1967 No. 228

ASSOCIATED STATES

The Saint Christopher, Nevis and Anguilla Constitution Order 1967

Made - - - - 22*nd February* 1967

Coming into Operation 27*th February* 1967

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

Present,

The Queen's Most Excellent Majesty in Council

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

Citation and commencement.

1.—(1) This Order may be cited as the Saint Christopher, Nevis and Anguilla Constitution Order 1967.

(2) This Order shall come into operation on 27th February 1967.

Revocations.

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

Establishment of Constitution.

3. The Constitution of Saint Christopher, Nevis and Anguilla set out in Schedule 2 to this Order shall come into effect in Saint Christopher, Nevis and Anguilla at the commencement of this Order:

Provided that Chapter VII of the Constitution shall come into effect on the date appointed in accordance with section 90 of the Constitution.

W. G. Agnew.

(a) 1967 c. 4.

SCHEDULE 1 TO THE ORDER

Section 2

INSTRUMENTS REVOKED BY THIS ORDER

Instrument	Reference	Extent of Revocation
The Saint Christopher, Nevis and Anguilla Letters Patent 1959.	S.I. 1959 II, p. 3397.	The whole instrument.
The Saint Christopher, Nevis and Anguilla Constitution and Elections Ordinance.	Laws of Saint Christopher, Nevis and Anguilla, Rev. 1961, c. 162	Part II of the Ordinance.
The Windward Islands and Leeward Islands (Police Service Commission) Order in Council 1959.	S.I. 1959/2198 (1959 I, p. 558)	The whole Order so far as it applies to Saint Christopher, Nevis and Anguilla.
The Saint Christopher, Nevis and Anguilla Constitution and Elections (Amendment) Ordinance 1962.	Ordinance No. 5 of 1962	The whole Ordinance.

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CHAPTER I

PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS

Fundamental rights and freedoms.

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

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

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

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

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

Protection of right to life.

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

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

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

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

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

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

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

Protection of right to personal liberty.

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

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

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

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

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

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

(*f*) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under the law of Saint Christopher, Nevis and Anguilla;

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

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

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

(*j*) for the purpose of preventing the unlawful entry of that person into Saint Christopher, Nevis and Anguilla or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from Saint Christopher, Nevis and Anguilla or for the

purpose of restricting that person while he is being conveyed through Saint Christopher, Nevis and Anguilla in the course of his extradition or removal as a convicted prisoner from one country to another; or

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

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

(3) Any person who is arrested or detained—

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

(*b*) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under the law of Saint Christopher, Nevis and Anguilla,

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

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

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

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

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

Protection from slavery and forced labour.

4.—(1) No person shall be held in slavery or servitude.

(2) No person shall be required to perform forced labour.

(3) For the purposes of this section, the expression " forced labour " does not include—

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

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

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

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

Protection from inhuman treatment.

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

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

Protection from deprivation of property.

6.—(1) No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except by or under the provisions of a law that prescribes the principles on which and the manner in which compensation therefor is to be determined and given.

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

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

(*b*) the purpose of enforcing his right to payment of that compensation:

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

(3) The Chief Justice may make rules with respect to the practice and procedure of the High Court or any other tribunal or authority in relation to the jurisdiction conferred on the High Court by subsection (2) of this section or exercisable by the other tribunal or authority for the

purposes of that subsection (including rules with respect to the time within which applications or appeals to the High Court or applications to the other tribunal or authority may be brought).

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

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

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

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

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

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

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

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

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

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

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

(i) enemy property;

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

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

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

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

Protection from arbitrary search or entry.

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

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

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

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

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

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

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

Provisions to secure protection of law.

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

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

(*a*) shall be presumed to be innocent until he is proved or has pleaded guilty;

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

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

(*d*) shall be permitted to defend himself before the court in person or, at his own expense, by a legal representative of his own choice;

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

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

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

(3) When a person is tried for any criminal offence, the accused person or any person authorised by him in that behalf shall, if he so requires and subject to payment of such reasonable fee as may be prescribed by law, be given within a reasonable time after judgment a copy for the use of the accused person of any record of the proceedings made by or on behalf of the court.

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

(5) No person who shows that he has been tried by a competent court for a criminal offence and either convicted or acquitted shall again be tried for that offence or for any other criminal offence of which he could have been convicted at the trial for that offence, save upon the order of a superior court in the course of appeal or review proceedings relating to the conviction or acquittal.

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

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

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

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

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

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

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

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

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

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

(*c*) subsection (5) of this section to the extent that the law in question authorises a court to try a member of a disciplined force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of that force, so, however, that any court so trying such a member and convicting him shall in sentencing him to any punishment take into account any punishment awarded him under that disciplinary law.

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

(13) In this section " criminal offence " means a criminal offence under the law of Saint Christopher, Nevis and Anguilla.

Protection of freedom of conscience.

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

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

(3) Every religious community shall be entitled, at its own expense, to establish and maintain places of education and to manage any place of education which it wholly maintains; and no such community shall be prevented from providing religious instruction for persons of that community in the course of any education provided at any places of education which it wholly maintains or in the course of any education which it otherwise provides.

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

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

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

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

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

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

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

Protection of freedom of expression.

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

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

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

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

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

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

Protection of freedom of assembly and association.

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

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

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

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

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

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

Protection of freedom of movement.

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

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

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

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

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

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

(*d*) for the imposition of restrictions on the freedom of movement of any person who does not belong to Saint Christopher, Nevis and Anguilla;

(*e*) for the imposition of restrictions on the acquisition or use by any person of land or other property in Saint Christopher, Nevis and Anguilla;

(*f*) for the imposition of restrictions upon the movement or residence within Saint Christopher, Nevis and Anguilla or on the right to leave Saint Christopher, Nevis and Anguilla of any public officer;

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

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

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

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

Protection from discrimination on the grounds of race, etc.

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

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

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

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

(*a*) for the appropriation of public revenues or other public funds;

(*b*) with respect to persons who do not belong to Saint Christopher, Nevis and Anguilla;

(*c*) for the application, in the case of persons of any such description as is mentioned in subsection (3) of this section (or of persons connected with such persons), of the law with respect to adoption,

marriage, divorce, burial, devolution of property on death or other like matters which is the personal law of persons of that description;

(*d*) whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society.

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

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

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

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

Derogations from fundamental rights and freedoms under emergency powers.

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

Protection of persons detained under emergency laws.

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

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

(*b*) not more than fourteen days after the commencement of his detention, a notification shall be published in the Official Gazette

stating that he has been detained and giving particulars of the provision of law under which his detention is authorised;

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

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

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

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

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

Enforcement of protective provisions.

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

(2) The High Court shall have original jurisdiction—

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

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

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

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

(3) If in any proceedings in any court (other than the Court of Appeal, the High Court or a court martial) any question arises as to the contravention in any of the provisions of sections 2 to 15 (inclusive) of this Constitution, the person presiding in that court may, and shall if any party

to the proceedings so requests, refer the question to the High Court unless, in his opinion, the raising of the question is merely frivolous or vexatious.

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

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

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

Declaration of emergency.

17.—(1) The Governor may, by Proclamation which shall be published in the Official Gazette, declare that a state of emergency exists for the purposes of this Chapter.

(2) Every declaration of emergency shall lapse—

(*a*) in the case of a declaration made when the Legislature is sitting, at the expiration of a period of seven days beginning with the date of publication of the declaration; and

(*b*) in any other case, at the expiration of a period of twenty-one days beginning with the date of publication of the declaration,

unless it has in the meantime been approved by a resolution of the House of Assembly supported by the votes of two-thirds of all the members of the House.

(3) A declaration of emergency may at any time be revoked by the Governor by Proclamation which shall be published in the Official Gazette.

(4) A declaration of emergency that has been approved by a resolution of the House of Assembly in pursuance of subsection (2) of this section shall, subject to the provisions of subsection (3) of this section, remain in force so long as that resolution remains in force and no longer.

(5) A resolution of the House of Assembly passed for the purposes of this section shall remain in force for twelve months or such shorter period as may be specified therein:

Provided that any such resolution may be extended from time to time by a further such resolution supported by the votes of two-thirds of all the members of the House, each extension not exceeding twelve months from the date of the resolution effecting the extension; and any such resolution may be revoked at any time by a resolution supported by the votes of a majority of all the members of the House.

(6) Any provision of this section that a declaration of emergency shall lapse or cease to be in force at any particular time is without prejudice to the making of a further such declaration whether before or after that time.

Interpretation and savings.

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

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

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

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

" disciplined force " means—

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

(*b*) the Police Force; or

(*c*) a prison service;

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

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

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

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

(*b*) a declaration of emergency is in force under section 17 of this Constitution.

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

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

CHAPTER II

The Governor

Establishment of office of Governor.

19. There shall be a Governor of Saint Christopher, Nevis and Anguilla 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 Saint Christopher, Nevis and Anguilla.

Oaths to be taken by Governor.

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

Acting Governor.

21.—(1) During any period when the office of Governor is vacant or the holder of the office of Governor is absent from Saint Christopher, Nevis

and Anguilla or is for any other reason unable to perform the functions of his office those functions shall be performed—

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

(*b*) if there is no person in Saint Christopher, Nevis and Anguilla appointed by Her Majesty and able to perform those functions—

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

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

(2) Before assuming the functions of the office of Governor any such person as aforesaid shall make the oaths directed by section 20 of this Constitution to be made by the holder of the office of Governor.

(3) Any such person as aforesaid shall not continue to perform the functions of the office of Governor if the holder of the office of Governor or some other person having a prior right to perform the functions of that office has notified him that he is about to assume or resume those functions.

(4) The holder of the office of Governor shall not, for the purposes of this section, be regarded as absent from Saint Christopher, Nevis and Anguilla or as unable to perform the functions of his office—

(*a*) by reason that he is in passage from one part of Saint Christopher, Nevis and Anguilla to another; or

(*b*) at any time when there is a subsisting appointment of a deputy under section 22 of this Constitution.

Deputy to Governor.

22.—(1) Whenever the Governor—

(*a*) has occasion to be absent from the seat of Government but not from Saint Christopher, Nevis and Anguilla;

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

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

he may, acting in accordance with the advice of the Premier, appoint any person in Saint Christopher, Nevis and Anguilla to be his deputy during such absence or illness and in that capacity to perform on his behalf such of the functions of the office of Governor as may be specified in the instrument by which he is appointed.

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

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

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

CHAPTER III

THE LEGISLATURE

PART 1

Composition of the Legislature

Establishment of Legislature.

23. There shall be a Legislature in and for Saint Christopher, Nevis and Anguilla which shall consist of Her Majesty and a House of Assembly

House of Assembly.

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

(*a*) such number of elected members as corresponds with the number of constituencies for the time being established in accordance with section 48 of this Constitution, who shall be elected in accordance with the provisions of section 27 of this Constitution; and

(*b*) such number of nominated members as is specified in subsection (2) of this section, who shall be appointed in accordance with the provisions of section 28 of this Constitution.

(2) The number of nominated members of the House of Assembly shall be three:

Provided that at any time when a person who is a nominated member of the House holds the office of Attorney-General the number of nominated members shall be four.

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

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

Qualifications for membership of House of Assembly.

25. Subject to the provisions of section 26 of this Constitution, a person shall be qualified to be elected as an elected member of the House of Assembly or to be appointed as a nominated member of the House if, and shall not be so qualified unless, he—

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

(*b*) (i) was born in Saint Christopher, Nevis and Anguilla and is domiciled there at the date of his nomination for election or appointment, as the case may be; or

(ii) has resided in Saint Christopher, Nevis and Anguilla for a period of not less than seven years immediately before the date of his nomination for election or appointment, as the case may be, and is domiciled there at that date.

Disqualifications for membership of House of Assembly.

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

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

(*b*) is a minister of religion;

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

(*d*) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in Saint Christopher, Nevis and Anguilla; or

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

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

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

(4) No person shall be qualified to be elected as an elected member of the House of Assembly who is a nominated member; and no person shall be qualified to be appointed as a nominated member who is or is nominated for election as an elected member of the House or who has at any time since the Legislature was last dissolved stood as a candidate for election as an elected member of the House but was not elected.

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

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

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

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

(*d*) subject to any exceptions or limitations prescribed by the Legislature, he has any such interest in any such government contract as may be so prescribed.

(6) In this section—

" government contract " means any contract made with the Government of Saint Christopher, Nevis and Anguilla or with a department of that Government or with an officer of that Government contracting as such;

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

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

(*a*) two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds twelve months, but if any one of such sentences exceeds that term they shall be regarded as one sentence; and

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

Election of elected members.

27.—(1) Each of the constituencies for the time being established for Saint Christopher, Nevis and Anguilla in accordance with section 48 of this Constitution shall return one elected member to the House of Assembly who shall be directly elected in such manner as may, subject to the provisions of this Constitution, be prescribed by or under any law.

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

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

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

Appointment of nominated members.

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

(*a*) one member shall be appointed by the Governor, acting in accordance with the advice of the Leader of the Opposition; and

(*b*) the other members shall be appointed by the Governor, acting in accordance with the advice of the Premier.

Tenure of office of members of House of Assembly.

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

(2) A nominated member appointed in accordance with the provisions of paragraph (*a*) of section 28 of this Constitution shall vacate his seat in the House of Assembly if his appointment is revoked by the Governor, acting in accordance with the advice of the Leader of the Opposition, and a nominated member appointed in accordance with the provisions of paragraph (*b*) of that section shall vacate his seat in the House if his appointment is revoked by the Governor, acting in accordance with the advice of the Premier.

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

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

(*b*) if he ceases to be a citizen of the United Kingdom and Colonies;

(*c*) subject to the provisions of subsection (4) of this section, if any other circumstances arise that, if he were not such a member, would cause him to be disqualified to be elected as such or, as the case may be, to be appointed as such by virtue of subsection (1) of section 26 of this Constitution or of any law enacted in pursuance of subsection (2), (3) or (5) of that section; or

(*d*) in the case of a nominated member who holds the office of Attorney-General, if he ceases to hold that office.

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

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

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

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

Speaker and Deputy Speaker.

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

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

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

(*a*) he is not a citizen of the United Kingdom and Colonies; or

(*b*) he is a person disqualified for election as a member of the House of Assembly by virtue of section 26(1) of this Constitution or any law enacted in pursuance of subsection (2), (3) or (5) of that section.

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

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

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

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

(i) if he ceases to be a member of the House:
Provided that the Speaker shall not vacate his office by reason only that he has ceased to be a member of the House on a dissolution of the Legislature, until the House first meets after the dissolution; or

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

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

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

(ii) if he ceases to be a citizen of the United Kingdom and Colonies; or

(iii) if any circumstances arise that would cause him to be disqualified for election as an elected member of the House of Assembly by virtue of section 26(1) of this Constitution or any law enacted in pursuance of subsection (2), (3) or (5) of that section;

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

(6)(*a*) If, by virtue of section 29(4) of this Constitution, the Speaker or Deputy Speaker is required to cease to perform his functions as a member of the House of Assembly he shall also cease to perform his functions as Speaker or Deputy Speaker, as the case may be, and those functions shall, until he vacates his seat in the House or resumes the performance of the functions of his office, be performed—

(i) in the case of the Speaker, by the Deputy Speaker or, if the office of Deputy Speaker is vacant or the Deputy Speaker is required to cease to perform his functions as a member of the House of Assembly by virtue of section 29(4) of this Constitution, by such member of the House (not being a Minister or Parliamentary Secretary) as the House may elect for the purpose;

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

(*b*) If the Speaker or Deputy Speaker resumes the performance of his functions as a member of the House, in accordance with the provisions of section 29(4) of this Constitution, he shall also resume the performance of his functions as Speaker or Deputy Speaker, as the case may be.

Supervisor of Elections.

31.—(1) There shall be a Supervisor of Elections whose duty it shall be to exercise general supervision over the registration of voters in elections of the elected members of the House of Assembly and over the conduct of such elections.

(2) The functions of the office of Supervisor of Elections shall be exercised either by the person holding or acting in such public office as may for the time being be designated in that behalf by the Governor or, if the Governor so decides, by such other person who is not a public officer as may for the time being be so designated.

(3) A person shall not enter upon the duties of the office of Supervisor of Elections until he has taken and subscribed the oath of allegiance and the oath of office.

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

(5) The Supervisor of Elections may, whenever he considers it necessary or expedient so to do, report to the House of Assembly on the exercise of his functions under the foregoing provisions of this section; he shall submit every such report to the Minister for the time being responsible for matters relating to the election of elected members of the House of Assembly; and that Minister shall, not later than seven days after the House first meets after he has received the report, lay it before the House.

(6) In the exercise of the powers conferred upon him by this section the Governor shall act in his own deliberate judgment, but before exercising his powers under subsection (2) of this section the Governor shall consult with the Premier and the Leader of the Opposition.

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

(8) The Supervisor of Elections shall exercise such other functions in relation to elections (whether to the House of Assembly or to local government authorities) as may be prescribed by or under any law enacted by the Legislature.

Clerk to the House of Assembly and his staff.

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

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

Determination of questions as to membership of House of Assembly.

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

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

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

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

(*d*) any elected member or nominated member of the House has vacated his seat or is required, under the provisions of section 29(4) of this Constitution, to cease to perform any of his functions as an elected or nominated member of the House of Assembly.

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

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

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

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

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

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

(5) The Legislature may make provision with respect to—

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

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

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

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

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

PART 2

Legislation and Procedure in the House of Assembly

Power to make laws.

34. Subject to the provisions of this Constitution, the Legislature may make laws for the peace, order and good government of Saint Christopher, Nevis and Anguilla.

Alteration of this Constitution and certain other laws.

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

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

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

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

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

(4) A bill to alter section 109 of this Constitution in relation to the Island of Nevis or the Island of Anguilla shall not be submitted to the Governor for his assent unless, after it has been passed by the House of Assembly, the bill has been approved on a referendum in the Island of Nevis or the Island of Anguilla, as the case may be, held in accordance with such provision as may be made in that behalf by the Legislature by not less than two-thirds of all the votes validly cast on that referendum.

(5)(*a*) On a referendum in Saint Christopher, Nevis and Anguilla for the purposes of subsection (3) of this section every person who, at the time when the referendum is held, would be entitled to vote in elections of elected members of the House of Assembly shall be entitled to vote and no other person may so vote.

(*b*) On a referendum in the Island of Nevis or in the Island of Anguilla for the purposes of subsection (4) of this section every person who, at the time when the referendum is held, would be entitled to vote in elections of elected members of the House of Assembly in that Island shall be entitled to vote and no other person may so vote.

(*c*) The right of any person to vote on a referendum under this section shall be exercised in accordance with such procedures as may be prescribed by the Legislature for the purposes of the referendum.

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

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

(7) The conduct of any referendum for the purposes of subsection (3) or (4) of this section shall be under the general supervision of the Supervisor of Elections and the provisions of subsections (4), (5) and (7) of section 31 of this Constitution shall apply in relation to the exercise by the Supervisor of Elections or by any other officer of his functions with respect to a referendum as they apply in relation to the exercise of his functions with respect to elections of members of the House of Assembly.

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

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

(9) In this section—

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

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

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

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

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

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

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

Oath by members of House of Assembly.

36.—(1) Every member of the House of Assembly shall, before taking his seat in the House, take and subscribe before the House the oath of

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

allegiance but a member may before taking that oath take part in the election of a Speaker of the House.

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

Presiding in House of Assembly.

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

(*a*) the Speaker; or

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

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

Quorum in House of Assembly.

38.—(1) If at any sitting of the House of Assembly any member of the House who is present draws the attention of the person presiding at the sitting to the absence of a quorum and, after such interval as may be prescribed in the rules of procedure of the House, the person presiding at the sitting ascertains that a quorum of the House is not present, the House shall be adjourned.

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

Voting in House of Assembly.

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

(2) The Speaker or other member presiding in the House of Assembly shall not vote unless on any question the votes are equally divided, in which case, except as otherwise provided in this section, he shall have and exercise a casting vote:

Provided that in the case of the question of the final reading of a bill such as is referred to in section 35(2) of this Constitution a Speaker or other member presiding in the House who is an elected member of the House shall have an original vote but no casting vote.

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

Unqualified persons sitting or voting.

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

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

Mode of exercise of legislative power.

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

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

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

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

Restrictions with regard to certain financial measures.

42. Except on the recommendation of the Governor signified by a Minister, the House of Assembly shall not—

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

(i) for the imposition of taxation or the alteration of taxation otherwise than by reduction;

(ii) for the imposition of any charge upon the Consolidated Fund or any other public fund of Saint Christopher, Nevis and Anguilla or the alteration of any such charge otherwise than by reduction;

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

(iv) for the composition or remission of any debt due to the Government of Saint Christopher, Nevis and Anguilla, or

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

Regulation of procedure in House of Assembly.

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

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

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

PART 3

Summoning, Prorogation and Dissolution

Sessions of the Legislature.

44.—(1) Each session of the Legislature shall be held at such place within Saint Christopher, Nevis and Anguilla and shall commence at such time as the Governor may by Proclamation appoint.

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

Prorogation and dissolution of the Legislature.

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

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

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

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

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

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

(5) If, after a dissolution of the Legislature and before the holding of the general election of elected members of the House of Assembly, the Premier advises the Governor that, owing to the existence of a state of war or of a state of emergency in Saint Christopher, Nevis and Anguilla, it is necessary to recall the Legislature, the Governor shall summon the Legislature that has been dissolved to meet, but the general election of elected members of the House of Assembly shall proceed and the Legislature that has been recalled shall, if not sooner dissolved, again stand dissolved on the date appointed for the nomination of candidates in that general election.

General elections.

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

PART 4

Delimitation of constituencies

Constituency Boundaries Commission.

47.—(1) There shall be a Constituency Boundaries Commission for Saint Christopher, Nevis and Anguilla which shall consist of—

(*a*) the Speaker, as Chairman;

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

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

(2) A member of the Commission, other than the Chairman, shall vacate his office—

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

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

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

(*d*) if the Governor, acting in accordance with the advice of the Premier in the case of a member appointed in pursuance of subsection (1)(*b*) of this section or in accordance with the advice of the Leader of the Opposition in the case of a member appointed in pursuance of subsection (1)(*c*) of this section, so directs.

(3) The Commission may regulate its own procedure, and, with the consent of the Premier, confer powers and impose duties on any public officer or on any authority of the Government of Saint Christopher, Nevis and Anguilla for the purpose of the discharge of its functions.

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

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

Review of constituency boundaries.

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

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

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

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

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

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

(3) As soon as may be after the Commission has submitted a report under subsection (1)(*a*) of this section, the Premier shall lay before the House of Assembly for its approval the draft of an Order by the Governor for giving effect, whether with or without modifications, to the recommendations contained in the report, and that draft may make provision for any matters which appear to the Premier to be incidental to or consequential upon the other provisions of the draft.

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

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

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

(7) The question of the validity of any Order by the Governor purporting to be made under this section and reciting that a draft thereof has been approved by resolution of the House of Assembly shall not be enquired into in any court of law except upon the ground that the Order does not give effect to rule 1 in Schedule 2 to this Constitution.

CHAPTER IV

THE EXECUTIVE

Exercise of executive authority of Saint Christopher, Nevis and Anguilla.

49.—(1) The executive authority of Saint Christopher, Nevis and Anguilla is vested in Her Majesty.

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

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

Ministers of the Government of Saint Christopher, Nevis and Anguilla.

50.—(1) There shall be a Premier of Saint Christopher, Nevis and Anguilla, who shall be appointed by the Governor.

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

(3) There shall be, in addition to the office of Premier, such other offices of Minister as may be established by the Legislature or, subject to the provisions of any law enacted by the Legislature, by the Governor, acting in accordance with the advice of the Premier.

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

(5) If occasion arises for making an appointment to the office of Premier or any other Minister while the Legislature is dissolved, then, notwithstanding any other provision of this section, a person who was

an elected member of the House of Assembly immediately before the dissolution may be appointed as Premier or any other Minister and a person who was a nominated member immediately before the dissolution may be appointed as any Minister other than Premier.

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

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

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

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

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

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

(*d*) if, by virtue of section 29(4) of this Constitution, he is required to cease to perform his functions as a member of the House of Assembly.

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

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

(*b*) if the Premier resigns from office within three days after the passage by the majority of all the elected members of the House of Assembly of a resolution of no confidence in the Government of Saint Christopher, Nevis and Anguilla or is removed from office under subsection (6) or (7) of this section; or

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

Establishment of Cabinet of Ministers.

51.—(1) There shall be a Cabinet of Ministers for Saint Christopher, Nevis and Anguilla which shall consist of the Premier and the other Ministers.

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

Collective responsibility.

52.—(1) The functions of the Cabinet shall be to advise the Governor in the government of Saint Christopher, Nevis and Anguilla and the

Cabinet shall be collectively responsible to the Legislature for any advice given to the Governor by or under the general authority of the Cabinet and for all things done by or under the authority of any Minister in the execution of his office.

(2) The provisions of this section shall not apply in relation to—

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

(*b*) the dissolution of the Legislature; or

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

Allocation of portfolios to Ministers.

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

Performance of functions of Premier during absence or illness.

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

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

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

Exercise of Governor's functions.

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

(2) Where the Governor 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 before the Governor acts in accordance with a recommendation in any case he may, acting in his own deliberate judgment, once request the person or authority by whom it is made to reconsider the recommendation and if, upon any reconsideration of a recommendation, the person or authority makes a different recommendation, the Governor, acting in his own deliberate judgment, may likewise once request the person or authority by whom it is made to reconsider that different recommendation.

(3) During any period in which there is a vacancy in the office of Leader of the Opposition by reason of the fact that no person is both

qualified for appointment to that office in accordance with this Constitution and willing to accept appointment, the Governor may act without the advice of the Leader of the Opposition and in his own deliberate judgment in the exercise of any power conferred upon him by this Constitution in respect of which it is provided that he shall act in accordance with the advice of or after consultation with the Leader of the Opposition.

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

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

(*b*) section 50(6) (which requires the Governor to remove the Premier from office in certain circumstances);

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

(*d*) sections 59(4), 76(5), 81(8), 82(6) and 86(5) (which require the Governor to remove the holders of certain offices from office in certain circumstances).

Governor to be informed concerning matters of government.

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

Parliamentary Secretaries.

57.—(1) The Governor, acting in accordance with the advice of the Premier, may appoint Parliamentary Secretaries from among the members of the House of Assembly to assist Ministers in the performance of their duties:

Provided that, if occasion arises for making an appointment while the Legislature stands dissolved, a person who was a member of the House of Assembly immediately before the dissolution may be appointed as a Parliamentary Secretary.

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

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

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

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

(*d*) if the Premier resigns from office within three days after the passage by the majority of all the elected members of the House of Assembly of a resolution of no confidence in the Government of Saint Christopher, Nevis and Anguilla or is removed from office under section 50(6) or 50(7) of this Constitution;

(*e*) on the appointment of any person to the office of Premier; or

(*f*) if, by virtue of section 29(4) of this Constitution, he is required to cease to perform his functions as a member of the House of Assembly.

Oaths to be taken by Ministers, etc.

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

Leader of the Opposition.

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

(2) Whenever there is occasion for the appointment of a Leader of the Opposition the Governor shall appoint the elected member of the House of Assembly who appears to him, acting in his own deliberate judgment, to be the leader in the House of the largest number of members in opposition to the Government:

Provided that an elected member of the House shall not be eligible for appointment as Leader of the Opposition unless it appears to the Governor, acting in his own deliberate judgment, that the member commands the support of at least one other elected member besides himself.

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

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

(*b*) if, when the House first meets after any dissolution of the Legislature, he is not then an elected member thereof;

(*c*) if, by virtue of section 29(4) of this Constitution, he is required to cease to perform his functions as a member of the House of Assembly; or

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

(4) If it appears to the Governor, acting in his own deliberate judgment, that the Leader of the Opposition is no longer the leader in the House of Assembly of the largest number of members of the House in opposition to the Government or has ceased to command the support of at least one elected member of the House (besides himself) the Governor shall remove the Leader of the Opposition from office.

Permanent secretaries

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

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

Secretary to the Cabinet.

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

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

Constitution of offices, etc.

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

Attorney-General.

63.—(1) There shall be an Attorney-General who shall be the principal legal adviser to the Government of Saint Christopher, Nevis and Anguilla.

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

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

(4) Where the offices of Attorney-General and Director of Public Prosecutions are held by the same person the following provisions of this Constitution shall have effect as if references therein to the Director of Public Prosecutions included references to the Attorney-General, that is to say, section 73, 81(5), 81(6), 81(7), 81(8), 81(9), 81(10), 89(3) and 113(8)(*a*); but the provisions of this subsection shall be without prejudice to the power of the Legislature or, subject to the provisions of any law, the Governor to determine that the office of Attorney-General shall cease to be a public office and become the office of a Minister.

Director of Public Prosecutions.

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

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

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

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

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

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

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

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

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

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

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

Prerogative of mercy.

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

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

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

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

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

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

Advisory Committee on Prerogative of Mercy.

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

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

(*b*) the Attorney-General; and

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

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

Provided that his seat shall become vacant—

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

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

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

(4) The Committee may regulate its own procedure.

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

Functions of Advisory Committee.

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

shall decide in his own deliberate judgment whether to advise the Governor to exercise any of his powers under section 65(1) of this Constitution.

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

CHAPTER V

FINANCE

Consolidated Fund.

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

Withdrawals from Consolidated Fund or other public funds.

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

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

(*b*) where the issue of those moneys has been authorised by an Appropriation law or by a law made in pursuance of section 71 of this Constitution or by a warrant in pursuance of section 72 of this Constitution.

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

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

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

(5) The investment of moneys forming part of the Consolidated Fund shall be made in such manner as may be prescribed by or under a law enacted by the Legislature.

(6) Notwithstanding the provisions of subsection (1) of this section, provision may be made by or under a law enacted by the Legislature authorising withdrawals to be made from the Consolidated Fund, in such circumstances and to such extent as may be prescribed by or under a law enacted by the Legislature, for the purpose of making repayable advances.

Annual Appropriation law.

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

(2) When the estimates of expenditure (other than expenditure charged upon the Consolidated Fund by this Constitution or by any law enacted by the Legislature) have been approved by the House of Assembly, a bill,

known as an Appropriation bill, shall be introduced in the House, providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums, under separate votes for the several services required, to the purposes specified therein.

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

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

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

a supplementary estimate showing the sums required or spent shall be laid before the House of Assembly and the heads of any such expenditure shall be included in a supplementary appropriation bill.

Authorisation of expenditure in advance of appropriation.

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

Warrants for unforeseen expenditure.

72.—(1) If it appears to the Minister for the time being responsible for finance that—

(*a*) there is an urgent need to incur expenditure;

(*b*) no provision exists for that expenditure in any Appropriation law or other law; and

(*c*) it would not be in the public interest to delay the authorisation of that expenditure until such time as a supplementary estimate can be laid before the House of Assembly,

the Minister may, by special warrant, authorise the issue from the Consolidated Fund of the moneys required to meet that expenditure:

Provided that the total sum for the time being authorised to be issued under this subsection, for which no provision has been made by an Appropriation law, shall not exceed such amount as may be prescribed by the Legislature.

(2) Where in any financial year any expenditure has been authorised by special warrant under subsection (1) of this section the Minister for the time being responsible for finance shall cause a supplementary estimate relating to that expenditure to be laid before the House of Assembly at the first sitting of the House occurring after the expiration of fourteen days from the date of the warrant and a supplementary Appropriation bill shall be introduced in the House providing for the issue of the sums authorised to be spent and appropriating them to the purposes specified therein.

Remuneration of certain officers.

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

(2) The salaries and allowances prescribed in pursuance of this section in respect of the holders of the offices to which this section applies shall be a charge on the Consolidated Fund.

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

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

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

(6) Nothing in this section shall be construed as prejudicing the provisions of section 88 of this Constitution (which protects pensions rights in respect of service as a public officer).

Public debt.

74.—(1) All debt charges for which Saint Christopher, Nevis and Anguilla is liable shall be a charge on the Consolidated Fund.

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

Director of Audit.

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

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

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

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

(5) The Director of Audit shall exercise such other functions in relation to the accounts of the Government of Saint Christopher, Nevis and Anguilla or the accounts of other authorities or bodies as may be prescribed by or under any law enacted by the Legislature of Saint Christopher, Nevis and Anguilla.

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

CHAPTER VI

THE PUBLIC SERVICE

PART 1

The Public Service Commission

Public Service Commission.

76.—(1) There shall be in and for Saint Christopher, Nevis and Anguilla a Public Service Commission which shall consist of a Chairman and not less than two nor more than four other members who shall be appointed as follows:—

(*a*) the Chairman and not more than three other members shall be appointed by the Governor, acting in accordance with the advice of the Premier;

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

(2) A person shall not be qualified to be appointed as a member of the Commission if he is a member of the House of Assembly or a public officer, and a person shall not be qualified to be so appointed unless he is a Commonwealth citizen ordinarily resident in Saint Christopher, Nevis and Anguilla.

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

(*a*) at the expiration of such period (not being less than two years nor more than five years from the date of his appointment) as may be specified by the Governor, acting in accordance with the advice of the Premier, at the time of his appointment; or

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

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

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

(6) If the Premier represents to the Governor that the question of removing a member of the Commission under this section ought to be investigated, then—

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

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

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

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

(9) If at any time there are less than two members of the Commission besides the Chairman or if any such member is acting as Chairman or is for any reason unable to exercise the functions of his office, the Governor, acting in accordance with the advice of the Premier, may appoint a person, from amongst persons who are qualified to be appointed as a member of the Commission and in the case of an appointment on account of the inability of the member of the Commission appointed under subsection 1(*b*) of this section are selected by the appropriate representative body, to act as a member, and any person so appointed shall, subject to the provisions of subsection (3) of this section, continue to act until the office in which he is acting has been filled or, as the case may be, until the holder thereof has resumed his functions or until his appointment to act has been revoked by the Governor, acting in accordance with the advice of the Premier.

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

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

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

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

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

(14) In this section " the appropriate representative body " means such body as is designated by the Governor, acting in accordance with the advice of the Premier, as the principal body in Saint Christopher, Nevis and Anguilla representing public officers.

Appointment, etc., of public officers.

77.—(1) Subject to the provisions of sections 78 and 87 of this Constitution, the power to appoint persons to hold or act in offices in the public service (including the power to confirm appointments), and the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Governor, acting in accordance with the recommendation of the Public Service Commission.

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

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

(*a*) any office to which section 79 of this Constitution applies;

(*b*) the office of Attorney-General;

(*c*) the office of Director of Public Prosecutions;

(*d*) the office of Director of Audit;

(*e*) any office to which section 83 of this Constitution applies; or

(*f*) any office in the Police Force.

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

(5) Before the Public Service Commission makes any recommendation as to the exercise of any of the powers conferred by this section in relation to the Clerk of the House of Assembly or a member of his staff and before any other person or authority exercises any of those powers in relation to the Clerk of the House or a member of his staff, the Commission or that person or authority shall consult with the Speaker of the House.

(6) Before the Public Service Commission recommends that the powers under this section be exercised, or any other person or authority exercises any powers under this section, to appoint to hold or act in any public office any person who is in the public service of the Government of any other country or territory, the Public Service Commission or that person or authority shall consult the Premier.

(7) Before the Public Service Commission recommends that the powers under this section be exercised, or any other person or authority exercises any powers under this section, to appoint to or to act in any public office any person who holds or is acting in any office to which section 83 of this Constitution applies, the Public Service Commission or that person or authority shall consult with the Judicial and Legal Services Commission.

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

Compulsory retirement to facilitate appointment of local candidates.

78.—(1) If the Premier so requests, the authorities having power under section 77, 79 or 85 of this Constitution to make appointments in any branch of the public service shall consider whether there are more local candidates suitably qualified for appointment to, or promotion in, that branch than there are vacancies in that branch that could appropriately be filled by such local candidates; those authorities, if satisfied that such

is the case, shall, if so requested by the Premier, select officers in that branch to whom this section applies and whose retirement would, in the opinion of those authorities, cause vacancies that could appropriately be filled by such suitably qualified local candidates as are available and fit for appointment and inform the Premier of the number of officers so selected; if the Premier specifies a number of officers to be called upon to retire (not exceeding the number of officers so selected), those authorities shall nominate that number of officers from among the officers so selected and require them by notice in writing to retire from the public service; and any officer who is so required to retire shall retire accordingly.

(2) Any notice given under subsection (1) of this section requiring any officer to retire from the public service shall—

(*a*) in the case of an officer who, when he receives the notice, is on leave of absence upon the completion of a tour of duty, specify the date on which he shall so retire which shall be not earlier than the expiration of six months from the date when he receives the notice or, if his leave of absence would otherwise expire later, not earlier than when it would otherwise expire; and

(*b*) in the case of any other officer, specify the period, which shall be not less than six months from the date when he receives the notice, at the expiration of which he shall proceed upon leave of absence pending retirement:

Provided that the officer may agree to the notice specifying an earlier date or, as the case may be, a shorter period.

(3) This section applies to any officer who holds a pensionable office and—

(*a*) who is designated under the Overseas Service Aid Scheme; or

(*b*) who is domiciled outside Saint Christopher, Nevis and Anguilla and was so domiciled at the date of his first appointment to the public service.

PART 2

Appointments, etc., to particular offices

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

79.—(1) This section applies to the offices of Secretary to the Cabinet, permanent secretary, head of a department of government and deputy head of a department of government.

(2) Subject to the provisions of sections 78 and 87 of this Constitution, the power to appoint persons to hold or to act in offices to which this section applies (including the power to confirm appointments), the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Governor, acting in accordance with the recommendation of the Public Service Commission:

Provided that—

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

(*b*) before the Public Service Commission recommends to the Governor that any person should be appointed to hold an office to which this section applies (other than an appointment to an office of permanent secretary on transfer from another such office carrying

the same salary) it shall consult with the Premier and if the Premier signifies his objection to the appointment of that person to the office, the Commission shall not recommend the Governor to appoint that person.

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

Appointment, etc., of Attorney-General.

80.—(1) The provisions of this section shall have effect at any time when the office of Attorney-General is a public office:

Provided that subsection (3) of this section shall not have effect where the offices of Attorney-General and Director of Public Prosecutions are held by the same person.

(2) The power to appoint a person to hold or act in the office of Attorney-General shall vest in the Governor, acting in accordance with the recommendation of the Public Service Commission:

Provided that before the Public Service Commission makes any recommendation under this subsection it shall consult the Premier and the Judicial and Legal Services Commission.

(3) The power to exercise disciplinary control over and remove from office a person holding or acting in the office of Attorney-General shall vest in the Governor, acting in accordance with the recommendation of the Judicial and Legal Services Commission:

Provided that before the Judicial and Legal Services Commission makes any recommendation under this subsection it shall consult the Public Service Commission.

Director of Public Prosecutions.

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

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

(3) Before the Public Service Commission makes any recommendation as to the exercise of the powers conferred by subsection (1) or (2) of this section it shall consult the Premier and the Judicial and Legal Services Commission.

(4) A person shall not be qualified to be appointed to hold or act in the office of Director of Public Prosecutions unless—

(*a*) he is qualified to practise as an advocate in a court having unlimited jurisdiction in civil and criminal matters in the Commonwealth; and

(*b*) he has been qualified for not less than five years to practise as an advocate or solicitor in such a court.

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

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

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

(6) Subject to the provisions of subsection (8) of this section, the Director of Public Prosecutions shall vacate his office when he attains the prescribed age.

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

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

(9) If the Premier or the Chairman of the Judicial and Legal Services Commission represents to the Governor that the question of removing the Director of Public Prosecutions under this section ought to be investigated, then—

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

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

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

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

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

Director of Audit.

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

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

(3) A person appointed to act in the office of Director of Audit shall, subject to subsections (4), (6), (7) and (8) of this section, cease so to act—

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

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

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

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

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

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

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

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

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

(9) The prescribed age for the purposes of subsection (4) of this section is the age of fifty-five years or such other age as may be prescribed by the Legislature:

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

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

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

(2) The power to appoint persons to hold or act in offices to which this section applies (including the power to confirm appointments) shall vest in the Governor, acting in accordance with the recommendation of the Public Service Commission:

Provided that before making any recommendation as to the exercise of the powers conferred by this section in any case the Public Service Commission shall consult the Judicial and Legal Services Commission.

(3) The power to exercise disciplinary control over persons holding or acting in offices to which this section applies and the power to remove such persons from office shall vest in the Governor, acting in accordance with the recommendation of the Judicial and Legal Services Commission:

Provided that before making any recommendation as to the exercise of the powers conferred by this subsection in any case the Judicial and Legal Services Commission shall consult the Public Service Commission.

PART 3

The Police

Police Service Commission.

84.—(1) There shall be a Police Service Commission in and for Saint Christopher, Nevis and Anguilla which shall consist of—

(*a*) the Chairman and the members of the Public Service Commission appointed under paragraph (*a*) of section 76(1) of this Constitution; and

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

(2) The provisions of section 76(2), 76(3), 76(4), 76(5), 76(6), 76(7) and 76(10) of this Constitution shall apply in relation to a member of the Police Service Commission appointed under paragraph (*b*) of subsection (1) of this section as they apply in relation to a member of the Public Service Commission.

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

(4) Any person for the time being authorised to act as a member of the Public Service Commission under section 76(9) of this Constitution (other than a person so authorised on account of the inability of a member of the Commission appointed under section 76(1)(*b*) of this Constitution) shall act as a member of the Police Service Commission.

(5) If at any time the member of the Commission appointed under paragraph (*b*) of subsection (1) of this section is for any reason unable to exercise the functions of his office, the Governor, acting in accordance with the advice of the Premier, may appoint a person, from amongst persons who are qualified to be appointed as a member of the Commission

and are selected by the appropriate representative body, to act as a member, and any person so appointed shall, subject to the provisions of subsection (2) of this section, continue to act until the holder of the office has resumed his functions or until his appointment to act has been revoked by the Governor, acting in accordance with the advice of the Premier.

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

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

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

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

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

Appointment, etc., of police officers.

85.—(1) Subject to the provisions of sections 78 and 87 of this Constitution, the power to appoint persons to hold or act in offices in the Police Force (including the power to confirm appointments), the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Governor, acting in accordance with the recommendation of the Police Service Commission:

Provided that before the Police Service Commission makes any recommendation to the Governor with respect to the appointment of any person to hold the office of Chief of Police or the deputy Chief of Police the Commission shall consult with the Premier and if the Premier signifies his objection to the appointment of any person to the office the Commission shall not recommend the Governor to appoint that person.

(2) The Governor acting in accordance with the recommendation of the Police Service Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of the powers under subsection (1) of this section to any one or more members of the Commission or, with the consent of the Premier, to the Chief of Police or any other officer of the Police Force.

(3) Before the Police Service Commission recommends that the powers under this section be exercised, or any other person or authority exercises their powers, to appoint to or to act in any office in the Police Force any person who holds or is acting in any office to which section 83 of this Constitution applies the Police Service Commission shall consult with the Judicial and Legal Services Commission.

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

PART 4

The Public Service Board of Appeal

Public Service Board of Appeal.

86.—(1) There shall be a Public Service Board of Appeal for Saint Christopher, Nevis and Anguilla which shall consist of—

(*a*) one member appointed by the Governor, who shall be Chairman;

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

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

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

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

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

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

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

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

(6) If the Governor considers that the question of removing a member of the Board under this section ought to be investigated, then—

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

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

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

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

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

(*b*) In any case where the member of the Board unable to exercise the functions of his office was appointed under paragraph (*b*) or (*c*) of subsection (1) of this section, the Governor shall act in accordance with the advice of the Premier or on the recommendation of the appropriate representative body, as the case may be, in the exercise of the powers conferred by this subsection.

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

(10) In this section " the appropriate representative body " means the body for the time being designated under section 76(14) of this Constitution.

(11) In the exercise of the powers conferred upon him by this section the Governor shall, except where it is otherwise expressly provided in this section, act in his own deliberate judgment.

Appeals to Public Service Board of Appeal.

87.—(1) This section applies to—

(*a*) any decision of the Governor, acting in accordance with the recommendation of the Public Service Commission or the Police Service Commission, to remove a public officer from office or to exercise disciplinary control over a public officer (including a decision made on appeal from or confirming a decision of any person to whom powers are delegated under section 77(2) or 85(2) of this Constitution);

(*b*) any decision of any person to whom powers are delegated under section 77(2) or 85(2) of this Constitution to remove a public officer from office or to exercise disciplinary control over a public officer (not being a decision which is subject to appeal to or confirmation by the Governor, acting in accordance with the recommendation of the Public Service Commission or the Police Service Commission);

(*c*) such decisions with respect to the discipline of any military, naval or air force established for Saint Christopher, Nevis and Anguilla as may be prescribed by the Legislature.

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

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

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

(5) The Board may by regulation make provision for its own procedure and the procedure on appeals under this section and may, with the approval of the Governor, by regulation—

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

(*b*) confer powers or impose duties on any public officer or on any authority of the Government of Saint Christopher, Nevis and Anguilla for the purpose of the exercise of its functions.

PART 5

Pensions

Pensions laws and protection of pensions rights.

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

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

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

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

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

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

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

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

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

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

Power to withhold pensions, etc.

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

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

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

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

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

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

(4) Before the Public Service Commission concurs under subsection (1) or subsection (2) of this section in any action taken on the ground that any person who holds or has held any office to which, at the time of such action, section 83 of this Constitution applies has been guilty of misbehaviour in that office, the Public Service Commission shall consult the Judicial and Legal Services Commission.

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

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

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

CHAPTER VII

CITIZENSHIP

Commencement.

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

Provided that the Legislature may, subject to the provisions of subsection (2) of this section, enact laws in pursuance of section 96 of this Constitution before the appointed date.

(2) A law enacted in pursuance of subsection (1) of this section or in pursuance of section 96 of this Constitution shall not have effect until on or after the termination of the status of association of Saint Christopher, Nevis and Anguilla with the United Kingdom in accordance with the provisions of the West Indies Act 1967.

Persons who become citizens on appointed date.

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

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

(*a*) having become such a citizen under the British Nationality Act 1948(a) by virtue of his having been naturalised in Saint Christopher, Nevis and Anguilla 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 Saint Christopher, Nevis and Anguilla under the British Nationality Acts 1948 to 1965,

shall become a citizen of Saint Christopher, Nevis and Anguilla on the appointed date.

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

Persons entitled to be registered as citizens.

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

(*a*) who becomes a citizen of Saint Christopher, Nevis and Anguilla by virtue of section 91 of this Constitution; or

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

but whose marriage has been terminated by death or dissolution before the appointed date shall be entitled, upon making application and if she

(a) 1948 c. 56.

is a British protected person or an alien upon taking the oath of allegiance, to be registered as a citizen of Saint Christopher, Nevis and Anguilla.

(2) Any person who, having been born outside Saint Christopher, Nevis and Anguilla, is immediately before the appointed date a citizen of the United Kingdom and Colonies and under the age of twenty-one years shall, if his father becomes a citizen of Saint Christopher, Nevis and Anguilla on the appointed date by virtue of section 91(2) of this Constitution be entitled, upon application being made on his behalf by his parent or guardian before he attains the age of twenty-one years or before such later date as may be prescribed by the Legislature, to be registered as a citizen of Saint Christopher, Nevis and Anguilla:

Provided that this subsection shall not apply to a woman who is or has been married.

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

Persons born in Saint Christopher on or after appointed date.

93. Every person born in Saint Christopher, Nevis and Anguilla on or after the appointed date shall become a citizen of Saint Christopher, Nevis and Anguilla at the date of his birth:

Provided that a person shall not become a citizen of Saint Christopher, Nevis and Anguilla by virtue of this section if at the time of his birth—

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

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

Persons born outside Saint Christopher on or after appointed date.

94. A person born outside Saint Christopher, Nevis and Anguilla on or after the appointed date shall become a citizen of Saint Christopher, Nevis and Anguilla at the date of his birth if, at that date, his father is a citizen of Saint Christopher, Nevis and Anguilla otherwise than by virtue of this section or section 91(3) of this Constitution.

Marriage to citizen of Saint Christopher.

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

Powers of the Legislature.

96.—(1) The Legislature may make provision for the acquisition of citizenship of Saint Christopher, Nevis and Anguilla by persons who are not eligible or who are no longer eligible to become citizens of Saint Christopher, Nevis and Anguilla under the provisions of this Chapter.

(2) The Legislature may make provision for depriving of his citizenship of Saint Christopher, Nevis and Anguilla any person who is a citizen of Saint Christopher, Nevis and Anguilla otherwise than by virtue of section 91, section 93 or section 94 of this Constitution.

(3) The Legislature may make provision for the renunciation by any person of his citizenship of Saint Christopher, Nevis and Anguilla.

Interpretation.

97.—(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 or any Act of the United Kingdom Parliament amending or replacing that Act.

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

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

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

CHAPTER VIII

Judicial Provisions

Original Jurisdiction of High Court in constitutional questions.

98.—(1) Subject to the provisions of sections 22(2), 35(8), 48(7) and 112 of this Constitution, any person who belongs to or is ordinarily resident in Saint Christopher, Nevis and Anguilla and who alleges that any provision of this Constitution (other than a provision of Chapter I) has been or is being contravened may, if he has a relevant interest, apply to the High Court for a declaration and for relief under this section.

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

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

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

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

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

(7) Nothing in this section shall confer jurisdiction on the High Court to hear or determine any such question as is referred to in section 33 of this Constitition.

Reference of constitutional questions to High Court.

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

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

Appeals to Court of Appeal.

100. Subject to the provisions of section 33(7) of this Constitution, an appeal shall lie from decisions of the High Court to the Court of Appeal as of right in the following cases—

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

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

Appeals to H.M. in Council.

101.—(1) Subject to the provisions of section 33(7) of this Constitution, an appeal shall lie from decisions of the Court of Appeal to Her Majesty in Council as of right in the following cases—

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

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

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

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

(2) Subject to the provisions of section 33(7) of this Constitution, an appeal shall lie from decisions of the Court of Appeal to Her Majesty in Council with the leave of the Court of Appeal in the following cases—

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

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

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

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

Interpretation.

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

CHAPTER IX

TRANSITIONAL PROVISIONS

Existing laws.

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

(2) Where any matter that falls to be prescribed or otherwise provided for under this Constitution by the Legislature or by any other authority or person is prescribed or provided for by or under an existing law (including any amendment to any such law made under this section), that prescription or provision shall, as from the commencement of this Constitution, have effect (with such modifications, adaptations, qualifications and exceptions as may be necessary to bring it into conformity with the West Indies Act 1967, this Constitution and the Courts Order) as if it had been made under this Constitution by the Legislature or, as the case may require, by the other authority or person.

(3) The Governor may by Order made at any time before 1st September 1967 make such amendments to any existing law as may appear to him to be necessary or expedient for bringing that law into conformity with the provisions of the West Indies Act 1967, this Constitution and the Courts Order or otherwise for giving effect or enabling effect to be given to those provisions.

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

(5) For the purposes of this section, the expression "existing law" means any Act, Ordinance, law, rule, regulation, order or other instrument made in pursuance of (or continuing in operation under) the existing instruments or the Leeward Islands (Miscellaneous Provisions) Order in Council 1956(a) or the West Indies (Dissolution and Interim Commissioner) Order in Council 1962(b) and having effect as part of the law of Saint Christopher, Nevis and Anguilla or of any part thereof immediately before the commencement of this Constitution.

The Legislature.

104.—(1) Until it is otherwise provided by Order made under section 48 of this Constitution, there shall be ten constituencies for the purposes of the election of elected members of the House of Assembly and those constituencies shall have the same boundaries as the constituencies into which Saint Christopher, Nevis and Anguilla is divided, immediately before the commencement of this Constitution, for the purposes of the election of members of the Legislative Council established by the existing instruments and shall be deemed to have been established under section 48 of this Constitution.

(2) The persons who, immediately before the commencement of this Constitution, are elected members of the Legislative Council established by the existing instruments shall, as from the commencement of this Constitution, be deemed to have been elected as elected members of the House of Assembly in the respective constituencies established by subsection (1) of this section which correspond to the constituencies by which they were returned to the said Legislative Council, and shall hold their seats in the House of Assembly in accordance with this Constitution.

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

(4) Until the Legislature otherwise provides, any person who holds or acts in any office the holding of which would, under the existing instruments, have disqualified him for membership of the Legislative Council established by the existing instruments shall be disqualified to be elected as an elected member or appointed as a nominated member of the House of Assembly as though provision in that behalf had been made in pursuance of section 26(5) of this Constitution.

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

(6) Subject to the provisions of section 45 of this Constitution, the Legislature shall, unless sooner dissolved, stand dissolved on the date on which the Legislative Council established by the existing instruments would have been required by the existing instruments to be dissolved.

(a) S.I. 1956/833 (1956 I, p. 1167). (b) S.I. 1962/1084 (1962 II, p. 1220).

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

First Cabinet.

105.—(1) The person who, immediately before the commencement of this Order, is the Chief Minister under the existing instruments shall, as from the commencement of this Constitution, hold the office of Premier as if he had been appointed thereto in accordance with the provisions of this Constitution, and shall be deemed to have taken and subscribed any necessary oath under this Constitution.

(2) The persons who, immediately before the commencement of this Constitution, are Ministers (other than the Chief Minister) under the existing instruments shall, as from the commencement of this Constitution, hold the like offices of Minister as if they had been appointed thereto in accordance with the provisions of this Constitution, and shall be deemed to have taken and subscribed any necessary oath under this Constitution.

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

Office of Attorney-General.

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

Existing public officers.

107.—(1) Every person who, immediately before the commencement of this Constitution, holds or is acting in any public office shall, as from the commencement of this Constitution, hold or act in that office or the coresponding office established by this Constitution as if he had been appointed thereto in accordance with the provisions of this Constitution:

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

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

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

(4) In this section " existing law " has the meaning in section 103 of this Constitution.

Emergency powers.

108. The Leeward Islands (Emergency Powers) Order in Council 1959(a) shall cease to have effect as part of the law of St. Christopher, Nevis and Anguilla on 1st September 1967 or such earlier date as the Legislature may prescribe.

(a) S.I. 1959/2206 (1959 I, p. 561).

CHAPTER X

MISCELLANEOUS

Local government.

109.—(1) There shall be a Council for Nevis and a Council for Anguilla, which shall be the principal organ of local government in the Island of Nevis and the Island of Anguilla respectively.

(2) The Council for Nevis and the Council for Anguilla respectively shall have such membership as the Legislature may prescribe:

Provided that of the members of each Council at least two-thirds shall be elected at elections at which all persons who are for the time being registered as voters in the Island of Nevis or the Island of Anguilla, as the case may be, for the purposes of elections to the House of Assembly shall be entitled to vote.

(3) Notwithstanding anything in subsection (2) of this section until 1st January 1968, or such earlier date as the Legislature may prescribe—

(*a*) the Council for Nevis and the Council for Anguilla shall, respectively, consist of such number of members as the Governor may determine;

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

(*c*) before the Premier tenders advice to the Governor for the purposes of paragraph (*b*) of this subsection the Premier shall, unless no person then holds the office of Leader of the Opposition, consult the Leader of the Opposition.

Resignations.

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

Provided that—

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

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

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

Re-appointments and concurrent appointments.

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

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

Certain questions not to be enquired into in any court.

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

Interpretation.

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

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

" dollars " means dollars in the currency of Saint Christopher, Nevis and Anguilla;

" the existing instruments " means the instruments mentioned in Schedule 1 to the Saint Christopher, Nevis and Anguilla Constitution Order 1967;

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

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

" the Legislature " means the Legislature of Saint Christopher, Nevis and Anguilla;

" oath " includes affirmation;

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

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

" the Police Force " means the Saint Christopher, Nevis and Anguilla Police Force established by the Police Ordinance(b) and includes any other police force established by or under a law enacted by the Legislature to succeed to the functions of the Saint Christopher, Nevis and Anguilla Police Force;

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

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

" the public service " means, subject to the provisions of this section, the service of the Crown in a civil capacity in respect of the Government of Saint Christopher, Nevis and Anguilla;

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

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

(a) 1948 c. 56.
(b) Laws of Saint Christopher, Nevis and Anguilla. c. 181.

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

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

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

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

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

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

(4) In this Constitution references to the Courts Order have the meaning in section 35(9) of this Constitution.

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

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

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

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

Provided that—

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

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

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

(10)(*a*) For the purposes of this Constitution, a person shall be regarded as belonging to Saint Christopher, Nevis and Anguilla if that person is—

(i) a citizen of the United Kingdom and Colonies born in Saint Christopher, Nevis and Anguilla;

(ii) a citizen of the United Kingdom and Colonies born outside Saint Christopher, Nevis and Anguilla whose father was born in Saint Christopher, Nevis and Anguilla or who is domiciled in Saint Christopher, Nevis and Anguilla and whose father became a citizen of the United Kingdom and Colonies by virtue of naturalization or registration in Saint Christopher, Nevis and Anguilla;

(iii) a citizen of the United Kingdom and Colonies by virtue of having been naturalized or registered in Saint Christopher, Nevis and Anguilla;

(iv) a citizen of the United Kingdom and Colonies who is domiciled in Saint Christopher, Nevis and Anguilla and has been ordinarily resident in Saint Christopher, Nevis and Anguilla for not less than fourteen years;

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

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

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

(*b*) In this subsection any reference to the father of a person shall, in relation to a person born out of wedlock and not legitimated, be construed as a reference to the mother of that person.

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

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

(13) Without prejudice to the provisions of section 32(3) of the Interpretation Act 1889(a) (as applied by subsection (16) of this section), where any power is conferred by this Constitution to make any order, regulation or rule or give any direction or make any designation, the power shall be construed as including the power, exercisable in like manner and subject to the like conditions, if any, to amend or revoke any such order, regulation, rule, direction, or designation.

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

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

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

SCHEDULE 1 TO THE CONSTITUTION

PART I

PROVISIONS OF THIS CONSTITUTION REFERRED TO IN SECTION 35(3)

(i) Chapter I;
(ii) sections 19, 21 and 49;
(iii) sections 23, 24, 27, 31, 33, 34, 41, 44, 45, 46, 47 and 48;
(iv) sections 64, 68, 69, 70, 71, 73, 74 and 75:
(v) Chapter VI (except sections 86 and 87)
(vi) section 90;
(vii) sections 98, 99, 100, 101(1)(*c*), 102 and 104;
(viii) section 113 in its application to any of the provisions mentioned in the foregoing paragraphs of this Schedule; or
(ix) Schedule 2;

PART II

PROVISIONS OF THE COURTS ORDER REFERRED TO IN SECTION 35(3)

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

(a) 1889 c. 63.

SCHEDULE 2 TO THE CONSTITUTION Section 48(1)

RULES FOR THE DELIMITATION OF CONSTITUENCIES

1. There shall be not less than seven constituencies in the Island of Saint Christopher, not less than two constituencies in the Island of Nevis and not less than one constituency in the Island of Anguilla.

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

(*a*) the requirements of rule 1 and the differences in the density of the populations in the respective Islands of Saint Christopher, Nevis and Anguilla;

(*b*) the need to ensure adequate representation of sparsely populated rural areas;

(*c*) the means of communication;

(*d*) geographical features;

(*e*) existing administrative boundaries.

SCHEDULE 3 TO THE CONSTITUTION Section 113

FORMS OF OATHS

Oath of Allegiance

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

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

Oath of Office

I, ..., do swear [*or* solemnly affirm] that I will exercise the functions of the office of ..... without fear or favour, affection or illwill, according to the Constitution and other laws of Saint Christopher, Nevis and Anguilla..

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

EXPLANATORY NOTE

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

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