

**THE
SAINT VINCENT
AND THE
GRENADINES
CONSTITUTION
ACT, 2009**

(Passed in the House of Assembly on the 3rd September, 2009)

Fourth Session of the Eighth Parliament of Saint Vincent and the
Grenadines
58 Elizabeth II

BILL FOR AN ACT TO PROVIDE A NEW
CONSTITUTION FOR SAINT VINCENT AND THE
GRENADINES

**THE SAINT VINCENT AND THE GRENADINES
CONSTITUTION ACT, 2009**

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SCHEDULE:

**THE SAINT VINCENT AND THE GRENADINES
CONSTITUTION, 2009.**

BILL FOR AN ACT to enact a new Constitution for the Sovereign Democratic State of Saint Vincent and the Grenadines.

Preamble.

WHEREAS it is enacted in the 1979 Constitution of Saint Vincent and the Grenadines, Schedule 1 to The Saint Vincent Constitution Order 1979^(a), which may hereinafter be referred to as the former Constitution, by subsection (1) of section 38, that Parliament may alter any of the provisions of that Constitution or of the Supreme Court Order^(b);

AND WHEREAS it is enacted by subsection (2) of section 38 **of the former Constitution** that a bill for an Act of Parliament to alter any of the provisions of the former Constitution or of the Supreme Court Order shall not be regarded as being passed by the House of Assembly unless on its final reading the bill is supported by the votes of not less than two-thirds of all the Representatives;

AND WHEREAS it is enacted by subsection (3) of section 38 **of the former Constitution** that a bill for an Act of Parliament to alter section 38 and certain other provisions of the former Constitution and certain provisions of the Supreme Court Order, all deeply entrenched provisions, shall not be submitted to the Governor-General for his assent unless-

- (a) there has been an interval of not less than ninety days between the introduction of the bill in the House of Assembly and the beginning of the proceedings in the House on the second reading of the bill; and
- (b) after it has been passed by the House the bill has been approved on a referendum by not less than two-thirds of all the votes validly cast on that referendum;

^(a) S. I. 1979/ 916 [U.K.].

^(b) S. I. 1967/ 223 [U.K.].

AND WHEREAS it is intended by Parliament by this Act to alter the former Constitution, including the said deeply entrenched provisions thereof, **and the Supreme Court Order in so far as it forms part of the law of Saint Vincent and the Grenadines:**

Enactment. **NOW, THEREFORE, BE IT ENACTED** by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly of Saint Vincent and the Grenadines, and by the authority of the same, as follows:-

Short title. **1. (1) This Act may be cited as the Saint Vincent and the Grenadines Constitution Act, 2009.**

(2) This Act shall have effect for the purpose of the alteration of the former Constitution, including the deeply entrenched provisions thereof, **and the Supreme Court Order in so far as it forms part of the law of Saint Vincent and the Grenadines.**

Interpretation. **2. In this Act, unless it is expressly otherwise stated or the context otherwise requires -**

“alter” has the same meaning as in section 38 of the former Constitution;

“court” or “court of law” means any court of law established for Saint Vincent and the Grenadines;

“existing law” means a law that **has** effect as part of the law of Saint Vincent and the Grenadines immediately before the appointed day;

“general election” means a general election of Representatives;

“law” has the same meaning as in section 4 of the Constitution;

“Parliament” means the Parliament established by section 66 of the Constitution;

“public office” has the same meaning as in section 4 of the Constitution;

“the appointed day” means the day **appointed** for the commencement of the Constitution by Proclamation issued by

the Governor-General, **and published in the *Official Gazette*, in accordance with** section 4 of this Act;

“the Cabinet” means the Cabinet of Ministers of the Government established by section 112 of the Constitution;

“the Commonwealth” has the same meaning as in section 4 of the Constitution;

Schedule.

“the Constitution” means the Saint Vincent and the Grenadines Constitution, 2009, set out in the Schedule to this Act, **which provides, among other things, for a Republican form of government;**

“the former Assembly” means the House of Assembly constituted under the former Constitution;

“the former Constitution” means the Constitution in force in Saint Vincent and the Grenadines immediately before the appointed day;

“the former Parliament” means the Parliament which enacted this Act;

“the Government” means the Government of Saint Vincent and the Grenadines;

“the National Assembly” means the National Assembly established by section 67 of the Constitution;

“the Order-in-Council of 1979” means the Saint Vincent Constitution Order 1979^(a);

“the President” means the person holding or acting in the office of President established by section 49 of the Constitution as the Head of State of Saint Vincent and the Grenadines;

“the Prime Minister” means the person holding or acting in the office of Prime Minister established by section 108 of the Constitution as the Head of Government of Saint Vincent and the Grenadines;

(a) S.I. 1979 / 916 [U.K.].

“the State” means the State of Saint Vincent and the Grenadines (which may also be referred to as the State of St. Vincent and the Grenadines);

“the Supreme Court” means the Supreme Court established by the Supreme Court Order;

“the Supreme Court Order” means the Order referred to in section 26 of this Act.

Former Constitution repealed and the Constitution enacted.

3. Subject to this Act, on the appointed day all the provisions of the Order-in-Council of 1979 (in so far as they form part of the law of Saint Vincent and the Grenadines) are revoked and the former Constitution is repealed. Thereupon, the Constitution **shall come into effect** as the supreme law of Saint Vincent and the Grenadines, **subject to the transitional provisions set out in sections 5 to 29 of this Act.**

Schedule.

The appointed day.

4. The Governor-General shall, by Proclamation **issued by him, and** published in the *Official Gazette*, **appoint** a day for the commencement of the Constitution, acting in accordance with the advice of the Prime Minister; **and that day may be referred to as “the appointed day”.**

Schedule.

Exercise of powers of Parliament before the appointed day.

5. At any time after the commencement of this Act the former Parliament may, for the purpose of enabling the Constitution to function as from the appointed day, exercise any of the powers conferred on the Parliament established by the Constitution, until the first Parliament under the Constitution is elected.

Existing laws.

6. (1) Subject to the provisions of this section, the existing laws shall continue in force on and after the appointed day as if they had been made pursuant to the Constitution, but shall be construed with such modifications, adaptations, qualifications, exceptions and other such alterations as may be necessary to bring them into conformity with this Act, the Supreme Court Order and the Constitution.

(2) The President may, by Order, published in the *Official Gazette*, made at any time within the period of three years next after the appointed day, make such 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 this Act, the Supreme Court Order and the Constitution, or otherwise for giving effect to or enabling effect to be given to those provisions.

(3) Anything done under any existing law before its modification by or under this section which would, but for this section, cease to have effect, shall continue to have effect as if done under that law as so modified.

(4) Subsection (2) of this section shall be without prejudice to any powers conferred by this Act or any other law upon any person or authority to make provision for any matter, including the modification of any existing law.

(5) For the purposes of this section, the expression “existing law” means any Act, Ordinance, rule, regulation, order or other instrument made pursuant to or continued in force by or under the former Constitution, and having effect as a law immediately before the appointed day.

(6) In this section, “modification” includes adaptation, **qualification, exception and other such alteration as is** authorised by subsections (1) and (2) of this section.

(7) Without prejudice to the generality of subsections (1) to (6) of this section, and subject to any Order made under subsection (2), in any public document or in any existing law which continues in force after the appointed day, in relation to any time or any period commencing on or after the appointed day, unless the context otherwise requires-

- (a) any reference to Her Majesty the Queen or to the Crown in respect of Saint Vincent and the Grenadines,

shall be read and construed as if it were a reference to the State;

- (b) any reference to the Governor-General shall be read and construed as if it were a reference to the President;
- (c) any reference to Crown land or other Crown property shall be read and construed as if it were a reference to land or other property of the State;
- (d) any reference to Her Majesty's dominions shall be read and construed as if it were a reference to the Commonwealth.

Prerogative and privilege.

7. (1) Where under any existing law any prerogative or privilege is vested in Her Majesty the Queen or in the Crown in respect of Saint Vincent and the Grenadines, that prerogative or privilege shall, on the appointed day, vest in the State and, subject to the Constitution and any other law, the President shall from that day have power to do all things necessary for the exercise thereof.

(2) Where under any existing law any rights, powers, privileges, duties or functions are vested in or imposed on the Governor-General, those rights, powers, privileges, duties and functions shall, on the appointed day, vest in, and from that day be exercisable by, the President.

Continuation of legal proceedings.

8. (1) **This section applies to actions, suits or other legal proceedings which are pending immediately before the appointed day before any court of law including the Supreme Court established by the Supreme Court Order, or before any tribunal or other body or authority, in respect of which a corresponding court of law, including the Supreme Court established by the Supreme Court Order,**

or tribunal or any other body or authority is established by or under the Constitution. Such actions, suits and other legal proceedings may, subject to subsections (2), (3) and (4) of this section, on or after the appointed day, be continued and completed by or before such corresponding court of law, or tribunal or other body or authority as if they had been commenced in or before such corresponding court of law, or tribunal or other body or authority.

(2) **This subsection refers to proceedings before any court of law or tribunal where the hearing was partly completed immediately before the appointed day (in this subsection referred to as “the original hearing”). No person shall take part in the continued hearing, either as the sole or other member, as the case may be, of the corresponding court of law or tribunal, referred to in subsection (1) of this section, unless he also likewise took part in the original hearing. Where the original hearing cannot be so continued, the hearing shall be recommenced.**

(3) Any criminal proceedings pending in any court immediately before the appointed day, in which Her Majesty the Queen is a party in respect of Saint Vincent and the Grenadines, may be continued on or after that day with the substitution of the State in place of Her Majesty as a party.

(4) Any action, suit or other proceedings pending in any court immediately before the appointed day, in which the Governor-General is a party, may be continued on or after that day with the substitution of the President in place of the Governor-General as a party.

Succession to property.

9. (1) All property which, immediately before the appointed day, is vested in Her Majesty the Queen or the Governor-General for the purposes of the Government of Saint Vincent and the Grenadines shall, on the appointed day, vest in the State.

(2) Any property which, immediately before the appointed day, is liable to escheat or to be forfeited to Her Majesty the Queen for the purposes of the Government of Saint Vincent and the Grenadines shall, as from the appointed day, be liable to escheat or to be forfeited to the State.

(3) Where, immediately before the appointed day, any person holds any property in trust for Her Majesty the Queen or for the Governor-General for the purposes of the Government of Saint Vincent and the Grenadines, that person shall, as from the appointed day, hold such property on the like trust for the State.

Rights, liabilities
and obligations of
Government.

10. (1) All rights, liabilities and obligations of Her Majesty the Queen in respect of the Government of Saint Vincent and the Grenadines shall, as from the appointed day, be rights, liabilities and obligations of the State.

(2) All rights, liabilities and obligations of the Governor-General or the holder of any other office under the Crown in respect of the Government of Saint Vincent and the Grenadines shall, as from the appointed day, be rights, liabilities and obligations of the President or of the holder of that other office, as the case may be, on behalf of the State.

(3) In this section, rights, liabilities and obligations include rights, liabilities and obligations arising from contract or otherwise, other than rights mentioned in sections 7 and 9 of this Act.

Parliament.

11. (1) With effect from the period beginning with the appointed day and ending on the day on which the National Assembly sits for the first time after the first general election held pursuant to section 93 of the Constitution, the former Assembly shall be deemed to be the National Assembly (referred to in this section in respect of that period as “the transitional National Assembly”). This shall be so despite any difference between the composition of the former Assembly and that of the

National Assembly, but subject to subsection (8) of this section.

(2) Without prejudice to the generality of subsection (1) of this section, the persons who, immediately before the appointed day are elected members of the former Assembly, that is, the Representatives under the former Constitution, shall, as from the appointed day, be deemed to have been elected as Representatives pursuant to section 99 of the Constitution, until the first election referred to in subsection (1) of this section is held.

(3) Without prejudice to the generality of subsection (1) of this section, the persons who immediately before the appointed day are appointed members of the former Assembly, that is, the Senators under the former Constitution, shall, as from the appointed day, be deemed to have been elected as Senators pursuant to section 100 of the Constitution, until the first election referred to in subsection (1) of this section is held.

(4) In relation to any period before the appointed day, references in the Constitution to Representatives shall be construed as references to elected members of the former Assembly under the former Constitution, which elected members were also referred to as Representatives in the former Constitution.

(5) Without prejudice to the generality of subsection (1) of this section, and subject to subsections (2) and (3) of this section, all questions concerning membership, **formation of a quorum, voting, motions of no confidence in the government and the** functioning of the transitional National Assembly shall be regulated as nearly as may be practicable by the existing law applicable in the like case to the former Assembly.

(6) All matters pending before the former Assembly immediately before the appointed day may be

continued and completed **or otherwise disposed of** by the transitional National Assembly.

(7) Unless and until the transitional National Assembly otherwise resolves, any person who is a member thereof by virtue of subsections (2) and (3) of this section shall be deemed to have made and subscribed before the Assembly the oaths referred to in section 79 of the Constitution.

(8) Unless sooner dissolved by the President pursuant to section 92 of the Constitution, the Parliament constituted by the President and the transitional National Assembly shall stand dissolved five years from the first sitting of the former Assembly after the last dissolution of Parliament under the former Constitution.

(9) **Subject to the other provisions of this section, the first general election** pursuant to section 93 of the Constitution shall be held on such day as the President may by proclamation appoint, acting in accordance with the advice of the Prime Minister.

(10) All monies granted, voted or appropriated by the former Parliament in respect of the services of Saint Vincent and the Grenadines for the current financial year shall be deemed to have been granted, voted or appropriated by the Parliament established by section 66 of the Constitution and in accordance with the Constitution.

Recalling
Parliament.

12. (1) Where it is necessary under subsection (2) of section 93 of the Constitution for Parliament, **having been dissolved**, to be summoned before the next ensuing general election **is held** after the appointed day, the former Assembly shall be deemed to be the National Assembly under the Constitution for all the purposes of that subsection. The former Assembly so summoned may thus proceed to deal with any business before **the National Assembly notwithstanding any difference between the composition of the former**

Assembly under the former Constitution and that of the National Assembly under the Constitution.

(2) Where, in the opinion of the Prime Minister, it is necessary or expedient to recall Parliament in order to make amendments to the Constitution between the appointed day and the next ensuing general election, the President, acting in accordance with the advice of the Prime Minister, may recall the former Assembly for the purpose, and subsection (1) of this section shall apply accordingly.

(3) A reference in the Constitution to a dissolution of Parliament shall be deemed to include a reference to the dissolution of the last Parliament under the former Constitution.

Standing Orders.

13. Until it is otherwise provided by the National Assembly under subsection (1) of section 86 of the Constitution, the Standing Orders of the former Assembly made under the former Constitution, as are in force immediately before the appointed day, shall be the Standing Orders of the National Assembly under the Constitution. Such Standing Orders shall be construed with such modifications, adaptations, qualifications, exceptions and other such alterations as may be necessary to bring them into conformity with the Constitution.

The President.

14. The person who immediately before the appointed day holds the office of Governor-General under the former Constitution shall, subject to subsection (1) of section 64 of the Constitution (relating to the taking of the oaths by the President), assume office as President of Saint Vincent and the Grenadines as from the appointed day. He shall so assume that office as if he had been elected thereto pursuant to section 54 of the Constitution and shall, subject to the Constitution, continue in office, until the person elected President in the first Presidential election held for the purposes of section 54 of the Constitution assumes office.

15. (1) The person who immediately before the appointed day holds the office of Prime Minister under the former Constitution shall, as from that day, hold the office of Prime Minister as if he had been appointed thereto under **section 109** of the Constitution, until a person is appointed as Prime Minister thereunder.

(2) Where the person who is Prime Minister under subsection (1) of this section is for any reason unable to act, or where the office of Prime Minister is vacant, the President, acting on the advice of the Prime Minister, if the Prime Minister is able so to advise, shall appoint a person who is a Minister under section 16 of this Act to perform the functions of Prime Minister. **That person shall so act until such time as the substantive Prime Minister** is again able to perform his functions as Prime Minister, or until the next general election after the appointed day is held, whichever first occurs.

16. (1) A person who, immediately before the appointed day, holds office as Minister (other than as Prime Minister), Parliamentary Secretary, Leader of the Opposition, Speaker or Deputy Speaker under the former Constitution shall, as from that day, be deemed to have been elected or appointed respectively to the corresponding office established by the Constitution. He shall hold such corresponding office, as if he had been appointed or elected thereto, as the case may be, **in accordance with the provisions of the Constitution**, until after the first general election is held pursuant to section 93 of the Constitution, unless sooner changed in accordance with the provisions of the Constitution. The corresponding office of Leader of the Opposition shall be that of Minority Leader.

(2) Any person holding the office of Prime Minister or other Minister by virtue of section 15 of this Act or of subsection (1) of this section respectively who, immediately before the appointed day, was assigned responsibility under the former Constitution for any business

or matter of the Government, including the administration of any department of Government, shall, as from that day, be deemed to have been assigned responsibility therefor under **section 114** of the Constitution. This shall be so until after the first general election is held under the Constitution unless such responsibility is sooner re-assigned.

The Cabinet.

17. Subject to **section 114** of the Constitution, every person who does not otherwise become a member of the Cabinet established by the Constitution but who immediately before the appointed day is a member of the Cabinet under the former Constitution shall, as from that day, be a member of the Cabinet established by the Constitution as if he had been appointed thereto under that subsection.

Judges of the
Supreme Court.

18. The salaries and allowances and other terms and conditions of service of the Judges of the Supreme Court, in so far as these form part of the law of Saint Vincent and the Grenadines, shall continue to be the same after the appointed day as they are immediately before the appointed day. **The provisions of the Supreme Court Order shall apply.**

Public officers.

19. (1) Subject to the provisions of this Act, every person who, immediately before the appointed day, holds or is acting in a public office under the former Constitution shall, as from that day, continue to hold or act in that office or the corresponding office established by the Constitution, as the case may be, as if he had been appointed thereto in accordance with the provisions of the Constitution.

(2) Without prejudice to its generality, subsection (1) of this section shall apply in relation to the offices of Attorney-General, Director of Public Prosecutions, Director of Audit, Clerk and Deputy Clerk of the former Assembly and any office to which section 83 of the former Constitution applied. The corresponding office of Director of Audit shall be the office of Auditor General.

(3) Without prejudice to its generality, subsection (1) of this section shall apply in relation to the

offices in the Police Service, Prison Service and Teaching Service referred to in the Constitution.

(4) Without prejudice to its generality, subsection (1) of this section shall apply in relation to the offices of Chairman, Deputy Chairman (if any) and other members of the Public Service Commission, the Police Service Commission, the Public Service Board of Appeal and the Constituency Boundaries Commission as if those offices were public offices. The corresponding offices of members of the Constituency Boundaries Commission shall be the offices of members of the Electoral and Boundaries Commission. The corresponding offices of members of the Police Service Commission shall be the offices of members of the Police and Prison Services Commission.

(5) A person who under the former Constitution or any other 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.

Attorney-General.

20. Until Parliament or, subject to the provisions of any law enacted by Parliament, the President acting in accordance with the advice of the Prime Minister, otherwise provides, the office of Attorney-General shall be that of a public office.

Oaths.

21. (1) Subject to subsection (2) of this section, any person who holds or acts in any office to which this section applies, as from the appointed day, by virtue of holding or acting in such office immediately before that day, shall be deemed to have complied with the requirements of the Constitution or any other law in force in Saint Vincent and the Grenadines relating to the taking of oaths with respect to that office.

(2) The President may, at any time on or after the appointed day, require any person referred to in subsection (1) of this section to take any oath required as aforesaid.

(3) Until such time as the oath of allegiance, the oath of secrecy or, in relation to any office, the oath of office is prescribed by law, that oath may be taken in the form prescribed immediately before the appointed day but with such modifications, adaptations, qualifications, exceptions and other such alterations as may be necessary to bring it into conformity with this Act, the Supreme Court Order and the Constitution.

(4) This section applies to all offices to which sections 15, 16, 17, 18 and 19 of this Act apply.

Commissions.

22. (1) Any power of a Commission established by the former Constitution (in this section referred to as “an existing Commission”) which has been validly delegated to any person or authority shall, to the extent that such power could be delegated under the Constitution to such person or authority, be deemed as from the appointed day to have been delegated to that person or authority in accordance with the provisions of the Constitution.

(2) Subject to subsection (3) of this section, any matter which immediately before the appointed day is pending before an existing Commission or, as the case may be, before any person or authority to whom power to deal with such matters has been delegated under the former Constitution shall, as from the appointed day, be continued before the corresponding Commission established by the Constitution or, as the case may be, the said person or authority where such delegation has been continued under subsection (1) of this section.

(3) Where an existing Commission or, as the case may be, any person or authority acting as its delegates as aforesaid has, immediately before the appointed day, partly completed the hearing of a disciplinary proceeding (in this

section referred to as “the original hearing”) no person shall take part in the continued hearing to determine the hearing unless he also likewise took part in the original hearing. Where the original hearing cannot be so continued, the hearing of the disciplinary proceeding shall be recommenced.

Validation of certain enactments.

23. All enactments passed by any Parliament, or subordinate legislation made by any person or authority, under or by virtue of the former Constitution and not before the appointed day declared by a competent court to be void by reason of any inconsistency with any provision of the former Constitution, including in particular Chapter 1 thereof, and not repealed, lapsed, spent or otherwise had their effect ended, shall be deemed to have been validly passed or made and to have had full force and effect as law immediately before the appointed day. This shall be so even if any such enactment or subordinate legislation might be thought to be inconsistent with any provision of the former Constitution, including in particular Chapter 1 thereof.

Prescribing matters.

24. Where any matter that falls to be prescribed or otherwise provided for under any provision of the Constitution by Parliament or by any other person or authority is prescribed or provided for by or under any existing law made under a corresponding provision of the former Constitution, including any modification to any existing law made under section 6 of this Act, that prescription or provision shall, as from the appointed day, have effect. Such prescription or provision shall so have effect with such modifications, adaptations, qualifications, exceptions or other such alterations as may be necessary to bring it into conformity with this Act, the Supreme Court Order and the Constitution as if it had been made under the Constitution by Parliament or, as the case may be, by the other person or authority, until some other such prescription or provision may be made.

Constituencies and list of electors.

25. (1) Until their number or boundaries are altered pursuant to section 96 of the Constitution, the number and boundaries of the constituencies shall, for the purposes of the

election of Representatives and Senators, be the same as those of the constituencies into which Saint Vincent and the Grenadines is divided immediately before the appointed day for the purpose of the election of elected Representatives of the former Assembly under the former Constitution. The number and boundaries of these Constituencies shall be deemed to have been established under that section.

(2) For the purposes of section 96 of the Constitution, the list of electors last prepared before the appointed day for the purpose of electing Representatives to the former Assembly shall, subject to any further revision in accordance with law, be deemed to be the list of electors prepared by the Electoral and Boundaries Commission under section 96 of this Constitution.

The Supreme
Court Order.

26. The West Indies Associated States Supreme Court Order 1967^(a), in so far as it **forms part of the law of Saint Vincent and the Grenadines**, may be cited as the Supreme Court Order. For the purposes of that Order or any other law, the Supreme Court established by that Order shall, unless Parliament otherwise provides, be styled the Eastern Caribbean Supreme Court.

The Appeals
to Privy
Council
Order.

27. The West Indies Associated States (Appeals to Privy Council) Order 1967^(b) may, in **so far as it forms part of the law of Saint Vincent and the Grenadines**, be cited as the Saint Vincent and the Grenadines Appeals to Privy Council Order.

Commonwealth
citizen.

28. The expression “Commonwealth citizen” means a citizen of any of the countries designated as Commonwealth countries **by or under any Act of Parliament so prescribing.**

^(a) S.I. 1967/ 223 [U.K.]. ^(b) S.I. 1967/ 224 [U.K.].

The
Constitution
prevails.

29. Persons holding or acting in offices immediately before the appointed day who by virtue of provisions of this Act continue to hold or act in such offices after the appointed day, whether until a specified date or otherwise, shall do so in accordance with provisions of the Constitution unless this Act specifically provides otherwise, as the Constitution prevails.

Alteration
of Act.

30. (1) Subject to subsections (2) and (3) of this section, Parliament may alter section 3 of this Act and this section in the same manner as it may alter any of the provisions specified in subsection (3) of section 74 of the Constitution.

Schedule.

(2) Parliament may alter the provisions of the Schedule to this Act, being the Constitution, in the manner stipulated by section 74 of the Constitution for the alteration of any such particular provision.

(3) Parliament may alter any provision of this Act other than those specified in subsections (1) and (2) of this section in the same manner as it may alter any of the provisions referred to in subsection (2) of section 74 of the Constitution.

Act to be
certified.

31. (1) The **Speaker** of the former Assembly shall, in writing under his hand, certify whether this Act is one the bill for which has been passed by the former Assembly, and **on its final reading the bill** has been supported by the votes of not less than two-thirds of all the Representatives, after an interval of not less than ninety days between the introduction of the bill **in the former Assembly and the beginning of the proceedings in the former Assembly on the second reading of the bill** as provided for in subsection (2) and **paragraph (a) of subsection (3)** of section 38 of the former Constitution.

(2) The certificate of the **Speaker** of the former Assembly under subsection (1) of this section duly signed and authenticated by him shall be conclusive of the matters so certified by him, as provided for by **paragraph (b) of subsection (8)** of section 38 of the former Constitution.

(3) The Supervisor of Elections shall, under his hand, certify whether this Act is one the bill for which, **after having been passed by the former Assembly**, has been submitted to a referendum, and if so, whether on the said referendum the bill was approved by not less than two-thirds of all the votes validly cast on that referendum, as provided for by **paragraph (b) of subsection (3) and paragraph (a) of subsection (8)** of section 38 of the former Constitution.

SCHEDULE:

**THE SAINT VINCENT AND THE GRENADINES
CONSTITUTION, 2009**

**THE
SAINT VINCENT
AND THE
GRENADINES
CONSTITUTION,
2009**

**(Schedule to the Saint Vincent and the Grenadines
Constitution Act, 2009, passed in the House of
Assembly of Saint Vincent and the Grenadines on 3rd
September, 2009)**

THE SAINT VINCENT AND THE GRENADINES
CONSTITUTION, 2009.

ARRANGEMENT OF SECTIONS

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THE STATE AND THE CONSTITUTION

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SECOND SCHEDULE TO THE CONSTITUTION

OATHS (OR AFFIRMATIONS)

WHEREAS the Peoples of the Islands of Saint Vincent and the Grenadines, who are known as Vincentians -

- (a) have affirmed that their Nation is founded on the belief in the supremacy of God and the freedom and dignity of man;
- (b) desire that their society be so ordered as to express their recognition of the principles of democracy, free institutions, social justice and equality before the law;
- (c) realize that the maintenance of human dignity presupposes safe guarding the rights of privacy, of family life, of property and the fostering of the pursuit of just economic rewards for labour;
- (d) desire that their Constitution should enshrine the above-mentioned **inalienable rights**, freedoms, principles and ideals;

AND WHEREAS Saint Vincent and the Grenadines (which comprises the inhabited islands of Saint Vincent, Bequia, Union Island, Canouan, Mustique, Mayreau, Petite Saint Vincent, Prune (**Palm**) Islands, **Young Island** and all other inhabited or uninhabited islands, islets, cays or lands lying between latitudes 12° 31' 50"N and 13° 23' 30"N and longitudes 61° 07' 30"W and 61° 28' 00"W) is henceforth to be styled Saint Vincent and the Grenadines (or alternatively, St. Vincent and the Grenadines);

AND WHEREAS the Peoples of Saint Vincent and the Grenadines have been profoundly engaged in public consultations spread over six years beginning February 2003 in a process designed to reform their constitutional arrangements so as to produce a genuinely home-grown Constitution truly rooted in their history, heritage and culture with the objective of ensuring a more secure constitutional future for Saint Vincent and the Grenadines, **under a Republican form of government**;

NOW, THEREFORE, the following provisions shall have effect as the Constitution of Saint Vincent and the Grenadines:-

CHAPTER 1

THE STATE AND THE CONSTITUTION

Sovereign
Democratic
State.

1. Saint Vincent and the Grenadines shall be a sovereign democratic State having the form of Government established by this Constitution.

Multi-
Island State.

2. Saint Vincent and the Grenadines is a multi-island State comprising the inhabited islands, uninhabited islands, islets, cays or lands with the geographical co-ordinates referred to in the Preamble to this Constitution.

The
Constitution
is the
supreme
law.

3. (1) This Constitution is the supreme law of Saint Vincent and the Grenadines and, subject to the provisions of this Constitution, if any other law is inconsistent with this Constitution, this Constitution shall prevail and the other law shall, to the extent of the inconsistency, be void.

First
Schedule.

(2) **The provisions of this Constitution may be altered only in accordance with the provisions of section 74 of this Constitution and the First Schedule to this Constitution.**

Interpretation.

4. (1) In this Constitution, unless it is expressly otherwise stated or the context otherwise requires -

"citizen" means a citizen of Saint Vincent and the Grenadines, and "citizenship" shall be construed accordingly;

"Commonwealth citizen" means a citizen of a country of the Commonwealth;

"court" or "court of law" means any court of law established for Saint Vincent and the Grenadines;

"disciplined force" means -

(a) a naval, military or air force;

(b) the Police Service;

- (c) the Prison Service;
- (d) the Auxiliary Police Service; or
- (e) the Cadet Corps;

"dollars" means dollars in the currency of Saint Vincent and the Grenadines;

"financial year" means any period of twelve months beginning on 1st January in any year or such other date as may be prescribed by law;

“foreign power or state” means a power or state other than a CARICOM or an OECS member state of the Commonwealth;

“general election” means a general election of Representatives and Senators, where contested, pursuant respectively to sections 99 and 100 of this Constitution;

"law" means any law or any part thereof in force in Saint Vincent and the Grenadines, including any instrument having the force of law, and any unwritten rule of law; and "lawful" and "lawfully" shall be construed accordingly;

“meeting”, in relation to the National Assembly, means any sitting or sittings of the Assembly commencing when the Assembly first meets after being summoned at any time and terminating when the Assembly is adjourned or at the conclusion of a session;

“member”, in relation to a board, commission, tribunal or other similar body established or provided for by this Constitution includes the chairman and, if any, the deputy chairman and other members of such body; by whatever name the office of chairman or deputy chairman may be called;

“member”, in relation to the National Assembly, means a Representative and a Senator ; as well as the Speaker and the Attorney-General even when neither of these latter two is a Representative or a Senator ;

"Minister" means a Minister of the Government;

“modifications” includes adaptations, qualifications, exceptions and other such alterations;

"oath of allegiance" means such oath (or affirmation) of allegiance as may be prescribed by law;

"oath of office" means, in relation to any office, such oath (**or affirmation**) for the due execution of that office as may be prescribed by law;

"Parliament" means the Parliament of Saint Vincent and the Grenadines established by section 66 of this Constitution;

“Party List” means the list of candidates submitted by a political party on nomination day for an ensuing general election pursuant to section 98 of this Constitution;

“police officer” means a person holding or acting in an office in the Police Service referred to in section 183 of this Constitution;

“prison officer” means a person holding or acting in an office in the Prison Service referred to in section 184 of this Constitution;

“public authority” means any functionary, whether an individual or a body, empowered by law to exercise functions of a public nature;

"public office" means any office of emolument in the Public Service;

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

“Representative” means a member of the National Assembly elected in accordance with section 99 of this Constitution;

“Saint Vincent” means Saint Vincent and the Grenadines (alternatively, St. Vincent and the Grenadines);

“Senator” means a member of the National Assembly elected in accordance with section 100 of this Constitution;

"session" means, in relation to the National Assembly, the period beginning when the National Assembly first meets after Parliament has at any time been prorogued or dissolved and ending when Parliament is prorogued or when Parliament is dissolved without having been prorogued;

"sitting" means, in relation to the National Assembly, the period during which the National Assembly is sitting continuously without adjournment and includes any period during which it is in committee;

“Standing Orders” means the rules of procedure in force from time to time **made by the National Assembly** governing proceedings in the Assembly;

“teacher” means a person holding or acting in an office in the Teaching Service referred to in sections 184 to 185 of this Constitution;

“the Act” means the Saint Vincent and the Grenadines Constitution Act, 2009;

“the appointed day” means the day **appointed** for the commencement of this Constitution by Proclamation issued, **and published in the *Official Gazette*, in accordance with** section 4 of the Act;

“the Assembly” means the National Assembly;

“the Cabinet” means the Cabinet of Ministers of the Government;

“the Cadet Corps” means the Saint Vincent and the Grenadines Cadet Corps (hitherto called the Saint Vincent and the Grenadines Cadet Force) or any other appropriate name by which it may be called in the future;

“the Chief Justice” means the person holding or acting in the office of Chief Justice established by the Supreme Court Order;

“the Commonwealth” means the states designated as Commonwealth countries by or under any Act of Parliament so prescribing;

“the former Constitution” means the Constitution in force in Saint Vincent and the Grenadines immediately before the appointed day;

“the Government” means the Government of Saint Vincent and the Grenadines;

“the Judicial Committee” means the Judicial Committee of the Privy Council established by the Judicial Committee Act of the United Kingdom ^(a);

“the Minority Leader” means the person holding or acting in the office of Minority Leader established by section 124 of this Constitution;

“the National Assembly” means the National Assembly of Saint Vincent and the Grenadines established by section 67 of this Constitution;

"the Police Service" means the Saint Vincent and the Grenadines Police Service (**hitherto called the Royal St. Vincent and the Grenadines Police Force**) or any other appropriate name by which it may be called in the future and includes any other police **service** established to succeed to the functions of the Saint Vincent and the Grenadines Police Service;

“the President” means the person holding or acting in the Office of President established by section 49 of this Constitution as the Head of State of Saint Vincent and the Grenadines;

“the Prime Minister” means the person holding or acting in the office of Prime Minister established by section 108 of this Constitution as the Head of Government of Saint Vincent and the Grenadines;

^(a) 1833 c.41.

"the Prison Service" means the Saint Vincent and the Grenadines Prison Service;

"the Public Service" means, subject to the provisions of this section, service in a civil capacity of the Government;

"the Speaker" means the person holding or acting in the office of Speaker of the National Assembly established by section 71 of this Constitution;

"the State" means the State of Saint Vincent and the Grenadines, which may be referred to as the State of St. Vincent and the Grenadines;

"the Supreme Court" means the Supreme Court established by the Supreme Court Order;

"the Supreme Court Order" has the meaning assigned to this expression by paragraph (b) of subsection (3) of this section;

"the Teaching Service" means the Saint Vincent and the Grenadines Teaching Service.

(2) In this Constitution, unless it is expressly stated otherwise, references to an office in the public service shall not be construed as including –

- (a) references to the office of President, Prime Minister or any other Minister, Parliamentary Secretary, Minority Leader or a member of the National Assembly;
- (b) references to the offices of Speaker and Deputy Speaker;
- (c) references to the office of a member of any Commission established by this Constitution or a member of the Public Service Board of Appeal;

- (d) references to the office of Chief Justice or any other judge, or an officer, of the Supreme Court;
- (e) save in so far as may be provided by Parliament, references to the office of a member of any other council, board, panel, committee or other similar body (whether incorporated or not) established by or under any law.

(3) In this Constitution -

- (a) “the Supreme Court” means the Supreme Court established by the Supreme Court Order; and this Court shall, unless Parliament otherwise provides, be styled the Eastern Caribbean Supreme Court;
- (b) “the Supreme Court Order” is the citation which may be given to the West Indies Associated States Supreme Court Order, 1967 ^(a), in so far as it **forms part of the law of Saint Vincent and the Grenadines**;
- (c) references to the Supreme Court Order include references to any law altering that Order;
- (d) references to the Supreme Court, the Court of Appeal, the High Court and the Judicial and Legal Services Commission are references to the Supreme Court, the Court of Appeal, the High Court and the Judicial and Legal Services Commission established by the Supreme Court Order;
- (e) references to the Chief Justice have the same meaning as in the Supreme Court Order;

^(a) SI 1967/223 [UK].

- (f) references to a judge of the Supreme Court are references to a judge of the High Court and of the Court of Appeal and, unless the context otherwise requires, include references to a judge of the former Supreme Court of the Windward Islands and Leeward Islands; and
- (g) references to officers of the Supreme Court are references to the Chief Registrar, Masters and other officers of the Supreme Court appointed under the Supreme Court Order.

(4) In this Constitution "the specified qualifications" means the professional qualifications specified by or under any law, one of which must be held by any person before he may apply under that law to be admitted to practise as a Barrister-at-Law or an Attorney-at-Law or a Solicitor in Saint Vincent and the Grenadines.

(5) Save as may be otherwise provided by Parliament, the provisions (except sections 2 and 17) of the Commissions of Enquiry Act of Saint Vincent and the Grenadines^(a) shall apply, with necessary **modifications, adaptations, qualifications, exceptions and other such alterations** in relation to tribunals appointed under sections 63 (1) (d), 146 (3), 164 (3), 179 (1), 189 (1), 202 (3), 217 (3), 225 (3) and 233 (3), of this Constitution or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Act.

(6) In this Constitution, references to altering this Constitution or any other law, or any provision thereof, include references –

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

^(a) Cap. 14, Revised Laws of Saint Vincent and the Grenadines, 1990.

- (b) to modifying it, whether by omitting or amending any of its provisions or inserting additional provisions in it or otherwise; and
- (c) to suspending its operation for any period or terminating any such suspension.

(7) In this Constitution-

- (a) **the masculine includes the feminine, and *vice versa*;**
- (b) **the singular includes the plural, and *vice versa*.**

(8) In this Constitution, “functions” includes powers and duties.

(9) Where this Constitution provides for anything to be done by a political party, that thing shall be deemed to have been validly done if it is done by the person who for the time being is the leader of that party, or by some other person duly authorised in writing in that behalf by the leader of the party.

(10) **In this Constitution-**

- (a) The Caribbean Community (“CARICOM”) means the regional grouping of countries which are signatory member states of the Treaty of Chaguaramas 1973 Revised in 2001 and the countries which are associated member states thereunder;**
- (b) The Organisation of Eastern Caribbean States (“OECS”) means the sub-regional grouping of countries which are signatory member states of the**

Treaty of Basseterre 1981 and the countries which are associated member states thereunder;

(c) A CARICOM or an OECS member state of the Commonwealth means a CARICOM or an OECS member state or an associated member state of either CARICOM or OECS that is also a member state of the Commonwealth.

(11) The Interpretation and General Provisions Act of Saint Vincent and the Grenadines^(a) shall apply, with necessary modifications, adaptations, qualifications, exceptions and other such alterations for the purpose of interpreting this Constitution and otherwise in relation thereto as it applies for the purpose of interpreting and in relation to Acts of the Parliament of Saint Vincent and the Grenadines.

^(a) Cap. 10, Revised Laws of Saint Vincent and the Grenadines, 1990.

CHAPTER II

GUIDING PRINCIPLES OF STATE POLICY

The people
are sovereign.

5. (1) The people are the true political sovereign of the State; power belongs to the people. Therefore, the will of the people shall be the basis of the authority of government. The people exercise their sovereignty by the process of democracy through their Representatives **and Senators** in the National Assembly, and through such other democratic organs as may be established by or under this Constitution.

(2) In formulating and implementing fundamental policy measures, whether or not to be translated into law, Government must constantly act primarily in furtherance of what is in the best interests of the people.

Right to
be active
in political
parties.

6. Every person has the right to participate actively in party politics, to join a political party of his choice and to hold and express political opinions according to his conscience, subject only to such limitations as are properly imposed by or under this Constitution.

Paramount
constitutional
doctrines.

7. This Constitution is founded on and is dedicated to enshrining the paramount constitutional doctrines of -

- (i) the freedom of the individual balanced by the civic responsibility of the individual;
- (ii) the rule of law;
- (iii) the separation of powers, particularly the personnel and powers of the Judiciary from those of the Legislature (Parliament) and the Executive (Government);
- (iv) parliamentary democracy; and
- (v) good governance.

Economic
development
and social
justice.

8. The constitutional, administrative and political systems ought to strive for national sustainable economic development, based on a combination of privately owned and publicly owned economic enterprises, and the pursuit of full employment. **This development must pay due regard to the existence of constituencies whenever the annual estimates of revenues and expenditures are prepared.** A principal objective of this is to ensure the greatest possible

satisfaction of the growing material, spiritual, cultural and intellectual needs of the people and to uplift the quality of their life, with social justice for all.

Legal aid.

9. In order better to promote justice, Parliament shall enact legislation to provide legal aid to indigent accused persons in cases where such persons may be liable to be subjected to capital punishment, as well as in other cases where such persons face serious criminal charges if in such cases legal aid is recommended by the presiding judicial officer.

Right to work.

10. (1) Every member of the Vincentian work-force has the right to work in his chosen field, whether his work be manual or mental or otherwise, there being dignity in all honest labour; and he has the right to be paid fair remuneration for his work.

(2) In turn, every member of the Vincentian work-force has a responsibility to render a fair day's work, and to yield worthy production as well as proper productivity.

Right to health.

11. Every person has the right to the enjoyment of health. The State shall protect and promote public health, and shall establish and maintain appropriate sanitary measures to ensure to every Vincentian the highest attainable standards of health, to the extent feasible according to the resources available to the State.

More humane society.

12. State power is not to be abused; rather, its exercise is to be characterized by fair play in action in building a more caring and humane society.

Equal treatment.

13. (1) Every person has a right to equality of treatment by public authorities.

(2) **Without prejudice to the generality of subsection (1) of this section, it is hereby affirmed that, lawfully depriving a person of his personal liberty does not, without more,**

justify denying him his other rights and freedoms in the absence of appropriate regard for such relevant countervailing concerns as national security and public health, whether in relation to the condition of his hair or otherwise; and does not excuse disregard for his legitimate dietary practices.

The environment.

14. This Constitution enjoins the organs of the State, other public authorities and the people to protect and enhance the environment.

National heritage.

15. Vincentians are entitled to have their historical, cultural and other heritage respected, protected and preserved.

Freedom of culture.

16. The people have a right to the enjoyment of freedom of culture and to cultural expression.

The family and marriage.

17. (1) The State acknowledges the family as the natural basic unit of society. Consequently, the State accords the family recognition, respect, protection and support; asserting that men and women of the age of civil, legal and societal responsibility have the right to establish a family.

(2) The State shall recognise and protect marriage, which shall be a legal union only between **two persons each of the opposite sex.**

(3) **Parliament may make provision prescribing what status and protection may be accorded to common law unions in the context of this section.**

The elderly and disabled.

18. The elderly and the disabled are entitled to have their special needs met and to receive care befitting their circumstances according to the resources available to the State.

Young persons to be honoured.

19. Due appreciation is to be accorded to young persons for their contribution to nation-building.

Youth rights.

20. Every young person has the right to educational, social, cultural and vocational enhancement, including a right to fair opportunity for responsible participation in national development.

Equality for women and men.

21. (1) Women and men have equal rights and the same legal status in all spheres of political, economic, cultural and social life. All forms of discrimination against women and men on the basis of their sex are prohibited.

(2) The rights of women are ensured by according to women equal access with men to academic, vocational and professional training, equal opportunities in employment, remuneration and promotion; and in social, political and cultural activity. Moral support is to be encouraged for mothers and children, including paid leave and other benefits for mothers and expectant mothers.

(3) Political parties are obliged to aspire to having not less than thirty percent of the combined total number of persons whose names are included on the Party List submitted by a party in accordance with section 98 of this Constitution as women; and not less than thirty percent of that combined total as men.

Protection of children; and equality for children born out of wedlock.

22. (1) Children are entitled to the protection of the rights of the child as expressed in relevant international treaties to which Saint Vincent and the Grenadines is a State Party.

(2) Children born out of wedlock are entitled to the same legal rights and legal status as are enjoyed by children born in wedlock. All forms of discrimination against children on the basis of their being born out of wedlock are prohibited.

Adherence to regionalism and international law.

23. Organs of the State and other public authorities shall adhere to and be guided by the obligations and commitments of Saint Vincent and the Grenadines to regional integration such as

in the Caribbean Community (“CARICOM”) and the Organisation of Eastern Caribbean States (“OECS”) and to applicable international law; while protecting the rights and benefits which Saint Vincent and the Grenadines derives from such regional integration and international law.

Guiding
principles.

24. The provisions of this Chapter constitute constitutional norms appropriate for the guidance of the actions of organs of the State and other public authorities, being of the nature of guiding principles of State policy.

CHAPTER III

PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS

Fundamental
rights and
freedoms.

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

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

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

Protection
of right to
life.

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

(2) A person shall not be regarded as having been deprived of his life in contravention of this section if he dies as the result of the use, to such extent and in such

circumstances as are permitted by law, of such force as is reasonably justifiable -

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

(3) A person shall not be regarded as having been deprived of his life in contravention of this section if he is subjected to capital punishment in accordance with section 29 of this Constitution.

Protection
of right to
personal
liberty.

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

- (a) in execution of the sentence or order of a court, whether established for Saint Vincent and the Grenadines or some other country, in respect of a criminal offence of which he has been convicted;
- (b) in execution of the order of the High Court or the Court of Appeal punishing him for contempt of that court or of another court or tribunal;

- (c) in execution of the order of a court made to secure the fulfillment of any obligation imposed on him by law;
- (d) for the purpose of bringing him before a court in execution of the order of a court;
- (e) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under any law;
- (f) under the order of a court or with the consent of his parent or guardian, for his education or welfare during any period ending not later than the date when he attains the age of eighteen years;
- (g) for the purpose of preventing the spread of an infectious or contagious disease;
- (h) 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;
- (i) or the purpose of preventing the unlawful entry of that person into Saint Vincent and the Grenadines, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from the State, or for the purpose of restricting that person while he is being conveyed through the State

in the course of his extradition or removal as a convicted prisoner from one country to another; or

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

(2) Any person who is arrested or detained shall with reasonable promptitude and in any case no later than twenty-four hours after such arrest or detention be informed in a language that he understands of the reasons for his arrest or detention and be afforded reasonable facilities for private communication and consultation with a legal practitioner of his own choice and, in the case of a minor, with his parents or guardian.

(3) Any person who is arrested or detained -

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

- (b) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under any law,

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

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

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

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

Provided that a judge, a magistrate or a justice of the peace or an officer of a court or a police officer acting in pursuance of the order of a judge, a magistrate or a justice of the peace shall not be under any personal liability to pay compensation under this subsection in consequence of any act performed by him in good faith in the discharge of the functions

of his office and any liability to pay any such compensation in consequence of any such act shall be a liability of the State.

(7) For the purposes of paragraph (a) of subsection (1) of this section, a person charged before a court with a criminal offence of whom in respect of whom has been returned the special verdict that he was guilty of the act or omission charged but was insane when he did the act or made the omission, or that he is not guilty by reason of insanity, shall be regarded as a person who has been convicted of a criminal offence. The detention of that person in consequence of such a verdict shall be regarded as detention in execution of the order of a court.

Protection
from slavery
and
forced labour .

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

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

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

- (a) any labour required in consequence of the sentence or order of a court;
- (b) labour required of any person while he is lawfully detained that, though not required in consequence of the sentence or order of a court, is reasonably necessary in the interests of hygiene or for the maintenance of the place at which he is detained;
- (c) any labour required of a member of a disciplined force in pursuance of his duties as such or, in the case of a

person who has conscientious objections to service as a member of a naval, military or air force, any labour that that person is required by law to perform in place of such service;

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

Protection
from inhuman
treatment.

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

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question authorizes the infliction of any description of punishment that was lawful in Saint Vincent and the Grenadines immediately before the coming into force of this Constitution:

Provided that Parliament may prescribe the infliction of other descriptions of punishment including the description of capital punishment other than by hanging.

(3) No objection shall be taken in or by any court to a sentence of capital punishment being carried out within one year after the exhaustion of all proceedings embarked upon and diligently pursued by the person thus sentenced, in any court or tribunal or other body the jurisdiction

of which is recognised by or under the laws of Saint Vincent and the Grenadines, whether such court or tribunal or other body is located inside or outside Saint Vincent and the Grenadines, at which the imposition or passing of such sentence may lawfully be appealed, reviewed, challenged or questioned by the person thus sentenced.

(4) Parliament may prescribe relevant criteria for determining whether murder is capital, on conviction for which a person shall be subject to the death penalty; or non-capital, on conviction for which a person shall not be subject to the death penalty:

Provided that non-capital murder shall be confined to murder committed in sudden passion;

Provided further that high treason shall always be a capital offence.

(5) On the trial of a person indicted for murder, if the jury returns a verdict convicting that person of murder, it shall be a matter for the judge presiding at the trial to determine whether the murder is capital, as distinct from non-capital.

(6) If on the trial of a person indicted for murder the jury returns a verdict convicting him of murder, the judge shall hear evidence on the question whether the murder is capital as distinct from non-capital. If, having heard such evidence, and on any relevant criteria referred to in sub section (4) of this section, the judge determines that the murder is capital, the judge shall impose the sentence of the death penalty, that is, capital punishment, on the person so convicted.

(7) If a person is convicted of murder, whether capital or non-capital, then, after sentence has been

imposed on him, questions of mercy shall be for the exclusive determination of the President acting in accordance with the advice of the Parliamentary Commission pursuant to section 134 of this Constitution.

(8) The carrying out of capital punishment in accordance with this section shall not be held to be inconsistent with or in contravention of this section or section 26 of this Constitution protecting the right to life or any other provision of this Constitution.

Protection
from
deprivation
of property.

30. (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 for a public purpose and except where provision is made by a law applicable to that taking of possession or acquisition for the payment, within a reasonable time, of adequate compensation, that is, compensation which in all the circumstances is fair and reasonable to the person entitled to compensation and also to the State, without limitation as to the date at which compensation should be assessed:

Provided that the compensation shall be paid within twelve months of the date of the **compulsory taking of possession or** acquisition.

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

- (a) determining the nature and extent of that interest or right;
- (b) determining whether that taking of possession or acquisition was duly carried out in accordance with a law authorising the taking of possession or acquisition;

- (c) determining what compensation he is entitled to under the law applicable to that taking of possession or acquisition;
- (d) obtaining that compensation:

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

(3) The Chief Justice may make rules with respect to the practice and procedure of the High Court or, subject to such provision as may have been made in that behalf by Parliament, with respect to the practice and procedure of any other tribunal or authority in relation to the jurisdiction conferred on the High Court by subsection (2) of this section or exercisable by the other tribunal or authority for the purposes of that subsection (including rules with respect to the time within which applications or appeals to the High Court or applications to the other tribunal or authority may be brought).

(4) No person who is entitled to compensation under this section shall be prevented from remitting, within a reasonable time after he has received any amount of that compensation in the form of a sum of money or, as the case may be, has received any such amount in some other form and has converted any of that amount into a sum of money, the whole of that sum of money (free from any deduction, charge or tax made or levied in respect of its remission) to any country of his choice outside Saint Vincent and the Grenadines.

(5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (4) of this section to the extent that the law in question authorises -

- (a) the attachment, by order of a court, of any amount of compensation to which a person is entitled in satisfaction of the judgment of a court or pending the determination of civil proceedings to which he is a party;
- (b) the imposition of reasonable restrictions on the manner in which any sum of money is to be remitted; or
- (c) the imposition of reasonable restrictions upon the remission of any sum of money in order to prevent or regulate the transfer to a country outside Saint Vincent and the Grenadines of capital raised in the State, or in some other country or derived from the natural resources of the State.

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

- (a) to the extent that the law in question makes provision for the taking of possession or acquisition of any property, interest or right -
 - (i) in satisfaction of any tax, rate or due;
 - (ii) by way of penalty for breach of any law or forfeiture in consequence of breach of any law;
 - (iii) as an incident of a lease, tenancy, mortgage, charge, bill of sale, pledge or contract;

- (iv) in the execution of judgments or orders of a court in proceedings for the determination of civil right or obligations;
- (v) in circumstances where it is reasonably necessary so to do because the property is in a dangerous state or likely to be injurious to the health of human beings, animals or plants;
- (vi) in consequence of any law with respect to the limitation of actions; or
- (vii) for so long only as may be necessary for the purposes of any examination, investigation, trial or inquiry or, in the case of land, for the purposes of the carrying out thereon of work of soil conservation or the conservation of other natural resources or work relating to agricultural development or improvement (being work relating to such development or improvement that the owner or occupier of the land has been required, and has without reasonable excuse refused or failed, to carry out),

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

- (b) to the extent that the law in question makes provision for the taking of

possession or acquisition of any of the following property (including an interest in or right over property), that is to say -

- (i) enemy property;
- (ii) property of a deceased person, a person of unsound mind or a person who has not attained the age of eighteen years, for the purpose of its administration for the benefit of the persons entitled to the beneficial interest therein;
- (iii) property of a person adjudged bankrupt or a body corporate in liquidation, for the purpose of its administration for the benefit of the creditors of the bankrupt or body corporate and, subject thereto, for the benefit of other persons entitled to the beneficial interest in the property; or
- (iv) property subject to a trust, for the purpose of vesting the property in persons appointed as trustees under the instrument creating the trust or by a court or, by order of a court, for the purpose of giving effect to the trust.

(7) Nothing contained in or done under the authority of any law enacted by Parliament shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision for the compulsory taking of possession of any property, or the compulsory acquisition of any interest in or right over property,

where that property, interest or right is held by a body corporate established by law for public purposes in which no monies have been invested other than monies provided by Parliament.

(8) Nothing in this section shall affect the operation of any law in force immediately before 27th October 1969 or any law made on or after that date that alters a law in force immediately before that date and that does not-

- (a) add to the kinds of property that may be taken possession of or the rights over and interests in property that may be acquired; or
- (b) make the conditions governing entitlement to compensation or the amount thereof less favourable to any person owning or having an interest in the property; or
- (c) deprive any person of any such right as is mentioned in subsection (2) of this section.

(9) In this section -

"acquisition", in relation to an interest in or right over property, means transferring that interest or right to another person or extinguishing or curtailing that interest or right;

"property" means any land or other thing capable of being owned or held in possession and includes any right relating thereto, whether under a contract, trust or law or otherwise and whether present or future, absolute or conditional.

31. (1) Except with his own consent, a person shall not be subjected to the search of his person or his property or the entry by others on his premises.

Protection
from arbitrary
search or
entry.

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

- (a) that is reasonably required in the interests of defence, public safety, public order, public morality, public health, town and country planning, the development and utilization of mineral resources or the development or utilization of any property for a purpose beneficial to the community;
- (b) that is reasonably required for the purpose of protecting the rights or freedoms of other persons;
- (c) that authorises an officer or agent of the Government, 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 the Government or to that authority or body corporate, as the case may be; or
- (d) that authorises, for the purpose of enforcing the judgment or order of a court in any civil proceedings, the search of any person or property by order of a court or entry upon any premises by such order,

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

Provisions
to secure
the
protection
of the law.

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

- (f) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial, and except with his own consent the trial shall not take place in his absence unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable and the court has ordered him to be removed and the trial to proceed in his absence:

Provided that the trial may take place in his absence in any case in which it is so provided by a law under which he is entitled to adequate notice of the charge and the date, time and place of the trial and to a reasonable opportunity of appearing before the court.

(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 proceeding made by or on behalf of the court.

(4) A person shall not 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 **more severe** in degree or description than the maximum penalty that might have been imposed for that offence at the time when it was committed.

(5) A person who shows that he has been tried by a competent court for a criminal offence and either convicted or acquitted shall not 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) A person shall not be tried for a criminal offence if he shows that he has been pardoned for that offence.

(7) A person who is tried for a criminal offence shall not be compelled to give evidence at the trial: Provided that nothing in this subsection shall prevent the prosecution or the court from commenting on his failure to give evidence on his own behalf or prevent the court from drawing inferences from any such failure.

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

(9) Where the existence or extent of any civil right or obligation has been determined in proceedings in any court or before any other authority any party to those proceedings shall, if he so requires and subject to payment of such reasonable fee as may be prescribed by law, be entitled to obtain within a reasonable time after the judgment or other determination a copy of any record of the proceedings made by or on behalf of the court or other authority.

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

(11) Nothing in subsection (10) of this section shall prevent the court or other adjudicating authority from excluding from the proceedings persons other than the parties

thereto and the legal practitioners representing them to such extent as the court or other authority –

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

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

- (a) subsection (2)(a) of this section to the extent that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts;
- (b) subsection (2)(e) of this section to the extent that the law in question imposes reasonable conditions that must be satisfied if witnesses called to testify on behalf of an accused person are to be paid their expenses out of public funds; or
- (c) subsection (5) of this section to the extent that the law in question authorises a court to try a member of

a disciplined force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of that force, so, however, that any court so trying such a member and convicting him shall in sentencing him to any punishment take into account any punishment awarded him under that disciplinary law.

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

(14) In this section "criminal offence" means a criminal offence under a law.

Protection
of freedom
of
conscience.

33. (1) Except with his own consent, a person shall not be hindered in the enjoyment of his freedom of conscience, including freedom of thought and of religion, freedom to change his religion or belief and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.

(2) Except with his own consent (or, if he is a person under the age of eighteen years, the consent of his guardian) a person attending any place of education, detained in any prison or corrective institution or serving in a naval, military or air force shall not 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 that is not his own.

(3) Every religious community shall be entitled, at its own expense, to establish and maintain places of

education and to manage any place of education which it maintains; and no such community shall be prevented from providing religious instruction for persons of that community in the course of any education provided by that community, whether or not it is in receipt of a government subsidy or other form of financial assistance designed to meet in whole or in part the cost of such course of education.

(4) A person shall not be compelled to take any oath which is contrary to his religion or belief or to take any oath in a manner that is contrary to his religion or belief.

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

- (a) in the interests of defence, public safety, public order, public morality or public health;
- (b) for the purpose of protecting the rights and freedoms of other persons including the right to observe and practise any religion without the unsolicited intervention of members of any other religion; or
- (c) the purpose of regulating educational institutions in the interests of the persons who receive or may receive instruction in them,

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

(6) References in this section to a religion shall be construed as including references to a religious

denomination, and cognate expressions shall be construed accordingly.

Protection
of freedom
of
expression.

34. (1) Except with his own consent, a person shall not be hindered of in the enjoyment of his freedom of expression, including freedom to hold and express opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference (whether the communication be to the public generally or to any person or class of persons), freedom of the press and freedom from interference with his correspondence.

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

- (a) that is reasonably required in the interests of defence, public safety, public order, public morality or public health;
- (b) that is reasonably required for the purpose of protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts or regulating the technical administration or the technical operation of telephony, telegraphy, posts, wireless broadcasting or television, and telecommunications generally; or
- (c) that imposes restrictions upon public officers that are reasonably required

for the proper performance of their functions,

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.

35. (1) Except with his own consent, a person shall not be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular, to form or belong to trade unions and to participate in collective bargaining activities and agreements, and to form or belong to political parties or other associations, organizations and institutions for the protection of his interests.

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

- (a) that is reasonably required in the interests of defence, public safety, public order, public morality or public health;
- (b) that is reasonably required for the purpose of protecting the rights or freedoms of other persons; or
- (c) that imposes restrictions upon public officers that are reasonably required for the proper performance of their functions,

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.

36. (1) A person shall not be deprived of his freedom of movement, that is to say, the right to move freely throughout Saint Vincent and the Grenadines, the right to reside in any part of the State, the right to enter the State, the right to leave the State and immunity from expulsion from the State.

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

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

- (a) for the imposition of restrictions on the movement or residence within the State of any person or on any person's right to leave the State that are reasonably required in the interests of defence, public safety or public order;
- (b) for the imposition of restrictions on the movement or residence within the State or on the right to leave the State of persons generally or any class of persons in the interests of defence, public safety, public order, public morality or public health or, in respect of the right to leave the State, of securing compliance with any international obligation of the Government, particulars of which have been laid before the National Assembly; and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society;

- (c) for the imposition of restrictions, by order of a court, on the movement or residence within the State of any person or on any person's right to leave the State either in consequence of his having been found guilty of a criminal offence under a law or for the purpose of ensuring that he appears before a court at a later date for trial of such a criminal offence or for proceedings preliminary to trial or for proceedings relating to his extradition or lawful removal from the State;
- (d) for the imposition of restrictions on the freedom of movement of any person who is not a citizen;
- (e) for the imposition of restrictions on the acquisition or use by any person of land or other property in the State;
- (f) for the imposition of restrictions upon the movement or residence within the State or on the right to leave the State of any public officer that are reasonably required for the proper performance of his functions;
- (g) for the removal of a person from the State to be tried or punished in some other country for a criminal offence under the law of that other country or to undergo imprisonment in some other country in execution of the sentence of a court in respect of a criminal offence under a law of which he has been convicted; or

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

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

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

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

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

Protection
from
discrimination
on the grounds
of race, etc.

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 sex, race, place of origin, political opinions, colour or creed, whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

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

- (a) for the appropriation of public revenues or other public funds;
- (b) with respect to persons who are not citizens;
- (c) for the application, in the case of persons of any such description as is mentioned in subsection (3) of this section (or of persons connected with such persons), of the law with respect to adoption, marriage, divorce, burial, devolution of property on death or other like matters that is the personal law of persons of that description;
- (d) whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any disability or restriction or may be accorded any privilege or advantage that, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other

such description, is reasonably justifiable in a democratic society.

(5) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) of this section to the extent that it makes provision with respect to standards or qualifications (not being standards or qualifications specifically relating to sex, race, place or origin, political opinions, colour or creed) to be required of any person who is appointed to or to act in any office or employment.

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

(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any restriction on the rights and freedoms guaranteed by sections 31, 33, 34, 35 and 36 of this Constitution, being such a restriction as is authorised by sections 31 (2), 33 (5), 34 (2), 35 (2) and paragraphs (a), (b), or (h) of subsection (3) of section 36, as the case may be.

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

Age of civil
legal
responsibility.

38. (1) The age at which a person may decide for himself his own personal or societal destiny under his civil legal responsibility shall be eighteen years.

(2) Attaining the age for deciding his destiny means that at this age he shall have the right to-

- (i) marry without requiring the consent of his parent or guardian;
- (ii) hold in his own name, as his own, any property including real property;
- (iii) dispose of, whether **by deed or by will or by any other written instrument**, his property, including real property, without requiring the consent of any court, tribunal or other body or person so to do;
- (iv) do, without requiring the consent of any court tribunal or other body or person, any of the things which previously could lawfully be done only by a person attaining a higher age.

Derogations from s. 27 or s.37 under emergency powers.

39. Nothing contained in or done under the authority of a law enacted by Parliament shall be held to be inconsistent with or in contravention of section 27 or section 37 of this Constitution to the extent that the law authorises the taking during any period of public emergency of measures that are reasonably justifiable for dealing with the situation that exists in Saint Vincent and the Grenadines during that period.

Protection of persons detained under emergency laws.

40. (1) When a person is detained by virtue of any such law as is referred to in section 39 of this Constitution the following provisions shall apply, that is to say:-

- (a) he shall, with reasonable promptitude and in any case not more than seven days after the commencement of his detention, be informed in a

language that he understands and in detail of the grounds upon which he is detained and furnished with a written statement in English specifying those grounds in detail;

- (b) not more than fourteen days after the commencement of his detention, a notification shall be published in the *Official Gazette* stating that he has been detained and giving particulars of the provision of law under which his detention is authorised;
- (c) not more than one month after the commencement of his detention and thereafter during his detention at intervals of not more than six months, his case shall be reviewed by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice from among persons who are legal practitioners
- (d) he shall be afforded reasonable facilities for private communication and consultation with a legal practitioner of his own choice who shall be permitted to make representations to the tribunal appointed for the review of the case of the detained person; and
- (e) at the hearing of his case by the tribunal appointed for the review of his case he shall be permitted to appear in person or to be

represented by a legal practitioner of his own choice.

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

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

Enforcement of protective provisions.

41. (1) If any person alleges that any of the provisions of sections 26 to 40 (inclusive) of this Constitution has been, is being or is likely to be contravened in relation to him (or, in the case of a person who is detained, if any other person alleges such a contravention in relation to the detained person), then, without prejudice to any other action with respect to the same matter that is lawfully available, that person (or that other person) may apply to the High Court for redress.

(2) The High Court shall have original jurisdiction -

- (a) to hear and determine any application made by any person in pursuance of subsection (1) of this section; and
- (b) to determine any question arising in the case of any person which is referred to it in pursuance of subsection (3) of this section,

and may make such declarations and orders, issue such writs and give such directions as it may consider appropriate for the

purpose of enforcing or securing the enforcement of any of the provisions of sections 26 to 40 (inclusive) of this Constitution:

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

(3) If in any proceedings in any court (other than the Court of Appeal or the High Court or a court-martial) any question arises as to the contravention of any of the provisions of sections 26 to 40 (inclusive) of this Constitution, the person presiding in that court may, and shall if any party to the proceedings so requests, refer the question to the High Court unless, in his opinion, the raising of the question is merely frivolous or vexatious.

(4) Where any question is referred to the High Court in pursuance of subsection (3) of this section, the High Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision or, if that decision is the subject of an appeal to the Court of Appeal or to the Judicial Committee or to any other court having final appellate jurisdiction in respect of appeals from Saint Vincent and the Grenadines in substitution for the Judicial Committee, in accordance with the decision of the Court of Appeal or, as the case may be, of the Judicial Committee or of such other final appellate court.

(5) The High Court shall have such powers in addition to those conferred by this section as may be conferred upon it by Parliament for the purpose of enabling it more effectively to exercise the jurisdiction conferred upon it by this section.

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

Declaration of
emergency.

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

(2) A proclamation under this section shall not be effective unless it contains a declaration that the President is satisfied -

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

(3) Every declaration of emergency shall lapse –

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

(b) in any other case, at the expiration of a period of twenty-one days beginning with the date of publication of the declaration, unless it has in the meantime been approved by resolution of the Assembly.

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

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

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

Provided that any such resolution may be extended from time to time by a further such resolution, each extension not exceeding twelve months from the date of the resolution effecting the extension; and any such resolution may be revoked at any time by a further resolution.

(7) A resolution of the Assembly for the purposes of subsection (3) of this section and a resolution of the Assembly extending any such resolution shall not be passed in the Assembly unless it is supported by the votes of at least two-thirds of all the **members of the Assembly**; and a resolution

revoking any such resolution shall not be so passed unless it is supported by the votes of at least a majority of all the **members of the Assembly**.

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

Interpretation
and
savings.

43. (1) In this Chapter, unless the context otherwise requires -

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

"court" or "court of law" means any court of law having jurisdiction in Saint Vincent and the Grenadines other than a court established by a disciplinary law, and includes the Judicial Committee or any other court having final appellate jurisdiction in respect of appeals from Saint Vincent and the Grenadines in substitution for the Judicial Committee, and in sections 26 and 28 of this Constitution a court established by a disciplinary law;

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

"legal practitioner" means a person entitled to be in or to enter Saint Vincent and the Grenadines and entitled to practise law as a barrister-at-law or an attorney-at-law in the State or, except in relation to proceedings before a court in which a solicitor has no right of audience, entitled to practise law as a solicitor in the State;

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

(2) In this Chapter, "period of public emergency" means any period during which -

- (a) Saint Vincent and the Grenadines is at war; or
- (b) a declaration of emergency is in force under section 42 of this Constitution.

(3) In relation to any person who is a member of a disciplined force of Saint Vincent and the Grenadines, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter other than sections 26, 28 and 29 of this Constitution.

(4) In relation to any person who is a member of a disciplined force of a country other than Saint Vincent and the Grenadines that is lawfully present in Saint Vincent and the Grenadines, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter.

CHAPTER IV

THE HUMAN RIGHTS COMMISSION

Establishment of
Human Rights
Commission.

44. There shall be a Human Rights Commission for Saint Vincent and the Grenadines (hereinafter in this Chapter referred to as the Commission).

Composition.

45. The Commission shall comprise a Chairman and such other number of Commissioners as may be provided for by Parliament.

Functions.

46. The Commission shall investigate complaints by persons that they have suffered wrongs done by public authorities against the basic human rights of complainants, whether or not amounting to unconstitutional contraventions of the fundamental rights and freedoms protected by Chapter III of this Constitution.

Recommendations
and representations.

47. (1) If the Commission finds that a complaint of the kind referred to it under section 46 of this Constitution has been substantiated, the Commission may make a recommendation to the Attorney-General as to how the wrong complained about may be addressed.

(2) The Commission may make written representations to such persons, bodies or institutions, whether local or overseas, as may appear to the Commission to have an interest therein, with a view to their taking such action as may be appropriate.

Not subject
to direction
or control.

48. (1) Parliament may make laws prescribing the method of appointment and removal of Commissioners, their tenure, remuneration, other terms and conditions; and other matters incidental to the functioning of the Commission; in terms and with guarantees ensuring the independence and effectiveness of the Commission.

(2) The Commission shall, in the exercise of the functions vested in it by this Constitution or any other law, not be subject to the direction or control of any other person or authority.

CHAPTER V

THE PRESIDENT

Establishment of
office of
President as Head
of State.

49. There shall be an office of President of Saint Vincent and the Grenadines. The President shall be the Head of State of Saint Vincent and the Grenadines.

President to be
elected.

50. The President shall be elected by the National Assembly in accordance with the provisions of this Chapter.

Qualifications
and
disqualifications.

51. (1) A person shall be qualified to be nominated for election as President if, and shall not be so qualified unless, at the date of his nomination, he-

- (i) is a citizen of Saint Vincent and the Grenadines;
- (ii) is not, by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to a foreign power or state;
- (iii) is of the age of thirty-five years or upwards; and
- (iv) is domiciled and ordinarily resident in Saint Vincent and the Grenadines at the date of his nomination; or has been residing in Saint Vincent and the Grenadines for not less than five years immediately preceding his nomination.

(2) For the purposes of subsection (1) of this section a person shall be deemed to reside in Saint Vincent and the Grenadines if he holds an office in the service of Saint Vincent and the Grenadines, **or in a regional or international institution or other body of which Saint Vincent and the Grenadines is a member, or in which Saint Vincent and the Grenadines participates and functions,** and lives outside Saint Vincent and the Grenadines by reason of his being required to do so for the proper discharge of his functions.

(3) A person shall be disqualified for nomination and election as the President if he is disqualified for election as a member of the National Assembly by virtue of section 69 of this Constitution or any law made under that section of this Constitution.

(4) A person shall not be qualified to be nominated for election as President if he holds any office of emolument or profit in the public service of, or any publicly elected office in, any country other than Saint Vincent and the Grenadines.

Other conditions of office.

52. (1) If a member of the National Assembly is elected to the office of President, the seat of that member in the Assembly shall thereupon become vacant.

(2) Except in the case of a person acting as, or for the time being performing the functions of, President under section 59 of this Constitution, the President shall not hold any office of emolument or profit in the public service or otherwise, other than that of President.

(3) The salary and allowances of the President and his other terms and conditions of service shall not be altered to his disadvantage during his tenure of office.

Date for election.

53. (1) The Speaker shall be responsible for arranging the holding of elections for the office of President.

(2) The date of every election under this section shall be announced in the *Official Gazette* by the Speaker within such number of days in advance as may be prescribed by Parliament.

(3) An election for President shall be held not less than ninety days nor more than one hundred and twenty days after the first sitting of the transitional National Assembly referred to in section 11 of the Act, and the President who is so elected shall assume office on the expiration of not more than thirty days next after his election.

(4) Thereafter, an election for President shall be held not less than thirty days nor more than sixty days before the expiration of the term of that office.

(5) Where the office of President becomes vacant under section 61 of this Constitution before the expiration of the term

of that office prescribed by section 60 of this Constitution, an election shall be held to fill the vacancy within ninety days of the occurrence of the vacancy.

(6) When a person is elected President he shall immediately assume office.

(7) Where the date for the assumption of office of a President falls on a Sunday or public holiday the President shall assume office on the next following day that is not a Sunday or public holiday.

(8) Where the time limited for holding an election for President under subsections (3), (4) or (5) of this section has not been complied with, Parliament may make provision for an extension of the period during which elections may be held.

(9) The actual date for the election of a President under this section shall be fixed by the Prime Minister in consultation with the Minority Leader, and shall be communicated to the Speaker.

Election of
President.

54. (1) Whenever the office of President is vacant or the term of office of the President is due to expire within not more than ninety days, the Prime Minister and the Minority Leader shall consult with one another and with the Chairman of the Parliamentary Commission, jointly or separately on, among other things, the question whether the Prime Minister and the Minority Leader are able to agree on a joint nomination of a suitable candidate for election as President.

(2) If the Prime Minister and the Minority Leader, after both of them have consulted jointly or separately with the Chairman of the Parliamentary Commission, submit to the Speaker in writing a joint nomination of a candidate for election to the office of President, to which that candidate has consented, the Speaker shall inform the National Assembly of the joint nomination of that candidate. The Speaker shall thereupon fix a date for a meeting of the Assembly, not less than fourteen days thereafter, and he shall inform the Assembly that he intends, at that meeting, to declare that candidate to have been duly elected as President, without putting the question to a vote. If, however, another candidate has been nominated and seconded by not less than five members of the Assembly other than the

Prime Minister and the Minority Leader, and has consented in writing to the nomination, so that there are two or more candidates, thus requiring a contested election, subsection (5) of this section shall apply; provided that the nomination last referred to in this subsection must be submitted to the Speaker not less than seven days before the date fixed by the Speaker as referred to in this subsection.

(3) If the Prime Minister and the Minority Leader are not able to agree on a joint nomination of a candidate for election as President, the Prime Minister shall notify the Speaker to that effect and the Speaker shall inform the Assembly accordingly.

(4) **The Prime Minister or the Minority Leader or any other five members of the Assembly**, during the period expiring fourteen days after the day on which the Assembly has been informed by the Speaker as provided for in subsection (3) of this section, may submit by writing under their hands to the Speaker their respective nominations of candidates for election as President. The Speaker shall at the first meeting of the Assembly after the expiration of that period and before the Assembly proceeds to any other business, inform the Assembly of the nominations he has received and to which the candidates concerned have consented.

(5) **At an election of the President the candidates shall be those persons whose nominations have been brought to the attention of the Assembly by the Speaker. The election shall be held at the meeting of the Assembly next following the meeting referred to in subsection (4) of this section or as soon as practicable thereafter in accordance with the procedure prescribed by section 55 of this Constitution. The candidate who at that election receives the votes of not less than a majority of all the members of the Assembly (“the requisite majority”) shall be declared by the Speaker to have been duly elected:**

Provided that if none of those candidates receives the requisite majority, then, another vote or other votes may be taken, in the same proceedings or at adjourned proceedings, until a candidate receives the requisite majority; and the candidate who receives the requisite majority shall be declared by the Speaker to have been duly elected.

(6) If at an election of the President only one candidate is nominated, so that such candidate is unopposed, the Speaker shall declare that candidate to have been duly elected without putting the question to the vote; the election being uncontested.

Procedure
at election.

55. (1) Subject to subsection (2) of section 54 of this Constitution, the President shall be elected at a meeting of the National Assembly by the members voting by secret ballot **in such manner as not to disclose how any particular member votes.**

(2) The Speaker shall preside at a meeting of the Assembly to elect a President. If the Speaker is not a Representative or a Senator, he shall have neither an original nor a casting vote. If the Speaker is performing the functions of the office of President under subsection (1)(c) of section 59 of this Constitution, the Deputy Speaker shall preside over the meeting, and shall have an original vote but not a casting vote. If the Deputy Speaker is performing the functions of the office of President under subsection (1)(d) of section 59 of this Constitution, the Clerk of the Assembly shall preside over the meeting, but shall have neither an original nor a casting vote.

(3) Subject to this Chapter, the Assembly meeting to elect a President may regulate its own procedure and may make provision for the postponement or adjournment of its meetings and such other provisions as may be necessary to meet any difficulties that may arise in the carrying out of elections under this Chapter.

(4) Fourteen members of the Assembly shall constitute a quorum of the Assembly for the purposes of this section.

Nomination
of candidates.

56. A person shall not be a candidate for election as President unless he is nominated for election by a nomination paper which is-

- (a) **in accordance with subsection (2) of section 54 of this Constitution;** and
- (b) delivered to the Speaker or Deputy Speaker or the Clerk, as the case may be, at least seven days before the election.

Tied vote.

57. If there are two or more candidates for election as President, and the votes for those candidates are equally divided, so that there is a tied vote, **then, subject to section 53 of this Constitution, another vote or other votes may be taken, in the same proceedings or at adjourned proceedings, until a candidate receives the requisite majority referred to in subsection (5) of section 54 of this Constitution.**

Determining questions as to elections.

58. (1) Subject to subsection (2) of this section, an instrument which -

- (a) in the case of an uncontested election for the office of President, is signed and sealed by the Speaker, Deputy Speaker or Clerk, as the case may be, and states that a person named in the instrument was the only person nominated for the election and was in consequence declared elected; or
- (b) in the case of an election contested at a meeting of the National Assembly, is signed and sealed by the Speaker, Deputy Speaker or Clerk, as the case may be, and states that a person named in the instrument was declared elected at that meeting in consequence of the ballot,

shall be conclusive evidence that the person so named was so elected, and subject to subsection (2) of this section, no question as to the validity of the election of the person so named shall be inquired into in any court.

(2) The Court of Appeal shall have exclusive jurisdiction to hear and determine any question as to the validity of an election of a President in so far as that question depends upon the qualification of any person for election or the interpretation of this Chapter, and the decision of that Court under this subsection shall be final.

(3) Parliament may make provisions with respect to the persons by whom, the manner in which and the conditions upon which the proceedings under subsection (2) of this section may be instituted in the Court of Appeal and, subject to any provisions so made, provisions may be made with respect to these matters by rules of court. Until such provisions or rules are made the procedure for moving the Court of Appeal pursuant to subsection (2) of this section shall be by way of an election petition.

Acting
President.

59. (1) Whenever the holder of the office of President is unable to perform the functions of his office by reason of his absence from Saint Vincent and the Grenadines, or by reason of illness or, subject to the proviso to this subsection, for whatever other reason, those functions shall be performed -

- (a) by such person as with his consent may have been designated in that behalf by the holder of the office of President, acting after consultation with the Prime Minister and the Minority Leader, by writing under the hand of the President;
- (b) if there is no person so designated or if the person so designated is unable to act, by such person as may have been elected in that behalf by the National Assembly in accordance with the like procedure as is prescribed by sections 54 and 55 of this Constitution for the election of the President;
- (c) if there is no person so designated or elected, by the Speaker;
- (d) if there is no person so designated or elected and the Speaker is unable to act, by the Deputy Speaker; or

- (e) if there is no person within the categories prescribed by the preceding paragraphs, by the Chairman of the Public Service Commission:

Provided that paragraph (a) shall not apply in any case where the inability of the President to perform the functions of his office has been caused by reason of his suspension from the exercise of those functions under section 63(2) of this Constitution.

- (2) A person shall not be qualified to act as President unless he is qualified to be elected as, and to hold the office of, President:

Provided that the Speaker or the Deputy Speaker may act as President, and in that event the Speaker or Deputy Speaker, as the case may be, shall cease to perform the functions of his office as Speaker or Deputy Speaker during any period in which he acts as President.

- (3) A person acting as President under this section shall cease to act when he is notified that -

- (a) another person has been designated to act as President or elected to hold the office of President; or
- (b) the holder of the office of President is about to resume the performance of the functions of his office.

Terms of office.

60. (1) Subject to this section and to sections 61 and 62 of this Constitution, a President elected at an election under section 54 of this Constitution shall hold office for a term of five years; **but he shall be eligible for re-election as President for one more term only.**

(2) Parliament may make provision for the postponement of the date of expiration of the term of office of the President under subsection (1) of this section for a period not

exceeding four months, in order to avoid the holding of an election for that office during a period of dissolution of Parliament or at a time too close to the beginning or to the end of such a period.

(3) Where for any reason at the date on which the term of office of the President is due to expire under subsection (1) or (2) of this section there is no person entitled by election under section 54 of this Constitution to fill the office of President, the person holding or acting in the office of President shall continue to hold or act in that office until thirty days after a person is elected to that office; otherwise section 59 of this Constitution shall apply.

(4) Where a person is elected to fill a vacancy in the office of President occurring before the end of a term stipulated by subsection (1) of this section, he shall hold office only for the unexpired portion of the term of office of his predecessor:

Provided that he shall be eligible for election as President in his own right and for re-election in accordance with subsection (1) of this section.

Vacating
office.

61. (1) The office of President shall become vacant before the expiration of the term of his office as prescribed by section 60 of this Constitution where the person holding that office -

- (a) dies;
- (b) resigns from office by writing signed by him addressed to the National Assembly and delivered to the office of the Speaker; or
- (c) is removed from office under section 63 of this Constitution on any of the grounds stated in section 62 of this Constitution.

(2) The resignation of the President under paragraph (b) of subsection (1) of this section shall take effect, and the office shall accordingly become vacant, when the writing is received by the office of the Speaker.

Grounds for
removal
from office.

62. The President may be removed from office under section 63 of this Constitution on any of the following grounds, namely, where -

- (a) he willfully violates any provision of this Constitution;
- (b) he behaves in such a way as to bring his office into hatred, contempt or ridicule;
- (c) he behaves in a way that endangers the security of the State; or
- (d) because of physical or mental incapacity, he is unable to perform the functions of his office.

Procedure
for removal
from office.

63. (1) The President shall be removed from office on any of the grounds laid down in section 62 of this Constitution by the following procedure:-

- (a) a motion that the President be removed from office is proposed at a meeting of the National Assembly, following notice of such motion having been given to members of the Assembly thirty days in advance of that meeting;
- (b) the said motion states with full particulars the grounds on which the removal of the President from office is proposed, and is signed by not less than one-third of all the members of the Assembly;
- (c) the said motion is adopted at the said meeting by the votes of not less than one-half of all the members of the Assembly;
- (d) a tribunal consisting of a Chairman and not less than two other members, selected by the Chief Justice from among persons who hold or have held office as a judge of a court

having unlimited jurisdiction in civil and criminal matters in any of the CARICOM or OECS member states of the Commonwealth, investigates the grounds on which the removal of the President from office is proposed and reports on the facts and circumstances to the Assembly;

- (e) at a meeting of the Assembly called on the summons of the Speaker specifically and only for the purpose of considering the report referred to in paragraph (d) of this section, not less than two-thirds of all the members of the Assembly vote in favour of a resolution declaring that the President shall be removed from office:

Provided that subsection (2) of section 55 of this Constitution shall apply in relation to the removing of the President as it applies in relation to the electing of the President.

(2) Where a motion is adopted as is provided for in paragraphs (a), (b) and (c) of subsection (1) of this section, the President shall thereby be suspended from the office of President and shall cease to perform any of his functions as President, and the office of President shall be filled for the time being in accordance with the procedure set out in section 59 of this Constitution.

(3) The procedure of the tribunal referred to in paragraph (d) of subsection (1) of this section shall be such as is prescribed but, subject to such procedure, the tribunal may regulate its own procedure.

(4) Upon the adoption of the resolution in accordance with paragraph (e) of subsection (1) of this section the office of the President shall become vacant.

Oaths.
Second
Schedule.

64. (1) A President shall, before entering upon the duties of his office, take and subscribe the oaths of allegiance and of office set out in the Second Schedule to this Constitution, such oath being

administered by the Chief Justice or such other Judge as may be designated by the Chief Justice.

(2) Subsection (1) of this section shall apply to any person called upon to perform the functions of the office of President as Acting President under section 59 of this Constitution as it applies to a person elected to hold the office of President under section 54 of this Constitution.

Immunities
of
President.

65. (1) Subject to subsections (2) to (5) of this section the President shall not be answerable to any court for the performance of the functions of his office or for any act done by him in the performance of those functions.

(2) Without the fiat of the Director of Public Prosecutions, no criminal proceedings shall be instituted or continued against the President in any court during his term of office and no process for the arrest of the President or his imprisonment shall be issued from any court or shall be executed during his term of office.

(3) No civil proceedings in which relief is claimed against the President shall be instituted during his term of office in any court in respect of any act done by him in his personal capacity whether before or after he entered the office of President, except on the condition specified in subsection (4) of this section.

(4) The condition referred to in subsection (3) of this section is that sixty days must elapse after a notice in writing has been served on him either by registered post or by being left at his office stating the nature of the proceedings, the cause of action, the name, description and address of the party instituting the proceedings and the relief claimed.

(5) A period of limitation prescribed by law shall not run in favour of the President in respect of a civil action during the period of sixty days after a notice in respect of that action has been served on him under subsection (4) of this section.

CHAPTER VI

PARLIAMENT

Part 1

Composition of Parliament

Establishment
and
composition
of Parliament.

66. There shall be a Parliament of Saint Vincent and the Grenadines which shall consist of the President and the National Assembly.

Establishment
and
composition
of National
Assembly.

67. (1) There shall be a National Assembly of Saint Vincent and the Grenadines.

(2) Subject to subsections (3) and (4) of this section, the Assembly shall consist of twenty-seven members, as follows -

- (a) Seventeen Representatives or such other number of Representatives as corresponds with the number of constituencies for the time being established in accordance with the provisions of section 96 of this Constitution, who shall be elected in accordance with the provisions of section 99 of this Constitution; and
- (b) Ten Senators or such other number of Senators for the time being provided for in accordance with the provisions of subsection (1) of section 100 of this Constitution, who shall be selected in accordance with the provisions of section 100 of this Constitution.

(3) If a person who is not a Representative or a Senator is elected to be the Speaker he shall, by virtue of holding the office of Speaker, be a member of the Assembly; though not being a Representative or a Senator.

(4) At any time when the office of Attorney-General is a public office, the Attorney-General shall, by virtue of holding or

acting in that office, be a member of the Assembly; though not being a Representative or a Senator.

(5) **Any reference in this Constitution to any person having a seat in the Assembly shall be construed as a reference to either a Representative or a Senator.**

Qualifications.

68. Subject to the provisions of section 69 of this Constitution, a person shall be qualified to be elected as a Representative or a Senator if, and shall not be so qualified to be so elected unless, he –

- (a) is a citizen of a CARICOM or an OECS member state of the Commonwealth;
- (b) is of the age of eighteen years or upwards;
- (c) is domiciled and resident in Saint Vincent and the Grenadines at the date of his nomination for election as a Representative or as a Senator, or has resided in Saint Vincent and the Grenadines for a period of twelve months immediately before that date; and
- (d) is able to speak and, unless incapacitated by blindness or other physical cause, to read the English language with a degree of proficiency sufficient to enable him to take an active part in the proceedings of the National Assembly.

Disqualifications.

69. (1) No person shall be qualified to be elected as a Representative or a Senator if he -

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

Provided that a person shall not be deemed to be disqualified under this paragraph if he, **while being a citizen of a CARICOM or an OECS member state of the Commonwealth,** is also a citizen of another country or countries or is entitled to the citizenship of another country or countries, or holds a passport issued by a foreign power or state; without being under any additional or extraordinary acknowledgment, allegiance or adherence to that foreign power or state;

Provided further that if a citizen of Saint Vincent and the Grenadines or of another CARICOM or an OECS member state of the Commonwealth renounces his respective citizenship, he shall not be qualified to be elected as a Representative or a Senator while such renunciation continues;

- (b) **holds or is acting in the office of President; or last held that office within a period of not less than five years immediately preceding his nomination for election;**
- (c) holds or is acting in the office of judge of the Supreme Court;
- (d) subject to such exceptions and limitations as may be prescribed by Parliament, holds or is acting in any public office or is a paid member of any **disciplined** force of Saint Vincent and the Grenadines;
- (e) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law;
- (f) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law;
- (g) is under sentence of death imposed on him by a court of law in any part of the Commonwealth **or any other country prescribed by Parliament** 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; or
- (h) subject to such exceptions and limitations as may be prescribed by Parliament, has any

such interest in any such government contract as may be so prescribed.

(2) If it is so provided by Parliament, a person shall not be qualified to be elected as a Representative or a Senator if he holds or is acting in any office that is specified by Parliament and the functions of which involve responsibility for, or connection with, the conduct of any election of Representatives or Senators or the compilation of any register of votes for the purpose of electing Representatives and Senators.

(3) If it is so provided by Parliament, a person who is convicted by any court of law of any offence that is prescribed by Parliament and that is connected with the election of Representatives and Senators or is reported guilty of such an offence by the court trying an election petition shall not be qualified, for such period (not exceeding five years) following his conviction or, as the case may be, following the report of the court as may be so prescribed, to be elected as a Representative or a Senator.

(4) In subsection (1) of this section -

“government contract” means any contract made with the Government or with a department of the Government or with an officer of the Government contracting as such.

(5) For the purposes of paragraph (g) of subsection (1) of this section -

(a) two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds a term of 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.

70. (1) A member of the National Assembly shall vacate his seat in the Assembly at the next dissolution of Parliament after his election.

(2) A member of the Assembly shall also vacate his seat in the Assembly where -

- (a) he is absent from the meetings of the Assembly for such period and in such circumstances as may be prescribed in the Standing Orders of the Assembly;
- (b) he ceases to be a citizen of a CARICOM or an OECS member state of the Commonwealth;
- (c) subject to the provisions of subsection (4) of this section, if any other circumstances arise that, if he were not a member of the Assembly, would cause him to be disqualified to be elected as such by virtue of subsection (1) of section 69 of this Constitution or any law enacted in pursuance of subsections (2) and (3) of that section;
- (d) in the case of a Representative, a political party advises the Electoral and Boundaries Commission that he, whose name is included on the current Party List of that party, should have his seat in the Assembly declared vacant because he has crossed the floor in the Assembly, in that he no longer supports that party in the Assembly, or he has resigned from that party; the Commission so notifying the Speaker; and the Speaker declaring the seat vacant;
- (e) **in the case of a Senator, a political party advises the Electoral and Boundaries**

Commission that he, who was selected by that party from its current Party List, should have his seat in the Assembly declared vacant, and that his seat in the Assembly should be allotted to another person selected by that party from the undepleted portion of that List to fill that vacancy:

Provided that if that List is already depleted, then, that party may submit the name of an additional person to replenish the List under subsection (4) of section 98 of this Constitution fill the vacancy; the Commission so notifying the Speaker; and the Speaker declaring the seat vacant and acting in accordance with subsection (7) of section 93 of this Constitution.

(3) In the exercise of his powers to declare vacant the seat of a member of the Assembly under the provisions of paragraphs (d) and (e) of subsection (2) of this section, the Speaker shall act in accordance with the notification of the Electoral and Boundaries Commission.

(4) (a) If any of the circumstances such as are referred to in paragraph (c) of subsection (2) of this section arises because a member of the Assembly is under sentence of death or imprisonment, adjudged to be of unsound mind, declared bankrupt or convicted or reported guilty of an offence relating to elections, it shall be open to the member to appeal against the decision (either with the leave of a court of law or other authority or without such leave), and notwithstanding that he shall forthwith cease to perform his functions as a member, subject to the provisions of this section, he shall not vacate his seat until the expiration of a period of thirty days after the arising of such circumstance:

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

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

Establishment,
etc., of office
of Speaker.

71. (1) There shall be an office of Speaker of the National Assembly. The Speaker shall preside over the proceedings of the Assembly.

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

(3) The Speaker may be elected from among Representatives or Senators who are not Ministers or Parliamentary

Secretaries. He may also be elected from among persons who are not Representatives or Senators:

Provided that a person who is not a Representative or a Senator shall not be elected as Speaker if he is -

- (a) not a citizen of a CARICOM or an OECS member state of the Commonwealth; or
- (b) a person disqualified from being elected as a Representative or a Senator by virtue of subsection (1) of section 69 of this Constitution or of any law enacted in pursuance of subsection (2) or (3) of that section.

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

- (5) A person shall vacate the office of Speaker -
 - (a) in the case of a Speaker who was elected from among the Representatives or Senators -
 - (i) if he is no longer either a Representative or a Senator:

Provided that the Speaker shall not vacate his office by reason only that he is no longer either a Representative or a Senator on a dissolution of Parliament, until the Assembly first meets after the dissolution; or

- (ii) if he becomes a Minister or a Parliamentary Secretary;
 - (b) in the case of a Speaker who was elected from among persons who were neither Representatives nor Senators -
 - (i) when the Assembly first meets after any dissolution of Parliament;

- (ii) if he ceases to be a citizen of a CARICOM or an OECS member state of the Commonwealth; or
 - (iii) if any circumstances arise that would cause him to be disqualified to be elected as a member of the Assembly by virtue of subsection (1) of section 69 of this Constitution or of any law enacted in pursuance of subsection (2) or (3) of that section; or
- (c) if he is removed from office by resolution of the National Assembly approved at a meeting of the Assembly **by the votes of not less than a majority of all the members of the Assembly excluding the Speaker.**

(6) If, by virtue of subsection (4) of section 70 of this Constitution the Speaker, being a Representative or a Senator, is required to cease to perform his functions as a Representative or a Senator, he shall also cease to perform his functions as Speaker; and if the Speaker resumes the performance of his functions as a Representative or a Senator in accordance with the provisions of that section, he shall also resume the performance of his functions as Speaker.

(7) At any time when, by virtue of subsection (4) of section 70 this Constitution, the Speaker is unable to perform the functions of his office, those functions shall, until he vacates his seat in the Assembly or resumes the performance of the functions of his office, be performed 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 Assembly by virtue of subsection (4) of section 70 of this Constitution, by such member of the Assembly, not being a Minister or a Parliamentary Secretary, as the Assembly may elect for that purpose.

(8) If a motion for the removal of the Speaker, signed by not less than seven members of the Assembly, is

delivered to the office of the Clerk of the Assembly, the provisions of subsection (2) of section 91 of this Constitution shall apply to such motion for the removal of the Speaker as they apply to a motion of no confidence in the Government.

(9) If at any time the Speaker or the Deputy Speaker acts as President, the proviso to subsection (2) of section 59 of this Constitution shall apply.

Establishment,
etc., of office
of Deputy
Speaker.

72. (1) (a) There shall be an office of Deputy Speaker of the National Assembly. The Deputy Speaker shall preside over the proceedings of the Assembly in the absence of the Speaker.

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

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

- (a) if he is no longer a Representative or a Senator;
- (b) if he becomes a Minister or a Parliamentary Secretary; or
- (c) if he is elected to the office of Speaker.

(3) If, by virtue of subsection (4) of section 70 of this Constitution, the Deputy Speaker is required to cease to perform his functions as a Representative or Senator he shall also cease to perform his functions as Deputy Speaker; and if he resumes the performance of his functions as a Representative or Senator in

accordance with the provisions of that section, he shall also resume the performance of his functions as Deputy Speaker.

(4) At any time when, by virtue of subsection (4) of section 70 of this Constitution, the Deputy Speaker is unable to perform the functions of his office, those functions shall, until he vacates his seat in the Assembly or resumes the performance of the functions of his office, be performed by such Representative or Senator, not being a Minister or a Parliamentary Secretary, as the Assembly may elect for that purpose.

Part 2

Powers of Parliament

Power to make laws.

73. Subject to the provisions of this Constitution, Parliament may make laws for peace, order and good government of Saint Vincent and the Grenadines.

Alteration of Constitution and Supreme Court Order.

74. (1) Subject to subsections (4), (5) and (6) of this section, Parliament may alter any of the provisions of this Constitution or of the Supreme Court Order in the manner specified in the following provisions of this section.

(2) A bill to alter any of the provisions of this Constitution or of the Supreme Court Order shall not be regarded as being passed by the National Assembly unless on its final reading the bill is supported by **the votes of not less than two-thirds of all the members of the Assembly.**

First Schedule.

(3) A bill to alter this section, the First Schedule to this Constitution or any of the provisions of this Constitution specified in Part 1 of that Schedule or any of the provisions of the Supreme Court Order specified in Part 2 of that Schedule, shall not be submitted to the President for his assent unless -

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

- (b) after it has been passed by the Assembly the bill has been approved on a referendum by **not less than sixty percent** of all the votes validly cast on that referendum.
- (4)
 - (a) **A bill to which this paragraph and paragraph (b) of this subsection applies shall be validly passed if, on both its second reading and its final reading in the Assembly, the bill is supported by the votes of not less than a majority of all the members of the Assembly; and shall not need to be approved on a referendum.**
 - (b) **This subsection applies to a bill to alter any of the provisions of the Supreme Court Order or this Constitution in order to give effect to -**
 - (i) **any agreement between St. Vincent and the Grenadines and the United Kingdom concerning final appeals; or**
 - (ii) **any international agreement, to which Saint Vincent and the Grenadines is a party, relating to the Supreme Court or any other court (or any officer or authority having functions in respect of any such court) constituted in common for Saint Vincent and the Grenadines and for other countries also parties to the agreement, whether such court has been vested with an original jurisdiction or with an appellate jurisdiction or with both.**
- (5)
 - (a) **A bill to which this paragraph and paragraph (b) of this subsection applies shall be validly passed if, on both its second reading and its final reading in the Assembly, the bill is supported by the**

votes of not less than a majority of all the members of the Assembly; and shall not need to be approved on a referendum.

(b) This subsection applies to a bill to abolish appeals to the Judicial Committee and to substitute therefor appeals to a final appellate court established collectively by CARICOM or OECS member states of the Commonwealth whether for themselves or together with any other country or countries, by whatever name such court may be styled.

(6) (a) A bill to which this paragraph and paragraph (b) of this subsection applies shall be validly passed if, on both its second reading and its final reading in the Assembly, the bill is supported by the votes of not less than a majority of all the members of the Assembly; and shall not need to be approved on a referendum.

(b) This subsection applies to a bill to give effect in law in Saint Vincent and the Grenadines to any treaty, convention or other agreement to which Saint Vincent and the Grenadines is a party, the purpose or object of which is to deepen, widen or otherwise strengthen regional integration in the OECS or in CARICOM whether among themselves or together with any other country or countries; a statement in such a bill that it is for such purpose or object shall be final and conclusive in that regard. This subsection shall be without prejudice to the powers of the Executive, for and on behalf of Saint Vincent and the Grenadines, to negotiate and enter into treaties,

conventions or other agreements whether regionally or internationally.

(7) Every person who, at the time when the referendum is held, would be entitled to vote for the purpose of electing members of the Assembly shall be entitled to vote on a referendum held for the purposes of this section in accordance with such procedures as may be prescribed by Parliament for the purposes of the referendum, and no other person shall be entitled so to vote.

(8) In any referendum for the purposes of this section the votes shall be given by ballot in such manner as not to disclose how any particular person has voted.

(9) The conduct of any referendum for the purposes of this section shall be the responsibility of the Electoral and Boundaries Commission and the provisions of subsections (13), (14) and (15) of section 94 of this Constitution shall apply in relation to the exercise by that Commission of its functions with respect to a referendum as they apply in relation to the exercise of its functions with respect to the election of members of the Assembly.

(10) A bill to alter any of the provisions of this Constitution or of the Supreme Court Order shall not be submitted to the President for his assent unless it is accompanied by a certificate under the hand of the Speaker that the provisions of subsection (2) of this section have been complied with and, where a referendum has been held in pursuance of paragraph (b) of subsection (3) of this section, by a certificate under the hand of the Chairman of the Electoral and Boundaries Commission stating the results of the referendum.

(11) The certificate of the Speaker under subsection (10) of this section shall be conclusive that the provisions of subsections (2) and (3) of this section have been complied with and shall not be enquired into in any court of law.

(12) In this subsection, and in subsections (10) and (11) of this section, references to the Speaker shall, if the person holding the office of Speaker is for any reason unable to perform the functions of the office, and no other person is performing them, include references to the Deputy Speaker.

First
Schedule.

(13) In this section and in the First Schedule to this Constitution, references to any of the provisions of this Constitution or the Supreme Court Order include references to any law that alters that provision.

Part 3

Privileges and Immunities of Parliament

Freedom
of speech.

75. Subject to the provisions of this Constitution and to the Standing Orders regulating the procedures of the National Assembly, there shall be freedom of speech in the Assembly.

Immunities
for words
spoken or
written.

76. No civil or criminal proceedings may be instituted against any member of the National Assembly for words spoken before, or written in a report to, the Assembly or a committee thereof; or by reason of any matter or thing brought by him therein by petition, bill, resolution, motion or otherwise; or for the publication by or under the authority of the Assembly of any report, paper, votes or proceedings.

Parliament
may
prescribe.

77. Subject to the provisions of sections 75 and 76 of this Constitution, the powers, privileges, and immunities of the National Assembly and its committees, or the privileges and immunities of the members and officers of the Assembly and of other persons concerned in the business of the Assembly or its committees, shall be such as may be prescribed by Parliament.

Civil
society
invitees to
National
Assembly.

78. (1) The Speaker, acting in accordance with the request of the Prime Minister or the Minority Leader, may from time to time invite persons from civil society who are not members of the National Assembly to address the Assembly on matters within the special expertise of such invited persons when such matters are being considered by the Assembly. Addresses to the Assembly by such invited persons shall be on such terms and conditions as the Speaker with the prior approval of the Assembly may signify, and shall otherwise be subject to the Standing Orders of the Assembly.

(2) Invited persons referred to in subsection (1) of this section, or any other person called as a witness to give evidence before the Assembly or any committee thereof, shall not enjoy any voting rights in the Assembly but shall otherwise enjoy the same privileges and immunities as a member of the Assembly.

Part 4
Procedure in Parliament

Oaths.
Second
Schedule.

79. (1) Every member of the National Assembly shall, before taking his seat in the Assembly, take and subscribe before the Assembly the oaths of allegiance and of office as set out in the Second Schedule to this Constitution but a member may, before taking those oaths, take part in the election of the Speaker.

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

Presiding.

80. There shall preside at any sitting of the National Assembly -

- (a) the Speaker;
- (b) in the absence of the Speaker, the Deputy Speaker; or
- (c) in the absence of the Speaker and the Deputy Speaker, such member of the Assembly, not being a Minister or Parliamentary Secretary, as the Assembly may elect for that purpose:

Provided that the Speaker shall not preside when a motion for his removal from office is being considered by the Assembly.

Voting.

81. (1) Save as otherwise provided in sections 42 (3) and (7), 71 (6), 74 and 93 (3) of this Constitution, any question proposed for decision in the National Assembly shall be determined

by a majority of the votes of the members present and voting, that is, a simple majority of members:

Provided that questions of no confidence in the Government shall be determined by a majority of the votes of all the members of the Assembly, that is, an absolute majority of members.

(2) A question shall not be regarded as having been validly determined by a vote in the Assembly unless, when the vote is taken, there is present a quorum of the Assembly, that is, not less than fourteen members of the Assembly, or such greater number of members as the Assembly may prescribe by Standing Orders.

(3) An Attorney-General who is a member of the Assembly only by virtue of the provisions of subsection (4) of section 67 of this Constitution, so that he is neither a Representative nor a Senator, shall have a right of audience in the Assembly, but he shall not have a right to vote in the Assembly.

(4) A Speaker who was elected from among the Representatives or Senators, or any other Representative or Senator presiding in the Assembly, shall not vote unless on any question the votes of the members are equally divided, in which case he shall have and exercise a casting vote:

Provided that in the case of the question of the final reading of such a bill as is referred to in section 74 of this Constitution he shall, if he is a Representative or Senator, have an original vote but not a casting vote.

(5) A Speaker who, when elected Speaker, was neither a Representative nor a Senator shall not have a right to vote in the Assembly; and, if upon any question before the Assembly, when such a Speaker is presiding, the votes of the members are equally divided, the motion shall be lost.

(6) A member of the Assembly who shall not have a right to vote in the Assembly shall not be able to propose or second a motion or a resolution in the Assembly. Such a member

shall not be able to nominate or second a person for election in or by the Assembly. Such a member shall not be counted in the taking of a quorum in the Assembly.

Penalty for sitting if unqualified.

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

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

Mode of making law.

83. (1) The power of Parliament to make laws shall be exercised by bills passed by the National Assembly and assented to by the President.

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

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

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

Restrictions as to financial measures.

84. (1) Except on the recommendation of the President signified by a Minister, the National Assembly shall not -

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

- (i) the imposition of taxation or the alteration of taxation otherwise than by reduction;
 - (ii) the imposition of any charge upon the Consolidated Fund or any other public fund of Saint Vincent and the Grenadines or the alteration of any such charge otherwise than by reduction;
 - (iii) the payment, issue or withdrawal from the Consolidated Fund or any other public fund of Saint Vincent and the Grenadines of any monies not charged thereon or any increase in the amount of such payment, issue or withdrawal;
 - (iv) the composition or remission of any debt due to the Government; or
- (b) proceed upon any motion, including any amendment to a motion, the effect of which, in the opinion of the person presiding, would be to make provision for any of those purposes.

(2) The restrictions referred to in subsection (1) of this section shall not apply to motions proposed by the Minority Leader in accordance with the Standing Orders of the Assembly.

Public
Accounts
Committee.

85. (1) The National Assembly shall, at the commencement of each session, appoint a Public Accounts Committee from among its members, to consist of a Chairman and six other members of the Assembly or such greater number of members as the Standing Orders may provide from time to time.

(2) The Chairman of the Public Accounts Committee shall be the Minority Leader as referred to in paragraph (c) of section 126 of this Constitution.

(3) A majority of the members of the Public Accounts Committee shall consist of **Representatives and Senators** who **do not support the Government**.

(4) The Standing Orders of the Assembly shall provide for a procedure by which the Public Accounts Committee may summon public officers **before it** and send for relevant public financial documents in order to ensure the proper discharge of its responsibilities under this Constitution and other laws.

(5) The **functions** of this Committee shall be as provided for in section 158 of this Constitution.

Procedure.

86. (1) Subject to the provisions of this Constitution, the National Assembly may regulate its own procedure and may in particular make rules and Standing Orders for the orderly conduct of its own proceedings.

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

Part 5

Representatives to report to National Assembly

Representatives to report.

87. Every Representative shall meet formally with his constituents in relation to his representation of his constituency, not less than once every six months, and within that same period, in relation to such representation, he shall submit a report in writing to the National Assembly on behalf of his constituents.

Procedure for reporting.

88. Standing Orders shall make provisions for the procedure to be adopted in the National Assembly for the efficient

discharge of the requirement in section 87 of this Constitution of reporting by Representatives. Such Standing Orders shall include a provision for the Speaker to inform the Assembly of any default by any Representative in respect of his obligations under section 87; and a provision for each Representative to make an oral statement to the Assembly on his report referred to in section 87.

Part 6

Cooperation for better Governance

Cooperation
for better
Governance.

89. For the better governance of Saint Vincent and the Grenadines, nothing in this Constitution shall be construed as either prohibiting or inhibiting the reaching of consensus in the National Assembly, and the fostering of cooperation between the Government and those who do not support the Government.

Part 7

Secretariat of National Assembly

Establishment
of Secretariat.

90. (1) There shall be a Secretariat of the National Assembly which shall comprise the offices of Clerk of the Assembly, Deputy Clerk of the Assembly and such other officers of the Assembly as may be established to constitute the Secretariat of the Assembly.

(2) The Clerk of the Assembly shall be the head of the Secretariat of the Assembly.

(3) The offices of the Secretariat of the Assembly shall be public offices.

Part 8

Summoning, Prorogation and Dissolution of Parliament

Session.

91. (1) Each session of Parliament shall be held at such place within Saint Vincent and the Grenadines and shall begin at such time, being not later than six months from the end of the preceding session if Parliament has been prorogued, or thirty days from the holding of a general election if Parliament has been dissolved, as the President shall appoint by Proclamation.

(2) (a) If notice in writing is given to the Speaker, signed by not less than seven members of the National Assembly, of a motion of no confidence in the Government, the Speaker shall -

- (i) if the Assembly is then sitting or has been summoned to meet within five days, cause the motion to be considered by the Assembly within seven days of the notice; or
- (ii) if the Assembly is not then sitting and has not been so summoned (and notwithstanding that Parliament may be prorogued) summon the Assembly to meet within fourteen days of the notice and cause the motion to be considered at that meeting:

Provided that if the Assembly does not, within twenty-one days of the notice, meet and dispose of the motion, the Clerk of the Assembly shall summon a special meeting of the Assembly at such time and place as he may specify for the purpose of debating and disposing of the motion.

- (b) The provisions of paragraph (a) of this subsection shall be without prejudice to the power of the Assembly to provide by its Standing Orders that notice of a motion of no confidence in the Government may be

given by any member of the Assembly, or the power of the Assembly to debate and dispose of such a motion at any sitting of the Assembly.

(3) Subject to the foregoing provisions of this section, the sittings of the Assembly shall be held at such time and place as the Assembly may, by its Standing Orders or otherwise, determine.

Prorogation
and
dissolution.

92. (1) Subject to the provisions of this Constitution, the President may at any time prorogue or dissolve Parliament.

(2) Subject to the provisions of subsections (3) and (5) of this section, Parliament shall continue for five years from the date of the first sitting of Parliament after any dissolution and shall then stand dissolved.

(3) At any time when Saint Vincent and the Grenadines is at war, Parliament may extend the period of five years specified in subsection (2) of this section for not more than twelve months at a time: Provided that the life of Parliament shall not be extended under this subsection for more than five years.

(4) Where a Parliament that has been dissolved is recalled under subsection (2) of section 93 of this Constitution, that Parliament shall, unless sooner dissolved, again stand dissolved at the date appointed for the nomination of candidates in the next succeeding general election, subject to subsection (3) of section 93 of this Constitution.

(5) In the exercise of his powers to dissolve Parliament, the President shall act in accordance with the advice of the Prime Minister:

Provided that -

- (a) the Prime Minister shall not advise a dissolution until a period of four years and nine months has elapsed after the first sitting of Parliament after the previous dissolution: unless -

- (i) a motion of no confidence in the government is passed by the National Assembly; or
 - (ii) either by reason of the results of a general election or by subsequent events the Prime Minister is unable to command the support of a clear majority of the members of the Assembly;
- (b) if a resolution of no confidence in the Government is passed and the Prime Minister does not within three days either resign or advise a dissolution, **the President, acting in his own deliberate judgment, may remove the Prime Minister from office or dissolve Parliament;** and
- (c) if the office of Prime Minister is vacant and the President, acting in his own deliberate judgment, considers that there is no prospect of his being able within a reasonable time to appoint to that office a Representative who appears to the President, acting in his own deliberate judgment, likely to command the support of the majority of the members of the Assembly, the President shall dissolve Parliament.

Timing of
general
election.

93. (1) Subject to the provisions of subsection (3) of this section, a general election shall be held at such time as the President may appoint, within ninety days after any dissolution of Parliament; or if Parliament has been dissolved by reason of a vote of no confidence in the Government, within sixty days after the dissolution.

(2) If, after a dissolution and before the date appointed for the nomination of candidates in the next succeeding general

election, the Prime Minister advises the President that, owing to the existence of a state of war involving the State or a state of emergency in the State, it is necessary to recall Parliament, the President shall summon the Parliament that has been dissolved to meet, but, subject to the provisions of subsection (3) of this section, that general election shall proceed.

(3) The National Assembly of a Parliament that has been recalled may, by a resolution supported by the votes of not less than two-thirds of all its members, extend the period of ninety days specified in subsection (1) of this section for not more than a further period of ninety days in respect of the next succeeding general election, and on the passing of such a resolution any appointment previously made with respect to the date on which that general election shall be held or on which candidates therein shall be nominated, shall cease to have effect.

(4) Where the seat of a member of the Assembly falls vacant otherwise than by reason of a dissolution of Parliament -

- (a) if the vacant seat is that of a Representative, a by-election shall be held; or
- (b) if the vacant seat is that of a Senator a selection shall be made in accordance with the provisions of subsection (7) of this section.

(5) Whenever it has been determined under section 101 of this Constitution that the election of any person as a Representative is invalid, the President shall issue a writ **for the holding of a by-election** for the election of a Representative to fill the vacancy. **This by-election shall be held at such time, as the President may appoint**, within ninety days of the final decision of the High Court or, if the determination was by the Court of Appeal, within ninety days of the decision of the Court of Appeal.

(6) Whenever it has been determined under section 101 of this Constitution that the selection of any person as a Senator is invalid, the affected political party shall advise the Electoral and Boundaries Commission of the name of such new Senator to fill the

vacancy, in accordance with the provisions of subsection (7) of this section, within ninety days of the final decision of the High Court or, if the determination was by the Court of Appeal, within ninety days of the decision of the Court of Appeal.

(7) When the seat of a Senator in the Assembly becomes vacant for any reason other than a dissolution of Parliament, the political party which selected him may notify the Electoral and Boundaries Commission as to which other person on its current Party List, **or which additional person under paragraph (e) of subsection (2) of section 70 of this Constitution**, should be allotted the seat. The Commission shall, as soon as reasonably practicable after being so notified, designate that person as the new Senator and shall so notify the Speaker **who shall act in accordance with such notification**.

(8) In appointing the time for the holding of a general election under subsection (1) of this section or a by-election under subsection (5) of this section, the President shall act in accordance with the advice of the Prime Minister.

Part 9

Electoral and Boundaries Commission

Establishment,
etc., of Electoral
and Boundaries
Commission.

94. (1) There shall be an Electoral and Boundaries Commission for Saint Vincent and the Grenadines (hereinafter in this Part referred to as the Commission).

(2) The members of the Commission shall be a Chairman and four other members.

(3) The Chairman of the Commission shall be appointed by the President in accordance with section 95 of this Constitution.

(4) Two of the other four members of the Commission shall be appointed by the President on the advice of the Prime Minister, and two shall be appointed by the President on the advice of the Minority Leader.

(5) A person shall not be qualified to hold office as a member of the Commission who is a member of the Cabinet, a member of the National Assembly, a judge of the Supreme Court or a public officer.

(6) Subject to the provisions of this section, a member of the Commission shall vacate his office -

- (a) in the case of the Chairman, at the expiration of five years from the date of his appointment which shall commence on the date of his appointment under section 95 of this Constitution; but he shall be eligible for re-appointment; and,
- (b) in the case of the other members, at the expiration of five years from the date of their appointment by the President; but they shall be eligible for re-appointment; or
- (c) where any circumstances arise that, if the Chairman and the other members were not members of the Commission, would cause them to be disqualified for appointment as such.

(7) The provisions of section 164 of this Constitution shall apply to the Chairman and members of the Commission in respect of removal or suspension from office as they apply to the Commission referred to in that section.

(8) The Chairman and two members of the Commission shall constitute a quorum, provided that at least one of the members forming the quorum shall have been appointed on the advice of the Prime Minister and at least one of the other members forming the quorum shall have been appointed on the advice of the Minority Leader.

(9) Where there is a quorum, the Commission shall not be disabled from transacting any business by reason of any

vacancy among its members, and any proceeding of the Commission shall be valid even though some person took part therein when he was not entitled to do so.

(10) The Chairman shall have both an original vote and a casting vote at meetings of the Commission.

(11) Subject to the other provisions of this section, the Commission may regulate its own procedure.

(12) (a) There shall be a Chief Electoral Officer who shall be the Chief Executive Officer of the Commission in the carrying out of the functions of the Commission including, but not limited to, those referred to in subsection (15) of this section. He shall be subject to the general supervision, direction and control of the Commission. He shall be required to have such qualifications, be subject to such disqualifications and shall hold office under such terms and conditions as may be prescribed by Parliament.

(b) The Chief Electoral Officer shall be appointed by the President in accordance with the advice of the Commission.

(13) The Commission shall be provided with a staff and facilities adequate for the efficient discharge of its functions.

(14) The salaries and allowances of the staff, and the operating expenses of the Commission, shall be a charge on the Consolidated Fund.

(15) The Commission shall exercise general direction and supervision over the registration of voters for elections of members of the Assembly; the conduct of such elections; and the monitoring of Party Lists submitted by political parties, regarding such elections. The Commission may give directions in these respects to electoral officers.

(16) As to the exercise of its functions, the Commission may submit reports to the Minister responsible for electoral matters, and he shall lay any such report before the National Assembly not later than fourteen days after the Assembly first meets following his receipt thereof.

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

Second
Schedule.

(18) A member of the Commission shall not enter upon the duties of his office until he has taken and subscribed the oaths of allegiance and of office set out in the Second Schedule to this Constitution.

Appointment
of Chairman.

95. (1) When there is occasion to appoint a Chairman of the Commission, the Prime Minister shall consult with the Minority Leader to ascertain whether they are able to agree a joint nomination of a suitably qualified person for appointment as Chairman.

(2) If the Prime Minister and the Minority Leader submit to the President in writing a joint nomination of a person for appointment as Chairman of the Commission, the President shall appoint as Chairman the person so nominated.

(3) If, following the consultation referred to in subsection (1) of this section, the Prime Minister informs the President that the Prime Minister and the Minority Leader have not agreed such a joint nomination the President shall, acting in his own deliberate judgment, appoint a suitably qualified person as Chairman of the Commission.

Constituencies.

96. (1) For the purpose of the election of Representatives, Saint Vincent and the Grenadines shall be divided into seventeen constituencies or such other number of constituencies having such boundaries as may be provided for in a report submitted by the Commission to the Speaker and approved in an Order made by the National Assembly in accordance with the provisions of this section.

(2) The Commission shall, in accordance with the provisions of this section, review the number and boundaries of the constituencies into which Saint Vincent and the Grenadines is divided including consideration as to the alteration thereof, shall make reports on such review, and shall submit such reports to the Speaker for presentation to the Assembly in accordance with this section.

(3) In conducting such review and preparing such reports as are referred to in subsection (2) of this section, the Commission shall pursue the objective that all constituencies shall contain as nearly equal numbers of inhabitants as appears to the Commission to be reasonably practicable, but the Commission may depart from this principle to such extent as it considers expedient in order to take account of the following factors, that is to say-

- (a) the density of population and in particular the need to ensure adequate representation of sparsely populated rural areas;
- (b) the means of communication;
- (c) geographical features, particularly with respect to the Grenadines; and
- (d) the boundaries of existing administrative areas.

(4) Reports under subsection (2) of this section shall either-

- (a) show the alteration of the number or boundaries of constituencies into which the Commission recommends that Saint Vincent and the Grenadines should be divided to give effect to the provisions of subsection (3) of this section; or
- (b) state that, in the opinion of the Commission, no alteration is required to the existing number or boundaries of constituencies.

(5) Reports under subsection (2) of this section shall be submitted by the Commission-

- (a) not less than five not more than seven years from the date of the publication of the last Order made pursuant to subsections (8) and (9) of this section;
- (b) whenever an official census of the population of Saint Vincent and the Grenadines has been held in pursuance of any law; or
- (c) within twelve months of the date of the commencement of the review by the Commission pursuant to subsection (2) of this section.

(6) As soon as may be after the Commission has submitted a report under subsection (2) of this section, such report shall be debated by the Assembly.

(7) Where a motion for the adoption of the report by the Assembly is approved by a majority of all the members of the Assembly, the Commission shall submit to the Speaker a draft Order made by it for presentation to the Assembly.

(8) Where the motion for the approval of any draft Order made under subsection (7) of this section is approved by a majority of all the members of the Assembly under subsection (7) of this section, that Order shall come into force on such day as may be specified therein and shall be published in the *Official Gazette* and, until revoked by a further Order made in accordance with the provisions of this section, shall have the force of law.

(9) Where the motion for the approval of any draft Order made under subsection (7) of this section is rejected by the Assembly or is withdrawn by leave of Assembly, the Commission shall amend the draft Order and re-submit it to the Speaker for presentation to the Assembly for its consideration. If the amended draft Order is approved, that Order shall come into force on such day as may be specified therein and shall be published in the *Official*

Gazette and, until revoked by a further Order made in accordance with the provisions of this section, shall have the force of law.

(10) The question of the validity of any Order by the Commission purporting to be made under this section, and reciting that a draft thereof has been approved by resolution of the Assembly, shall not be enquired into in any court.

Part 10

Election of Representatives and Senators

Registration
and
entitlement
to vote.

97. (1) Every Commonwealth citizen of the age of eighteen years or upwards, and who possesses such qualifications relating to residence or domicile in Saint Vincent and the Grenadines as Parliament may prescribe, unless he is disqualified by Parliament from registration as a voter for the purpose of electing Representatives, shall be entitled to be registered as such a voter in accordance with the provisions of any law in that behalf, and no other person may be so registered:

Provided that shorter qualifications relating to residence or domicile in Saint Vincent and the Grenadines may be prescribed for citizens of CARICOM or OECS member states of the Commonwealth than those prescribed for other Commonwealth citizens.

(2) Every person who is registered in accordance with the provisions of subsection (1) of this section in any constituency shall, unless he is disqualified by Parliament from voting in that constituency in any election of Representatives, be entitled to vote in accordance with the provisions of any law in that behalf, and no other person may so vote.

Party
List.

98. (1) **Every political party contesting a general election may submit to the Electoral and Boundaries Commission a List with such number and names of persons as each party designates as candidates for election as Representatives and**

Senators, in accordance with the provisions of subsection (2) of this section. Such a List may be referred to as a Party List. A Party List shall be so submitted on nomination day for the respective general election.

(2) The Party List submitted by a political party to the Electoral and Boundaries Commission shall include -

- (a) **the names of the persons who shall be candidates for election as Representatives in accordance with section 99 of this Constitution ; and**
- (b) **ten or such other number of names of the persons who shall be candidates for election as Senators in accordance with section 100 of this Constitution.**

(3) If a Party List submitted by a party to the Commission is reduced or depleted by death, or by the unavailability of persons previously included on its List or for any other reason, that party may add names to the List to replenish the List. The party concerned shall inform the Commission accordingly, and the Commission shall then notify the Speaker of the addition to the List.

(4) Until replaced, the Party List submitted by a party for the most recent general election, as replenished pursuant to subsection (3) of this section where appropriate, shall be the current Party List of that party.

(5) The Speaker shall cause current Party Lists of the parties to be published in the *Official Gazette*.

(6) In addition to the persons designated on a Party List as candidates for election as Senators, all the persons designated on that List as candidates for election as Representatives shall be deemed to be and treated as persons designated on that List as candidates for election as Senators. The List shall be an open List. Persons who are elected as Representatives shall not, while they are Representatives, be eligible to be elected as Senators.

(7) The designating of a person on a Party List as a candidate for election as a Senator shall be deemed and treated to be as a nomination of that person for election as a Senator.

(8) Nothing in this section in particular, or in this Constitution in general, shall be construed as precluding a person from contesting as an individual candidate for election as a Representative, without being a member of a political party, as an independent candidate.

Election of
Representatives.

99. (1) There shall be seventeen Representatives in the National Assembly, or such other number of Representatives as corresponds with the number of constituencies established in accordance with the provisions of section 96 of this Constitution. Each such constituency shall return one Representative to the Assembly, each constituency directly electing its Representative in such manner as may, subject to the provisions of this Constitution, be prescribed by or under any law.

(2) In any election of Representatives the votes shall be given by ballot in such manner as not to disclose how any particular person has voted, and in accordance with the first-past-the-post system.

Election of
Senators.

100. (1) There shall be ten seats reserved in the National Assembly for the Senators, or such other number of Senators as may be prescribed by Parliament so as to maintain the proportionate relationship between Representatives and Senators provided for respectively by subsection (2) of section 67 of this Constitution and by sections 96, 99 and 100 of this Constitution. The seats of the Senators shall be allocated to the political parties contesting a general election and drawn from Party Lists in the manner set out in section 98 of this Constitution and submitted by the respective political parties to the Electoral and Boundaries Commission on the nomination day for general election as set out in subsections (2) to (13) of this section, in accordance with the system of proportional representation described therein.

(2) The number of the ten reserved proportional representation seats allocated to a party as seats for its Senators under this section shall be determined by the total number of

votes validly cast for all of the candidates contesting on behalf of that party in the constituencies in a general election.

(3) A party polling at least ten percent of the votes validly cast, plus one vote, shall be allocated one seat.

(4) A party polling at least twenty percent of the votes validly cast, plus one vote, shall be allocated two seats.

(5) A party polling at least thirty percent of the votes validly cast, plus one vote, shall be allocated three seats.

(6) A party polling at least forty percent of the votes validly cast, plus one vote, shall be allocated four seats.

(7) A party polling at least fifty percent of the votes validly cast, plus one vote, shall be allocated six seats.

(8) A party polling at least sixty percent of the votes validly cast, plus one vote, shall be allocated seven seats.

(9) A party polling at least seventy percent of the votes validly cast, plus one vote, shall be allocated eight seats.

(10) A party polling at least eighty percent of the votes validly cast, plus one vote, shall be allocated nine seats.

(11) A party polling at least ninety percent of the votes validly cast, plus one vote, shall be allocated all ten seats.

(12) Where more than two parties and independent candidates contest a general election, and any party or independent candidate fails to qualify for a seat pursuant to subsection (3) of this section, the votes validly cast for that party or independent candidate shall be subtracted from the total number of votes cast for all parties and independent candidates, and the percentages which have been specified in subsections (3) to (11) of this section shall be calculated on the basis of the total number of votes remaining after the subtraction mentioned in this subsection.

(13) Where more than two parties **and independent candidates** all qualify for an allocation of seats in the same election, and any seat remains unallocated after the procedure and calculations specified in subsections (3) to (12) of this section, that unallocated seat shall be allocated to the party polling the highest total number of

votes validly cast in that election: Provided that if two or more parties have polled an identical number of votes, the unallocated seat shall be allocated to the party whose constituency candidates have won the highest number of constituencies.

(14) The allocation of proportional representation seats under this section shall be strictly in accordance with the Party Lists, and names of independent candidates, submitted to the Commission, on nomination day. No account shall be taken of arrangements communicated to the Commission after nomination day in this regard:

Provided that nothing in this subsection shall prevent there being arrangements between political parties and independent candidates which or who have won constituency seats or have been allocated proportional representation seats.

Part 11

Determination of Questions of Membership of Parliament

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

- (a) any person has been validly elected as a Representative;**
- (b) any person has been validly elected as a Senator;**
- (c) any person who has been elected as Speaker from among persons who are neither Representatives nor Senators was qualified to be so elected or has vacated the office of Speaker; or**
- (d) any member of the National Assembly has vacated his seat or is required, under the provisions of subsection (4) of section 70 of this Constitution, to cease to perform any of his functions as a member of the Assembly.**

Determining questions of membership of Parliament.

(2) Any of the questions referred to in subsection (1) of this section shall be determined by the High Court on application made to the Court in that behalf.

(3) Proceedings for the determination of any question referred to in subsection (1) of this section may be instituted without the need to obtain prior leave of a Judge of the High Court.

(4) An application to the High Court for the determination of any question under paragraphs (a) and (b) of subsection (1) of this section may be made by any person entitled to vote in the election to which the application relates or by any person who was a candidate at that election or by the Attorney-General.

(5) An application to the High Court for the determination of any question under paragraph (c) of subsection (1) of this section may be made by any member of the Assembly or by the Attorney-General.

(6) An application to the High Court for the determination of any question under paragraph (d) of subsection (1) of this section may be made by any Representative or Senator or by the Attorney-General; or in the case of the seat of a Representative or a Senator, by any person registered in any constituency as a voter for the purpose of electing Representatives or Senators.

(7) If any application is made by a person other than the Attorney-General to the High Court for the determination of any question under this section, the Attorney-General may intervene and may then appear or be represented in the proceedings.

(8) Subject to the provisions of subsection (10) of this section, an appeal shall lie to the Court of Appeal from the determination by the High Court of any such question as may be submitted to the High Court pursuant to subsection (1) of this section.

(9) No further appeal shall lie from any decision of the Court of Appeal given in an appeal brought in accordance with subsection (8) of this section.

(10) Subject to the provisions of subsection (3) of this section the circumstances, manner and conditions, including conditions as to practice and procedure, governing applications under this section shall be regulated by such provisions as may be prescribed by Parliament from time to time.

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

CHAPTER VII
THE EXECUTIVE

Part 1

The Formal Executive: The President

The
Executive
Authority.

102. (1) The executive authority of Saint Vincent and the Grenadines shall be vested in the President **who, by section 49 of this Constitution, shall be** the Head of State of Saint Vincent and the Grenadines. The President shall be the Commander-in-Chief of the armed forces of Saint Vincent and the Grenadines.

(2) Subject to the provisions of this Constitution, the executive authority of Saint Vincent and the Grenadines may be exercised by the President either directly or through officers subordinate to him.

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

(4) In this section, the expression “armed forces” means -

- (a) such naval, military or air forces as may be established;
- (b) the Police Service and the Prison Service in time of war or emergency when acting in defence of the State; and
- (c) such other forces as may be prescribed by Parliament.

Functions
of
President.

103. Any reference in this Constitution to the functions of the President shall be construed as a reference to his powers and duties in the exercise of the executive authority of Saint Vincent and the Grenadines, and to any other powers and duties conferred or imposed on him as President by or under this Constitution or any other law.

Exercise
of
President's
Functions.

104. (1) **The general principle applicable to the exercise by the President of functions vested in him by this Constitution or any other law is that, in the exercise of such functions, the President shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet.**

(2) The general principle stated in subsection (1) of this section shall not apply where provision contrary thereto is made by this Constitution or the Supreme Court Order or any Act of Parliament passed in accordance with this Constitution. In particular, the general principle stated in subsection (1) of this section shall not apply where, by this Constitution or the Supreme Court Order or such Act of Parliament, the President is required or authorised to act –

- (a) in his own deliberate judgment;**
- (b) in his discretion;**
- (c) in consultation with any person or authority; or**
- (d) in accordance with the advice of any person or authority other than a Minister or the Cabinet.**

(3) Without prejudice to any other case in which the President is required or authorised to act in his own deliberate judgment, the President shall act in his own deliberate judgment in accordance with the following provisions of this Constitution-

- (a) sections 109 and 115 (1) and (3) (which relate to the Prime Minister and other Ministers);**
- (b) sections 125 and 128 (1) (which relate to the Minority Leader); and**
- (c) section 198 (a) (which relates to the Chairman of the Public Service Board of Appeal).**

(4) Without prejudice to any other case in which the President is required or authorised to act in his discretion, the President shall act in his discretion in accordance with the following provisions of this Constitution-

- (a) section 131 (e) (which relates to certain members of the Parliamentary Commission); and**
- (b) section 172 (1) (which relates to the appointment of the President's personal staff).**

(5) Nothing in subsection (1) of this section shall require the President to act in accordance with the advice of the Cabinet or a Minister in the exercise of the functions conferred upon him by the following provisions of this Constitution-

- (a) section 92 (5) (b) and (c) provisos (which relate to the President dissolving Parliament in certain circumstances);**
- (b) section 118 (1) and (2) (which provides for the President removing the Prime Minister from office in certain circumstances);**
- (c) section 110 (2) (which requires the Prime Minister to furnish the President with certain information);**
- (d) sections 128, 164, 179, 189, 202, 217, 225, 233 and 255 (which require the President to remove the holders of certain offices from office in certain circumstances); and**
- (e) section 134 (6) (which requires the President to exercise the Prerogative of Mercy in accordance with certain advice).**

(6) During any period in which there is a vacancy in the office of Minority Leader by reason of the fact that no person is both qualified for appointment to that office in accordance with this Constitution and willing to accept appointment, or if the President, acting in his own deliberate judgment, considers that it is not practicable for him to **obtain advice from, or engage in consultation with, the** Minority Leader within the time within which it may be necessary for him to act, the President may act without that advice or consultation and in his own deliberate judgment in the exercise of any power conferred upon him by this Constitution in respect of which it is provided that he shall act on the advice of, or after consultation with, the Minority Leader.

Constitution
of offices,
etc.

105. Subject to the provisions of this Constitution and of any other law, the President may constitute offices for Saint Vincent and the Grenadines, make appointments to any such office and terminate any such appointment.

Prerogative
of Mercy.

106. (1) The President, in the exercise of the Prerogative of Mercy, may-

- (a) grant a pardon, either free or subject to lawful conditions, to any person convicted of any offence;
- (b) grant to any person a respite, either indefinite or for a specified period, from the execution of any punishment imposed on that person for any offence;
- (c) substitute a less severe form of punishment for any punishment imposed on any person for any offence; or
- (d) remit the whole or any part of any punishment imposed on any person for any offence or of any penalty or forfeiture otherwise due to the State on account of such offence.

(2) The powers of the President under subsection (1) of this section shall be exercised by him in accordance with the advice of the Parliamentary Commission, which advice shall be given in accordance with section 134 of this Constitution.

When Court
may not
enquire.

107. Where by this Constitution the President is required to perform any function in accordance, or in consultation, with the advice of any person or authority, the question whether the President has so exercised that function shall not be enquired into in any court of law.

Part 2

The Effective Executive: The Cabinet

Establishment
of office of
Prime
Minister as
Head of
Government.

108. There shall be an office of Prime Minister of Saint Vincent and the Grenadines. The Prime Minister shall be the Head of Government of Saint Vincent and the Grenadines.

Appointment
of Prime
Minister.

109. Whenever the President has occasion to appoint a Prime Minister, the President shall appoint as Prime Minister the

Representative who appears to the President, acting in his own deliberate judgment, likely to command the support of the majority of the Representatives and the Senators.

Functions of
Prime
Minister.

110. (1) The Prime Minister shall serve as the Head of Government of Saint Vincent and the Grenadines **in accordance with section 108 of this Constitution.**

(2) The Prime Minister shall keep the President fully informed concerning the general conduct of the Government and shall furnish the President with such information as the President may request with respect to any particular matter relating to the Government.

(3) Without prejudice to the provisions of subsections (1) and (2) of this section, the Prime Minister shall -

- (a) preside over the Cabinet of Ministers;
- (b) provide advice to the President in cases where this Constitution so requires;
- (c) afford consultation to the President in cases where the Constitution so requires; and
- (d) perform such other functions as may be required by this Constitution or by any other law.

Establishment
of offices of
Minister other
than Prime
Minister, and
their
appointments.

111. (1) In addition to the office of Prime Minister, there shall be such other offices of Minister of the Government as may be established by Parliament or, subject to the provision of any law enacted by Parliament, by the President, acting in accordance with the advice of the Prime Minister:

Provided that there shall not be more than twelve such offices of Minister of the Government other than the office of Prime Minister.

(2) One of the twelve Ministers other than the Prime Minister, referred to in the proviso to subsection (1) of this section, may

be designated Deputy Prime Minister, who shall be appointed by the President in accordance with the advice of the Prime Minister.

(3) Subject to the provisions of subsection (1) of this section and section 116 of this Constitution, appointments to the office of Minister other than the office of Prime Minister shall be made by the President, acting in accordance with the advice of the Prime Minister, from among the Representatives and Senators.

The
Cabinet

112. (1) There shall be a Cabinet of Ministers of the Government (“the Cabinet”) of Saint Vincent and the Grenadines.

(2) The Cabinet shall consist of the Prime Minister and not more than twelve other Ministers appointed in accordance with the provisions of section 111 of this Constitution, as the Prime Minister may consider appropriate.

(3) At any time when the office of Attorney-General is a public office, the Attorney-General shall, by virtue of holding or acting in that office, be a member of the Cabinet but shall not be deemed to be a Minister.

Functions
of the
Cabinet.

113. (1) The functions of the Cabinet shall be to conduct the general direction and control of the Government of Saint Vincent and the Grenadines. The Cabinet shall in that regard advise the President, and the President shall act in accordance with such advice. The Cabinet shall be collectively responsible to the National Assembly for any advice given to the President by or under the general authority of the Cabinet, and for all things done by or under the authority of any Minister in the execution of his office.

(2) The provisions of subsection (1) of this section shall not apply where the Constitution requires the President to act in accordance with the advice of the Prime Minister, as in relation to –

(a) the appointment and removal from office of Ministers and Parliamentary Secretaries, the allocation of portfolios or the assignment of responsibility to Ministers, the authorising of a Minister other than the Prime Minister to perform the functions of the Prime Minister during the Prime Minister's absence or illness or other unavailability; or

(b) the dissolution of Parliament;

(3) The provisions of subsection (1) of this section shall not apply to matters which are the subject of subsections (3), (4), (5) and (6) of section 104 of this Constitution.

Allocation
of
portfolios.

114. (1) The President, acting in accordance with the advice of the Prime Minister may, by directions in writing, **allocate portfolios** to the Prime Minister or any other Minister **of the Cabinet or assign to any of them** responsibility for any business of the Government of Saint Vincent and the Grenadines, including the administration of any department of government.

(2) Where the Prime Minister or any other Minister has been **allocated a portfolio or** assigned responsibility for any department of government, he shall exercise general direction and control over that department.

Performance
of functions of
Prime Minister
and other
Ministers
during
absence,
illness or other
unavailability.

115. (1) Where the Prime Minister is absent from Saint Vincent and the Grenadines, or is unable by reason of illness or of the provisions of section 118 of this Constitution to perform the functions conferred on him by this Constitution, the President may authorise some other member of the Cabinet to perform those functions (other than the functions conferred by subsection (2) of this section) and that member may perform those functions until his authority is revoked by the President.

(2) Where a Minister other than the Prime Minister is absent from Saint Vincent and the Grenadines, or is unable by reason of illness or of the provisions of section 118 of this Constitution to perform the functions conferred on him by this Constitution, the President, acting in accordance with the advice of the Prime Minister, may authorise some other Minister to perform those functions or may appoint a Representative or a Senator to act in the office of such Minister during such absence or illness or other **reason for his** unavailability.

(3) The powers of the President under subsection (2) this section shall be exercised by him in accordance with the advice of the Prime Minister, save that, where the President considers that it is impracticable to obtain the advice of the Prime Minister owing to his absence or illness or other **reason for his** unavailability, the President may exercise those powers without the advice of the Prime Minister.

Appointments
during
dissolution.

116. (1) If occasion arises for making an appointment to the office of Prime Minister or any other Minister while Parliament is dissolved, then, notwithstanding the provisions of sections 109 and 111 (3) of this Constitution, a person who was a Representative immediately before the dissolution may be appointed Prime Minister, and a person who was a Representative or a Senator immediately before the dissolution may be appointed as any Minister other than Prime Minister.

(2) In the exercise of the powers conferred upon him by subsection (1) of this section the President shall act in accordance with the person who was Prime Minister immediately before the dissolution.

Functions
of
Attorney-
General.

117. (1) The Attorney-General, as the principal legal advisor to the Government of Saint Vincent and the Grenadines as laid down in section 213 of this Constitution, shall, subject to subsection (3) of section 112 of this Constitution, be responsible for the administration of the legal affairs of the Government of Saint Vincent and the Grenadines.

(2) In accordance with subsection (1) of this section, legal proceedings by and against the State shall be taken, in the case of civil proceedings, in the name of the Attorney-General and, in the case of criminal proceedings, in the name of the State.

Tenure.

118. (1) The President may remove the Prime Minister from office if a resolution of no confidence in the Government is passed by the National Assembly and the Prime Minister does not within three days either resign from his office or advise the President to dissolve Parliament.

(2) If, at any time between the holding of a general election and the first meeting of Parliament thereafter, the President considers that in consequence of changes in the membership of the Assembly resulting from that election, the Prime Minister will not be able to command the support of the majority of the Representatives and the Senators, the President may remove the Prime Minister from office.

(3) The office of any Minister shall become vacant –

- (a) in the case of the Prime Minister if he ceases to be a Representative otherwise than by reason of a dissolution of Parliament;
- (b) in the case of any Minister other than the Prime Minister, if the holder of such office of Minister ceases to be a member of the Assembly otherwise than by reason of a dissolution of Parliament;
- (c) in the case of the Prime Minister if, when the Assembly first meets after a dissolution of Parliament, he is not then a Representative;
- (d) in the case of any Minister other than the Prime Minister if, when the Assembly first meets after a dissolution of Parliament, he is not then a member of the Assembly; or
- (e) if, by virtue of subsection (4) of section 70 of this Constitution, he is required to cease to perform his functions as a member of the Assembly.

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

- (a) if the President, acting in accordance with the advice of the Prime Minister, so directs;
- (b) if the Prime Minister resigns from office within three days after a resolution of no confidence in the Government has been passed by the Assembly or **he otherwise resigns from office under subsection (5) of this section** or he is removed from office under subsection (1) or (2) of this section; or **the office of Prime Minister becomes vacant under paragraph (a) (b) or (d) of subsection (3) of this section;** or
- (c) on the appointment of any person to the office of Prime Minister.

(5) The Prime Minister or any other Minister may at any time resign from office by writing under his hand in that behalf addressed to the President. The resignation shall take effect, and the office shall accordingly become vacant, when the writing is received by the President.

(6) In the exercise of the powers conferred upon him by subsections (1) and (2) of this section the President shall act in his own deliberate judgment.

Secretary to
the Cabinet.

119. (1) There shall be the office of Secretary to the Cabinet, which shall be a public office.

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

Part 3

Parliamentary Secretaries

Establishment,
etc., of offices
of
Parliamentary
Secretary.

120. (1) There shall be such offices of Parliamentary Secretary, not more than five in number, as may be established by the President acting in accordance with the advice of the Prime Minister.

(2) Subject to subsection (1) of this section the President, acting in accordance with the advice of the Prime Minister, may appoint Parliamentary Secretaries from among the Representatives and Senators to assist Ministers in the performance of their duties.

(3) Where occasion arises for making an appointment to the office of Parliamentary Secretary while Parliament is dissolved, a person who was a Representative or a Senator immediately before the dissolution may be appointed as a Parliamentary Secretary.

(4) The office of a Parliamentary Secretary shall become vacant -

- (a) if the President, acting in accordance with the advice of the Prime Minister, so directs;
- (b) if the Prime Minister resigns from office, or is removed from office, or the office of Prime Minister becomes vacant; respectively under subsection (1) or (5), subsection (1) or (2), or subsection (3), of section 118 of this Constitution;
- (c) upon the appointment of any person to the office of Prime Minister;
- (d) if the holder of the office ceases to be a member of the Assembly otherwise than by reason of a dissolution of Parliament;
- (e) if, when the Assembly first meets after the dissolution of Parliament, he is not then a member of the Assembly; or

(f) if, by virtue of section 70(4) of this Constitution, he is required to cease to perform his functions as a member of the Assembly.

(5) A Parliamentary Secretary may at any time resign from office by writing under his hand in that behalf addressed to the President. The resignation shall take effect, and the office shall accordingly become vacant, when the writing is received by the President.

Part 4

General

Oaths.
Second
Schedule.

121. (1) The Prime Minister, a Minister or a Parliamentary Secretary shall not enter upon the duties of his office unless he has taken and subscribed the oaths of allegiance and of office set out in the Second Schedule hereto.

(2) A member of the Cabinet shall not enter upon the duties of his office unless he has taken and subscribed the oath of a member of the Cabinet set out in the Second Schedule to this Constitution, in addition to the oaths which he is required to take by subsection (1) of this section.

Direction
and
supervision
of
departments

122. (1) Subject to the direction and control which a Minister exercises over the department or departments of government constituting a Ministry for which he has been assigned responsibility, such a department or such departments shall be under the supervision of a Permanent Secretary whose office shall be a public office.

(2) For the purposes of this section:-

(a) two or more government departments may be placed under the supervision of one Permanent Secretary; or

(b) two or more Permanent Secretaries may supervise any department of government assigned to a Minister.

Interpretation.

123. In this Chapter, unless it is expressly stated otherwise or the context requires otherwise, “Minister” shall include “Prime Minister”.

CHAPTER VIII

THE MINORITY LEADER

Establishment
of office of
Minority
Leader.

124. There shall be an office of Minority Leader of Saint Vincent and the Grenadines, and appointments thereto shall be made in accordance with **section 125 of this Constitution.**

Appointment.

125 (1) Whenever there is occasion for the appointment of a Minority Leader the President shall appoint as Minority Leader the member of the National Assembly who appears to the President, acting in his own deliberate judgment, most likely to command the support of a majority of the Representatives and Senators who do not support the Government:

Provided that a Senator may be appointed as Minority Leader only if there is no Representative who is qualified under this subsection to be so appointed and is willing to accept such appointment.

(2) If occasion arises to appoint a Minority Leader during the period between a dissolution of Parliament and the day on which the ensuing general election is held, an appointment may be made as if Parliament had not been dissolved.

(3) (a) If there are two or more members of the Assembly who do not support the Government but none of them commands the support of the other or others, the President may, acting in his own deliberate judgment, appoint any one of them as Minority Leader; and

(b) in the exercise of his judgment the President shall be guided by the seniority of each based on his length of service as a member of Parliament whether under this Constitution or the former Constitution, by the number of votes cast in favour of each at the last general election, or by both such seniority and such number of votes.

Functions.

126. The functions of the Minority Leader shall be to -

- (a) offer advice to the President when the Constitution so requires;
- (b) afford consultation to the President and the Prime Minister when the Constitution so requires;
- (c) serve as Chairman of the Public Accounts Committee of the National Assembly or designate as his alternate one of the **members of the Assembly** who do not support the Government;
- (d) as far as possible, co-ordinate the response to the Government by **members of the Assembly** who do not support the Government;
- (e) propose policies and ideas in and out of the Assembly as policies alternative to those of the Government; and
- (f) undertake generally such other activities in and out of the Assembly as appear to him appropriate for his preparation to assume the office of Prime Minister if and when called upon to do so.

Tenure.

127. (1) The office of Minority Leader shall become vacant where the person holding or acting in that office -

- (a) resigns his office;
- (b) ceases to be a **member of the National Assembly** for any cause other than a dissolution of Parliament;
- (c) is not a **member of the Assembly** when the Assembly first meets after a dissolution of Parliament;

(d) is, by virtue of subsection (4) of section 70 of this Constitution, required to cease to exercise his functions as a **member of the Assembly**; or

(e) is appointed to the office of Prime Minister.

(2) The Minority Leader at any time may resign from office by writing under his hand in that behalf addressed to the President. The resignation shall take effect, and the office shall accordingly become vacant, when the writing is received by the President.

(3) The office of Minority Leader shall also become vacant where the appointment of a person holding or acting in that office is revoked under the provisions of subsection (1) of section 128 of this Constitution.

Revocation
of
appointment.

128. (1) Where the President, acting in his own deliberate judgment considers that the Minority Leader is no longer the **member of the National Assembly** best able to command the support of a majority of the **members of the Assembly** who do not support the Government, the President shall revoke the appointment of the Minority Leader.

(2) Nothing in subsection (1) of this section shall apply at any time while Parliament is dissolved.

Provisions as
to advice and
consultation.

129. Where, for whatever reason –

- (a) the office of Minority Leader is vacant, or
- (b) the Minority Leader fails without reasonable cause to offer advice or to afford consultation as required by this Constitution,

any provision in this Constitution requiring that the advice of the Minority Leader be acted upon, or that he be consulted, shall not apply in so far as that provision requires such advice or consultation.

CHAPTER IX

THE PARLIAMENTARY COMMISSION

Establishment
of
Parliamentary
Commission

130. There shall be a Parliamentary Commission of Saint Vincent and the Grenadines which, in this Chapter, may be referred to as the Commission.

Composition.

131. (1) The Commission shall consist of ten (10) members, as follows:

- (a) the Speaker, who shall be the Chairman of the Commission;
- (b) two members of the National Assembly who support the Government, only one of whom may be a member of the Cabinet, nominated to the Commission by the Prime Minister;
- (c) one member of the Assembly who does not support the Government, nominated to the Commission by the Minority Leader;
- (d) three distinguished nationals, drawn from civil society, nominated to the Commission by the Speaker after consultation with the Prime Minister and the Minority Leader;
- (e) two distinguished nationals, one of whom shall be a Minister of Religion, and the other shall be a person entitled to practise as a medical practitioner in the State, both of whom shall be named to the Commission by the President, **acting in his discretion**; and
- (f) the Attorney-General.

(2) The Chairman and members of the Commission shall be appointed to the Commission by the President in accordance with subsection (1) of this section.

(3) The Secretariat of the National Assembly referred to in section 89 of this Constitution shall provide administrative and clerical services for the Commission.

Disqualifications.

132. A person shall not be qualified to be appointed as a member of the Commission if he –

(a) is not a citizen of Saint Vincent and the Grenadines; or

(b) is a judge of the Supreme Court.

Functions.

133. (1) The functions of the Commission shall be as stated in subsections (3) to (5) of this section.

(2) Whenever a vacancy occurs or is about to occur in the office of President, the Commission by its Chairman may propose to the **Prime Minister** its nominees for the office of President, **on its Chairman being consulted by the Prime Minister about the matter**. The election of the President shall be decided by the National Assembly in its own deliberate judgment, whether from among such nominees or otherwise.

(3) The Commission shall advise the President on the exercise of the Prerogative of Mercy pursuant to the provisions of section 134 of this Constitution.

(4) The Commission may deliberate on such matters pertaining to good governance as it sees fit.

(5) Parliament may confer on the Commission functions other than those set out in this section, provided that such other functions are not inconsistent with this section.

134. (1) When the Commission is convened to consider advising the President on the exercise of the Prerogative of Mercy, the provisions of this section shall apply.

(2) The Commission may receive professional reports, including reports from medical practitioners.

(3) In a case in which a person has been sentenced to death by a Court (otherwise than by a court-martial) for an offence against the law, the Attorney-General shall cause to be obtained and be delivered to the Commission a written report of the case from the trial Judge (or the Chief Justice, if a report from the trial judge cannot be obtained), together with such other information derived from the record of the case or elsewhere as the Attorney-General may require.

(4) In cases other than those referred to in subsection (3) of this section, the Commission may require the Attorney General to submit to the Commission reports and information of the nature of that referred to in subsections (2) and (3) of this section.

(5) After the Commission at a meeting has duly taken into consideration the reports and information referred to in subsections (2) (3) and (4) of this section, as the case may be, the Commission shall decide what advice it considers desirable to give the President on the exercise of the Prerogative of Mercy. Before giving such advice to the President, the Commission shall consult the Prime Minister on its proposed advice.

(6) When the Commission tenders its advice to the President pursuant to subsection (5) of this section, the President shall act in accordance with such advice.

135. (1) Subject to subsection (2) of this section, a member of the Commission appointed under paragraphs (b), (c), (d) and (e) of subsection (1) of section 131 of this Constitution shall hold his office therein for such period as may be specified in the instrument by which he was appointed.

(2) The office of a member of the Commission referred to in paragraph (e) of subsection (1) of section 131 of this Constitution shall become vacant-

- (a) in the case of a person who at the date of his appointment was a Minister of Religion, if he ceases to be such a Minister; or
- (b) in the case of a person who, at the date of his appointment was entitled to practise as a medical practitioner in the State, if he ceases to be so entitled;
- (c) if the President, by writing under his hand, so directs.

(3) The office of a member of the Commission who was nominated to the Commission by the Prime Minister, the Minority Leader or the Speaker, shall become vacant, if the Prime Minister, the Minority Leader or the Speaker, as the case may be, advises the President to remove that person, in which event the President shall remove that person.

Procedure.

136. (1) The Commission may regulate its own procedure all matters coming before it, including matters pertaining to its giving advice to the President on the exercise of the Prerogative of Mercy.

(2) The Commission may, subject to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any member. The proceedings of the Commission shall not be invalidated by the presence thereat or participation therein of any person not entitled to be present thereat or to participate therein.

(3) The Commission shall submit to the National Assembly annual reports in writing on the functioning of the Commission and shall do so not later than the end of April for the preceding calendar year.

Oaths
Second.
Schedule.

137. A member of the Commission shall not enter upon the duties of his office unless he has taken and subscribed the oaths of allegiance and of office set out in the Second Schedule to this Constitution.

Not subject
to direction
or control.

138. The Commission shall, in the exercise of the functions vested in it by this Constitution or any other law, not be subject to the direction or control of any other person or authority.

CHAPTER X

THE INTEGRITY COMMISSION

Establishment,
etc., of
Integrity
Commission.

139. (1) There shall be an Integrity Commission (in this Chapter referred to as “the Commission”) for St. Vincent and the Grenadines consisting of such number of members, qualified and appointed in such manner and holding office upon such tenure as may be prescribed by Parliament.

(2) The Commission shall perform the functions of –

- (a) receiving, from time to time, declarations in writing of the assets, liabilities and income of members of the National Assembly and the holders of such other offices as may be prescribed;**
- (b) the supervision of all matters connected therewith as may be prescribed;**
- (c) the supervision and monitoring of standards of ethical conduct prescribed by Parliament to be observed by the holders of offices referred to in paragraph (a) of this section;**
- (d) the monitoring and investigating of conduct, practices and procedures which are dishonest or corrupt.**

Second
Schedule.

(3) A member of the Commission shall not enter upon the duties of his office until he has taken and subscribed the oaths of allegiance and of office set out in the Second Schedule to this Constitution.

(4) Subject to this Constitution, Parliament may make provisions for -

- (a) regulating the procedure in accordance with which the Commission is to perform its functions;**
- (b) conferring such powers on the Commission and imposing such duties on persons concerned as are necessary to enable the Commission to carry out effectively the purposes of section 1 of this Constitution;**
- (c) the proper custody of declarations and other documents delivered to the Commission;**
- (d) the maintenance of secrecy in respect of all information received by the Commission in the course of its duties with respect to the assets, liabilities and income of any member of the Assembly and any other person;**
- (e) penalties for breaches of secrecy by members of the Commission and its staff;**
- (f) the preparation by the Commission of a Register of Interests for public inspection; and**
- (g) generally to give effect to the provisions of section 139 of this Constitution.**

(5) Parliament shall make those provisions in such terms and with such guarantees to the Commission as to ensure the independence and effectiveness of the Commission.

Not subject
to direction
or control.

140. The Commission shall, in the exercise of the functions vested in it by this Constitution or any other law, not be subject to the direction or control of any other person or authority.

CHAPTER XI

THE OMBUDSMAN

Establishment of
Ombudsman.

141. (1) There shall be an officer of Parliament who shall be as the Ombudsman.

(2) The Ombudsman shall not hold any other office of emolument either in the public service or otherwise nor engage in any occupation for reward other than the duties of his office.

Appointment.

142. The Ombudsman shall be appointed by a resolution of the National Assembly for such term as may be prescribed therein.

Functions.

143. (1) The Ombudsman may investigate and report to the National Assembly on complaints that persons have sustained injustice as a result of a fault in administration, or maladministration, on account of any act done or omitted by any public authority.

(2) Parliament may make provision for further functions, powers and duties of the Ombudsman **in such terms and with such guarantees as to require public authorities to cooperate with the Ombudsman and to ensure the independence and effectiveness of the Ombudsman.**

Oaths.
Second
Schedule.

144. The Ombudsman shall not enter upon the duties of his office until he has taken and subscribed before the Speaker the oaths of allegiance and **of office set out in the Second Schedule to this Constitution.**

Acting
appointment.

145. If at any time the Ombudsman is for any reason unable to exercise the functions of his office, the National Assembly may by resolution appoint a person to act as Ombudsman, and any person so appointed shall, subject to subsections (3) and (4) of section 146 of this Constitution, continue to act until the Ombudsman has resumed his functions or until the appointment to act has been revoked by a resolution of the Assembly.

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

(2) The Ombudsman shall be removed from office by a resolution of the National Assembly if the question of his removal from office has been referred to a tribunal appointed under subsection (3) of this section and the tribunal has recommended to **the Assembly** that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(3) If by the Assembly it is resolved that the question of removing the Ombudsman **from office** under this section ought to be investigated, then—

- (a) the Speaker shall appoint a tribunal which shall consist of a chairman and not less than two other members selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court; and
- (b) the tribunal shall enquire into the matter and report on the facts thereof to the Speaker and recommend to the Assembly through the Speaker whether the Ombudsman ought to be removed **from office** under this section.

(4) If the question of removing the Ombudsman has been referred to a tribunal under this section, the Assembly may by resolution suspend the Ombudsman from the functions of his office and any such suspension may at any time be revoked by a resolution of the Assembly and shall in any case cease to have effect if the

tribunal recommends to Parliament through the Speaker that the Ombudsman should not be removed.

Not subject to
direction or
control.

147. The Ombudsman shall, in the exercise of his functions under this Constitution, not be subject to the direction or control of any other person or authority.

CHAPTER XII

LOCAL GOVERNMENT

Local
government
to be
prescribed.

148. Not later than three years after the coming into force of this Constitution, Parliament shall establish a system of Local Government for Saint Vincent and the Grenadines, of such composition and with such powers, functions and duties as may be prescribed by Parliament.

General
principles.

149. The principles that shall inform the establishing, **composition and functioning** of local government bodies and their functioning shall aim at achieving primarily the following objectives:

- (a) effective participation of the people in the affairs of local government institutions;
- (b) effective opportunities for initiatives to be proposed and implemented by local government institutions;
- (c) fiscal responsibility;
- (d) proper procedures and structures for financial accountability;
- (e) the promoting of democracy, towards which end the machinery for elections to local government bodies, in cases where such elections are prescribed by Parliament, shall be under the supervision of the Electoral and Boundaries Commission; and
- (f) subject to the provisions of section 150 of this Constitution, as far as a degree of autonomy of local bodies as is consistent with the constitutional responsibility of Cabinet.

Special
provisions
for the
Grenadines.

150. The Local Government systems and policies for the Grenadines shall reflect the special circumstances of the Grenadines, and shall take into account the uniqueness of each of the communities in the Grenadines as well as the considerable contribution of the Grenadines to the national economy of Saint Vincent and the Grenadines. **It will be appropriate for more autonomy to be afforded local government bodies in the Grenadines than those on the mainland.**

CHAPTER XIII

FINANCE

Consolidated
Fund.

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

Withdrawals
from
Consolidated
Fund or other
public funds.

152. (1) No monies shall be withdrawn from the Consolidated Fund except:

- (a) to meet expenditure that is charged upon the Consolidated Fund by this Constitution or by any law enacted by Parliament; or
- (b) where the issue of those monies has been authorised by an appropriation law or by a law made in pursuance of subsections (2), (3), (4), (5), and (6) of this section **or section 154 of this Constitution.**

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

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

(4) There shall be such provision as may be made by Parliament prescribing the manner in which withdrawals may be made from the Consolidated Fund or any other public fund.

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

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

Authorisation
of
expenditure
from
Consolidated
Fund by
appropriation
law.

153. (1) The Minister for the time being responsible for finance shall cause to be prepared and laid before the National Assembly before, or not later than thirty days after, the commencement of each financial year, estimates of the revenues and expenditure of Saint Vincent and the Grenadines for that financial year.

(2) When the estimates of expenditure (other than expenditure charged upon the Consolidated Fund by this Constitution or by any law enacted by Parliament) have been approved by the Assembly a bill, known as an appropriation bill, shall be introduced in the Assembly, providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums, under separate votes for the several services required, to the purposes specified therein.

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

- (a) that the amount appropriated by the appropriation law to any purpose is insufficient, or that a need has arisen for expenditure for a purpose to which no amount has been appropriated by that law; or
- (b) that any monies have been expended for any purpose in excess of the amount appropriated to that purpose by the appropriation law, or for a

purpose to which no amount has been appropriated by that law, a supplementary estimate showing the sums required or spent shall be laid before the Assembly and, when the supplementary estimate has been approved by the Assembly a supplementary appropriation bill shall be introduced in the Assembly providing for the issue of such sums from the Consolidated Fund and appropriating them to the purposes specified therein.

Authorisation
of expenditure
in advance
of
appropriation.

154. There shall be such provision as may be made by Parliament under which, if the appropriation law in respect of any financial year has not come into operation by the beginning of that financial year, the Minister for the time being responsible for finance may authorise the withdrawal of monies from the Consolidated Fund for the purpose of meeting expenditure necessary to carry on the services of the Government until the expiration of four months from the beginning of that financial year, or the coming into operation of the law, whichever is the earlier.

Contingencies
Fund.

155. (1) There shall be such provision as may be made by Parliament for the establishment of a Contingencies Fund and for authorising the Minister for the time being responsible for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from that Fund to meet that need.

(2) Where any advance is made from the Contingencies Fund, a supplementary estimate shall as soon as possible be laid before the **National Assembly** and when the supplementary estimate has been approved by the **Assembly**, a supplementary appropriation bill shall be introduced as soon as possible in the **Assembly** for the purpose of replacing the amount so advanced.

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

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

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

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

(5) **This section applies to the offices of President, Attorney-General (when his office is a public office), Auditor General, Chief Electoral Officer, Director of Public Prosecutions, Magistrates and Ombudsman; and the members of the Electoral and Boundaries Commission, Human Rights Commission, Integrity Commission, Parliamentary Commission, Police and Prison Services Commission, Public Service Board of Appeal, Public Service Commission and Teaching Service Commission.**

(6) Nothing in this section shall be construed as prejudicing the provisions of sections 234 and 235 of this Constitution (which protect pensions rights in respect of service as a public officer, police officer, **prison officer** or teacher).

Public debt.

157. (1) All debt charges for which Saint Vincent and the Grenadines is liable shall be a charge on the Consolidated Fund.

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

Functions
of Public
Accounts
Committee.

158. (1) The Public Accounts Committee of the National Assembly established by section 85 of this Constitution shall consider the accounts referred to in section 228 of this Constitution in conjunction with the report of the Auditor General and in particular shall report to the Assembly –

- (a) in the case of any excess or unauthorised expenditure of public funds, the reasons for such expenditure; and
- (b) any measures it considers necessary in order to ensure that public funds are properly spent.

(2) **The Public Accounts Committee** shall perform such other **functions** relating to public accounts as **Parliament** may from time to time enact.

CHAPTER XIV

THE PUBLIC SERVICE

Part 1

The Public Service Commission

Establishment
of Public
Service
Commission.

159. There shall be a Public Service Commission for Saint Vincent and the Grenadines (which hereinafter in this Part and in Parts 2 and 3 of this Chapter may be referred to as the Commission).

Composition.

160. The Commission shall consist of -

- (a) a chairman appointed by the President, **acting in consultation with the Prime Minister and the Minority Leader;**
- (b) one member appointed by the President, acting in accordance with the advice of the Prime Minister;
- (c) one member appointed by the President, acting in accordance with the advice of the Prime Minister, provided that before tendering such advice the Prime Minister shall consult with the Minority Leader;
- (d) one member appointed by the President, acting in consultation with such civil society bodies as he may in his own deliberate judgment decide to consult;
- (e) one member appointed by the President, acting in consultation with the Prime Minister and the Saint Vincent and the Grenadines Public Service Union (or, if that union ceases to exist, such body or bodies representing the interests of public officers as the President may determine).

Disqualifications.

161. A person shall not be qualified to be appointed as a member of the Commission if -

- (a) he is, or has at any time during the period of five years immediately preceding his appointment been, a Representative or a Senator, or nominated for election as a Representative or a Senator;
- (b) he is, or has at any time during that period been, the holder of an office in any political organisation that sponsors or otherwise supports, or that has at any time sponsored or otherwise supported, a candidate for election as a Representative or a Senator, or a member of any local government authority; or,
- (c) he is, or has at anytime during the three years preceding his appointment been, a judge of the Supreme Court or a public officer.

Ineligibility.

162. A member of the Commission shall not, within the period of three years commencing with the day on which he last held or acted in the office of member of the Commission, be eligible for appointment to hold or to act in any public office.

Tenure.

163. Subject to the provisions of section 164, the office of a member of the Commission shall become vacant -

- (a) at the expiration of two years from the date of his appointment; or
- (b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified to be appointed as such under section 161 of this Constitution.

Tribunal procedure for removal and suspension.

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

(2) A member of the Commission shall be removed from office by the President if the question of his removal from office has been

referred to a tribunal appointed under subsection (3) of this section, and the tribunal has recommended to the President that he ought to be removed from office for inability as aforesaid, or for misbehaviour.

(3) If the Prime Minister represents to the President that the question of removing a member of the Commission from office under this section ought to be investigated, then –

- (a) the President shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in any part of the Commonwealth, or a court having jurisdiction in appeals from such a court; and
- (b) the tribunal shall enquire into the matter and report on the facts and circumstances thereof to the President, and recommend to him whether the member ought to be removed from office under this section.

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

Acting
Chairman,
acting
member.

165. (1) If the office of Chairman of the Commission is vacant or if the holder of that office is for any reason unable to exercise the functions of this office, then, until a person has been appointed to hold that office, and has assumed the functions of that office, or until the person holding that office has resumed those functions, as the case may be, those functions shall be exercised by such other member of the Commission as may for the time being be designated by the President, **acting in consultation with the Prime Minister and the Minority Leader.**

(2) If at any time there are less than two members of the Commission other than the Chairman, or if any such member is acting as Chairman or is for any reason unable to exercise the functions of his office, the President, acting in accordance with the provisions of section 160 of this Constitution, may appoint a person who is qualified to be appointed as a member of the Commission to act as a member, and any person so appointed shall, subject to the provisions of section 163 of this Constitution, continue to act until the office in which he is acting has been filled or, as the case may be, until the holder thereof has resumed his functions, or until his appointment to act has been revoked by the President. In making such an acting appointment the President shall act in accordance with section 160 (b) or (d) as the case may be.

Oaths.
Second
Schedule.

166. A member of the Commission shall not enter upon the duties of his office until he has taken and subscribed the oath of allegiance and of office as set out in the Second Schedule to this Constitution.

Procedure.

167. (1) The Commission may by regulation or otherwise regulate its own procedure and, with the consent of the Prime Minister, may confer powers or impose duties on any public officer or on any authority of the Government for the purpose of the exercise of its functions.

(2) The Commission may, subject to its rules of procedure and subject to subsection (3) of this section, act notwithstanding any vacancy in its membership or the absence of any member, and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings.

(3) Any decision of the Commission shall require the concurrence of a majority of all its members.

Not
subject to
direction
or control.

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

Part 2

Appointments, etc., to offices in the Public Service

Appointments,
etc., to public
offices in
general.

169. The power to appoint persons to hold or act in offices in the Public Service (including the power to make appointments on promotion and transfer and to confirm appointments), and, subject to the provisions of section 208 of this Constitution, the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Public Service Commission.

Delegation.

170. The Public Service Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under section 169 of this Constitution to any one or more members of the Commission or, with the consent of the Prime Minister, to any public officer.

Exceptions.

171. The provisions of sections 169 and 170 shall not apply in relation to the following offices, that is to say -

- (a) any office to which section 173 of this Constitution applies;
- (b) the office of Attorney-General;
- (c) the office of Director of Public Prosecutions;
- (d) the office of Auditor General;
- (e) the office of Magistrate;
- (f) any office to which section 174 of this Constitution applies;
- (g) any office in the Police Service;
- (h) any office in the Prison Service; or
- (i) any office in the Teaching Service.

Concurrence
and
consultation.

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

(2) Before any of the powers conferred by sections 169 and 170 of this Constitution is exercised by the Public Service

Commission or any other person or authority in relation to the members of staff in the office of Auditor General, the Commission or that person or authority shall consult with the Auditor General.

(3) Before any of the powers conferred by sections 169 and 170 of this Constitution is exercised by the Public Service Commission or any other person or authority in relation to the Clerk of the National Assembly or a member of his staff, the Commission or that person or authority shall consult with the Speaker.

Part 3

Appointments, etc., to particular offices in the Public Services

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

173. (1) This section applies to certain particular offices in the Public Service. These are the offices of Secretary to the Cabinet, permanent secretary, head of a department of government, deputy head of a department of government, any office for the time being designated by the Public Service Commission as an office of a chief professional adviser to a department of government and any office for the time being designated by the Commission, after consultation with the Prime Minister, as an office the holders of which are required to reside outside Saint Vincent and the Grenadines for the proper discharge of their functions or as an office in Saint Vincent and the Grenadines whose functions relate to external affairs.

(2) Subject to subsections (3), (4) and (5) of this section, the power to appoint persons to hold or to act in offices to which this section applies (including the power to make appointments on promotion and transfer and to confirm appointments) and, subject to the provisions of sections 207 and 208 of this Constitution, the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the President, acting in accordance with the advice of the Public Service Commission.

(3) The power to appoint a person to hold or act in an office of permanent secretary on transfer from another such office carrying the same salary shall vest in the President, acting in accordance with the advice of the Prime Minister.

(4) Before the Public Service Commission tenders advice to the President with respect to the appointment of any person to hold an office to which this section applies (other than an appointment to an office of permanent secretary on transfer from another such office carrying the same salary) it shall consult with the Prime Minister. If the Prime Minister signifies his objection to the appointment of any person to the office, the Commission shall not advise the President to appoint that person.

(5) In relation to any office of Ambassador, High Commissioner or other principal representative of Saint Vincent and the Grenadines in any other country or accredited to any international organization the President shall act in accordance with the advice of the Prime Minister. Before tendering any such advice in respect of any person who holds any public office to which appointments are made by the President on the advice of, or after consultation with, some other person or authority, the Prime Minister shall consult that person or authority.

(6) References in this section to a department of government shall not include the office of the President, the department of the Attorney-General, the department of the Director of Public Prosecutions, the department of a Magistrate, the department of the Auditor General, the department of the Clerk of the National Assembly, the Police Service, the Prison Service or the Teaching Service.

Appointments
etc., of
registrars and
legal officers.

174. (1) This section applies to the offices of registrar of the High Court and deputy registrar of the High Court and to any public office in the department of the Attorney-General (other than the public office of Attorney-General) or the department of the Director of Public Prosecutions (other than the office of Director) for appointment to which persons are required to hold one or other of the specified qualifications.

(2) The power to appoint persons to hold or act in offices to which this section applies (including the power to make appointment on promotion and transfer and to confirm appointments) and, subject to the provisions of sections 207 and 208 of this Constitution, the power to exercise disciplinary control over persons holding or acting in such offices, and the power to remove such persons from office, shall vest in the President, acting in accordance with the advice of the Judicial and Legal Services Commission.

Part 4

The Police and Prison Services Commission

Establishment
of Police and
Prison Services
Commission.

175. There shall be a Police and Prison Services Commission for Saint Vincent and the Grenadines (which hereinafter in this Part and in Part 5 of this Chapter may be referred to as the Commission).

Composition.

176. (1) The Police and Prison Services Commission shall consist

(a) the Chairman of the Public Service Commission;

(b) **two members appointed by the President acting in consultation with the Prime Minister and-**

(i) **the Saint Vincent and the Grenadines Police Welfare Association (or, if that Association ceases to exist, such body or bodies representing the interests of police officers as the President may determine), in the case of police officers; and**

(ii) **the Saint Vincent and the Grenadines Public Service Union (or such body or bodies representing the interests of prison officers as the President may determine), in the case of prison officers; and**

(c) the members of the Public Service Commission appointed under paragraphs (b), (c) and (d) of section 160 of this Constitution.

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

(3) Any person for the time being authorised to act as a member of the Public Service Commission under subsection (2) of section 165 of this Constitution (other than a person so authorised on account of the inability of the member of the Commission appointed under section 160 (d) of this Constitution) shall act as a member of the Police and Prison Services Commission.

(4) If at any time either of the members of the Commission appointed under paragraph (b) of subsection (1) of section 176 of this Constitution is for any reason unable to exercise the functions of his office, the President may appoint a person who is qualified to be appointed as a member of the Commission to act as a member, and any person so appointed shall, subject to the provisions of sections 177 to 179 of this Constitution, continue to act until the holder of the office has resumed his functions or until his appointment to act has been revoked by the President. In making or revoking such an acting appointment, the President shall act in accordance with paragraph (b) of subsection (1) of section 176 of this Constitution.

Disqualifications.

177. (1) Subject to subsections (2) and (3) of this section, the provisions of sections 161 and 162 of this Constitution shall apply in relation to the members of the Police and Prison Services Commission referred to in paragraph (b) of subsection (1) of section 176 of this Constitution, as they apply in relation to a member of the Public Service Commission as regards disqualifications as to membership and ineligibility for appointment respectively.

(2) A person shall not be qualified to be appointed as a member of the Commission if he is, or has at any time during the period of three years immediately preceding his appointment, been a judge of the Supreme Court or, as the case may be, a member of the Police Service or the Prison Service.

(3) A member of the Commission shall not, within the period of three years commencing with the day on which he last held or acted in the office of member of the Commission, be eligible for appointment to or to act in any office in the Police Service or the Prison Service as the case may be.

Tenure.

178. Subject to section 179 of this Constitution, the provisions of section 163 of this Constitution shall apply in relation to the members of the Police and Prison Services Commission referred to paragraph (b) of subsection (1) of section 176 of this Constitution as they apply in relation to a member of the Public Service Commission as regards tenure.

Tribunal
procedure for
removal and
suspension.

179. (1) The provisions of section 164 of this Constitution shall apply in relation to the members of the Police and Prison Services Commission referred to in paragraph (b) of subsection (1) of section 176 of this Constitution as they apply in relation to a member of the Public Service Commission as regards the protection afforded by the tribunal procedure respecting removal from office and suspension.

(2) The question that the removing from office of either of the members of the Police and Prison Services Commission referred to in subsection (1) of this section ought to be investigated may be represented to the President by the Prime Minister.

Oaths.
Second
Schedule.

180. A member of the Commission shall not enter upon the duties of his office until he has taken and subscribed the oaths of allegiance and of office set out in the Second Schedule to this Constitution.

Procedure.

181. (1) The Commission may by regulation or otherwise regulate its own procedure and, with the consent of the Prime Minister, may confer powers or impose duties on any police officer or any prison officer as the case may be or on any authority of the Government for the purpose of the exercise of its functions.

(2) The Commission may, subject to its rules of procedure, and subject to subsection (3) of this section, act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings:

Provided that when the Commission is hearing and determining matters regarding police officers the member appointed pursuant to section 176 (1) (b) (i) of this Constitution shall sit, but the member appointed pursuant to section 176 (1) (b) (ii) shall not sit;

Provided likewise that when the Commission is hearing and determining matters regarding prison officers the member appointed pursuant to section 176 (1) (b) (ii) shall sit, but the member appointed pursuant to section 176 (1) (b) (i) shall not sit.

(3) Any decision of the Commission shall require the concurrence of a majority of all its members.

Not
subject to
direction
or control.

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

Part 5

Appointments, etc., to offices in the Police Service and the Prison Service

Appointments,
etc., of police
officers.

183. (1) The power to appoint a person to hold or act in the office of Commissioner of Police or Deputy Commissioner of Police in the Police Service (including the power to make appointments on promotion and transfer and to confirm appointments) and, subject to the provisions of sections 207 and 208 of this Constitution, the power to remove the Commissioner or Deputy Commissioner from office shall vest in the President, acting in accordance with the advice of the Police and Prison Services Commission:

Provided that, before the Commission tenders advice to the President with respect to the appointment of any person to hold the office of Commissioner of Police or Deputy Commissioner of Police, the Commission shall consult with the Prime Minister and if the Prime Minister signifies his objection to the appointment of any person to any of those offices, the Commission shall not advise the President to appoint that person.

(2) The power to appoint persons to hold or act in offices in the Police Service below the rank of Deputy Commissioner of Police but above the rank of sergeant (including the power to make appointments on promotion and transfer and to confirm appointments) and, subject to the provisions of sections 207 and 208 of this Constitution, the power to exercise disciplinary control over persons

holding or acting in such offices and the power to remove such persons from office, shall vest in the Police and Prison Services Commission.

(3) The power to appoint persons to hold or act in offices in the Police Service of or below the rank of Sergeant (including the power to make appointments on promotion and transfer and to confirm appointments) and, subject to the provisions of sections 207 and 208 of this Constitution, the power to exercise disciplinary control over persons holding or acting in such offices, and the power to remove such persons from office, shall vest in the Commissioner of Police.

(4) The Commissioner of Police may, by directions given in such manner as he thinks fit and subject to such conditions as he thinks fit, delegate any of his powers under subsection (3) of this section, other than the power to remove from office or reduce in rank, to any other member of the Police Service not below the rank of Inspector of Police.

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

(6) In this section references to the rank of Sergeant shall, if the ranks within the Police Service are altered (whether in consequence of the reorganization or replacement of an existing part of the Service or the creation of an additional part), be construed as references to such rank as may be specified by the Police and Prison Services Commission by order published in the *Official Gazette*, being a rank that in the opinion of the Commission most nearly corresponds to the rank of Sergeant as it existed before the alteration.

Appointments,
etc., of prison
officers.

184. (1) The power to appoint a person to hold or act in the office of Superintendent of Prisons or Assistant Superintendent of Prisons in the Prison Service (including the power to make appointments on promotion and transfer and to confirm

appointments) and, subject to the provisions of sections 207 and 208 of this Constitution, the power to remove the Superintendent or Assistant Superintendent from office shall vest in the President, acting in accordance with the advice of the Police and Prison Services Commission:

Provided that, before the Commission tenders advice to the President with respect to the appointment of any person to hold the office of Superintendent of Prisons or Assistant Superintendent of Prisons, the Commission shall consult with the Prime Minister and if the Prime Minister signifies his objection to the appointment of any person to any of those offices, the Commission shall not advise the President to appoint that person.

(2) The power to appoint persons to hold or act in offices in the Prison Service below the rank of Assistant Superintendent of Prisons but above the rank of Prison Officer (including the power to make appointments on promotion and transfer and to confirm appointments) and, subject to the provisions of sections 207 and 208 of this Constitution, the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office, shall vest in the Police and Prison Services Commission.

(3) The power to appoint persons to hold or act in offices in the Prison Service in the rank of Prison Officer (including the power to make appointments on promotion and transfer and to confirm appointments) and, subject to the provisions of sections 207 and 208 of this Constitution, the power to exercise disciplinary control over persons holding or acting in such offices, and the power to remove such persons from office, shall vest in the Superintendent of Prisons.

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

(5) In this Chapter, any reference to the office of Assistant Superintendent of Prisons shall be deemed as including a reference to any expression which signifies the office of the second in command of the Prison Service.

Part 6

The Teaching Service Commission

Establishment
of Teaching
Service
Commission.

185. There shall be a Teaching Service Commission for Saint Vincent and the Grenadines (which hereafter in this Part and in Part 7 of this Chapter may be referred to as the Commission).

Composition.

186. The Teaching Service Commission shall consist of –

- (a) a Chairman appointed by the President **acting in consultation with the Prime Minister and the Minority Leader:**

Provided that a person who is Chairman of the Commission, while being such Chairman, shall not be the Chairman or any other member of either the Public Service Commission or the Police and Prison Services Commission;

- (b) **one member appointed by the President acting in consultation with the Prime Minister and the Saint Vincent and the Grenadines Teachers' Union (or, if that union ceases to exist, such body or bodies representing the interests of teachers as the President may determine); and**
- (c) the members of the Public Service Commission appointed under paragraphs (b), (c) and (d) of section 160 of this Constitution.

Disqualifications.

187. (1) Subject to subsections (2) and (3) of this section, the provisions of sections 161 and 162 of this Constitution shall apply in

relation to the members of the Teaching Service Commission referred to in paragraphs (a) and (b) of section 186 of this Constitution, as they apply in relation to a member of the Public Service Commission, as regards disqualifications as to membership and ineligibility for appointment respectively.

(2) A person shall not be qualified to be appointed as a member of the Commission if he is, or has at any time during the period of three years immediately preceding his appointment been, a judge of the Supreme Court or a member of the teaching service.

(3) A member of the Commission shall not, within the period of three years commencing with the day in which he last held or acted in the office of members of the Commission, be eligible for appointment to or to act in any office in the teaching service.

Tenure.

188. Subject to section 189 of this Constitution the provisions of section 163 of this Constitution shall apply in relation to the members of the Teaching Service Commission referred to in paragraphs (a) and (b) of section 186 of this Constitution as they apply in relation to a member of the Public Service Commission as regards tenure.

Tribunal
procedure for
removal and
suspension.

189. (1) The provisions of section 164 of this Constitution shall apply in relation to the members of the Teaching Service Commission referred to in paragraphs (a) and (b) of section 186 of this Constitution, as they apply in relation to a member of the Public Service Commission, as regards the protection afforded by the tribunal procedure respecting suspension and removal from office.

(2) The question that the removing from office of the members of the Teaching Service Commission referred to in sub section (1) of this section ought to be investigated may be represented to the President by the Prime Minister.

Acting
Chairman,
acting
member.

190. (1) If the office of chairman of the Commission is vacant or if the holder of that office is for any reason unable to exercise the functions of this office then, until a person has been appointed to hold that office, and has assumed the functions of that office, or until the person holding that office has resumed those functions, as the case may

be, those functions shall be exercised by such other member of the Commission as may for the time being be designated by the President, acting in accordance with paragraph (a) of section 186 of this Constitution.

(2) If at any time the member of the Commission appointed under paragraph (b) of section 186 of this Constitution is for any reason unable to exercise the functions of his office, the President may appoint a person who is qualified to be appointed as a member of the Commission to act as a member, and any person so appointed shall, subject to the provisions of sections 187 to 189 of this Constitution, continue to act until the holder of the office has resumed his functions, or until his appointment to act has been revoked by the President. In making or revoking such an acting appointment, the President shall act in accordance with paragraph (b) of section 186 of this Constitution.

Oaths.
Second
Schedule.

191. A member of the Commission shall not enter upon the duties of his office until he has taken and subscribed the oaths of allegiance and of office as set out in the Second Schedule to this Constitution.

Procedure.

192. (1) The Commission may by regulation or otherwise regulate its own procedure and, with the consent of the Prime Minister, may confer powers or impose duties on any teacher or on any authority of the Government for the purpose of the exercise of its functions.

(2) The Commission may, subject to its rules of procedure, and subject to subsection (3) of this section, act notwithstanding any vacancy in its membership or the absence of any member, and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings.

(3) Any decision of the Commission shall require the concurrence of a majority of all its members.

Not subject
to direction
or control.

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

Part 7

Appointments, etc., of Teachers

Appointments,
etc., of
Principals and
Deputy
Principals.

194. The power to appoint persons to hold or act in the public offices of Principal or Deputy Principal in the Teaching Service (including the power to make appointments on promotion and transfer and to confirm appointments), and, subject to the provisions of section 208 of this Constitution, the power to exercise disciplinary control over persons holding or acting in such offices, and the power to remove such persons from office, shall vest in the President acting in accordance with the advice of the Teaching Service Commission.

Appointments,
etc., of teachers
below Deputy
Principal.

195. The power to appoint persons to hold or act in offices in the Teaching Service below the office of Deputy Principal (including power to make appointments or promotion and transfer and to confirm appointments) and, subject to the provisions of section 208 of this Constitution, the power to exercise disciplinary control over persons holding or acting in such offices, and the power to remove such persons from office, shall vest in the Teaching Service Commission.

Delegation
of
disciplinary
powers.

196. (1) The Teaching Service Commission may, by direction in writing and subject to such conditions not inconsistent with any provision of any law in force governing public educational institutions, delegate any of its disciplinary powers under section 195 of this Constitution to one or more members of the Commission or, with the consent of the Prime Minister, to a senior public officer in the Ministry of Education, or Headmaster, or Headmistress, or Principal or other similar head of an educational institution.

(2) The disciplinary powers referred to in subsection (1) of this section shall not include the removal from office or the reduction in grade of any teacher.

(3) Any teacher aggrieved by any decision of any person to whom disciplinary powers have been delegated and exercised in relation to that teacher pursuant to subsection (1) of this section, shall have a right of appeal to the Teaching Service Commission exercisable in accordance with such rules of procedure as may be prescribed by Parliament.

(4) Any party aggrieved by any decision of the Teaching Service Commission made or given upon the hearing of an appeal made and heard pursuant to subsection (3) of this section, shall have a right of appeal to the Public Service Board of Appeal in accordance with the provisions of sections 207, 208 and 209 of this Constitution.

Part 8

The Public Service Board of Appeal

Establishment
of Public
Service Board
of Appeal.

197. There shall be a Public Service Board of Appeal for Saint Vincent and the Grenadines (which hereafter in this Part and in Part 9 of this Chapter may be referred to as “the Board”).

Composition.

198. The Board shall consist of –

- (a) a chairman, appointed by the President, acting in his own deliberate judgment;
- (b) one member appointed by the President, acting in accordance with the advice of the Prime Minister, **provided that before tendering such advice the Prime Minister shall consult with the Minority Leader;**
- (c) **one member appointed by the President, acting in accordance with the advice of the Saint Vincent and the Grenadines Public Service Union or such other body or bodies as may be determined under paragraph (e) of section 160 of this Constitution;**
- (d) (i) **one member appointed by the President, acting in accordance with the advice of the Saint Vincent and the Grenadines Police Welfare Association (or such other body or bodies as may be determined under subparagraph (i) of paragraph (b) of subsection (1) of section 176 of this Constitution), in the case of police officers; or**

- (ii) **one member appointed by the President, acting in accordance with the advice of the Saint Vincent and the Grenadines Public Service Union (or such other body or bodies as may be determined under subparagraph (ii) of paragraph (b) of subsection (1) of section 176 of this Constitution), in the case of prison officers; and**
- (e) **one member appointed by the President, acting in accordance with the advice of the Saint Vincent and the Grenadines Teachers' Union (or such other body or bodies as may be determined under paragraph (b) of section 186 of this Constitution**

Disqualifications.

199. A person shall not be qualified to be appointed as a member of the Board if -

- (a) he is, or has at any time during the period of five years immediately preceding his appointment been, a member of the National Assembly;
- (b) he is, or has at any time during that period been, nominated as a candidate for election as a Representative or a Senator; or
- (c) he is, or has at any time during that period been, the holder of an office in any political organisation that sponsors or otherwise supports, or that has at any time sponsored or otherwise supported, a candidate for election as a Representative or a Senator, or a member of any local government authority.

Ineligibility.

200. A member of the Board shall not, within the period of three years commencing with the day on which he last held or acted in the office of member of the Board, be eligible for appointment to hold or to act in any offices in the public service, the police service, the prison service or the teaching service.

Tenure.

201. Subject to the provisions of section 202 of this Constitution, the office of a member of the Board shall become vacant -

- (a) at the expiration of two years from the date of his appointment; or
- (b) if any circumstances arise that, if he were not a member of the Board, would cause him to be disqualified to be appointed as such under section 199 of this Constitution.

Tribunal
procedure
for removal
and
suspension.

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

(2) A member of the Board shall be removed from office by the President if the question of his removal from office has been referred to a tribunal appointed under subsection (3) of this section and the tribunal has recommended to the President that he ought to be removed from office for inability as aforesaid, or for misbehaviour.

(3) If the President considers that the question of removing a member of the Board from office under this section ought to be investigated, then -

- (a) the President shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth, or of a court having jurisdiction in appeals from such a court; and
- (b) the tribunal shall enquire into the matter and report on the facts and circumstances thereof to the President, and shall recommend to him whether the member ought to be removed from office under this section.

(4) If the question of removing a member of the Board has been referred to a tribunal under this section, the President may suspend that member from the exercise of the functions of his office, and any such suspension may at any time be revoked by the President, and shall in any case cease to have effect if the tribunal recommends to the President that the member in question should not be removed.

(5) In the exercise of the powers conferred upon him by subsections (3) and (4) of this section the President shall, in the case of a member of the Board appointed under paragraphs (a) and (b) of section 198 of this Constitution, act in accordance with the advice of the Prime Minister and shall, in any other case, act in accordance with paragraphs (c), (d) or (e) of section 198 of this Constitution, as the case may be.

Acting
Chairman,
acting
member.

203. (1) If the office of chairman of the Board is vacant, or if the holder of that office is for any reason unable to exercise the functions of this office, then, until a person has been appointed to hold that office, or until the person holding that office has resumed those functions, as the case may be, those functions shall be exercised by such other member of the Board as may for the time being be designated by the President, acting in his own deliberate judgment.

(2) If at any time any member of the Board other than the chairman is for any reason unable to exercise the functions of his office, the President may appoint a person who is qualified to be appointed as a member of the Board to act as a member, and any person so appointed shall, subject to the provisions of section 201 of this Constitution, continue to act until the holder thereof has resumed his functions or until his appointment to act has been revoked by the President. In making or revoking such an acting appointment, the President shall act in accordance with paragraphs (b), (c), (d) or (e) of section 198 of this Constitution, as the case may be.

Oaths.
Second
Schedule

204. A member of the Commission shall not enter upon the duties of his office until he has taken and subscribed the oaths of allegiance and of office set out in the Second Schedule to this Constitution.

Procedure.

205. (1) Subject to subsection (4) of this section and to the provisions of section 209 of this Constitution, the Board may by regulation make provision for –

- (a) the procedure of the Board;
- (b) the procedure in appeals under this section; or
- (c) excepting from the provisions of sections 207 and 208 of this Constitution, decisions in respect of public officers, police officers, prisons officers and teachers holding offices whose emoluments do not exceed such sum as may be prescribed by the regulations, or excepting such decisions to exercise disciplinary control, other than decisions to remove from office, as may be so prescribed.

(2) Regulations made under this section may, with the consent of the Prime Minister, confer powers or impose duties on any public officer, police officer, prison officer, teacher or any authority of the Government for the purpose of the exercise of the functions of the Board.

(3) The Board may, subject to the provisions of sections 205 to 209 of this Constitution and to its regulations regarding procedure, act notwithstanding any vacancy in its membership or the absence of any member, and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at, or to participate in, those proceedings.

(4) Every decision of the Board shall require the concurrence of a majority of all the members of the Board entitled to participate for the purpose of making the decision.

Not subject to direction or control.

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

Part 9

Decisions amenable to Appeals

Who may appeal.

207. Subject to the provisions of this Part, an appeal shall lie to the Board from any decision to which section 208 applies at the instance of the public officer, police officer, prison officer, teacher or member of the naval, military or air force in respect of whom the decision is made:

Provided that in the case of any such decision as is referred to in paragraphs (e) and (g) of subsection (1) of section 208, an appeal shall lie in the first instance to the Police and Prison Services Commission if it is so provided by Parliament, in which case the Commission shall have the like powers as are conferred on the Board by subsection (2) of section 208 of this Constitution.

Appeals in disciplinary cases.

208. (1) The decisions regarding which the Board may hear and determine appeals are -

- (a) any decision of the President, acting in accordance with the advice of the Public Service Commission, or any decision of the Public Service Commission to remove a public officer from office or to exercise disciplinary control over a public officer (including a decision made by the Public Service Commission either on appeal from or confirming a decision by one of the persons to whom powers have been delegated under section 170 of this Constitution;
- (b) any decision of any person to whom powers are delegated under section 170 of this Constitution to remove a public officer from office or to exercise disciplinary control over a public officer (not being a decision which is subject to appeal to, or confirmation by, the Public Service Commission);
- (c) any decision of the Public Service Commission to give such concurrence as is required by section 235 of this Constitution in relation to the refusal, withholding, reduction in amount or suspending, of any pension benefits in respect of an officer's service as a public officer;
- (d) any decision of the President, acting in

accordance with the advice of the Police **and Prison Services** Commission, to remove the Commissioner of Police or the Deputy Commissioner of Police from office; or any decision of the Police **and Prison Services** Commission to remove a member of the Police Service from office or to exercise disciplinary control over such a member; respectively under subsections (1) and (2) of section **183** of this Constitution;

- (e) if it is so provided by Parliament, any decision of the Commissioner of Police under subsection (3) of section 184 of this Constitution, or of a person to whom powers are delegated under subsection (4) of that section, to remove a police officer from office or to exercise disciplinary control over a police officer (not being a decision which is subject to appeal to or confirmation by the Police and Prison Services Commission);
- (f) any decision of the Police and Prison Services Commission to give such concurrence as is required by section 235 of this Constitution in relation to the refusal, withholding, reducing in amount or suspending, of any pension benefit in respect of an officer's service as a police officer;
- (g) **any decision of the President, acting in accordance with the advice of the Police and Prison Services Commission, to remove the Superintendent of Prisons or the Assistant Superintendent of Prisons from office; or any decision of the Police and Prison Services Commission to remove a member of the Prison Services from office or to exercise disciplinary control over such a member; respectively under subsections (1) and (2) of section 184 of this Constitution;**

- (h) if it is so provided by Parliament, any decision of the Superintendent of Prisons under subsection (3) of section 184 of this Constitution to remove a prison officer from office or to exercise disciplinary control over a prison officer (not being a decision which is subject to appeal to or confirmation by the Police and Prison Services Commission);**
- (i) any decision of the Police and Prison Services Commission to give such concurrence as is required by section 235 of this Constitution in relation to the refusal, withholding, reducing in amount or suspending, of any pension benefit in respect of an officer's service as a prison officer;
- (j) any decision of the President, acting in accordance with the advice of the Teaching Service Commission, to remove a Principal or Deputy Principal from office or to exercise disciplinary control over a Principal or Deputy Principal under section 194 of this Constitution, or any decision of the Teaching Service Commission to remove a teacher from office or to exercise disciplinary control over a teacher under section 195 of this Constitution;
- (k) any decision of the Teaching Service Commission made on appeal by a teacher pursuant to subsection (3) of section 196;
- (l) any decision of the Teaching Service Commission to give such concurrence as is required by section 235 of this Constitution in relation to the refusal, withholding, reducing in amount or suspending, of any pension benefit in respect of an officer's service as a teacher; or

(m) such decisions with respect to the discipline of any military, naval or air force of Saint Vincent and the Grenadines as may be prescribed by Parliament.

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

(3) The member of the Board appointed under paragraph (c) of section 198 of this Constitution shall not be entitled to participate as a member in proceedings of the Board for the purpose of hearing and determining appeals regarding decisions mentioned in paragraphs (d), (e), (f), (g), (h), **(i), (j), (k), (l) and (m)** of subsection (1) of this section, or of making regulations under paragraphs (a), (b) **and (c)** of subsection (1) of section 205 of this Constitution with respect to the procedure in such appeals or excepting any such decisions from the provisions of subsection (1) of this section

(4) The member of the Board appointed under paragraph (d) **(i)** of section 198 of this Constitution shall not be entitled to participate as a member in proceedings of the Board for the purpose of hearing and determining appeals regarding decisions mentioned in paragraphs (a), (b), (c), (g), (h), **(i), (j), (k), (l) and (m)** of subsection (1) of this section, or of making regulations under paragraphs (a), (b) and (c) of subsection (1) of section 205 of this Constitution with respect to the procedure in such appeals or excepting any such decisions from the provisions of subsection (1) of this section.

(5) The member of the Board appointed under paragraph (d) (ii) of section 198 of this Constitution shall not be entitled to participate as a member in proceedings of the Board for the purpose of hearing and determining appeals regarding decisions mentioned in paragraphs (a), (b), (c), (d), (e), (f), (j), (k), (l) and (m) of subsection (1) of this section, or of making regulations under paragraphs (a), (b) and (c) of subsection (1) of section 205 of this Constitution with respect to the procedures in such appeals or excepting such decisions from the provisions of subsection (1) of this section.

(6) The member of the Board appointed under paragraph (e) of section 198 of this Constitution shall not be entitled to participate as a member in proceedings of the Board for the purpose of hearing and determining appeals regarding decisions mentioned in paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i) and (m) of subsection (1) of this section or of making regulations under paragraphs (a), (b) and (c) of subsection (1) of section 205 of this Constitution with respect to the procedure in such appeals or excepting any such decisions from the provisions of subsection (1) of this section.

Part 10

Services Commissions Consultations

Services
Commissions
Consultations.

209. (1) This Part refers to the three Services Commissions, namely, the Public Service Commission, the Police and Prison Services Commission and the Teaching Service Commission (hereinafter in this Part referred to as the Services Commissions).

(2) Before any of the Services Commissions to which this Part refers, or any other person, exercises or advises on the exercise of any power to appoint to hold, or to act in, any office, any person who holds or is acting in any office within the purview of another of the Services Commissions, the former Commission shall consult with the latter Commission.

(3) A person who holds or acts in an office within the purview of any of the Services Commissions shall not be removed from office or subjected to any other disciplinary measure on the ground of any act done or omitted by him in the exercise of a function conferred on him by another of the Services Commissions, unless this latter Commission concurs therein.

(4) Without prejudice to the generality of subsections (2) and (3) of this section, section 172 of this Constitution shall apply to the Police and Prison Services Commission and the Teaching Service Commission as it applies to the Public Service Commission with necessary modifications.

(5) Nothing in this section shall be construed as prejudicing any provision of this Constitution or any other law requiring any of the Services Commission to consult with the Judicial and Legal Services Commission or any other person or authority.

Part 11

Offices Protected by Tribunal Procedure

Establishment
of office of
Attorney-
General.

210. (1) There shall be an office of Attorney-General for Saint Vincent and the Grenadines.

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

Appointment.

211. (1) The power to appoint a person to hold or act in the office of Attorney-General at any time when it is a public office and, subject to the provisions of section 217 of this Constitution, the power to remove the Attorney-General from office at any such time, shall vest in the President, acting in accordance with the advice of the Judicial and Legal Services Commission.

(2) Before tendering advice with respect to the appointment of any person to hold or act in the office of Attorney-General as a public office, the Judicial and Legal Services Commission shall consult with the Prime Minister.

(3) No person shall be qualified to hold the office of Attorney-General unless he holds one of the specified qualifications.

(4) A person holding or acting in the office of Attorney-General shall not at the same time hold or act in the office of Director of Public Prosecutions.

Functions.

212. The Attorney-General shall be the principal legal advisor to the Government.

Acting.

213. (1) Subject to section 211 of this Constitution, if the office of Attorney-General is vacant, or if the holder of that office is for any reason unable to exercise the functions of his office the President, acting in accordance with the advice of the Judicial and Legal Services Commission, may appoint a person to act as Attorney-General.

(2) A person appointed to act in the office of Attorney-General shall, subject to the provisions of sections 216 and 217 of this Constitution, cease so to act -

- (a) when a person is appointed to hold that office and has assumed the functions thereof or, as the case may be, when the person in whose place he is acting resumes the functions of that office; or
- (b) at such earlier time as may be prescribed by the terms of his appointment.

Oaths.
Second
Schedule.

214. When the office of Attorney-General is a public office, the Attorney-General shall not enter upon the duties of his office unless he has taken and subscribed the oaths of allegiance and of office, as set out in the Second Schedule to this Constitution.

Not subject
to direction
or control.

215. In the exercise of the functions vested in him by section 213 of this Constitution, the Attorney-General shall not be subject to the direction or control of any other person or authority.

Vacating
office.

216. (1) Subject to the provisions of section 217 of this Constitution the Attorney-General, when his office is a public office, shall vacate his office when he attains the prescribed age.

(2) The prescribed age for the purposes of subsection (1) of this section is the age of sixty years or such other age as may be prescribed by Parliament:

Provided that any law enacted by Parliament, to the extent to which it alters the prescribed age after a person has been appointed to hold or to act in the office of Attorney-General, shall not have effect in relation to that person unless he consents that it should have effect.

(3) Notwithstanding anything contained in this Constitution, when there is a change in Government or when a new Prime Minister is appointed, the Attorney-General shall put his appointment as Attorney-General at the disposal of the Prime Minister; and in any event without suffering any loss of his benefits as a public officer with security of tenure.

Tribunal
procedure for
removal and
suspension.

217. (1) When the office of Attorney-General is a public office, a person holding the office of Attorney-General 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 from office except in accordance with the provisions of this section.

(2) Subject to subsection (1) of this section, the Attorney-General shall be removed from office by the President if the question of his removal from office has been referred to a tribunal appointed under subsection (3) of this section, and the tribunal has recommended to the President that the Attorney-General ought to be removed from office for inability as aforesaid, or for misbehaviour.

(3) If the Prime Minister or the Chairman of the Judicial and Legal Services Commission represents to the President that the question of removing the Attorney-General from office under this section ought to be investigated, then –

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

such a court; and

- (b) the tribunal shall enquire into the matter and report on the facts and circumstances thereof to the President, and recommend to him whether the Attorney-General ought to be removed from office under this section.

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

Establishment
of office of
Director of
Public
Prosecutions.

218. (1) There shall be an office of Director of Public Prosecutions for Saint Vincent and the Grenadines.

(2) The office of Director of Public Prosecutions shall be a public office.

Appointment.

219. (1) The Director of Public Prosecutions shall be appointed by the President, acting in accordance with the advice of the Judicial and Legal Services Commission.

(2) A person shall not be qualified to be appointed to hold the office of Director of Public Prosecutions unless he holds one of the specified qualifications and has held one or other of those qualifications for a total period of not less than five years.

Functions.

220. (1) The Director of Public Prosecutions shall have power in any case in which he considers it desirable so to do -

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

- (b) to take over and continue any such criminal proceedings that have been instituted or undertaken by any other person or authority; and
- (c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.

(2) The powers of the Director of Public Prosecutions under subsection (1) of this section may be exercised by him in person or through other persons acting under and in accordance with his general or special instructions.

(3) The powers conferred on the Director of Public Prosecutions by paragraphs (b) and (c) of subsection (1) of this section shall be vested in him to the exclusion of any other person or authority: Provided that where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance of that person or authority and with the leave of the court.

(4) For the purposes of this section, any appeal from a judgment in criminal proceedings before any court or any case stated or question of law reserved for the purpose of any such proceedings, to any other court (including the Judicial Committee or such other final appellate court as is referred to in subsection (2) of section 260 of this Constitution) shall be deemed to be part of those proceedings:

Provided that the power conferred on the Director of Public Prosecution by paragraph (c) of subsection (1) of this section shall not be exercised in relation to any appeal by a person convicted in any criminal proceedings or to any case stated or question of law reserved at the instance of such a person.

Acting.

221. (1) If the office of Director of Public Prosecutions is vacant, or if the holder of that office is for any reason unable to exercise the functions of his office the President, acting in accordance with the advice of the Judicial and Legal Services Commission, may appoint a person to act as Director of Public Prosecutions if that person is qualified to hold the office of Director of Public Prosecutions.

(2) A person appointed to act in the office of Director of Public Prosecutions shall, subject to the provisions of subsection (1) of section 224 and section 225 of this Constitution, cease so to act -

- (a) when a person is appointed to hold that office and has assumed the functions thereof or, as the case may be, when the person in whose place he is acting resumes the functions of that office; or
- (b) at such earlier time as may be prescribed by the terms of his appointment.

Oaths.
Second
Schedule

222. The Director of Public Prosecution shall not enter upon the duties of his office unless he has taken and subscribed the oaths of allegiance and of office set out in the Second Schedule to this Constitution.

Not subject
to direction
or control.

223. In the exercise of the powers vested in him by subsection (1) of section 220 of this Constitution, the Director of Public Prosecutions shall not be subject to the direction or control of any other person or authority.

Vacating
office.

224. (1) Subject to the provisions of section 225 of this Constitution, the Director of Public Prosecutions shall vacate his office when he attains the prescribed age.

(2) The prescribed age for the purposes of subsection (1) of this section is the age of sixty years or such other age as may be prescribed by Parliament:

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

Tribunal
procedure
for removal
and
suspension.

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

(2) The Director of Public Prosecutions shall be removed from office by the President if the question of his removal from office has been referred to a tribunal appointed under subsection (3) of this section, and the tribunal has recommended to the President that he ought to be removed from office for inability as aforesaid, or for misbehaviour.

(3) If the Prime Minister or the Chairman of the Judicial and Legal Services Commission represents to the President that the question of removing the Director of Public Prosecutions from office under this section ought to be investigated, then -

- (a) the President shall appoint a tribunal which shall consist of a chairman and not less than two other members selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth, or a court having jurisdiction in appeals from such a court; and
- (b) the tribunal shall enquire into the matter and report on the facts and circumstances thereof to the President, and shall recommend to him whether the Director of Public Prosecutions ought to be removed from office under this section.

(4) If the question of removing the Director of Public Prosecutions has been referred to a tribunal under this section the President, acting in accordance with the advice of the Judicial and Legal Services Commission, may suspend the Director of Public Prosecutions from the exercise of the functions of his office, and any such suspension may at any time be revoked by the President acting in accordance with such advice as aforesaid, and shall in any case

cease to have effect if the tribunal recommends to the President that the Director of Public Prosecutions should not be removed.

Establishment
of office of
Auditor
General

226. (1) There shall be an office of Auditor General for Saint Vincent and the Grenadines.

(2) The office of Auditor General shall be a public office.

Appointment.

227. (1) The Auditor General shall be appointed by the President, acting in accordance with the advice of the Public Service Commission.

(2) Before tendering advice for the purposes of subsection (1) of this section, the Public Service Commission shall consult with the Prime Minister.

Functions.

228. (1) The Auditor General shall -

- (a) satisfy himself that all monies that have been appropriated by Parliament and disbursed have been applied to the purposes to which they were so appropriated, and that the expenditure conforms to the authority that governs it; and
- (b) at least once in every year, audit and report on the public accounts of Saint Vincent and the Grenadines, the accounts of all officers and authorities of the Government, the accounts of all courts of law in Saint Vincent and the Grenadines (including any accounts of the Supreme Court maintained in Saint Vincent and the Grenadines), the accounts of every Commission established by this Constitution, and the accounts of the Clerk of the National Assembly.

(2) The Auditor General and any officer authorised by him shall have access to all books, records, returns, reports and other documents which in his opinion relate to any of the accounts referred to in subsection (1) of this section.

(3) The Auditor General shall submit every report made by him in pursuance of subsection (1) of this section to the Minister for the time being responsible for finance who shall, not later than twenty-eight days after the Assembly first meets after he has received the report, lay it before the Assembly.

(4) If the Minister fails to lay a report before the Assembly in accordance with the provisions of subsection (3) of this section, the Auditor General shall transmit copies of that report to the Speaker who shall, as soon as practicable, present them to the Assembly.

(5) The Auditor General shall exercise such other functions in relation to the accounts of the Government, or the accounts of other authorities or bodies established by law for public purposes, as may be prescribed by or under any law enacted by Parliament.

Acting.

229. (1) If the office of Auditor General is vacant, or if the holder of that office is for any reason unable to exercise the functions of his office the President, acting in accordance with the advice of the Public Service Commission, may appoint a person to act as Auditor General.

(2) Before tendering advice for the purposes of subsection (1) of this section, the Public Service Commission shall consult with the Prime Minister.

(3) A person appointed to act in the office of Auditor General shall, subject to the provisions of section 232 and subsections (2) (3) and (4) of section 233 of this Constitution, cease to act –

- (a) when a person is appointed to hold that office and has assumed the functions thereof or, as the case may be, when the person in whose place he is acting resumes the functions of that office, or;
- (b) at such earlier time as may be prescribed by the terms of his appointment.

Oaths.
Second
Schedule.

230. An Auditor General shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and of office as set out in the Second Schedule.

Not
subject to
direction
or
control.

231. In the exercise of his functions under subsections (1), (2), (3) and (4) of section 228 of this Constitution, the Auditor General shall not be subject to the direction or control of any other person or authority.

Vacating
office.

232. (1) Subject to the provisions of section 233 of this Constitution, the Auditor General shall vacate his office when he attains the prescribed age.

(2) The prescribed age for the purposes of subsection (1) of this section is the age of fifty-five years or such other age as may be prescribed by Parliament:

Provided that any law enacted by Parliament, to the extent to which it alters the prescribed age after a person has been appointed to hold or to act in the office of Auditor General, shall not have effect in relation to that person unless he consents that it should have effect.

Tribunal
procedure for
removal and
suspension.

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

(2) The Auditor General shall be removed from office by the President if the question of his removal from office has been referred to a tribunal appointed under subsection (3) of this section and the tribunal has recommended to the President that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(3) If the Prime Minister or the Chairman of the Public Service Commission represents to the President that the question of removing the Auditor General from office under this section ought to be investigated, then-

(a) the President shall appoint a tribunal which

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

- (b) the tribunal shall enquire into the matter and report on the facts and circumstances thereof to the President and recommend to him whether the Auditor General ought to be removed from office under this section.

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

CHAPTER XV

PENSIONS

Pensions
laws and
protection
of pension
rights.

234. (1) The law to be applied with respect to any pension benefits that were granted to any person before the commencement of this Constitution shall be the law that was in force at the date on which those benefits were granted, or any law in force at a later date that is not less favourable to that person.

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

- (a) in so far as those benefits are wholly in respect of a period of service as a judge or officer of the Supreme Court, or a public officer or a police officer or a prison officer or a teacher, or a member of the National Assembly, that commenced before the commencement of this Constitution, be the law that was in force at such commencement; and
- (b) in so far as those benefits are wholly or partly in respect of a period of service as a judge or officer of the Supreme Court, or a member of the National Assembly, or a public officer, or a police officer, or a prison officer, or a teacher, that commenced after the commencement of this Constitution, be the law in force on the date on which that period of service commenced, or any law in force at a later date that is not less favourable to that person.

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

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

(5) In this section "pension benefits" means any pension, compensation, gratuity or other like allowances for persons in respect of their service as judges or officers of the Supreme Court, or members of the National Assembly, or public officers, or police officers, or teachers, or for the widows, children, dependants or personal representatives of such persons in respect of such service.

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

Power to withhold pensions.

235. (1) Where under any law any person or authority has a discretion-

- (a) to decide whether or not any pension benefits shall be granted; or
- (b) to withhold, reduce in amount or suspend any such benefits that have been granted,

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

(2) Where the amount of any pension benefits that may be granted to any person is not fixed by law, the amount of the benefits to be granted to him shall be the greatest amount for which he is eligible unless

the Public Service Commission, the Police and Prison Services Commission, or the Teaching Service Commission, as the case may be, concurs in his being granted benefits of a smaller amount.

(3) The Public Service Commission, the Police and Prison Services Commission, or the Teaching Service Commission, as the case may be, shall not concur under subsection (1) or subsection (2) of this section in any action taken on the ground that any person who holds or has held the office of judge of the Supreme Court, Attorney-General as a public officer, Director of Public Prosecutions, Magistrate or Auditor General has been guilty of misbehaviour in that office, unless he has been removed from that office by reason of such misbehaviour.

(4) Before the Public Service Commission, the Police and Prison Services Commission, or the Teaching Service Commission, as the case may be, concurs under subsection (1) or subsection (2) of this section in any action taken on the ground that any person who holds or has held any office to which, at the time of such action, section 234 of this Constitution applies, has been guilty of misbehaviour in that office, the Public Service Commission, Police and Prison Services Commission, or Teaching Service Commission, as the case may be, shall consult the Judicial and Legal Services Commission.

(5) In this section "pension benefits" means any pension, compensation, gratuity or other like allowances for persons in respect of their services as judges or officers of the Supreme Court, or public officers, or police officers, or teachers, or for the widows, children, dependants or personal representatives of such persons in respect of such service.

CHAPTER XVI

CITIZENSHIP

Continuation
of citizenship.

236. Any person who, immediately before the appointed day, was a citizen of Saint Vincent and the Grenadines, whether by birth or descent or registration or otherwise, whether by virtue of the former Constitution or pursuant to any other law, shall continue to be a citizen under this Constitution.

Continuation
of entitlement
to become a
citizen.

237. Any person who, immediately before the appointed day, was entitled to become a citizen of Saint Vincent and the Grenadines on registration or by other acquisition of citizenship shall continue to be entitled to so become a citizen.

Persons born
in the State
on or after
the appointed
day.

238. (1) Subject to subsection (2) of this section, every person born in Saint Vincent and the Grenadines on or after the appointed day shall become a citizen at the date of his birth.

(2) A person shall not become a citizen by virtue of subsection (1) of this section if at the time of his birth—

- (a) neither of his parents is a citizen of Saint Vincent and the Grenadines and either of them possesses such immunity from suit and legal process as is accorded to an envoy of a foreign sovereign power accredited to Saint Vincent and the Grenadines; or
- (b) either of his parents is an alien from an enemy country and the birth occurs in a place then under occupation by that country.

Persons born outside the State on or after the appointed day.

239. (1) A person born outside Saint Vincent and the Grenadines on or after the appointed day shall become a citizen at the date of his birth if, at that date, his father or mother is or was, but for his parent's death, a citizen otherwise than by descent.

(2) In the case of a person employed by the Government or an authority of the Government that requires him to reside outside of the State for the proper discharge of his functions, the words "otherwise than by descent" in subsection (1) of this section shall not apply.

Commonwealth citizen.

240. (1) Every person who under this Constitution or any Act of Parliament is a citizen of Saint Vincent and the Grenadines or, under any law for the time being in force in any country to which this section applies, is a citizen of that country shall, by virtue of that citizenship, have the status of a Commonwealth citizen.

(2) Every person who is a British subject without citizenship under the British Nationality Act, 1948^(a), or who continues to be a British subject under section (2) of that Act, or who is a British subject under the British Nationality Act, 1965^(b), shall, by virtue of that status, have the status of a Commonwealth citizen.

(3) The countries to which this section applies are those designated as Commonwealth countries by or under such Act as Parliament may for the purpose prescribe.

Entitlement to registration generally.

241. (1) The following persons shall, upon making application, be entitled to be registered as citizens—

- (a) any person who, being a Commonwealth citizen is ordinarily resident in Saint Vincent and the Grenadines on the appointed day, and has been so resident for the period of seven years immediately preceding that day; or who, being a

^(a) 1948 c. 56 [UK]

^(b) 1965 c. 34 [UK].

Commonwealth citizen is, and at least for seven years previous to his application has been, ordinarily resident in Saint Vincent and the Grenadines;

- (b) any person who, having been a citizen, has renounced his citizenship in order to qualify for the acquisition or retention of the citizenship of another country;
 - (c) any person who, but for having renounced his citizenship of the United Kingdom and Colonies in order to qualify for the acquisition or retention of the citizenship of another country, would have become a citizen on the appointed day.
- (2)
- (a) This subsection applies to any person under the age of eighteen years who is the step-child or child adopted in a manner recognised by law of a citizen or is the child, stepchild or child so adopted of a person who is or would but for his death have been entitled to be registered as a citizen under subsection (1) of this section.
 - (b) Subject to paragraph (c) of this subsection, any person to whom this subsection applies shall be entitled, upon making application, to be registered as a citizen.
 - (c) Notwithstanding paragraphs (a) and (b) of this subsection, if it is so provided by Parliament an application for registration as a citizen under this subsection may, in such circumstances as may be prescribed by Parliament in the interests of defence, public safety or public order, be refused by the Minister in any case in which he is satisfied

that there are reasonable grounds for refusing the application.

(3) An application under this section shall be made in such manner as may be prescribed, as respects that application, by or under a law enacted by Parliament and, in the case of a person to whom subsection (2) of this section applies, it shall be made on his behalf by his parent or guardian:

Provided that, if any such person is or has been married, he may make the application himself.

(4) Every person who, being a British protected person, an alien or, if it is so prescribed by Parliament, a citizen of any country within the Commonwealth not forming part of Her Majesty's dominions and having reached the age of eighteen years, applies for registration under this section shall, before such registration, take the oath of allegiance.

Entitlement
to
registration
through
marriage.

242. (1) The following persons shall be entitled, upon making application, to be registered as citizens -

- (a) any person who is married to a citizen, or who has been married to another person who, at any time during the period during which they were married to each other, was a citizen;
- (b) any person who is married to any such other person as is mentioned in paragraph (a), (b) or (c) of subsection (1) of section 241 of this Constitution or who was married to a person who, at any time during the period during which they were married to each other, was entitled to apply to be registered as a citizen under any such paragraph.

(2) Subsections (3) and (4) of section 241 of this Constitution shall apply to this section as they apply to the said section 241, with necessary modifications.

(3) If, after a person who was not a citizen (hereinafter referred to as “previous non-citizen”) is registered as a citizen on the basis of his marriage to a citizen (hereinafter referred to as “spouse”), the Minister is satisfied that the marriage was for the convenience of the previous non-citizen obtaining citizenship, the Minister may revoke the registration of citizenship granted to the previous non-citizen. A divorce or separation between the previous non-citizen and the spouse within four years of the grant of such registration of citizenship shall raise a presumption (and only a presumption rebuttable by evidence to the contrary) that the marriage was for such convenience.

(4) A revocation of citizenship pursuant to subsection (3) of this section shall not affect any rights or privileges enjoyed by the person whose citizenship is revoked where any such right or privilege was perfected prior to the revocation thereof.

Dual
citizenship.

243. (1) A person who is a citizen of Saint Vincent and the Grenadines may also be a citizen of another country or other countries and thus hold dual or multiple citizenship; but such dual or multiple citizenship may be subject to such restrictions as may be stipulated by this Constitution as regards a person holding any specified office of State.

(2) In this section, “specified office of State” means the office of the President.

Parliament
may provide.

244. Parliament may make provisions relating to citizenship, not inconsistent with this Chapter, including provision for –

- (a) the acquisition of citizenship by persons who are not, or do not become, citizens by virtue of the provisions of this Chapter;
- b) depriving any person of his citizenship who is a citizen, but only on the acquisition of citizenship of another country involving allegiance to that country beyond holding a passport from that country, in the case of a person who is a citizen of Saint Vincent and the Grenadines by birth or

descent; and subject to section 243 of this Constitution;

- (c) the renunciation by any person of his citizenship; or
- (d) judicial review of any decision which has resulted in any person become aggrieved thereby either on his own behalf or on behalf of any person for whom he bears legal responsibility.

Interpretation.

245. (1) In this Chapter—

“alien” means a person who is neither a citizen of Saint Vincent and the Grenadines, nor a citizen of another CARICOM or OECS country, nor a Commonwealth citizen, nor a British protected person nor a citizen of the Republic of Ireland;

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

"father" includes the father of a child born out of wedlock;

“Minister” means the Minister responsible for citizenship;

"the British Nationality Act 1948" includes any Act of the Parliament of the United Kingdom altering that Act.

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

^(a) 1948 c. 56 [UK].

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

CHAPTER XVII

THE JUDICIARY

Part 1

Judges of the Supreme Court

Chief Justice
and other
Judges.

246. (1) The Supreme Court Order^(a), establishing the offices of Chief Justice and other Judges of the Supreme Court created by it, provides for their appointment, salaries and allowances, other terms and conditions of office; their jurisdiction, security of tenure, and protection from removal from office, confining such removal to certain restricted grounds to be pursued on special tribunal procedures.

(2) The provisions of the Supreme Court Order referred to in subsection (1) of this section are deeply entrenched in and by section 74 of this Constitution.

(3) This Constitution confers further jurisdiction on the Court, in section 41, to enforce the fundamental rights and freedoms; in section 58, to determine questions as to the election of the President; in section 101, to determine questions as to membership of the National Assembly; in section 256, to redress contraventions of the general provisions of this Constitution; and in section 260, to decide questions referred to it as to the interpretation of this Constitution.

Chief Registrar
and other
officers.

247. (1) The Supreme Court Order provides for the appointment, salaries and allowances, and other terms and conditions of the offices of Chief Registrar and such other officers of the Supreme Court as the Chief Justice may prescribe. An office so far prescribed is the office of Master.

(2) The provisions of the Supreme Court Order referred to in subsection (1) of this section are entrenched in and by section 74 of this Constitution.

^(a) S.I. 1967/223 [U.K.].

Part 2
Magistrates

Establishment
of offices of
Magistrate .

248. (1) There shall be offices of Magistrate for Saint Vincent and the Grenadines, by whatever other name those offices may be designated.

(2) The number of offices of Magistrate and their respective districts shall be such as may be prescribed by Parliament.

(3) Where, by virtue of any agreement between Saint Vincent and the Grenadines and any CARICOM or OECS member state of the Commonwealth, Saint Vincent and the Grenadines becomes a party to arrangements for the establishment of a regional magistracy by whatever name called, Parliament may prescribe provisions to bring the magistracy in Saint Vincent and the Grenadines into conformity with such agreed regional arrangements.

(4) In this Constitution, the expression “Magistrate” includes the President and Vice President of the Family Court established by the Family Court Act of Saint Vincent and the Grenadines^(a), as well as the judicial officers of any other specialist court of law which may be established by Act of Parliament and not falling within the ambit of the Supreme Court Order.

Appointment.

249. (1) The power to appoint persons to hold or act in the offices of Magistrate (including the power to transfer and to confirm appointments) and the power to exercise disciplinary control over persons holding or acting in such offices, but not the power to remove such persons from office, shall vest in the President acting in accordance with the advice of the Judicial and Legal Services Commission.

(a) Act No. 53 of 1992.

(2) A person shall not be qualified to be appointed to hold or act in an office of Magistrate unless he holds one or other of the specified qualifications and has held one or other of those qualifications for a total period of not less than five years.

Jurisdiction.

250. Magistrates shall have such jurisdiction and powers and shall exercise such functions and duties as may be prescribed by Parliament.

Remuneration
and other
terms.

251. (1) Magistrates shall be paid such salaries and allowances as may be prescribed by Parliament.

(2) Subject to sections 253 to 255 of this Constitution, Magistrates shall have such terms and condition of office as may be prescribed by Parliament.

(3) The salary and allowances (other than allowances which are not taken into account in the computation of pensions) of a Magistrate shall not be reduced, and the terms and conditions of office applicable to a Magistrate upon his appointment shall not be made less favourable to him, during the currency of that appointment.

Oaths.
Second
Schedule.

252. A Magistrate shall not enter upon the duties of his office until he has taken and subscribed the oaths of allegiance and the oath of office set out in the Second Schedule to this Constitution.

Not subject
to direction
or control.

253. In the exercise of his judicial functions, a Magistrate shall not be subject to the direction or control of any other person or authority.

Vacating
office.

254. (1) Subject to the provisions of section 255 of this Constitution, a Magistrate shall vacate his office when he attains the prescribed age.

(2) The prescribed age for the purposes of subsection (1) of this section is the age of sixty-six years or such other age as may be prescribed by Parliament:

Provided that any law enacted by Parliament, to the extent to which it alters the prescribed age after a person has been appointed to hold or to act in the office of Magistrate, shall not have effect in relation to that person unless he consents to that law having such effect.

Tribunal
procedure for
removal and
suspension.

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

(2) A Magistrate shall be removed from office by the President if the question of his removal from office has been referred to a tribunal appointed under subsection (3) of this section and the tribunal has recommended to the President that the Magistrate ought to be removed for inability to exercise the functions of his office as aforesaid, or for misbehaviour.

(3) If the Attorney General or the Chairman of the Judicial and Legal Services Commission represents to the President that the question of removing a Magistrate from office under this section ought to be investigated, then –

- (a) the President shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court; and
- (b) the tribunal shall enquire into the matter and report on the facts and circumstances thereof to the President and shall recommend to him

whether the Magistrate ought to be removed from office under this section.

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

CHAPTER XVIII

REMEDIES REGARDING CONTRAVENTIONS OF GENERAL PROVISIONS

Enforcement
of general
provisions.

256. (1) Subject to sections 58(1), 65, 74(11), 96(10), 107, 259 and 267 of this Constitution, any person who alleges that any provision of this Constitution (other than a provision of Chapter III thereof) or of the Supreme Court Order has been or is being contravened may, if he has an arguable interest, apply to the High Court for a declaration and for relief under this section.

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

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

(4) A person shall be regarded as having an arguable interest for the purpose of an application under this section if the contravention of this Constitution or of the Supreme Court Order alleged by him is such as to affect his interests, viewed against the background of the Guiding Principles of State Policy laid down in Chapter II of this Constitution.

Rules.

257. The Chief Justice may make rules with respect to the practice and procedure of the High Court in relation to the jurisdiction and powers conferred on the Court by or under section

256 of this Constitution, including provision with respect to the time within which any application under this section may be made.

Other
actions.

258. The rights conferred on a person by subsection (1) of section 256 of this Constitution to apply for a declaration and relief in respect of an alleged contravention of this Constitution (other than a provision of Chapter III thereof), or of the Supreme Court Order, shall be in addition to any other action in respect of the same matter that may be available to that person under any law.

Exception.

259. Nothing in section 256 of this Constitution shall confer jurisdiction on the High Court to hear or determine any such question as is referred to in section 101 of this Constitution.

CHAPTER XIX

CONSTITUTIONAL REFERENCES

Reference of constitutional questions to High Court.

260. (1) Where any question as to the interpretation of this Constitution or of the Supreme Court Order arises in any court of law (other than the Court of Appeal, the High Court or a court-martial) and the court is of the opinion that the question involves a substantial question of law, the court shall refer the question to the High Court.

(2) Where any question is referred to the High Court in pursuance of subsection (1) of this section, the High Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision or, if the decision is the subject of an appeal to the Court of Appeal, or to the Judicial Committee, or to any other court having final appellate jurisdiction in respect of appeals from Saint Vincent and the Grenadines in substitution for the jurisdiction of the Judicial Committee, in accordance with the decision of the Court of Appeal or of the Judicial Committee or of such other final appellate court, as the case may be.

Rules.

261. The Chief Justice may make rules with respect to the practice and procedure of the High Court in relation to the jurisdiction and powers conferred on the Court by or under section 260 of this Constitution, including provision with respect to the time within which any application under this section may be made.

CHAPTER XX

APPEALS

Appeals to
Court of
Appeal.

262. Subject to the provisions of sections 58(1), 65, 74(11), 96(10), 107, 259, 266 and 267 of this Constitution, an appeal shall lie from decisions of the High Court to the Court of Appeal as of right in the following cases -

- (a) final decisions in any civil or criminal proceedings on questions as to the interpretation of this Constitution or of the Supreme Court Order;
- (b) final decisions given in exercise of the jurisdiction conferred on the High Court by section 41 of this Constitution (which relates to the enforcement of the fundamental rights and freedoms); and
- (c) such other cases as may be prescribed by Parliament.

Appeals to
the Judicial
Committee
or other
final
appellate
court.

263. (1) Subject to the provisions of section 74 of this Constitution generally and subsections (1) (4) and (5) of the said section 74 particularly, an Appeal shall lie from decisions of the Court of Appeal to the Judicial Committee, or to any other court having final appellate jurisdiction in respect of appeals from Saint Vincent and the Grenadines in substitution for the jurisdiction of the Judicial Committee, as of right in the following cases –

- (a) final decisions in any civil proceedings where the matter in dispute on the appeal to the Judicial Committee, or to such other final appellate court as is referred to in this subsection, is of the prescribed value or upwards, or where the appeal involves directly or indirectly a claim to or question respecting property or a right of the prescribed value or upwards;

- (b) final decisions in proceedings for dissolution or nullity of marriage;
- (c) final decisions in any civil or criminal proceedings which involve a question as to the interpretation of this Constitution or of the Supreme Court Order; and
- (d) such other cases as may be prescribed by Parliament.

(2) An appeal shall lie from decisions of the Court of Appeal to the Judicial Committee, or to such other final appellate court as is referred to in subsection (1), with the leave of the Court of Appeal in the following cases –

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

(3) An appeal shall lie to the Judicial Committee, or to such other final appellate court as is referred to in subsection (1) of this section, with the special leave of the Judicial Committee, or of such other final appellate court, from any decision of the Court of Appeal in any civil or criminal matter.

Appeals as to various decisions.

264. References in this Chapter to decisions of the Court of Appeal shall be construed as references to decisions of the Court of Appeal in exercise of the jurisdiction conferred by this Constitution, the Supreme Court Order or any other law.

Prescribed
value.

265. In this Chapter, the prescribed value means the value of fifteen hundred dollars or such other value as may be prescribed by Parliament.

Exception.

266. This Chapter shall be subject to the provisions of section 101 of this Constitution.

CHAPTER XXI

MISCELLANEOUS

Not subject
to direction or
control.

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

When
appointment not
to be called in
question.

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

Holding an
office.

269. (1) For the purposes of this Constitution, a person shall not be regarded as holding an office by reason only of the fact that he is in receipt of a pension or other like allowance.

(2) In this Constitution, unless the context otherwise requires, a reference to the holder of an office by the term designating his office shall be construed as including, to the extent of his authority, a reference to any person for the time being authorised to exercise the functions of that office.

(3) Except in the case where this Constitution provides for the holder of any office thereunder to be such person holding or acting in any other office as may for the time being be designated in that behalf by some other specified person or authority, no person may, without his consent, be nominated for election to any such office or be appointed to hold same or to act therein or otherwise be selected therefor.

Retirement
from office.

270. (1) 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.

(2) Nothing in subsection (1) shall be construed as conferring on any person or authority the power to require the Director of Public Prosecutions or the Auditor General to retire from the public service.

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

(4) Any provision in this Constitution that vests in any person or authority the power to remove any public officer from his office shall be without prejudice to the power of any person or authority to abolish any office or to any law providing for the compulsory retirement of public officers generally or any class of public officer on attaining an age specified by or under that law.

Resignations.

271. (1) A Representative or a Senator may resign his seat in the National Assembly by writing under his hand addressed to the Speaker, and the resignation shall take effect, and the seat shall accordingly become vacant, when the writing is received, as the case may be, by –

- (a) the Speaker;
- (b) if the office of Speaker is vacant or the Speaker is for any reason unable to perform the functions of his office and no other person is performing them, the Deputy Speaker; or
- (c) if the office of Deputy Speaker is vacant or the Deputy Speaker is for any reason unable to perform the functions of his office and no other person is performing them, the Clerk of the Assembly.

(2) The Speaker or the Deputy Speaker may resign his office by writing under his hand addressed to the National Assembly, and the resignation shall take effect and the office shall accordingly become vacant, when the writing is received by the Clerk of the Assembly.

(3) Unless otherwise provided in this Constitution, any person who has been appointed to an office established by this Constitution may resign that office by writing under his hand in that behalf addressed to the person or authority by whom he was appointed, and the resignation shall take effect and the office shall accordingly become vacant –

(a) at such time or on such date (if any) as may be specified in the writing; or

(b) when the writing is received by the person or authority to whom it is addressed or by such other person as may be authorised to receive it,

whichever is the later:

Provided that the resignation may be withdrawn before it takes effect if the person or authority to whom the resignation is addressed consents to its withdrawal.

Re-appointment
and concurrent
appointments.

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

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

Manner of
taking oaths.

273. Subject to this Constitution, the taking and the subscribing of the oaths set out in the Second Schedule shall be done in the manner in which oaths are required to be taken by the Oaths of Officials Act of Saint Vincent and the Grenadines ^(a).

^(a) Cap.161, Revised Laws of Saint Vincent and the Grenadines, 1990.

Section 74

FIRST SCHEDULE TO THE CONSTITUTION

ALTERATION OF THE CONSTITUTION AND THE SUPREME COURT ORDER

PART 1

Provisions of the Constitution referred to in section 74 (3)

- (i) Section 3;
- (ii) Section 4 in its application to any of the provisions mentioned in this Schedule;
- (iii) Chapter III;
- (iv) Sections 49, 50, 52, 54 (1), 63;
- (v) Sections 66, 67 (except the number of Representatives and Senators), 71, 73, 74, 75, 76, 81, 83, 85, 91, 92, 93, 94, 95, 96 (except the number of constituencies), 97, 98, 99 (except the number of Representatives), 100 (except the number of Senators), 101;
- (vi) Sections 102, 104, 108, 109, 111(3), 112 (1) and (3), 113 (1), 118;
- (vii) Sections 124, 125, 127;
- (viii) Chapter XIII;
- (ix) Chapter XIV;
- (x) Chapter XVIII;
- (xi) Chapter XIX;
- (xii) Sections 262 and 266;
- (xiii) Section 267.

PART 2

Provisions of the Supreme Court Order referred to in section 74 (3)

Sections 4, 5, 6, 8, 11, 18 and 19.

SECOND SCHEDULE TO THE CONSTITUTION
OATHS (OR AFFIRMATIONS)

FORMS OF OATHS

OATH OF ALLEGIANCE

I.....do swear by Almighty God
[*or* do solemnly affirm] that I will faithfully bear true allegiance to the State and
the people of Saint Vincent and the Grenadines, according to law.

SO HELP ME GOD! [*To be omitted in affirmation.*]

OATH OF OFFICE

I.....do swear by Almighty God
[*or* do solemnly affirm] that I will, to the best of my ability, conscientiously
and impartially discharge the functions of the office of
.....without fear or favour, affection or
ill-will, and that, in the execution of the functions of that office, I will honour,
uphold and preserve the Constitution of Saint Vincent and the Grenadines.

SO HELP ME GOD! [*To be omitted in affirmation.*]

OATH OF OFFICE (MEMBERS OF CABINET)

I.....having been appointed
as a Member of the Cabinet of Ministers of the Government of Saint Vincent
and the Grenadines, do swear by Almighty God [*or* do solemnly affirm] that I
will, to the best of my judgment, at all times when required, freely contribute to
the deliberations of the Cabinet; that, except with the authority of the President
of Saint Vincent and the Grenadines, I will not directly or indirectly reveal the
business or proceedings of the Cabinet, or the nature or contents of any
document communicated to me as a Member thereof; that I will be a true and
faithful Member of the Cabinet; and that, in the execution of the functions of
the office of member of the Cabinet, I will honour, uphold and preserve the
Constitution of Saint Vincent and the Grenadines.

SO HELP ME GOD! [*To be omitted in affirmation.*]

OATH OF OFFICE FOR THE PRESIDENT

I..... having been elected by the National Assembly of Saint Vincent and the Grenadines as the President of Saint Vincent and the Grenadines, do swear by Almighty God, (*or* do solemnly affirm), that I will faithfully bear true allegiance to Saint Vincent and the Grenadines; that I will, to the best of my ability, conscientiously and impartially discharge the functions of the office of President, devoting myself to the well-being of our Nation, and that I will preserve and defend the Constitution of Saint Vincent and the Grenadines.

SO HELP ME GOD! [*To be omitted in affirmation.*]

OATH OF OFFICE (SECRETARY TO THE CABINET)

I.....having been appointed to the Office of Secretary to the Cabinet of Ministers of the Government of Saint Vincent and the Grenadines, do swear by Almighty God, (*or* do solemnly affirm), that, except with the authority of the President of Saint Vincent and the Grenadines, I will not directly or indirectly reveal the business or proceedings of the Cabinet, or the nature or contents of any document communicated to me as Secretary to the Cabinet, or any matter coming to my knowledge in my capacity as Secretary to the Cabinet.

SO HELP ME GOD! [*To be omitted in affirmation.*]

Passed in the House of Assembly this **3rd** day of **September 2009**.

NICOLE HERBERT,
Clerk of the House of Assembly.

(12 votes in favour; 2 votes against; 1 absentee)