COURTS

1959 No. 2197

The Windward Islands and Leeward Islands (Courts) Order in Council, 1959

Made - - - - 21*st December*, 1959
Coming into Operation 1*st January*, 1960

At the Court at Buckingham Palace, the 21st day of December, 1959

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers conferred on Her by Section 4 of the Leeward Islands Act, 1956(a), and by the Dominica Act, 1938(b), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

PART I—INTRODUCTORY

Citation, commencement, application and revocation

1.—(1) This Order may be cited as the Windward Islands and Leeward Islands (Courts) Order in Council, 1959.

(2) This Order shall come into operation on the first day of January, 1960.

(3) This Order shall apply to the Colonies of Grenada, Saint Lucia, Saint Vincent, Dominica, Antigua, Saint Christopher Nevis and Anguilla, Montserrat and the Virgin Islands.

(4) The Orders in Council set out in the First Schedule to this Order are revoked.

Interpretation

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

" the existing Orders " means the Orders in Council set out in the First Schedule to this Order ;

" the Federal Constitution " means the Constitution of the West Indies annexed to the West Indies (Federation) Order in Council, 1957(c) ;

" the Federation " means the Federation of the West Indies established by the West Indies (Federation) Order in Council, 1957(c) ;

" the Federal Supreme Court " means the Federal Supreme Court established by the Federal Constitution ;

" the Governor-General " means the Governor-General of the Federation ;

(a) 4 & 5 Eliz. 2. c. 23. (b) 1 & 2 Geo. 6. c 10. (c) S.I. 1957/1364 (1957 I, p. 202).

"judgment" includes decree, order, conviction, sentence and decision.

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

(*a*) any reference to the holder of an office by the term designating his office shall be construed as including a reference to any person who, under and to the extent of any authority in that behalf, is for the time being performing the functions of that office;

(*b*) any reference to Her Majesty's dominions shall be construed as including a reference to all countries and territories within the Commonwealth.

(3) For the purposes of this Order, the resignation of the holder of any office or appointment that is required to be addressed to any person shall have effect from the time that it is received by that person.

(4) For the avoidance of doubts it is hereby declared that any person who has vacated any office established by this Order may, if qualified, again be appointed to that office from time to time.

(5) The Governor-General shall not be obliged to obtain the advice of the Council of State of the Federation in relation to the exercise of any function conferred upon him by this Order.

(6) The Administrator of any Colony to which this Order applies shall not be obliged to obtain the advice of the Executive Council of the Colony in relation to the exercise of any function conferred upon him by this Order which is expressed to be exercisable by him in his discretion or on the recommendation of, or after consultation with, any person or authority other than the Executive Council.

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

Provided that—

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

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

(8) Save as in this Order otherwise provided or required by the context, the Interpretation Act, 1889(a), shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

PART II—THE SUPREME COURT

Establishment of Supreme Court

3.—(1) There shall be a Supreme Court for the Colonies to which this Order applies which shall be styled the Supreme Court of the Windward Islands and Leeward Islands and shall be a superior court of record.

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

(2) Subject to section 5 and subsection (3) of section 9 of this Order, the judges of the Supreme Court shall be a Chief Justice and such number of Puisne Judges as the Governor-General, after consultation with the Administrators of the Colonies to which this Order applies, may from time to time determine.

(3) The Chief Justice shall be President of the Supreme Court and shall take precedence of all other judges of the Court, and the seniority of the other judges of the Court shall be determined in accordance with such directions as may be given by the Governor-General.

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

(5) The Supreme Court shall be deemed to be duly constituted notwithstanding a vacancy in the office of any judge of the Court.

Appointment of judges

4.—(1) The Chief Justice of the Supreme Court shall be appointed by the Governor-General after consultation with the Chief Justice of the Federation.

(2) The Puisne Judges of the Supreme Court shall be appointed by the Governor-General acting on the recommendation of the Judicial and Legal Service Commission.

(3) A person shall not be qualified to be appointed as a judge of the Supreme Court unless—

(*a*) he is qualified to practise as an advocate in a court having unlimited jurisdiction in civil and criminal matters in some part of Her Majesty's dominions, and

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

(4) Appointments under this section shall be made by instrument under the public seal of the Federation.

Acting judges

5.—(1) If the office of Chief Justice of the Supreme Court is vacant or if the Governor-General is satisfied that the Chief Justice is for any reason unable to perform the functions of his office, the Governor-General, acting after consultation with the Chief Justice of the Federation, may appoint one of the Puisne Judges or some other person qualified for appointment as a judge of the Supreme Court to perform the functions of that office.

(2) If the office of any Puisne Judge is vacant or if any such judge is acting as Chief Justice of the Supreme Court or if the Governor-General is satisfied that any Puisne Judge is for any reason unable to perform the functions of his office or that the state of business in the Supreme Court so requires, the Governor-General, acting in accordance with the advice of the Chief Justice of the Supreme Court, may appoint a person qualified for appointment as a judge of the Supreme Court to act as a Puisne Judge of that Court.

(3) A person appointed under this section to act as Chief Justice or as a Puisne Judge shall (unless he earlier resigns his acting office or is removed therefrom under the next following section or, in the case of a Puisne Judge appointed to act as Chief Justice, ceases to hold the office of Puisne Judge) continue to hold that office until he is notified by the Governor-General that circumstances giving rise to the need for his services in that office no longer exist.

(4) Any person appointed to act as a judge of the Supreme Court under this section may, notwithstanding that he has ceased to hold his acting office by virtue of a notification given under the last foregoing subsection, sit as a judge for the purpose of giving judgment or otherwise in relation to any proceeding heard by him while he was so acting.

Tenure of office of judges

6.—(1) (*a*) Subject to the following provisions of this section, each judge of the Supreme Court shall hold office until he attains the age of sixty-two years:

Provided that the Governor-General acting, in the case of the Chief Justice, after consultation with the Chief Justice of the Federation and, in the case of a Puisne Judge, in accordance with the advice of the Judicial and Legal Service Commission, may permit a judge to continue in his office after attaining that age for a further period or periods not extending beyond the date on which that judge attains the age of sixty-seven years.

(*b*) The provisions of this subsection shall not apply to a person appointed to act as Chief Justice or as a Puisne Judge in respect of his acting office.

(2) A judge of the Supreme Court may at any time resign his office by writing under his hand addressed to the Governor-General.

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

(4) A judge of the Supreme Court shall be removed from office by the Governor-General, by order under the public seal of the Federation, if the question of the removal of that judge from office has, at the request of the Governor-General made in pursuance of the next following subsection, been referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under section 4 of the Judicial Committee Act, 1833(a), or any other enactment enabling Her Majesty in that behalf, and the Judicial Committee has advised Her Majesty that the judge ought to be removed from office for inability as aforesaid or misbehaviour.

(5) If the Chief Justice of the Federation (in the case of the Chief Justice of the Supreme Court or a Puisne Judge who is acting as Chief Justice) or the Chief Justice of the Supreme Court (in the case of any other Puisne Judge) represents to the Governor-General that the question of removing a judge of the Supreme Court for inability as aforesaid or for misbehaviour ought to be investigated, then—

(*a*) the Governor-General shall appoint a tribunal, which shall consist of a Chairman and not less than two other members selected by the Governor-General 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 Her Majesty's dominions or a court having jurisdiction in appeals from any such court;

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

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

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

(6) The provisions of the Commissions of Inquiry Act, 1958, of the Federation(**a**), as in force immediately before the commencement of this Order, shall, subject to the provisions of this section and of the Second Schedule to this Order, apply as nearly as may be in relation to tribunals appointed under the last foregoing subsection or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Act, and for that purpose shall have effect as if they formed part of this Order.

(7) If the question of removing a judge of the Supreme Court has been referred to a tribunal appointed under subsection (5) of this section, the Governor-General, acting in accordance with the advice of the Chief Justice of the Federation (in the case of the Chief Justice of the Supreme Court or a Puisne Judge who is acting as Chief Justice) or of the Chief Justice of the Supreme Court (in the case of any other Puisne Judge), may suspend the judge from performing the functions of his office.

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

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

(*b*) if the Judicial Committee advices Her Majesty that the judge ought not to be removed from office.

Jurisdiction of Supreme Court

7.—(1) Subject to the provisions of this Order, the Supreme Court and the judges and officers thereof shall have such jurisdiction, power and authority in each of the Colonies to which this Order applies as may be conferred upon it by any law of the legislature of the Colony or other law for the time being in force therein.

(2) The Supreme Court shall not have jurisdiction in any case in which such jurisdiction is exercisable by the Federal Supreme Court to the exclusion of the Supreme Court by virtue of the Federal Constitution or of any law made thereunder.

Process to run throughout Colonies

8. The process of the Supreme Court shall run throughout the Colonies to which this Order applies, and any judgment of the Supreme Court shall have full force and effect and may be executed and enforced in any of those Colonies.

PART III—THE COURT OF APPEAL

Establishment of Court of Appeal

9.—(1) There shall be a Court of Appeal for the Colonies to which this Order applies, which shall be styled the Court of Appeal of the

(**a**) 15 of 1958.

Windward Islands and Leeward Islands and shall be a superior court of record.

(2) The judges of the Court of Appeal shall be the persons who are for the time being judges of the Supreme Court and the Chief Justice shall be the President of the Court of Appeal.

(3) (*a*) If the Governor-General is satisfied that the state of business in the Court of Appeal so requires, he may, acting in accordance with the advice of the Chief Justice of the Supreme Court, appoint a person qualified for appointment as a judge of the Supreme Court to act as a Puisne Judge for the purpose of sitting as a judge of the Court of Appeal in one or more of the Colonies to which this Order applies.

(*b*) Any person so appointed shall sit as a judge of the Court of Appeal whenever the Court is sitting in a Colony to which the appointment relates and the Chief Justice requires him so to sit.

(*c*) The provisions of subsections (3) and (4) of section 5 of this Order shall apply to a person so appointed as they apply to a person appointed to act as a Puisne Judge under that section.

Number of judges to exercise powers of Court of Appeal

10.—(1) Subject to the provisions of this Order, for the purpose of the hearing and determination of appeals the Court of Appeal shall be duly constituted if it consists of an uneven number of judges not being less than three (and the court as so constituted is hereafter in this section referred to as a Full Court).

(2) The determination of any question by a Full Court shall be according to the opinion of the majority of the members of the Court hearing the appeal.

(3) Provision may be made by rules of court for the hearing and determination by two judges of the Court of Appeal of specified classes of appeals, other than appeals against conviction by the Supreme Court or sentences passed on such conviction:

Provided that if in any such case the two judges do not agree as to how the appeal should be determined they shall refer the appeal to a Full Court for hearing and determination by the Court, which may for that purpose include either or both of the said judges.

(4) Where the Chief Justice is satisfied that undue inconvenience or delay would be caused by constituting a Full Court, or a Court of two judges under subsection (3) of this section, for the purpose of hearing and determining an appeal from a decision of a Magistrate, he may direct that that appeal shall be heard and determined by a single judge of the Court of Appeal and that appeal shall be heard and determined accordingly.

(5) (*a*) Provision may be made by rules of court enabling a single judge of the Court of Appeal to exercise any power of the Court of Appeal not involving the determination of an appeal; but, except in relation to an appeal with respect to which a direction given under the last foregoing subsection is in force—

(i) in criminal matters, if a single judge refuses an application for the exercise of any such power, the person making the application shall be entitled to have his application determined by two judges where the application relates to an appeal of a class which may be heard and determined by two judges under subsection (3) of this section and by the Full Court in any other case; and

(ii) in civil matters, any order, direction or decision made or given by a single judge in the exercise of any such power may be varied, discharged or revoked by two judges where the order, direction or decision relates to an appeal of a class which may be heard and determined by two judges under subsection (3) of this section and by the Full Court in any other case.

(*b*) Where the question of the determination of an application which has been refused by a single judge or of the variation, discharge or revocation of an order, direction or decision of a single judge is before two judges and those judges do not agree on that question, the refusal of the application or the order, direction or decision of the single judge, as the case may be, shall stand.

(*c*) This subsection shall not apply in relation to the exercise of any power of the Court of Appeal in connection with appeals against conviction by the Supreme Court or sentence passed on such conviction.

Judges not to sit on appeals from their own decisions

11. A judge of the Court of Appeal shall not sit as a judge on the hearing of an appeal—

(*a*) against a conviction or sentence if he was the judge by or before whom the appellant was convicted, or

(*b*) from any judgment given by himself or by any court of which he was sitting as a member.

General powers of Court of Appeal

12. The process of the Court of Appeal shall run throughout the Colonies to which this Order applies and any judgment of the Court of Appeal shall have full force and effect in each Colony, and shall be executed and enforced in like manner as if it were an original judgment of the court or authority from which the appeal is brought; and for all purposes of, and incidental to, the hearing and determination of any appeal within its jurisdiction, the Court of Appeal shall have all the power, authority and jurisdiction vested in the court or authority from which the appeal is brought.

Appeals by persons convicted by Supreme Court

13.—(1) A person convicted before the Supreme Court may appeal to the Court of Appeal—

(*a*) against his conviction on any ground of appeal which involves a question of law alone; and

(*b*) with the leave of the Court of Appeal or upon the certificate of the judge who tried him that it is a fit case for appeal, against his conviction on any other ground of appeal; and

(*c*) with the leave of the Court of Appeal against the sentence passed on his conviction, unless the sentence is one fixed by law.

(2) The provisions of subsection (5) of section 1, sections 4 to 10 inclusive, subsection (2) of section 11, subsections (1), (2) and (3) of section 14, and sections 15, 17, 19 and 21 of the Criminal Appeal Act, 1907(**a**), shall apply for hearing and determination of, and otherwise in relation to, appeals under the preceding subsection as if they were set out in this Order with such modifications as may be necessary to adapt them to the circumstances of the Colonies to which this Order applies, and in particular—

(*a*) section 19 of the said Act shall apply as if for the reference therein to the Secretary of State there were substituted a reference to the Administrator of the Colony concerned; and

(**a**) 7 Edw. 7. c. 23.

(*b*) sections 5 and 6, subsection (1) of section 14 and section 21 of the said Act shall apply as if for the references therein to certain enactments there were substituted references to such like enactments in force in the Colonies to which this Order applies as may be specified in rules of court.

Civil appeals

14.—(1) In civil matters the Court of Appeal shall have jurisdiction to hear and determine—

(*a*) appeals from judgments in chambers and interlocutory judgments of judges of the Supreme Court, whether at first instance or on appeal, and of Commissioners of the Supreme Court appointed under any law in that behalf in force in any Colony to which this Order applies;

(*b*) appeals from judgments of Courts of Summary Jurisdiction;

(*c*) with respect to the Colonies of Antigua, Montserrat, Saint Christopher Nevis and Anguilla, and the Virgin Islands, appeals (other than appeals from decisions of magistrates) which by virtue of any law in force therein were, immediately before the first day of January, 1940, made to the Full Court of the Colony of the Leeward Islands.

(2) The provisions of the last foregoing subsection, or any part of them, may, as respects the jurisdiction thereby conferred on the Court of Appeal with respect to any Colony, be revoked by a law enacted by the legislature of that Colony.

Appeals from decisions of magistrates

15.—(1) Notwithstanding anything contained in any law of a colony to which this Order applies, no appeal shall lie from the decision of a magistrate of any such Colony to the Supreme Court, but, with such exceptions and subject to such restrictions and conditions as may be prescribed by any law enacted by the legislature of the Colony concerned, the Court of Appeal shall have jurisdiction to hear and determine appeals from the decisions of magistrates given in any of the Colonies to which this Order applies.

(2) This section shall apply in relation to questions of law reserved and cases stated by magistrates as it applies in relation to appeals from decisions of magistrates.

Additional appellate jurisdiction of Court of Appeal

16.—(1) In addition to the jurisdiction conferred on it by the three last foregoing sections, the Court of Appeal shall have such jurisdiction to hear and determine appeals from decisions of the Supreme Court given in the exercise of its jurisdiction in a Colony to which this Order applies or from decisions of any other court or authority of such a Colony as may be conferred upon it by any law enacted by the legislature of the Colony.

(2) This section shall apply in relation to jurisdiction to hear and determine questions of law reserved and cases stated by the Supreme Court or by any other court or authority as it applies in relation to jurisdiction to hear and determine appeals from decisions of the Supreme Court or of any other court or authority.

Court of Appeal not to have jurisdiction when Federal Supreme Court has exclusive appellate jurisdiction

17.—(1) Notwithstanding anything contained in sections 13 or 14 of this Order or in any law enacted by the legislature of a Colony in pursuance of the last foregoing section, the Court of Appeal shall not have jurisdiction to hear and determine an appeal from the Supreme Court in any case in which such jurisdiction is exercisable by the Federal Supreme Court to the exclusion of the Court of Appeal by virtue of any law made under the Federal Constitution or under the Virgin Islands (Appeals) Order in Council, 1957(a).

(2) References in this section to jurisdiction to hear and determine an appeal from the Supreme Court shall be construed as including references to jurisdiction to hear and determine a question of law reserved or a case stated by the Supreme Court.

PART IV—GENERAL

Seals

18.—(1) Subject to the next following subsection, the Supreme Court and the Court of Appeal shall each continue to have, and to use as occasion requires, the seals provided for them under the existing Orders.

(2) A seal bearing the style of the Court and such device as the Governor-General may approve may at any time be substituted for either of the seals aforesaid.

Rules of court

19.—(1) Subject to the provisions of this Order, the Chief Justice of the Supreme Court and any two other judges of the Supreme Court selected by him may make rules of court for regulating the practice and procedure of the Supreme Court and the Court of Appeal.

(2) Without prejudice to the generality of the foregoing subsection, such rules may be made for any of the following purposes—

(*a*) for dividing the Colonies to which this Order applies into circuits for the purpose of dealing with the business of the Supreme Court;

(*b*) for prescribing the times and places of the sittings of the Courts, and providing for the selection of judges for any sittings;

(*c*) for prescribing and regulating the powers and duties of officers of the Courts;

(*d*) for prescribing forms and fees in respect of proceedings in the Courts and regulating the costs of and incidental to any such proceedings;

(*e*) for regulating the means by which particular facts may be proved;

(*f*) for prescribing limits of time within which appeals may be made and steps incidental to appeals and other proceedings may be taken;

(*g*) for providing for the summary determination of any appeal which appears to the Court to be frivolous or vexatious or to be brought for the purposes of delay;

(a) S.I. 1957/1746 (1957 I, p. 198).

(*h*) for prescribing cases in which, and conditions upon which, an appellant in a criminal appeal to the Court of Appeal may be, or shall be entitled to be, present at the hearing of the appeal;

(*i*) for regulating the right of practising in the Courts and the representation of persons concerned in any proceedings therein; and

(*j*) for providing for any matter which, under the other provisions of this Order, is to be, or may be, provided for by rules of court.

(3) No rule of court which may involve an increase in the expenses of the Supreme Court or the Court of Appeal shall be made except with the concurrence of the Administrators of the Colonies to which this Order applies, but the validity of a rule of court shall not in any proceedings in any court be called in question either by the court or by any party to the proceedings on the ground only that it was a rule to which the concurrence of the Administrators was necessary and that they did not concur or are not expressed to have concurred in the making thereof.

Officers of the Courts

20.—(1) There shall be in each Colony to which this Order applies a Registrar and such other officers of the Supreme Court and the Court of Appeal as may be appointed for that Colony in accordance with subsection (3) of this section, and the Registrar appointed for the Colony in which the Chief Justice ordinarily resides shall be the Chief Registrar of the said Courts.

(2) Every such officer shall be in the service of the Colony for which he is appointed, and, subject to any law or rules of court, shall perform such powers and discharge such duties, as the Chief Justice of the Supreme Court may direct.

(3) Power to make appointments to the office of Registrar and other offices of the Supreme Court and the Court of Appeal for each Colony and to dismiss and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Administrator of the Colony acting after consultation with the Judicial and Legal Service Commission.

(4) The power to make appointments to offices conferred by the last foregoing subsection shall be construed as including power to appoint a person to perform the functions of any such office during any period during which it is vacant or the holder thereof is unable for any reason to perform those functions.

Remuneration, etc. of judges and expenses of Courts

21.—(1) The judges of the Supreme Court shall receive such remuneration and allowances and (subject to the next following section) shall have such terms and conditions of office as may from time to time be determined by the Governor-General by order a draft of which has been approved by resolution of the legislative chamber of each of the Colonies to which this Order applies:

Provided that the remuneration and allowances of a judge shall not be reduced and the terms and conditions of office of a judge shall not be made less favourable to him after his appointment.

(2) The expenses of the Supreme Court and the Court of Appeal (including the remuneration and allowances aforesaid) shall be borne

by the Governments of the Colonies to which this Order applies in the proportions specified opposite their respective names in the Third Schedule to this Order, and the sums that are required by virtue of this subsection to be paid by the Government of each of the said Colonies are hereby charged on the revenues of the Colony.

(3) The proportions specified in the Third Schedule may be varied by the Governor-General by order a draft of which has been approved by resolution of the legislative chamber of each of the Colonies to which this Order applies.

Pensions of judges

22.—(1) For the purposes of any laws, regulations and other instruments relating to the grant of pensions, gratuities and other like benefits (hereafter in this section referred to as " the pensions laws ") judges of the Supreme Court shall be in the service of such Colony to which this Order applies as the Governor-General may, in the case of each judge, from time to time direct; and any such direction given by the Governor-General shall take effect as from such date as may be specified by the Governor-General and, unless the judge affected thereby was immediately before that date in the service of the Colony therein mentioned, shall have effect as an appointment to that service.

(2) The rights of any such judge of the Supreme Court under the pensions laws applicable to him by virtue of any direction under the last foregoing subsection shall not be made less favourable to him after his appointment; and for the purposes of this subsection, if he elects that one of two or more such laws shall apply to him, that law shall be deemed to be more favourable than the other law or laws.

(3) The power to grant any benefit in respect of the service of any such judge of the Supreme Court under the pensions laws of a Colony applicable to him as aforesaid (other than a benefit to which, under those laws, the person to whom it is payable is entitled as of right) and, in accordance with any provisions in that behalf contained in any of those laws, to withhold, reduce in amount or suspend any benefit payable under those laws is hereby vested in the Administrator of the Colony concerned, acting in his discretion.

(4) Benefits to which a person is entitled or which are granted to him under the pensions laws by virtue of this section are hereby charged on the revenues of the Colony concerned.

(5) Where by virtue of this section any benefit is paid out of the funds of a Colony to which this Order applies the Governments of the other Colonies to which this Order applies shall pay to the Government of that Colony the proportions of that benefit specified opposite their respective names in the Third Schedule to this Order; and the sums that are required by virtue of this subsection to be paid by the Governments of the said Colonies are hereby charged on the revenues of those Colonies respectively.

Oaths and residence of judges

23.—(1) (*a*) Before entering upon the functions of his office, the Chief Justice of the Supreme Court shall make and subscribe before the Governor-General, or some other person authorised by the Governor-General in that behalf, oaths or affirmations of allegiance and for the

due execution of his office in the forms set out in the Fourth Schedule to this Order.

(*b*) Before entering upon the functions of his office, every Puisne Judge shall make and subscribe before the Chief Justice of the Supreme Court, or some other person authorised by the Chief Justice in that behalf, oaths or affirmations of allegiance and for the due execution of his office in the forms set out in the Fourth Schedule to this Order.

(2) The Chief Justice of the Supreme Court shall ordinarily reside in such one of the Colonies to which this Order applies as the Governor-General may direct, and each Puisne Judge shall ordinarily reside in such one of those Colonies as the Chief Justice may direct.

PART V—MAGISTRATES COURTS

Establishment, etc. of magistrates courts

24. Subject to the next following section, there shall be such magistrates courts in and for each Colony to which this Order applies constituted in such manner as may be provided by any law enacted by the legislature of the Colony, and any such court shall have such jurisdiction, power and authority in the Colony as may be conferred upon it by any such law as aforesaid or other law for the time being in force in the Colony.

Appointment, etc. of magistrates

25.—(1) Subject to the provisions of this section, power to make appointments to the offices of magistrates of any Colony to which this Order applies and to dismiss and to suspend from the performance of the functions of their office persons holding or acting in such offices shall vest in the Administrator of the Colony acting on the recommendation of the Judicial and Legal Service Commission.

(2) Power to appoint a person to act in the office of magistrate of any such Colony during any period during which it is vacant or the holder thereof is unable for any reason to perform the functions of that office shall vest in the Administrator of the Colony acting on the recommendation of the Chief Justice of the Supreme Court.

(3) The Judicial and Legal Service Commission shall not recommend the dismissal of a magistrate unless the Commission is satisfied that he ought to be dismissed for inability to perform the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

PART VI—JUDICIAL AND LEGAL SERVICE COMMISSION

Establishment of Commission

26.—(1) There shall be a Judicial and Legal Service Commission (hereinafter referred to as the Commission) for the Colonies to which this Order applies which shall consist of the following persons, that is to say—

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

(*b*) such one of the Federal Justices of the Federal Supreme Court as the Governor-General may appoint;

(*c*) a person appointed by the Governor-General who is or has been a judge of a court having unlimited jurisdiction in civil and

criminal matters in some part of Her Majesty's dominions or a court having jurisdiction in appeals from any such court;

(*d*) two persons being persons holding office as Chairman of the Public Service Commission of a Colony to which this Order applies, appointed by the Governor-General acting on the recommendation of the Chief Justice of the Supreme Court.

(2) The office of a member of the Commission (other than the Chairman) shall become vacant—

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

(*b*) if he resigns his office by writing under his hand addressed to the Governor-General; or

(*c*) if the Governor-General so directs.

(3) The office of the member referred to in paragraph (*b*) of subsection (1) of this section shall become vacant if he ceases to be a Federal Justice, and the office of a member referred to in paragraph (*d*) of that subsection shall become vacant if he ceases to be qualified for appointment as a member of the Commission under that paragraph.

Functions and procedure of Commission

27.—(1) The Commission shall perform such functions as are conferred on it by this Order or by any other law for the time being in force in any Colony to which this Order applies.

(2) The Governor-General, acting on the recommendation of the Commission, may make regulations providing for all or any of the following matters, that is to say—

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

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

(*c*) the delegation to any member of the Commission of all or any of the functions of the Commission.

(3) Subject to any regulations made under the last foregoing subsection, no business shall be transacted at any meeting of the Commission unless the Chairman and two other members are present.

(4) Subject to any such regulations and to the last foregoing subsection, the Commission shall not be disqualified for the transaction of business by reason of any vacancy among its members, and the validity of the transaction of business by the Commission shall not be affected by reason only of the fact that some person who was not entitled so to do took part therein.

Remuneration, etc. of members and expenses of Commission

28. Section 21 of this Order shall apply in relation to the Commission and the members thereof as it applies in relation to the Supreme Court and the judges thereof.

PART VII—TRANSITIONAL PROVISIONS

Existing laws, rules of court, etc.

29.—(1) All laws, rules of court or other instruments having the force of law which relate to the Supreme Court or the Court of Appeal established by the existing Orders or the judges or officers thereof or to magistrates courts or the members thereof and in force

in the Colonies to which this Order applies, or any of them, immediately before the commencement of this Order shall (subject to amendment or repeal by the competent authority) continue to have effect for the purposes of this Order but shall be construed with such adaptations and modifications as may be necessary to bring them into conformity with the provisions of this Order; and accordingly any reference in this Order to a law enacted by the legislature of any such Colony shall, in relation to the Colonies of Antigua, Dominica, Montserrat, Saint Christopher Nevis and Anguilla and the Virgin Islands, be construed as including a reference to any law enacted by the Legislature of the former Colony of the Leeward Islands that continues to have effect by virtue of this subsection.

(2) The last foregoing subsection shall apply in relation to any order made under subsection (2) of section 14 of the Leeward Islands and Windward Islands (Courts) Order in Council, 1939(a), as it applies in relation to other instruments having the force of law which relate to the Court of Appeal established by the existing Orders, and any such order which continues in force by virtue of the last foregoing subsection may, as respects any Colony to which this Order applies, be amended or revoked by a law of the legislature of that Colony.

(3) Without prejudice to the generality of subsection (1) of this section, any law relating to appeals to the Supreme Court established by the existing Orders from decisions of magistrates which is in force in any of the said Colonies immediately before the commencement of this Order shall, until repealed or amended, apply with the necessary adaptations in relation to appeals which may be brought to the Court of Appeal established by this Order from such decisions by virtue of section 15 of this Order.

(4) Rules of court made under the existing Orders may be amended or revoked by rules of court made under this Order.

Existing judges, etc.

30.—(1) Any person who, at the date of commencement of this Order, holds or is acting in the office of judge or officer of the Supreme Court or the Court of Appeal established by the existing Orders or the office of magistrate shall as from that date hold the like office as if he had been duly appointed thereto under this Order.

(2) Any person who, under the provisions of the last foregoing subsection, holds or is acting in any office as from the date of commencement of this Order by virtue of having been the holder of, or acting in, any office immediately before that date shall be deemed to have complied with the requirements of this Order or any other law for the time being in force in the Colonies to which this Order applies relating to the making of oaths or affirmations on appointment to, or to act in the first named office.

(3) Until other provision is made under subsection (1) of section 21 of this Order the remuneration and allowances of judges of the Supreme Court and the terms and conditions of office referred to in that subsection shall be those to which such judges were entitled or which were applicable to them immediately before the commencement of this Order.

(a) S.R. & O. 1939/1898 (Rev. XII, p. 391 : 1939 II, p. 1849).

(4) Section 22 of this Order shall apply in relation to judges of the Supreme Court established by the existing Orders (including persons who have ceased to hold office as such) as it applies in relation to judges of the Supreme Court established by this Order, and for that purpose any direction that a judge shall be deemed to be in the service of a Colony to which this Order applies given by a Secretary of State under the existing Orders and in force at the commencement of this Order shall have the same effect as if it had been given under subsection (1) of the said section 22 and shall continue to have effect accordingly.

Pending proceedings, etc.

31.—(1) Subject to the next following subsection, any proceedings pending at the date of commencement of this Order before the Supreme Court or the Court of Appeal established by the existing Orders may be carried on before the Supreme Court or the Court of Appeal, as the case may be, established by this Order as if they had been commenced therein, and judgments given by the said courts established by the existing Orders, but not satisfied, before the said date may be enforced as if they were judgments of the said courts established by this Order.

(2) Any appeal to the Supreme Court established by the existing Orders from the decision of a magistrate that is pending at the date of commencement of this Order shall be transferred to the Court of Appeal for hearing and determination by that Court unless it is then part heard by the Supreme Court, in which case it shall be carried on before the Supreme Court established by this Order notwithstanding the provisions of section 14 of this Order.

W. G. Agnew.

THE FIRST SCHEDULE (Section 1 (4))

Orders in Council Revoked

The Leeward Islands and Windward Islands (Courts) Order in Council, 1939(a).

The Leeward Islands and Windward Islands (Courts) (Amendment) Order in Council, 1949(b).

The Leeward Islands and Windward Islands (Courts) (Amendment) Order in Council, 1954(c).

The Leeward Islands and Windward Islands (Courts) (Amendment) Order in Council, 1957(d).

THE SECOND SCHEDULE (Section 6 (6))

Provisions relating to applicability of the Commissions of Inquiry Act, 1958, to tribunals appointed under section 6 (5) of this Order.

1. Subsection (2) of section 16 and section 21 shall apply as if for the words "paid by the Accountant General out of the public funds of the Federation" there was substituted the words "treated as an expense of the Supreme Court and paid accordingly".

2. Section 26 shall not apply.

(a) S.R. & O. 1939/1898 (Rev. XII, p. 391: 1939 II, p. 1849).
(b) S.I. 1949/600 (1949 I, p. 2447). (c) S.I. 1954/1040 (1954 II, p. 2947).
(d) S.I. 1957/2167 (1957 I, p. 192).

THE THIRD SCHEDULE

(Sections 21 (2) and 22 (5))

Proportion of expenses of Courts to be borne and pensions, etc. of judges to be contributed by the Government of each Colony.

Antigua	14·57 per cent.
Dominica	17·25 per cent.
Grenada	17·25 per cent.
Montserrat	2·48 per cent.
Saint Christopher, Nevis and Anguilla	12·71 per cent.
Saint Lucia	17·25 per cent.
Saint Vincent	17·25 per cent
The Virgin Islands	1·24 per cent.

(Section 23 (1)) THE FOURTH SCHEDULE

Forms of Oaths and Affirmations

1. Oath of Allegiance

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

2. Affirmation of Allegiance

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

3. Oath for due execution of office

I.....
do swear that I will well and truly serve Her Majesty Queen Elizabeth the Second in the office of (*here insert the description of the office*). So help me God.

4. Affirmation for due execution of office

I.....
do solemnly and sincerely affirm and declare that I will well and truly serve Her Majesty Queen Elizabeth the Second in the office of (*here insert the description of the office*).

EXPLANATORY NOTE

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

This Order revokes the Leeward Islands and Windward Islands (Courts) Order in Council, 1939, and makes fresh provision with respect to the Supreme Court and the Court of Appeal of those Islands. It also establishes a Judicial and Legal Service Commission for those Islands and includes certain provisions regarding magistrates courts and the members thereof.