

1969 No. 590

**CARIBBEAN AND NORTH ATLANTIC
TERRITORIES**

The Bahama Islands (Constitution) Order 1969

<i>Made</i> - - - -	23rd April 1969
<i>Laid before Parliament</i>	29th April 1969
<i>Coming into Operation</i>	<i>On a day to be appointed under Section 1(2).</i>

At the Court at Windsor Castle, the 23rd day of April 1969

Present,

The Queen's Most Excellent Majesty in Council

Whereas at a conference held in London in September 1968 between representatives of Her Majesty's Government in the United Kingdom and representatives of the Bahama Islands it was agreed that it was desirable that a new Constitution for the Bahama Islands embodying certain changes from the existing Constitution should be conferred and that the Bahama Islands should be known as the Commonwealth of the Bahama Islands :

Now, therefore, Her Majesty, by virtue and in exercise of the powers vested in Her in that behalf by section 1 of the Bahama Islands (Constitution) Act 1963(a) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1.—(1) This Order may be cited as the Bahama Islands (Constitution) Order 1969.

Citation
and
commence-
ment.

(2) This Order shall come into operation on such day as the Governor, acting in his discretion, may, by proclamation published in the Gazette, appoint, which day shall not be earlier than 30th April 1969.

2.—(1) In this Order—

“the appointed day” means the day appointed under section 1(2) of this Order ;

“the Constitution” means the Constitution set out in the Schedule to this Order ;

“the existing Constitution” means the Constitution set out in the Schedule to the Bahama Islands (Constitution) Order in Council 1963(b) as amended by the Bahama Islands (Constitution) (Amendment) Order 1964(c) ;

Interpre-
tation.

(a) 1963 c. 56.

(b) S.I. 1963/2084 (1963 III, p. 4403).

(c) S.I. 1964/2041 (1964 III, p. 5125).

“the existing laws” means any laws made before the appointed day by any legislature for the time being constituted as the legislature of the Bahama Islands and having effect as part of the law of the Bahama Islands immediately before the appointed day (whether or not they have then come into operation) and any rules, regulations, orders or other instruments made in pursuance of such laws and having such effect.

(2) The provisions of section 130 of the Constitution shall apply for the purpose of interpreting sections 2 to 10 of this Order and otherwise in relation thereto as they apply for the purpose of interpreting and in relation to the Constitution.

Establishment of Constitution.

3. With effect from the appointed day—

- (a) the Bahama Islands shall be known as the Commonwealth of the Bahama Islands ;
- (b) the Constitution shall come into force in the Bahama Islands ; and
- (c) the Bahama Islands (Constitution) Order in Council 1963, the Bahama Islands Royal Instructions 1963 and the Bahama Islands (Constitution) (Amendment) Order 1964 are revoked.

Existing laws.

4.—(1) Subject to the provisions of this section, the existing laws shall have effect on and after the appointed day as if they had been made in pursuance of the Constitution and shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.

(2) Where any matter that falls to be prescribed or otherwise provided for the purposes of the Constitution by the Legislature or by any other authority or person is prescribed or provided for by or under any existing law (including any adaptation or modification of any such law made under this section) or is otherwise prescribed or provided for immediately before the appointed day by or under the existing Constitution, that prescription or provision shall, as from the appointed day, have effect as if it had been made for those purposes by the Legislature or, as the case may be, by the other authority or person.

(3) The Governor may, by order published in the Gazette, at any time within six months after the appointed day make such adaptations or modifications 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 Constitution or otherwise for giving effect or enabling effect to be given to those provisions ; and any existing law shall have effect accordingly from such day (not being earlier than the appointed day) as may be specified in the order.

(4) An order made under this section may be amended or revoked by the Legislature or, in relation to any existing law affected thereby, by any other authority having power to amend, repeal or revoke that existing law.

(5) The provisions of this section shall be without prejudice to any powers conferred by the 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.—(1) Any person who immediately before the appointed day holds or is acting in any office to which this section applies shall be deemed as from that day to have been appointed to or to act in that office or the corresponding office in accordance with the provisions of the Constitution:

Existing
Governor,
Ministers,
judges and
other officers.

Provided that any person who under the existing Constitution 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) This section applies to the offices of the Governor, the Premier, any other Minister, any judge of the Supreme Court, any judge of the Court of Appeal, the Secretary to the Cabinet, any whole-time member of the Public Service Commission and any member of the Police Service Commission, to the offices constituting the personal staff of the Governor and to any public office.

(3) Any person who becomes the holder of the office of Prime Minister or any other Minister by virtue of subsection (1) of this section and who immediately before the appointed day is charged with responsibility for any matter or any department of government shall, as from the appointed day, be deemed to have been charged with responsibility for that matter or department under section 70(1) of the Constitution, and any designation of the style by which any such Minister is to be known having effect immediately before the appointed day shall, as from that day, be deemed to have been made under that section.

(4) The provisions of this section shall be without prejudice to any powers conferred by or under the Constitution upon any authority or person to abolish any office or to remove from office any person holding or acting in any office.

(5) Any person who holds or is acting in any office by virtue of subsection (1) of this section and who, before the appointed day, has made any oath or affirmation required to be taken by him before assuming the functions of his office shall be deemed to have made any like oath or affirmation so required by the Constitution or any other law.

6.—(1) As soon as practicable on or after the appointed day the Governor shall proceed under section 30 of the Constitution to the appointment of Senators.

The
Legislature.

(2) The persons who immediately before the appointed day are members of the House of Assembly established by the existing Constitution (in this section referred to as "the existing House") shall as from that day be members of the House of Assembly established by the Constitution as if they had been elected thereto in pursuance of the Constitution and, subject to subsections (3) and (4) of this section, shall hold their seats in that House in accordance with the provisions of the Constitution.

(3) If any person who becomes a member of the House of Assembly by virtue of subsection (2) of this section does not possess Bahamian status on the appointed day he shall be deemed for the purposes of paragraph (d) of section 39(1) of the Constitution to have ceased to possess that status on the expiration of one month after the appointed day if he does not then possess that status.

(4) If any person who becomes a member of the House of Assembly by virtue of subsection (2) of this section is on the appointed day interested in any government contract for the purposes of paragraph (f) of section 39(1) of the Constitution and if he is still so interested on the expiration of one month after the appointed day he shall be deemed for the purposes of that paragraph to have become interested in that contract on the expiration of that period.

(5) The persons who immediately before the appointed day are the Speaker and Deputy Speaker of the existing House shall as from that day be the Speaker and Deputy Speaker respectively of the House of Assembly established by the Constitution as if they had been elected as such in pursuance of the Constitution and shall hold their offices in accordance with the provisions of the Constitution.

(6) The Rules of Procedure of the Senate established by the existing Constitution and of the existing House as in force immediately before the appointed day shall, except as may be otherwise provided under section 44 of the Constitution, have effect on and after that day as if they had been made under that section, but shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.

(7) Any person who becomes a member of the House of Assembly by virtue of subsection (2) of this section and who, since he was last elected as a member of the existing House, has made an oath or affirmation of allegiance in accordance with section 43 of the existing Constitution, shall be deemed to have complied with the requirements of section 45 of the Constitution relating to the making of such an oath or affirmation.

(8) Notwithstanding anything contained in section 57(2) of the Constitution (but subject to section 58 of the Constitution) the Governor shall dissolve the Legislature, unless it has been sooner dissolved under section 57(1) of the Constitution, at the expiration of five years from the date when the existing House first met after the general election of members thereof last preceding the appointed day.

(9) For the purposes of section 62(1) of the Constitution the first period of five years shall be deemed to have commenced on 27th November 1967.

Legal
proceedings.

7.—(1) All proceedings commenced or pending immediately before the appointed day before the Supreme Court or the Court of Appeal established by the existing Constitution may continue on and after that day before the Supreme Court or the Court of Appeal, as the case may be, established by the Constitution.

(2) Any decision given before the appointed day by the Supreme Court or the Court of Appeal established by the existing Constitution shall, for the purposes of its enforcement or of any appeal therefrom, have effect on and after that day as if it were a decision of the Supreme Court or the Court of Appeal, as the case may be, established by the Constitution.

Emergency
laws.

8.—(1) Until such time as provision is made by a law enacted by the Legislature conferring upon the Governor—

(a) power to make a proclamation declaring that a state of public emergency exists in the Bahama Islands for the purposes of that law; and

(b) power to make, during any period when such a proclamation is in force, such laws for the Bahama Islands, to have effect notwithstanding the provisions of any other law of the Legislature, as may appear to the Governor to be necessary or expedient for securing the public safety, the defence of the Islands or the maintenance of public order or for maintaining supplies and services essential to the life of the community,

the Emergency Powers Order in Council 1939(a), as amended(b), shall have effect as if the Islands were a territory specified in the First Schedule to that Order.

(2) The powers conferred upon the Governor by the Emergency Powers Order in Council 1939, as amended, shall be exercised by him after consultation with the Prime Minister :

Provided that if in the judgment of the Governor it is impracticable for him to consult with the Prime Minister, those powers shall be exercised by the Governor, acting in his discretion.

(3) The references in subsection (1) of this section to powers conferred upon the Governor by provision made as therein mentioned are references to powers which are exercisable by him in the same manner as the powers conferred upon him by the Emergency Powers Order in Council 1939 are exercisable by virtue of the provisions of subsection (2) of this section.

9.—(1) Any regulations made by the Governor under section 15 of the Bahama Islands (Constitution) Order in Council 1963 and in force immediately before the appointed day shall continue in force on and after that day and may be amended or revoked by subsequent regulations as if subsection (1) of that section had not been revoked, and any such regulations shall have effect notwithstanding the provisions of Part VI of the Constitution and shall not be a pensions law for the purposes of section 113 of the Constitution.

Regulations for retirement, compensation, etc.

(2) All sums required for the payment of compensation under any such regulations are hereby charged upon the Crown Lands Fund for Development and, notwithstanding anything contained in section 115 of the Constitution, shall be paid out of that Fund upon the authority of a warrant under the hand of the Governor, acting in his discretion.

(3) Any compensation, gratuity, grant or allowance payable under any such regulations shall, if it is so provided in any such regulations, be exempt from tax under any law in force in the Bahama Islands relating to the taxation of incomes or imposing any other form of taxation.

10.—(1) Any direction having effect immediately before the appointed day under section 97 or section 103(1A) of the existing Constitution shall have effect on and after that day as if it had been made under section 99 or, as the case may be, section 107(3) of the Constitution.

Delegation of certain powers, and proceedings before Commissions.

(2) Any proceedings commenced or pending immediately before the appointed day before any Commission established by Part VI of the existing Constitution may continue on and after that day before the appropriate Commission established by Part VI of the Constitution.

W. G. Agnew.

(a) See S.I. 1952 I at p. 621.

(b) The relevant amending instruments are S.I. 1956/731, 1963/88, 1633 (1956 I, p. 512; 1963 I, p. 105; III, p. 3084).

THE SCHEDULE TO THE ORDER

THE CONSTITUTION OF THE COMMONWEALTH
OF THE BAHAMA ISLANDS

ARRANGEMENT OF SECTIONS

PART I

PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS OF THE
INDIVIDUAL

Section

1. Fundamental rights and freedoms of the individual.
2. Protection of right to life.
3. Protection from inhuman treatment.
4. Protection from slavery and forced labour.
5. Protection from arbitrary arrest or detention.
6. Provisions to secure protection of law.
7. Protection for privacy of home and other property.
8. Protection of freedom of conscience.
9. Protection of freedom of expression.
10. Protection of freedom of assembly and association.
11. Protection of freedom of movement.
12. Protection from discrimination on the grounds of race, etc.
13. Protection from deprivation of property.
14. Enforcement of fundamental rights.
15. Provisions for time of war or emergency.
16. Interpretation.

PART II

THE GOVERNOR

17. The Governor.
18. Office of Deputy Governor.
19. Acting Governor.
20. Authority of Deputy Governor.
21. Salary and duty allowance of Governor and Acting Governor.
22. Personal staff and expenditure of the Governor.
23. Exercise of Governor's functions.
24. Powers to dispose of land.
25. Powers to constitute offices and make appointments, etc.
26. Powers of pardon, etc.
27. Establishment and procedure of Advisory Committee.
28. Functions of Advisory Committee.

PART III

THE LEGISLATURE

General

29. Establishment of Legislature.

The Senate

Section

30. Composition of Senate.
31. Qualifications for appointment as Senator.
32. Disqualifications for appointment as Senator.
33. Tenure of seats of Senators.
34. President and Vice-President.
35. Determination of questions as to membership.

House of Assembly

36. Composition of House of Assembly.
37. Qualifications for election as a Representative.
38. Disqualifications for election as a Representative.
39. Tenure of office of Representatives.
40. Speaker and Deputy Speaker.
41. Determination of questions as to membership.

Powers and Procedure

42. Power to make laws.
43. Mode of exercise of power to make laws.
44. Rules of Procedure.
45. Oath of allegiance.
46. Validity of proceedings.
47. Presiding in the Senate and House of Assembly.
48. Quorum.
49. Voting.
50. Restrictions with regard to certain financial measures.
51. Restriction on powers of Senate as to money bills other than taxation bills.
52. Restriction on powers of Senate as to other bills.
53. Provisions relating to sections 51 and 52.
54. Power of disallowance in respect of laws relating to Bahamas Government stock.
55. Privileges of chambers.

Summoning, Prorogation and Dissolution

56. Sessions of the chambers.
57. Prorogation and dissolution of the Legislature.
58. Recalling dissolved Legislature in case of emergency.
59. General elections, bye-elections and appointments to Senate.

Delimitation of Constituencies

60. Division of Bahama Islands into single-member constituencies.
61. Constituencies Commission.
62. Procedure for review of constituencies.

PART IV

THE EXECUTIVE

63. Executive authority.
64. The Cabinet.
65. Appointment of Ministers.
66. Tenure of office of Prime Minister.

Section

67. Tenure of office of Ministers other than the Prime Minister.
68. Performance of functions of Prime Minister in certain events.
69. Temporary Ministers.
70. Allocation of portfolios to Ministers.
71. Authority of Government of Bahama Islands to conduct external affairs.
72. Governor's special responsibility for external affairs and defence.
73. Governor's special responsibility for internal security and the Police Force and entrustment thereof.
74. Security Council.
75. Governor entitled to information.
76. Parliamentary Secretaries.
77. Oaths.
78. Leave of absence for Ministers and Parliamentary Secretaries.
79. Summoning of Cabinet.
80. Presiding in Cabinet.
81. Quorum of Cabinet.
82. Summoning of persons to Cabinet.
83. Secretary to Cabinet.
84. Attorney-General.
85. Tenure of office of Attorney-General.
86. Powers of Attorney-General.

PART V

THE JUDICIARY

The Supreme Court

87. Constitution of Supreme Court.
88. Tenure of office of judges of Supreme Court.
89. Acting judges of Supreme Court.
90. Salaries of judges of Supreme Court.
91. Oaths to be taken by judges of Supreme Court.

The Court of Appeal

92. Constitution of Court of Appeal.
93. Tenure of office of judges of Court of Appeal.
94. Acting judges of Court of Appeal.
95. Salaries of judges of Court of Appeal.
96. Oaths to be taken by judges of Court of Appeal.

PART VI

THE PUBLIC SERVICE

The Public Service Commission

97. Composition of Public Service Commission.
98. Appointments, etc. of public officers.
99. Delegation of Governor's powers.

Public Service Board of Appeal

100. Composition of Public Service Board of Appeal.
101. Appeals in disciplinary cases.

The Judicial and Legal Service Commission

Section

- 102. Composition of Judicial and Legal Service Commission.
- 103. Appointments, etc. of judicial and legal officers.

The Police Service Commission

- 104. Composition of Police Service Commission.
- 105. Appointments, etc. of Commissioner and Deputy Commissioner of Police.
- 106. Appointments of other officers in the Police Force.
- 107. Removal and discipline of members of Police Force.
- 108. Right of Commissioner to tender advice.

General

- 109. Proceedings of Commissions.
- 110. Protection of Commissions, etc. from legal proceedings.
- 111. Applicability of pensions law.
- 112. Pensions, etc. charged on the Consolidated Fund.
- 113. Grant and withholding of pensions, etc.

PART VII**FINANCE**

- 114. Consolidated Fund.
- 115. Withdrawal of money from the Consolidated Fund or other public funds.
- 116. Authorisation of expenditure.
- 117. Authorisation of expenditure in advance of appropriation.
- 118. Delay in the Appropriation Act owing to dissolution.
- 119. Public debt.
- 120. Auditor.
- 121. Tenure of office of Auditor.
- 122. Functions of Auditor.
- 123. Legislation relating to public finance.
- 124. Interpretation.

PART VIII**MISCELLANEOUS**

- 125. Resignations.
- 126. Re-appointments and concurrent appointments.
- 127. Provisions relating to government contracts.
- 128. Bahamian Status.
- 129. Jurisdiction of Court of Appeal in relation to Turks and Caicos Islands.
- 130. Interpretation.

THE SCHEDULE TO THE CONSTITUTION

Forms of Oaths and Affirmations.

PART I

PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS
OF THE INDIVIDUAL

Fundamental
rights and
freedoms
of the
individual.

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

- (a) life, liberty, security of the person and the protection of the law;
- (b) freedom of conscience, of expression and of assembly and association ; and
- (c) protection for the privacy of his home and other property and from deprivation of property without compensation,

the subsequent provisions of this Part 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 intentionally of his life save in execution of the sentence of a court in respect of a criminal offence of which he has been convicted.

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

- (a) for the defence of any person from violence or for the defence of property ;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained ;
- (c) for the purpose of suppressing a riot, insurrection or mutiny ; or
- (d) in order to prevent the commission by that person of a criminal offence,

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

Protection
from
inhuman
treatment.

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

(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 the Bahama Islands immediately before 7th January 1964.

Protection
from
slavery and
forced
labour.

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

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

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

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

- (b) any labour required of a member of a disciplined force in pursuance of his duties as such or, in the case of a person who has conscientious objections to service in a naval, military or air force, any labour which that person is required by law to perform in place of such service ;
- (c) labour required of any person while he is lawfully detained which, though not required in consequence of the sentence or order of a court, is reasonably necessary in the interests of hygiene or for the maintenance of the place in which he is detained ; or
- (d) any labour required during a period of public emergency (that is to say, a period to which section 15 of this Constitution applies) or in the event of any other emergency or calamity that threatens the life or well-being of the community, to the extent that the requiring of such labour is reasonably justifiable, in the circumstances of any situation arising or existing during that period or as a result of that other emergency or calamity, for the purpose of dealing with that situation.

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

Protection
from
arbitrary
arrest or
detention.

- (a) in execution of the sentence or order of a court, whether established for the Bahama Islands or some other country, in respect of a criminal offence of which he has been convicted or in consequence of his unfitness to plead to a criminal charge or in execution of the order of a court on the grounds of his contempt of that court or of another court or tribunal ;
- (b) in execution of the order of a court made in order to secure the fulfilment of any obligation imposed upon him by law ;
- (c) for the purpose of bringing him before a court in execution of the order of a court ;
- (d) upon reasonable suspicion of his having committed, or of being about to commit, a criminal offence ;
- (e) in the case of a person who has not attained the age of twenty-one years, for the purpose of his education or welfare ;
- (f) for the purpose of preventing the spread of an infectious or contagious disease or 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 ;
- (g) for the purpose of preventing the unlawful entry of that person into the Bahama Islands or for the purpose of effecting the expulsion, extradition or other lawful removal from the Bahama Islands of that person or the taking of proceedings relating thereto.

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

(3) Any person who is arrested or detained in such a case as is mentioned in subsection (1)(c) or (d) of this section and who is not released shall be brought without undue delay before a court ; and if any person arrested or detained in such a case as is mentioned in the

said paragraph (d) is not tried within a reasonable time he shall (without prejudice to any further proceedings that may be brought against him) 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 other person.

Provisions
to secure
protection
of law.

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

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

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

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

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

(d) shall be permitted to defend himself before the court in person or, at his own expense, by a legal representative of his own choice or by a legal representative at the public expense where so provided by or under a law in force in the Bahama Islands ;

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

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

(g) shall, when charged on information in the Supreme Court, have the right to trial by jury ;

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

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

(4) No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any

criminal offence that is severer in degree or description than the maximum penalty that might have been imposed for that offence at the time when it was committed.

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

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

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

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

(9) All proceedings instituted in any court for the determination of the existence or extent of any civil right or obligation, including the announcement of the decision of the court, shall be held in public.

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

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

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

(c) may be empowered or required to do so by rules of court and practice existing immediately before 7th January 1964 or by any law made subsequently to the extent that it makes provision substantially to the same effect as provision contained in any such rules.

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

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

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

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

(12) In this section, "legal representative" means a person entitled to practise in the Bahama Islands as counsel and attorney of the Supreme Court.

Protection
for privacy
of home and
other
property.

7.—(1) Except with his 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) which is reasonably required—

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

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

(b) to enable an officer or agent of the Government of the Bahama Islands, 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) to authorise, for the purpose of enforcing the judgment or order of a court in any civil proceedings, the search of any person or property by order of a court or the entry upon any premises by such order,

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

Protection
of freedom of
conscience.

8.—(1) Except with his 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 consent (or, if he is a person who has not attained the age of twenty-one years, the consent of his guardian) no person attending any place of education shall be required to receive religious

instruction or to take part in or attend any religious ceremony or observance if that instruction, ceremony or observance relates to a religion other than his own.

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

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

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

(a) in the interests of defence, public safety, public order, public morality or public health ; 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 interference of members of any other religion,

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

9.—(1) Except with his 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 freedom to hold opinions, to receive and impart ideas and information without interference, and freedom from interference with his correspondence.

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) which is reasonably required—

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

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

(b) which imposes restrictions upon persons holding office under the Crown or upon members of a disciplined force,

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

Protection
of freedom of
assembly
and
association.

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

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

(a) which is reasonably required—

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

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

(b) which imposes restrictions upon persons holding office under the Crown or upon members of a disciplined force,

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

Protection
of freedom of
movement.

11.—(1) Except with his consent, no person shall be hindered in the enjoyment of his freedom of movement, and for the purposes of this section the said freedom means the right to move freely throughout the Bahama Islands, the right to reside in any part thereof, the right to enter the Bahama Islands and immunity from expulsion therefrom.

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

(a) which is reasonably required—

(i) in the interests of defence, public safety, public order, public morality, public health, town and country planning or the prevention of plant or animal diseases ; or

(ii) for the purpose of protecting the rights and freedoms of other persons,

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

(b) for the removal of a person from the Bahama Islands to be tried outside the said Islands for a criminal offence or to undergo imprisonment in some other country in respect of a criminal offence of which he has been convicted ;

(c) for the imposition of restrictions upon the movement or residence within the Bahama Islands of public officers or members of a disciplined force that are reasonably required for the purpose of the proper performance of their functions ; or

(d) for the imposition of restrictions on the movement or residence within the Bahama Islands of any person who does not possess Bahamian status or the exclusion or expulsion therefrom of any such person.

(3) 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.

(4) For the purposes of paragraph (c) of subsection (2) of this section, "law" in that subsection includes directions in writing regarding the conduct of public officers generally or any class of public officer issued by the Government of the Bahama Islands.

12.—(1) Subject to the provisions of subsections (4), (5) and (8) 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), (8) and (9) of this section, no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

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

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

- (a) for the appropriation of revenues or other funds of the Bahama Islands or for the imposition of taxation (including the levying of fees for the grant of licences); or
- (b) with respect to the entry into or exclusion from, or the employment, engaging in any business or profession, movement or residence within, the Bahama Islands of persons who do not possess Bahamian status; or
- (c) with respect to adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law; or
- (d) whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society; or
- (e) for authorising the granting of licences or certificates permitting the conduct of a lottery, the keeping of a gaming house or the carrying on of gambling in any of its forms subject to conditions which impose upon persons who possess Bahamian status disabilities or restrictions to which other persons are not made subject.

(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 requires a person to possess Bahamian status or to possess any other qualification (not being a qualification specifically relating to race, place of origin, political opinions, colour or creed) in order to be eligible 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 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) Subject to the provisions of subsection (4)(e) and of subsection (8) of this section, no person shall be treated in a discriminatory manner in respect of access to any of the following places to which the general public have access, namely, shops, hotels, restaurants, eating-houses, licensed premises, places of entertainment or places of resort.

(8) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any restriction on the rights and freedoms guaranteed by sections 7, 8, 9, 10 and 11 of this Constitution, being such a restriction as is authorised by section 7(2)(a), 8(5), 9(2), 10(2) or 11(2)(a), as the case may be.

(9) 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.

Protection
from
deprivation
of property.

13.—(1) No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except where the following conditions are satisfied, that is to say—

- (a) the taking of possession or acquisition is necessary in the interests of defence, public safety, public order, public morality, public health, town and country planning or the development or utilisation of any property in such manner as to promote the public benefit or the economic well-being of the community; and
- (b) the necessity therefor is such as to afford reasonable justification for the causing of any hardship that may result to any person having an interest in or right over the property; and
- (c) provision is made by a law applicable to that taking of possession or acquisition—
 - (i) for the prompt payment of adequate compensation; and
 - (ii) securing to any person having an interest in or right over the property a right of access to the Supreme Court, whether direct or on appeal from any other authority, for the determination of his interest or right, the legality of the taking of possession or acquisition of the property, interest or right, and the amount of any compensation to which he is entitled, and for the purpose of obtaining prompt payment of that compensation; and
- (d) any party to proceedings in the Supreme Court relating to such a claim is given by law the same rights of appeal as are accorded generally to parties to civil proceedings in that Court sitting as a court of original jurisdiction.

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

- (a) in satisfaction of any tax, rate or due;
- (b) by way of penalty for breach of the law, whether under civil process or after conviction of a criminal offence under the law of the Bahama Islands;

- (c) as an incident of a lease, tenancy, mortgage, charge, bill of sale, pledge or contract ;
- (d) upon the attempted removal of the property in question out of or into the Bahama Islands in contravention of any law ;
- (e) by way of the taking of a sample for the purposes of any law ;
- (f) where the property consists of an animal upon its being found trespassing or straying ;
- (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, bodies corporate or unincorporate in the course of being wound up, or defunct companies that have been struck off the Register of Companies ;
- (h) in the execution of judgments or orders of courts ;
- (i) by reason of its being in a dilapidated or dangerous state or injurious to the health of human beings, animals or plants ;
- (j) in consequence of any law making provision for the validation of titles to land or (without prejudice to the generality of the foregoing words) the confirmation of such titles, or for the extinguishment of adverse claims, or with respect to prescription or 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 reclamation, drainage, soil conservation or the conservation of other natural resources ; or
 - (ii) of agricultural development or improvement that the owner or occupier of the land has been required, and has, without reasonable and lawful excuse, refused or failed to carry out.

(3) Nothing in this section shall be construed as affecting the making or operation of any law 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 established by law for public purposes in which no moneys have been invested other than moneys provided by the Legislature.

14.—(1) If any person alleges that any of the provisions of sections 2 to 13 (inclusive) of this Constitution has been, is being or is likely to be contravened in relation to him then, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the Supreme Court for redress.

Enforcement
of
fundamental
rights.

(2) The Supreme Court shall have original jurisdiction—

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

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

and may make such 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 13 (inclusive) to the protection of which the person concerned is entitled :

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

(3) If, in any proceedings in any court established for the Bahama Islands other than the Supreme Court or the Court of Appeal, any question arises as to the contravention of any of the provisions of the said sections 2 to 13 (inclusive), the court in which the question has arisen shall refer the question to the Supreme Court.

(4) No law of the Legislature shall make provision with respect to rights of appeal from any determination of the Supreme Court in pursuance of this section that is less favourable to any party thereto than the rights of appeal from determinations of the Supreme Court that are accorded generally to parties to civil proceedings in that Court sitting as a court of original jurisdiction.

(5) A law of the Legislature may confer upon the Supreme Court such additional or supplementary powers as may appear to be necessary or desirable for enabling the Court more effectively to exercise the jurisdiction conferred upon it by subsection (2) of this section and may make provision with respect to the practice and procedure of the Court while exercising that jurisdiction.

Provisions
for time
of war or
emergency.

15.—(1) This section applies to any period when—

(a) Her Majesty is at war ; or

(b) there is in force a proclamation (in this section referred to as a “proclamation of emergency”) made by the Governor and published in the Gazette declaring that a state of public emergency exists for the purposes of this section.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of section 5, any provision of section 6 other than subsection (4) thereof, or any provision of sections 7 to 12 (inclusive) of this Constitution to the extent that the law in question makes in relation to any period to which this section applies provision, or authorises the doing during any such period of anything, which is reasonably justifiable in the circumstances of any situation arising or existing during that period for the purpose of dealing with that situation.

(3) Where any proclamation of emergency has been made, copies thereof shall as soon as is practicable be laid before both chambers of the Legislature, and if for any cause those chambers are not due to meet within five days the Governor shall, by proclamation published in the Gazette, summon them to meet within five days and they shall accordingly meet and sit upon the day appointed by the proclamation and shall continue to sit and act as if they had stood adjourned or prorogued to that day :

Provided that if the proclamation of emergency is made during the period between a dissolution of the Legislature and the next ensuing general election—

(a) the chambers to be summoned as aforesaid shall be the chambers referred to in section 58 of this Constitution unless the Governor is satisfied that it will be practicable to hold that election within seven days of the making of the proclamation of emergency ; and

(b) if the Governor is so satisfied, he shall (instead of summoning the chambers so referred to to meet within five days of the making of the proclamation) summon the chambers of the new Legislature to meet as soon as practicable after the holding of that election.

(4) A proclamation of emergency shall, unless it is sooner revoked by the Governor, cease to be in force at the expiration of a period of fourteen days beginning on the date on which it was made or such longer period as may be provided under subsection (5) of this section, but without prejudice to the making of another proclamation of emergency at or before the end of that period.

(5) If at any time while a proclamation of emergency is in force (including any time while it is in force by virtue of the provisions of this subsection) a resolution is passed by each chamber of the Legislature approving its continuance in force for a further period, not exceeding three months, beginning on the date on which it would otherwise expire, the proclamation shall, if not sooner revoked, continue in force for that further period.

(6) Where any person who is lawfully detained in pursuance only of such a law as is referred to in subsection (2) of this section so requests at any time during the period of that detention not earlier than six months after he last made such a request during that period, his case shall be reviewed by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice.

(7) 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 such recommendations.

(8) The powers of the Governor under this section shall be exercised by him after consultation with the Prime Minister:

Provided that if in the judgment of the Governor it is impracticable for him to consult with the Prime Minister, those powers shall be exercised by the Governor acting in his discretion.

16.—(1) In this Part of this Constitution, unless it is otherwise expressly provided or required by the context— Interpretation.

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

“court” means any court of law in the Bahama Islands other than a court constituted by or under disciplinary law:

Provided that—

(a) in sections 2, 4, 5, subsections (2), (3), (5), (9) and (10) of section 6, section 12 and section 14(3), “court” includes, in relation to an offence against disciplinary law, a court constituted by or under disciplinary law; and

(b) in sections 4 and 5, “court” includes, in relation to an offence against disciplinary law, an officer of a disciplined force;

“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 of the Bahama Islands ;
- (c) the Prison Service of the Bahama Islands ;

“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) Any reference in sections 2, 5, 11 and 13 of this Constitution to a criminal offence shall be construed as including an offence against disciplinary law, and any such reference in subsections (2) to (7) (inclusive) of section 6 of this Constitution shall, in relation to proceedings before a court constituted by or under disciplinary law, be construed in the same manner.

(3) In relation to any person who is a member of a disciplined force raised under a law of any country other than the Bahama Islands and lawfully present in the Bahama Islands, 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 Part.

PART II

THE GOVERNOR

The
Governor.

17.—(1) There shall be a Governor and Commander-in-Chief of the Bahama Islands who shall be appointed by Her Majesty by Commission under Her Sign Manual and Signet and shall hold office during Her Majesty's pleasure.

(2) The Governor shall have such powers and duties as are conferred or imposed on him by or under this Constitution or any other law and such other powers as Her Majesty may from time to time be pleased to assign to him, and, subject to the provisions of this Constitution and of any law by which any such powers or duties are conferred or imposed, shall do and execute all things that belong to his office (including the exercise of any powers with respect to which he is empowered by this Constitution to act in his discretion) according to such instructions, if any, as Her Majesty may from time to time see fit to give him under Her Sign Manual and Signet or through a Secretary of State :

Provided that the question whether or not the Governor has in any matter complied with any such instructions shall not be inquired into in any court of law.

(3) A person appointed to the office of Governor shall, before entering upon the functions of that office, make oaths or affirmations of allegiance and for the due execution of that office in the forms set out in the Schedule to this Constitution.

Office of
Deputy
Governor.

18.—(1) There shall be a Deputy Governor who shall be appointed by the Governor in pursuance of instructions given by Her Majesty through a Secretary of State and shall hold office during Her Majesty's pleasure.

(2) If the office of Deputy Governor is vacant or the person holding that office is acting in the office of Governor under section 19 of this Constitution or is for any other reason unable to perform the functions of the office of Deputy Governor, then the Governor, acting in his discretion, may appoint a person to act as Deputy Governor and any such person shall continue to act until his appointment is revoked by the Governor, acting in his discretion.

19.—(1) During any period when the office of Governor is vacant or the Governor is absent from the Bahama Islands or is for any other reason unable to perform the functions of his office— Acting
Governor.

(a) the Deputy Governor ; or

(b) if the office of Deputy Governor is vacant or the Deputy Governor is absent from the Bahama Islands or is for any other reason unable to perform the functions of the office of Governor, such person as Her Majesty may designate in that behalf by instructions given through a Secretary of State (in this section referred to as "the person designated"),

shall, during Her Majesty's pleasure, act in the office of Governor and perform the functions of that office accordingly.

(2) Before assuming the functions of the office of Governor, the Deputy Governor or the person designated shall make the oaths or affirmations directed by section 17(3) of this Constitution to be made by the Governor.

(3) The Deputy Governor shall not continue to act in the office of Governor after the Governor has notified him that he is about to assume or resume the functions of that office and the person designated shall not continue to act in that office after the Governor or Deputy Governor has so notified him.

(4) The Governor or, if the Deputy Governor has assumed the functions of the office of Governor under this section, the Deputy Governor may, if he has occasion to be absent from the Bahama Islands for a period that in his opinion will be of short duration, direct by notice published in the Gazette that, notwithstanding his absence from the Bahama Islands, he will continue to perform the functions of the office of Governor.

(5) For the purposes of subsection (1) of this section :—

(a) so long as any direction given by the Governor or, as the case may be, the Deputy Governor under subsection (4) of this section is in force, he shall not be regarded as absent from the Bahama Islands or as unable to perform the functions of the office of Governor by reason only that he is in, or is in passage to or from, any place outside the Bahama Islands ; and

(b) the Governor or the Deputy Governor shall not be regarded as absent from the Bahama Islands or as unable to perform the functions of the office of Governor by reason only that he is in passage from one part of the Bahama Islands to another.

(6) In this section "the Governor" means the person holding the office of Governor and "the Deputy Governor" means the person holding the office of Deputy Governor.

Authority of
Deputy
Governor.

20.—(1) The Governor, acting in his discretion, may by writing under his hand, authorise the Deputy Governor to exercise for and on behalf of the Governor, subject to such exceptions and conditions as the Governor may from time to time specify, any or all of the functions of the office of Governor.

(2) The powers and authority of the Governor shall not be affected by any authority of the Deputy Governor under subsection (1) of this section and, subject to the provisions of this Constitution and of any law by which any function which the Deputy Governor is authorised to exercise is conferred, the Deputy Governor shall comply with such instructions relating to the exercise of that function as the Governor, acting in his discretion, may from time to time address to him :

Provided that the question whether or not the Deputy Governor has in any matter complied with any such instructions shall not be enquired into in any court of law.

(3) Any authority given under subsection (1) of this section may at any time be varied or revoked by Her Majesty by instructions given through a Secretary of State or by the Governor, acting in his discretion, by writing under his hand.

(4) In subsection (1) of this section the reference to any functions of the office of Governor does not include a reference to—

- (a) the functions conferred upon the Governor by this section ; or
- (b) any functions conferred upon the Governor by any Act of the Parliament of the United Kingdom or by any Order of Her Majesty in Council or other instrument made under any such Act other than the Bahama Islands (Constitution) Act 1963.

Salary
and duty
allowance of
Governor
and Acting
Governor.

21.—(1) The Governor shall receive such salary and (save when some other person is performing the functions of his office under section 19 of this Constitution) such duty allowance as, subject to subsection (3) of this section, may be prescribed by any law of the Legislature.

(2) During any period when any person is performing the functions of the office of Governor under section 19 of this Constitution that person shall receive a salary calculated at the rate of ninety-five per centum of the salary of the Governor and such duty allowance as would otherwise be payable to the Governor and shall not be entitled to receive during that period any salary in respect of any other office payable out of the revenues of the Bahama Islands.

(3) The salary, duty allowance and other conditions of service of the Governor or any other person performing the functions of the office of Governor under section 19 of this Constitution shall not be altered to his disadvantage during his continuance in the office of Governor or while he continues to perform the functions of that office, as the case may be, and the said salary and duty allowance are hereby charged on, and shall be paid out of, the Consolidated Fund.

Personal
staff and
expenditure
of the
Governor

22.—(1) The Legislature may, by law, prescribe the offices that are to constitute the personal staff of the Governor, the salaries and allowances that are to be paid to the members of that staff and the other sums that are to be paid in respect of the expenditure attaching to the office of Governor.

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

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

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

- (a) the provisions of subsection (3) of this section shall apply in relation to any officer so appointed as respects his service on the personal staff of the Governor but not as respects his service as a public officer ;
- (b) an officer so appointed shall not, during his continuance on the personal staff of the Governor, perform the functions of any public office ; and
- (c) an officer so appointed may at any time be appointed by the Governor, acting in his discretion, if the Public Service Commission so requests, to assume or resume the functions of a public office and shall thereupon vacate his office on the personal staff of the Governor, but the Governor may, acting in his discretion, decline to release the officer for that appointment.

(5) All offices prescribed under subsection (1) of this section as offices that are to constitute the personal staff of the Governor shall be deemed to be public offices for the purposes of sections 97, 102, 104, 111, 112 and 113 of this Constitution.

23.—(1) In the exercise of his functions the Governor shall, subject to the provisions of this section, obtain and act in accordance with the advice of the Cabinet or of a Minister acting under the general authority of the Cabinet.

Exercise of
Governor's
functions.

(2) Subsection (1) of this section shall not apply to the exercise by the Governor of—

- (a) any function relating to any of the matters for which he is responsible under section 72 or 73(1) of this Constitution ;
- (b) any function conferred upon him by this Constitution which is expressed to be exercisable by him in his discretion, or on or in accordance with the recommendation or advice of, or with the concurrence of, or after consultation with, any person or authority other than the Cabinet ; or
- (c) any function conferred upon him by any other law which is expressed to be exercisable by him in his discretion or which he is otherwise authorised by such law to exercise without obtaining the advice of the Cabinet.

(3) Where the Governor is by this Constitution or any other law directed to exercise any function on the recommendation of any person or authority, he shall (subject, in the case of any recommendation

referred to in section 101(1) of this Constitution, to the provisions of that section) exercise that function in accordance with such recommendation:

Provided that—

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

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

(4) Where the Governor is by this Constitution or any other law directed to exercise any function after consultation with any person or authority he shall not be obliged to exercise that function in accordance with the advice of that person or authority.

(5) Where the Governor has obtained the advice of the Cabinet or a Minister on any matter in pursuance of subsection (1) of this section, he may act otherwise than in accordance with that advice if in his judgment it is necessary or expedient so to act for the purposes of any matter for which he is responsible under section 72 or 73(1) of this Constitution.

(6) Where any function is vested by any law other than this Constitution in any person or authority other than the Governor (not being a court of law), the Governor may exercise that function in such circumstances and to such extent as he may consider necessary or expedient for the purposes of any matter for which he is responsible as aforesaid.

(7) Where any function conferred upon the Governor by this Constitution or any other law is expressed to be exercisable by him in his discretion, he shall exercise that function according to his own deliberate judgment.

(8) Where the Governor is by this Constitution or any other law directed to exercise any function in his discretion or on or in accordance with the recommendation or advice of, or with the concurrence of, or after consultation with, any person or authority, the question whether he has so exercised that function shall not be inquired into in any court of law.

Powers to dispose of land.

24. Subject to the provisions of this Constitution and any law for the time being in force in the Bahama Islands, the Governor, in Her Majesty's name and on Her Majesty's behalf, may, under the Public Seal, make grants and dispositions of any lands or other immovable property in the Bahama Islands or any interests in such property that are vested in Her Majesty or the Governor on behalf of Her Majesty as the property of the Crown for the beneficial interest of the said Islands and may exercise in relation to such property or interests any other powers that are lawfully exercisable by Her Majesty.

Powers to constitute offices and make appointments, etc.

25. Subject to the provisions of Part VI of this Constitution and of any other law for the time being in force in the Bahama Islands, the Governor, in Her Majesty's name and on Her Majesty's behalf, may—

(a) constitute offices for the Bahama Islands and make appointments, to be held during Her Majesty's pleasure, thereto; and

(b) remove any person so appointed or take such other disciplinary action in relation to him as the Governor may think fit.

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

Powers of pardon, etc.

(a) grant to any person convicted of an offence against any law for the time being in force in the Bahama Islands, a pardon, either free or subject to lawful conditions ;

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

(c) substitute a less severe form of punishment for that imposed by any sentence for such an offence ; or

(d) remit the whole or any part of any sentence passed for such an offence or any penalty or forfeiture otherwise due to Her Majesty on account of such an offence.

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

27.—(1) There shall be an Advisory Committee on the Prerogative of Mercy (in this and the next following section referred to as "the Committee") which shall consist of—

Establishment and procedure of Advisory Committee.

(a) the Attorney-General ; and

(b) not less than three nor more than five other members who shall be appointed by the Governor.

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

Provided that his seat shall become vacant—

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

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

(3) The Minister for the time being designated under section 26(2) of this Constitution shall attend and preside at any meeting of the Committee.

(4) No business shall be transacted at any meeting of the Committee unless there are at least three members present, of whom one shall be the Attorney-General.

(5) Subject to subsection (4) of this section, the Committee shall not be disqualified for the transaction of business by reason of any vacancy in its membership or the absence of any member and the validity of the transaction of business by the Committee shall not be affected by reason only of the fact that some person who was not entitled to do so took part in its proceedings.

(6) In the exercise of his functions under this section the Governor shall act in accordance with the advice of the Prime Minister.

Functions of
Advisory
Committee.

28.—(1) Where any person has been sentenced to death (otherwise than by a court-martial) for an offence, the Minister for the time being designated under section 26(2) of this Constitution (in this section referred to as “the Minister”) shall cause a written report of the case from the trial judge, together with such other information derived from the record of the case or elsewhere as he may require, to be taken into consideration at a meeting of the Committee; and after obtaining the advice of the Committee he shall decide in his own deliberate judgment whether to advise the Governor to exercise any of his powers under section 26(1) of this Constitution.

(2) The Minister shall consult with the Committee before advising the Governor to exercise any of his powers under section 26(1) of this Constitution in any case not falling within subsection (1) of this section unless in any particular case he considers the matter to be too urgent to permit such prior consultation.

(3) In any case not falling within subsection (1) of this section the Minister may consult with the Committee either by summoning a meeting of the Committee for the purpose or by sending to each of the other members of the Committee such information as the Minister considers relevant to the matter and by giving each such member a reasonable time, not being less than seven days from the sending of the information, to inform the Minister of his advice as to the advice which the Minister should tender to the Governor:

Provided that if any member within such time requests the Minister to summon a meeting of the Committee to consider the case, the Minister shall comply with that request.

(4) Where the Minister consults with the Committee in pursuance of subsection (2) of this section he shall not be obliged to act in accordance with any advice given to him by the Committee.

PART III

THE LEGISLATURE

General

Establishment of
Legislature.

29. There shall be a Legislature for the Bahama Islands which shall consist of Her Majesty, a Senate and a House of Assembly.

The Senate

Composition
of Senate.

30.—(1) The Senate shall consist of sixteen members (in this Constitution referred to as “Senators”) who shall be appointed by the Governor by instrument under the Public Seal in accordance with the provisions of this section.

(2) Of the sixteen Senators—

(a) nine shall be appointed by the Governor acting in accordance with the advice of the Prime Minister;

(b) four shall be appointed by the Governor acting in accordance with the advice of the leader of the opposition; and

(c) three shall be appointed by the Governor acting after consultation with the Prime Minister and such other persons as the Governor, acting in his discretion, may decide to consult.

31. Subject to the provisions of section 32 of this Constitution, a person shall be qualified to be appointed as a Senator if, and shall not be qualified to be appointed unless, he—

Qualifications for appointment as Senator.

- (a) is a British subject of the age of thirty years or upwards ;
- (b) possesses Bahamian status ; and
- (c) has been ordinarily resident in the Bahama Islands for a period of not less than five years immediately prior to his appointment.

32.—(1) No person shall be qualified to be appointed as a Senator who—

Disqualifications for appointment as Senator.

- (a) is, by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to a foreign power or state ;
- (b) is disqualified for membership of the Senate by any law of the Legislature enacted in pursuance of subsection (2) of this section ;
- (c) is a member of the House of Assembly ;
- (d) has been adjudged or otherwise declared bankrupt under any law in force in the Bahama Islands and has not been discharged ;
- (e) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in the Bahama Islands ;
- (f) is under sentence of death imposed on him by a court in any part of the Commonwealth, or is serving a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court, or is under such a sentence of imprisonment the execution of which has been suspended ;
- (g) is disqualified for membership of the House of Assembly by virtue of any law of the Legislature by reason of his having been convicted of any offence relating to elections ; or
- (h) is interested in any government contract and has not disclosed to the Governor the nature of such contract and of his interest therein.

(2) The Legislature may by law provide that, subject to such exceptions and limitations (if any) as may be prescribed therein, a person shall be disqualified for membership of the Senate by virtue of—

- (a) his holding or acting in any office or appointment specified (either individually or by reference to a class of office or appointment) by such law ;
- (b) his belonging to any of the armed forces of the Crown specified by such law or to any class of person so specified that is comprised in any such force ; or
- (c) his belonging to any police force specified by such law or to any class of person so specified that is comprised in any such force.

(3) For the purposes of subsection (1)(f) of this section—

- (a) two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds twelve months, but if any one

of such sentences exceeds that term they shall be regarded as one sentence ; and

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

Tenure of
seats of
Senators.

33.—(1) A Senator shall vacate his seat in the Senate—

(a) upon a dissolution of the Legislature ;

(b) if he resigns it by writing under his hand addressed to the President of the Senate, or, if the office of President is vacant or the President is absent from the Bahama Islands, to the Vice-President ;

(c) if he is absent from the sittings of the Senate for such period and in such circumstances as may be prescribed in the Rules of Procedure of the Senate ;

(d) if, with his consent, he is nominated as a candidate for election to the House of Assembly ;

(e) if he ceases to be a British subject or to possess Bahamian status ;

(f) subject to 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 reason of paragraph (a), (b), (d), (e), (f) or (g) of section 32(1) of this Constitution ; or

(g) if he becomes interested in any government contract :

Provided that a Senator shall not vacate his seat under this paragraph if before or as soon as practicable after he becomes interested in the contract the nature of the contract and of his interest therein is disclosed to the Senate in such manner as may be prescribed by the Rules of Procedure of the Senate and if the Senate by resolution exempts him from vacating his seat under this paragraph.

(2) If circumstances such as are referred to in subsection (1)(f) of this section arise because a Senator is under sentence of death or imprisonment, declared bankrupt, adjudged to be of unsound mind or convicted of an offence relating to elections 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 subsection (3) of this section, 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.

(3) If, on the determination of any 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.

(4) 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 subsection (2) of this section and he may resume the performance of his functions as a Senator.

34.—(1) When the Senate first meets after this Constitution comes into operation or after any general election and before it proceeds to the despatch of any other business, the Senate shall, in accordance with such procedure as may be prescribed by the Rules of Procedure of the Senate, elect a Senator to be President of the Senate; and, if the office of President falls vacant at any time, the Senate shall, as soon as practicable, proceed in like manner to fill the vacant office.

President
and Vice-
President.

(2) When the Senate first meets after this Constitution comes into operation or after any general election and before it proceeds to the despatch of any other business except the election of the President, it shall elect a Senator to be Vice-President of the Senate; and if the office of Vice-President falls vacant at any time, the Senate shall, as soon as practicable, elect a 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;
- (b) if he is appointed to be a Minister or Parliamentary Secretary;
- (c) if he announces the resignation of his office to the Senate or if, by writing under his hand addressed, in the case of the President, to the Clerk of the Senate and, in the case of the Vice-President, to the President (or, if the office of President is vacant or the President is absent from the Bahama Islands, to the Clerk), he resigns that office; or
- (d) in the case of the Vice-President, if he is elected to be President.

(5) If, by virtue of section 33(2) of this Constitution, the President or Vice-President is required to cease to perform 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 the functions of his office, be performed—

- (a) in the case of the President, by the Vice-President or, if the office of Vice-President is vacant or the Vice-President is required to cease to perform his functions as a Senator by virtue of section 33(2) of this Constitution, by such Senator (not being a Minister or Parliamentary Secretary) as the Senate may elect for the purpose;
- (b) 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.

(6) If the President or Vice-President resumes the performance of his functions as a Senator in accordance with the provisions of section 33(4) of this Constitution, he shall also resume the performance of his functions as President or Vice-President, as the case may be.

Determination of questions as to membership

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

- (a) any person has been validly appointed as a Senator ; or
- (b) any Senator has vacated his seat or is required under section 33(2) of this Constitution to cease to perform his functions as a Senator.

(2) Subject to the following provisions of this section, the Legislature may by law make, or provide for the making of, provision with respect to—

- (a) the institution of proceedings for the determination of any question referred to in subsection (1) of this section ; and
- (b) the powers, practice and procedure of the Supreme Court in relation to any such proceedings.

(3) Proceedings for the determination of any question referred to in subsection (1) of this section shall not be instituted except with the leave of a judge of the Supreme Court.

(4) No appeal shall lie from the decision of a judge of the Supreme Court granting or refusing leave to institute proceedings in accordance with subsection (3) of this section.

House of Assembly

Composition of House of Assembly.

36. The House of Assembly shall consist of thirty-eight members (in this Constitution referred to as "Representatives") who, being qualified for election as Representatives in accordance with the provisions of this Constitution, have been elected in the manner provided by or under any law for the time being in force in the Bahama Islands :

Provided that no person shall be permitted to cast more than one vote in any election of Representatives.

Qualifications for election as a Representative.

37. Subject to the provisions of section 38 of this Constitution, a person shall be qualified to be elected as a Representative if, and shall not be qualified to be so elected unless, he—

- (a) is a British subject of the age of twenty-one years or upwards ;
- (b) possesses Bahamian status ;
- (c) has ordinarily resided in the Bahama Islands for a period of, or periods amounting in the aggregate to, not less than five years before the date of his nomination for election ; and
- (d) has ordinarily resided in the Bahama Islands for a period of not less than six months immediately before the date of such nomination.

Disqualifications for election as a Representative.

38.—(1) No person shall be qualified to be elected as a Representative who—

- (a) is, by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to a foreign power or state ;
- (b) is disqualified for membership of the House of Assembly by any law of the Legislature enacted in pursuance of subsection (2) of this section ;
- (c) has been adjudged or otherwise declared bankrupt under any law in force in the Bahama Islands and has not been discharged ;

- (d) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in the Bahama Islands ;
- (e) is under sentence of death imposed on him by a court in any part of the Commonwealth, or is serving a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court, or is under such a sentence of imprisonment the execution of which has been suspended ;
- (f) is disqualified for membership of the House of Assembly by any law of the Legislature 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 ;
- (g) is disqualified for membership of the House of Assembly by virtue of any law of the Legislature by reason of his having been convicted of any offence relating to elections ;
- (h) is a Senator ; or
- (i) is interested in any government contract and has not disclosed the nature of such contract and of his interest therein by publishing a notice in the Gazette within one month before the day of election.

(2) The Legislature may by law provide that, subject to such exceptions and limitations (if any) as may be prescribed therein, a person shall be disqualified for membership of the House of Assembly by virtue of—

- (a) his holding or acting in any office or appointment specified (either individually or by reference to a class of office or appointment) by such law ;
- (b) his belonging to any of the armed forces of the Crown specified by such law or to any class of person so specified that is comprised in any such force ; or
- (c) his belonging to any police force specified by such law or to any class of person so specified that is comprised in any such force.

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

- (a) two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds twelve months, but if any one of such sentences exceeds that term they shall be regarded as one sentence ; and
- (b) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.

39.—(1) A Representative shall vacate his seat in the House of Assembly—

- (a) upon a dissolution of the Legislature ;
- (b) if he resigns it by writing under his hand addressed to the Speaker or, if the office of Speaker is vacant or the Speaker is absent from the Bahama Islands, to the Deputy Speaker ;

Tenure of office of Representatives.

- (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 ;
- (d) if he ceases to be a British subject or to possess Bahamian status ;
- (e) subject to the provisions of subsection (2) of this section, if any circumstances arise that, if he were not a Representative, would cause him to be disqualified for election as such by virtue of paragraph (a), (b), (c), (d), (e), (f) or (g) of section 38(1) of this Constitution ; or
- (f) if he becomes interested in any government contract :

Provided that a Representative shall not vacate his seat under this paragraph if before or as soon as practicable after he becomes interested in the contract the nature of the contract and of his interest therein is disclosed to the House of Assembly in such manner as may be prescribed by the Rules of Procedure of the House and if the House by resolution exempts him from vacating his seat under this paragraph.

(2) If circumstances such as are referred to in subsection (1)(e) of this section arise because any Representative is under sentence of death or imprisonment, declared bankrupt, adjudged to be of unsound mind or convicted of an offence relating to elections and it is open to the Representative 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 Representative, but, subject to subsection (3) 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 Representative, from time to time extend that period for further periods of thirty days to enable the Representative 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 of Assembly.

(3) 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 Representative to appeal, he shall forthwith vacate his seat.

(4) If at any time before the Representative 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 subsection (2) of this section and he may resume the performance of his functions as a Representative.

Speaker
and Deputy
Speaker.

40.—(1) When the House of Assembly first meets after any general election and before it proceeds to the despatch of any other business, the House shall, in accordance with such procedure as may be prescribed by the Rules of Procedure of the House, elect from among the Representatives who are not Ministers or Parliamentary Secretaries one Representative to be the Speaker of the Assembly and another Representative to be Deputy Speaker ; and, if the office of Speaker or Deputy Speaker falls vacant at any time before the next dissolution of the House of Assembly, the House shall, as soon as practicable, proceed in like manner to fill the vacant office.

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

(a) if he ceases to be a Representative :

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

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

(c) if he announces the resignation of his office to the House of Assembly or if, by writing under his hand addressed, in the case of the Speaker, to the Clerk of the House and, in the case of the Deputy Speaker, to the Speaker (or, if the office of Speaker is vacant or the Speaker is absent from the Bahama Islands, to the Clerk), he resigns that office ; or

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

(3) If by reason of section 39(2) of this Constitution the Speaker or Deputy Speaker is required to cease to perform his functions as a member of the House of Assembly, he shall also cease to perform his functions as Speaker or Deputy Speaker and those functions shall, until he vacates his seat in the House or resumes the performance of the functions of his office, 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 required to cease to perform his functions as a member of the House of Assembly by virtue of section 39(2) of this Constitution, by such Representative (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 Representative (not being a Minister or Parliamentary Secretary) as the House may elect for the purpose.

(4) If the Speaker or Deputy Speaker resumes the performance of his functions as a Representative in accordance with the provisions of section 39(4) of this Constitution, he shall also resume the performance of his functions as Speaker or Deputy Speaker, as the case may be.

41.—(1) An Election Court, consisting of two judges of the Supreme Court appointed by the Governor acting in his discretion or, if for any reason two such judges are not available, one such judge and a Chief Magistrate or Stipendiary and Circuit Magistrate appointed by the Governor acting in his discretion, shall have jurisdiction to hear and determine any question whether—

Determina-
tion of
questions
as to
membership

(a) any person has been validly elected as a Representative ; or

(b) any Representative has vacated his seat or is required, under the provisions of section 39(2) of this Constitution, to cease to perform his functions as a Representative.

(2) Subject to the following provisions of this section, the Legislature may by law make, or provide for the making of, provision with respect to—

(a) the institution of proceedings for the determination of any question referred to in subsection (1) of this section ; and

(b) the powers, practice and procedure of an Election Court in relation to any such proceedings.

(3) The determination by an Election Court of any question referred to in subsection (1) of this section shall be final.

(4) Proceedings for the determination of any question referred to in subsection (1) of this section shall not be instituted except with the leave of a judge of the Supreme Court.

(5) An appeal shall lie to the Court of Appeal on a point of law from the decision of a judge of the Supreme Court granting or refusing leave to institute proceedings in accordance with this section; but, subject as aforesaid, that decision shall be final.

Powers and Procedure

Power to
make laws.

42. Subject to the provisions of this Constitution, the Legislature may make laws for the peace, order and good government of the Bahama Islands.

Mode of
exercise of
power to
make laws.

43.—(1) Subject to the provisions of sections 51 and 52 of this Constitution, the power of the Legislature to make laws shall be exercised by bills passed by both chambers, either without amendment or with such amendments only as are agreed to by both chambers, and assented to by Her Majesty or by the Governor on behalf of Her Majesty.

(2) When a bill is presented to the Governor for assent, he shall signify that he assents or that he withholds assent or that he reserves the bill for the signification of Her Majesty's pleasure:

Provided that, unless he has been authorised by a Secretary of State to assent thereto, the Governor shall reserve for the signification of Her Majesty's pleasure any bill which appears to him, acting in his discretion—

- (a) to be inconsistent with any subsisting obligation imposed on Her Majesty by any treaty, convention or agreement or arrangement relating to any country or international or similar organisation outside the Bahama Islands;
- (b) to be likely to prejudice the Royal prerogative;
- (c) to be in any way repugnant to or inconsistent with the provisions of this Constitution;
- (d) to be inconsistent with any subsisting obligation (other than an obligation relating to the entry of persons into or the maintenance of internal security in the Bahama Islands) contained in any agreement entered into by the Government of the Bahama Islands under authority especially conferred on the Government for the purpose by a law enacted by the Legislature;
- (e) to affect external affairs, defence, internal security or the Police Force.

(3) A bill assented to by Her Majesty shall become a law when the Governor has signified such assent by proclamation published in the Gazette.

(4) In every bill presented to the Governor for assent, other than a bill presented under section 51 or 52 of this Constitution, the words of enactment shall be as follows:—

“Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of

Assembly of the Commonwealth of the Bahama Islands, and by the authority of the same, as follows:—”.

(5) In every bill presented to the Governor for assent under section 51 or section 52 of this Constitution the words of enactment shall be as follows:—

“ Be it enacted by The Queen’s Most Excellent Majesty, by and with the advice and consent of the House of Assembly of the Commonwealth of the Bahama Islands in accordance with the provisions of section 51 (or section 52, as the case may be) of the Constitution of the Commonwealth of the Bahama Islands, and by the authority of the same, as follows:—”.

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

44.—(1) Subject to the provisions of this Constitution, each chamber of the Legislature may from time to time make, amend or revoke Rules of Procedure for the regulation and orderly conduct of its own proceedings and the despatch of business, and the passing, intituling and numbering of bills and the presentation of the same to the Governor for assent. Rules of Procedure.

(2) The Legislature may provide that any resolution for the suspension, amendment or revocation of any Rule of Procedure of a chamber of the Legislature shall not be passed unless it is supported by the votes of all, or a specified number or proportion, of the members of the chamber present and voting on the resolution.

45. No member of either chamber of the Legislature shall be permitted to take part in the proceedings of that chamber (other than proceedings necessary for the purposes of this section) until he has made and subscribed before that chamber an oath or affirmation of allegiance in the form set out in the Schedule to this Constitution: Oath of allegiance.

Provided that the election of a President of the Senate or the election of a Speaker of the House of Assembly may take place before the members of the Senate or the House of Assembly, as the case may be, have made such oath or affirmation.

46. A chamber of the Legislature shall not be disqualified for the transaction of business by reason of any vacancy in the membership thereof (including any vacancy not filled when the chamber is first constituted or is reconstituted at any time), and any proceedings therein shall be valid notwithstanding that some person who was not entitled so to do sat or voted in the chamber or otherwise took part in the proceedings. Validity of proceedings.

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

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

(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.

Quorum.

48.—(1) If at any sitting of either chamber of the Legislature any member of the chamber who is present draws the attention of the member 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 chamber, the member presiding at the sitting ascertains that a quorum of the chamber is still not present, the chamber shall be adjourned.

(2) For the purposes of this section—

(a) a quorum of the Senate shall consist of six Senators ;

(b) a quorum of the House of Assembly shall consist of ten Representatives ;

(c) the member presiding at the sitting of either chamber shall be included in reckoning whether there is a quorum of that chamber present.

Voting.

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

(2) The President or other member presiding in the Senate and the Speaker or other member presiding in the House of Assembly shall not vote unless on any question the votes are equally divided, in which case he shall have and exercise a casting vote.

Restrictions with regard to certain financial measures.

50.—(1) The Senate shall not—

(a) proceed upon any bill other than a bill sent from the House of Assembly that, in the opinion of the member presiding, makes provision for any of the following purposes :—

(i) for the imposition, repeal or alteration of taxation ;

(ii) for the imposition of any charge upon the Consolidated Fund or any other fund of the Government of the Bahama Islands ;

(iii) for the payment, issue or withdrawal from the Consolidated Fund or any other fund of the Government of the Bahama Islands of any moneys not charged thereon or any alteration in the amount of such a payment, issue or withdrawal ; or

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

(b) proceed upon any amendment to any bill that, in the opinion of the member presiding, is an amendment that makes provision for any of those purposes or an amendment to any provision for any of those purposes contained in the bill ;

(c) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the member presiding, would be to make provision for any of those purposes ; or

(d) receive any petition that, in the opinion of the member presiding, requests that provision be made for any of those purposes.

(2) Nothing in subsection (1)(b) of this section shall be construed as preventing the Senate from returning any bill to the House of Assembly with a message recommending any amendment to the bill that the Senate may consider desirable.

(3) Except on the recommendation or with the consent of the Governor signified by a Minister, the House of Assembly shall not—

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

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

(ii) for the imposition of any charge upon the Consolidated Fund or any other fund of the Government of the Bahama Islands or the alteration of any such charge otherwise than by reduction ;

(iii) for the payment, issue or withdrawal from the Consolidated Fund or any other fund of the Government of the Bahama Islands of any moneys not charged thereon or any increase in the amount of such a payment, issue or withdrawal ; or

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

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

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

51.—(1) This section applies to any money bill which is not a taxation bill.

Restriction
of powers
of Senate as
to money
bills other
than
taxation bills.

(2) If any bill to which this section applies, having been passed by the House of Assembly and sent to the Senate at least two months before the end of the session, is not passed by the Senate without amendment within two months after it is sent to the Senate, the bill shall, unless the House of Assembly otherwise resolves, be presented to the Governor for assent notwithstanding that the Senate has not consented to the bill.

(3) There shall be inserted in any bill that is presented to the Governor for assent in pursuance of subsection (2) of this section any amendments to it that are certified by the Speaker to have been recommended by the Senate and agreed to by the House of Assembly.

(4) There shall be endorsed on every bill to which this section applies—

(a) when it is sent to the Senate, the certificate of the Speaker signed by him that it is a money bill which is not a taxation bill ; and

(b) if it is presented to the Governor for assent in pursuance of subsection (2) of this section, the certificate of the Speaker signed by him that it is a money bill which is not a taxation bill and that the provisions of subsections (1) and (2) of this section have been complied with.

Restriction
on powers
of Senate
as to other
bills.

52.—(1) This section applies to any bill other than a bill to which section 51 of this Constitution applies.

(2) If any bill to which this section applies is passed by the House of Assembly in two successive sessions (whether or not the Legislature 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, that bill shall, on its rejection for the second time by the Senate, unless the House of Assembly otherwise resolves, be presented to the Governor for assent notwithstanding that the Senate has not consented to the bill:

Provided that the foregoing provisions of this subsection shall not have effect unless at least nine months have elapsed between the date on which the bill is passed by the House of Assembly in the first session and the date on which it is passed by that House in the second session.

(3) For the purposes of this section, a bill shall be deemed to be rejected by the Senate if—

- (a) in the case of a taxation bill, it is not passed by the Senate without amendment; or
- (b) in the case of any other bill, it is not passed by the Senate without amendment, or it is passed by the Senate with any amendment which is not agreed to by the House of Assembly.

(4) There shall be endorsed on every taxation bill when it is sent to the Senate the certificate of the Speaker signed by him that it is a taxation bill.

(5) For the purposes of this section, a bill that is sent to the Senate 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 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 or recommended by the Senate in the former bill in the preceding session and agreed to by the House of Assembly.

(6) The House of Assembly may, if it thinks fit, on the passage through that House of a bill that is deemed to be the same bill as a former bill sent to the Senate in the preceding session, suggest any amendments without inserting the amendments in the bill, and any such amendments shall be considered by the Senate, and, if agreed to by the Senate, shall be treated as amendments made by the Senate and agreed to by the House of Assembly; but the exercise of this power by the House of Assembly shall not affect the operation of this section in the event of the rejection of the bill in the Senate.

(7) There shall be inserted in any bill that is presented to the Governor for assent in pursuance of this section any amendments to it

that are certified by the Speaker to have been made or recommended by the Senate in the second session and agreed to by the House of Assembly.

(8) 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 it is a bill to which this section applies and that the provisions of this section have been complied with.

53.—(1) In sections 51 and 52 of this Constitution “money bill” means a public bill which, in the opinion of the Speaker subject to the provisions of subsection (6) of this section, contains only provisions dealing with all or any of the following matters, that is to say—

Provisions relating to sections 51 and 52.

- (a) the imposition, repeal, remission, alteration or regulation of taxation ;
- (b) 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 ;
- (c) the grant of money to the Crown or to any authority or person, or the variation or revocation of any such grant ;
- (d) the appropriation, receipt, custody, investment, issue or audit of accounts of public money ;
- (e) 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
- (f) subordinate matters incidental to any of the matters aforesaid.

(2) In sections 51 and 52 of this Constitution “taxation bill” means a money bill which, in the opinion of the Speaker subject to the provisions of subsection (6) of this section, contains provisions for the imposition of an income tax, a capital gains tax, a capital levy or estate duty or makes provision for the cesser, remission, suspension, alteration or regulation of any such tax, levy or duty.

(3) Whenever the office of Speaker is vacant or the Speaker is for any reason unable to perform any function conferred upon him by subsection (1) or (2) of this section or by section 51 or 52 of this Constitution, that function may be performed by the Deputy Speaker.

(4) If, in respect of a bill passed by the House of Assembly and certified by the Speaker to be a money bill which is not a taxation bill or, as the case may be, a taxation bill and sent to the Senate, the Senate passes a resolution declaring that it dissents from the Speaker's certificate, the bill shall be referred back to the Speaker by the Senate.

(5) Thereupon the Speaker shall refer the matter forthwith to the Attorney-General for his advice.

(6) On receiving the advice of the Attorney-General, the Speaker shall, in accordance with that advice, endorse forthwith on the bill a further certificate signed by him that the bill is a money bill which is not a taxation bill or, as the case may be, a taxation bill and the bill so endorsed shall be returned to the Senate.

(7) The period between the date on which the bill is referred back to the Speaker and the date on which it is returned to the

Senate shall not be taken into account in computing the period of two months referred to in section 51(2) of this Constitution in a case where the further certificate is that the bill is a money bill which is not a taxation bill, or in computing the period of nine months referred to in section 52(2) of this Constitution in a case where the further certificate is that the bill is a taxation bill.

(8) Subject to the provisions of subsections (4) and (5) of this section, any certificate given by the Speaker or Deputy Speaker under section 51 or 52 of this Constitution or this section shall be conclusive for all purposes and shall not be questioned in any court.

Power of disallowance in respect of laws relating to Bahamas Government stock.

54.—(1) Any law enacted by the Legislature which has been assented to by the Governor and which appears to Her Majesty's Government in the United Kingdom to alter, to the injury of the stockholder, any provision relating to any stock to which this section applies or to involve a departure from the original contract in respect of any such stock, may be disallowed by Her Majesty through a Secretary of State.

(2) Whenever such a law has been disallowed by Her Majesty the Governor shall cause notice of such disallowance to be published in the Gazette and the law shall be annulled with effect from the date of publication of that notice.

(3) On the annulment of any law under this section any enactment repealed or amended by or in pursuance of that law shall have effect as from the date of the annulment as if that law had not been made; and, save as provided in the foregoing provisions of this subsection, the provisions of section 38(2) of the Interpretation Act 1889(a) shall apply to that annulment as they apply to the repeal of an Act of Parliament.

(4) The stock to which this section applies is stock forming the whole or any part of the public debt of the Bahama Islands—

- (a) in which a trustee might at any time have invested by virtue of section 2 of the Colonial Stock Act 1900(b); or
- (b) by the conditions of issue of which it is provided that this section shall apply to it.

Privileges of chambers.

55. The Legislature may by law determine and regulate the privileges, immunities and powers of either chamber of the Legislature and the members thereof, but no such privileges, immunities or powers shall exceed those of the Commons House of Parliament of the United Kingdom or of the members thereof.

Summoning, Prorogation and Dissolution

Sessions of the chambers.

56. — (1) Subject to the provisions of this Constitution, the sessions of the chambers of the Legislature shall be held in such places and shall commence at such times as the Governor may appoint by proclamation published in the Gazette:

Provided that the sessions of the two chambers shall commence on the same day.

(2) There shall be a session of each chamber from time to time so that a period longer than twelve months does not intervene between the last sitting in one session and the first sitting in the next session.

57.—(1) The Governor may at any time prorogue or dissolve the Legislature by proclamation published in the Gazette. Prorogation and dissolution of the Legislature.

(2) The Governor shall dissolve the Legislature at the expiration of five years from the date when the House of Assembly first meets after any general election of Representatives unless the Legislature has been sooner dissolved under the powers conferred by subsection (1) of this section.

(3) In the exercise of the powers conferred upon him by subsection (1) of this section, the Governor shall act in accordance with the advice of the Prime Minister:

Provided that—

(a) if the Prime Minister advises the Governor to dissolve the Legislature and the Governor considers that the government of the Bahama Islands can be carried on without a dissolution and that a dissolution would not be in the interests of the Bahama Islands, the Governor, acting in his discretion, may refuse to dissolve the Legislature; and

(b) if the office of Prime Minister is vacant and the Governor considers that there is no prospect of his being able to appoint a person who can command the support of the majority of the Representatives to that office within a reasonable time, the Governor, acting in his discretion, may dissolve the Legislature.

58.—(1) Subject to the provisions of subsection (2) of this section, the Governor may, between a dissolution of the Legislature and the next ensuing general election, by proclamation published in the Gazette, summon the two chambers of the Legislature as constituted immediately before the said dissolution, and that Legislature shall thereupon be deemed (except for the purposes of section 59(1) of this Constitution) not to have been dissolved but shall be deemed (except as aforesaid) to be dissolved on the day on which the next ensuing general election is held. Recalling dissolved Legislature in case of emergency.

(2) If the Governor is of the opinion that an emergency has arisen of such a nature that it is necessary to exercise the power conferred by this section he may exercise that power after consultation with the Prime Minister; and if the Prime Minister is of the opinion that such an emergency has arisen and so advises the Governor, the Governor shall exercise that power in accordance with the advice of the Prime Minister.

59.—(1) A general election of Representatives shall be held at such time within three months after every dissolution of the Legislature as the Governor shall appoint by proclamation published in the Gazette. General elections, bye-elections and appointments to Senate.

(2) Whenever any person vacates his seat as a Representative for any reason other than a dissolution of the Legislature, an election to fill the vacancy shall be held within two months after the occurrence of the vacancy or, where the question whether a vacancy has occurred is determined under section 41 of this Constitution, after that determination unless the Legislature is sooner dissolved or the date by which the Legislature will be dissolved under the provisions of section 57(2) of this Constitution is less than four months after the occurrence of the vacancy or, as the case may be, that determination.

(3) As soon as practicable after every general election the Governor shall proceed under section 30 of this Constitution to the appointment of Senators.

(4) Whenever any person vacates his seat as a Senator for any reason other than a dissolution of the Legislature, the Governor shall, as soon as practicable, appoint a person to fill the vacancy under the same paragraph of section 30(2) of this Constitution as the person whose seat has become vacant was appointed.

Delimitation of Constituencies

Division of
Bahama
Islands into
single-
member
constitu-
encies.

60.—(1) The Bahama Islands shall be divided into thirty-eight electoral areas (hereinafter referred to as “constituencies”) of which not less than sixteen nor more than twenty shall be in the Island of New Providence and not less than eighteen nor more than twenty-two shall be in the remainder of the Bahama Islands.

(2) Subject to subsection (1) of this section, the boundaries of constituencies shall be determined in accordance with the provisions of section 62 of this Constitution.

(3) Each constituency shall return one member to the House of Assembly in accordance with the law for the time being in force relating to elections.

Constitu-
encies
Commission.

61.—(1) There shall be a Constituencies Commission for the Bahama Islands (in this and the next following section referred to as “the Commission”).

(2) The members of the Commission shall be—

(a) the Speaker who shall be Chairman ;

(b) a judge of the Supreme Court who shall be Deputy Chairman and shall be appointed by the Governor acting after consultation with the Chief Justice ;

(c) two members of the House of Assembly who shall be appointed by the Governor acting in accordance with the advice of the Prime Minister ; and

(d) one member of the House of Assembly who shall be appointed by the Governor acting in accordance with the advice of the leader of the opposition.

(3) The office of a member of the Commission shall become vacant—

(a) if he ceases to be the Speaker, a judge of the Supreme Court or a member of the House of Assembly, as the case may be ; or

(b) in the case of a member appointed under paragraph (b), (c) or (d) of subsection (2) of this section, if his appointment is revoked by the Governor.

(4) If the office of a member of the Commission, appointed under paragraph (b), (c) or (d) of subsection (2) of this section is vacant or any such member is for any reason unable to perform the functions of his office the Governor may appoint a person qualified for appointment under the said paragraph (b), (c) or (d), as the case may be, to act in the office of that member and any person so appointed may continue so to act until his appointment is revoked.

(5) In revoking the appointment of a member of the Commission under subsection (3)(b) of this section, and in making or revoking an appointment to act in the office of a member of the Commission under subsection (4) of this section, the Governor shall act in the same manner as he would act if he were making an appointment to the office of that member under subsection (2) of this section.

(6) Any decision of the Commission shall require the concurrence of not less than three members of the Commission.

(7) Subject to the provisions of subsection (6) of this section, the Commission may act notwithstanding a vacancy in its membership, and no proceedings of the Commission shall be invalidated by reason only that some person not entitled to do so has taken part in them.

62.—(1) Subject to the provisions of section 60(1) of this Constitution, the Commission shall, at intervals of not more than five years, review the boundaries of the constituencies and submit to the Governor a single report either—

Procedure
for review
of consti-
tuencies.

(a) stating that, in the opinion of the Commission, no change is required ; or

(b) recommending the changes in those boundaries specified in the report,

and the Governor shall cause such report to be laid before the House of Assembly forthwith.

(2) In carrying out a review for the purposes of this section, the Commission shall be guided by the general consideration that the number of voters entitled to vote for the purposes of electing every member of the House of Assembly shall, so far as is reasonably practicable, be the same and the need to take account of special considerations such as the needs of sparsely populated areas, the practicability of elected members maintaining contact with electors in such areas, size, physical features, natural boundaries, local government areas, geographical isolation and inadequacy of communications.

(3) When the Commission intends to proceed under subsection (1) of this section, it shall, by notice in writing, inform the Prime Minister, who shall cause a copy of that notice to be published in the Gazette.

(4) As soon as may be after the Commission has submitted a report recommending changes in the boundaries of any constituencies the Prime Minister shall lay before the House of Assembly for its approval a draft of an order by the Governor for giving effect, whether with or without modifications, to the recommendations contained in the report, and that draft may make provision for any matters which appear to the Prime Minister to be incidental to or consequential upon the other provisions of the draft.

(5) Where any draft order laid under this section would give effect to any such recommendations with modifications, the Prime Minister shall lay before the House of Assembly together with the draft a statement of the reasons for the modifications.

(6) If the motion for the approval of any draft order laid under this section is rejected by the House of Assembly, or is withdrawn by leave of that chamber, an amended draft shall be laid without undue delay by the Prime Minister before the House of Assembly.

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

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

(8) The question of the validity of any order by the Governor purporting to be made under this section and reciting that a draft thereof has been approved by resolution of the House of Assembly shall not be inquired into in any court of law.

PART IV

THE EXECUTIVE

Executive
authority.

63.—(1) The executive authority of the Bahama Islands is vested in Her Majesty.

(2) Subject to the provisions of this Constitution, the executive authority of the Bahama Islands may be exercised on behalf of Her Majesty by the Governor, either directly or through officers subordinate to him, but nothing in this subsection shall operate so as to prejudice the provisions of any law for the time being in force in the Bahama Islands whereby functions are conferred on persons or authorities other than the Governor.

The
Cabinet.

64.—(1) There shall be a Cabinet for the Bahama Islands which, subject to the provisions of this Constitution, shall have the general direction and control of the government of the Bahama Islands and shall be collectively responsible therefor to the Legislature.

(2) The Cabinet shall consist of the Prime Minister and not less than eight other Ministers, who shall be appointed in accordance with the provisions of section 65 of this Constitution.

Appoint-
ment of
Ministers.

65.—(1) The Governor, acting in his discretion, shall appoint as Prime Minister the Representative who, in his judgment, is best able to command the confidence of a majority of the Representatives and who is willing to accept the office of Prime Minister.

(2) The Ministers other than the Prime Minister shall be such persons as the Governor, acting in accordance with the advice of the Prime Minister, shall appoint from among the Senators and the Representatives:

Provided that at least one and not more than three of such Ministers shall be appointed from among the Senators.

(3) If occasion arises for making an appointment of a Minister between a dissolution of the Legislature and the next following general election, the preceding provisions of this section shall have effect for the purpose as if the Legislature had not been dissolved.

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

66.—(1) The Prime Minister shall vacate his office—

Tenure of
office of
Prime
Minister.

- (a) if he ceases to be a Representative for any reason other than a dissolution of the Legislature ;
- (b) if, under the provisions of section 39(2) of this Constitution, he is required to cease to perform his functions as a Representative ;
- (c) if he is absent from the Bahama Islands for a period exceeding forty-eight hours without having given the Governor prior notice of such absence ; or
- (d) if the Governor revokes his appointment as Prime Minister in accordance with the provisions of subsection (2) or (3) of this section.

(2) If the House of Assembly by the affirmative votes of a majority of all the Representatives passes a resolution that it has no confidence in the Government of the Bahama Islands, the Governor shall, by instrument under the Public Seal, revoke the Prime Minister's appointment:

Provided that before so doing the Governor shall consult with the Prime Minister and shall not revoke the Prime Minister's appointment if he dissolves the Legislature under section 57 of this Constitution.

(3) The Governor, acting in his discretion, may by instrument under the Public Seal revoke the appointment of the Prime Minister if at any time between the holding of a general election and the first sitting of the House of Assembly thereafter the Governor considers that, in consequence of the changes in the House of Assembly resulting from that election, the Prime Minister will not be the Representative best able to command the support of a majority of the Representatives.

67.—(1) A Minister, other than the Prime Minister, shall vacate his office—

Tenure of
office of
Ministers
other than
the Prime
Minister.

- (a) whenever a person is appointed to the office of Prime Minister ;
- (b) if his appointment to his office is revoked by the Governor by instrument under the Public Seal ;
- (c) if, for any reason other than a dissolution of the Legislature, he ceases to be a member of the chamber of which he was a member at the date of his appointment as a Minister or if he is not a member of that chamber when it first meets after a dissolution of the Legislature ; or
- (d) if, under the provisions of section 33(2) or, as the case may be, 39(2), of this Constitution, he is required to cease to perform his functions as a Senator or Representative.

(2) The powers of the Governor under subsection (1)(b) of this section shall be exercised by him in accordance with the advice of the Prime Minister unless the Cabinet, upon the appointment of any person as Prime Minister, signifies its desire that, during the tenure by that person of the office of Prime Minister, the powers should be exercised in accordance with the advice of the Cabinet.

Performance of functions of Prime Minister in certain events.

68.—(1) Whenever the Prime Minister is absent from the Bahama Islands or is unable by reason of illness to perform the functions conferred upon him by this Constitution, the Governor may, by directions in writing, authorise any other Minister who was appointed from among the Representatives temporarily to perform the functions conferred on the Prime Minister by this Constitution (other than the functions conferred upon him by subsection (2) of this section) and that member may perform those functions until his authority is revoked by the Governor.

(2) The powers conferred upon the Governor by this section shall be exercised by him acting in his discretion if the office of Prime Minister is vacant or if, in his judgment, it is impracticable to obtain the Prime Minister's advice owing to his illness or absence, and in any other case shall be exercised in accordance with the advice of the Prime Minister.

Temporary Ministers.

69.—(1) Whenever a Minister other than the Prime Minister is unable, by reason of his illness or absence from the Bahama Islands or absence from his duties on leave, to perform the functions of his office, the Governor may, in writing, appoint a person who is a member of the same chamber of the Legislature as that Minister to be a temporary Minister:

Provided that if occasion arises for the making of an appointment between a dissolution of the Legislature and the next following general election, the preceding provisions of this section shall have effect for the purpose as if the Legislature had not been dissolved.

(2) Subject to the provisions of section 67 of this Constitution, a temporary Minister shall hold office until he is notified by the Governor in writing that the Minister on account of whose inability to perform the functions of his office he was appointed is again able to perform those functions or that Minister vacates his office.

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

Allocation of portfolios to Ministers.

70.—(1) Subject to the provisions of this Constitution, the Governor, acting in accordance with the advice of the Prime Minister, may by directions in writing charge any Minister with responsibility for any matter or any department of government and designate the style by which any Minister so charged shall be known:

Provided that a Minister appointed from among the Representatives shall be charged with responsibility for finance and shall be styled "Minister of Finance".

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

(3) Without prejudice to the generality of subsection (2) of this section, except for the purpose of submitting questions relating to such matters to the Cabinet and conducting government business relating to such matters in either chamber of the Legislature, a Minister shall not be charged under this section with responsibility for—

(a) any matter for which the Governor is responsible under section 72 or 73(1) of this Constitution ;

- (b) the discharge by the courts of the Bahama Islands of their judicial functions ;
- (c) the initiation, conduct and discontinuance of criminal proceedings ;
- (d) the audit of the accounts of the Bahama Islands ;
- (e) the making of appointments (including appointments on promotion, appointments on transfer and the confirmation of appointments) to public offices, the removal or disciplinary control (including the withholding of increments of salary) of persons holding or acting in such offices and the grant of any benefits in relation to pensions and gratuities in pursuance of section 113 of this Constitution.

(4) For the purposes of subsection (3)(e) of this section, the office of a judge of the Supreme Court or Court of Appeal or a member of the personal staff of the Governor shall be deemed to be a public office.

(5) Subject to the provisions of this Constitution, where any Minister has been charged with the responsibility for a matter or department of government in pursuance of this section, he shall exercise general direction and control over the work relating to that matter and over that department and, subject to such direction and control by the Minister, the work and the department shall be under the supervision of a public officer (in this Constitution referred to as a permanent secretary) appointed for the purpose :

Provided that for the purposes of this subsection a permanent secretary may be appointed to supervise the work relating to several matters and departments.

71.—(1) Without prejudice to the powers of Her Majesty's Government in the United Kingdom to regulate the external affairs of the Bahama Islands, the Government of the Bahama Islands shall have such authority to conduct external affairs as may from time to time be entrusted to the Government of the Bahama Islands by Her Majesty's Government in the United Kingdom.

Authority of Government of Bahama Islands to conduct external affairs.

(2) The scope of the authority that is entrusted to the Government of the Bahama Islands under subsection (1) of this section shall be such as may be defined by, and that authority shall be exercised in accordance with, the terms of such communications as may from time to time be made to the Government of the Bahama Islands by Her Majesty's Government in the United Kingdom, and every communication made in pursuance of this subsection shall be published in the Gazette.

72. The Governor, acting in his discretion, shall be responsible for the following matters—

Governor's special responsibility for external affairs and defence.

- (a) such matters relating to external affairs as may be specified in any instructions given to him by Her Majesty under Her Sign Manual and Signet or through a Secretary of State ; and
- (b) defence, including the armed forces.

73.—(1) Responsibility for internal security and all matters relating to the Police Force is vested in the Governor ; but the Governor shall by instrument under his hand (in this section referred to as "the instrument of entrustment") entrust the designated Minister with authority to discharge that responsibility.

Governor's special responsibility for internal security and the Police Force and entrustment thereof.

(2) The instrument of entrustment shall contain such directions as the Governor may think fit with respect to—

- (a) the exercise by the designated Minister of the authority entrusted to him ;
- (b) the relationship between the Commissioner of Police and the Governor and between the Commissioner of Police and the designated Minister ;
- (c) the provision of information to the Governor and the Security Council by the designated Minister.

(3) The entrustment made in pursuance of subsection (1) of this section shall not prejudice the right of the Governor himself to take action, if he considers it necessary so to do, for the purpose of discharging the responsibility vested in him by that subsection.

(4)—(a) If at any time he considers it necessary so to do in the interests of the matters for which responsibility is vested in him by subsection (1) of this section, the Governor may, by notice addressed to the Prime Minister, suspend the operation of the instrument of entrustment ; and during any period when the operation of the instrument is so suspended the designated Minister shall have no authority to discharge the responsibility referred to in subsection (1) of this section.

(b) Before suspending the operation of the instrument of entrustment the Governor shall consult the Security Council unless in his judgment it is impracticable for him to do so.

(5) The instrument of entrustment may be varied by a supplementary instrument made in like manner or may be revoked and replaced by a new instrument.

(6) In the foregoing provisions of this section—

- (a) references to the Governor are references to the Governor acting in his discretion ;
- (b) “the designated Minister” means the Minister for the time being designated for the purposes of this section by the Governor acting in accordance with the advice of the Prime Minister ;
- (c) “matters relating to the Police Force” does not include matters so relating for which provision is made by Part VI of this Constitution ; and
- (d) “the Security Council” means the Council established by section 74 of this Constitution.

(7) The entrustment made in pursuance of subsection (1) of this section shall not have the effect of conferring or imposing on the designated Minister any power, authority or duty that is conferred or imposed by any provision of this Constitution (other than subsection (1) of this section) or by any other law upon the Governor or any person or authority other than the designated Minister.

Security
Council.

74.—(1) There shall be a Security Council which shall consist of—

- (a) the Governor, as Chairman ;
- (b) the Prime Minister ;

(c) such other Minister as may for the time being be designated in that behalf by the Governor acting in accordance with the advice of the Prime Minister ;

(d) such other persons as may be appointed by the Governor acting after consultation with the Prime Minister.

(2) A member of the Security Council appointed under subsection (1)(d) of this section shall vacate his seat on the Council if the Governor, acting after consultation with the Prime Minister, so directs by writing under his hand.

(3) The functions of the Security Council shall be to consult together and exchange information on questions of policy relating to external affairs, defence, internal security and the Police Force.

(4) Without prejudice to the generality of subsection (3) of this section—

(a) the Governor shall consult with the Security Council and keep the Council informed with respect to any matter for which he is responsible under section 72 of this Constitution that may involve the political, economic or financial interests of the Bahama Islands or the enactment of laws by the Legislature ;

(b) the Security Council shall consider any question relating to internal security or the Police Force on which it is reported to the Council by the Governor, acting in his discretion, or by any Minister for the time being entrusted with any responsibility under section 73 of this Constitution that a difference of opinion exists between them ; and

(c) the Security Council may tender advice to the Governor with respect to the discharge by the Governor of his responsibility under section 73(1) of this Constitution.

(5) Nothing in subsections (3) and (4) of this section shall be construed as requiring the Governor to obtain or act in accordance with the advice of the Security Council in the discharge of his responsibility under the said section 73(1).

(6) The Governor, acting in his discretion, may summon a meeting of the Security Council whenever he considers it desirable to do so and shall summon such a meeting whenever the Prime Minister requests him to do so.

(7) The Governor, acting after consultation with the Prime Minister, may summon any person who is not a member of the Security Council to attend any meeting of the Council whenever he considers it desirable to do so.

(8) Subject to the provisions of this section, the Security Council may regulate its own procedure.

75. The Governor shall, for the due exercise of his functions, be entitled to all papers which are available to the Cabinet and to any other information concerning the government of the Bahama Islands which is so available.

Governor
entitled to
information.

76. (1) The Governor, acting in accordance with the advice of the Prime Minister, may appoint Parliamentary Secretaries from among the members of the two chambers of the Legislature to assist Ministers in the performance of their functions.

Parliamentary
Secretaries.

(2) If occasion arises for making an appointment of a Parliamentary Secretary between a dissolution of the Legislature and the next following general election, subsection (1) of this section shall have effect for the purpose as if the Legislature had not been dissolved.

(3) The provisions of section 67 of this Constitution shall apply to Parliamentary Secretaries as they apply to Ministers other than the Prime Minister.

Oaths.

77. A Minister or Parliamentary Secretary shall, before entering upon the duties of his office, make before the Governor an oath or affirmation of allegiance and an oath or affirmation for the due execution of his office in the forms set out in the Schedule to this Constitution.

Leave of absence for Ministers and Parliamentary Secretaries.

78. The Governor, acting in accordance with the advice of the Prime Minister, may grant leave of absence from his duties to any Minister or Parliamentary Secretary.

Summoning of Cabinet.

79. The Governor, acting in his discretion, may summon a special meeting of the Cabinet whenever he thinks fit, but, subject thereto, the Cabinet shall not be summoned except by the authority of the Prime Minister.

Presiding in Cabinet.

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

Provided that whenever the Governor is present at any meeting of the Cabinet which he has summoned under the provisions of section 79 of this Constitution he shall preside.

Quorum of Cabinet.

81.—(1) No business shall be transacted at any meeting of the Cabinet if there are present at the meeting less than a majority of the members for the time being of the Cabinet.

(2) Subject to subsection (1) of this section, the Cabinet shall not be disqualified for the transaction of business by reason of any vacancy in the membership of the Cabinet (including any vacancy not filled when the Cabinet is first constituted or is reconstituted at any time) and the validity of the transaction of business in the Cabinet shall not be affected by reason only of the fact that some person who was not entitled so to do took part in those proceedings.

Summoning of persons to Cabinet.

82. The Prime Minister or, in the case of a meeting summoned under section 79 of this Constitution, the Governor, acting in his discretion, may summon any public officer to a meeting of the Cabinet whenever, in the opinion of the Prime Minister or, as the case may be, the Governor, the business before the Cabinet renders the presence of the officer desirable.

Secretary to Cabinet.

83.—(1) The office of Secretary to the Cabinet is hereby constituted and appointments to that office shall be made by the Governor, acting in accordance with the advice of the Prime Minister.

(2) The Secretary to the Cabinet shall be removable from that office by the Governor, acting in accordance with the advice of the Prime Minister.

(3) The office of Secretary to the Cabinet shall, for the purposes of sections 97, 99, 102, 104, 111, 112, and 113 of this Constitution, be deemed to be a public office.

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

- (a) before the Prime Minister advises the Governor to make such appointment, the Prime Minister shall consult with the Public Service Commission ;
- (b) an officer so appointed shall not, during his continuance in office as Secretary to the Cabinet, perform the functions of any public office ; and
- (c) an officer so appointed may at any time be appointed by the Governor, acting on the recommendation of the Public Service Commission, to assume or resume the functions of a public office and he shall thereupon vacate his office as Secretary to the Cabinet, but no appointment under this paragraph shall be made without the concurrence of the Prime Minister.

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

(6) The Secretary to the Cabinet shall—

- (a) transmit to the Governor copies of all papers submitted for consideration by the Cabinet at the same time as those papers are transmitted to Ministers ;
- (b) inform the Governor of the summoning of any meeting of the Cabinet and of the matters to be discussed at that meeting at the same time as Ministers are so informed ; and
- (c) furnish the Governor, as soon as practicable after each meeting of the Cabinet, with a copy of the record of the proceedings at that meeting showing the matters discussed and the conclusions reached by the Cabinet at that meeting.

84.—(1) There shall be an Attorney-General for the Bahama Islands whose office shall be a public office and who shall be appointed by the Governor, acting on the recommendation of the Judicial and Legal Service Commission.

Attorney-
General.

(2) If the office of Attorney-General is vacant or the holder thereof is for any reason unable to perform the functions of his office, the Governor, acting on the recommendation of the Judicial and Legal Service Commission, may appoint a person to act in that office, and any person so appointed may continue so to act until a person is appointed to hold that office and assumes the functions thereof or, as the case may be, the holder thereof resumes those functions or until his appointment is revoked by the Governor, acting on the recommendation of the Judicial and Legal Service Commission.

(3) The Legislature may by law prescribe qualifications for appointment to hold the office of Attorney-General :

Provided that a person who has been appointed to hold that office may continue in office notwithstanding that such qualifications are subsequently so prescribed or varied.

(4) The Attorney-General shall receive such salary and allowances as, subject to subsection (5) of this section, may from time to time be prescribed by any law of the Legislature, and the said salary and allowances are hereby charged on, and shall be paid out of, the Consolidated Fund.

(5) The salary of the Attorney-General and his conditions of service other than allowances shall not be altered to his disadvantage during his continuance in office.

Tenure of
office of
Attorney-
General.

85.—(1) Subject to the provisions of subsections (2) to (6) (inclusive) of this section, a person holding the office of the Attorney-General shall vacate office when he attains the age of sixty years :

Provided that the Governor, acting in his discretion, may permit an Attorney-General who has attained the age of sixty years to continue in office until he has attained such later age, not exceeding sixty-five years, as may (before the Attorney-General has attained the age of sixty years) have been agreed between them.

(2) The Attorney-General may be removed from office only for inability to discharge the functions thereof (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and shall not be so removed except in accordance with the provisions of subsection (3) of this section.

(3) The Attorney-General shall be removed from office by the Governor by instrument under the Public Seal 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 Governor, acting in his discretion, considers that the question of removing the Attorney-General from office for inability as aforesaid or for misbehaviour ought to be investigated, or if the Prime Minister or the Chief Justice after consultation with the Prime Minister represents to the Governor that that question 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 his discretion, from among persons who hold or are qualified to hold or have held high judicial office ; and

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

(5) The provisions (excluding sections 2 and 7(2)) of the Commissions of Inquiry Act^(a) of the Bahama Islands as in force imme-

(a) Statute Law of the Bahama Islands 1965, Ch. 180.

diately before the coming into operation of this Constitution shall, subject to the provisions of this section, apply as nearly as may be in relation to tribunals appointed under subsection (4) of this section or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Act and for that purpose shall have effect as if they formed part of this Constitution.

(6) If the question of removing the Attorney-General from office has been referred to a tribunal under subsection (4) of this section, the Governor, acting in his discretion, may suspend the Attorney-General from performing the functions of his office and any such suspension may at any time be revoked by the Governor, acting in his discretion, and shall in any case cease to have effect if the tribunal recommends to the Governor that the Attorney-General should not be removed from office.

86.—(1) The Attorney-General shall have power, in any case in which he considers it desirable so to do— Powers of
Attorney-
General.

(a) to institute and undertake criminal proceedings against any person before any civil court established for the Bahama Islands in respect of any offence alleged to have been committed by that person ;

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

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

(2) The powers of the Attorney-General under subsection (1) of this section may be exercised by him in person or by officers subordinate to him acting under and in accordance with his general or special instructions.

(3) The powers conferred upon the Attorney-General under subsection (1)(b) and (c) of this section shall be vested in him to the exclusion of any other person :

Provided that where any other person or authority has instituted criminal proceedings, nothing in this subsection shall, save when the Attorney-General has exercised his powers under subsection (1)(b) of this section, prevent the withdrawal of those proceedings by or at the instance of that person or authority and with the leave of the court.

(4) For the purposes of this section, any appeal from any determination in any criminal proceedings before any court, or any case stated or question of law reserved for the purpose of any such proceedings, to any other court established for the Bahama Islands or to Her Majesty in Council shall be deemed to be part of those proceedings.

(5) In the exercise of the powers conferred on him by this section and by section 53(5) of this Constitution, the Attorney-General shall not be subject to the direction or control of any other person or authority.

PART V

THE JUDICIARY

The Supreme Court

Constitution
of Supreme
Court.

87.—(1) There shall be a Supreme Court for the Bahama Islands having such powers and jurisdiction as may be provided by any law for the time being in force in the Bahama Islands.

(2) The judges of the Supreme Court shall be a Chief Justice and such number of Puisne Judges as the Legislature may by law prescribe:

Provided that the office of a judge of the Supreme Court shall not, without his consent, be abolished during his continuance in office.

(3) The Chief Justice of the Supreme Court shall be a person qualified for appointment under subsection (5) of this section and shall be appointed by the Governor, by instrument under the Public Seal, after consultation with the Prime Minister.

(4) The Puisne Judges of the Supreme Court shall be persons qualified as aforesaid and shall be appointed by the Governor, by instrument under the Public Seal, after consultation with the Chief Justice.

(5) The qualifications for appointment as a judge of the Supreme Court shall be such as may be prescribed by any law for the time being in force in the Bahama Islands:

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

Tenure of
office of
judges of
Supreme
Court.

88.—(1) Subject to the following provisions of this section, a judge of the Supreme Court shall vacate his office when he attains the age of sixty-five years:

Provided that a judge who has attained that age may continue in office for such period as may be necessary to enable him to deliver judgment or to do any other thing in relation to any proceeding commenced before him before he attained that age.

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

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

(4) If the Governor considers that the question of removing a judge of the Supreme Court from office for inability as aforesaid or 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 from among persons who hold or have held high judicial office ;
- (b) the tribunal shall inquire into the matter and report on the facts thereof to the Governor and recommend to the Governor whether he should request that the question of the removal of that judge should be referred by Her Majesty to the Judicial Committee ; and
- (c) if the tribunal so recommends, the Governor shall request that the question should be referred accordingly.

(5) The provisions (excluding sections 2 and 7(2)) of the Commissions of Inquiry Act of the Bahama Islands as in force immediately before the coming into operation of this Constitution shall, subject to the provisions of this section, apply as nearly as may be in relation to tribunals appointed under subsection (4) of this section or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Act and for that purpose shall have effect as if they formed part of this Constitution.

(6) If the question of removing a judge of the Supreme Court from office has been referred to a tribunal under subsection (4) of this section the Governor may suspend the judge from performing the functions of his office, and any such suspension may at any time be revoked by the Governor, and shall in any case cease to have effect—

- (a) if the tribunal recommends to the Governor that he should not request that the question of the removal of the judge from office should be referred by Her Majesty to the Judicial Committee ; or
- (b) if the Judicial Committee advises Her Majesty that the judge ought not to be removed from office.

(7) The powers conferred upon the Governor by this section shall be exercised by him acting in his discretion.

89.—(1) If the office of Chief Justice is vacant, or if the holder thereof is for any reason unable to perform the functions of his office, then, until some other person has been appointed to, or has been appointed to act in, and has assumed the functions of, that office, or until the holder thereof has resumed those functions, as the case may be, such one of the Puisne Judges as the Governor, acting after consultation with the Prime Minister, may appoint for that purpose shall act in the office of Chief Justice.

Acting
judges of
Supreme
Court.

(2) If the office of a Puisne Judge is vacant, or if any such Judge is acting as Chief Justice, or is for any reason unable to perform the functions of his office the Governor, acting after consultation with the Chief Justice, may appoint a person possessing such legal qualifications and experience as he may deem appropriate to act as a Puisne Judge of the Supreme Court :

Provided that a person may be so appointed notwithstanding that he has attained the age of sixty-five years.

(3) Any person appointed under this section to act as a Puisne Judge of the Supreme Court may continue so to act until his appointment is revoked by the Governor, acting after consultation with the Chief Justice.

Salaries of judges of Supreme Court.

90.—(1) The judges of the Supreme Court shall receive such salaries and allowances as, subject to subsection (2) of this section, may from time to time be prescribed by any law of the Legislature, and the said salary and allowances are hereby charged on, and shall be paid out of, the Consolidated Fund.

(2) The salary of a judge of the Supreme Court and his conditions of service other than allowances shall not be altered to his disadvantage during his continuance in office.

Oaths to be taken by judges of Supreme Court.

91. Before entering upon the functions of his office, every judge of the Supreme Court shall make and subscribe before the Governor, or some other person authorised in that behalf by the Governor, oaths or affirmations of allegiance and for the due execution of his office in the forms set out in the Schedule to this Constitution.

The Court of Appeal

Constitution of Court of Appeal.

92.—(1) There shall be a Court of Appeal for the Bahama Islands having such powers and jurisdiction as may be provided by any law for the time being in force in the Bahama Islands.

(2) The judges of the Court of Appeal shall be a President and such number of Justices of Appeal, not being less than two, as the Legislature may by law prescribe:

Provided that the office of a Justice of Appeal shall not, without his consent, be abolished during his continuance in office.

(3) The judges of the Court of Appeal shall be persons qualified for appointment under subsection (4) of this section and shall be appointed by the Governor, acting after consultation with the Prime Minister, by instrument under the Public Seal for such period as may be specified in their respective instruments of appointment.

(4) A person shall be qualified to be appointed as a judge of the Court of Appeal if, and shall not be qualified to be so appointed unless, he holds or has held high judicial office.

(5) Any power exercisable by a single judge of the Court of Appeal may, at any time when there is no such judge present in the Bahama Islands and able to perform the functions of his office, be exercised by a judge of the Supreme Court as if that judge were a judge of the Court of Appeal.

Tenure of office of judges of Court of Appeal.

93.—(1) Subject to the following provisions of this section, the office of a judge of the Court of Appeal shall become vacant upon the expiration of the period of his appointment to that office.

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

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

(4) If the Governor considers that the question of removing a judge of the Court of Appeal from office for inability as aforesaid or 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 from among persons who hold or have held high judicial office ;

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

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

(5) The provisions (excluding sections 2 and 7(2)) of the Commissions of Inquiry Act of the Bahama Islands as in force immediately before the coming into operation of this Constitution shall, subject to the provisions of this section, apply as nearly as may be in relation to tribunals appointed under subsection (4) of this section or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Act and for that purpose shall have effect as if they formed part of this Constitution.

(6) If the question of removing a judge of the Court of Appeal from office has been referred to a tribunal under subsection (4) of this section the Governor may suspend the judge from performing the functions of his office, and any such suspension may at any time be revoked by the Governor, and shall in any case cease to have effect—

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

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

(7) The powers conferred upon the Governor by this section shall be exercised by him acting in his discretion.

94.—(1) If the office of the President is vacant, or if the holder thereof is for any reason unable to perform the functions of his office, then, until some other person has been appointed to, or has been appointed to act in, and has assumed the functions of, that office, or until the holder thereof has resumed those functions, as the case may

Acting
judges of
Court of
Appeal.

be, such one of the Justices of Appeal as the Governor, acting after consultation with the Prime Minister, may appoint for that purpose shall act in the office of President.

(2) If the office of a Justice of Appeal is vacant, or if any Justice of Appeal is acting as the President, or is for any reason unable to perform the functions of his office the Governor, acting after consultation with the Prime Minister, may appoint a person possessing such legal qualifications and experience as he, after consultation with the President, may deem appropriate to act as a Justice of Appeal.

(3) Any person appointed under this section to act as a Justice of Appeal may continue so to act until his appointment is revoked by the Governor, acting in his discretion.

Salaries of judges of Court of Appeal.

95.—(1) The judges of the Court of Appeal shall receive such salaries and allowances as, subject to subsection (2) of this section, may from time to time be prescribed by any law of the Legislature, and the said salary and allowances are hereby charged on, and shall be paid out of, the Consolidated Fund.

(2) The salary of a judge of the Court of Appeal and his conditions of service other than allowances shall not be altered to his disadvantage during his continuance in office.

Oaths to be taken by judges of Court of Appeal.

96. Before entering upon the functions of his office every judge of the Court of Appeal shall make and subscribe before the Governor, or some other person authorised in that behalf by the Governor, oaths or affirmations of allegiance and for the due execution of his office in the forms set out in the Schedule to this Constitution.

PART VI

THE PUBLIC SERVICE

The Public Service Commission

Composition of Public Service Commission.

97.—(1) There shall be a Public Service Commission for the Bahama Islands which shall consist of a Chairman and not less than two nor more than four other members appointed by the Governor, by instrument under the Public Seal, for such period, being not less than three nor more than six years, as may be specified in their respective instruments of appointment.

(2) A person shall be disqualified for appointment as a member of the Public Service Commission if he is a member of either chamber of the Legislature or a public officer.

(3) A person shall not, while he holds or is acting in the office of a member of the Public Service Commission or within a period of five years commencing with the date on which he last held or acted in that office, be eligible for appointment to or to act in any public office.

(4) The office of a member of the Public Service Commission shall become vacant—

(a) at the expiration of the period specified in the instrument by which he was appointed ;

(b) if he becomes a member of either chamber of the Legislature ;
or

(c) if he is removed from office in accordance with subsection (5) of this section.

(5) A member of the Public Service Commission shall be removed from office by the Governor, by instrument under the Public Seal, if the Governor is satisfied that he ought to be removed from office for inability to discharge the functions thereof (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(6) Whenever the office of the Chairman of the Public Service Commission is vacant or the holder thereof is for any reason unable to perform the functions of his office, such one of the other members of the Public Service Commission as the Governor shall appoint may act in the office of the Chairman.

(7) If the office of a member of the Public Service Commission other than the Chairman is vacant or the holder thereof is acting as the Chairman or is for any reason unable to perform the functions of his office, the Governor may appoint a person who is qualified for appointment as a member of the Commission to act as such a member ; and any person so appointed may, subject to the provisions of subsection (4) of this section, continue to act until he is notified by the Governor that the circumstances giving rise to the appointment have ceased to exist.

(8) The members of the Commission shall receive such salaries and allowances as, subject to subsection (9) of this section, may from time to time be prescribed by any law of the Legislature and the said salaries and allowances are hereby charged on, and shall be paid out of, the Consolidated Fund.

(9) The salary of a member of the Commission and his conditions of service other than allowances shall not be altered to his disadvantage during his continuance in office.

(10) The powers conferred upon the Governor by this section shall be exercised by him acting after consultation with the Prime Minister.

98.—(1) Subject to the provisions of this Constitution, power to make appointments to public offices, and to remove or exercise disciplinary control over persons holding or acting in such offices, is vested in the Governor, acting on the recommendation of the Public Service Commission.

Appoint-
ments, etc.
of public
officers.

(2) This section shall apply in relation to the office of teacher in the Department of Education and of officer of the medical establishment, and to any person holding or acting in either of such offices, as it applies to other public offices and to persons holding or acting in those offices.

(3) Before the Public Service Commission recommends to the Governor the appointment of a person to be a permanent secretary or the head of a department of government (or to be the holder of any such other office of similar status as the Governor may, after consultation with the Prime Minister, specify by notice in the Gazette) the Commission shall consult the Prime Minister.

(4) The Public Service Commission may have such other functions in relation to public offices and public officers as may be prescribed by any law of the Legislature or regulations made by the Governor.

(5) Notwithstanding the preceding provisions of this section, power to make appointments to any office of permanent secretary on transfer from another such office carrying the same salary is vested in the Governor, acting on the recommendation of the Prime Minister.

(6) The power to make appointments under subsection (1) of this section shall not extend to postings or transfers between duty posts in the same grade or scale within a department of government of public officers in that department, and the power to make such postings or transfers is vested in the head of that department.

Delegation of
Governor's
powers.

99. The Governor, acting on the recommendation of the Public Service Commission, may by directions given by instrument under the Public Seal delegate, to such extent and subject to such conditions as may be specified in those directions, the powers vested in him by section 98(1) of this Constitution (other than powers to make appointments to the offices referred to in section 98(3) and to remove or exercise disciplinary control over persons holding or acting in such offices) to such public officers as may be so specified.

Public Service Board of Appeal

Composition
of Public
Service
Board of
Appeal.

100.—(1) There shall be a Public Service Board of Appeal for the Bahama Islands which shall consist of the following members, who shall be appointed by instrument under the Public Seal,—

- (a) a Chairman appointed by the Governor, acting in his discretion, from among persons who hold or have held high judicial office or are qualified to hold high judicial office ;
- (b) one member appointed by the Governor, acting in accordance with the advice of the Prime Minister ; and
- (c) one member appointed by the Governor, acting in accordance with the advice of the appropriate representative body.

(2) A person shall be disqualified for appointment as a member of the Board if he is a member of either chamber of the Legislature.

(3) The office of a member of the Board shall become vacant—

- (a) at the expiration of three years from the date of his appointment ;
- (b) if he becomes a member of either chamber of the Legislature ;
- or
- (c) if he is removed from office in accordance with the following provisions of this section.

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

(5) A member of the Board shall be removed from office by the Governor by instrument under the Public Seal if the question of his removal from office has been referred to a tribunal appointed under

subsection (6) of this section and the tribunal has recommended to the Governor that he ought to be removed from office for inability as aforesaid or for misbehaviour.

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

(a) the Governor shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Chief Justice from among persons who hold or have held or are qualified to hold high judicial office ; and

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

(7) If the question of removing a member of the Board has been referred to a tribunal under this section, the Governor, acting in his discretion, may suspend that member 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 that member should not be removed from office.

(8) Subsections (5), (6) and (7) of this section shall not apply in relation to a member of the Board who is a judge of the Supreme Court or a judge of the Court of Appeal, and his removal from, or suspension from performing the functions of his office as a judge under section 88 or 93, as the case may be, of this Constitution shall have the like effect in relation to him as a member of the Board.

(9) (a) If the office of any member of the Board is vacant or the holder thereof is for any reason unable to perform the functions of his office, the Governor may appoint a person who is qualified to be appointed to that office to act in that office, and any person so appointed may, subject to the provisions of subsection (3)(b) and of subsections (4) to (8) (inclusive) of this section, continue so to act until he is notified by the Governor that the circumstances giving rise to the appointment have ceased to exist.

(b) In the exercise of the powers conferred by paragraph (a) of this subsection the Governor shall act in the same manner as he would act if he were making an appointment under subsection (1) of this section to the office concerned.

(10) In this section “the appropriate representative body” means such body representing the interests of public officers as the Governor may, by order, prescribe.

101.—(1) Subject to the provisions of this section, an appeal shall lie to the Public Service Board of Appeal at the instance of the officer in respect of whom the recommendation is made against any recommendation made by the Public Service Commission to the Governor that any public officer should be removed from office or that any penalty should be imposed on him by way of disciplinary control.

Appeals in disciplinary cases.

(2) Before the Governor acts in accordance with any recommendation of the Public Service Commission in respect of which an appeal lies to the Public Service Board of Appeal, he shall inform the said officer

of that recommendation and if the officer then appeals to the Public Service Board of Appeal the Governor shall not act in accordance with that recommendation pending the determination of the appeal:

Provided that the Governor, acting on the recommendation of the Public Service Commission, may nevertheless suspend the officer from performing the functions of any public office pending the determination of the appeal.

(3) Upon any appeal to the Public Service Board of Appeal under the provisions of this section the Board shall consider the case and advise the Governor what action should be taken in respect of that officer, and the Governor shall then act in accordance with that advice.

(4) The Governor may by regulations provide that an appeal shall not lie to the Public Service Board of Appeal against recommendations of the Public Service Commission—

(a) in respect of officers holding public offices the emoluments of which do not exceed such amounts as may be prescribed by the regulations ; and

(b) for the imposition of such penalties (other than removal from office) as may be so prescribed.

(5) Any decision of the Public Service Board of Appeal shall require the concurrence of at least two members of the Board.

(6) Subject to the provisions of this section, the Public Service Board of Appeal may make rules with respect to—

(a) the procedure in appeals to the Board, including the manner in which and the time within which appeals shall be submitted to the Board ; and

(b) the procedure of the Board.

(7) Rules made under subsection (6) of this section may, with the consent of the Prime Minister, confer powers or impose duties on any public officer or any authority of the Government of the Bahama Islands for the purpose of the exercise of the functions of the Board.

(8) Subject to the provisions of this section and of its rules of procedure, the Board may act notwithstanding any vacancy in its membership or the absence of any member, and the validity of the transaction of any business by the Board shall not be affected by reason only of the fact that some person who was not entitled to do so took part in its proceedings.

(9) Subject to subsection (7) of this section, in the exercise of its functions under this Constitution the Board shall not be subject to the direction or control of any other person or authority.

The Judicial and Legal Service Commission

Composition
of Judicial
and Legal
Service
Commission.

102.—(1) There shall be a Judicial and Legal Service Commission for the Bahama Islands.

(2) The members of the Commission shall be—

(a) the Chief Justice, who shall be Chairman of the Commission ;

(b) the Attorney-General ;

(c) the Chairman of the Public Service Commission ; and

(d) a person appointed by the Governor, acting after consultation with the Chief Justice, by instrument under the Public Seal.

(3) A person shall not be qualified to be appointed as a member of the Commission under subsection (2)(d) of this section unless he holds or is qualified to hold or has held high judicial office; and a person shall be disqualified for appointment as such if he is a member of either chamber of the Legislature or a public officer.

(4) The office of the member of the Commission appointed under subsection (2)(d) of this section shall become vacant—

- (a) at the expiration of three years from the date of his appointment;
- (b) if he becomes a member of either chamber of the Legislature or a public officer; or
- (c) if he is removed from office in accordance with subsection (5) of this section.

(5) The member of the Commission appointed as aforesaid shall be removed from office by the Governor by instrument under the Public Seal if the Governor, acting after consultation with the Chief Justice, is satisfied that he ought to be removed from office for inability to discharge the functions thereof (whether arising from infirmity of body or mind or any other cause) or for misbehaviour:

Provided that if such person is a judge of the Supreme Court or a judge of the Court of Appeal, he shall not be so removed unless, in accordance with the provisions of section 88 or 93, as the case may be, of this Constitution, he is removed from his office as a judge and his suspension from performing the functions of his office as a judge under section 88 or 93, as the case may be, shall have the like effect in relation to him as a member of the Commission.

(6) If the office of the member of the Commission appointed under subsection (2)(d) of this section is vacant or the holder thereof is for any reason unable to perform the functions of his office, the Governor, acting after consultation with the Chief Justice, may appoint a person who is qualified for appointment as that member to act in the office of that member; and any person so appointed may, subject to the provisions of subsection (4) of this section, continue to act until he is notified by the Governor, acting as aforesaid, that the circumstances giving rise to the appointment have ceased to exist.

(7) A person who is acting in the office of Attorney-General shall not take part in any proceedings of the Commission relating to the exercise of its functions under section 84 of this Constitution.

103.—(1) Power to make appointments to the offices to which this section applies and to remove and to exercise disciplinary control over persons holding or acting in such offices, is vested in the Governor, acting on the recommendation of the Judicial and Legal Service Commission.

Appoint-
ments, etc.
of judicial
and legal
officers.

(2) Subsection (1) of this section applies to the offices of Solicitor-General, Chief Magistrate, Stipendiary and Circuit Magistrate, Registrar of the Supreme Court, Registrar General, Crown Counsel and Legal Draftsman, and such other public offices as may, by notice in the Gazette, be prescribed by the Governor.

The Police Service Commission

Composition
of Police
Service
Commission.

104.—(1) There shall be a Police Service Commission for the Bahama Islands which shall consist of a Chairman and two other members appointed by the Governor by instrument under the Public Seal.

(2) A person shall be disqualified for appointment as a member of the Police Service Commission if he is a member of either chamber of the Legislature or a public officer.

(3) A person shall not, while he holds or is acting in the office of a member of the Police Service Commission or within a period of five years commencing with the date on which he last held or acted in that office, be eligible for appointment to or to act in any public office.

(4) The office of a member of the Police Service Commission shall become vacant—

- (a) at the expiration of five years from the date of his appointment or such earlier time as may be specified in the instrument by which he was appointed ;
- (b) if he becomes a member of either chamber of the Legislature ; or
- (c) if he is removed from office in accordance with subsection (5) of this section.

(5) A member of the Police Service Commission shall be removed from office by the Governor by instrument under the Public Seal if the Governor is satisfied that he ought to be removed from office for inability to discharge the functions thereof (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(6) Whenever the office of the Chairman of the Police Service Commission is vacant or the holder thereof is for any reason unable to perform the functions of his office, such one of the other members of the Police Service Commission as the Governor shall appoint may act in the office of Chairman.

(7) If the office of a member of the Police Service Commission other than the Chairman is vacant or the holder thereof is acting as Chairman or is for any reason unable to perform the functions of his office, the Governor may appoint a person who is qualified for appointment as a member of the Commission to act as such a member ; and any person so appointed may, subject to the provisions of subsection (4) of this section, continue to act until he is notified by the Governor that the circumstances giving rise to the appointment have ceased to exist.

(8) The members of the Commission shall receive such salary and allowances as, subject to subsection (9) of this section, may be prescribed by any law of the Legislature, and the said salaries and allowances are hereby charged on, and shall be paid out of, the Consolidated Fund.

(9) The salary of a member of the Commission and his conditions of service other than allowances shall not be altered to his disadvantage during his continuance in office.

(10) The powers conferred upon the Governor by this section shall be exercised by him acting after consultation with the Prime Minister.

105. Power to make appointments to the offices of Commissioner of Police and Deputy Commissioner of Police and to remove and to exercise disciplinary control over any person holding or acting in either of those offices is vested in the Governor, acting after consultation with the Police Service Commission.

Appointments, etc. of Commissioner and Deputy Commissioner of Police.

106.—(1) Save as provided in section 105 of this Constitution, power to make appointments to offices in the Police Force of or above the rank of Inspector is vested in the Governor, acting on the recommendation of the Police Service Commission.

Appointments of other officers in the Police Force.

(2) Power to make appointments to offices in the Police Force below the rank of Inspector is vested in the Commissioner of Police.

(3) There shall be in the Police Force such number of Police Promotion Boards, each consisting of officers in the Police Force above the rank of Inspector, as may be prescribed by regulations made under subsection (5) of this section.

(4) In the exercise of the powers to make appointments to offices in the Police Force vested in him, the Commissioner of Police may refer any question relating to the promotion of an officer in the Police Force to a rank below that of Inspector to a Police Promotion Board for their advice, but he shall not be obliged to act in accordance with the advice given him by any such Board.

(5) The Governor may by regulations make provision for all or any of the following matters—

- (a) the number of Police Promotion Boards which shall be established for the Police Force ;
- (b) the composition of any Police Promotion Board and the method of appointment and tenure of office of the members thereof ; and
- (c) the manner in which a Police Promotion Board shall perform its functions.

(6) The power to make appointments under subsection (1) of this section shall not extend to postings or transfers within the Police Force of officers in that Force, and the power to make such postings and transfers is vested in the Commissioner of Police.

107.—(1) Save as provided in section 105 of this Constitution and subsection (2) of this section, power to remove and to exercise disciplinary control over persons holding or acting in offices in the Police Force is vested in the Governor, acting on the recommendation of the Police Service Commission.

Removal and discipline of members of Police Force.

(2) The following powers are vested in the Commissioner of Police—

- (a) in respect of officers of or above the rank of Assistant Superintendent, the power to administer reprimands ;
- (b) in respect of Inspectors, the power to exercise disciplinary control other than removal or reduction in rank ; and
- (c) in respect of officers below the rank of Inspector, the power to exercise disciplinary control including the power of removal.

(3) The Commissioner of Police may, by directions in writing, and subject to such conditions as he thinks fit, delegate to any officer of the Police Force of or above the rank of Inspector any of his powers

under subsection (2)(c) of this section other than the power of removal ; but an appeal from any award of punishment by such an officer shall lie to the Commissioner.

(4) The Legislature may by law provide that an appeal shall lie to the Governor from a decision of the Commissioner of Police to remove or exercise disciplinary control over persons holding or acting in offices in the Police Force in such cases as may be prescribed by such law, and in determining any such appeal the Governor shall act on the recommendation of the Police Service Commission.

Right of
Commissioner to
tender
advice.

108.—(1) The Police Service Commission shall permit the Commissioner of Police to express his views in its presence on any matter that is before the Commission for its consideration, except when the matter is an appeal from a decision of the Commissioner of Police :

Provided that the Commission may, if it sees fit, invite the Commissioner of Police to appear before it in relation to any such appeal.

(2) Nothing in this Part of this Constitution shall affect or be construed as affecting any right of the Commissioner of Police to tender his own advice to the Governor on any question.

General

Proceedings
of Com-
missions.

109.—(1) No business shall be transacted at any meeting of a Commission to which this section applies unless a quorum of that Commission is present ; and for the purposes of this subsection—

(a) a quorum of the Public Service Commission shall consist of two members at any time when there are not more than three members of the Commission holding office by virtue of appointments made under section 97(1) of this Constitution and shall consist of three members at any other time ;

(b) a quorum of the Judicial and Legal Service Commission shall consist of three members, of whom one shall be the Chairman of the Commission ;

(c) a quorum of the Police Service Commission shall consist of two members.

(2) Any question proposed for decision at any meeting of a Commission to which this section applies shall be determined by a majority of the votes of the members present and voting, and if on any such question the votes are equally divided the member presiding shall have and exercise a casting vote.

(3) Subject to the provisions of subsection (1) of this section, a Commission to which this section applies may act notwithstanding a vacancy in its membership ; and no proceedings of such a Commission shall be invalidated by reason only that some person not entitled to do so has taken part in them.

(4) Subject to the provisions of this Constitution, the Governor, after consultation with the Prime Minister and a Commission to which this section applies, may by regulations provide for any of the following matters, that is to say :—

(a) the appointment, tenure of office and terms of service of staff to assist the Commission in the performance of its functions ;

(b) the protection and privileges of members of the Commission in respect of the performance of their functions and the privilege of communications to and from the Commission and its members in case of legal proceedings ;

(c) the definition and trial of offences connected with the functions of the Commission and the imposition of penalties for such offences :

Provided that no such penalty shall exceed a fine of fifteen hundred dollars or imprisonment for a term of one year or both such a fine and such imprisonment ;

(d) requiring persons to attend before the Commission to answer questions relating to any inquiry held by the Commission or to any business of the Commission ; and

(e) conferring powers and imposing duties on any public officer or any authority of the Government of the Bahama Islands for the purpose of facilitating the performance by the Commission of its functions.

(5) Subject to the provisions of this Constitution, a Commission to which this section applies may regulate its own procedure.

(6) Unless it is otherwise provided or required by the context, references in this section to a Commission to which this section applies are references to the Public Service Commission, the Judicial and Legal Service Commission, or the Police Service Commission, as the case may be.

110. The question whether—

Protection of Commissions, etc. from legal proceedings.

(a) a Commission established under this Part of this Constitution has validly performed any function vested in it by or under this Constitution ;

(b) any person or Police Promotion Board has validly performed any function delegated to or vested in such person or Board by or in pursuance of the provisions of section 99 or, as the case may be, section 106, 107 or 108 of this Constitution ; or

(c) any member of such Commission or any other person has validly performed any other function in relation to the work of the Commission or in relation to any such function as is referred to in paragraph (b) of this section,

shall not be inquired into in any court.

111.—(1) Subject to the provisions of section 113 of this Constitution, the law applicable to the grant and payment to any officer, or to his widow, children, dependants or personal representatives, of any pension, gratuity or other like allowance (in this section and sections 112 and 113 of this Constitution referred to as an "award") in respect of the service of that officer in a public office shall be that in force on the relevant day or any later law not less favourable to the person concerned.

Applicability of pensions law.

(2) For the purposes of this section the relevant day is—

(a) in relation to an award granted before the date on which this Constitution comes into operation, the day on which the award was granted ;

(b) in relation to an award granted or to be granted on or after the date on which this Constitution comes into operation to or in respect of a person who was a public officer before that date, the day immediately before that date ;

(c) in relation to an award granted or to be granted to or in respect of a person who first becomes a public officer on or after the date on which this Constitution comes into operation, the day on which he becomes a public officer.

(3) For the purposes of this section, in so far as the law applicable to an award depends on the option of the person to or in respect of whom it is granted or to be granted, the law for which he opts shall be taken to be more favourable to him than any other law for which he might have opted.

(4) For the purposes of this section and of sections 112 and 113 of this Constitution, the office of a judge of the Supreme Court or of the Court of Appeal and the office of a member of the Public Service Commission, the Public Service Board of Appeal, the Judicial and Legal Service Commission or the Police Service Commission shall be deemed to be a public office.

Pensions,
etc. charged
on the
Consolidated
Fund.

112. Awards granted under any law for the time being in force in the Bahama Islands are hereby charged on, and shall be paid out of, the Consolidated Fund.

Grant and
withholding
of pensions,
etc.

113.—(1) The power to grant any award under any pensions law for the time being in force in the Bahama Islands (other than an award to which, under that law, the person to whom it is payable is entitled as of right) and, in accordance with any provisions in that behalf in any such law, to withhold, reduce in amount or suspend any award payable under any such law shall vest in the Governor.

(2) The power vested in the Governor by subsection (1) of this section shall be exercised by him—

(a) in the case of an award payable in respect of the services of any person who, having been a public officer, was, immediately before the date on which he ceased to hold public office, serving as—

(i) Deputy Governor ;

(ii) a judge of the Supreme Court ;

(iii) a judge of the Court of Appeal ;

(iv) a member of the Public Service Commission, the Public Service Board of Appeal, the Judicial and Legal Service Commission or the Police Service Commission ;

(v) Attorney-General ;

(vi) Auditor ;

(vii) Commissioner of Police or Deputy Commissioner of Police ; or

(viii) a member of the personal staff of the Governor (other than a person referred to in section 22(4) of this Constitution),

in his discretion ;

(b) in the case of an award payable in respect of the services of any person who, having been a public officer, was, immediately before the date aforesaid, serving in any office to which section 103 of this Constitution applies at the date of the exercise of the power, on the recommendation of the Judicial and Legal Service Commission ;

(c) in the case of an award payable in respect of the services of any person who, having been a public officer, was, immediately before the date aforesaid, serving in any office in the Police Force, other than the office of Commissioner of Police or Deputy Commissioner of Police, on the recommendation of the Police Service Commission ; and

(d) in the case of an award payable in respect of the services of any other person, on the recommendation of the Public Service Commission.

(3) In this section, "pensions law" means any law relating to the grant to any person, or to the widow, children, dependants or personal representatives of that person, of an award in respect of the services of that person in a public office, and includes any instrument made under any such law.

PART VII

FINANCE

114.—(1) Save as provided in subsection (2) of this section, there shall be in and for the Bahama Islands a Consolidated Fund into which, subject to the provisions of any law for the time being in force in the Bahama Islands, shall be paid all revenues of the Bahama Islands.

Consolidated
Fund.

(2) Any moneys received in respect of any grant or disposition made in pursuance of section 24 of this Constitution of any land, property or interest referred to in that section shall be paid into a special fund to be known as the Crown Lands Fund for Development.

115.—(1) No money shall be withdrawn from the Consolidated Fund or other public funds of the Bahama Islands except upon the authority of a warrant under the hand of the Minister of Finance :

Withdrawal
of money
from the
Consolidated
Fund or
other public
funds.

Provided that where, in the opinion of the Governor, acting in his discretion, moneys are required to enable him to discharge his responsibilities for internal security and the Police Force, such moneys may be withdrawn from the Consolidated Fund either—

(a) upon the authority of a warrant under the hand of the Minister of Finance ; or

(b) upon the authority of a warrant (hereinafter referred to as "a Governor's warrant") under the hand of the Governor, acting in his discretion.

(2) No warrant shall be issued by the Minister of Finance for the purpose of meeting any expenditure unless—

(a) the expenditure has been authorised for the financial year during which the withdrawal is to take place—

(i) by an Appropriation Act ; or

- (ii) by a supplementary estimate approved by resolution of the House of Assembly ; or
- (b) the expenditure has been authorised in accordance with the provisions of section 116(4), 117 or 118 of this Constitution ; or
- (c) it is statutory expenditure :

Provided that no such warrant shall be issued for the purpose of meeting expenditure from the Crown Lands Fund for Development unless the expenditure has been authorised by a law enacted by the Legislature or, in the case of expenditure for purposes of capital development, by resolution of the House of Assembly.

Authorisation of expenditure.

116.—(1) The Minister of Finance shall cause to be prepared and laid before the House of Assembly before or not later than sixty days after the commencement of each financial year estimates of the revenues and expenditure of the Bahama Islands for that year.

(2) The heads of expenditure contained in the estimates (other than statutory expenditure) shall be included in a bill to be known as an Appropriation Bill which shall be introduced into the House of Assembly to provide for the issue from the Consolidated Fund or other public funds of the Bahama Islands 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 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 that law, a supplementary estimate showing the sums required shall be laid before and voted on by the House of Assembly.

(4) Where in respect of any financial year the Minister of Finance considers it necessary to authorise expenditure for any purpose in excess of the amount appropriated for that purpose by the Appropriation Act, or for a purpose for which no amount has been appropriated by that law, he may, subject to the Rules of Procedure of the House of Assembly in that regard, authorise, with the prior approval of the Cabinet, such expenditure by special warrant and shall, at least at quarterly intervals, prepare statements of such excess expenditure to be laid before and voted on by the House of Assembly.

(5) Where in respect of any financial year moneys have been withdrawn from the Consolidated Fund upon the authority of a Governor's warrant by virtue of proviso (b) to section 115(1) of this Constitution, the Minister of Finance shall, if the circumstances of the case so require, prepare in respect of such moneys a statement of expenditure to be laid before the House of Assembly.

(6) Where in respect of any financial year supplementary estimates or statements of excess expenditure have been approved by the House of Assembly in accordance with the provisions of subsection (3) or (4) of this section, a supplementary Appropriation Bill shall be introduced into the House of Assembly in the financial year next following the financial year to which such estimates or statements relate, providing for the appropriation of the sums so approved for the purposes specified in those estimates or statements.

(7) Statutory expenditure shall not be voted on by the House of Assembly but, without further authority of the Legislature, shall be paid out of the Consolidated Fund by warrant under the hand of the Minister of Finance.

117. If the Appropriation Act in respect of any financial year has not come into operation by the beginning of that financial year, the House of Assembly by resolution may empower the Minister of Finance to authorise the withdrawal of moneys from the Consolidated Fund or other public funds of the Bahama Islands for the purpose of meeting expenditure necessary to carry on the public services until the expiration of four months from the beginning of that financial year or the coming into operation of the Appropriation Act, whichever is the earlier.

Authorisation of expenditure in advance of appropriation.

118. Where at any time the Legislature has been dissolved before any provision or any sufficient provision is made under this Part of this Constitution for the carrying on of the government of the Bahama Islands, the Minister of Finance may issue a warrant for the payment out of the Consolidated Fund or other public funds of the Bahama Islands of such sums as he may consider necessary for the continuance of the public services until the expiry of a period of three months commencing with the date on which the House of Assembly first meets after that dissolution, but a statement of the sums so authorised shall, as soon as practicable, be laid before and voted on by the House of Assembly and the aggregate sums so voted shall be included, under the appropriate heads, in the next Appropriation Bill.

Delay in the Appropriation Act owing to dissolution.

119. The public debt of the Bahama Islands, including the interest thereon, 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 Consolidated Fund, the general revenues and on the other public funds and assets of the Bahama Islands.

Public debt.

120.—(1) There shall be an Auditor for the Bahama Islands whose office shall be a public office and who shall be appointed by the Governor, acting on the recommendation of the Public Service Commission.

Auditor.

(2) If the office of Auditor is vacant or the holder thereof is for any reason unable to perform the functions of his office, the Governor, acting on the recommendation of the Public Service Commission, may appoint a person to act in that office, and any person so appointed may, subject to the provisions of section 121 of this Constitution, continue to act until he is notified by the Governor, acting on the recommendation of the Public Service Commission, that the circumstances giving rise to the appointment have ceased to exist.

(3) The Legislature may by law prescribe qualifications for appointment to hold the office of Auditor :

Provided that a person who has been appointed to hold that office may continue in office notwithstanding that such qualifications are subsequently so prescribed or varied.

(4) The Auditor shall receive such salary and allowances as, subject to subsection (5) of this section, may be prescribed by any law of the Legislature and the said salary and allowances are hereby charged on, and shall be paid out of, the Consolidated Fund.

(5) The salary of the Auditor and his conditions of service other than allowances shall not be altered to his disadvantage during his continuance in office.

Tenure of
office of
Auditor.

121.—(1) Subject to the provisions of subsection (3) of this section, the Auditor shall vacate his office when he attains the age of sixty years :

Provided that the Governor, acting after consultation with the Prime Minister and the Public Service Commission, may permit an Auditor to continue in office for a period not exceeding six months after his attainment of that age.

(2) The Auditor may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of subsection (3) of this section.

(3) The Auditor shall be removed from office by the Governor by instrument under the Public Seal if the Governor, acting in his discretion, is satisfied that he ought to be removed from office for inability as aforesaid or misbehaviour.

Functions
of Auditor.

122.—(1) The accounts of the Supreme Court and the courts subordinate thereto, the Court of Appeal, all departments and offices of the Government of the Bahama Islands, the offices of the Clerk of the Senate and the Clerk of the House of Assembly, the Public Service Commission, the Public Service Board of Appeal, the Judicial and Legal Service Commission and the Police Service Commission shall be audited and reported on annually by the Auditor and for that purpose the Auditor or any person authorised by him shall at all times be entitled to have access to all books, records, returns and other documents relating to such accounts.

(2) The Auditor shall submit his reports made under subsection (1) of this section to the Speaker of the House of Assembly who shall cause them to be laid before the House ; and he shall also send a copy of each report to the Governor and to the President of the Senate and the President shall cause the copy sent to him to be laid before the Senate.

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

(4) Nothing in this section shall prevent the performance by the Auditor of—

(a) such other functions in relation to the accounts of the Government of the Bahama Islands and the accounts of other public authorities and other bodies administering public funds in the Bahama Islands as may be prescribed by or under any law for the time being in force in the Bahama Islands ; or

(b) such other functions in relation to the supervision and control of expenditure from public funds in the Bahama Islands as may be so prescribed.

123. Subject to the provisions of this Part of this Constitution, the Governor may by regulations provide for any of the following matters—

Legislation relating to public finance

- (a) the management of the Consolidated Fund ;
- (b) the supervision, control and direction of the financial business and affairs of the Government of the Bahama Islands ;
- (c) the preparation of estimates ;
- (d) the opening and operation of banking accounts ;
- (e) the system of Government accounting ;
- (f) the financial control and supervision of self accounting units and statutory bodies performing public functions.

124. In this Part of this Constitution—

Interpretation.

“financial year” means the twelve months ending on the 31st December in any year or on such other date as may from time to time be prescribed by any law of the Legislature ;

“statutory expenditure” means expenditure charged on the Consolidated Fund or on the general revenues and assets of the Bahama Islands by virtue of any of the provisions of this Constitution or by virtue of any provision of any other law for the time being in force in the Bahama Islands.

PART VIII

MISCELLANEOUS

125.—(1) Save as otherwise provided in sections 33(1)(b), 34(4)(c), 39(1)(b) and 40(2)(c) of this Constitution, any person who is appointed to or to act in any office established by this Constitution may resign from that office by writing under his hand addressed to the person by whom he was appointed.

Resignations.

(2) The resignation of any person from any such office (including any seat in a chamber of the Legislature) by writing under his hand addressed in accordance with this Constitution to any other person shall take effect when the writing signifying the resignation is received by that other person.

126.—(1) Where any person has vacated any office (including any seat in a chamber of the Legislature) established by this Constitution, he may, if qualified, again be appointed or elected or otherwise selected to hold that office in accordance with the provisions of this Constitution.

Re-appointments and concurrent appointments.

(2) When the holder of any office constituted by or under this Constitution is on leave of absence pending relinquishment of that office the person or authority having power to make appointments to that office may appoint another person thereto.

(3) Where two or more persons are holding the same office by reason of an appointment made in pursuance of subsection (2) of this section, then—

- (a) for the purposes of any function conferred upon the holder of that office ; and
- (b) for the purposes of any reference in this Constitution to the absence, illness or inability to perform the functions of his office of the holder of that office,

the person last appointed to the office shall be deemed to be the sole holder of the office.

Provisions relating to government contracts.

127. For the purposes of sections 32, 33, 38 and 39 of this Constitution—

- (a) “government contract” means, subject to such exceptions as the Legislature may by law prescribe, any contract made with the Government of the Bahama Islands or with a department of that Government or with an officer of that Government contracting as such ; and
- (b) a person shall be deemed to be interested in a government contract if—
 - (i) subject to such exceptions as the Legislature may by law prescribe, he is a party to such a contract or a partner in a firm or director or manager of a company which is a party to such a contract ; or
 - (ii) he is otherwise interested in such a contract in such manner as the Legislature may by law prescribe.

Bahamian Status.

128. For the purposes of this Constitution, a person shall possess Bahamian status if—

- (a) he is a British subject and was born in the Bahama Islands ; or
- (b) he is a British subject and was born outside the Bahama Islands of a father or mother who was born in the Bahama Islands ; or
- (c) he is a person who possesses Bahamian status under the provisions of any law for the time being in force in the Bahama Islands ; or
- (d) he has obtained the status of a British subject by reason of the grant by the Governor of a certificate of naturalisation under the British Nationality and Status of Aliens Act 1914(a) or the British Nationality Act 1948(b) ; or
- (e) she is the wife of a person to whom any of the foregoing paragraphs of this section applies not living apart from such person under a decree of a court or a deed of separation ; or
- (f) such person is the child, stepchild or lawfully adopted child under the age of eighteen years of a person to whom any of the foregoing paragraphs of this section applies.

Jurisdiction of Court of Appeal in relation to Turks and Caicos Islands.

129. The Court of Appeal shall have jurisdiction to hear and determine such appeals (including cases stated and questions of law reserved) from the courts of the Turks and Caicos Islands as may be prescribed by or under any law for the time being in force in the Turks and Caicos Islands ; and the powers, practice and procedure of the Court when exercising the jurisdiction referred to in this section and the powers

(a) 1914 c. 17.

(b) 1948 c. 56.

and duties of other persons or authorities in connection with the exercise of that jurisdiction shall be such as may be prescribed by or under any such law.

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

Interpretation.

“chamber” means either the Senate or the House of Assembly as the context may require ;

“the Commonwealth” means the United Kingdom, Canada, Australia, New Zealand, India, Pakistan, Ceylon, Ghana, Malaysia, Nigeria, Cyprus, Sierra Leone, Tanzania, Jamaica, Trinidad and Tobago, Uganda, Kenya, Malawi, Malta, Zambia, The Gambia, Singapore, Guyana, Lesotho, Botswana, Barbados, Mauritius, Swaziland and any dependency of any such country ;

“election” means an election of a member or members of the House of Assembly ;

“the Gazette” means the Official Gazette of the Bahama Islands ;

“the Governor” means the Governor and Commander-in-Chief of the Bahama Islands ;

“high judicial office” means the office of 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 ;

“the leader of the opposition” means the member of the House of Assembly who in the judgment of the Governor, acting in his discretion, is best able to command the support of a majority of those members who do not support the Government or, if there is no such person, the member of the House who, in his judgment, commands the support of the largest single group of such members who are prepared to support one leader ;

“the Legislature” means the Legislature established by this Constitution ;

“Minister” includes a temporary Minister appointed under section 69 of this Constitution except in sections 64, 65, 68 and 80 of this Constitution ;

“the Police Force” means the Police Force established in and for the Bahama Islands and maintained under the provisions of the Police Act 1965(a) of the Bahama Islands or any law amending or replacing that Act ;

“public office” means, subject to the provisions of subsection (5) of this section, any office of emolument in the public service ;

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

“the public service” means the service of the Crown in a civil capacity in respect of the government of the Bahama Islands ;

“session” means, in relation to a chamber of the Legislature, the sittings of that chamber commencing when it first meets after this Constitution comes into operation or after any general election or prorogation of the Legislature and terminating when the Legislature is prorogued or is dissolved without having been prorogued ;

“sitting” means, in relation to a chamber of the Legislature, a period during which that chamber is sitting continuously without adjournment and includes any period during which the chamber is in committee.

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

(a) any reference to the date on which this Constitution comes into operation shall be construed as a reference to the appointed day referred to in section 1(2) of the Order in Council to which this Constitution is scheduled ;

(b) any reference to a law of the Legislature shall be construed as including a reference to a law of any Legislature established for the Bahama Islands at any time before this Constitution comes into operation and to any instrument having the force of law made in exercise of a power conferred by a law of the Legislature ;

(c) any reference to power to make appointments to any office shall be construed as including a reference to power to make appointments on promotion and transfer to that office and to power to appoint a person to act in that office during any period during which it is vacant or the holder thereof is unable (whether by reason of absence or of infirmity of body or mind or any other cause) to perform the functions of that office ;

(d) any reference to the holder of an office by a term designating or describing his office shall be construed as including a reference to any person for the time being acting in that office or, to the extent of his authority, otherwise authorised to perform the functions of that office.

(3) In this Constitution, unless it is otherwise provided or required by the context, references to the functions of the Governor shall be construed as references to his powers and duties in exercise of the executive authority of the Bahama Islands and to any other powers or duties conferred or imposed on him as Governor by or under this Constitution or any other law in force in the Bahama Islands.

(4) Where by this Constitution any person is directed, or power is conferred on any person or authority to appoint a person, to act in or otherwise to perform the functions of an office if the holder thereof is unable to perform the functions of that office, the validity of any performance of those functions by the person so directed or of any appointment made in exercise of that power shall not be called in question in any court on the ground that the holder of the office is not unable to perform the functions of the office.

(5) For the purposes of this Constitution, a person shall not be considered to hold a public office by reason only that he is in receipt of a pension or other like allowance in respect of public service, and references to a public office shall not be construed as including—

(a) references to the office of Minister, Parliamentary Secretary, President or Vice-President of the Senate, Senator, Speaker or Deputy Speaker of the House of Assembly or Representative or member of the Constituencies Commission or the Advisory Committee on the Prerogative of Mercy ;

(b) except as otherwise expressly provided, references to the office of a judge of the Supreme Court or Court of Appeal, a member of

the Public Service Commission, the Public Service Board of Appeal, the Judicial and Legal Service Commission or the Police Service Commission, the Secretary to the Cabinet or an office on the personal staff of the Governor ;

(c) references to any office in the Department of Tourism ;

(d) references to the office of a member of any board, committee or other similar body (whether incorporated or not) established by any law for the time being in force in the Bahama Islands.

(6) 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.

(7) Any provision of this Constitution that vests in any person or authority 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 therein.

(8) If any circumstances arise that, under the provisions of this Constitution, require the Governor to remove a judge of the Supreme Court or the Court of Appeal or the Attorney-General or the Auditor from office for inability to discharge the functions of his office, the Governor, acting in his discretion, may carry out such removal either by dismissing that officer or by requiring him to retire.

(9) Any power conferred by any law to permit any officer mentioned in subsection (8) of this section to retire before the date on which, under the provisions of this Constitution, he is required to vacate his office shall vest in the Governor acting in his discretion.

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

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

(a) 1889 c. 63.

THE SCHEDULE TO THE CONSTITUTION
(Sections 17(3), 45, 77, 91 and 96)

FORMS OF OATHS AND AFFIRMATIONS

1. *Oath of Allegiance*

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

2. *Affirmation of Allegiance*

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

3. *Oath for the due execution of the office of Governor and Commander-in-Chief*

I,, do swear that I will well and truly serve Her Majesty Queen Elizabeth the Second in the office of Governor and Commander-in-Chief. So help me God.

4. *Affirmation for the due execution of the office of Governor and Commander-in-Chief*

I,, do solemnly and sincerely affirm and declare that I will well and truly serve Her Majesty Queen Elizabeth the Second in the office of Governor and Commander-in-Chief.

5. *Oath for the due execution of the office of Prime Minister or other Minister or Parliamentary Secretary*

I,, being appointed Prime Minister/Minister/Parliamentary Secretary, do swear that I will to the best of my judgment, at all times when so required, freely give my counsel and advice to the Governor (or any other person for the time being lawfully performing the functions of that office) for the good management of the public affairs of the Bahama Islands, and I do further swear that I will not on any account, at any time whatsoever, disclose the counsel, advice, opinion or vote of any particular Minister or Parliamentary Secretary and that I will not, except with the authority of the Cabinet and to such extent as may be required for the good management of the affairs of the Bahama Islands, directly or indirectly reveal the business or proceedings of the Cabinet or the nature or contents of any documents communicated to me as a Minister/Parliamentary Secretary or any matter coming to my knowledge in my capacity as such and that in all things I will be a true and faithful Prime Minister/Minister/Parliamentary Secretary. So help me God.

6. *Affirmation for the due execution of the office of Prime Minister or other Minister or Parliamentary Secretary*

I,, being appointed Prime Minister/Minister/Parliamentary Secretary, do solemnly and sincerely affirm and declare that I will to the best of my judgment, at all times when so required, freely give my counsel and advice to the Governor (or any other person for the time being lawfully performing the functions of that office) for the good management of the public affairs of the Bahama Islands, and I do further solemnly and sincerely affirm and declare that I will not on any account, at any time whatsoever, disclose the counsel, advice, opinion or vote of any particular

Minister or Parliamentary Secretary and that I will not, except with the authority of the Cabinet and to such extent as may be required for the good management of the affairs of the Bahama Islands, directly or indirectly reveal the business or proceedings of the Cabinet or the nature or contents of any documents communicated to me as a Minister/Parliamentary Secretary or any matter coming to my knowledge in my capacity as such and that in all things I will be a true and faithful Prime Minister/Minister/Parliamentary Secretary.

7. Judicial Oath

I,, do swear that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, in the office of and will do right to all manner of people after the laws and usages of the Bahama Islands without fear or favour, affection or ill will. So help me God.

8. Judicial Affirmation

I,, do solemnly and sincerely affirm and declare that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, in the office of and will do right to all manner of people after the laws and usages of the Bahama Islands without fear or favour, affection or ill will.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order provides a new constitution for the Bahama Islands, conferring internal self-government. The Constitution makes provision with respect to the fundamental rights and freedoms of the individual, the office of Governor, the Legislature (which includes two chambers called the Senate and the House of Assembly), the Cabinet, the Judiciary, the Public Service and finance. It provides for the Governor to have responsibility for certain matters relating to external affairs and for defence, internal security and the Police Force but to entrust to a Minister authority to discharge the responsibility for internal security and the Police Force, and establishes a Security Council with consultative functions with respect to external affairs, defence, internal security and the Police Force.