cease to exercise any of his functions as a member and his seat in the House shall become vacant at the expiration of a period of thirty days thereafter:

Provided that the President or the Speaker, as the case may be, may at the request of the member from time to time extend that period for further periods of thirty days to enable the member to pursue any appeal in respect of his conviction or sentence, so, however, that extensions of time exceeding in the aggregate three hundred and thirty days shall not be given without the approval, signified by resolution, of the House concerned.

(*b*) If at any time before the member vacates his seat he is granted a free pardon or his conviction is set aside or his sentence is reduced to a term of imprisonment of less than six months or a punishment other than imprisonment is substituted, his seat shall not become vacant under paragraph (*a*) of this subsection and he may resume the exercise of his functions as a member.

(*c*) For the purposes of this subsection—

(i) where a person is sentenced to two or more terms of imprisonment that are required to be served consecutively, account shall be taken only of any of those terms that amounts to or exceeds six months; and

(ii) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.

(4) (*a*) Subject to the provisions of paragraph (*b*) of this subsection, if any member of either House is adjudged or declared bankrupt, certified to be insane, adjudged to be of unsound mind or detained

as a criminal lunatic, he shall forthwith cease to exercise any of his functions as a member and his seat in the House shall become vacant at the expiration of a period of thirty days thereafter:

Provided that the President or the Speaker, as the case may be, may at the request of the member from time to time extend that period for further periods of thirty days to enable the member to pursue any appeal in respect of any such adjudication, certification or detention, so, however, that extensions of time exceeding in the aggregate one hundred and eighty days shall not be given without the approval, signified by resolution, of the House concerned.

(*b*) If at any time before the member vacates his seat any such adjudication or certification is set aside or the detention of the member as a criminal lunatic is terminated, his seat shall not become vacant under paragraph (*a*) of this subsection and he may resume the exercise of his functions as a member.

President and Deputy President of Senate.

42.—(1) When the Senate first meets after any dissolution of Parliament and before it proceeds to the despatch of any other business, it shall elect a Senator, not being a Minister or a Parliamentary Secretary, to be President; and whenever the office of President is vacant otherwise than by reason of a dissolution of Parliament, the Senate shall, not later than its second sitting after the vacancy has arisen, elect any other such Senator to fill that office.

(2) Upon the President's being elected and before he enters upon the duties of his office, he shall (unless he has already done so in accordance with the provisions of section 62 of this Constitution) make and subscribe before the Senate the oath of allegiance.

(3) When the Senate first meets after any dissolution of Parliament, it shall, as soon as practicable, elect one of its members, not being a Minister or a Parliamentary Secretary, to be Deputy President; and whenever the office of Deputy President becomes vacant, the Senate shall, as soon as convenient, elect another such member to fill that office.

(4) A person shall vacate the office of President or Deputy President—

(*a*) if he resigns that office;

(*b*) if he ceases to be a member of the Senate:

Provided that if the President or Deputy President ceases to be a member by reason of a dissolution of Parliament, he shall be deemed to continue in office for the purposes of section 47 of this Constitution until he resigns his office or vacates it otherwise than by reason of a dissolution of Parliament or until the office of President or, as the case may be, of Deputy President is filled;

(*c*) if, under the provisions of subsection (3) or subsection (4) of section 41 of this Constitution, he is required to cease to exercise any of his functions as a member of the Senate;

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

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

Speaker and Deputy Speaker of House of Representatives.

43.—(1) When the House of Representatives first meets after any dissolution of Parliament, and before it proceeds to the despatch of any other business, it shall elect one of its members, not being a Minister or a Parliamentary Secretary, to be Speaker; and whenever the office of Speaker is vacant otherwise than by reason of a dissolution of Parliament, the House of Representatives shall, not later than its second sitting after the vacancy has arisen, elect another such member to fill that office.

(2) Upon the Speaker's being elected and before he enters upon the duties of his office, he shall (unless he has already done so in accordance with the provisions of section 62 of this Constitution) make and subscribe before the House of Representatives the oath of allegiance.

(3) When the House of Representatives first meets after any dissolution of Parliament it shall, as soon as practicable, elect one of its members, not being a Minister or a Parliamentary Secretary, to be Deputy Speaker; and whenever the office of Deputy Speaker becomes vacant, the House of Representatives shall, as soon as convenient, elect another such member to fill that office.

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

(*a*) if he resigns that office;

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

Provided that if the Speaker or Deputy Speaker ceases to be a member by reason of a dissolution of Parliament, he shall be deemed to continue in office for the purposes of section 47 of this Constitution until he resigns his office or vacates it otherwise than by reason of a dissolution of Parliament or until the office of Speaker or, as the case may be, Deputy Speaker is filled;

(*c*) if, under the provisions of subsection (3) or subsection (4) of section 41 of this Constitution, he is required to cease to exercise any of his functions as a member of the House of Representatives;

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

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

Determination of questions as to membership.

44.—(1) Any question whether—

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

(*b*) any member of either House has vacated his seat therein or is required, under the provisions of subsection (3) or subsection (4) of section 41 of this Constitution, to cease to exercise any of his functions as a member.

shall be determined by the Supreme Court or, on appeal, by the Court of Appeal whose decision shall be final, in accordance with the provisions of any law for the time being in force in Jamaica and, subject to any such law, in accordance with any directions given in that behalf by the Chief Justice.

(2) Proceedings for the determination of any question referred to in subsection (1) of this section may be instituted by any person (including the Attorney-General) and, where such proceedings are instituted by a person other than the Attorney-General, the Attorney-General if he is not a party thereto may intervene and (if he intervenes) may appear or be represented therein.

Filling of vacancies.

45.—(1) (*a*) Whenever the seat of any member of the Senate becomes vacant, the Governor-General shall, by instrument under the Broad Seal, appoint to fill the vacancy a person qualified in accordance with this Constitution for appointment as a Senator.

(*b*) In making such an appointment the Governor-General shall, in any case where the member whose seat has become vacant—

(i) was appointed on the advice of the Prime Minister, act in accordance with the advice of the Prime Minister; and

(ii) was appointed on the advice of the Leader of the Opposition, act in accordance with the advice of the Leader of the Opposition.

(2) Whenever the seat of any member of the House of Representatives becomes vacant the vacancy shall be filled by election in the manner provided by or under any law for the time being in force in Jamaica.

Unqualified persons sitting or voting.

46.—(1) Any person who sits or votes in either House, knowing or having reasonable ground for knowing that he is not entitled to do so, shall be liable to a penalty of ten pounds for each day upon which he so sits or votes.

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

Clerks to Houses of Parliament and their staffs.

47.—(1) The offices of Clerk and Deputy Clerk of the Senate are hereby constituted and appointments to those offices shall be made by the Governor-General, acting on the recommendation of the President.

(2) The offices of Clerk and Deputy Clerk of the House of Representatives are hereby constituted and appointments to those offices shall be made by the Governor-General, acting on the recommendation of the Speaker.

(3) Subject to the provisions of subsection (5) of this section the Clerk shall, unless he sooner resigns his office, hold office until he attains the age of 65 years or such later age as may, in any particular case, be prescribed by the Commission appointed under subsection (7) of this section.

(4) Nothing done by the Clerk shall be invalid by reason only that he has attained the age at which he is required by this section to vacate office.

(5) The Clerk shall be removed from office by the Governor-General if, but shall not be so removed unless, the House, by a resolution which has received the affirmative vote of not less than two-thirds of all the members thereof, has resolved that he ought to be so removed for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(6) The provisions of subsections (3), (4) and (5) of this section shall apply to the Deputy Clerk as they apply to the Clerk.

(7) Subject to the provisions of subsections (3), (5), (6) and (9) of this section the terms of service (including salary and allowances) of the Clerk and Deputy Clerk shall be determined from time to time by a Commission consisting of the following persons, that is to say:—

(*a*) the Speaker, as Chairman;

(*b*) the President; and

(*c*) the Minister responsible for finance or a person nominated by that Minister to represent him at any meeting of the Commission.

(8) The salaries and allowances of the Clerk and Deputy Clerk shall be paid out of the Consolidated Fund and no such salary shall be reduced during the continuance in office of the person to whom it is payable.

(9) The offices of Clerk and Deputy Clerk shall, for the purposes of sections 40, 41, 111, 124, 129, 132, 133 and 134 of this Constitution, be deemed to be public offices.

(10) A person who is a public officer may, without ceasing to hold office in the public service, be appointed, in accordance with the provisions of this section, to the office of Clerk or Deputy Clerk but—

(*a*) no such appointment shall be made except with the concurrence of the Governor-General, acting on the recommendation of the Public Service Commission;

(*b*) the provisions of subsections (3), (5) and (6) of this section shall, in relation to an officer so appointed, apply, subject to the provisions of paragraph (*d*) of this subsection as respects his service as Clerk or Deputy Clerk but not as respects his service as a public officer;

(*c*) an officer so appointed shall not, during his continuance in the office of Clerk or Deputy Clerk, perform the functions of any public office; and

(*d*) an officer so appointed may at any time be appointed by the Governor-General, acting on the advice of the Public Service Commission, to assume or resume the functions of a public office and he shall thereupon vacate his office as Clerk or Deputy Clerk, but no appointment under this paragraph shall be made without the concurrence of the President or the Speaker, as the case may be.

(11) The Governor-General, acting on the recommendation of the Minister responsible for finance after that Minister has consulted the Clerk, may from time to time prescribe, by notice published in the *Gazette*, the offices (other than the office of Deputy Clerk) which are to constitute the staff of the Clerk and may likewise prescribe which of those offices are subordinate offices.

(12) Power to make appointments to any office for the time being prescribed under subsection (11) of this section as a subordinate office on the staff of the Clerk and to remove and to exercise disciplinary control over persons holding or acting in any such offices is hereby vested in the Clerk.

(13) Before the Public Service Commission advises the Governor-General under subsection (1) of section 125 of this Constitution—

(*a*) that any person should be appointed to any office on the staff of the Clerk (other than the office of Deputy Clerk and any subordinate office thereon);

(*b*) that any person holding or acting in any such office should be appointed to any other public office; or

(*c*) that any person holding or acting in any such office should be removed or that any penalty should be imposed on him by way of disciplinary control,

the Commission shall consult the Clerk.

(14) Nothing in this section shall be construed as preventing—

(*a*) the appointment of one person to the offices of Clerk of the Senate and Clerk of the House of Representatives; or

(*b*) the appointment of one person to the offices of Deputy Clerk of the Senate and Deputy Clerk of the House of Representatives; or

(*c*) the appointment of one person to any other office on the staff of the Clerk of the Senate and any other office on the staff of the Clerk of the House of Representatives,

and where any person is so appointed to two offices, the foregoing provisions of this section shall apply in relation to him in respect of each such office separately.

(15) The functions conferred by this section on the President shall, if there is no person holding the office of President or if the President is absent from Jamaica or is otherwise unable to perform those functions, be performed by the Deputy President and the functions conferred by this section on the Speaker shall, if there is no person holding the office of Speaker or if the Speaker is absent from Jamaica or is otherwise unable to perform those functions, be performed by the Deputy Speaker.

PART 2

Powers and Procedure of Parliament

Power to make laws.

48.—(1) Subject to the provisions of this Constitution, Parliament may make laws for the peace, order and good government of Jamaica.

(2) Without prejudice to the generality of subsection (1) and subject to the provisions of subsections (3), (4) and (5) of this section, Parliament may by law determine the privileges, immunities and powers of the two Houses and the members thereof.

(3) No civil or criminal proceedings may be instituted against any member of either House for words spoken before, or written in a report to, the House of which he is a member or to a committee thereof or to any joint committee of both Houses or by reason of any matter or thing brought by him therein by petition, bill, resolution, motion or otherwise.

(4) For the duration of any session members of both Houses shall enjoy freedom from arrest for any civil debt except a debt the contraction of which constitutes a criminal offence.

(5) No process issued by any court in the exercise of its civil jurisdiction shall be served or executed within the precincts of either House while such House is sitting or through the President or the Speaker, the Clerk or any officer of either House.

Alteration of this Constitution.

49.—(1) Subject to the provisions of this section Parliament may by Act of Parliament passed by both Houses alter any of the provisions of this Constitution or (in so far as it forms part of the law of Jamaica) any of the provisions of the Jamaica Independence Act, 1962.

(2) In so far as it alters—

(*a*) sections 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, subsection (3) of section 48, sections 66, 67, 82, 83, 84, 85, 86, 87, 88,

89, 90, 91, 94, subsections (2), (3), (4), (5), (6) or (7) of section 96, sections 97, 98, 99, subsections (3), (4), (5), (6), (7), (8) or (9) of section 100, sections 101, 103, 104, 105, subsections (3), (4), (5), (6), (7), (8) or (9) of section 106, subsections (1), (2), (4), (5), (6), (7), (8), (9) or (10) of section 111, sections 112, 113, 114, 116, 117, 118, 119, 120, subsections (2), (3), (4), (5), (6) or (7) of section 121, sections 122, 124, 125, subsection (1) of section 126, sections 127, 129, 130, 131, 135 or 136 or the Second or Third Schedule to this Constitution ; or

(*b*) section 1 of this Constitution in its application to any of the provisions specified in paragraph (*a*) of this subsection,

a Bill for an Act of Parliament under this section shall not be submitted to the Governor-General for his assent unless a period of three months has elapsed between the introduction of the Bill into the House of Representatives and the commencement of the first debate on the whole text of that Bill in that House and a further period of three months has elapsed between the conclusion of that debate and the passing of that Bill by that House.

(3) In so far as it alters—

(*a*) this section ;

(*b*) sections 2, 34, 35, 36, 39, subsection (2) of section 63, subsections (2), (3) or (5) of section 64, section 65, or subsection (1) of section 68 of this Constitution ;

(*c*) section 1 of this Constitution in its application to any of the provisions specified in paragraph (*a*) or (*b*) of this subsection ; or

(*d*) any of the provisions of the Jamaica Independence Act, 1962.

a Bill for an Act of Parliament under this section shall not be submitted to the Governor-General for his assent unless—

(i) a period of three months has elapsed between the introduction of the Bill into the House of Representatives and the commencement of the first debate on the whole text of that Bill in that House and a further period of three months has elapsed between the conclusion of that debate and the passing of that Bill by that House, and

(ii) subject to the provisions of subsection (6) of this section, the Bill, not less than two nor more than six months after its passage through both Houses, has been submitted to the electors qualified to vote for the election of members of the House of Representatives and, on a vote taken in such manner as Parliament may prescribe, the majority of the electors voting have approved the Bill.

(4) A Bill for an Act of Parliament under this section shall not be deemed to be passed in either House unless at the final vote thereon it is supported—

(*a*) in the case of a Bill which alters any of the provisions specified in subsection (2) or subsection (3) of this section by the votes of not less than two-thirds of all the members of that House, or

(*b*) in any other case by the votes of a majority of all the members of that House.

(5) If a Bill for an Act of Parliament which alters any of the provisions specified in subsection (2) of this section is passed by the House of Representatives—

(*a*) twice in the same session in the manner prescribed by subsection (2) and paragraph (*a*) of subsection (4) of this section and having been sent to the Senate on the first occasion at least seven months before the end of the session and on the second occasion at least one month before the end of the session, is rejected by the Senate on each occasion, or

(*b*) in two successive sessions (whether of the same Parliament or not) in the manner prescribed by subsection (2) and paragraph (*a*) of subsection (4) of this section and, having been sent to the Senate in each of those sessions at least one month before the end of the session, the second occasion being at least six months after the first occasion, is rejected by the Senate in each of those sessions,

that Bill may, not less than two nor more than six months after its rejection by the Senate for the second time, be submitted to the electors qualified to vote for the election of members of the House of Representatives and, if on a vote taken in such manner as Parliament may prescribe, three-fifths of the electors voting approve the Bill, the Bill may be presented to the Governor-General for assent.

(6) If a Bill for an Act of Parliament which alters any of the provisions specified in subsection (3) of this section is passed by the House of Representatives—

(*a*) twice in the same session in the manner prescribed by subsection (3) and paragraph (*a*) of subsection (4) of this section and having been sent to the Senate on the first occasion at least seven months before the end of the session and on the second occasion at least one month before the end of the session, is rejected by the Senate on each occasion, or

(*b*) in two successive sessions (whether of the same Parliament or not) in the manner prescribed by subsection (3) and paragraph (*a*) of subsection (4) of this section and, having been sent to the Senate in each of those sessions at least one month before the end of the session, the second occasion being at least six months after the first occasion, is rejected by the Senate in each of those sessions,

that Bill may, not less than two nor more than six months after its rejection by the Senate for the second time, be submitted to the electors qualified to vote for the election of members of the House of Representatives and, if on a vote taken in such manner as Parliament may prescribe, two-thirds of the electors voting approve the Bill, the Bill may be presented to the Governor-General for assent.

(7) For the purposes of subsection (5) and subsection (6) of this section a Bill shall be deemed to be rejected by the Senate if—

(*a*) it is not passed by the Senate in the manner prescribed by paragraph (*a*) of subsection (4) of this section within one month after it is sent to that House; or

(*b*) it is passed by the Senate in the manner so prescribed with any amendment which is not agreed to by the House of Representatives.

(8) For the purposes of subsection (5) and subsection (6) of this section a Bill that is sent to the Senate from the House of Representatives in any session shall be deemed to be the same Bill as the former Bill sent to the Senate in the same or in the preceding session if, when it is sent to the Senate, it is identical with the former Bill or contains only such alterations as are specified by the Speaker to be necessary owing to the time that has elapsed since the date of the former Bill or to represent any amendments which have been made by the Senate in the former Bill.

(9) In this section—

(*a*) reference to any of the provisions of this Constitution or the Jamaica Independence Act, 1962, includes references to any law that alters that provision : and

(*b*) "alter" includes amend, modify, re-enact with or without amendment or modification, make different provision in lieu of, suspend, repeal or add to.

Special Acts of Parliament.

50.—(1) An Act of Parliament to which this section refers shall not be void to the extent of any inconsistency with the provisions of sections 13 to 26 (inclusive) of this Constitution but shall, notwithstanding such inconsistency, prevail over those provisions.

(2) An Act of Parliament to which this section refers is one the Bill for which has been passed by both Houses and at the final vote thereon in each House has been supported by the votes of not less than two-thirds of all the members of that House.

Regulation of procedure in Houses of Parliament.

51.—(1) Subject to the provisions of this Constitution, each House may regulate its own procedure and for this purpose may make Standing Orders.

(2) Each House may act notwithstanding any vacancy in its membership (including any vacancy not filled when the House first meets on or after the appointed day or after any dissolution of Parliament) and the presence or participation of any person not entitled to be present at or to participate in the proceedings of the House shall not invalidate those proceedings.

Presiding in Senate and House of Representatives.

52.—(1) The President or, in his absence, the Deputy President or, if they are both absent, a member of the Senate (not being a Minister or a Parliamentary Secretary) elected by the Senate for that sitting shall preside at each sitting of the Senate.

(2) The Speaker or, in his absence, the Deputy Speaker or, if they are both absent, a member of the House of Representatives (not being a Minister or a Parliamentary Secretary) elected by the House of Representatives for that sitting shall preside at each sitting of the House of Representatives.

(3) References in this section to circumstances in which the President, Deputy President, Speaker or Deputy Speaker is absent include references to circumstances in which the office of President, Deputy President, Speaker or Deputy Speaker is vacant.

Quorum.

53.—(1) If at any time during a sitting of either House objection is taken by a member that there is not a quorum present and, after such interval as may be prescribed in the Standing Orders of that House, the person presiding ascertains that there is still not a quorum present, he shall thereupon adjourn the House.

(2) For the purposes of this section—

(*a*) a quorum of the Senate shall consist of eight members besides the person presiding; and

(*b*) a quorum of the House of Representatives shall consist of sixteen members besides the person presiding.

Voting.

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

(2) The person presiding in either House shall not vote—

(*a*) unless on any question the votes are equally divided, in which case he shall have and exercise a casting vote; or

(*b*) except in the case of the final vote on a Bill for an Act of Parliament under subsection (3) of section 37 or section 49 of this Constitution or the final vote on a Bill for an Act of Parliament to which section 50 of this Constitution refers in each of which cases he shall have an original vote.

Introduction of Bills, etc.

55.—(1) Subject to the provisions of this Constitution and of the Standing Orders of the House, any member of either House may introduce any Bill or propose any motion for debate in or may present any petition to that House, and the same shall be debated and disposed of according to the Standing Orders of that House.

(2) A Bill other than a Money Bill may be introduced in either House, but a Money Bill shall not be introduced in the Senate.

(3) Except on the recommendation of the Governor-General signified by a Minister, the House of Representatives shall not—

(*a*) proceed upon any Bill (including any amendment to a Bill) which Bill or amendment, as the case may be, in the opinion of the person presiding, makes provision for any of the following purposes, that is to say, for imposing or increasing any tax, for imposing or increasing any charge on the revenues or other funds of Jamaica or for altering any such charge otherwise than by reducing it, or for compounding or remitting any debt due to Jamaica;

(*b*) proceed upon any motion (including any amendment to a motion) the effect of which motion or amendment, as the case may be, in the opinion of the person presiding, is that provision should be made for any of the purposes aforesaid; or

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

(4) The Senate shall not—

(*a*) proceed upon any Bill, other than a Bill sent from the House of Representatives, or upon any amendment to a Bill, which Bill or amendment, as the case may be, in the opinion of the person presiding, makes provision for any of the following purposes, that is to say, for imposing or altering any existing or proposed tax, for imposing or altering any existing or proposed charge on the revenues or other funds of Jamaica, or for compounding or remitting any debt due to Jamaica;

(*b*) proceed upon any motion (including any amendment to a motion) the effect of which motion or amendment, as the case may be, in the opinion of the person presiding, is that provision should be made for any of the purposes aforesaid; or

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

Restriction on powers of Senate as to Money Bills.

56.—(1) Subject to the provisions of this Constitution, if a Money Bill, having been passed by the House of Representatives and sent to the Senate at least one month before the end of the session, is not passed by the Senate without amendment within one month after it is sent to that House, the Bill shall, unless the House of Representatives otherwise resolves, be presented to the Governor-General for his assent notwithstanding that the Senate has not consented to the Bill.

(2) There shall be endorsed on every Money Bill when it is sent to the Senate the certificate of the Speaker signed by him that it is a Money Bill; and there shall be endorsed on any Money Bill that is presented to the Governor-General for assent in pursuance of subsection (1) of this section the certificate of the Speaker signed by him that it is a Money Bill and that the provisions of that subsection have been complied with.

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

57.—(1) Subject to the provisions of this Constitution, if any Bill other than a Money Bill is passed by the House of Representatives—

(*a*) twice in the same session and, having been sent to the Senate on the first occasion at least seven months before the end of the session and on the second occasion at least one month before the end of the session, is rejected by the Senate on each occasion, or

(*b*) in two successive sessions (whether of the same Parliament or not) and, having been sent to the Senate in each of those sessions at least one month before the end of the session, the second occasion being at least six months after the first occasion, is rejected by the Senate in each of those sessions,

that Bill shall, on its rejection for the second time by the Senate, unless the House of Representatives otherwise resolves, be presented to the Governor-General for assent notwithstanding that the Senate has not consented to the Bill.

(2) For the purposes of this section a Bill that is sent to the Senate from the House of Representatives in any session shall be deemed to be the same Bill as a former Bill sent to the Senate in the same or in the preceding session if, when it is sent to the Senate, it is identical with the former Bill or contains only such alterations as are certified by the Speaker to be necessary owing to the time that has elapsed since the date of the former Bill or to represent any amendments which have been made by the Senate in the former Bill.

(3) The House of Representatives may, if it thinks fit, on the passage through that House of a Bill that is deemed to be the same Bill as a former Bill sent to the Senate in the same or in the preceding session, suggest any amendments without inserting the amendments in the Bill, and any such amendments shall be considered by the Senate, and, if agreed to by the Senate, shall be treated as amendments made by the Senate, and agreed to by the House of Representa-

tives; but the exercise of this power by the House of Representatives shall not affect the operation of this section in the event of the rejection of the Bill in the Senate.

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

(5) There shall be endorsed on any Bill that is presented to the Governor-General for assent in pursuance of this section the certificate of the Speaker signed by him that the provisions of this section have been complied with.

(6) The provisions of this section shall not apply to a Bill which is required by this Constitution to be passed by both Houses.

Provisions relating to sections 55, 56 and 57.

58.—(1) In sections 55, 56 and 57 of this Constitution, "Money Bill" means a public Bill which, in the opinion of the Speaker, contains only provisions dealing with all or any of the following matters, namely, the imposition, repeal, remission, alteration or regulation of taxation; the imposition, for the payment of debt or other financial purposes, of charges on the Consolidated Fund or any other public funds or on monies provided by Parliament, or the variation or repeal of any such charges; the grant of money to the Crown or to any authority or person, or the variation or revocation of any such grant; the appropriation, receipt, custody, investment, issue or audit of accounts of public money; the raising or guarantee of any loan or the repayment thereof, or the establishment, alteration, administration or abolition of any sinking fund provided in connection with any such loan; or subordinate matters incidental to any of the matters aforesaid; and in this subsection the expressions "taxation", "debt", "public fund", "public money" and "loan" do not include any taxation imposed, debt incurred, fund or money provided or loan raised by any local authority or body for local purposes.

(2) For the purposes of section 57 of this Constitution, a Bill shall be deemed to be rejected by the Senate if—

(*a*) it is not passed by the Senate without amendment within one month after it is sent to that House; or

(*b*) it is passed by the Senate with any amendment which is not agreed to by the House of Representatives.

(3) Where the office of Speaker is vacant or the Speaker is for any reason unable to perform any function conferred upon him by subsection (1) of this section or by section 56 or 57 of this Constitution, that function may be performed by the Deputy Speaker.

(4) Any certificate of the Speaker or Deputy Speaker given under section 56 or 57 of this Constitution shall be conclusive for all purposes and shall not be questioned in any court.

(5) Before giving any such certificate the Speaker or Deputy Speaker, as the case may be, shall, if practicable, consult the Attorney-General.

Restriction on powers of Senate as to certain statutory instruments.

59.—(1) Any statutory instrument to which this section applies and which, having been laid before the Senate—

(*a*) in any session at least seven months before the end of the session, is not approved by the Senate shall, if it is again laid

before the Senate at least one month before the end of that session, or

(*b*) in any session at least one month before the end of the session, is not approved by the Senate in that session shall, if it is again laid before the Senate at least one month before the end of the next succeeding session (whether of the same Parliament or not),

but not earlier than six months after it was laid for the first time, be deemed to have been approved by the Senate at the end of the session in which it was laid for the second time if it has not earlier been so approved.

(2) In this section "statutory instrument" means any document by which the Governor-General, the Governor of the former Colony of Jamaica, a Minister or any other executive authority has exercised a power to make, confirm or approve orders, rules, regulations or other subordinate legislation, being a power conferred by any law enacted (whether before or after the appointed day) by any legislature in Jamaica, and the statutory instruments to which this section applies are all statutory instruments in respect of which it is provided (in whatever terms) that they may not come into force until approved by the Senate.

(3) For the purposes of this section a statutory instrument that is laid before the Senate in any session shall be deemed to be the same statutory instrument as a former statutory instrument laid before the Senate, in the same or in the preceding session if, when it is laid before the Senate, it is identical with the former statutory instrument or contains only such alterations as are certified by the President to be necessary owing to the time that has elapsed since the date of the former statutory instrument.

(4) Where the office of President is vacant or the President is for any reason unable to perform the function conferred upon him by subsection (3) of this section that function may be performed by the Deputy President.

(5) Any certificate of the President or Deputy President given under subsection (3) of this section shall be conclusive for all purposes and shall not be questioned in any court.

Assent to Bills.

60.—(1) A Bill shall not become law until the Governor-General has assented thereto in Her Majesty's name and on Her Majesty's behalf and has signed it in token of such assent.

(2) Subject to the provisions of sections 37, 49, 50, 56 and 57 of this Constitution, a Bill shall be presented to the Governor-General for assent if, and shall not be so presented unless, it has been approved by both Houses of Parliament either without amendment or with such amendments only as are agreed to by both Houses.

(3) When a Bill is presented to the Governor-General for assent he shall signify that he assents or that he withholds assent.

Words of enactment.

61.—(1) In every Bill presented to the Governor-General for assent, other than a Bill for a special Act as defined in subsection (3) of section 37 of this Constitution or a Bill presented under section 49, 56 or 57 of this Constitution or a Bill for an Act to which section 50 of this Constitution refers, the words of enactment shall be as follows:—

"Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—".

(2) In every Bill for a special Act as defined in subsection (3) of section 37 of this Constitution presented to the Governor-General for assent the words of enactment shall be as follows:—

"Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Jamaica in accordance with the provisions of subsection (3) of section 37 of the Constitution of Jamaica, and by the authority of the same, as follows:—".

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

"Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Jamaica (or of the House of Representatives of Jamaica, as the case may be) in accordance with the provisions of section 49 of the Constitution of Jamaica, and by the authority of the same, as follows:—".

(4) In every Bill for an Act to which section 50 of this Constitution refers presented to the Governor-General for assent the words of enactment shall be as follows:—

"Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Jamaica in accordance with the provisions of section 50 of the Constitution of Jamaica, and by the authority of the same, as follows:—".

(5) In every Bill presented to the Governor-General for assent under sections 56 and 57 of this Constitution, the words of enactment shall be as follows:—

"Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the House of Representatives of Jamaica in accordance with the provisions of section 56 (or section 57, as the case may be) of the Constitution of Jamaica, and by the authority of the same, as follows:—".

(6) Any alteration of the words of enactment of a Bill made in consequence of the provisions of subsection (3) or subsection (5) of this section shall be deemed not to be an amendment of the Bill.

Oath of allegiance.

62. No member of either House shall take part in the proceedings thereof (other than proceedings necessary for the purpose of this section) until he has made and subscribed before that House the oath of allegiance:

Provided that the election of a President or a Speaker (as the case may be) may take place before the members of the House have made and subscribed such oath.

PART 3

Summoning, prorogation and dissolution

Sessions of Parliament.

63.—(1) Each session of Parliament shall be held at such place within Jamaica and shall commence at such time as the Governor-General may by Proclamation published in the *Gazette* appoint.

(2) Sessions shall be held at such times so that a period of six months shall not intervene between the last sitting of Parliament in one session and the first sitting thereof in the next session.

Prorogation and dissolution of Parliament.

64.—(1) The Governor-General may at any time by Proclamation published in the *Gazette* prorogue or dissolve Parliament.

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

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

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

(4) If, between a dissolution of Parliament and the next ensuing general election of members to the House of Representatives, an emergency arises of such a nature that, in the opinion of the Prime Minister, it is necessary for the two Houses or either of them to be summoned before that general election can be held, the Governor-General may, by Proclamation published in the *Gazette*, summon the two Houses of the preceding Parliament and that Parliament shall thereupon be deemed (except for the purposes of section 65 of this Constitution) not to have been dissolved but shall be deemed (except as aforesaid) to be dissolved on the date on which the polls are held in the next ensuing general election.

(5) In the exercise of his powers under this section the Governor-General shall act in accordance with the advice of the Prime Minister:

Provided that if the House of Representatives by a resolution which has received the affirmative vote of a majority of all the members thereof has resolved that it has no confidence in the Government, the Governor-General shall by Proclamation published in the *Gazette* dissolve Parliament.

General elections and appointment of Senators.

65.—(1) A general election of members of the House of Representatives shall be held at such time within three months after every dissolution of Parliament as the Governor-General, acting in accordance with the advice of the Prime Minister, shall appoint by Proclamation published in the *Gazette*.

(2) As soon as may be after every general election the Governor-General shall proceed under section 35 of this Constitution to the appointment of Senators.

PART 4

Delimitation of Constituencies

Establishment of first constituencies.

66.—(1) Until otherwise provided by an Order made by the Governor-General under section 67 of this Constitution, Jamaica shall, for the purpose of electing the members of the House of Representatives, be divided into the forty-five constituencies prescribed by the Constituencies (Boundaries) Order, 1959 made by the Governor of the former Colony of Jamaica and published in the *Gazette* of the 28th day of May, 1959.

(2) Every constituency established under this section or under section 67 of this Constitution shall return one member to the House of Representatives.

Standing Committee of House of Representatives.

67.—(1) Subject to the provisions of section 66 of this Constitution, Jamaica shall, for the purpose of election of members to the House of Representatives, be divided into such number of constituencies, being not less than forty-five nor more than sixty, as may from time to time be provided by Order made by the Governor-General under this section.

(2) As soon as practicable after the House of Representatives first meets after the appointed day or following any general election there shall be established a Standing Committee of the House consisting of—

(*a*) the Speaker, as Chairman ;

(*b*) three members of the House appointed by the Prime Minister ; and

(*c*) three members of the House appointed by the Leader of the Opposition.

(3) It shall be the function of the Standing Committee to keep under continuous review—

(*a*) the number of constituencies into which Jamaica is to be divided ; and

(*b*) the boundaries of such constituencies.

(4) Subject to the provisions of this section, the procedure of the Standing Committee shall be determined by the Standing Orders of the House of Representatives.

(5) The Standing Committee shall, in accordance with the provisions of the following subsection, submit to the House of Representatives reports either—

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

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

(6) Reports under subsection (5) of this section shall be submitted by the Standing Committee—

(*a*) in the case of its first report after the appointed day, not less than four nor more than six years from that day ; and

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

(7) Where the Standing Committee intends to consider making a report, it shall, by notice in writing, inform the Minister responsible for the conduct of elections (hereafter in this section called "the Minister") accordingly, and a copy of that notice shall be published in the *Gazette*.

(8) As soon as may be after the Standing Committee has submitted a report to the House under paragraph (*a*) of subsection (5) of this section, the Minister shall lay before the House for its approval the draft of an Order by the Governor-General for giving effect to the recommendations contained in the report and that draft may make provision for any matters which appear to the Minister to be incidental to or consequential upon the other provisions of the draft.

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

(10) If the motion for the approval of any draft made under this section is rejected by the House of Representatives, or is withdrawn by leave of that House, the Minister shall amend the draft and lay the amended draft before the House of Representatives.

(11) If any draft made under this section is approved by resolution of the House, the Minister shall submit it to the Governor-General who shall make an Order (which shall be published in the *Gazette*) in terms of the draft; and that Order shall come into force on such day as may be specified therein and, until revoked by a further Order made by the Governor-General in accordance with the provisions of this section, shall have the force of law:

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

(12) An Act of Parliament may provide for the institution of proceedings in the Supreme Court for the purpose of determining whether or not any report made under subsection (5) of this section gives effect to the provisions of this section and empower the Supreme Court, subject to an appeal to the Court of Appeal, to make whatever orders are necessary in order to ensure that effect is given to those provisions and to make orders relating to the costs of those proceedings.

(13) Subject to the provisions of any Act to which subsection (12) of this section refers, the question of the validity of any Order by the Governor-General purporting to be made under this section and reciting that a draft thereof has been approved by resolution of the House of Representatives shall not be enquired into in any court.

CHAPTER VI

EXECUTIVE POWERS

Executive authority of Jamaica.

68.—(1) The executive authority of Jamaica is vested in Her Majesty.

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

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

Cabinet.

69.—(1) There shall be in and for Jamaica a Cabinet which shall consist of the Prime Minister and not less than eleven other Ministers appointed in accordance with the provisions of section 70 of this Constitution.

(2) The Cabinet shall be the principal instrument of policy and shall be charged with the general direction and control of the Government of Jamaica and shall be collectively responsible therefor to Parliament.

Appointment of Ministers.

70.—(1) Whenever the Governor-General has occasion to appoint a Prime Minister he, acting in his discretion, shall appoint the member of the House of Representatives who, in his judgment, is best able to command the confidence of a majority of the members of that House and shall, acting in accordance with the advice of the Prime Minister, appoint the other Ministers from among the members of the two Houses.

(2) Not less than two nor more than three of the Ministers shall be persons who are members of the Senate.

(3) If occasion arises for making an appointment while Parliament is dissolved, a person who was a member of the House of Representatives immediately before the dissolution may be appointed Prime Minister and a person who was a member of either House immediately before the dissolution may, subject to the provisions of subsection (2) of this section, be appointed as any other Minister as if, in each case, such person were still a member of the House in question, but any person so appointed shall vacate office at the beginning of the next session of that House if he is not then a member thereof.

(4) Appointments under this section shall be made by instrument under the Broad Seal.

Tenure of office of Ministers.

71.—(1) The office of Prime Minister shall become vacant—

(*a*) if he resigns his office;

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

(*c*) if, under the provisions of subsection (3) or subsection (4) of section 41 of this Constitution, he is required to cease to exercise any of his functions as a member of the House of Representatives;

(*d*) when, after any dissolution of Parliament, the Prime Minister is informed by the Governor-General, acting in his discretion, that the Governor-General is about to re-appoint him as Prime Minister or appoint another person as Prime Minister; or

(*e*) if the Governor-General revokes his appointment in accordance with the provisions of subsection (2) of this section.

(2) If the House of Representatives by a resolution which has received the affirmative vote of a majority of all the members thereof has resolved that the appointment of the Prime Minister ought to be revoked, the Governor-General shall, subject to the provisions of subsection (3) of this section, by instrument under the Broad Seal, revoke his appointment.

(3) If the House of Representatives has passed a resolution as provided by subsection (2) of this section that the appointment of the Prime Minister ought to be revoked, the Governor-General shall consult with the Prime Minister and, if the Prime Minister within three days so requests, the Governor-General shall dissolve Parliament instead of revoking the appointment.

(4) The office of a Minister, other than the office of Prime Minister, shall become vacant—

(*a*) upon the appointment or re-appointment of any person to the office of Prime Minister;

(*b*) if his appointment to his office is revoked by the Governor-General, acting in accordance with the advice of the Prime Minister, by instrument under the Broad Seal;

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

(*d*) if, under the provisions of subsection (3) or subsection (4) of section 41 of this Constitution, he is required to cease to exercise any of his functions as a member of either House; or

(*e*) if he resigns his office.

Performance of Prime Minister's functions in certain events.

72.—(1) Whenever the Prime Minister is unable, by reason of his illness or absence from Jamaica, to perform the functions of his office, the Governor-General may, by instrument under the Broad Seal, authorise any other Minister who is a member of the House of Representatives to perform the functions conferred on the Prime Minister by this Constitution (other than the functions conferred on him by subsection (3) of this section).

(2) The Governor-General may, by instrument under the Broad Seal, revoke any authority given under this section.

(3) The power conferred on the Governor-General by this section shall be exercised by him acting in his discretion if in his opinion it is impracticable to obtain the advice of the Prime Minister owing to the Prime Minister's illness or absence, and in any other case shall be exercised by the Governor-General in accordance with the advice of the Prime Minister.

Temporary Ministers.

73.—(1) Whenever a Minister other than the Prime Minister is unable, by reason of his illness or absence from Jamaica, to perform the functions of his office, the Governor-General may, by instrument under the Broad Seal, appoint a person who is a member of the same House as that Minister to be a temporary Minister:

Provided that if occasion arises for making an appointment while Parliament is dissolved, a person who, immediately before the dissolution, was a member of the same House as the aforesaid Minister, may

be appointed as a temporary Minister as if he were still a member of that House but any person so appointed shall vacate office at the beginning of the next session of that House if he is not then a member thereof.

(2) Subject to the provisions of section 71 of this Constitution a temporary Minister shall hold office until he is notified by the Governor-General, by instrument under the Broad Seal, that the Minister on account of whose inability to perform the functions of his office he was appointed is again able to perform those functions or until that Minister vacates his office.

(3) The powers conferred on the Governor-General by this section shall be exercised by him in accordance with the advice of the Prime Minister.

Oaths.

74. The Prime Minister and every other Minister shall, before entering upon the duties of his office, make before the Governor-General the oath of allegiance and the appropriate oath for the due execution of his office in the forms set out in the First Schedule to this Constitution.

Presiding in Cabinet.

75. The Prime Minister shall, so far as is practicable, attend and preside at all meetings of the Cabinet and in his absence such other Minister shall preside as the Prime Minister shall appoint.

Governor-General to be informed concerning matters of government.

76. The Prime Minister shall keep the Governor-General fully informed concerning the general conduct of the government of Jamaica and shall furnish the Governor-General with such information as he may request with respect to any particular matter relating to the government of Jamaica.

Assignment of responsibilities to Ministers.

77.—(1) Subject to the provisions of this Constitution, the Governor-General, acting in accordance with the advice of the Prime Minister, may, by directions in writing, charge any Minister who is a member of the House of Representatives with the responsibility for any subject or any department of government.

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

(3) With the approval of the House of Representatives signified by a resolution directions in writing made under subsection (1) of this section may be given retroactive effect.

Parliamentary Secretaries.

78.—(1) The Governor-General, acting in accordance with the advice of the Prime Minister, may, by instrument under the Broad Seal, appoint Parliamentary Secretaries from among the members of the two Houses to assist Ministers in the discharge of their functions.

(2) The number of Parliamentary Secretaries appointed from the members of the Senate shall not at any time exceed three.

(3) If occasion arises for making an appointment to the office of Parliamentary Secretary while Parliament is dissolved, a person who was a member of either House of the last Parliament may, subject to the provisions of subsection (2) of this section, be appointed as

if he were still a member of that House but any person so appointed shall vacate office at the beginning of the next session of that House if he is not then a member thereof.

(4) The provisions of subsection (4) of section 71 and section 74 of this Constitution shall apply to Parliamentary Secretaries as they apply to Ministers.

Attorney-General.

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

(2) Power to appoint a person to hold or act in the office of Attorney-General and to remove from that office a person holding or acting in it shall, subject to subsection (4) of this section, be exercised by the Governor-General acting in accordance with the advice of the Prime Minister.

(3) Any person appointed to hold or act in the office of Attorney-General in pursuance of subsection (2) of this section shall not, except in accordance with the provisions of section 70 of this Constitution, be appointed a Minister.

(4) Until an appointment of a person to hold or act in the office of Attorney-General is first made under the provisions of subsection (2) of this section, it shall be a public office and a person shall not be qualified to hold or act in that office unless he is qualified for appointment as a Judge of the Supreme Court.

(5) On the occasion of the first appointment of a person to hold or act in the office of Attorney-General under the provisions of subsection (2) of this section, the office of Attorney-General as a public office shall be deemed to have been abolished.

Leader of the Opposition.

80.—(1) There shall be a Leader of the Opposition who shall be appointed by the Governor-General by instrument under the Broad Seal.

(2) Whenever the Governor-General has occasion to appoint a Leader of the Opposition he shall, in his discretion, appoint the member of the House of Representatives who, in his judgment, is best able to command the support of a majority of those members who do not support the Government, or, if there is no such person, the member of that House who, in his judgment, commands the support of the largest single group of such members who are prepared to support one leader.

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

(*a*) if he resigns his office;

(*b*) if, after any dissolution of Parliament, he is informed by the Governor-General acting in his discretion that the Governor-General is about to appoint another person as Leader of the Opposition;

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

(*d*) if, under the provisions of subsection (3) or subsection (4) of section 41 of this Constitution, he is required to cease to exercise any of his functions as a member of the House of Representatives; or

(*e*) if his appointment is revoked under the provisions of subsection (5) of this section.

(4) If occasion arises for making an appointment while Parliament is dissolved, a person who was a member of the House of Representatives immediately before the dissolution may be appointed Leader of the Opposition as if such person were still a member of that House but the person so appointed shall vacate office at the beginning of the next session of that House if he is not a member thereof.

(5) If, in the judgment of the Governor-General, the Leader of the Opposition no longer is able to command the support of a majority of those members of the House of Representatives who do not support the Government, or, as the case may be, the support of the largest single group of such members who are prepared to support one leader, the Governor-General, acting in his discretion, shall revoke the appointment of the Leader of the Opposition.

Certain vacancies in office of Leader of Opposition.

81. During any period in which there is a vacancy in the office of Leader of the Opposition by reason of the fact that no person is both qualified in accordance with this Constitution for, and willing to accept, appointment to that office, the Governor-General shall act in accordance with the advice of the Prime Minister on any matter in respect of which it is provided in this Constitution either—

(*a*) that the Governor-General shall act on the advice of the Leader of the Opposition, or

(*b*) that the Governor-General shall act on the recommendation of the Prime Minister after consultation with the Leader of the Opposition.

Privy Council.

82.—(1) There shall be in and for Jamaica a Privy Council which shall consist of six members appointed by the Governor-General, after consultation with the Prime Minister, by instrument under the Broad Seal.

(2) At least two of the members of the Privy Council shall be persons who hold or have held public office.

(3) The Privy Council shall have such powers and duties as may be conferred or imposed upon it by or under this Constitution or any other law.

Tenure of office of members of Privy Council.

83.—(1) The seat of a member of the Privy Council shall become vacant—

(*a*) at the expiration of three years from the date of his appointment or such earlier time as may be specified in the instrument by which he was appointed;

(*b*) if he resigns his seat; or

(*c*) if his appointment is revoked by the Governor-General, acting after consultation with the Prime Minister, by instrument under the Broad Seal.

(2) If any person is appointed to be a provisional member of the Privy Council under section 85 of this Constitution and his tenure of his seat as a provisional member is immediately followed by his substantive appointment as a member under this section, the period of three years referred to in paragraph (*a*) of subsection (1) of this section shall be reckoned from the date of the instrument by which he was appointed a provisional member.

Incapacity of member of Privy Council.

84. The Governor-General, acting after consultation with the Prime Minister, may, by instrument under the Broad Seal, declare that a member of the Privy Council is, by reason of absence or infirmity of body or mind, temporarily unable to discharge his functions as a member of the Council, and thereupon that member shall not take part in the proceedings of the Council until he is declared in like manner to be again able to discharge those functions.

Provisional appointments to Privy Council.

85.—(1) Whenever a member of the Privy Council has, under section 84 of this Constitution, been declared to be temporarily unable to discharge his functions as a member, the Governor-General, acting after consultation with the Prime Minister, may, by instrument under the Broad Seal, appoint a person to be a provisional member in place of that member during the period until that member is declared under section 84 of this Constitution to be again able to discharge those functions or vacates his seat.

(2) Subject to the provisions of subsection (1) of this section, the provisions of subsection (1) of section 83 of this Constitution shall apply in relation to a provisional member of the Privy Council as they apply in relation to a substantive member.

Senior Member of Privy Council.

86.—(1) The Governor-General, after consultation with the Prime Minister, shall appoint one of the members of the Privy Council to be the Senior Member thereof.

(2) If on any question the votes of the members of the Privy Council are equally divided the Senior Member shall have and exercise a casting vote in addition to his original vote.

(3) The Senior Member shall preside over any meeting of the Privy Council at which the Governor-General is not present.

(4) If at any meeting of the Privy Council the Senior Member is absent, the members present shall elect one of their number to exercise the powers and to perform the duties of the Senior Member at that meeting.

Attendance of Governor-General.

87. The Governor-General shall, so far as is practicable, attend and preside at all meetings of the Privy Council.

Summoning of Privy Council and procedure.

88.—(1) The Privy Council shall not be summoned to meet except by the authority of the Governor-General acting in his discretion.

(2) If, during any meeting of the Privy Council, the Governor-General or member presiding observes, upon objection in that behalf being taken by any member present, that there are present less than three members besides the Governor-General or member presiding, he shall thereupon adjourn the meeting.

(3) Subject to the provisions of this Constitution, the Privy Council may regulate its own procedure.

Validity of proceedings of Privy Council.

89. The Privy Council shall not be disqualified for the transaction of business by reason only of any vacancy among its members (including any vacancy not filled when it is first constituted or is reconstituted at any time), and any proceeding therein shall be valid notwithstanding that some person who was not entitled so to do took part therein.

Prerogative of mercy.

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

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

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

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

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

(2) In the exercise of the powers conferred on him by this section the Governor-General shall act on the recommendation of the Privy Council.

Pardon in capital cases.

91.—(1) Where any person has been sentenced to death for an offence against the law of Jamaica, the Governor-General shall cause a written report of the case from the trial judge, together with such other information derived from the record of the case or elsewhere as the Governor-General may require, to be forwarded to the Privy Council so that the Privy Council may advise him in accordance with the provisions of section 90 of this Constitution.

(2) The power of requiring information conferred on the Governor-General by subsection (1) of this section shall be exercised by him on the recommendation of the Privy Council or, in any case in which in his judgment the matter is too urgent to admit of such recommendation being obtained by the time within which it may be necessary for him to act, in his discretion.

Secretary to the Cabinet.

92.—(1) There shall be a Secretary to the Cabinet who shall be appointed by the Governor-General, acting on the recommendation of the Prime Minister, from a list of public officers submitted by the Public Service Commission.

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

Permanent Secretaries.

93.—(1) Where any Minister has been charged with the responsibility for a subject or department of government, he shall exercise general direction and control over the work relating to that subject and over that department; and, subject as aforesaid and to such direction and control, the aforesaid work and the department shall be under the supervision of a Permanent Secretary appointed in accordance with the provisions of section 126 of this Constitution.

(2) A person may be a Permanent Secretary in respect of more than one department of government.

(3) The office of Financial Secretary is hereby constituted and, for the purposes of this section, he shall be deemed to be a Permanent Secretary.

Establishment of office and functions of Director of Public Prosecutions.

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

(2) A person shall not be qualified to hold or act in the office of Director of Public Prosecutions unless he is qualified for appointment as a Judge of the Supreme Court.

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

(*a*) to institute and undertake criminal proceedings against any person before any court other than a court-martial in respect of any offence against the law of Jamaica;

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

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

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

(5) The powers conferred upon the Director of Public Prosecutions by paragraphs (*b*) and (*c*) of subsection (3) of this section shall be vested in him to the exclusion of any other person or authority:

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

(6) In the exercise of the powers conferred upon him by this section the Director of Public Prosecutions shall not be subject to the direction or control of any other person or authority.

(7) For the purposes of this section, any appeal from any determination in any criminal proceedings before any court, or any case stated or question of law reserved for the purposes of any such proceedings, to any other court in Jamaica or to the Judicial Committee of Her Majesty's Privy Council shall be deemed to be part of those proceedings.

Remuneration of Director of Public Prosecutions.

95.—(1) The Director of Public Prosecutions shall receive such emoluments and be subject to such other terms and conditions of service as may from time to time be prescribed by or under any law:

Provided that the emoluments and terms and conditions of service of the Director of Public Prosecutions, other than allowances that are not taken into account in computing pensions, shall not be altered to his disadvantage during his continuance in office.

(2) The salary for the time being payable to the Director of Public Prosecutions under this Constitution shall be charged on and paid out of the Consolidated Fund.

Tenure of office of Director of Public Prosecutions and Acting Director of Public Prosecutions.

96.—(1) Subject to the provisions of subsections (4) to (7) (inclusive) of this section the Director of Public Prosecutions shall hold office until he attains the age of sixty years:

Provided that—

(*a*) he may at any time resign his office; and

(*b*) the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, may permit a Director of Public Prosecutions who has attained the age of sixty years to continue in office until he has attained such later age, not exceeding sixty-five years, as may (before the Director of Public Prosecutions has attained the age of sixty years) have been agreed between them.

(2) Nothing done by the Director of Public Prosecutions shall be invalid by reason only that he has attained the age at which he is required by this section to vacate his office.

(3) If the office of Director of Public Prosecutions is vacant or the holder of that office is for any reason unable to perform the functions thereof, a person qualified for appointment to that office may be appointed to act therein, and any person so appointed shall, subject to the provisions of subsection (1) of this section, continue to act until the office of Director of Public Prosecutions is filled or, as the case may be, until the Director of Public Prosecutions has resumed the functions of his office or the appointment of that person is revoked by the Governor-General acting on the advice of the Public Service Commission.

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

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

(6) If the Prime Minister represents to the Governor-General that the question of removing the Director of Public Prosecutions from office for inability as aforesaid or for misbehaviour ought to be investigated then—

(*a*) the Governor-General, acting in accordance with the advice of the Prime Minister, shall appoint a tribunal, which shall consist of a chairman and not less than two other members, from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; and

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

(7) The provisions of the Commissions of Enquiry Law(a) as in force immediately before the appointed day shall, subject to the provisions of this section and of the Third Schedule to this Constitution, apply as nearly as may be in relation to tribunals appointed under subsection (6) of this section or, as the context may require,

(a) Laws of Jamaica, 1953, c. 68.

to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Law, and for that purpose shall have effect as if they formed part of this Constitution.

(8) If the question of removing the Director of Public Prosecutions from office has been referred to a tribunal under subsection (6) of this section, the Governor-General, acting in accordance with the advice of the Prime Minister, may suspend the Director of Public Prosecutions from performing the functions of his office, and any such suspension may at any time be revoked by the Governor-General, acting in accordance with the advice of the Prime Minister, and shall in any case cease to have effect if the tribunal recommends to the Governor-General that the Director of Public Prosecutions should not be removed from office.

CHAPTER VII

THE JUDICATURE

PART 1

The Supreme Court

Establishment of Supreme Court.

97.—(1) There shall be a Supreme Court for Jamaica which shall have such jurisdiction and powers as may be conferred upon it by this Constitution or any other law.

(2) The Judges of the Supreme Court shall be the Chief Justice, a Senior Puisne Judge and such number of other Puisne Judges as may be prescribed by Parliament.

(3) No office of Judge of the Supreme Court shall be abolished while there is a substantive holder thereof.

(4) The Supreme Court shall be a superior court of record and, save as otherwise provided by Parliament, shall have all the powers of such a court.

Appointment of Judges of Supreme Court.

98.—(1) The Chief Justice shall be appointed by the Governor-General by instrument under the Broad Seal on the recommendation of the Prime Minister after consultation with the Leader of the Opposition.

(2) The Puisne Judges shall be appointed by the Governor-General by instrument under the Broad Seal acting on the advice of the Judicial Service Commission.

(3) The qualifications for appointment as a Judge of the Supreme Court shall be such as may be prescribed by any law for the time being in force.

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

Acting Judges.

99.—(1) If the office of Chief Justice is vacant or if the Chief Justice is for any reason unable to perform the functions of his office, then, until a person has been appointed to that office and assumed its functions or, as the case may be, until the Chief Justice has resumed those functions, they shall be performed by such other person, qualified under subsection (3) of section 98 of this Constitution for appointment as a Judge, as the Governor-General, acting in

accordance with the advice of the Prime Minister, may appoint for that purpose by instrument under the Broad Seal.

(2) If the office of a Puisne Judge of the Supreme Court is vacant, or if any such Judge is appointed to act as Chief Justice or as a Judge of the Court of Appeal, or is for any reason unable to perform the functions of his office, the Governor-General, acting on the advice of the Judicial Service Commission, may by instrument under the Broad Seal appoint a person qualified under subsection (3) of section 98 of this Constitution for appointment as a Judge to act as a Judge of the Supreme Court, and any person so appointed shall, subject to the provisions of subsection (3) of section 100 of this Constitution, continue to act for the period of his appointment or, if no such period is specified, until his appointment is revoked by the Governor-General acting on the advice of the Judicial Service Commission:

Provided that he may, at any time, resign his acting office.

(3) Any person appointed to act as a Judge under the provisions of this section may, notwithstanding that the period of his appointment has expired or his appointment has been revoked, sit as a Judge for the purpose of delivering judgment or doing any other thing in relation to proceedings which were commenced before him while he was so acting.

Tenure of office of Judges of Supreme Court.

100.—(1) Subject to the provisions of subsections (4) to (7) (inclusive) of this section, a Judge of the Supreme Court shall hold office until he attains the age of sixty-five years:

Provided that—

(*a*) he may at any time resign his office; and

(*b*) the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, may permit a Judge who attains the age of sixty-five years to continue in office until he has attained such later age, not exceeding sixty-seven years, as may (before the Judge has attained the age of sixty-five years) have been agreed between them.

(2) Notwithstanding that he has attained the age at which he is required by or under the provisions of this section to vacate his office a person holding the office of Judge of the Supreme Court may, with the permission of the Governor-General, acting in accordance with the advice of the Prime Minister, continue in office for such period after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

(3) Nothing done by a Judge of the Supreme Court shall be invalid by reason only that he has attained the age at which he is required by this section to vacate his office.

(4) A Judge of the Supreme Court may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and shall not be so removed except in accordance with the provisions of subsection (5) of this section.

(5) A Judge of the Supreme Court shall be removed from office by the Governor-General by instrument under the Broad Seal if the question of the removal of that Judge from office has, at the request

of the Governor-General, made in pursuance of subsection (6) of this section, been referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under section 4 of the Judicial Committee Act, 1833(a) or any other enactment enabling Her Majesty in that behalf, and the Judicial Committee has advised Her Majesty that the Judge ought to be removed from office for inability as aforesaid or for misbehaviour.

(6) If the Prime Minister (in the case of the Chief Justice) or the Chief Justice after consultation with the Prime Minister (in the case of any other Judge) represents to the Governor-General that the question of removing a Judge of the Supreme Court from office for inability as aforesaid or for misbehaviour ought to be investigated, then—

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

(*b*) that tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to the Governor-General whether he should request that the question of the removal of that Judge should be referred by Her Majesty to the Judicial Committee; and

(*c*) if the tribunal so recommends, the Governor-General shall request that the question should be referred accordingly.

(7) The provisions of the Commissions of Enquiry Law(b) as in force immediately before the appointed day shall, subject to the provisions of this section and of the Third Schedule to this Constitution, apply as nearly as may be in relation to tribunals appointed under subsection (6) of this section or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Law, and for that purpose shall have effect as if they formed part of this Constitution.

(8) If the question of removing a Judge of the Supreme Court from office has been referred to a tribunal appointed under subsection (6) of this section, the Governor-General, acting in accordance with the advice of the Prime Minister (in the case of the Chief Justice) or of the Chief Justice after the Chief Justice has consulted with the Prime Minister (in the case of any other Judge), may suspend the Judge from performing the functions of his office.

(9) Any such suspension may at any time be revoked by the Governor-General, acting in accordance with the advice of the Prime Minister or the Chief Justice (as the case may be), and shall in any case cease to have effect—

(*a*) if the tribunal recommends to the Governer-General that he should not request that the question of the removal of the Judge from office should be referred by Her Majesty to the Judicial Committee; or

(a) 3 & 4 Will. 4. c. 41. (b) Laws of Jamaica, 1953, c. 68.

(*b*) the Judicial Committee advises Her Majesty that the Judge ought not to be removed from office.

(10) The provisions of this section shall be without prejudice to the provisions of subsection (2) of section 99 of this Constitution.

Remuneration of Judges of Supreme Court.

101.—(1) The Judges of the Supreme Court shall receive such emoluments and be subject to such other terms and conditions of service as may from time to time be prescribed by or under any law:

Provided that the emoluments and terms and conditions of service of such a Judge, other than allowances that are not taken into account in computing pensions, shall not be altered to his disadvantage during his continuance in office.

(2) The salaries for the time being payable to the Judges of the Supreme Court under this Constitution shall be charged on and paid out of the Consolidated Fund.

Oaths to be taken by Judges of Supreme Court.

102. A Judge of the Supreme Court shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and the judicial oath in the forms set out in the First Schedule to this Constitution.

PART 2

Court of Appeal

Establishment of Court of Appeal.

103.—(1) There shall be a Court of Appeal for Jamaica which shall have such jurisdiction and powers as may be conferred upon it by this Constitution or any other law.

(2) The Judges of the Court of Appeal shall be—

(*a*) a President;

(*b*) the Chief Justice by virtue of his office as head of the Judiciary but who, however, shall not sit in the Court of Appeal unless there are at least four other Judges sitting and unless he has been invited so to sit by the President of the Court;

(*c*) three other Judges; and

(*d*) such number, if any, of other Judges as may be prescribed by Parliament.

(3) The President of the Court of Appeal shall be responsible for the arrangement of the work of the Court and shall preside whenever he is sitting in that Court.

(4) No office of Judge of the Court of Appeal shall be abolished while there is a substantive holder thereof.

(5) The Court of Appeal shall be a superior court of record and, save as otherwise provided by Parliament, shall have all the powers of such a court.

Appointment of Judges of Court of Appeal.

104.—(1) The President of the Court of Appeal shall be appointed by the Governor-General by instrument under the Broad Seal on the recommendation of the Prime Minister after consultation with the Leader of the Opposition.

(2) The other Judges of the Court of Appeal shall be appointed by the Governor-General by instrument under the Broad Seal acting on the advice of the Judicial Service Commission.

(3) The qualifications for appointment as a Judge of the Court of Appeal shall be such as may be prescribed by any law for the time being in force:

Provided that a person who has been appointed as a Judge of the Court of Appeal may continue in office notwithstanding any subsequent variations in the qualifications so prescribed.

Acting Judges of Court of Appeal.

105.—(1) If the office of President of the Court of Appeal is vacant or if the President of the Court of Appeal is for any reason unable to perform the functions of his office, then, until a person has been appointed to that office and assumed its functions or, as the case may be, until the President of the Court of Appeal has resumed those functions, they shall be performed by such other person, qualified under subsection (3) of section 104 of this Constitution for appointment as a Judge of the Court of Appeal, as the Governor-General, acting in accordance with the advice of the Prime Minister, may appoint for that purpose by instrument under the Broad Seal.

(2) If the office of a Judge of the Court of Appeal (other than the President) is vacant, or if any such Judge is appointed to act as President of the Court of Appeal, or is for any reason unable to perform the functions of his office, the Governor-General, acting on the advice of the Judicial Service Commission, may by instrument under the Broad Seal appoint a person qualified under subsection (3) of section 104 of this Constitution for appointment as a Judge of the Court of Appeal to act as a Judge of the Court of Appeal, and any person so appointed shall, subject to the provisions of subsection (3) of section 106 of this Constitution, continue to act for the period of his appointment or, if no such period is specified, until his appointment is revoked by the Governor-General acting on the advice of the Judicial Service Commission.

(3) Any person appointed to act as a Judge of the Court of Appeal under the provisions of this section may, notwithstanding that the period of his appointment has expired or his appointment has been revoked, sit as a Judge for the purpose of delivering judgment or doing any other thing in relation to proceedings which were commenced before him while he was so acting.

Tenure of office of Judges of Court of Appeal.

106.—(1) Subject to the provisions of subsections (4) to (7) (inclusive) of this section, a Judge of the Court of Appeal shall hold office until he attains the age of sixty-five years:

Provided that—

(*a*) he may at any time resign his office; and

(*b*) the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, may permit a Judge who attains the age of sixty-five years to continue in office until he has attained such later age, not exceeding sixty-seven years, as may (before the Judge has attained the age of sixty-five years) have been agreed between them.

(2) Notwithstanding that he has attained the age at which he is required by or under the provisions of this section to vacate his office, a person holding the office of Judge of the Court of Appeal may, with the permission of the Governor-General, acting in accordance with the advice of the Prime Minister, continue in office for such period after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

(3) Nothing done by a Judge of the Court of Appeal shall be invalid by reason only that he has attained the age at which he is required by this section to vacate his office.

(4) A Judge of the Court of Appeal may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and shall not be so removed except in accordance with the provisions of subsection (5) of this section.

(5) A Judge of the Court of Appeal shall be removed from office by the Governor-General by instrument under the Broad Seal if the question of the removal of that Judge from office has, at the request of the Governor-General made in pursuance of subsection (6) of this section, been referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under section 4 of the Judicial Committee Act, 1833, or any other enactment enabling Her Majesty in that behalf, and the Judicial Committee has advised Her Majesty that the Judge ought to be removed from office for inability as aforesaid or for misbehaviour.

(6) If the Prime Minister (in the case of the President of the Court of Appeal) or the President of the Court of Appeal after consultation with the Prime Minister (in the case of any other Judge) represents to the Governor-General that the question of removing a Judge of the Court of Appeal from office for inability as aforesaid or for misbehaviour ought to be investigated, then—

(*a*) the Governor-General shall appoint a tribunal, which shall consist of a Chairman and not less than two other members, selected by the Governor-General on the advice of the Prime Minister (in the case of the President of the Court of Appeal) or of the President of the Court of Appeal (in the case of any other Judge) from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court;

(*b*) that tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to the Governor-General whether he should request that the question of the removal of that Judge should be referred by Her Majesty to the Judicial Committee; and

(*c*) if the tribunal so recommends, the Governor-General shall request that the question should be referred accordingly.

(7) The provisions of the Commissions of Enquiry Law(a) as in force immediately before the appointed day shall, subject to the provisions of this section and of the Third Schedule to this Constitution, apply as nearly as may be in relation to tribunals appointed under subsection (6) of this section or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Law, and for that purpose shall have effect as if they formed part of this Constitution.

(8) If the question of removing a Judge of the Court of Appeal from office has been referred to a tribunal appointed under subsection (6) of this section, the Governor-General acting in accordance with the advice of the Prime Minister (in the case of the President of the Court of Appeal) or of the President of the Court of Appeal after the President of the Court of Appeal has consulted with the

(a) Laws of Jamaica, 1953, c. 68.

Prime Minister (in the case of any other Judge), may suspend the Judge from performing the functions of his office.

(9) Any such suspension may at any time be revoked by the Governor-General, acting in accordance with the advice of the Prime Minister or the President of the Court of Appeal (as the case may be), and shall in any case cease to have effect if—

(*a*) the tribunal recommends to the Governor-General that he should not request that the question of the removal of the Judge from office should be referred by Her Majesty to the Judicial Committee; or

(*b*) the Judicial Committee advises Her Majesty that the Judge ought not to be removed from office.

(10) The provisions of this section shall be without prejudice to the provisions of subsection (2) of section 105 of this Constitution.

(11) The provisions of this section and of sections 107 and 108 of this Constitution shall not apply to the Chief Justice.

Remuneration of Judges of Court of Appeal.

107.—(1) The Judges of the Court of Appeal shall receive such emoluments and be subject to such other terms and conditions of service as may from time to time be prescribed by or under any law:

Provided that the emoluments and terms and conditions of service of such a Judge, other than allowances that are not taken into account in computing pensions, shall not be altered to his disadvantage during his continuance in office.

(2) The salaries for the time being payable to the Judges of the Court of Appeal under this Constitution shall be charged on and paid out of the Consolidated Fund.

Oaths to be taken by Judges of Court of Appeal.

108. A Judge of the Court of Appeal shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and the judicial oath in the forms set out in the First Schedule to this Constitution.

Number of Judges.

109. The Court of Appeal shall, when determining any matter other than an interlocutory matter, be composed of an uneven number of Judges, not being less than three.

PART 3

Appeals to Her Majesty in Council

Appeals from Court of Appeal to Her Majesty in Council.

110.—(1) An appeal shall lie from decisions of the Court of Appeal to Her Majesty in Council as of right in the following cases—

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

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

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

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

(2) An appeal shall lie from decisions of the Court of Appeal to Her Majesty in Council with the leave of the Court of Appeal in the following cases—

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

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

(3) Nothing in this section shall affect any right of Her Majesty to grant special leave to appeal from decisions of the Court of Appeal to Her Majesty in Council in any civil or criminal matter.

(4) The provisions of this section shall be subject to the provisions of subsection (1) of section 44 of this Constitution.

(5) A decision of the Court of Appeal such as is referred to in this section means a decision of that Court on appeal from a court of Jamaica.

PART 4

Judicial Service Commission

Composition of Judicial Service Commission.

111.—(1) There shall be a Judicial Service Commission for Jamaica.

(2) The members of the Judicial Service Commission shall be—

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

(*b*) the President of the Court of Appeal;

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

(*d*) three other members (hereinafter called "the appointed members") appointed in accordance with the provisions of subsection (3) of this section.

(3) The appointed members shall be appointed by the Governor-General, by instrument under the Broad Seal, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition—

(*a*) one from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court;

(*b*) one from a list of three persons, none of whom is in active practice as a barrister or as a solicitor, submitted by the Bar Council; and

(*c*) one from a list of three persons, none of whom is in active practice as a barrister or as a solicitor, submitted by the Council of the Law Society:

Provided that no person shall be appointed under this subsection who holds or who is acting in any public office other than the office of member of the Public Service Commission or member of the Police Service Commission.

(4) The office of an appointed member of the Judicial Service Commission shall become vacant—

(*a*) at the expiration of three years from the date of his appointment or at such earlier time as may be specified in the instrument by which he was appointed;

(*b*) if he resigns his office;

(*c*) if he is appointed to the office of President of the Court of Appeal, Chief Justice, Chairman of the Public Service Commission or to any public office except the office of member of the Public Service Commission or member of the Police Service Commission;

(*d*) if the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, directs that he shall be removed from office for inability to discharge the functions thereof (whether arising from infirmity of body or mind or any other cause) or for misbehaviour:

Provided that if the appointed member is a Judge of the Court of Appeal or a Judge of the Supreme Court, he shall not be so removed unless, in accordance with the provisions of section 106 or section 100 of this Constitution (as the case may be), he is removed from his office as a Judge.

(5) If the office of an appointed member is vacant or an appointed member is for any reason unable to perform the functions of his office, the Governor-General, on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, may, by instrument under the Broad Seal, appoint a person, having the same qualifications for appointment as that member, to act as a member of the Commission and any person so appointed shall, subject to the provisions of subsection (4) of this section, continue to act until the office of the appointed member is filled or until his appointment is revoked by the Governor-General, acting as aforesaid.

(6) An appointed member shall not, within a period of three years commencing with the date on which he last held or acted in the office of appointed member, be eligible for appointment to any office power to make appointments to which is vested by this Constitution in the Governor-General acting on the advice of the Judicial Service Commission:

Provided that nothing in this subsection shall prevent his being appointed to the office of Judge of the Court of Appeal or Judge of the Supreme Court.

(7) An appointed member shall receive such salary and allowances as may from time to time be prescribed by or under any law or by a resolution of the House of Representatives:

Provided that—

(*a*) no such resolution may reduce any salary or allowance for the time being prescribed by or under a law; and

(*b*) the salary of an appointed member shall not be reduced during his continuance in office.

(8) The salary for the time being payable to an appointed member under this Constitution shall be charged on and paid out of the Consolidated Fund.

(9) Nothing in subsection (7) of this section shall entitle the appointed member to any salary in respect of his office as such, if he is also a Judge of the Court of Appeal or a Judge of the Supreme Court.

(10) For the purposes of this section, "public office" does not include office as a member of any board, panel, committee or other similar body (whether incorporated or not) established by any law for the time being in force in Jamaica.

(11) In this section—

"Bar Council" means the Council of the Association constituted under the Regulations of the Bar Association for Jamaica made the 16th day of July 1944 or any other Regulations amending or replacing those Regulations (or the Managing Committee, by whatever name called, of any body representing members of the Bar which may from time to time have succeeded to the functions of the aforesaid Association);

"Council of the Law Society" means the Council of the Society incorporated on the 16th day of August 1940 under the Companies Law(a) with the name "The Incorporated Law Society of Jamaica" and whose memorandum and articles of association are recorded in the Record Office at Liber New Series 547 folios 437 and 438 respectively (or the Managing Committee, by whatever name called, of any body representing solicitors which may from time to time have succeeded to the functions of the aforesaid Incorporated Law Society of Jamaica).

Appointment, etc. of judicial officers.

112.—(1) Power to make appointments to the offices to which this section applies and, subject to the provisions of subsections (3) and (4) of this section, to remove and to exercise disciplinary control over persons holding or acting in such offices is hereby vested in the Governor-General acting on the advice of the Judicial Service Commission.

(2) This section applies to the offices of Resident Magistrate, Judge of the Traffic Court, Registrar of the Supreme Court, Registrar of the Court of Appeal and to such other offices connected with the courts of Jamaica as, subject to the provisions of this Constitution, may be prescribed by Parliament.

(3) Before the Governor-General acts in accordance with the advice of the Judicial Service Commission that any officer holding or acting in any office to which this section applies should be removed or that any penalty should be imposed on him by way of disciplinary control he shall inform the officer of that advice and, if the officer then applies for the case to be referred to the Privy Council, the Governor-General shall not act in accordance with the advice but shall refer the case to the Privy Council accordingly:

Provided that the Governor-General, acting on the advice of the Commission, may nevertheless suspend that officer from the exercise of his office pending the determination of the reference to the Privy Council.

(4) Where a reference is made to the Privy Council under the provisions of subsection (3) of this section, the Privy Council shall consider the case and shall advise the Governor-General what action should be taken in respect of the officer, and the Governor-General shall then act in accordance with such advice.

Delegation of functions of Judicial Service Commission.

113. The Governor-General, acting on the advice of the Judicial Service Commission, may by instrument under the Broad Seal direct that, subject to such conditions as may be specified in that instrument, power to make appointments to such offices, being offices to which section 112 of this Constitution applies, as may be so specified shall (without prejudice to the exercise of such power by the Governor-General acting on the advice of the Judicial Service Commission) be

(a) Laws of Jamaica, 1953, c. 69.

exercisable by such one or more members of the Commission or by such other authority or public officer as may be so specified, but in any case where the person to be appointed under this section holds or is acting in any office power to make appointments to which is vested by this Constitution in the Governor-General acting on the advice of the Public Service Commission or the Police Service Commission, the person or authority specified in the aforesaid instrument shall consult with the Public Service Commission or the Police Service Commission, as the case may be, before making such appointment.

CHAPTER VIII

FINANCE

Consolidated Fund.

114. There shall be in and for Jamaica a Consolidated Fund, into which, subject to the provisions of any law for the time being in force in Jamaica, shall be paid all revenues of Jamaica.

Estimates.

115.—(1) The Minister responsible for finance shall, before the end of each financial year, cause to be prepared annual estimates of revenue and expenditure for public services during the succeeding financial year, which shall be laid before the House of Representatives.

(2) The estimates of expenditure shall show separately the sums required to meet statutory expenditure (as defined in subsection (4) of section 116 of this Constitution) and the sums required to meet other expenditure proposed to be paid out of the Consolidated Fund.

Authorisation of expenditure.

116.—(1) The Minister responsible for finance shall, in respect of each financial year, at the earliest convenient moment, introduce in the House of Representatives an Appropriation Bill containing, under appropriate heads for the several services required, the estimated aggregate sums which are proposed to be expended (otherwise than by way of statutory expenditure) during that financial year.

(2) Whenever—

(*a*) any monies are expended or are likely to be expended in any financial year on any services which are in excess of the sum provided for that service by the Appropriation law relating to that year ; or

(*b*) any monies are expended or are likely to be expended (otherwise than by way of statutory expenditure) in any financial year upon any new service not provided for by the Appropriation law relating to that year,

statements of excess or, as the case may be, supplementary estimates shall be prepared by the Minister responsible for finance and shall be laid before and voted on by the House of Representatives ; in respect of all supplementary expenditure so voted the Minister responsible for finance may, at any time before the end of the financial year, introduce into the House of Representatives a Supplementary Appropriation Bill containing, under appropriate heads, the estimated aggregate sums so voted, and shall, as soon as possible after the end of each financial year, introduce into the House of Representatives a final Appropriation Bill containing any such sums which have not yet been included in any Appropriation Bill.

(3) That part of any estimate of expenditure laid before the House of Representatives which shows statutory expenditure shall not be voted

on by the House of Representatives, and such expenditure shall, without further authority of Parliament, be paid out of the Consolidated Fund.

(4) For the purposes of this section and section 115 of this Constitution, "statutory expenditure" means—

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

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

Meeting expenditure from Consolidated Fund.

117.—(1) No sum shall be paid out of the Consolidated Fund except upon the authority of a warrant under the hand of the Minister responsible for finance.

(2) Subject to the provisions of subsections (3) and (4) of this section and section 118 of this Constitution, no such warrant shall be issued except in respect of sums granted for the specified public services by the Appropriation law for the financial year in respect of which the withdrawal is to take place or for service otherwise lawfully charged on the Consolidated Fund.

(3) The House of Representatives may, by resolution approving estimates containing a vote on account, authorise expenditure for part of any financial year before the passing of the Appropriation law for that year, but the aggregate sums so voted shall be included, under the appropriate heads, in the Appropriation Bill for that year.

(4) Where at any time Parliament has been dissolved before any provision or any sufficient provision is made under this Chapter of this Constitution for the carrying on of the government of Jamaica, the Minister responsible for finance may issue a warrant for the payment out of the Consolidated Fund of such sums as he may consider necessary for the continuance of the public services until the expiry of a period of three months commencing with the date on which the House of Representatives first meets after that dissolution, but a statement of the sums so authorised shall, as soon as practicable, be laid before and voted on by the House of Representatives and the aggregate sums so voted shall be included, under the appropriate heads, in the next Appropriation Bill.

Contingencies Fund.

118.—(1) Any law for the time being in force may create or authorise the creation of a Contingencies Fund and may authorise the Minister responsible for finance to make advances from that Fund if he is satisfied that there is an unforeseen need for expenditure for which no provision or no sufficient provision has been made by an Appropriation law.

(2) Where any advance is made by virtue of an authorisation conferred under subsection (1) of this section, a supplementary estimate of the sum required to replace the amount so advanced shall, as soon as practicable, be laid before and voted on by the House of Representatives and the sum so voted shall be included in a Supplementary Appropriation Bill or a Final Appropriation Bill.

Public debt.

119.—(1) The public debt of Jamaica is hereby charged on the Consolidated Fund.

(2) In this section references to the public debt of Jamaica include references to the interest on that debt, sinking fund payments and redemption monies in respect of that debt and the costs, charges and expenses incidental to the management of that debt.

Auditor-General.

120.—(1) There shall be in and for Jamaica an Auditor-General who shall be appointed by the Governor-General by instrument under the Broad Seal.

(2) If the office of Auditor-General is vacant or the Auditor-General is for any reason unable to perform the functions of his office, the Governor-General may appoint a person to act as Auditor-General and any person so appointed shall, subject to the provisions of subsection (1) of section 121 of this Constitution, continue to act until the office of Auditor-General is filled or until his appointment is revoked by the Governor-General.

(3) A person who has held the office of Auditor-General shall not be eligible for appointment to any other public office.

(4) The Auditor-General shall receive such salary and allowances as may from time to time be prescribed by or under any law or by a resolution of the House of Representatives:

Provided that—

(*a*) no such resolution may reduce any salary or allowance for the time being prescribed by or under a law; and

(*b*) the salary of the Auditor-General shall not be reduced during his continuance in office.

(5) The salary for the time being payable to the Auditor-General under this Constitution shall be charged on and paid out of the Consolidated Fund.

(6) In the exercise of his powers under this section the Governor-General shall act in accordance with the recommendation of the Public Service Commission:

Provided that—

(*a*) before he acts in accordance therewith he shall inform the Prime Minister of the nature of that recommendation and shall, if the Prime Minister so requires, once refer that recommendation (hereafter in this subsection called the "original recommendation") back to the Public Service Commission for reconsideration; and

(*b*) if, upon such reconsideration, the Public Service Commission submits a different recommendation, the provisions of this subsection and of subsection (2) of section 32 of this Constitution shall apply to that different recommendation as they apply to the original recommendation.

Tenure of office of Auditor-General.

121.—(1) Subject to the provisions of subsections (3) to (6) (inclusive) of this section, the Auditor-General shall hold office until he attains the age of sixty years:

Provided that—

(*a*) he may at any time resign his office; and

(*b*) the Governor-General, acting in the manner prescribed by subsection (6) of section 120 of this Constitution, may permit an Auditor-General who has attained the age of sixty years to

remain in office until he has reached such later age, not exceeding sixty-five years, as may (before the Auditor-General has reached the age of sixty years) have been agreed between the Governor-General and the Auditor-General.

(2) Nothing done by the Auditor-General shall be invalid by reason only that he has attained the age at which he is required by this section to vacate his office.

(3) The Auditor-General may be removed from office only for inability to discharge the functions thereof (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and shall not be so removed except in accordance with the provisions of subsection (4) of this section.

(4) The Auditor-General shall be removed from office by the Governor-General by instrument under the Broad Seal if the question of his removal from office has been referred to a tribunal appointed under subsection (5) of this section and the tribunal has recommended to the Governor-General that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(5) If the Prime Minister or the Chairman of the Public Service Commission advises the Governor-General that the question of removing the Auditor-General from office for inability as aforesaid or for misbehaviour ought to be investigated, then—

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

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

(6) The provisions of the Commissions of Enquiry Law(a) as in force immediately before the appointed day shall, subject to the provisions of this section and of the Third Schedule to this Constitution, apply as nearly as may be in relation to tribunals appointed under subsection (5) of this section or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Law, and for that purpose shall have effect as if they formed part of this Constitution.

(7) If the question of removing the Auditor-General from office has been referred to a tribunal under subsection (5) of this section, the Governor-General acting in the manner prescribed by subsection (6) of section 120 of this Constitution, may suspend the Auditor-General from performing the functions of his office and any such suspension may at any time be revoked by the Governor-General, acting as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor-General that the Auditor-General should not be removed from office.

(a) Laws of Jamaica, 1953, c. 68.

Functions of Auditor-General.

122.—(1) The accounts of the Court of Appeal, the accounts of the Supreme Court, the accounts of the offices of the Clerks to the Senate and the House of Representatives and the accounts of all departments and offices of the Government of Jamaica (including the offices of the Cabinet, the Judicial Service Commission, the Public Service Commission and the Police Service Commission but excluding the department of the Auditor-General) shall, at least once in every year, be audited and reported on by the Auditor-General who, with his subordinate staff, shall at all times be entitled to have access to all books, records, returns and reports relating to such accounts.

(2) The Auditor-General shall submit his reports made under subsection (1) of this section to the Speaker (or, if the office of Speaker is vacant or the Speaker is for any reason unable to perform the functions of his office, to the Deputy Speaker) who shall cause them to be laid before the House of Representatives.

(3) In the exercise of his functions under the provisions of subsections (1) and (2) of this section, the Auditor-General shall not be subject to the direction or control of any other person or authority.

(4) The accounts of the department of the Auditor-General shall be audited and reported on by the Minister responsible for finance, and the provisions of subsections (1) and (2) of this section shall apply in relation to the exercise by that Minister of those functions as they apply in relation to audits and reports made by the Auditor-General.

(5) Nothing in this section shall prevent the performance by the Auditor-General of—

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

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

(*c*) such other functions in relation to the accounts of any other government as he may be empowered to perform by any authority competent in that behalf.

CHAPTER IX

THE PUBLIC SERVICE

PART 1

General

Interpretation.

123. For the purposes of this Chapter of this Constitution, "public office" does not include office as a member of any board, panel, committee or other similar body (whether incorporated or not) established by any law for the time being in force in Jamaica.

Public Service Commission.

124.—(1) There shall be a Public Service Commission for Jamaica consisting of a Chairman and such number of other members, being not less than three nor more than five, as the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, may from time to time decide.

(2) The members of the Public Service Commission shall be appointed by the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, by instrument under the Broad Seal:

Provided that one such member shall be so appointed by the Governor-General from a list of persons, not disqualified for appointment under this section, submitted by the Jamaica Civil Service Association (or any other body representing members of the public service which may from time to time, in the opinion of the Governor-General acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, have succeeded to the functions of that Association).

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

(4) A member of the Public Service Commission shall not, within a period of three years commencing with the date on which he last held or acted in that office, be eligible for appointment to any office power to make appointments to which is vested by this Constitution in the Governor-General acting on the advice of the Public Service Commission.

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

(*a*) at the expiration of five years from the date of his appointment or such earlier time as may be specified in the instrument by which he was appointed;

(*b*) if he resigns his office;

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

(*d*) if the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, directs that he shall be removed from office for inability to discharge the functions thereof (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(6) If the office of a member of the Public Service Commission is vacant or a member is for any reason unable to perform the functions of his office, the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, may appoint a person who is qualified for appointment as a member of the Commission to act as a member of the Commission, and any person so appointed shall, subject to the provisions of subsection (5) of this section, continue to act until the office of the member of the Commission is filled or until his appointment is revoked by the Governor-General acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition.

(7) The members of the Public Service Commission shall receive such salaries and allowances as may from time to time be prescribed by or under any law or by a resolution of the House of Representatives:

Provided that—

(*a*) no such resolution may reduce any salary or allowance for the time being prescribed by or under a law; and

(*b*) the salary of a member of the Public Service Commission shall not be reduced during his continuance in office.

(8) The salaries for the time being payable to members of the Public Service Commission under this Constitution shall be charged on and paid out of the Consolidated Fund.

Appointment, etc. of public officers.

125.—(1) Subject to the provisions of this Constitution, power to make appointments to public offices and to remove and to exercise disciplinary control over persons holding or acting in any such offices is hereby vested in the Governor-General acting on the advice of the Public Service Commission.

(2) Before the Public Service Commission advises the appointment to any public office of any person holding or acting in any office power to make appointments to which is vested by this Constitution in the Governor-General acting on the advice of the Judicial Service Commission, or the Police Service Commission, it shall consult with the Judicial Service Commission or the Police Service Commission, as the case may be.

(3) Before the Governor-General acts in accordance with the advice of the Public Service Commission that any public officer should be removed or that any penalty should be imposed on him by way of disciplinary control, he shall inform the officer of that advice and if the officer then applies for the case to be referred to the Privy Council, the Governor-General shall not act in accordance with the advice but shall refer the case to the Privy Council accordingly:

Provided that the Governor-General, acting on the advice of the Commission, may nevertheless suspend that officer from the exercise of his office pending the determination of the reference to the Privy Council.

(4) Where a reference is made to the Privy Council under the provisions of subsection (3) of this section, the Privy Council shall consider the case and shall advise the Governor-General what action should be taken in respect of the officer, and the Governor-General shall then act in accordance with such advice.

(5) Except for the purpose of making appointments thereto or to act therein or of revoking an appointment to act therein, the provisions of this section shall not apply in relation to the office of the Director of Public Prosecutions.

Permanent Secretaries.

126.—(1) Subject to the provisions of subsection (2) of this section, power to make appointments to the office of Permanent Secretary (other than appointments on transfer from another such office carrying the same salary) is hereby vested in the Governor-General acting on the recommendation of the Public Service Commission.

(2) Before the Governor-General acts in accordance with a recommendation of the Public Service Commission made under subsection (1) of this section, he shall consult the Prime Minister who may once require that recommendation (hereafter in this subsection called the "original recommendation") to be referred back to the Public

Service Commission for reconsideration; and if, upon such reconsideration, the Public Service Commission submits a different recommendation, the provisions of this subsection and of subsection (2) of section 32 of this Constitution shall apply thereto as they apply to the original recommendation.

(3) Power to make appointments to any office of Permanent Secretary on transfer from another such office carrying the same salary is hereby vested in the Governor-General acting on the recommendation of the Prime Minister.

(4) For the purposes of this section the office of Financial Secretary shall be deemed to be the office of a Permanent Secretary.

Delegation of functions of Public Service Commission.

127.—(1) The Governor-General, acting on the advice of the Public Service Commission, may by instrument under the Broad Seal direct that, subject to such conditions as may be specified in that instrument, power to make appointments to such offices, being offices to which this section applies, as may be so specified and power to remove and power to exercise disciplinary control over persons holding or acting in those offices, or any of those powers, shall (without prejudice to the exercise of such power by the Governor-General acting on the advice of the Public Service Commission) be exercisable by such one or more members of the Public Service Commission or by such other authority or public officer as may be so specified.

(2) In relation to any power made exercisable under subsection (1) of this section by some person or authority other than the Governor-General acting on the advice of the Public Service Commission, the offices to which this section applies are all offices in respect of which that power is, apart from this section, vested by this Constitution in the Governor-General acting on such advice.

(3) In any case where an appointment is to be made by virtue of an instrument made under this section and the person to be appointed holds or is acting in any office power to make appointments to which is vested by this Constitution in the Governor-General acting on the advice of the Judicial Service Commission or the Police Service Commission, the person or authority specified in the said instrument shall consult with the Judicial Service Commission or the Police Service Commission, as the case may be, before making the appointment.

(4) Where, by virtue of an instrument made under this section, the power to remove or to exercise disciplinary control over any officer has been exercised by a person or authority other than the Governor-General acting on the advice of the Public Service Commission, the officer in respect of whom it was so exercised may apply for the case to be referred to the Privy Council, and thereupon the action of the aforesaid person or authority shall cease to have effect and the case shall be referred to the Privy Council accordingly and the Governor-General shall then take such action in respect of that officer as the Privy Council may advise:

Provided that—

(*a*) where the action of the aforesaid person or authority included the removal of that officer or his suspension from the exercise of his office, that person or authority may nevertheless suspend him from the exercise of his office pending the determination of the reference to the Privy Council; and

(*b*) before advising the Governor-General under this subsection, the Privy Council shall consult with the Public Service Commission.

Appointment, etc. of principal representatives of Jamaica abroad.

128.—(1) Power to appoint persons to hold or act in the offices to which this section applies (including power to make appointments on promotion and transfer and to confirm appointments) and to remove persons so appointed from any such office shall vest in the Governor-General, acting in accordance with the advice of the Prime Minister.

(2) Before tendering any advice for the purposes of this section in relation to any person who holds or acts in any public office other than an office to which this section applies, the Prime Minister shall consult the Public Service Commission.

(3) The offices to which this section applies are the offices of any Ambassador, High Commissioner or other principal representative of Jamaica in countries other than Jamaica.

PART 2

Police

Police Service Commission.

129.—(1) There shall be a Police Service Commission for Jamaica consisting of a Chairman and such number of other members, being not less than two nor more than four, as the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, may from time to time decide.

(2) The members of the Police Service Commission shall be appointed by the Governor-General on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, by instrument under the Broad Seal.

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

(4) A member of the Police Service Commission shall not, within a period of three years commencing with the date on which he last held or acted in that office, be eligible for appointment to any office power to make appointments to which is vested by this Constitution in the Governor-General acting on the advice of the Police Service Commission.

(5) The office of a member of the Police Service Commission shall become vacant—

(*a*) at the expiration of five years from the date of his appointment or such earlier time as may be specified in the instrument by which he was appointed;

(*b*) if he resigns his office;

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

(*d*) if the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, directs that he shall be removed from office for inability to discharge the functions thereof (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(6) If the office of a member of the Police Service Commission is vacant or a member is for any reason unable to perform the functions thereof, the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, may appoint a person who is qualified for appointment as a member of the Commission to act as a member of the Commission, and any person so appointed shall, subject to the provisions of subsection (5) of this section, continue to act until the office of the member of the Commission is filled or until his appointment is revoked by the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition.

(7) The members of the Police Service Commission shall receive such salaries and allowances as may from time to time be prescribed by or under any law or by a resolution of the House of Representatives:

Provided that—

(*a*) no such resolution may reduce any salary or allowance for the time being prescribed by or under a law; and

(*b*) the salary of a member of the Police Service Commission shall not be reduced during his continuance in office.

(8) The salaries for the time being payable to members of the Police Service Commission under this Constitution shall be charged on and paid out of the Consolidated Fund.

Appointment, etc. of police officers.

130. Section 125 of this Constitution (with the substitution therein of the words "the Police Service Commission" for the words "the Public Service Commission" wherever the same occur and of the words "the Public Service Commission" for the words "the Police Service Commission" in subsection (2) thereof) shall apply in relation to police officers as it applies in relation to other public officers.

Delegation of functions of Police Service Commission.

131.—(1) The Governor-General, acting on the advice of the Police Service Commission, may by instrument under the Broad Seal direct that, subject to such conditions as may be specified in that instrument, power to make appointments to such offices, being offices to which this section applies, as may be so specified and power to remove and power to exercise disciplinary control over persons holding or acting in those offices, or any of those powers shall (without prejudice to the exercise of such power by the Governor-General acting on the advice of the Police Service Commission) be exercisable by such one or more members of the Police Service Commission or by such other authority or public officer as may be so specified.

(2) The offices to which this section applies are the offices of all police officers not above the rank of inspector.

(3) In any case where an appointment is to be made by virtue of an instrument made under this section and the person to be appointed holds or is acting in any office power to make appointments to which is vested by this Constitution in the Governor-General acting on the advice of the Judicial Service Commission or the Public Service Commission, the person or authority specified in the said instrument shall consult with the Judicial Service Commission or the Public Service Commission, as the case may be, before making the appointment.

(4) Where, by virtue of an instrument made under this section, the power to remove or to exercise disciplinary control over any officer has been exercised by a person or authority other than the Governor-General acting on the advice of the Police Service Commission, the officer in respect of whom it was so exercised may apply for the case to be referred to the Privy Council, and thereupon the action of the aforesaid person or authority shall cease to have effect and the case shall be referred to the Privy Council accordingly; and the Governor-General shall then take such action in respect of that officer as the Privy Council may advise:

Provided that—

(*a*) where the action of the aforesaid person or authority includes the removal of that officer or his suspension from the exercise of his office, that person or authority may nevertheless suspend him from the exercise of his office pending the determination of the reference to the Privy Council; and

(*b*) before advising the Governor-General under this subsection, the Privy Council shall consult with the Police Service Commission.

PART 3

Pensions

Applicability of pension law.

132.—(1) Subject to the provisions of section 134 of this Constitution, the law applicable to the grant and payment to any officer, or to his widow, children, dependants or personal representatives, of any pension, compensation, gratuity or other like allowance (in this section and in sections 133 and 134 of this Constitution referred to as an "award") in respect of the service of that officer in a public office shall be that in force on the relevant day or any later law not less favourable to the person concerned.

(2) For the purposes of this section the relevant day is—

(*a*) in relation to an award granted before the appointed day, the day on which the award was granted;

(*b*) in relation to an award granted or to be granted on or after the appointed day to or in respect of a person who was a public officer before that day, the day immediately before that day;

(*c*) in relation to an award granted or to be granted to or in respect of a person who first becomes a public officer on or after the appointed day, the day on which he becomes a public officer.

(3) For the purposes of this section, in so far as the law applicable to an award depends on the option of the person to or in respect of whom it is granted or to be granted, the law for which he opts shall be taken to be more favourable to him than any other law for which he might have opted.

(4) For the purposes of this section and of sections 133 and 134 of this Constitution, service as a Judge of the Court of Appeal or as a Judge of the Supreme Court shall be deemed to be public service.

Pensions, etc. to be charged on Consolidated Fund.

133. Awards granted under any law for the time being in force in Jamaica in respect of the public service shall be charged on and paid out of the Consolidated Fund.

Grant and withholding of pensions, etc.

134.—(1) The power to grant any award under any pensions law for the time being in force in Jamaica (other than an award to which, under that law, the person to whom it is payable is entitled as of right) and, in accordance with any provisions in that behalf contained in any such law, to withhold, reduce in amount or suspend any award payable under any such law is hereby vested in the Governor-General.

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

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

(i) as a Judge of the Court of Appeal;

(ii) as a Judge of the Supreme Court;

(iii) in any office to which section 112 of this Constitution applies at the date of the exercise of the power,

on the recommendation of the Judicial Service Commission;

(*b*) in the case of an award payable to a person who, having been a public officer, was, immediately before the date aforesaid, serving as a police officer, on the recommendation of the Police Service Commission; and

(*c*) in the case of an award payable to any other person, on the recommendation of the Public Service Commission.

(3) In this section, "pensions law" means any law relating to the grant to any person, or to the widow, children, dependants or personal representatives of that person, of an award in respect of the services of that person in a public office, and includes any instrument made under any such law.

CHAPTER X

MISCELLANEOUS

Powers and procedure of Commissions.

135.—(1) In relation to any Commission established by this Constitution, the Governor-General, acting in accordance with the advice of the Commission, may by regulation or otherwise regulate its procedure and, subject to the consent of the Prime Minister or such other Minister as may be authorised in that behalf by the Prime Minister, confer powers and impose duties on any public officer or any authority of the Government of Jamaica for the purpose of the discharge of the functions of the Commission.

(2) At any meeting of any Commission established by this Constitution a quorum shall be constituted if three members are present. If a quorum is present the Commission shall not be disqualified for the transaction of business by reason of any vacancy among its members and any proceedings of the Commission shall be valid notwithstanding that some person who was not entitled so to do took part therein.

(3) Any question proposed for decision at any meeting of any Commission established by this Constitution shall be determined by a majority of the votes of the members thereof present and voting, and if on any such question the votes are equally divided the member presiding shall have and exercise a casting vote.

Protection of Commissions, etc. from legal proceedings.

136. The question whether—

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

(*b*) any member of such a Commission or any other person or authority has validly performed any function delegated to such member, person or authority in pursuance of the provisions of section 113 or, as the case may be, of section 127 or of section 131 of this Constitution; or

(*c*) any member of such a Commission or any other person or authority has validly performed any other function in relation to the work of the Commission or in relation to any such function as is referred to in paragraph (*b*) of this section,

shall not be enquired into in any court.

Resignations.

137.—(1) Any person who is appointed, elected or otherwise selected to any office established by this Constitution (including the office of Prime Minister or other Minister or Parliamentary Secretary) may resign from that office by writing under his hand addressed to the person or authority by whom he was appointed, elected or selected:

Provided that in the case of—

(*a*) a person who holds office as President or Deputy President of the Senate his resignation from that office shall be addressed to the Senate;

(*b*) a person who holds office as Speaker or Deputy Speaker his resignation from that office shall be addressed to the House of Representatives;

(*c*) a member of the House of Representatives his resignation from the House shall be addressed to the Speaker.

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

(3) A resignation that is required to be addressed to the President or Speaker shall, if the office of President or Speaker (as the case may be) is vacant, or the President or Speaker is absent from Jamaica, be received by the Deputy President or Deputy Speaker on behalf of the President or Speaker.

Re-appointments, etc.

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

(2) Without prejudice to the provisions of subsection (3) of this section, when the holder of any office constituted by or under this Constitution is on leave of absence pending relinquishment of that office, the person or authority having power to make appointments to that office may appoint another person thereto.

(3) Where two or more persons are holding the same office by reason of an appointment made pursuant to subsection (2) of this section, the person last appointed shall, in respect of any function conferred on the holder of that office, be deemed to be the sole holder of that office.

FIRST SCHEDULE

Sections 28, 29(2), 42(2), 43(2), 62, 74, 78(4), 102 and 108.

OATHS

Oath of Allegiance

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

Oath for the due execution of the office of Governor-General

I, ..., do swear that I will well and truly serve Her Majesty Queen Elizabeth II, Her Heirs and Successors, in the office of Governor-General. So help me God.

Oath for the due execution of the office of Prime Minister or other Minister or Parliamentary Secretary

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

So help me God.

Judicial Oath

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

SECOND SCHEDULE

Section 67.

NUMBER AND BOUNDARIES OF CONSTITUENCIES

1. The number of constituencies shall be such as will most conveniently permit the application of paragraphs 2 to 5 (inclusive) of this Schedule.

2.—(1) The boundary of a constituency shall not cross the boundary of a Parish as delimited by the Counties and Parishes Law(a) or by any law amending or replacing that law.

(2) There shall be at least two constituencies in each such parish.

3. Subject to the provisions of paragraphs 2 and 4 of this Schedule, the boundaries of each constituency shall be such that the number of the electorate thereof is as nearly equal to the electorate quota as is reasonably practicable.

4. The electorate of a constituency may be greater or less than the electorate quota in order to take account of—

(*a*) the varying physical features and transportation facilities within Jamaica; and

(*b*) the difference between urban and rural areas in respect of density of population:

(a) Laws of Jamaica, 1953, c. 80.

Provided that, subject to the provisions of paragraph 2 of this Schedule, the electorate of a constituency shall not—

(i) exceed the electorate quota by more than fifty per centum; or

(ii) be less than sixty-six and two-thirds per centum of the electorate quota.

5. For the purposes of this Schedule—

(*a*) the electorate of a constituency means the number of persons whose names appear on the official lists of electors for the area comprised in that constituency in force on the enumeration date under the law for the time being regulating the conduct of elections;

(*b*) the "enumeration date" means, in relation to any report of the Standing Committee, the date on which the notice with respect to that report is published in accordance with subsection (7) of section 67 of this Constitution; and

(*c*) the "electorate quota" means the number obtained by dividing the total of the electorate of all the constituencies by the number of constituencies into which the Standing Committee recommends Jamaica should be divided.

THIRD SCHEDULE

Sections 96(7), 100(7), 106(7) and 121(6).

PROVISIONS RELATING TO APPLICABILITY OF THE COMMISSIONS OF ENQUIRY LAW(a) TO TRIBUNALS APPOINTED UNDER THIS CONSTITUTION

1. The following provisions of the Law shall not apply, that is to say:—

(*a*) section 2—whole section;

(*b*) section 3—so much of the section as follows the words "in his place";

(*c*) section 5—whole section;

(*d*) section 7—the words "after taking such oath or affirmation";

(*e*) section 15—whole section.

2. In section 13 there shall be substituted for the words "Such sums, so directed to be paid, shall be paid by the Accountant-General out of the ordinary cash balance in the Treasury", the words "Such sums, so directed to be paid, shall be charged on and paid out of the Consolidated Fund".

3. All powers and duties conferred or imposed on the Governor-General under the Law shall be exercised or performed by him acting in each case in the manner prescribed by this Constitution.

EXPLANATORY NOTE

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

By virtue of the Jamaica Independence Act, 1962, Jamaica will attain fully responsible status within the Commonwealth on the 6th August, 1962. This Order makes provision for a new Constitution for Jamaica with effect from that date, including provision for the executive government, the legislature, the judicature and the public service. The Constitution also contains provision relating to citizenship of Jamaica and fundamental rights and freedoms of the individual.

(a) Laws of Jamaica, 1953, c. 68.