
STATUTORY INSTRUMENTS

1967 No. 225

ASSOCIATED STATES

The Antigua Constitution
Order 1967

Made - - - 22nd February 1967
Coming into Operation 27th February 1967

LONDON
HER MAJESTY'S STATIONERY OFFICE
1967

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

Present,

The Queen's Most Excellent Majesty in Council

WHEREAS at a Constitutional Conference held in London in February and March 1966 proposals were agreed between Her Majesty's Government in the United Kingdom and the Government of Antigua under which a new status of association with the United Kingdom should be conferred upon Antigua:

AND WHEREAS proposals were also agreed at the said Conference for a new Constitution for Antigua to come into effect at the commencement of the status of association of Antigua with the United Kingdom:

AND WHEREAS the Report of the said Conference was presented to the Parliament of the United Kingdom:

AND WHEREAS the legislature of Antigua has approved the proposals in that Report:

AND WHEREAS the West Indies Act 1967(a), the text of which is set out in the Annex to this Order, provides, *inter alia*, for the conferment of the status of association with the United Kingdom and enables that status to be terminated at any time and makes provision for other matters in connection with or consequential upon the creation or termination of that status:

AND WHEREAS by virtue of section 5 of the said Act Her Majesty has power to provide a new Constitution for Antigua:

NOW, THEREFORE, Her Majesty is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

(a) 1967 c. 4.

Citation and commencement. 1.—(1) This Order may be cited as the Antigua 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 therein specified.

Establishment of Constitution. 3. Subject to the provisions of this Order, the Constitution of Antigua set out in Schedule 2 to this Order shall come into effect in Antigua 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 94 of the Constitution.

W. G. Agnew.

Section 2 **SCHEDULE 1 TO THE ORDER**

INSTRUMENTS REVOKED BY THIS ORDER

Instrument	Reference	Extent of Revocation
The Antigua Letters Patent 1959	1959 II, p. 3359	The whole instrument
The Constitution and Elections Ordinance of Antigua	Laws of Antigua, Revised Edition, c. 171	Part II
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 Antigua

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Section

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CHAPTER I

PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS

Fundamental rights and freedoms of the individual.

1. Whereas every person in Antigua is entitled to the fundamental rights and freedoms of the individual, 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, the enjoyment of property and the protection of the law;
- (b) freedom of conscience, of expression and of peaceful assembly and association; and
- (c) respect for his private and family life,

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

Protection of right to life.

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 Antigua 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 lawfully to prevent the commission by that person of a criminal offence,

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

- 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:—
- Protection
of right to
personal
liberty.
- (a) in consequence of his unfitness to plead to a criminal charge; or
 - (b) in execution of the sentence or order of a court, whether established for Antigua or some other country, in respect of a criminal offence of which he has been convicted; or
 - (c) in execution of an order of the High Court or of the Court of Appeal or such other court as may be prescribed by Parliament on the grounds of his contempt of any such court or of another court or tribunal; or
 - (d) in execution of the order of a court made in order to secure the fulfilment of any obligation imposed on him by law; or
 - (e) for the purpose of bringing him before a court in execution of the order of a court; or
 - (f) upon reasonable suspicion of his having committed or of being about to commit a criminal offence under the law of Antigua; or
 - (g) in the case of a person who has not attained the age of twenty-one years, for the purpose of his education or welfare; or
 - (h) for the purpose of preventing the spread of an infectious or contagious disease; or
 - (i) in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his care or treatment or the protection of the community; or
 - (j) for the purpose of preventing the unlawful entry of that person into Antigua, or for the purpose of affecting the expulsion, extradition or other lawful removal of that person from Antigua or the taking of proceedings relating thereto; or
 - (k) to such extent as may be necessary in the execution of a lawful order requiring that person to remain within a specified area within Antigua or prohibiting him from being within such an area or to such extent as may be reasonably justifiable for the taking of proceedings against that person relating to the making of any such order, or to such extent as may be reasonably justifiable for restraining that person during any visit that he is permitted to make to any part of Antigua in which, in consequence of any other such order, his presence would otherwise be unlawful.
- (2) Any person who is arrested or detained shall be informed orally and in writing as soon as reasonably practicable, in a language which he understands, of the reasons for his arrest or detention.
- (3) Any person who is arrested or detained—
- (a) for the purpose of bringing him before a court in execution of the order of a court; or
 - (b) upon reasonable suspicion of his having committed or being about to commit a criminal offence under the law of Antigua,
- and who is not released, shall be brought without delay before a court; and if any person arrested or detained upon reasonable suspicion of his having committed or being about to commit a criminal offence under the law of Antigua is not tried within a reasonable time, then, without prejudice to any further proceedings which may be brought against him, he shall be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.

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

Protection
of freedom
of
movement.

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

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

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

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

(b) for the imposition of restrictions on the movement or residence within Antigua or on the right to leave Antigua of persons generally or any class of persons in the interests of defence, public safety, public order, public morality or public health; or

(c) for the imposition of restrictions on the movement or residence within Antigua of any person who does not belong to Antigua or the exclusion or expulsion from Antigua of any such person; or

(d) for the imposition of restrictions on the acquisition or use by any person of land or other property in Antigua; or

(e) for the imposition of restrictions on the movement or residence within Antigua of public officers, or on the right of public officers to leave Antigua; or

(f) for the removal of a person from Antigua 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 that other country in execution of the sentence of a court in respect of a criminal offence under the law of Antigua of which he has been convicted.

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

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

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

Protection
from
inhuman
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 Antigua immediately before the commencement of this Constitution.

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

Compulsory
acquisition
of property.

- (a) prescribes the principles on which and the manner in which compensation therefor is to be determined and given; and
- (b) secures to any person claiming an interest in or right over such property a right of access to a court for the purpose of—
 - (i) establishing such interest or right (if any);
 - (ii) determining the amount of such compensation (if any) to which he is entitled; and
 - (iii) enforcing his right to any such compensation.

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

- (a) in satisfaction of any tax, rate or due; or
- (b) by way of penalty for breach of the law, whether under civil process or after conviction of a criminal offence under the law of Antigua; or
- (c) upon the attempted removal of the property in question out of or into Antigua in contravention of any law; or
- (d) by way of the taking of a sample for the purpose of any law; or
- (e) where the property consists of an animal upon its being found trespassing or straying; or
- (f) as an incident of a lease, tenancy, licence, mortgage, charge, bill of sale, pledge or contract; or
- (g) by way of the vesting or administration of trust property, enemy property, or the property of persons adjudged or otherwise declared bankrupt or insolvent, persons of unsound mind, deceased persons, or bodies corporate or unincorporate in the course of being wound up; or
- (h) in the execution of judgments or orders of courts; or
- (i) by reason of its being in a dangerous state or injurious to the health of human beings, animals or plants; or
- (j) in consequence of any law with respect to the limitation of actions; or
- (k) for so long only as may be necessary for the purposes of any examination, investigation, trial or inquiry or, in the case of land, the carrying out thereon—
 - (i) of work of soil conservation or of conservation of other natural resources; or
 - (ii) of work relating to agricultural development or improvement which the owner or occupier of the land has been required, and has without reasonable excuse refused or failed, to carry out.

(3) Nothing in this section shall be construed as affecting the making or operation of any law so far as it provides for the orderly marketing or production or growth or extraction of any agricultural product or mineral or any article or thing prepared for market or manufactured therefor or for the reasonable restriction of the use of any property for the purpose of safeguarding the interests of others or the protection of tenants, licencees or others having rights in or over such property.

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

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

Protection for privacy of home and other property.

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, public revenue, town and country planning or the development and utilisation of any property in such a manner as to promote the public benefit; or

(b) that authorises an officer or agent of the Government of Antigua, 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

(c) that is reasonably required for the purpose of preventing or detecting crime; or

(d) that is reasonably required for the purpose of protecting the rights or freedoms of other persons.

Provisions to secure protection of law.

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

(2) Any court or other authority prescribed by law for the determination of the existence or the extent of civil rights or obligations shall be independent and impartial; and where proceedings for such a determination are

instituted by any person before such a court or other authority, the case shall be given a fair hearing within a reasonable time.

(3) All proceedings of every court and proceedings relating to the determination of the existence or the extent of a person's civil rights or obligations before any other authority, including the announcement of the decision of the court or other authority, shall be held in public.

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

- (a) in interlocutory civil proceedings; or
- (b) in appeal proceedings under any law relating to income tax; or
- (c) to such extent as the court or other authority—
 - (i) may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice; or
 - (ii) may be empowered or required by law to do so in the interests of defence, public safety, public order, public morality, the welfare of persons under the age of twenty-one years or the protection of the private lives of persons concerned in the proceedings.

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

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

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

- (a) shall be informed orally and in writing as soon as reasonably practicable, in a language which he understands, of the nature of the offence charged;
- (b) shall be given adequate time and facilities for the preparation of his defence;
- (c) shall be permitted to defend himself in person or by a legal representative of his own choice;
- (d) shall be afforded facilities to examine in person or by his legal representative the witnesses called by the prosecution before any court and to obtain the attendance of witnesses, subject to the payment of their reasonable expenses, and carry out the examination of such witnesses to testify on his behalf before the court on the same conditions as those applying to witnesses called by the prosecution; and
- (e) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the English language.

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

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

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

Provided that nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this subsection to the extent that the law in question authorises any 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; but any court so trying such a member and convicting him shall in sentencing him to any punishment take into account any punishment awarded him under that disciplinary law.

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

(10) In this section “criminal offence” means a criminal offence under the law of Antigua.

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, and for the purposes of this section the said freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.

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

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

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

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

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

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

(b) for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practise any religion

without the unsolicited intervention of members of any other religion.

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

Protection of freedom of expression.

(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—
 - (i) in the interests of defence, public safety, public order, public morality or public health; or
 - (ii) for the purpose of protecting the reputations, rights and freedoms of other persons, or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, or regulating telephony, telegraphy, posts, wireless broadcasting, television or other means of communication, public exhibitions or public entertainments; or
- (b) that imposes restrictions upon public officers.

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

Protection of freedom of assembly and association.

(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—
 - (i) in the interests of defence, public safety, public order, public morality or public health; or
 - (ii) for the purpose of protecting the rights or freedoms of other persons; or
- (b) that imposes restrictions upon public officers:

Provided that paragraph (a)(ii) of this subsection shall not apply in relation to a provision that operates so as to prohibit a trade union or other association from carrying out activities preventing or restricting persons who are not members of that trade union or other association from pursuing a particular trade, profession or employment unless that provision is contained in a written law.

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

Protection from discrimination on the grounds of race, etc.

(2) Subject to the provisions of subsections (6), (7) and (8) of this section, no person shall be treated in a discriminatory manner by any person acting

by virtue of any written law or in the performance of the functions of any public office or any public authority.

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

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

- (a) with respect to persons who do not belong to Antigua; or
- (b) 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; or
- (c) for authorising the taking during a period of public emergency of measures that are reasonably justifiable for the purpose of dealing with the situation that exists during that period of public emergency; or
- (d) for the imposition of taxation or appropriation of revenue by the Government of Antigua or any local authority or body for local purposes.

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

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

(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any restriction on the rights and freedoms guaranteed by sections, 4, 7, 9, 10 and 11 of this Constitution, being such a restriction as is authorised by paragraph (a) or (b) of subsection (3) of section 4, subsection (2) of section 7, subsection (6) of section 9, subsection (2) of section 10, or subsection (2) of section 11, 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.

13. Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of section 3 or section 12 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 Antigua during that period.

14.—(1) When a person is detained by virtue of any such law as is referred to in section 13 of this Constitution the following provisions shall apply, that is to say:—

Protection
of persons
detained
under
emergency
laws.

- (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 Gazette stating that he has been detained and giving particulars of the provision of law under which his detention is authorised;
- (c) not more than one month after the commencement of his detention and thereafter during his detention at intervals of not more than six months, his case shall be reviewed by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice from among persons who are or have been judges of the High Court or the Court of Appeal or are qualified for appointment as such judges;
- (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.

(4) The reference in subsection (1)(c) of this section to the High Court and Court of Appeal shall be construed as including a reference to the Supreme Court established by the Windward Islands and Leeward Islands (Courts) Order in Council 1959(a) and the British Caribbean Court of Appeal established by the British Caribbean Court of Appeal Order in Council 1962(b).

15.—(1) If any person alleges that any of the provisions of sections 2 to 14 (inclusive) of this Constitution has been, or is being, contravened in relation to him, then, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the High Court for redress.

Enforcement
of
protective
provisions.

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

(a) S.I. 1959/2197 (1959 I, p. 563). (b) S.I. 1962/1086 (1962 II, p. 1247).

Interpreta-
tion and
savings.

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

(4) Parliament may make provision, or authorise the making of provision, 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 may be made.

16.—(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 Antigua other than a court established by a disciplinary law, and includes Her Majesty in Council and in section 2 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;

“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 relation to any person who is a member of a disciplined force raised under the law of Antigua, 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 and 5 of this Constitution.

(3) In relation to any person who is a member of a disciplined force raised otherwise than as aforesaid and lawfully present in Antigua, 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.

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

- (a) Antigua is engaged in any war; or
- (b) there is in force a Proclamation by the Governor declaring that a state of public emergency exists; or
- (c) there is in force a resolution of the House of Representatives supported by the votes of not less than two-thirds of all members of that House declaring that democratic institutions in Antigua are threatened by subversion.

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

- (a) that a public emergency has arisen as a result of the imminence of a state of war between Antigua and a foreign State or as a result of the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence, outbreak of infectious disease or other calamity whether similar to the foregoing or not; or
- (b) that action has been taken or is immediately threatened by any person or body of persons of such a nature and on so extensive a scale as to be likely to endanger the public safety or to deprive the community, or any substantial portion of the community, of supplies or services essential to life.

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

- (a) shall, unless previously revoked, remain in force for one month or for such longer period, not exceeding six months, as the House of Representatives may determine by a resolution supported by the votes of a majority of all the members of the House;
- (b) may be extended from time to time by a resolution of the House of Representatives passed in like manner as is prescribed in paragraph (a) of this subsection for further periods, not exceeding in respect of each such extension a period of six months; and
- (c) may be revoked at any time by a resolution supported by the votes of a majority of all the members of the House of Representatives.

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

(8) For the purposes of this Chapter a person shall be regarded as belonging to Antigua if that person is:—

- (a) a citizen of the United Kingdom and Colonies born in Antigua; or
- (b) a citizen of the United Kingdom and Colonies born outside Antigua—
 - (i) whose father was born in Antigua; or
 - (ii) who is domiciled in Antigua and whose father became a citizen of the United Kingdom and Colonies by virtue of naturalisation or registration in Antigua; or
- (c) a citizen of the United Kingdom and Colonies by virtue of having been naturalized or registered as such in Antigua; or
- (d) a Commonwealth citizen who is domiciled in Antigua and has been ordinarily resident in Antigua for not less than seven years; or
- (e) the wife or the widow of such a person referred to in any of the preceding paragraphs of this subsection, and, in the case of a wife, is not living apart from her husband under a decree of a competent court or a deed of separation; or
- (f) under the age of eighteen years and is the child, stepchild, or child adopted in a manner recognised by law, of such a person as is referred to in any of the preceding paragraphs of this subsection:

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

CHAPTER II

THE GOVERNOR

Establishment of office of Governor. 17. There shall be a Governor of Antigua 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 Antigua.

Oaths to be taken by Governor. 18. 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. 19.—(1) During any period when the office of Governor is vacant or the holder of the office of Governor is absent from Antigua or is for any other reason unable to perform the functions of his office those functions shall be performed by such person as Her Majesty may appoint.

(2) Before assuming the functions of the office of Governor any such person as aforesaid shall take the oaths directed by section 18 of this Constitution to be taken 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 the Governor if the holder of the office of Governor 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 Antigua or as unable to perform the functions of his office—

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

(b) at any time when there is a subsisting appointment of a deputy under section 20 of this Constitution.

Deputy to Governor. 20.—(1) Whenever the Governor—
(a) has occasion to be absent from the seat of Government but not from Antigua; or
(b) has occasion to be absent from Antigua for a period which he considers, acting in his discretion, will be of short duration; or
(c) is suffering from an illness which he considers, acting in his discretion, will be of short duration,

he may, acting in accordance with the advice of the Premier, appoint any person in Antigua 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 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:

Provided that his appointment may be revoked at any time by the Governor, acting in accordance with the advice of the Premier.

21. The Governor shall keep and use the Public Seal for sealing all things that shall pass under the said seal. Public Seal.

CHAPTER III

PARLIAMENT

PART 1

Establishment and Composition of Parliament

22. There shall be a Parliament of Antigua which shall consist of Her Majesty, a Senate and a House of Representatives. Establishment of Parliament.

The Senate

23.—(1) The Senate shall consist of ten Senators who shall be appointed by the Governor in accordance with this section. Composition of the Senate.

(2) (a) Seven Senators shall be appointed by the Governor acting in accordance with the advice of the Premier.

(b) Three Senators shall be appointed by the Governor acting in his discretion after consultation with the Premier.

24. Subject to provisions of section 25 of this Constitution, a person shall be qualified to be appointed as a Senator if— Qualifications of Senators.

(a) he has attained the age of twenty-one years; and

(b) he is a Commonwealth citizen who—

(i) was born and is domiciled in Antigua; or

(ii) is domiciled in Antigua and has been a resident there for a period of at least five years immediately preceding the date of his appointment.

25.—(1) No person shall be qualified to be appointed as a Senator who— Disqualifications of Senators.

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

(b) is a member of the House of Representatives; or

(c) is an undischarged bankrupt, having been declared bankrupt under any law in force in Antigua; or

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

(e) is under sentence of death imposed on him by a court or has been sentenced to imprisonment (by whatever name called) for a term of or exceeding twelve months and has not either suffered the punishment to which he was sentenced or such other punishment as may by competent authority have been substituted therefor, or received a free pardon; or

(f) is disqualified for election to the House of Representatives by or under any law in force in Antigua by reason of his connection with any offence relating to elections; or

- (g) holds or is acting in any public office or the office of judge of the Court of Appeal or the High Court;
 - (h) save as is otherwise provided by Parliament, holds or is acting in any other office of emolument under the Crown or is a paid member of any defence force of Antigua; or
 - (i) is a minister of religion.
- (2) For the purposes of subsection (1)(e) of this section—
- (a) when a person has been sentenced to two or more sentences of imprisonment that are required to be served consecutively he shall be regarded as having been sentenced to a term of or exceeding twelve months if (but not unless) any one of those sentences amounts to or exceeds that term; and
 - (b) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.
- (3) The reference in this section to a member of the House of Representatives includes a reference to any person who is a member of the House by virtue of holding the office of Speaker or by virtue of holding or acting in the office of Attorney-General.

Tenure of
office of
Senators.

26.—(1) Every Senator shall vacate his seat in the Senate—

- (a) at the next dissolution of Parliament after he has been appointed; or
 - (b) if, being a Senator, he is with his consent nominated as a candidate for election to the House of Representatives; or
 - (c) if he ceases to be a Commonwealth citizen; or
 - (d) if he is absent from the sittings of the Senate for such period and in such circumstances as may be prescribed by the rules of procedure of the Senate; or
 - (e) subject to the provisions of subsection (2) of this section, if any circumstances arise that, if he were not a Senator, would cause him to be disqualified for appointment as such by virtue of subsection (1) of section 25 of this Constitution; or
 - (f) if the Governor, acting in accordance with the advice of the Premier in the case of a Senator appointed in accordance with the advice of the Premier, or after consultation with the Premier in the case of a Senator appointed after consultation with the Premier, declares the seat of the Senator to be vacant.
- (2) (a) If circumstances such as are referred to in subsection (1)(e) of this section arise because a Senator is sentenced to death or imprisonment, adjudged to be of unsound mind, or declared bankrupt, or is adjudged to be connected with any offence relating to elections in circumstances that disqualify him for election to the House of Representatives, and if it is open to the Senator to appeal against the decision (either with the leave of a court or other authority or without such leave), he shall forthwith cease to perform his functions as a Senator but, subject to the provisions of this subsection, he shall not vacate his seat until the expiration of a period of thirty days thereafter:

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

- (b) If on the determination of an appeal, such circumstances continue to exist and no further appeal is open to the Senator, or if, by reason of the expiration of any period for entering an appeal or notice thereof or the refusal of leave to appeal or for any other reason, it ceases to be open to the Senator to appeal, he shall forthwith vacate his seat.
- (c) If at any time before the Senator vacates his seat such circumstances as aforesaid cease to exist his seat shall not become vacant on the expiration of the period referred to in paragraph (a) of this subsection and he may resume the performance of his functions as a Senator.

27.—(1) Whenever a Senator is incapable of performing his functions as a Senator by reason of his absence from Antigua or by reason of his suspension under section 26(2) of this Constitution or by reason of illness, the Governor may appoint a person qualified for appointment as a Senator to be temporarily a Senator during such absence, suspension or illness.

Appointment
of
temporary
Senators.

(2) The provisions of section 26 of this Constitution shall apply to a Senator appointed under this section as they apply to a Senator appointed under section 23 and an appointment made under this section shall in any case cease to have effect if the person appointed is notified by the Governor that the circumstances giving rise to his appointment have ceased to exist.

(3) If the occasion for an appointment under this section is the absence, suspension or illness of one of the Senators referred to in subsection (2)(a) of section 23 of this Constitution, the appointment shall be made by the Governor acting in accordance with the advice of the Premier; and if the occasion for such an appointment is the absence, suspension or illness of one of the Senators referred to in subsection (2)(b) of that section, the appointment shall be made by the Governor acting in his discretion after consultation with the Premier.

28.—(1) When the Senate first meets after this Constitution comes into force or after any general election and before it proceeds to the despatch of any other business, it shall elect a Senator to be President of the Senate; and if the office of President falls vacant at any time before the next dissolution of Parliament, the Senate shall, as soon as practicable, elect another Senator to that office.

President
and
Vice-
President
of Senate.

(2) When the Senate first meets after this Constitution comes into force or after any general election and before it proceeds to any other business except the election of the President of the Senate, it shall elect a Senator to be Vice-President of the Senate; and if the office of Vice-President falls vacant at any time before the next dissolution of Parliament, the Senate shall, as soon as practicable, elect another Senator to that office.

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

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

- (a) if he ceases to be a Senator:

Provided that the President shall not vacate his office by reason only that he has ceased to be a Senator on a dissolution of Parliament until the Senate first meets after that dissolution; or

- (b) if he is appointed to be a Minister or Parliamentary Secretary; or
 - (c) in the case of the Vice-President, if he is elected to be President.
- (5) (a) If, under section 26(2) of this Constitution, the person who is President or Vice-President of the Senate is suspended from the performance of his functions as a Senator, he shall also cease to perform his functions as President or Vice-President, as the case may be, and those functions shall, until he vacates his seat in the Senate or resumes the performance of his functions as a Senator, be performed—
- (i) in the case of the President, by the Vice-President or if the office of Vice-President is vacant or the person who is Vice-President is suspended from the performance of his functions as a Senator under section 26(2) of this Constitution, by such Senator (not being a Minister or Parliamentary Secretary) as the Senate may elect for the purpose; and
 - (ii) in the case of the Vice-President, by such Senator (not being a Minister or Parliamentary Secretary) as the Senate may elect for the purpose.
- (b) If the President or Vice-President of the Senate resumes the performance of his functions as a Senator in accordance with the provisions of section 26(2) of this Constitution, he shall also resume the performance of his functions as President or Vice-President, as the case may be.

Attendance of Attorney-General at proceedings of Senate.

29. The President or other member presiding in the Senate may request the Attorney-General to attend any proceedings of the Senate if he considers that the business before the Senate in those proceedings makes the presence of the Attorney-General desirable; and where he is so requested the Attorney-General may take part in the proceedings of the Senate relating to the business specified in the request as if he were a member of the Senate, but he shall not vote in the Senate.

The House of Representatives

Composition of House of Representatives.

30.—(1) Subject to the provisions of this section, the House of Representatives shall consist of a number of members equal to the number of constituencies for the time being established by Order under Part 4 of this Chapter, who shall be elected in such manner as may, subject to the provisions of this Constitution, be prescribed by or under any Act of Parliament.

(2) If the person holding the office of Speaker of the House of Representatives is not otherwise a member of the House, he shall be a member of the House by virtue of holding that office.

(3) If the person holding or acting in the office of Attorney-General is not otherwise a member of the House of Representatives, he shall be a member of the House by virtue of holding or acting in that office but shall not vote in the House.

Qualifications for election as member.

31. Subject to the provisions of section 32 of this Constitution, a person shall be qualified to be elected as a member of the House of Representatives if—

- (a) he has attained the age of twenty-one years; and
- (b) he is a Commonwealth citizen who—
 - (i) was born and is domiciled in Antigua; or

- (ii) is domiciled in Antigua and has been resident there for a period of at least five years immediately preceding the date of his nomination for election.

32.—(1) No person shall be qualified to be elected as a member of the House of Representatives who—

Disqualifications for election as member.

- (a) is, by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to a foreign power or state; or
- (b) is a member of the Senate; or
- (c) is an undischarged bankrupt having been declared bankrupt under any law in force in Antigua; or
- (d) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in Antigua; or
- (e) is under sentence of death imposed on him by a court or has been sentenced to imprisonment (by whatever name called) for a term of or exceeding twelve months and has not either suffered the punishment to which he was sentenced or such other punishment as may by competent authority have been substituted therefor, or received a free pardon; or
- (f) is disqualified for election to the House of Representatives by or under any law for the time being in force in Antigua by reason of his connection with any offence relating to elections; or
- (g) holds or is acting in any public office or the office of judge of the Court of Appeal or the High Court; or
- (h) save as is otherwise provided by Parliament, holds or is acting in any other office of emolument under the Crown or is a paid member of any defence force of Antigua; or
- (i) is a minister of religion; or
- (j) is disqualified for election to the House of Representatives by any law in force in Antigua by reason of his holding, or acting in, any office the functions of which involve—
 - (i) any responsibility for, or in connection with, the conduct of any election, or
 - (ii) any responsibility for the compilation or revision of any electoral register.

(2) For the purposes of subsection (1)(e) of this section—

- (a) when a person has been sentenced to two or more sentences of imprisonment that are required to be served consecutively he shall be regarded as having been sentenced to a term of or exceeding twelve months if (but not unless) any one of those sentences amounts to or exceeds that term; and
- (b) no account shall be taken of a sentence of imprisonment imposed as an alternative to, or in default of the payment of, a fine.

33.—(1) Every member of the House of Representatives shall vacate his seat in the House—

Tenure of seats of members of House of Representatives.

- (a) at the next dissolution of Parliament after he has been elected; or
- (b) if he ceases to be a Commonwealth citizen; or
- (c) 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; or

(d) subject to the provisions of subsection (2) of this section, if any circumstances arise that, if he were not a member of the House of Representatives, would cause him to be disqualified from election as such by virtue of section 32(1) of this Constitution.

(2)(a) If circumstances such as are referred to in subsection (1)(d) of this section arise because a member of the House of Representatives is sentenced to death or imprisonment, adjudged to be of unsound mind, or declared bankrupt, or is adjudged to be connected with any offence relating to elections in circumstances that disqualify him for election to the House of Representatives, 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 as 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.

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

(2) The Speaker may be elected either from among the members of the House of Representatives or from among persons who are not members of that House but are qualified to be elected as such.

(3) When the House of Representatives first meets after any general election, and before it proceeds to any other business except the election of the Speaker, it shall elect a member of the House to be Deputy Speaker, and if the office of Deputy Speaker falls vacant at any time before the next dissolution of Parliament the House shall, as soon as practicable, elect another such member to that office.

(4) The House of Representatives shall not elect a member who is a Minister or Parliamentary Secretary to be Speaker or Deputy Speaker of the House.

35.—(1) (a) A Speaker of the House of Representatives elected from among the members of the House or the Deputy Speaker of the House of Representatives shall vacate his office—

Tenure of office of Speaker and Deputy Speaker and performance of their functions in certain events.

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

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

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

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

(b) If such a Speaker or the Deputy Speaker is, under section 33(2) of this Constitution, suspended from the performance of his functions as a member of the House of Representatives he shall also cease to perform his functions as Speaker or Deputy Speaker but shall resume the performance of those functions if in accordance with the provisions of the said section 33(2) he resumes the performance of his functions as a member of the House.

(2) (a) A Speaker of the House of Representatives elected from among persons who are not members of that House shall vacate his office when the House first meets after any dissolution of Parliament.

(b) Such a Speaker shall also vacate his office in the circumstances in which a member of the House of Representatives vacates his seat in that House by virtue of subsection (1)(d) of section 33 of this Constitution,

and for the purpose of the application of the said subsection (1)(d) to such a Speaker subsection (2) of section 33 of this Constitution shall have effect as if the references therein to a member of the House of Representatives, the functions of such a member and the seat of such a member in the House of Representatives were, respectively, references to such a Speaker, the functions of Speaker and the office of Speaker and as if the reference in the proviso to paragraph (a) were a reference to any person performing the functions of Speaker in pursuance of subsection (3) of this section.

(3) Where by virtue of subsection (1)(b) of this section or (in the case of a Speaker elected from among persons who are not members of the House of Representatives) by virtue of section 33(2) of this Constitution as applied by subsection (2)(b) of this section, the Speaker or Deputy Speaker is required to cease to perform the functions of his office those functions shall, until he vacates his office or resumes the performance of the functions thereof, be performed—

(a) in the case of the Speaker by the Deputy Speaker, or if the office of Deputy Speaker is vacant or the Deputy Speaker is under section 33(2) of this Constitution suspended from the performance of his functions as a member of the House of Representatives, by such member of the House (not being a Minister or Parliamentary Secretary) as the House may elect for the purpose;

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

Qualifications and disqualifications of electors.

36.—(1) Subject to subsection (2) of this section, a person shall be qualified to be registered as an elector for the purpose of the election of members of the House of Representatives if, and shall not be so qualified unless, he has attained the age of twenty-one years and—

(a) is a Commonwealth citizen who was born in Antigua and is domiciled and resident there at the date of his application for registration; or

(b) is a Commonwealth citizen who, for a period of three years immediately preceding his application for registration or for such other period as may be prescribed by Parliament, has been resident in Antigua.

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

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

(b) is under sentence of death imposed on him by a court or has been sentenced to imprisonment (by whatever name called) for a term of or exceeding twelve months and has not either suffered the punishment to which he was sentenced or such other punishment as may by competent authority have been substituted therefor, or received a free pardon; or

(c) is disqualified for registration as an elector by or under any law in force in Antigua by reason of his connection with any offence relating to elections.

PART 2

Powers and Procedure of Parliament, etc.

Power to make laws.

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

Alteration of this Constitution and certain other laws.

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

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

(3) An amendment made by the Senate to such a bill that has been passed by the House of Representatives shall not be regarded as being agreed to by the House of Representatives for the purpose of section 46(4) of this Constitution unless such agreement is signified by resolution supported by the votes of not less than two-thirds of all the members of the House of Representatives.

(4) 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) S.I. 1967/224.

- (a) there has been an interval of not less than ninety days between the introduction of the bill in the House of Representatives and the beginning of the proceedings on the second reading of the bill in that House; and
 - (b) after it has been passed by both Houses of Parliament or, in the case of a bill to which section 46 of this Constitution applies, after its rejection by the Senate for the second time, the bill has been approved on a referendum, held in accordance with such provision as may be made in that behalf by Parliament, by not less than two-thirds of all the votes validly cast on that referendum.
- (5) The provisions of paragraph (b) of subsection (4) 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.
- (6) Every person who, at the time when the referendum is held, would be entitled to vote in the election of members of the House of Representatives shall be entitled to vote on a referendum held for the purposes of this section and no other person shall be entitled so to vote.
- (7) (a) A bill to alter this Constitution or the Courts Order or section 3 of the West Indies Associated States (Appeals to Privy Council) Order 1967 shall not be submitted to the Governor for his assent unless it is accompanied by—
- (i) a certificate signed by the Speaker of the House of Representatives (or, if the Speaker is for any reason unable to exercise the functions of his office, by the Deputy Speaker) that the provisions of subsection (2) and, if applicable, the provisions of subsection (3) of this section have been complied with; and
 - (ii) where a referendum has been held in pursuance of subsection (4) of this section, a certificate signed by such authority as may be prescribed by Parliament (being an authority responsible for the conduct of the referendum) stating the results of the referendum.
- (b) A certificate of the Speaker or, as the case may be, the Deputy Speaker under this subsection shall be conclusive that the provisions of this section to which it relates have been complied with and shall not be enquired into in any court of law.
- (8) In this section—
- (a) references to this Constitution include references to any law that alters this Constitution;
 - (b) references to the Courts Order are references to the West Indies Associated States Supreme Court Order 1967^(a) so far as it has effect as part of the law of Antigua and include references to any law that alters that Order 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 so far as it has effect as part of the law of Antigua and include references to any law altering that section 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 thereof include references—

(a) S.I. 1967/223.

- (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 of allegiance.

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

Provided that the election of a President and Vice-President of the Senate and the election of a Speaker and Deputy Speaker of the House of Representatives may take place before the members of the Senate or the House of Representatives, as the case may be, have made and subscribed such oath.

(2) References in this section to a member of a House of Parliament include references to any person who is a member of the House of Representatives by virtue of holding the office of Speaker or by virtue of holding or acting in the office of Attorney-General.

Presiding in Senate and House of Representatives.

40.—(1) The President or, in his absence, the Vice-President or, if they are both absent, a Senator (not being a Minister or a Parliamentary Secretary) elected by the Senate for that sitting shall preside at any sitting of the Senate.

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

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

Voting.

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

(2) Subject to the provisions of subsection (3) of this section, the person presiding in either House of Parliament shall not have an original vote but if on any question the votes are equally divided, he shall have and exercise a casting vote.

(3) Where either House of Parliament is voting on such a bill as is referred to in section 38(2) of this Constitution, the person presiding in the House shall have an original vote only, and if in the Senate the votes are equally divided the motion shall be lost.

Quorum.

42.—(1) If at any sitting of either House of Parliament 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 still not present, the House shall be adjourned.

(2) For the purpose of this section a quorum of the Senate shall consist of five members, a quorum of the House of Representatives shall consist of six members or such greater number as may be prescribed by Parliament and in neither case shall the person presiding at the sitting be included in reckoning whether there is a quorum present.

43.—(1) Subject to the provisions of this Constitution, the power of Parliament to make laws shall be exercised by bills passed by the Senate and the House of Representatives and assented to by the Governor on behalf of Her Majesty. Mode of exercising legislative power.

(2) When a bill is presented to the Governor for assent in accordance with this Constitution, he shall signify that he assents thereto.

(3) A bill shall not become law unless it has been duly passed and assented to in accordance with this Constitution.

44.—(1) A bill other than a money bill may be introduced in either House. Introduction of bills, etc.

(2) A money bill shall not be introduced in the Senate.

(3) Except on the proposal of a Minister authorised so to do by the Cabinet neither House shall—

(a) proceed upon any bill (including an amendment to a bill) which, in the opinion of the person presiding in the House, makes provision for imposing or increasing any tax, or imposing or increasing any charge on the revenues or other funds of Antigua, or for altering any such charge otherwise than by reducing it, or for compounding or remitting any debt due to Antigua;

(b) proceed upon any motion or resolution (including any amendment thereof) the effect of which, in the opinion of the person presiding in the House, is that provision should be made for any of the purposes set out in paragraph (a) of this subsection; or

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

45.—(1) If a money bill, having been passed by the House of Representatives and sent to the Senate at least one month before the end of the session, is not passed by the Senate without amendment within one month after it is sent to the Senate, the bill shall, unless the House of Representatives otherwise resolves, be presented to the Governor for assent notwithstanding that the Senate has not consented to the bill. Restriction on powers of Senate as to money bills.

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

46.—(1) This section applies to any bill other than a money bill that is passed by the House of Representatives in two successive sessions (whether or not Parliament is dissolved between those sessions) and, having been sent to the Senate in each of those sessions at least one month before the end of the session, is rejected by the Senate in each of those sessions. Restriction on powers of Senate as to bills other than money bills.

(2) A bill to which this section applies shall, on its rejection for the second time by the Senate, unless the House of Representatives otherwise resolves, be submitted to the Governor for assent notwithstanding that the Senate has not consented to the bill:

Provided that—

(a) the foregoing provisions of this subsection shall not have effect unless at least three months have elapsed between the date on which

the bill is passed by the House of Representatives in the first session and the date on which it is passed by the House of Representatives in the second session;

(b) a bill such as is referred to in subsection (4) of section 38 of this Constitution shall not be submitted to the Governor for his assent unless the provisions of that subsection have been complied with and the power conferred on the House of Representatives by this subsection to resolve that a bill shall not be presented to the Governor for assent shall not be exercised in respect of such a bill.

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

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

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

Provisions relating to sections 44, 45 and 46.

47.—(1) In sections 44, 45 and 46 of this Constitution “ money bill ” means a public bill which, in the opinion of the Speaker, contains only provisions dealing with all or any of the following matters, namely, the imposition, repeal, remission, alteration or regulation of taxation; the imposition, for the payment of debt or other financial purposes, of charges on public money or the variation or repeal of any such charges, the grant of money to the Crown or to any authority or person, or the variation or renouation of any such grant; the appropriation, receipt, custody, investment, issue or audit of accounts of public money; the raising or guarantee of any loan or the repayment thereof, or the establishment, alteration, administration or abolition of any sinking fund provided in connection with any such loan, or subordinate matters incidental to any of the matters aforesaid.

(2) For the purposes of section 46 of this Constitution a bill shall be deemed to be rejected by the Senate if—

(a) it is not passed by the Senate without amendment; or

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

(3) Whenever the office of Speaker is vacant or the Speaker is for any reason unable to perform any function conferred upon him by section 45 or 46 of this Constitution or subsection (1) of this section, that function may be performed by the Deputy Speaker.

(4) Any certificate of the Speaker or the Deputy Speaker given under section 45 or 46 of this Constitution shall be conclusive for all purposes and shall not be questioned by any court of law.

may, with the consent of the Premier, confer powers and impose duties on

(5) A bill or amendment shall not be deemed to make provision for any of the matters set out in subsection (1) of this section by reason only that it provides—

- (a) for the imposition or alteration of any fine or other pecuniary penalty or for the payments or demand of a licence fee or a charge for any services rendered; or
- (b) for the imposition, alteration of any regulation of any tax or rate by any local authority, statutory board or body for local purposes.

48.—(1) Subject to the provisions of this Constitution, each House of Parliament may regulate its own procedure.

Regulation and procedure of Houses of Parliament.

(2) Either House of Parliament may act notwithstanding any vacancy in its membership (including any vacancy not filled when the House first meets after this Constitution comes into operation or 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.

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

Freedom of speech in proceedings of Parliament.

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

(3) References in this section to a member of a House of Parliament include references to any person who is a member of the House of Representatives by virtue of holding the office of Speaker or by virtue of holding or acting in the office of Attorney-General.

(4) Where the Attorney-General takes part in the proceedings of the Senate in accordance with a request made under section 29 of this Constitution or does anything for the purposes of the business before the Senate specified in such a request the provisions of subsection (1) of this section shall apply in relation to the Attorney-General as they apply in relation to a member of the Senate.

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

Unqualified persons sitting or voting.

(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.

(3) While the office of Attorney-General remains an office in the public service the reference in this section to the Director of Public Prosecutions shall be construed as a reference to the Attorney-General.

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

Determination of questions of membership.

- (a) a person has been validly appointed to be a member of the

- Senate or validly elected to be a member of the House of Representatives; or
- (b) the seat of a member of the Senate or a member of the House of Representatives has become vacant; or
 - (c) a member of the Senate or the House of Representatives is suspended from the performance of his functions as a Senator or as a member of the House of Representatives under section 26(2), or section 33(2), of this Constitution, as the case may be; or
 - (d) a Speaker elected from outside the House was qualified to be so elected; or
 - (e) such a Speaker has vacated his office under subsection (2)(b) of section 35 of this Constitution or is suspended from the performance of the functions of his office under that subsection.

(2) The persons who may apply to the High Court for the determination of any question under this section, the circumstances and manner in which and the conditions upon which any such application may be made and the powers, practice and procedure of the High Court in relation to any such application, shall be such as may be prescribed by Parliament.

PART 3

Summoning, Prorogation and Dissolution

Sessions of Parliament. 52.—(1) The sessions of Parliament shall be held at such place in Antigua and commence at such time as the Governor may by Proclamation appoint.

(2) There shall be a session of Parliament once at least in every year so that a period of six months shall not intervene between the end of one session and the beginning of the next session.

Prorogation and dissolution of Parliament. 53.—(1) The Governor, acting in accordance with the advice of the Premier, may at any time prorogue or dissolve Parliament.

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

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

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

(4) If, between a dissolution of Parliament and the next ensuing general election of members to the House of Representatives, an emergency arises of such a nature that, in the opinion of the Premier, it is necessary for the two Houses to be summoned before the general election can be held, the Governor, acting in accordance with the advice of the Premier, may summon the two Houses of the preceding Parliament and that Parliament shall thereupon be deemed (except for the purposes of section 54 of this Constitution) not to have been dissolved and shall be deemed (except as aforesaid) to be dissolved on the date on which the next ensuing general election is held.

54.—(1) A general election of members of the House of Representatives shall be held at such time within three months after every dissolution of Parliament as the Governor acting in accordance with the advice of the Premier shall appoint.

General elections and appointment of Senators.

(2) As soon as practicable after every general election the Governor shall proceed under section 23 of this Constitution to the appointment of Senators.

PART 4

Constituencies

55.—(1) For the purpose of the election of members of the House of Representatives, Antigua shall be divided into such number of constituencies (not being less than ten), having such boundaries as may be prescribed by an Order made by the Governor under section 59 of this Constitution.

Number of constituencies.

(2) Each constituency shall return one member to the House of Representatives.

56.—(1) The Governor, acting in accordance with the advice of the Premier, shall from time to time appoint a Constituencies Commission to review the number, and the boundaries, of the constituencies and report thereon to the Speaker in accordance with the provisions of this Part.

Constituencies Commission.

(2) All members of a Constituencies Commission shall vacate office and the Commission shall cease to exist twelve months after the date when the report of the Commission is submitted to the Speaker under section 58 of this Constitution or on the date when an Order consequent upon the report of the Commission is made by the Governor under section 59 of this Constitution, whichever is the earlier.

57.—(1) A Constituencies Commission shall consist of a Chairman and not less than two or more than four other members.

Composition of Constituencies Commission.

(2) A person shall not be qualified to be a member of a Constituencies Commission if he is a Minister, a Parliamentary Secretary or a member of the Senate or of the House of Representatives.

(3) A member of a Constituencies Commission may be removed from office by the Governor, acting in accordance with the advice of the Premier, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour and shall not be removed from office except as aforesaid.

(4) A Constituencies Commission may regulate its own procedure, and may with the consent of the Premier, confer powers and impose duties on any public officer or on any authority of the Government of Antigua for the purpose of the discharge of its functions.

(5) At any meeting of the Commission a quorum shall consist of three members and, if a quorum is present, the Commission shall not be disqualified for the transaction of business by reason of any vacancy among its members:

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

(6) Any proceedings of the Commission shall not be invalid by reason only that a person who was not entitled so to do took part therein.

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

(8) The reference in this section to a member of the House of Representatives includes a reference to any person who is a member of that House by virtue of holding the office of Speaker or by virtue of holding or acting in the office of Attorney-General.

Report by
Commission.

58.—(1) A Constituencies Commission shall on its appointment forthwith proceed to review the number of constituencies into which Antigua is divided and the boundaries thereof and shall submit a report to the Speaker stating whether, and if so what, alterations the Commission recommend should be made to the number, or the boundaries, of those constituencies.

(2) A report by a Constituencies Commission shall be submitted to the Speaker under this section not less than two or more than five years after the date when this Constitution comes into operation and thereafter not less than two or more than five years after the date when the last such report was so submitted.

(3) In reviewing the number, and the boundaries, of the constituencies and making its report thereon, the Constituencies Commission shall be guided by such general principles as may be prescribed by Parliament.

Procedure
upon report.

59.—(1) Every report submitted to the Speaker under section 58 of this Constitution shall as soon as practicable be laid before the House of Representatives.

(2) Where such a report contains recommendations for altering the number or the boundaries of the constituencies, a Minister shall cause to be laid before the House of Representatives together with the report the draft of an Order to be made by the Governor for giving effect to the report, whether with or without modifications, to the recommendations contained in the report and such a draft may include provision for any matter that appears to the Minister to be incidental to or consequential upon the other provisions of the draft.

(3) Where such a draft Order gives effect to the recommendations contained in the report with modifications, the Minister shall lay before the House of Representatives together with the draft a statement of the reasons for the modifications.

(4) Any draft Order approved by resolution of the House of Representatives under this section shall forthwith be submitted by the Minister to the Governor, who shall thereupon make an Order in the terms of the draft; and any Order so made shall come into force on the date specified therein and, until revoked by a further Order made under this section, shall have the force of law:

Provided that the coming into force of any such Order shall not affect any election to the House of Representatives until a date has been appointed for a general election in accordance with section 54 of this Constitution or affect the composition of the House until the dissolution of the Parliament then in being.

(5) If an Order made by the Governor purports to have been made under this section and it is recited in the Order that a draft thereof has been approved by resolution of the House of Representatives, the validity of that Order shall not be enquired into in any court of law.

CHAPTER IV

THE EXECUTIVE

60.—(1) The executive authority of Antigua is vested in Her Majesty. Executive authority of Antigua.

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

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

61.—(1) There shall be a Cabinet for Antigua which shall have the general direction and control of the government of Antigua and shall be collectively responsible therefor to Parliament. Cabinet.

(2) The Cabinet shall, subject to subsection (3) of this section, consist of the Premier and the other Ministers.

(3) Where the person holding the office of Attorney-General is not appointed as a Minister he shall be a member of the Cabinet by virtue of holding that office but shall not be styled a Minister.

62.—(1) There shall be a Premier of Antigua, who shall be appointed by the Governor. Ministers of the Government of Antigua.

(2) The Governor, acting in his discretion, shall appoint as Premier the member of the House of Representatives who appears to him best able to command the support of the majority of the members of that House and who is willing to be appointed.

(3) In addition to the Premier there shall be such other Ministers as the Governor, acting in accordance with the advice of the Premier, may appoint from among the Senators and the members of the House of Representatives:

Provided that—

(a) at least one of the Ministers shall be a person who is a Senator;

(b) where the person holding the office of Attorney-General is a member of the House by virtue of having been elected as such, he shall be appointed as a Minister; and

(c) where the person holding the office of Attorney-General is a member of the House by virtue of holding that office, he may be appointed as a Minister if he is not a public officer.

(4) If occasion arises for appointing a Premier or any other Minister while Parliament is dissolved, subsections (2) and (3) of this section shall apply in relation to such appointment as if the references therein to members of the House of Representatives and to Senators were references, respectively, to persons who were such members, and to persons who were Senators, immediately before Parliament was dissolved.

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

Tenure of office of Premier and Ministers.

63.—(1) The office of Premier shall become vacant—

- (a) if the holder of the office ceases to be a member of the House of Representatives for any reason other than a dissolution of Parliament; or
- (b) if, when the House of Representatives first meets after a dissolution of Parliament, the holder of the office is not then an elected member of that House.

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

(3) The Governor, acting in his discretion, may remove the Premier from office if, at any time between the holding of a general election of members of the House of Representatives and the date on which the House first meets thereafter, he 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 a majority of the members of the House.

(4) A Minister other than the Premier shall vacate his office—

- (a) if the office of Premier becomes vacant under subsection (1) or if the Premier resigns from office within three days after the passage by the House of Representatives of a resolution of no confidence in the Government or is removed from office under subsection (2) of this section; or
- (b) if his appointment is revoked by the Governor, acting in accordance with the advice of the Premier, by instrument under the Public Seal; or
- (c) if he ceases to be a Senator or a member of the House of Representatives for any reason other than a dissolution of Parliament; or
- (d) if, when the House of Parliament of which he was a member immediately before a dissolution of Parliament first meets after that dissolution, he is not then a member of that House; or
- (e) if, in the case of a person appointed as a Minister under subsection (3)(c) of section 62 of this Constitution, he ceases to hold the office of Attorney-General.

(5) For the purposes of subsection (2) of this section the House of Representatives shall be regarded as passing a vote of no confidence in the Government—

- (a) if the House passes a resolution supported by the votes of a majority of all the members of the House, expressly declaring that the House has no confidence in the Government; or
- (b) if, after the Premier has, in such manner and at such time as may be prescribed by the rules of procedure of the House, informed the House that the passing or, as the case may be, the rejection of a particular motion that is before the House will be regarded by him as a vote of no confidence in the Government, the House passes or, as the case may be, rejects that motion.

Performance of functions of Premier during absence or illness.

64.—(1) Whenever the Premier is absent from Antigua 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 considers that it is impracticable to obtain the advice of the Premier owing to his absence or illness he may exercise those powers in his discretion.

65.—(1) The Premier may, by directions in writing under his hand, charge any Minister with responsibility for any business of the Government of Antigua, including the administration of any department of government. Assignment of portfolios.

(2) The Premier may himself retain responsibility for any such business, including the administration of any such department.

66. The Cabinet shall be summoned only by the Premier or, in his absence, by such Minister as the Premier shall appoint in that behalf. Summoning of Cabinet.

67.—(1) The Governor, acting in accordance with the advice of the Premier, may by instrument under the Public Seal appoint Parliamentary Secretaries from among the Senators and the members of the House of Representatives to assist Ministers in the performance of their duties: Parliamentary Secretaries.

Provided that, if occasion arises for making an appointment while Parliament is dissolved, a person who was a Senator or a member of the House of Representatives immediately before the dissolution may be appointed as a Parliamentary Secretary.

(2) The provisions of section 63(4) of this Constitution, other than paragraph (e) thereof, shall apply in relation to Parliamentary Secretaries as they apply in relation to Ministers.

68.—(1) A Minister or a Parliamentary Secretary shall not enter upon the duties of his office unless he has taken and subscribed the official oath and the oath of office. Oaths to be taken by Ministers.

(2) The references in this section to a Minister and to the duties of that office shall be construed as including references to a person who is a member of the Cabinet without being a Minister and to duties of that person as such a member.

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

(2) Subsection (1) of this section shall not apply in relation to the following obligations imposed on the Governor by this Constitution, that is to say—

(a) the obligation under subsection (2) of section 63 to remove the Premier from office in the circumstances described in that subsection; and

(b) the obligation under subsection (3) of section 90 to remove from office in the circumstances described in that subsection a person to whom section 90 applies.

Governor to be informed concerning matters of government.

70. The Premier shall keep the Governor fully informed concerning the general conduct of the government of Antigua and shall furnish the Governor with such information as the Governor, acting in his discretion, may request with respect to any particular matter relating to the government of Antigua.

Attorney-General.

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

(2) No person shall be qualified to hold, or to act in, the office of Attorney-General unless he is entitled to practise as a barrister in Antigua.

(3) Until such time as the Governor, acting in accordance with the advice of the Premier, by notice published in the Gazette otherwise directs, the office of Attorney-General shall be an office in the public service.

(4) While the office of Attorney-General remains an office in the public service the provisions of sections 85 and 90 of this Constitution shall apply in relation to the office of Attorney-General and to persons appointed to hold, or to act in, the office of Attorney-General as they apply in relation to the office of Director of Public Prosecutions and to persons appointed to hold, or to act in, the office of Director of Public Prosecutions.

(5) When the office of Attorney-General has ceased to be an office in the public service, the power to appoint any person to hold, or to act in, the office of Attorney-General and to remove from office any person who has been so appointed shall vest in the Governor acting in accordance with the advice of the Premier.

Director of Public Prosecutions.

72.—(1) There shall be a Director of Public Prosecutions whose office shall be an office in the public service.

(2) A person shall not be qualified to hold, or to act in, the office of Director of Public Prosecutions unless he is entitled to practise as a barrister in the High Court in Antigua.

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

(a) to institute and undertake criminal proceedings against any person before any court (other than a court-martial) in respect of any offence 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.

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

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

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

(6) 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 (3)(c) of this section shall not be exercised in relation to any appeal by a person convicted in any criminal proceedings or in relation to any case stated or question of law reserved at the instance of such a person.

(7) In the exercise of the functions vested in him by subsection (3) of this section and by section 50 of this Constitution, the Director of Public Prosecutions shall not be subject to the direction or control of any other person or authority.

(8) No person shall be appointed to hold, or to act in, the office of Director of Public Prosecutions until such time as the office of Attorney-General ceases to be an office in the public service; and while the office of Attorney-General remains an office in the public service subsections (3) to (7) of this section shall have effect as if the references therein to the Director of Public Prosecutions were references to the Attorney-General.

73. The Governor may, in Her Majesty's name and on Her Majesty's behalf,— Prerogative of mercy.

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

CHAPTER V

FINANCE

74. All revenues or other moneys raised or received by Antigua (not being revenues or other moneys payable under this Constitution or any other law into some other public fund established for a specific purpose) shall, unless Parliament otherwise provides, be paid into and form one fund to be called the Treasury Fund. Establishment of Treasury Fund.

75.—(1) No moneys shall be withdrawn from the Treasury Fund except to meet expenditure that is charged upon the Fund by this Constitution or any Act of Parliament or where the issue of those moneys has been authorised by an Appropriation Act or an Act passed in pursuance of section 77 of this Constitution. Withdrawal from Treasury Fund or other public funds.

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

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

(4) No moneys shall be withdrawn from the Treasury Fund or any other public fund except in the manner prescribed by or under any law.

Annual
Appropriation
Act.

76.—(1) The Minister responsible for finance shall cause to be prepared and laid before the House of Representatives before or not later than thirty days after the commencement of each financial year estimates of the revenues and expenditure of Antigua for that year.

(2) The heads of expenditure contained in the estimates (other than expenditure charged upon the Treasury Fund by this Constitution or any Act of Parliament) shall be included in a bill, to be known as an appropriation bill, providing for the issue from the Treasury Fund of the sums necessary to meet that expenditure, and the appropriation of those sums for the purposes specified therein.

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

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

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

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

Authorisation
of
expenditure
in advance
of
appropriation.

77. Parliament may make provision under which, if the Appropriation Act in respect of any financial year has not come into operation by the beginning of that financial year, the Minister responsible for finance may authorise the withdrawal of moneys from the Treasury Fund for the purpose of meeting expenditure necessary to carry on the services of the Government until the expiration of thirty days from the beginning of that financial year or the coming into operation of the Act, whichever is the earlier.

Con-
tingencies
Fund.

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

(2) Where any advance is made in accordance with subsection (1) of this section a supplementary estimate shall be presented and a supplementary appropriation bill shall be introduced as soon as possible for the purpose of replacing the amount so advanced.

79.—(1) There shall be paid to the holders of the offices to which this section applies such salaries and such allowances as may be prescribed by or under any Act of Parliament. Remuneration of Governor and certain other officers.

(2) The salaries and allowances prescribed in pursuance of this section in respect of holders of the offices to which this section applies are hereby charged on the Treasury 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 any pension payable in respect of his service in that office) shall not be altered to his disadvantage after his appointment.

(4) In so far as the salary or other terms of service of any person depend upon the option of that person, the terms for which he opts shall be taken to be more advantageous to him than any other terms for which he might have opted.

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

(6) Nothing in this section shall be construed as prejudicing the provisions of section 92 of this Constitution (which protects pensions rights in respect of service as a public officer).

80.—(1) There shall be a Chief Auditor for Antigua, whose office shall be a public office. Establishment of office and functions of Chief Auditor.

(2) The public accounts of Antigua and of all officers, courts and authorities of Antigua (including any accounts of the Court of Appeal or the High Court maintained in Antigua) shall be audited and reported on annually by the Chief Auditor and for that purpose the Chief Auditor or any person authorised by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.

(3) The Chief Auditor shall submit his reports annually to the Minister responsible for finance, who shall cause them to be laid before the House of Representatives within thirty days of the receipt thereof by him or, if the House of Representatives is not sitting, within thirty days of the commencement of the next sitting of the House of Representatives.

(4) In the exercise of his functions under this Constitution the Chief Auditor shall not be subject to the direction or control of any other person or authority.

81. The public debt of Antigua, including the interest on that debt, sinking fund payments in respect of that debt and the costs, charges and expenses incidental to the management of that debt, is hereby charged on the Treasury Fund. Public debt.

CHAPTER VI THE PUBLIC SERVICE

82.—(1) There shall be a Public Service Commission for Antigua, which shall consist of a Chairman and not less than two or more than six other members appointed by the Governor acting in accordance with the advice of the Premier. Public Service Commission

(2) A person shall be qualified to be appointed as a member of the Public Service Commission if, and only if, he is resident in Antigua and

no person shall be qualified to be so appointed who is a member of the Senate or the House of Representatives or a public officer.

(3) A member of the Public Service Commission shall be appointed to hold office for a term not exceeding three years.

(4) Subject to the provisions of section 90 of this Constitution, the office of a member of the Public Service Commission shall become vacant—

- (a) at the expiration of the period for which he was appointed; or
- (b) if any circumstances arise which, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(5) If the office of Chairman of the Public Service 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.

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

(7) A member of the Public Service 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.

(8) The Public Service 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 Antigua for the purpose of the exercise of its functions.

(9) The Public Service Commission may, subject to any written regulations made by the Commission, 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.

(10) The Public Service Commission shall make an annual report on its activities to the Governor, who shall cause a copy of the report to be laid before both Houses of Parliament.

(11) The reference in this section to a member of the House of Representatives includes a reference to any person who is a member of the House of Representatives by virtue of holding the office of Speaker or by virtue of holding or acting in the office of Attorney-General.

83.—(1) Subject to the provisions of this Constitution, power to appoint persons to hold or act in public offices (including power to make appointments on promotion and transfer and to confirm appointments) and to remove and exercise disciplinary control over persons holding or acting in such offices shall vest in the Public Service Commission: Appoint-
ments, etc.,
of public
officers.

Provided that the Commission may, with the approval of the Premier and subject to such conditions as it may think fit, delegate any of its powers under this section, by directions in writing, to any one or more of its members or to any public officer.

(2) The provisions of subsection (1) of this section shall not apply in relation to the offices of Attorney-General, Director of Public Prosecutions, Chief Auditor or Magistrate or any office in the Police Force.

(3) The Public Service Commission, or any persons to whom any of the powers mentioned in subsection (1) of this section have been delegated, shall consult the Judicial and Legal Services Commission before exercising any of the powers mentioned as aforesaid in relation to any of the following offices or any person holding or acting in any such office, that is to say, any office of Registrar of the High Court and any other office appertaining to any court for appointment to which a person is required to be qualified to practise as a barrister or solicitor in Antigua.

(4) In the performance of its functions the Public Service Commission shall act in a manner consistent with the general policy of the Government of Antigua as conveyed to the Commission by the Premier in writing.

84.—(1) (a) Before the Public Service Commission makes any appointment to an office to which this subsection applies it shall consult with the Premier. Appointment
of permanent
secretaries,
etc.

(b) A person shall not be appointed to an office to which this subsection applies if the Premier signifies to the Public Service Commission his objection to the appointment of that person to that office.

(c) The offices to which this subsection applies are the office of permanent secretary (except in relation to appointments on transfer from another such office carrying the same salary) and the offices of head and deputy head of a department of government.

(2) Power to make appointments to any office of permanent secretary on transfer from another such office carrying the same salary shall vest in the Governor, acting in accordance with the advice of the Premier.

85.—(1) The appointment of a person to hold, or to act in, the office of Director of Public Prosecutions shall be made by the Governor acting in accordance with the advice of the Public Service Commission: Appoint-
ment, etc., of
Director of
Public
Prosecutions.

Provided that the Public Service Commission shall not recommend the Governor so to appoint any person unless it has consulted the Judicial and Legal Services Commission and has obtained the approval of the Premier to the appointment of that person.

(2) A person may be appointed to act in the office of Director of Public Prosecutions if that office is vacant or if the holder of that office is for any reason unable to perform the functions of that office.

(3) A person appointed to hold the office of Director of Public Prosecutions shall, subject to section 90 of this Constitution, vacate that office when he attains the prescribed age.

(4) A person appointed to act in the office of Director of Public Prosecutions shall, subject to section 90 of this Constitution, cease so to act—

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

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

(5) The prescribed age for the purposes of subsection (3) of this section is the age of fifty-five years or such other age as may be prescribed by law:

Provided that no provision of law that alters the prescribed age after any person has been appointed to the office of Director of Public Prosecutions shall have effect in relation to that person without his consent.

Appoint-
ment, etc., of
Chief
Auditor.

86.—(1) The appointment of a person to hold, or to act in, the office of Chief Auditor shall be made by the Governor acting in accordance with the advice of the Public Service Commission:

Provided that the Public Service Commission shall not recommend the Governor so to appoint any person unless it has obtained the approval of the Premier to the appointment of that person.

(2) A person may be appointed to act in the office of Chief Auditor if that office is vacant or if the holder of that office is for any reason unable to perform the functions of that office.

(3) A person appointed to hold the office of Chief Auditor shall, subject to section 90 of this Constitution, vacate that office when he attains the prescribed age.

(4) A person appointed to act in the office of Chief Auditor shall, subject to section 90 of this Constitution, cease so to act—

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

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

(5) The prescribed age for the purposes of subsection (3) of this section is the age of fifty-five years or such other age as may be prescribed by law:

Provided that no provision of law that alters the prescribed age after any person has been appointed to the office of Chief Auditor shall have effect in relation to that person without his consent.

Appoint-
ment, etc., of
Magistrates.

87.—(1) Power to appoint persons to hold or act in the office of Magistrate shall vest in the Governor acting in accordance with the advice of the Public Service Commission:

Provided that the Public Service Commission shall not tender any advice to the Governor with respect to the exercise of that power unless it has consulted the Judicial and Legal Services Commission.

(2) Power to dismiss and exercise disciplinary control over persons holding or acting in the office of Magistrate shall vest in the Governor

acting in accordance with the advice of the Judicial and Legal Services Commission:

Provided that the Judicial and Legal Services Commission shall not tender any advice to the Governor with respect to the exercise of that power unless it has consulted the Public Service Commission.

88.—(1) There shall be a Police Service Commission for Antigua which shall consist of a Chairman and not less than two or more than six other members appointed by the Governor acting in accordance with the advice of the Premier. Police Service Commission.

(2) The provisions of subsections (2) to (11) of section 82 of this Constitution shall apply in relation to the Police Service Commission as they apply in relation to the Public Service Commission.

89.—(1) Power to appoint persons to hold or act in offices in the Police Force (including appointments on promotion and transfer and the confirmation of appointments) and to remove and exercise disciplinary control over persons holding or acting in such offices shall vest in the Police Service Commission: Appointment, etc., of police officers.

Provided that the Commission may, with the approval of the Premier and subject to such conditions as it may think fit, delegate any of its powers under this section to any one or more of its members or to the Superintendent or any other officer of the Police Force.

(2) Before the Police Service Commission, or any person or authority to whom powers have been delegated under this section, appoints to an office in the Police Force any person who is holding or acting in an office power to make appointments to which is vested by this Constitution in the Public Service Commission, the Police Service Commission or that person or authority shall consult with the Public Service Commission.

(3) Before the Police Service Commission makes an appointment to the office of Superintendent or a like or higher post however designated it shall consult the Premier, and a person shall not be appointed to such an office if the Premier signifies to the Police Service Commission his objection to the appointment of that person to the office in question.

90.—(1) The persons to whom this section applies are— Removal from certain offices.

(a) persons holding, or acting in, the office of Director of Public Prosecutions or the office of Chief Auditor; and

(b) persons holding the office of member (including the Chairman) of the Public Service Commission or the Police Service Commission.

(2) A person to whom this section applies may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour, and shall not be so removed except in accordance with the following provisions of this section.

(3) A person to whom this section applies 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 (4) 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.

(4) If the Premier represents to the Governor that the question of removing a person to whom this section applies from office for inability as aforesaid or for misbehaviour ought to be investigated, then—

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

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

(5) If the question of removing a person to whom this section applies from office has been referred to a tribunal under subsection (4) of this section, the Governor, acting in accordance with the advice of the Public Service Commission in the case of any person referred to in paragraph (a) of subsection (1) of this section or in accordance with the advice of the Premier in the case of any person referred to in paragraph (b) of that subsection, may suspend that person from performing the functions of his office and any such suspension may at any time be revoked by the Governor, acting as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor that the person should not be removed from office.

Review of decisions in disciplinary cases.

91.—(1) The Governor, acting in accordance with the advice of the Premier, shall by regulation make provision for the review of decisions given by a Commission in disciplinary cases:

Provided that any such decision shall be reviewed only at the request of the officer to whom it relates and regulations made under this section may prescribe the classes of disciplinary cases in which a review may be so requested.

(2) In this section “ Commission ” means the Public Service Commission, the Judicial and Legal Services Commission and the Police Service Commission.

Pensions laws and protection of pensions rights.

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

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

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

(b) in so far as those benefits are wholly or partly in respect of a period of service as a judge or a public officer that commenced

after this section comes into 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 such extent as they are by law charged upon and duly paid out of some other fund) be a charge on the Treasury Fund.

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

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

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

93.—(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,

Power to withhold pensions, etc.

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, Attorney-General, Director of Public Prosecutions, or Chief Auditor 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 the office of Magistrate has been guilty of

misbehaviour in that office, the Public Service Commission shall consult the Judicial and Legal Services Commission.

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

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

CHAPTER VII

CITIZENSHIP

Commence-
ment.

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

Provided that Parliament may, subject to the provisions of subsection (2) of this section, enact laws in pursuance of section 100 of this Constitution before the appointed date.

(2) A law enacted in pursuance of subsection (1) of this section or in pursuance of section 100 of this Constitution shall not have effect until on or after the termination of the status of association of Antigua with the United Kingdom in accordance with the provisions of the West Indies Act 1967.

Persons who
become
citizens on
the
appointed
date.

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

(2) Every person who, having been born outside Antigua, 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 Antigua in accordance with the provisions of subsection (1) of this section, become a citizen of Antigua on the appointed date.

Persons
entitled to
be registered
as citizens.

96.—(1) Any woman who on the appointed date—

(a) is or has been married to a person who becomes a citizen of Antigua by virtue of section 95 of this Constitution; or

(b) has been married to a person who, having died before the appointed date, would but for his death have become a citizen of Antigua by virtue of that section,

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

(2) The provisions of this section shall be without prejudice to the provisions of section 95 of this Constitution.

(3) No person who is a citizen of a country other than Antigua, shall be entitled to be registered as a citizen of Antigua under the provisions of this section unless she renounces her citizenship of that other country:

Provided that, where a person cannot renounce her citizenship of the other country under the law of that country, she may instead make such declaration concerning that citizenship as may be prescribed.

97.—(1) Any person who, immediately before the appointed date, is a citizen of the United Kingdom and Colonies—

Persons naturalised or registered before the appointed date.

- (a) having become such a citizen under the British Nationality Act 1948(a) by virtue of his having been naturalised in Antigua 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 Antigua under the British Nationality Acts 1948 to 1965,

shall become a citizen of Antigua on the appointed date.

(2) Any person who has not attained the age of twenty-one years (other than a woman who is or has been married) and whose parent has become a citizen of Antigua by virtue of subsection (1) of this section shall be entitled to be registered as a citizen of Antigua upon application being made on his behalf.

98.—(1) Every person born in Antigua on or after the appointed date shall become a citizen of Antigua at the date of his birth:

Acquisition of citizenship by birth or descent by persons born after the appointed date.

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

- (a) neither of his parents is a citizen of Antigua and his father possesses such immunity from suit and legal process as is accorded to any envoy of a foreign sovereign power accredited to Antigua; or
- (b) his father was an enemy alien and the birth occurs in a place then under occupation by the enemy.

(2) A person born outside Antigua on or after the appointed date shall become a citizen of Antigua at the date of his birth if at that date his father is a citizen of Antigua otherwise than by virtue of this subsection or subsection (2) of section 95 of this Constitution.

99.—(1) Any woman who on or after the appointed date marries a person who is or becomes a citizen of Antigua shall be entitled, upon making application in such manner as may be prescribed and, if she is a British protected person or an alien upon taking the oath of allegiance, to be registered as a citizen of Antigua.

Marriage to citizen of Antigua.

(2) A woman shall not, if she is a citizen of some country other than Antigua be entitled to be registered as a citizen of Antigua under the provisions of subsection (1) of this section unless she renounces her citizenship of that other country and makes and registers such declaration of her intentions concerning residence or employment as may be prescribed:

Provided that, where she cannot renounce her citizenship of the other country under the law of that country, she may instead make such declaration concerning that citizenship as may be prescribed.

100. Parliament may make provision—

Powers of Parliament.

- (a) for the acquisition of citizenship of Antigua by persons who do not become citizens of Antigua by virtue of the provisions of this Constitution;
- (b) for depriving of his citizenship of Antigua any person who is a citizen of Antigua otherwise than by virtue of—

(a) 1948 c. 56.

- (i) section 95 or subsection (1) of section 98 of this Constitution; or
 - (ii) subsection (2) of section 98 of this Constitution in relation to a person born outside Antigua whose father at the date of that person's birth was a citizen of Antigua by virtue of subsection (1) of section 95 or subsection (1) of section 98 of this Constitution; or
- (c) for the renunciation by any person of his citizenship of Antigua.

Interpretation.

101.—(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 under the British Nationality Act 1948;

“ prescribed ” means prescribed by or under any Act of Parliament.

(2) 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.

(3) 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.

(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 the 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.

102.—(1) Subject to the provisions of sections 20(2), 38(7)(b), 47(4), 59(5) and 114 of this Constitution, any person who alleges that any provision of this Constitution (other than a provision of Chapter I) has been or is being contravened may, if he has a relevant interest, apply to the High Court for a declaration and for relief under this section.

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

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

(4) Parliament may make provision, or authorise the making of provision, 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 51 of this Constitution.

103.—(1) Where any question as to the interpretation of this Constitution arises in any court of law established for Antigua (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 may, and shall if any party to the proceedings so requests, refer the question to the High Court. Reference of constitutional questions to 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.

104. An appeal shall lie to the Court of Appeal in the following cases— Appeals to Court of Appeal.

- (a) as of right from decisions of the High Court given in exercise of the jurisdiction conferred on that court by section 15 or section 51 of this Constitution (which relate respectively to the enforcement of the fundamental rights and freedoms provisions and the determination of questions relating to membership of Parliament);
- (b) as of right from final decisions of the High Court in any civil or criminal proceedings on questions as to the interpretation of this Constitution;
- (c) from decisions of the High Court or any other court or tribunal established for Antigua in such cases as may be prescribed by Parliament.

105.—(1) An appeal shall lie from decisions of the Court of Appeal to Her Majesty in Council as of right in the following cases— Appeals to H.M. in Council.

- (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;
- (d) final decisions determining any such question as is referred to in section 51(1) of this Constitution; and
- (e) such other cases as may be prescribed by Parliament.

(2) An appeal shall lie from decisions of the Court of Appeal to Her Majesty in Council with the leave of the Court of Appeal in the following cases—

- (a) where in the opinion of the Court of Appeal the question involved in the appeal is one that, by reason of its great general or public importance or otherwise, ought to be submitted to Her Majesty in Council, decisions in any civil proceedings; and
- (b) such other cases as may be prescribed by Parliament.

(3) Nothing in this section shall affect the right of Her Majesty to grant special leave to appeal from decisions of the Court of Appeal to Her Majesty in Council in any civil or criminal matter.

(4) 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 other law for the time being in force in Antigua.

Interpreta-
tion.

106. In this Chapter reference to this Constitution shall be construed as including reference to the Courts Order.

CHAPTER IX

TRANSITIONAL PROVISIONS

Existing
laws.

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

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

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

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

(5) For the purposes of this section, the expression "existing law" means any 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 Antigua or any part thereof immediately before the commencement of this Constitution.

108.—(1) Until other constituencies are established by Order made under section 59 of this Constitution and such Order has come into effect, there shall, for the purposes of the election of members of the House of Representatives, be ten constituencies having the same boundaries as the constituencies into which Antigua 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 those constituencies shall be deemed to have been established under section 59 of this Constitution. The House of Representatives.

(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 members of the House of Representatives 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 Representatives in accordance with the provisions of this Constitution.

(3)(a) Notwithstanding the provisions of sections 30(1) and 55(2) of this Constitution, the Governor, acting in accordance with the advice of the Premier, may make an Order providing that such two or more of the constituencies established by subsection (1) of this section as may be specified in the Order shall, as from such date as may be so specified, each return two members to the House of Representatives.

(b) The power of the Governor to make an Order under this subsection may be exercised on one occasion only and shall cease to be exercisable at the first dissolution of Parliament after the commencement of this Constitution.

(c) An Order made under this subsection—

(i) may be altered or revoked only by the procedure authorised for the alteration or repeal of section 30 of this Constitution;

(ii) shall have effect in relation to any particular constituency so long only as the boundaries of that constituency remain unaltered;

(iii) unless sooner revoked, shall cease to have effect when, as a result of an Order made under section 59 of this Constitution, the number of constituencies exceeds ten; and

(a) S.I. 1956/833 (1956 I, p. 1167).

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

(iv) shall not affect the tenure of the seat in the House of Representatives of any person who, at the date when the Order comes into effect, is a member of the House.

(4) 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 Representatives in accordance with the provisions of this Constitution and shall hold office in accordance with those provisions.

(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 Representatives under section 48 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 53 of this Constitution, Parliament 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.

(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 Representatives shall be deemed to have taken and subscribed any necessary oath under this Constitution.

First
Cabinet.

109.—(1) The person who, immediately before the commencement of this Constitution, 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 65 of this Constitution.

Existing
public
officers.

110.—(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 corresponding office established by this Constitution as if he had been appointed thereto in accordance with the provisions of this Constitution:

Provided that any person who under the existing 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) Nothing in 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.

(3) In this section “existing law” has the meaning in section 107 of this Constitution.

111. The Leeward Islands (Emergency Powers) Order in Council 1959(a) shall cease to have effect as part of the law of Antigua at the commencement of this Constitution.

Termination
of
Emergency
Powers
Order in
Council.

CHAPTER X

MISCELLANEOUS

112.—(1) Any person who is appointed or elected to any office established by 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:

Resignations.

Provided that—

- (a) the resignation of a person from the office of President or Vice-President of the Senate or from the office of Speaker or Deputy Speaker of the House of Representatives shall be addressed to the Senate or the House of Representatives, as the case may be; and
- (b) the resignation of any person from membership of the Senate or the House of Representatives shall be addressed to the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(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.

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

Re-appoint-
ments and
concurrent
appoint-
ments.

(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.

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

Certain questions not to be enquired into in any court.

Interpretation.

114. Where by this Constitution the Governor is required to perform any function in accordance with the advice of, or after consultation with, the Cabinet or any Minister, the question whether the Governor has received or acted in accordance with such advice, or whether such consultation has taken place, shall not be enquired into in any court of law.

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

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

“ the existing instruments ” means the instruments mentioned in Schedule 1 to the Antigua Constitution Order 1967;

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

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

“ 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;

“ Parliament ” means the Parliament of Antigua;

“ oath ” includes affirmation;

“ oath of allegiance ” means the oath of allegiance set out in Schedule 2 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 2 to this Constitution;

“ the Police Force ” means the Police Force established by the Police Act(a) and includes any other police force established by or under a law enacted by Parliament to succeed to or to supplement the functions of the Police Force;

“ public office ” means any office of emolument in the public service and includes an office of emolument in the Police Force;

“ 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 Antigua;

“ session ” means the period beginning when the Senate or the House of Representatives first meets after the commencement of this Constitution or after any prorogation or dissolution of Parliament and ending when Parliament is prorogued or is dissolved without having been prorogued;

“ sitting ” means in relation to either House of Parliament the period during which the House is sitting continuously without adjournment and includes any period during which it is in committee.

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

(a) Laws of Antigua, c. 187.

- (a) the office of President or Vice-President of the Senate, Speaker or Deputy Speaker of the House of Representatives, Premier or any other Minister, Parliamentary Secretary, or member of either House of Parliament; or
- (b) the office of a member of any Commission established by this Constitution; or
- (c) the offices of a judge of the Court of Appeal or of the High Court; or
- (d) save in so far as may be provided by Parliament, 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) 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 in respect of his former tenure of any office.

(4) 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.

(5) In this Constitution references to the Courts Order have the meaning in section 38(8) of this Constitution.

(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) Save as otherwise provided, references in this Constitution to a member or members of a House of Parliament or of the House of Representatives do not include references to any person who is a member of the House of Representatives by virtue of holding the office of Speaker or by virtue of holding or acting in the office of Attorney-General.

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

(9) Any provision in this Constitution that vests in any person or authority the power to remove any public officer from his office shall be without prejudice to the power of any person or authority to abolish any

office or to any law providing for the compulsory retirement of public officers generally or any class of public officer on attaining an age specified by or under that law.

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

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

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

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

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

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

Section 38(4) SCHEDULE 1 TO THE CONSTITUTION

PART I

THE PROVISIONS OF THE CONSTITUTION REFERRED
TO IN SECTION 38(4)

- (1) Chapter I;
- (2) Sections 17, 19 and 60;
- (3) Sections 22, 23, 30 and 36;
- (4) Sections 37 and 43(1) and, in relation to bills to alter the Constitution, sections 46 and 47;
- (5) Section 52, subsections (2), (3) and (4) of section 53 and section 54;

(a) 1889 c. 63.

- (6) Sections 55, 56, 58 and 59;
- (7) Chapter V;
- (8) Chapter VI except subsections (7), (8), (9) and (10) of section 82, section 85, section 90 in so far as it relates to the Director of Public Prosecutions, and section 91;
- (9) Section 94;
- (10) Sections 102, 103 and 104, section 105, in its application to appeals in the cases referred to in subsection (1)(c) of that section, and section 106 in its application to any of the aforesaid provisions;
- (11) Subsections (1), (2), (3) and (6) of section 108;
- (12) Section 115 in its application to any of the provisions referred to in the foregoing paragraphs of this Schedule.

PART II

THE PROVISIONS OF THE COURTS ORDER REFERRED
TO IN SECTION 38(4)

- (13) Sections 4, 5, 6, 8, 11, 18, and 19.

Section 115(1) SCHEDULE 2 TO THE CONSTITUTION

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 Antigua.

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

THE ANNEX TO THE ORDER

THE WEST INDIES ACT 1967

1967 CHAPTER 4

A.D. 1967 An Act to confer on certain West Indian territories a new status of association with the United Kingdom, and to enable that status to be terminated at any time; to make provision for other matters in connection with, or consequential upon, the creation or termination of that status or other constitutional changes which may occur in relation to any of those territories; to make further provision as to grants under the Overseas Aid Act 1966; and for purposes connected with the matters aforesaid.

WHEREAS Constitutional Conferences relating to the colonies specified in section 1(2) of this Act were held in London and the Reports of those Conferences were presented to the Parliament of the United Kingdom in April and June 1966:

And whereas the legislature of each colony concerned has approved the proposals contained in those Reports in so far as they relate to that colony:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Status of association with United Kingdom.

1.—(1) On the appointed day each of the territories to which this section applies shall assume, and (subject to the provisions of this Act) shall thereafter maintain, a status of association with the United Kingdom in accordance with the following provisions of this Act.

(2) The territories to which this section applies are those which, immediately before the appointed day, constitute respectively the Colonies of—

- (a) Antigua;
- (b) Dominica;
- (c) Grenada;
- (d) Saint Christopher, Nevis and Anguilla;
- (e) Saint Lucia; and
- (f) Saint Vincent.

(3) A territory to which this section applies shall, on and after the appointed day and so long as its status of association with the United Kingdom has not been terminated, be known as an associated state.

Limitation of responsibility of Her Majesty's Government in the United Kingdom.

2.—(1) Subject to the next following subsection, on and after the appointed day Her Majesty's Government in the United Kingdom shall have no responsibility for the government of any associated state except in respect of—

- (a) any matter which in the opinion of Her Majesty's Government in the United Kingdom is a matter relating to defence (whether of an associated state or of the United Kingdom or of any other territory for whose government Her Majesty's Government in the United Kingdom are wholly or partly responsible) or to external affairs;

- (b) any matter relating to nationality or citizenship; and
- (c) any matter relating to the Succession to the Throne or the Royal Style and Titles.

(2) The preceding subsection shall not affect any responsibility of Her Majesty's Government in the United Kingdom in relation to the exercise of—

- (a) any power conferred on Her Majesty by this Act, or
- (b) any other power exercisable by Her Majesty under the law of any associated state.

3.—(1) Except as provided by subsections (2) to (4) of this section, no Act of the Parliament of the United Kingdom passed on or after the appointed day shall extend, or be deemed to extend, to an associated state as part of its law, unless it is expressly declared in that Act that that state has requested and consented to its being enacted. Enactment of legislation by Parliament of United Kingdom.

(2) Where any Act of the Parliament of the United Kingdom contains a provision expressly declaring—

- (a) that that Act, or an enactment contained in it which is specified in that provision, extends to all associated states, or to such one or more associated states as may be so specified, and
- (b) that it is required so to extend in the interests of the responsibilities of Her Majesty's Government in the United Kingdom relating to defence and external affairs,

that Act, or that enactment, as the case may be, shall extend in accordance with that provision notwithstanding anything in the preceding subsection.

(3) Where any Act of the Parliament of the United Kingdom amends the law relating to nationality or citizenship, and contains a provision expressly declaring that the Act, or (where the Act relates also to other matters) an enactment contained in it which amends the law relating to nationality or citizenship and is specified in that provision, extends to all associated states, or to such one or more associated states as may be so specified, the Act, or that enactment, as the case may be, shall extend in accordance with that provision notwithstanding anything in subsection (1) of this section.

(4) Subsection (1) of this section shall not apply to any Act of the Parliament of the United Kingdom, or to any enactment contained in such an Act, in so far as it relates to the Succession to the Throne or the Royal Style and Titles.

(5) Notwithstanding anything in the Interpretation Act 1889, the expression "colony" in any Act of the Parliament of the United Kingdom passed on or after the appointed day shall not include an associated state. 1889 c. 63.

4.—(1) On and after the appointed day the provisions of Schedule 1 to this Act shall have effect with respect to the legislative powers of an associated state. Legislative and executive powers of associated states.

(2) The executive authority of the Government of an associated state shall not include any power or duty which the legislature of that state could not lawfully confer or impose on that Government in accordance with Schedule 1 to this Act.

Provision of new constitutions for associated states.

5.—(1) In relation to any territory to which section 1 of this Act applies, Her Majesty may by Order in Council (in this Act referred to as a “Constitution Order”) made before the appointed day provide for it a new constitution which (subject to the following provisions of this section) is to come into effect on that day.

(2) The constitution provided by a Constitution Order for a territory to which section 1 of this Act applies may include provision as to the extent to which, and the manner in which, the legislature of the territory may alter—

- (a) that constitution, or any part of that constitution specified in that provision, or
- (b) any other law of a description so specified, in so far as that law has effect as part of the law of that territory.

(3) The constitution provided by a Constitution Order for any such territory may include provision for separate citizenship of that territory which is not to have effect until, on or after the termination of the status of association of that territory with the United Kingdom, it is brought into force in such manner as may be specified in the constitution.

(4) Where the constitution of an associated state provided by a Constitution Order has come into effect, Her Majesty may at any time, by Order in Council made at the request and with the consent of that state, alter that constitution or any part of that constitution, or alter any law which alters that constitution or any part of it.

(5) The last preceding subsection shall have effect without prejudice to any power exercisable by the legislature of an associated state as mentioned in subsection (2) of this section.

1962 c. 19.

(6) The powers conferred by this section shall, in relation to any associated state, have effect in substitution for any other power whereby apart from this section (whether by virtue of section 5 of the West Indies Act 1962 or otherwise) Her Majesty could provide a constitution for that state.

(7) In this section references to altering a constitution or any part of a constitution or to altering any other law include references—

- (a) to revoking it, with or without re-enactment thereof or the making of different provision in lieu thereof;
- (b) to modifying it, whether by omitting or amending any of its provisions or inserting additional provisions in it or otherwise; and
- (c) to suspending its operation for any period, or terminating any such suspension.

Establishment of common courts for associated states.

6.—(1) Her Majesty may by Order in Council made before the appointed day provide for the establishment of one or more courts which, on and after that day or such later day as may be specified in, or determined in accordance with, the Order, shall be courts constituted in common for the territories to which section 1 of this Act applies, and may by that Order provide that any such court shall, in relation to any of those territories, have such jurisdiction and powers as may be so specified or determined.

(2) An Order in Council under this section may include provision whereby, in relation to Montserrat or the Virgin Islands, any court established under the Order shall have such jurisdiction and powers, and there shall be imposed or conferred on judges and officers of any such court such duties and powers, as may be specified in, or determined in accordance with, the Order.

- (3) An Order in Council under this section may include provision—
- (a) for the establishment in common for the territories to which section 1 of this Act applies of a commission having such duties and powers in relation to any court established under the Order, and to judges and officers of any such court, and in relation to other persons and related matters, as may be specified in, or determined in accordance with, the Order;
 - (b) as to the remuneration, allowances and pension rights of members, officers and servants of the commission and of judges, officers and other persons in relation to whom the commission has any duties or powers; and
 - (c) as to the manner in which the expenses of the commission and of any such court (including the matters referred to in the last preceding paragraph) are to be defrayed.

7.—(1) Without prejudice to the provisions of section 5(4) of this Act, Her Majesty may by Order in Council made at the request and with the consent of any associated state make, as part of the law of that state, any provision which appears to Her Majesty to be necessary or expedient for the peace, order or good government of that state.

Power of Her Majesty to make laws for associated states.

(2) Where it appears to Her Majesty that in the interests of the responsibilities of Her Majesty's Government in the United Kingdom relating to defence and external affairs a change should be made in the law of an associated state, Her Majesty may by Order in Council expressly stating that fact make, as part of the law of that state, such provision as appears to Her Majesty to be appropriate, including (if by reason of war or other emergency it appears to Her Majesty to be necessary and that fact is expressly stated in the Order) provision derogating from the provisions of the constitution of that state relating to fundamental rights and freedoms.

8.—(1) In respect of any territory to which section 1 of this Act applies, Her Majesty may by Order in Council made before the appointed day make provision for securing to or in respect of persons who—

Retirement benefits and compensation for persons in public service.

- (a) hold or have held office or employment in the public service of that territory, and
- (b) are participants in any pension provision applicable to that office or employment,

such benefits by way of modification of or addition to that pension provision, or otherwise by way of compensation out of the public funds of that territory, as appear to Her Majesty to be appropriate having regard to any arrangements made in that behalf between Her Majesty's Government in the United Kingdom and the Government of that territory.

(2) For the purposes of this section a person who is or has been a judge of the Supreme Court of the Windward Islands and Leeward Islands shall, in his capacity as such a judge, be taken to hold or have held office in the

public service of a territory if, for the purposes of any pension provision having effect in that territory, he is in that capacity taken to be or have been in the service of that territory.

1965 c. 38. (3) There shall be paid out of moneys provided by Parliament any increase attributable to this section in the sums payable out of moneys so provided under the Overseas Development and Service Act 1965.

(4) In this section “pension provision” means any law, scheme or instrument whereby provision is made for the payment of pensions, and “participant”, in relation to a pension provision, means a person to whom, or in respect of whom, a pension may become payable thereunder.

Power to unite, divide or alter territories of associated states.

9.—(1) Subject to the provisions of this section, Her Majesty may by Order in Council—

- (a) federate or otherwise unite two or more associated states with each other, or federate or otherwise unite one or more associated states with one or more other territories which are not associated states;
- (b) divide an associated state into two or more separate territories;
- (c) transfer part of the territory of an associated state to another territory (whether an associated state or not) or incorporate part of another territory (whether an associated state or not) in an associated state.

(2) No Order in Council shall be made under this section—

- (a) so as to affect an associated state unless it is made at the request and with the consent of that state, or
- (b) so as to affect any territory other than an associated state unless it is a territory in relation to which the Order, in so far as it affects that territory, could be made apart from this Act.

(3) An Order in Council under this section may provide a constitution for any territory resulting (whether by way of federation, union, division or otherwise) from the Order; and the provisions of section 5 of this Act shall have effect, subject to any necessary modifications, in relation to a constitution provided under this section as they have effect in relation to a constitution provided under that section.

(4) In respect of any territory resulting from an Order in Council under this section, the Order may provide that, subject to any transitional provisions contained in the Order, that territory shall be deemed to be included among the territories to which section 1 of this Act applies, and the provisions of this Act shall have effect accordingly.

Provisions for terminating status of association.

10.—(1) The legislature of any associated state may at any time, by a law made in accordance with the provisions of Schedule 2 to this Act, terminate the status of association of that state with the United Kingdom as from such date as may be specified in that law.

(2) Her Majesty may at any time, by Order in Council made in respect of any associated state, terminate the status of association of that state with the United Kingdom as from such date as may be specified in the Order.

(3) Any law made by virtue of subsection (1) of this section, and any Order in Council made under the last preceding sub-section, may provide

that, on the date specified in that law or that Order, the associated state in question shall cease to form part of Her Majesty's dominions.

11.—(1) Where the legislature of an associated state makes a law terminating the status of association of that state with the United Kingdom by virtue of subsection (1) of section 10 of this Act, or Her Majesty makes an Order in Council in respect of an associated state under subsection (2) of that section, the following provisions of this section shall have effect with respect to that state (in this section referred to as “the former associated state”).

Effect of termination.

(2) On and after the date specified in that law or that Order (in this section referred to as “the specified date”) Her Majesty's Government in the United Kingdom shall have no responsibility for the government of the former associated state.

(3) No Act of the Parliament of the United Kingdom passed before the specified date shall be deemed to extend to the former associated state as part of its law except in so far as, immediately before that date, it extended to the associated state as part of its law; and no Act of the Parliament of the United Kingdom passed on or after the specified date shall extend, or be deemed to extend, to the former associated state as part of its law.

(4) Section 3(5) of this Act shall continue to have effect in relation to the former associated state as if it had not ceased to be an associated state.

(5) On and after the specified date the provisions of Schedule 1 to this Act shall have effect in relation to the former associated state as if—

- (a) any reference in that Schedule to an associated state were a reference to the former associated state;
- (b) in paragraph 1 of that Schedule the words “Subject to the following provisions of this Schedule” were omitted, and in subparagraph (b) of that paragraph, after the words “United Kingdom”, there were inserted the words “including this Act”; and
- (c) paragraph 4 of that Schedule were omitted.

12.—(1) In relation to an associated state the British Nationality Acts 1948 to 1965 shall have effect subject to the provisions of Schedule 3 to this Act.

Modifications of British Nationality Acts.

(2) A citizen of the United Kingdom and Colonies may, if on the grounds of his connection with an associated state he so desires, be known as a citizen of the United Kingdom, Associated States and Colonies.

13.—(1) The provisions of this section shall have effect where any of the following events occurs, that is to say—

- (a) the constitution of an associated state is altered after the appointed day;
- (b) an Order in Council under section 9 of this Act comes into operation;
- (c) the status of association of an associated state with the United Kingdom is terminated;
- (d) any provision as to separate citizenship contained in the constitution of a territory in accordance with the provisions of section 5(3)

Power to make changes in law in certain events.

of this Act (or in accordance with those provisions as applied by section 9 of this Act) is brought into force;

(e) after the status of association with the United Kingdom of a territory to which section 1 of this Act applies has been terminated, that territory ceases to form part of Her Majesty's dominions.

(2) Where any of those events occurs, Her Majesty may make by Order in Council such amendments or modifications of any enactment of the Parliament of the United Kingdom for the time being in force, or of any instrument for the time being in force and having effect by virtue of such an enactment, as appear to Her Majesty to be necessary or expedient in consequence of that event.

(3) Without prejudice to the generality of the last preceding subsection, any modification of any enactment relating to nationality or citizenship which is made by an Order in Council under this section may consist of or include provision whereby, in such circumstances as may be specified in that Order, citizens of the United Kingdom and Colonies will cease to be such citizens, or if (by virtue of section 15(2) of this Act) the provision is retrospective, shall be deemed to have ceased to be such citizens.

(4) Any reference in this section to the alteration of a constitution shall be construed in accordance with section 5(7) of this Act.

(5) For the purpose of making an Order in Council under this section, any reference in subsection (2) of this section to any enactment or instrument for the time being in force shall be construed as a reference to any enactment or instrument in force immediately before that Order is made, whether the enactment or instrument was passed or made before or after the passing of this Act.

Power to preserve existing law.

14. Where any such event as is specified in section 13(1) of this Act occurs in relation to a territory, Her Majesty may make by Order in Council such provision as Her Majesty considers appropriate for securing that all such law (whether being a rule of law or a provision of an Act of Parliament or of any other enactment or instrument whatsoever) as is described in the Order shall, subject to such exceptions, limitations or conditions (if any) as may be specified in the Order, have the same operation in relation to that territory, and persons and things belonging to or connected with that territory, as it would have apart from the Order if the event in question had not occurred.

Supplementary provisions as to powers under ss. 13 and 14.

15.—(1) An Order in Council under section 13 or section 14 of this Act may be made before, and in anticipation of, the event to which it relates, but shall not be so made as to come into operation before the date of that event.

(2) Where an Order in Council under either of those sections is made after the date of the event to which it relates, the Order may be made with retrospective effect as from that date or any later date.

(3) Subject to the next following subsection, any provision made by an Order in Council under section 13 of this Act with respect to an enactment of the Parliament of the United Kingdom, or with respect to an instrument having effect by virtue of such an enactment, and any provision made by an Order in Council under section 14 of this Act with respect to any law described in the Order, shall, except in so far as the Order otherwise

provides, have effect as part of the law of every territory outside the United Kingdom to which the enactment or instrument in question extends, or, as the case may be, of every territory outside the United Kingdom whose law includes that law, as well as having effect as part of the law of the United Kingdom.

(4) Any provision made by an Order in Council as mentioned in the last preceding subsection—

- (a) shall not have effect as part of the law of any associated state unless either the Order in Council is made at the request and with the consent of that state or the provision so made is one which (in accordance with Schedule 1 to this Act) the legislature of that state has no power to make at the date on which the Order is made, and
- (b) shall not have effect as part of the law of any territory if it is a territory for whose government Her Majesty's Government in the United Kingdom have no responsibility at that date.

16.—(1) Subsection (4) of section 1 of the Overseas Aid Act 1966 (which relates to grants under that Act to certain Governments) shall have effect as if the Governments specified in that subsection included the Governments of associated states.

Grants for benefit of associated states.
1966 c. 21.

(2) There shall be paid out of moneys provided by Parliament any increase attributable to this section in the sums payable out of moneys so provided under that Act.

(3) For the purposes of the making of grants under section 8 of the West Indies Act 1962, a territory to which section 1 of this Act applies shall, on and after the appointed day, be treated as not being a colony within the meaning of that Act.

1962 c. 19.

17.—(1) Any Order in Council under this Act may contain such transitional or other incidental and supplementary provisions as may appear to Her Majesty to be necessary or expedient.

Supplementary provisions as to Orders in Council.

(2) No recommendation shall be made to Her Majesty to make an Order in Council under section 10(2) of this Act unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament.

(3) Any Order in Council made under section 13 or section 14 of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) Any power to make an Order in Council under section 6 or section 8 of this Act shall include power to revoke or vary the Order by a subsequent Order in Council, whether made before, on or after the appointed day:

Provided that on and after the appointed day the power to revoke or vary—

- (a) an Order in Council under section 6 of this Act in so far as it has effect as part of the law of an associated state, or
- (b) an Order in Council under section 8 of this Act which for the time being has effect as part of the law of an associated state,

shall not be exercisable except at the request and with the consent of that state.

(5) Any power to make an Order in Council under subsection (1) or subsection (2) of section 7 of this Act shall include power to revoke or vary

the Order by a subsequent Order in Council made under the same subsection.

(6) Any power to make an Order in Council conferred by section 13 or section 14 of this Act shall include power to revoke or vary any such Order by a subsequent Order in Council.

Provisions as to evidence.

18.—(1) For the purposes of this Act a certificate issued by or on behalf of the Secretary of State, certifying that a matter specified in the certificate is one which in the opinion of Her Majesty's Government in the United Kingdom is a matter relating to defence (whether of an associated state or of the United Kingdom or of any other territory for whose government Her Majesty's Government in the United Kingdom are wholly or partly responsible) or to external affairs, shall in any proceedings be conclusive evidence of the fact so certified.

(2) Any document purporting to be such a certificate, and to be issued for the purposes of this Act, shall in any proceedings be received in evidence and, unless the contrary is proved, be deemed to be such a certificate so issued.

(3) For the purposes of subsection (2) of section 7 of this Act a fact expressly stated in an Order in Council as mentioned in that subsection shall in any proceedings be conclusive evidence of the fact so stated.

(4) For the purposes of this Act a provision contained in an Order in Council whereby it is expressly declared that the Order is made at the request and with the consent of one or more associated states specified in the Order shall in any proceedings be conclusive evidence of the fact so declared.

Interpretation.

19.—(1) In this Act, except in section 6, "the appointed day", in relation to any territory to which section 1 of this Act applies, means such day as Her Majesty may by Order in Council appoint; and different days may be so appointed in relation to different territories.

(2) In section 6 of this Act "the appointed day" means the day appointed under the preceding subsection, or, if different days are so appointed in relation to different territories, means the earliest of those days.

(3) In this Act "territory" includes any country; any reference to a territory shall be construed as including a reference to its dependencies (if any); and any reference to a Government shall be construed as including a reference to any department or agency of that Government.

(4) In this Act "pension", in relation to a person, means any contributory or non-contributory pension, of any kind whatsoever, payable to or in respect of him, or a lump sum or gratuity so payable, whether by way of compensation or otherwise, or a return of contributions, with or without interest thereon or any other addition thereto, and any reference to pension rights shall be construed accordingly.

(5) Any reference in this Act to the request and consent of an associated state is a reference to request and consent signified by a resolution of the legislature of that state, or, if that legislature has two Houses (by whatever name called), by a resolution of each House of that legislature.

(6) Except in so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment.

20.—(1) In section 13(2) of this Act the reference to any enactment of the Parliament of the United Kingdom shall be construed as including a reference to any enactment of the Parliament of Northern Ireland. Provisions as to Northern Ireland.

(2) In relation to any Order in Council made under section 13 or section 14 of this Act which amends or modifies an enactment of the Parliament of Northern Ireland or an enactment relating to any matter in respect of which that Parliament has power to make laws, section 6 of the Government of Ireland Act 1920 (conflict of laws) shall have effect as if the Order were a provision of an Act (other than that Act) passed by the Parliament of the United Kingdom before the date which is the appointed day for the purposes of that section. 1920 c. 67.

21. This Act may be cited as the West Indies Act 1967. Short title.

SCHEDULES

SCHEDULE 1

LEGISLATIVE POWERS OF ASSOCIATED STATES

1. Subject to the following provisions of this Schedule—

(a) the Colonial Laws Validity Act 1865 shall not apply to any law made on or after the appointed day by the legislature of an associated state, and 1865 c. 63.

(b) no law and no provision of any law made on or after the appointed day by any such legislature shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of any Act of the Parliament of the United Kingdom, or to any order, rule or regulation made under any such Act,

and accordingly the powers of the legislature of an associated state shall include the power to repeal or amend any such Act, order, rule or regulation in so far as it has effect as part of the law of that state.

2. The legislature of an associated state shall have full power to make laws having extra-territorial operation.

3. Without prejudice to the generality of the preceding provisions of this Schedule—

(a) sections 735 and 736 of the Merchant Shipping Act 1894 shall be construed as if references therein to the legislature of a British possession did not include references to the legislature of any associated state; and 1894 c. 60.

(b) section 4 of the Colonial Courts of Admiralty Act 1890 (which requires certain laws to be reserved for the signification of Her Majesty's pleasure or to contain a suspending clause) and so much of section 7 of that Act as requires the approval of Her Majesty in Council to any rules of court for regulating the practice and procedure of a Colonial Court of Admiralty shall cease to have effect in each of the associated states. 1890 c. 27.

4.—(1) The following provisions of this paragraph shall have effect notwithstanding anything in the preceding provisions of this Schedule, but without prejudice to the exercise of any power conferred by section 10 of this Act.

(2) The legislature of an associated state shall not have power (whether in pursuance of any provision contained in a Constitution Order in accordance with section 5(2) of this Act or otherwise) to repeal or amend, or make any law repugnant to,—

- (a) this Act;
- (b) any Act, or enactment contained in an Act, of the Parliament of the United Kingdom in so far as it relates to nationality or citizenship;
- (c) any Act, or enactment contained in an Act, of the Parliament of the United Kingdom in so far as it relates to the Succession to the Throne or the Royal Style and Titles;
- (d) any Act, or enactment contained in an Act, of the Parliament of the United Kingdom which extends to that state in accordance with section 3(2) of this Act; or
- (e) any Order in Council made by virtue of section 7(2) of this Act in so far as it has effect as part of the law of that state.

(3) Without prejudice to the last preceding sub-paragraph, the legislature of an associated state shall not have power (whether in pursuance of any provision contained in a Constitution Order in accordance with section 5(2) of this Act or otherwise) to make any law whereby—

- (a) the Government of that state would be authorised or required to conduct any external affairs, except in so far as by arrangements made in accordance with the next following sub-paragraph, that Government may be authorised to conduct any external affairs on behalf of Her Majesty's Government in the United Kingdom, or
- (b) the Government of that state would be authorised or required to restrict or otherwise interfere with the conduct by Her Majesty's Government in the United Kingdom of defence or of external affairs.

(4) The arrangements referred to in sub-paragraph (3)(a) of this paragraph are any arrangements which may be made between Her Majesty's Government in the United Kingdom and the Government of an associated state authorising the latter Government on behalf of the former Government to conduct external affairs in respect of such matters or classes of matters, and subject to any such exceptions, limitations and conditions, as may be specified in the arrangements.

(5) Sub-paragraphs (a) and (b) of paragraph 1 of this Schedule shall not have effect in relation to any law which, in accordance with the preceding provisions of this paragraph, the legislature of an associated state has no power to make.

SCHEDULE 2

PROCEDURE FOR TERMINATING STATUS OF ASSOCIATION

1.—(1) The provisions of this Schedule shall have effect in relation to any associated state (in this Schedule referred to as “the state”) with respect to the making by the legislature of the state (in this Schedule referred to as “the legislature”) of any such law as is mentioned in section 10(1) of this Act.

(2) In this Schedule “the Bill” means the Bill introduced in the legislature for the making of that law; any reference to the second reading of the Bill in the legislature, or in a House of the legislature, is a reference to the stage of the Bill in the legislature, or in that House, as the case may be, which, whether called second reading or by any other name, is (disregarding any minor differences)

analogous to the second reading of a Bill in the House of Commons of the Parliament of the United Kingdom; and any reference to the third reading of the Bill shall be construed in a corresponding way. SCH. 2

(3) In this Schedule “ referendum ” means a referendum on which all persons who, at the time when the referendum is held, would be entitled to vote at an election of members of the legislature (or, if the legislature consists of two Houses, would be entitled to vote at an election of members of the lower House), but no other persons, will be entitled to vote.

2. Subject to the following provisions of this Schedule—

- (a) there must be an interval of not less than ninety days between the introduction of the Bill and the beginning of the proceedings in the legislature on second reading of the Bill;
- (b) on the third reading of the Bill in the legislature, the Bill must be supported by the votes of not less than two-thirds of all the elected members of the legislature;
- (c) if approved on third reading in the legislature, the Bill must be submitted to a referendum and must not be submitted to the Governor of the state for his assent unless not less than two-thirds of the votes validly cast on that referendum are cast in support of the Bill.

3.—(1) If the legislature consists of two Houses (by whatever name called) the following provisions of this paragraph shall have effect instead of the provisions of paragraph 2 of this Schedule.

(2) There must be an interval of not less than ninety days between the introduction of the Bill in the lower House and the beginning of the proceedings on second reading of the Bill in that House.

(3) On the third reading of the Bill in that House, the Bill must be supported by the votes of not less than two-thirds of all the elected members of that House.

(4) If the Bill is passed by the upper House with amendments, any agreement of the lower House to those amendments must be supported by the votes of not less than two-thirds of all the elected members of the lower House.

(5) If the Bill having been passed by the lower House, is passed by the upper House in the same Session either without amendment or with amendments which are agreed to by the lower House in accordance with the last preceding sub-paragraph, the Bill must be submitted to a referendum, and must not be submitted to the Governor of the state for his assent unless not less than two-thirds of the votes validly cast on that referendum are cast in support of the Bill.

(6) If in one Session the Bill is passed by the lower House in accordance with sub-paragraphs (2) and (3) of this paragraph, and either it is not passed by the upper House or it is passed by the upper House with amendments which are not agreed to by the lower House in accordance with sub-paragraph (4) of this paragraph, and in the next Session the Bill is again passed by the lower House in accordance with sub-paragraphs (2) and (3) of this paragraph, there must be an interval of not less than six months between the passage of the Bill by the lower House in the first of those Sessions and its passage by the lower House in the second of them.

(7) If, in the circumstances specified in the last preceding sub-paragraph, the Bill in the second of the two Sessions is sent to the upper House without amendment, but with suggestions for amending it, those suggested amendments must be supported by the votes of not less than two-thirds of all the elected members of the lower House.

(8) Sub-paragraph (5) of this paragraph shall have effect in relation to the passage of the Bill in the second of those Sessions as it has effect in relation to the passage of the Bill in the Session in which it is first introduced.

(9) If in the second of those Sessions the Bill either is not passed by the upper House, or is passed by the upper House with amendments which are neither

SCH. 2

amendments suggested by the lower House in accordance with sub-paragraph (7) of this paragraph nor amendments which are agreed to by the lower House in accordance with sub-paragraph (4) of this paragraph, the Bill must be submitted to a referendum, and must not be submitted to the Governor of the state for his assent unless not less than two-thirds of the votes validly cast on that referendum are cast in support of the Bill.

(10) Except in the circumstances specified in the last preceding sub-paragraph, the Bill must not be submitted to a referendum or submitted to the Governor of the state for his assent unless it has been passed by both Houses of the legislature in accordance with the preceding provisions of this paragraph.

4.—(1) The provisions of this paragraph shall have effect where, before the introduction of the Bill, arrangements have been made between the Government of the state and the Government of a territory to which this paragraph applies whereby, immediately after the termination of the status of association of the state with the United Kingdom,—

(a) the state will enter into a federation or union or some other form of association with that territory (with or without other territories), and

(b) the Government resulting from that federation, union or other form of association, or the Government of that territory, will be responsible for the defence and external affairs of the state,

and the Bill refers to those arrangements and makes provision for giving effect to them on the part of the state.

(2) This paragraph applies to any territory which—

(a) lies between the equator and the 20th parallel of north latitude and between longitude 50 degrees west and longitude 90 degrees west, and

(b) at the time when the arrangements in question are made is a territory within the Commonwealth for whose government Her Majesty's Government in the United Kingdom have no responsibility.

(3) In the circumstances specified in sub-paragraph (1) of this paragraph, the Bill may be submitted to the Governor for his assent without a referendum and accordingly paragraph 2(c) or (as the case may be) sub-paragraphs (5) and (8) of paragraph 3 of this Schedule shall not apply.

SCHEDULE 3

MODIFICATIONS OF BRITISH NATIONALITY ACTS

1. In the following provisions of the British Nationality Acts 1948 to 1965, that is to say—

1948 c. 56. (a) sections 10(2), 22 and 29(3) of the British Nationality Act 1948 (including sections 22 and 29(3) of that Act as applied respectively by sections 3(3) and 5(2) of the British Nationality Act 1965) and paragraph 4(a) of

1965 c. 34. Schedule 2 to the said Act of 1948, and

1958 c. 10. (b) section 3(1)(c) of the British Nationality Act 1958,
the references to a colony shall not include any associated state.

2.—(1) So much of section 8(1) of the British Nationality Act 1948 as provides for any functions of the Secretary of State to be exercised by the Governor of a colony or substitutes references to the Governor for references to the Secretary of State shall not have effect in relation to any associated state.

(2) In the preceding sub-paragraph the reference to section 8(1) of the British Nationality Act 1948 includes a reference to the said section 8(1) as applied by any of the following provisions, that is to say, section 1(6) of the British Nationality Act 1964, section 1(4) of the British Nationality (No. 2) Act 1964 and section 1(5) of the British Nationality Act 1965.

1964 c. 22.
1964 c. 54.

3. So much of section 3(2) of the British Nationality Act 1958 as substitutes a reference to the Governor for references to the Secretary of State shall not have effect in relation to any associated state. 1958 c. 10.

4.—(1) In relation to any associated state the Secretary of State may direct that (subject to paragraph 5 of this Schedule) such functions to which this paragraph applies as are specified in the direction, instead of being exercisable by him, shall be exercisable by a person specified in the direction or by the person for the time being holding an office so specified.

(2) A direction under this paragraph may be given either so as to have effect generally in relation to the exercise of the functions specified in it or so as to have effect only in relation to the exercise of those functions in respect of one or more matters or classes of matters so specified.

(3) This paragraph applies to the functions of the Secretary of State under the following provisions of the British Nationality Acts 1948 to 1965 as modified by paragraphs 1 to 3 of this Schedule, that is to say—

- (a) sections 6, 7, 10(1), 20 and 29(3) of the British Nationality Act 1948 (including section 29(3) of that Act as applied by section 5(2) of the British Nationality Act 1965); 1948 c. 56. 1965 c. 34.
- (b) paragraphs 2 and 3 of Schedule 2 to the British Nationality Act 1948;
- (c) section 3 of the British Nationality Act 1958;
- (d) section 1 of the British Nationality Act 1964; 1964 c. 22.
- (e) section 1 of the British Nationality (No. 2) Act 1964; and 1964 c. 54.
- (f) sections 1 and 3 of the British Nationality Act 1965.

5. A person by whom any functions are exercisable by virtue of a direction under the last preceding paragraph shall not have power, except with the approval of the Secretary of State, to grant a certificate of naturalisation or to make an order depriving any person of citizenship or of the status of British subject.

6. Section 26 of the British Nationality Act 1948 (including that section as applied by section 5(2) of the British Nationality Act 1965) shall have effect in relation to the exercise by any person of any functions by virtue of a direction under paragraph 4 of this Schedule.

7. Section 29(4) of the British Nationality Act 1948 (including the said section 29(4) as applied by section 5(2) of the British Nationality Act 1965) shall not apply to any rules made in the exercise of a power conferred on any person by virtue of such a direction.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order provides a new constitution for Antigua 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.

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