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# St. Vincent and the Grenadines's Constitution of 1979

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# Preamble

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

- a. have affirmed that the 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. realise that the maintenance of human dignity presupposes safeguarding 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 freedoms, principles and ideals;

AND WHEREAS Saint Vincent (which comprises the inhabited islands of Saint Vincent, Bequia, Union Island, Canouan, Mustique, Mayreau, Petite Saint Vincent, Prune Islands 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:

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

## CHAPTER I

# PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS

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## 1. Fundamental rights and freedoms

Whereas every person in Saint Vincent 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.

## 2. Protection of right to life

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. Protection of right to personal liberty

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 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 fulfilment 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. for the purpose of preventing the unlawful entry of that person into Saint Vincent, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from Saint Vincent or for the purpose of restricting that person while he is being conveyed through Saint Vincent 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, or prohibiting him from being within such an area, or to such extent as may be reasonably justifiable for the taking of proceedings against that person with a view to the making of any such order or relating to such an order after it has been made, or to such extent as may be reasonably justifiable for restraining that person during any visit that he is permitted to make to any part of Saint Vincent 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 subsection (3)(b) 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 Crown.

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

## 4. Protection from slavery and forced labour

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.

## 5. Protection from inhuman treatment

No person shall be subjected to torture or to inhuman or degrading punishment or other treatment.

## 6. Protection from deprivation of property

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.

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.

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 of capital raised in Saint Vincent, or in some other country or derived from the natural resources of Saint Vincent.

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

- vi. in consequence of any law with respect to the limitation of actions; or,
  - vii. for so long only as may be necessary for the purposes of any examination, investigation, trial or inquiry or, in the case of land, for the purposes of the carrying out thereon of work of soil conservation or the conservation of other natural resources or work relating to agricultural development or improvement (being work relating to such development or improvement that the owner or occupier of the land has been required, and has without reasonable excuse refused or failed, to carry out),  
and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society; or
  - b. to the extent that the law in question makes provision for the taking of possession or acquisition of any of the following property (including an interest in or right over property), that is to say--
    - i. enemy property;
    - ii. property of a deceased person, a person of unsound mind or a person who has not attained the age of eighteen years, for the purpose of its administration for the benefit of the persons entitled to the beneficial interest therein;
    - iii. property of a person adjudged bankrupt or a body corporate in liquidation, for the purpose of its administration for the benefit of the creditors of the bankrupt or body corporate and, subject thereto, for the benefit of other persons entitled to the beneficial interest in the property; or
    - iv. property subject to a trust, for the purpose of vesting the property in persons appointed as trustees under the instrument creating the trust or by a court or, by order of a court, for the purpose of giving effect to the trust.
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. In this section--
- "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;
  - "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.

## 7. Protection from arbitrary search or entry

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.
2. Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision--
  - a. that is reasonably required in the interests of defence, public safety, public order, public morality, public health, town and country planning, the development and utilisation of mineral resources or the development or utilisation of any property for a purpose beneficial to the community;
  - b. that is reasonably required for the purpose of protecting the rights or freedoms of other persons;

- c. that authorises an officer or agent of the Government, 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.

## 8. Provisions to secure protection of law

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 proceedings 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 severer in degree or description than the maximum penalty that might have been imposed for that offence at the time when it was committed.
5. 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.



## 9. Protection of freedom of conscience

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. for 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.

## 10. Protection of freedom of expression

1. Except with his own consent, a person shall not be hindered in the enjoyment of his freedom of expression, including freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference (whether the communication be to the public generally or to any person or class of persons) and freedom from interference with his correspondence.
2. Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision--
  - a. that is reasonably required in the interests of defence, public safety, public order, public morality or public health;
  - b. that is reasonably required for the purpose of protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts or regulating the technical administration or the technical operation of telephony, telegraphy, posts, wireless broadcasting or television; 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.

## 11. Protection of freedom of assembly and association

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 or other associations for the protection of his interests.
2. Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision--
  - a. that is reasonably required in the interests of defence, public safety, public order, public morality or public health;
  - b. that is reasonably required for the purpose of protecting the rights or freedoms of other persons; or
  - c. that imposes restrictions upon public officers 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.

## 12. Protection of freedom of movement

1. A person shall not be deprived of his freedom of movement that is to say, the right to move freely throughout Saint Vincent, the right to reside in any part of Saint Vincent, the right to enter Saint Vincent, the right to leave Saint Vincent and immunity from expulsion from Saint Vincent.
2. Any restriction on a person's freedom of movement that is involved in his lawful detention shall not be held to be inconsistent with or in contravention of this section.
3. Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision--
  - a. for the imposition of restrictions on the movement or residence within Saint Vincent of any person or on any person's right to leave Saint Vincent that are reasonably required in the interests of defence, public safety or public order;
  - b. for the imposition of restrictions on the movement or residence within Saint Vincent or on the right to leave Saint Vincent 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 Saint Vincent, of securing compliance with any international obligation of the Government particulars of which have been laid before the House and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society;
  - c. for the imposition of restrictions, by order of a court, on the movement or residence within Saint Vincent of any person or on any person's right to leave Saint Vincent 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 Saint Vincent;
  - 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 Saint Vincent;
  - f. for the imposition of restrictions upon the movement or residence within Saint Vincent or on the right to leave Saint Vincent of any public officer that are reasonably required for the proper performance of his functions;

- g. for the removal of a person from Saint Vincent 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 Saint Vincent that are reasonably required in order to secure the fulfilment of any obligations imposed on that person by law and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.
4. If any person whose freedom of movement has been restricted by virtue of such a provision as is referred to in subsection (3)(a) of this section so requests at any time during the period of that restriction not earlier than three months after the order was made or three months after he last made such a request, as the case may be, his case shall be reviewed by an independent and impartial tribunal presided over by a person appointed by the Chief Justice from among persons who 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.

### **13. Protection from discrimination on the grounds of race, etc**

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 persons shall be treated in a discriminatory manner by any persons acting by virtue of any written law or in the performance of the functions of any public office or any public authority.
3. In this section, the expression "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by 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 of 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 7, 9, 10, 11 and 12 of this Constitution, being such a restriction as is authorised by section 7(2), section 9(5), section 10(2), section 11(2) or paragraph (a), (b) or (h) of section 12(3), as the case may be.

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

## **14. Derogations from s. 3 or s. 13 under emergency powers**

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 3 or section 13 of this Constitution to the extent that the law authorises the taking during any period of public emergency of measures that are reasonably justifiable for dealing with the situation that exists in Saint Vincent during that period.

## **15. Protection of persons detained under emergency laws**

1. When a person is detained by virtue of any such law as is referred to in section 14 of this Constitution the following provisions shall apply, that is to say:--
  - a. he shall, 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 subsection (1)(d) or subsection (1)(e) of this section shall be construed as entitling a person to legal representation at public expense.

## 16. Enforcement of protective provisions

1. If any person alleges that any of the provisions of sections 2 to 15 inclusive of this Constitution has been, is being or is likely to be contravened in relation to him (or, in the case of a person who is detained, if any other person alleges such a contravention in relation to the detained person), then, without prejudice to any other action with respect to the same matter 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 2 to 15 (inclusive) of this Constitution:

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

3. If in any proceedings in any court (other than the Court of Appeal or the High Court or a court-martial) any question arises as to the contravention of any of the provisions of sections 2 to 15 (inclusive) of this Constitution, the person presiding in that court may, and shall if any party to the proceedings so requests, refer the question to the High Court unless, in his opinion, the raising of the question is merely frivolous or vexatious.
4. Where any question is referred to the High Court in pursuance of subsection (3) of this section, the High Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision or, if that decision is the subject of an appeal to the Court of Appeal or to Her Majesty in Council, in accordance with the decision of the Court of Appeal or, as the case may be, of Her Majesty in Council.
5. The 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).

## 17. Declaration of emergency

1. The Governor-General 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 Governor-General is satisfied--
  - a. that a public emergency has arisen as a result of the imminence of a state of war between Saint Vincent 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 House 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 House.
4. A declaration of emergency may at any time be revoked by the Governor-General by proclamation which shall be published in the Official Gazette.
5. A declaration of emergency that has been approved by resolution of the House in pursuance of subsection (2) of this section shall, subject to the provisions of subsection (3) of this section, remain in force so long as the resolution remains in force and no longer.
6. A resolution of the House 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 House for the purposes of subsection (2) of this section and a resolution of the House extending any such resolution shall not be passed in the House unless it is supported by the votes of two-thirds of all the Representatives; and a resolution revoking any such resolution shall not be so passed unless it is supported by the votes of a majority of all the Representatives.
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.

## 18. Interpretation and savings

1. In this Chapter, unless the context otherwise requires--
  - "contravention", in relation to any requirement, includes a failure to comply with that requirement, and cognate expressions shall be construed accordingly;
  - "court" means any court of law having jurisdiction in Saint Vincent other than a court established by a disciplinary law, and includes Her Majesty in Council and in sections 2 and 4 of this Constitution a court established by a disciplinary law;
  - "disciplinary law" means a law regulating the discipline of any disciplined force;
  - "disciplined force" means--
    - a. a naval, military or air force;
    - b. the Police Force; or
    - c. a prison service;
  - "legal practitioner" means a person entitled to be in or to enter Saint Vincent and entitled to practise as a barrister in Saint Vincent or, except in relation to proceedings before a court in which a solicitor has no right of audience, entitled to practise as a solicitor in Saint Vincent;
  - "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. Her Majesty is at war; or
  - b. a declaration of emergency is in force under section 17 of this Constitution.

3. In relation to any person who is a member of a disciplined force of Saint Vincent, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter other than sections 2, 4 and 5 of this Constitution.

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

## CHAPTER II

# THE GOVERNOR-GENERAL

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### 19. Establishment of office

There shall be a Governor-General of Saint Vincent who shall be appointed by Her Majesty and shall hold office during Her Majesty's pleasure and who shall be Her Majesty's representative in Saint Vincent.

### 20. Acting Governor-General

1. During any period when the office of Governor-General is vacant or the holder of the office of Governor-General is absent from Saint Vincent or is for any other reason unable to perform the functions of his office those functions shall be performed by such person as Her Majesty may appoint.

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

3. The holder of the office of Governor-General shall not, for the purposes of this section, be regarded as absent from Saint Vincent or as unable to perform the functions of his office--

- a. by reason that he is in passage from one part of Saint Vincent to another; or
- b. at any time when there is a subsisting appointment of a deputy under section 22 of this Constitution.

### 21. Oaths

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

## 22. Deputy to Governor-General

1. Whenever the Governor-General--
  - a. has occasion to be absent from the seat of government but not from Saint Vincent;
  - b. has occasion to be absent from Saint Vincent for a period that he considers, acting in his own deliberate judgment, will be of short duration; or
  - c. is suffering from an illness that he considers, acting in his own deliberate judgment, will be of short duration,

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

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

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

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

## CHAPTER III

# PARLIAMENT

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## PART 1 Composition of Parliament

### 23. Establishment

There shall be a Parliament of Saint Vincent which shall consist of Her Majesty and a House of Assembly.

### 24. Composition of House of Assembly

1. The House shall consist of--
  - a. such number of Representatives as corresponds with the number of constituencies for the time being established in accordance with the provisions of section 33 of this Constitution, who shall be elected in accordance with the provisions of section 27 of this Constitution; and
  - b. six Senators appointed in accordance with the provisions of section 28 of this Constitution.
2. If a person who is not a member of the House is elected to be Speaker he shall, by virtue of holding the office of Speaker, be a member of the House.
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 House.



## 25. Qualifications for Representatives and Senators

1. Subject to the provisions of section 26 of this Constitution, a person shall be qualified to be elected as a Representative if, and shall not be so qualified unless, he--
  - a. is a Commonwealth citizen of the age of twenty-one years or upwards;
  - b. has resided in Saint Vincent for a period of twelve months immediately before the date of his nomination for election or is domiciled and resident in Saint Vincent at that date; and
  - c. 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 House.
2. Subject to the provisions of section 26 of this Constitution, a person shall be qualified to be elected or appointed as a Senator if, and shall not be so qualified unless, he is a Commonwealth citizen of the age of twenty-one years or upwards.

## 26. Disqualifications for Representatives and Senators

1. No person shall be qualified to be elected or appointed as a Representative or Senator (hereinafter in this section referred to as a member) if he--
  - a. is by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to a foreign power or state;
  - b. is a minister of religion;
  - 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 defence force of Saint Vincent;
  - 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 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;
  - 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:

Provided that a minister of religion may be appointed as a Senator.

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

5. 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;
  - "minister of religion" means any person in holy orders and any other person, the functions of whose principal occupation include teaching or preaching in any congregation for religious worship.
6. 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 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.

## 27. Election of Representatives

1. Each of the constituencies established in accordance with the provisions of section 33 of this Constitution shall return one Representative to the House who shall be directly elected in such manner as may, subject to the provisions of this Constitution, be prescribed by or under any law.
  2. a. Every Commonwealth citizen of the age of eighteen years or upwards who possesses such qualifications relating to residence or domicile in Saint Vincent as Parliament may prescribe shall, unless he is disqualified by Parliament from registration as a voter for the purpose of electing Representatives, 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.
  - b. Every person who is registered as aforesaid in any constituency shall, unless he is disqualified by Parliament from voting in that constituency in any election of Representatives, be entitled so to vote in accordance with the provisions of any law in that behalf, and no other person may so vote.
3. In any election of Representatives the votes shall be given by ballot in such manner as not to disclose how any particular person votes.

## 28. Appointment of Senators

Of the Senators--

- a. four shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister; and
- b. two shall be appointed by the Governor-General, acting in accordance with the advice of the Leader of the Opposition.

## 29. Tenure of office of Representatives and Senators

1. A Representative or a Senator (hereinafter in this section referred to as a member) shall vacate his seat in the House at the next dissolution of Parliament after his election or appointment.
2. A Senator appointed in accordance with the provisions of paragraph (a) of section 28 of this Constitution shall vacate his seat in the House if his appointment is revoked by the Governor-General, acting in accordance with the advice of the Prime Minister, and a Senator appointed in accordance with the provisions of paragraph (b) of that section shall vacate his seat in the House if his appointment is revoked by the Governor-General, acting in accordance with the advice of the Leader of the Opposition.

3. A member shall also vacate his seat in the House--
  - a. if he is absent from the sittings of the House for such period and in such circumstances as may be prescribed in the rules of procedure of the House;
  - b. if he ceases to be a Commonwealth citizen; or
  - c. subject to the provisions of subsection (4) of this section, if any other circumstances arise that, if he were not a member, would cause him to be disqualified to be elected or appointed as such by virtue of subsection (1) of section 26 of this Constitution or of any law enacted in pursuance of subsection (2) or (3) of that section.

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

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

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

c. If at any time before the member 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.

### 30. Speaker

1. When the House first meets after any general election of Representatives and before it proceeds to the despatch of any other business, it 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 House shall as soon as practicable, elect another person to that office.

2. The Speaker may be elected either from among the members of the House who are not members of the Cabinet or Parliamentary Secretaries or from among persons who are not members of the House:

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

- a. he is not a Commonwealth citizen; or
  - b. he is a person disqualified to be elected or appointed as a Representative or Senator by virtue of subsection (1) of section 26 of this Constitution or of any law enacted in pursuance of subsection (2) or (3) of that section.
3. No business shall be transacted in the House (other than the election of a Speaker) at any time when the office of Speaker is vacant.
4. A person shall vacate the office of Speaker--
- a. in the case of a Speaker who was elected from among the members of the House--
    - i. if he ceases to be a member of the House: Provided that the Speaker shall not vacate his office by reason only that he has ceased to be a member of the House on a dissolution of Parliament, until the House first meets after the dissolution; or
    - ii. if he becomes a member of the Cabinet or a Parliamentary Secretary;

- b. in the case of a Speaker who was elected from among persons who were not members of the House--
  - i. when the House first meets after any dissolution of Parliament;
  - ii. if he ceases to be a Commonwealth citizen; or
  - iii. if any circumstances arise that would cause him to be disqualified to be elected or appointed as a Representative or Senator by virtue of subsection (1) of section 26 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 House in favour of which there are cast the votes of two-thirds of all the members of the House excluding the Speaker.

5. If, by virtue of section 29(4) of this Constitution, the Speaker (being a Representative or a Senator) is required to cease to perform his functions as a member of the House he shall also cease to perform his functions as Speaker; and if the Speaker resumes the performance of his functions as a member of the House, in accordance with the provisions of that section, he shall also resume the performance of his functions as Speaker.

6. At any time when, by virtue of section 29(4) of this Constitution, the Speaker is unable to perform the functions of his office, those functions shall, until he vacates his seat in the House 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 House by virtue of section 29(4) of this Constitution, by such member of the House (not being a member of the Cabinet or a Parliamentary Secretary) as the House may elect for the purpose.

### **31. Deputy Speaker**

1. When the House first meets after any general election of Representatives and before it proceeds to the despatch of any other business except the election of the Speaker, the House shall elect a member of the House, who is not a member of the Cabinet 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 House shall, as soon as convenient, elect another member of the House to that office.

2. A person shall vacate the office of Deputy Speaker--
- a. if he ceases to be a member of the House;
  - b. if he becomes a member of the Cabinet or a Parliamentary Secretary; or
  - c. if he is elected to be Speaker.

3. If, by virtue of section 29(4) of this Constitution, the Deputy Speaker is required to cease to perform his functions as a member of the House he shall also cease to perform his functions as Deputy Speaker and if the Deputy Speaker resumes the performance of his functions as a member of the House, 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 section 29(4) 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 House or resumes the performance of the functions of his office, be performed by such member of the House (not being a member of the Cabinet or a Parliamentary Secretary) as the House may elect for the purpose.

## 32. Constituency Boundaries Commission

1. There shall be a Constituency Boundaries Commission which shall be appointed in the circumstances specified in section 33(3) of this Constitution and which shall consist of--
  - a. a chairman who shall be appointed by the Governor-General in his own deliberate judgment;
  - b. one member who shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister; and
  - c. one member who shall be appointed by the Governor-General, acting in accordance with the advice of the Leader of the Opposition.
2. 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 member of the House;
  - b. he is, or has at any time during that period been, nominated as a candidate for election as a Representative;
  - 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 member of any local government authority; or
  - d. he is a judge of the Supreme Court or a public officer.
3. Subject to the provisions of this section, a member of the Commission shall vacate his office--
  - a. when the order of the Commission is published in the Official Gazette in accordance with the provisions of section 33(6) of this Constitution; or
  - b. if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.
4. A member of the Commission may be removed from office by the Governor-General only for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.
5. A member of the Commission shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed under subsection (6) of this section and the tribunal has recommended to the Governor-General that he ought to be removed from office for inability as aforesaid or for misbehaviour.
6. If the Prime Minister represents to the Governor-General that the question of removing a member of the Commission under this section ought to be investigated, then--
  - a. the Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court; and
  - b. the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to him whether the member ought to be removed under this section.
7. If the question of removing a member of the Commission has been referred to a tribunal under this section, the Governor-General, acting in accordance with the advice of the Prime Minister, may suspend that member from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor-General acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor-General that that member should not be removed.
8. The Commission may regulate its own procedure, and may, with the consent of the Prime Minister, confer powers and impose duties on any public officer or on any authority of the Government for the purpose of the discharge of its functions.

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

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

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

### 33. Constituencies

1. For the purpose of the election of Representatives, Saint Vincent shall, in accordance with the provisions of this section, be divided into thirteen constituencies having such boundaries as may be prescribed by order made by the Constituency Boundaries Commission.

2. 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; and
- d. the boundaries of existing administrative areas.

3. A Commission shall be appointed in the following circumstances, that is to say:--

- a. whenever a census of the population of Saint Vincent has been held in pursuance of any law;
- b. whenever Parliament has amended subsection (1) of this section so as to alter the number of the constituencies into which Saint Vincent is divided; or
- c. on the expiry of eight years after the Commission last reviewed the boundaries of the constituencies in accordance with the provisions of this section.

4. Whenever the Commission has been appointed in the circumstances specified in subsection (3)(a) or in the circumstances specified in subsection (3)(b) of this section it shall forthwith carry out a review of the boundaries of the constituencies into which Saint Vincent is divided and may (and in the circumstances specified in subsection (3)(b) shall), by order, alter the boundaries in accordance with the provisions of this section to such extent as it thinks desirable in the light of those circumstances and the review.

5. Whenever the Commission has been appointed in the circumstances specified in subsection (3)(c) of this section it shall, within the period of two years commencing with its appointment, carry out a review of the boundaries of the constituencies into which Saint Vincent is divided and may, by order, alter the boundaries in accordance with the provisions of this section to such extent as it considers desirable in the light of the review.

6. Every order made by the Commission under this section shall be published in the Official Gazette and shall come into effect upon the next dissolution of Parliament after it was made.

7. To the extent that any law enacted by Parliament amends subsection (1) of this section so as to alter the number of constituencies into which Saint Vincent is divided it shall come into effect when the order of the Commission that, in accordance with the provisions of subsection (4) of this section, is consequential thereon comes into effect.

8. For the purposes of subsection (2) of this section the number of inhabitants of any part of Saint Vincent shall be ascertained by reference to the latest census of the population held in pursuance of any law.

### 34. Supervisor of Elections

1. There shall be a Supervisor of Elections whose duty it shall be to exercise general supervision over the registration of voters in elections of Representatives and over the conduct of such elections.
2. The functions of the office of Supervisor of Elections shall be exercised either by the person holding or acting in such public office as may for the time being be designated in that behalf by the Public Service Commission or, if the Commission so decides, by such other person who is not a public officer as may for the time being be so designated, but before exercising its powers under this subsection the Commission shall consult with the Prime Minister.
3. A person shall not enter upon the duties of the office of Supervisor of Elections until he has taken and subscribed the oath of allegiance and the oath of office.
4. For the purposes of the exercise of his functions under subsection (1) of this section, the Supervisor of Elections may give such directions as he considers necessary or expedient to any registering officer, presiding officer or returning officer relating to the exercise by that officer of his functions under any law regulating the registration of voters or the conduct of elections, and any officer to whom directions are given under this subsection shall comply with those directions.
5. The Supervisor of Elections may, whenever he considers it necessary or expedient so to do, report to the House on the exercise of his functions under the foregoing provisions of this section; he shall submit every such report to the Minister for the time being responsible for matters relating to the election of Representatives and that Minister shall, not later than seven days after the House first meets after he has received the report, lay it before the House.
6. In the exercise of his functions under the foregoing provisions of this section, the Supervisor of Elections shall not be subject to the direction or control of any other person or authority.
7. The Supervisor of Elections shall exercise such other functions in relation to elections (whether to the House or to local government authorities) as may be prescribed by or under any law enacted by Parliament.

### 35. Clerk of House and his staff

1. There shall be a Clerk of the House.
2. The office of the Clerk of the House and the offices of the members of his staff shall be public offices.

### 36. Determination of questions of membership

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 appointed as a Senator;
  - c. any person who has been elected as Speaker from among persons who were not members of the House was qualified to be so elected or has vacated the office of Speaker; or
  - d. any member of the House has vacated his seat or is required, under the provisions of section 29(4) of this Constitution, to cease to perform any of his functions as a member of the House.
2. An application to the High Court for the determination of any question under subsection (1)(a) of this section may be made by any person entitled to vote in the election to which the application relates or by any person who was a candidate at that election or by the Attorney-General.
3. An application to the High Court for the determination of any question under subsection (1)(b) or subsection (1)(c) of this section may be made by any Representative or by the Attorney-General.
4. An application to the High Court for the determination of any question under subsection (1)(d) of this section may be made--
  - a. by any Representative or by the Attorney-General; or
  - b. in the case of the seat of a Representative, by any person registered in some constituency as a voter for the purpose of electing Representatives.

5. 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.
6. An appeal shall lie as of right to the Court of Appeal from any final decision of the High Court determining such a question as is referred to in subsection (1) of this section.
7. The circumstances and manner in which and the imposition of conditions upon which any application may be made to the High Court for the determination of any question under this section and the powers, practice and procedure of the High Court and the Court of Appeal in relation to any such application shall be regulated by such provision as may be made by Parliament.
8. No appeal shall lie from any decision of the Court of Appeal in exercise of the jurisdiction conferred by subsection (6) of this section and no appeal shall lie from any decision of the High Court in proceedings under this section other than a final decision determining such a question as is referred to in subsection (1) of this section.
9. In the exercise of his functions under this section, the Attorney-General shall not be subject to the direction or control of any other person or authority.

## **PART 2 Legislation and procedure of Parliament**

### **37. Power to make laws**

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

### **38. Alteration of Constitution and Supreme Court Order**

1. 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 House unless on its final reading the bill is supported by the votes of not less than two-thirds of all the Representatives.
3. A bill to alter this section, the 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 Courts Order specified in Part 2 of that Schedule 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 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.
4. The provisions of paragraph (b) of subsection (3) of this section shall not apply in relation to any bill to alter--
  - a. section 98 of this Constitution in order to give effect to any agreement between Saint Vincent and the United Kingdom concerning appeals from any court having jurisdiction in Saint Vincent to Her Majesty in Council;
  - b. any of the provisions of the Supreme Court Order in order to give effect to any international agreement to which Saint Vincent 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 for other countries also parties to the agreement.
5. Every person who, at the time when the referendum is held, would be entitled to vote for the purpose of electing Representatives 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.



6. 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 votes.
7. The conduct of any referendum for the purposes of this section shall be the responsibility of the Supervisor of Elections and the provisions of subsections (4), (5) and (6) of section 34 of this Constitution shall apply in relation to the exercise by the Supervisor of Elections or by any other officer of his functions with respect to a referendum as they apply in relation to the exercise of his functions with respect to elections of Representatives.
8. a. A bill to alter any of the provisions of this Constitution or of the Supreme Court Order shall not be submitted to the Governor-General 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 subsection (3)(b) of this section, by a certificate under the hand of the Supervisor of Elections stating the results of the referendum.
- b. The certificate of the Speaker under this subsection 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.
- c. In this subsection references to the Speaker shall, if the person holding the office of Speaker is for any reason unable to perform the functions of his office and no other person is performing them, include references to the Deputy Speaker.
9. In this section and the 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.

### 39. Oath by members

1. Every member of the House shall, before taking his seat in the House, take and subscribe before the House the oath of allegiance but a member may before taking that oath 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 oath of allegiance under subsection (1) of this section, take and subscribe that oath before the House before entering upon the duties of his office.

### 40. Presiding

There shall preside at any sitting of the House--

- 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 House (not being a member of the Cabinet or a Parliamentary Secretary) as the House may elect for that purpose:

Provided that the Speaker shall not preside when a motion for his removal from office is before the House.

### 41. Voting

1. Save as otherwise provided in sections 17(7), 30(4), 38(2) or 49(3) of this Constitution, any question proposed for decision in the House shall be determined by a majority of the votes of the members present and voting:

Provided that questions of no confidence in the Government shall be determined by a majority of the votes of all the Representatives.

2. A question shall not be regarded as having been validly determined by a vote in the House unless at least eight members, or such greater number of members as Parliament may prescribe, take part in the voting.
3. The references to the members of the House in section 30(4) of this Constitution, subsection (1) of this section and sections 51(4) and 57 of this Constitution shall not include the Attorney-General if he

is a member by virtue of section 24(3) of this Constitution.

4. A Speaker who was elected from among the members of the House or other member presiding in the House 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 38(2) of this Constitution he shall, if he is a Representative, have an original vote but no casting vote.

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

## 42. Penalty for sitting if unqualified

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

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.

## 43. Mode of exercise of legislative power

1. The power of Parliament to make laws shall be exercised by bills passed by the House and assented to by the Governor-General.

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

3. When the Governor-General assents to a bill that has been submitted to him in accordance with the provisions of this Constitution the bill shall become law and the Governor-General 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.

## 44. Restrictions with regard to certain financial measures

Except on the recommendation of the Governor-General signified by a Minister, the House shall not--

- a. proceed upon any bill (including any amendment to a bill) that, in the opinion of the person presiding, makes provision for any of the following purposes:--
  - i. for the imposition of taxation or the alteration of taxation otherwise than by reduction;
  - ii. for the imposition of any charge upon the Consolidated Fund or any other public fund of Saint Vincent or the alteration of any such charge otherwise than by reduction;
  - iii. for the payment, issue or withdrawal from the Consolidated Fund or any other public fund of Saint Vincent of any monies not charged thereon or any increase in the amount of such payment, issue or withdrawal; or
  - iv. for the composition or remission of any debt due to the Government; 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.

## 45. Regulation of procedure in House

1. Subject to the provisions of this Constitution, the House may regulate its own procedure and may in particular make rules for the orderly conduct of its own proceedings.
2. The House may act notwithstanding any vacancy in its membership (including any vacancy not filled when the House first meets after any general election) and the presence or participation of any person not entitled to be present at or to participate in the proceedings of the House shall not invalidate those proceedings.

## 46. Freedom of speech

Without prejudice to any provision made by Parliament relating to the powers, privileges and immunities of the House and its committees, or the privileges and immunities of the members and officers of the House and of other persons concerned in the business of the House or its committees, no civil or criminal proceedings may be instituted against any member of the House for words spoken before, or written in a report to, the House or a committee thereof or by reason of any matter or thing brought by him therein by petition, bill, resolution, motion or otherwise.

## PART 3 Summoning, prorogation and dissolution

### 47. Sessions

1. Each session of Parliament shall be held at such place within Saint Vincent and shall begin at such time, not being later than six months from the end of the preceding session if Parliament has been prorogued or one month from the holding of a general election of Representatives if Parliament has been dissolved, as the Governor-General shall appoint by Proclamation.
2. a. If notice in writing is given to the Speaker signed by not less than three Representatives, of a motion of no confidence in the Government the Speaker shall--
  - i. if the House is then sitting or has been summoned to meet within five days, cause the motion to be considered by the House within seven days of the notice; or
  - ii. if the House is not then sitting and has not been so summoned (and notwithstanding that Parliament may be prorogued) summon the House to meet within fourteen days of the notice and cause the motion to be considered at that meeting:

Provided that if the House does not, within twenty-one days of the notice, meet and dispose of the motion the Clerk of the House shall summon a special meeting of the House 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 House to provide by its rules of procedure that notice of a motion of no confidence in the Government may be given by any member of the House or the power of the House to debate and dispose of such a motion at any sitting of the House.

3. Subject to the foregoing provisions of this section, the sittings of the House shall be held at such time and place as the House may, by its rules of procedure or otherwise, determine.

### 48. Prorogation and dissolution

1. The Governor-General may at any time prorogue or dissolve Parliament.
2. Subject to the provisions of subsection (3) of this section Parliament, unless sooner dissolved, shall continue for five years from the date of the first sitting of the House after any dissolution and shall then stand dissolved.
3. At any time when Saint Vincent 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 section 49(2) 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 of Representatives.

5. In the exercise of his powers to dissolve Parliament, the Governor-General shall act in accordance with the advice of the Prime Minister:

Provided that--

- a. if the Prime Minister advises a dissolution and the Governor-General, acting in his own deliberate judgment, considers that the government of Saint Vincent can be carried on without a dissolution and that a dissolution would not be in the interests of Saint Vincent, he may, acting in his own deliberate judgment, refuse to dissolve Parliament;
- 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 Governor-General, acting in his own deliberate judgment, may dissolve Parliament; and
- c. if the office of Prime Minister is vacant and the Governor-General, 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 can command the support of the majority of the Representatives, the Governor-General shall dissolve Parliament.

## 49. Elections to House of Assembly

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

2. If, after a dissolution and before the date appointed for the nomination of candidates in the next succeeding general election of Representatives, the Prime Minister advises the Governor-General that, owing to the existence of a state of war or a state of emergency in Saint Vincent, it is necessary to recall Parliament, the Governor-General 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 House of a Parliament that has been recalled may, by a resolution supported by the votes of not less than two-thirds of all the Representatives, extend the period of ninety days specified in subsection (1) of this section for not more than a further 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 candidates therein shall be nominated shall cease to have effect.

4. Where the seat of a member of the House 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 an appointment shall be made,

to fill the vacancy within ninety days of the occurrence of the vacancy unless Parliament is sooner dissolved.

5. Whenever it has been determined under section 36 of this Constitution that the election of any person as a Representative is invalid the Governor-General shall issue a writ for the election of a Representative to fill the vacancy returnable 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.

## CHAPTER IV

# THE EXECUTIVE

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### 50. Executive authority

1. The executive authority of Saint Vincent is vested in Her Majesty.
2. Subject to the provisions of this Constitution, the executive authority of Saint Vincent may be exercised on behalf of Her Majesty by the Governor-General either directly or through officers subordinate to him.
3. Nothing in this section shall prevent Parliament from conferring functions on persons or authorities other than the Governor-General.

### 51. Ministers of the Government

1. There shall be a Prime Minister of Saint Vincent who shall be appointed by the Governor-General.
2. Whenever the Governor-General has occasion to appoint a Prime Minister he shall appoint a Representative who appears to him likely to command the support of the majority of the Representatives.
3. There shall be, in addition to the office of Prime Minister, such other offices of Minister of the Government as may be established by Parliament or, subject to the provisions of any law enacted by Parliament, by the Governor-General, acting in accordance with the advice of the Prime Minister.
4. Appointments to the office of Minister, other than the office of Prime Minister, shall be made by the Governor-General, acting in accordance with the advice of the Prime Minister, from among the members of the House:

Provided that not more than two Ministers shall be appointed from among the Senators.

5. 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 subsections (2) and (4) of this section a person who was a Representative immediately before the dissolution may be appointed Prime Minister and a person who was a Senator immediately before the dissolution may be appointed as any Minister other than Prime Minister:

Provided that not more than two persons who were Senators may be Ministers.

6. The Governor-General shall remove the Prime Minister from office if a resolution of no confidence in the Government is passed by the House and the Prime Minister does not within three days either resign from his office or advise the Governor-General to dissolve Parliament.
7. If, at any time between the holding of a general election of Representatives and the first meeting of the House thereafter, the Governor-General considers that in consequence of changes in the membership of the House resulting from that election the Prime Minister will not be able to command the support of the majority of the Representatives, the Governor-General may remove the Prime Minister from office.
8. The office of any Minister shall become vacant--
  - a. if the holder of the office ceases to be a member of the House otherwise than by reason of the dissolution of Parliament;
  - b. in the case of the Prime Minister, if, when the House first meets after the dissolution of Parliament, he is not then a Representative;

- c. in the case of any other Minister, if, when the House first meets after the dissolution of Parliament, he is not then a member of the House; or
  - d. if, by virtue of section 29(4) of this Constitution, he is required to cease to perform his functions as a member of the House.
9. The office of a Minister other than the Prime Minister shall become vacant--
- a. if the Governor-General, 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 House or is removed from office under subsection (6) or (7) of this section; or
  - c. on the appointment of any person to the office of Prime Minister.
10. In the exercise of the powers conferred upon him by subsections (2), and (7) of this section the Governor-General shall act in his own deliberate judgment.

## 52. Cabinet of Ministers

1. There shall be a Cabinet of Ministers for Saint Vincent which shall consist of the Prime Minister and the other Ministers.
2. 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 in addition to the Ministers.
3. The functions of the Cabinet shall be to advise the Governor-General in the government of Saint Vincent and the Cabinet shall be collectively responsible to the House for any advice given to the Governor-General 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.
4. The provisions of subsection (3) of this section shall not apply in relation to--
  - a. the appointment and removal from office of Ministers, and Parliamentary Secretaries, the assignment of responsibility to any Minister under section 53 of this Constitution or the authorisation of another Minister to perform the functions of the Prime Minister during absence or illness;
  - b. the dissolution of Parliament; or
  - c. the matters referred to in section 65 of this Constitution (which relate to the prerogative of mercy).

## 53. Allocation of portfolios to Ministers

The Governor-General, acting in accordance with the advice of the Prime Minister, may by directions in writing, assign to the Prime Minister or any other Minister responsibility for any business of the Government, including the administration of any department of government.

## 54. Performance of functions of Prime Minister during absence or illness

1. Whenever the Prime Minister is absent from Saint Vincent or by reason of illness is unable to perform the functions conferred upon him by this Constitution, the Governor-General may authorise some other Minister to perform those functions (other than the functions conferred by this section) and that Minister may perform those functions until his authority is revoked by the Governor-General.
2. The powers of the Governor-General under this section shall be exercised by him in accordance with the advice of the Prime Minister:

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

## 55. Exercise of Governor-General's functions

1. In the exercise of his functions the Governor-General shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet except in cases where he is required by this Constitution or any other law to act in accordance with the advice of any person or authority other than the Cabinet:

Provided that the foregoing provisions of this subsection shall not apply where the Governor-General is authorised to act in his own deliberate judgment in accordance with the following provisions of this Constitution--

- a. section 32 (which relates to the Constituency Boundaries Commission)
- b. sections 51 and 54 (which relate to Ministers);
- c. section 59 (which relates to the Leader of the Opposition);
- d. section 78 (which relates to the appointment, etc., of public officers); and
- e. section 86 (which relates to the Public Service Board of Appeal).

2. During any period in which there is a vacancy in the office of Leader of the Opposition by reason of the fact that no person is both qualified for appointment to that office in accordance with this Constitution and willing to accept appointment, or if the Governor-General, acting in his own deliberate judgment, considers that it is not practicable for him to obtain the advice of the Leader of the Opposition within the time within which it may be necessary for him to act, he may act without that advice 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 Leader of the Opposition.

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

- a. the proviso to section 48(5) (which requires the Governor-General to dissolve Parliament in certain circumstances);
- b. section 51(6) (which requires the Governor-General to remove the Prime Minister from office in certain circumstances);
- c. section 56 (which entitles the Governor-General to information);
- d. sections 32(5), 59(5), 77(6), 81(7), 82(7) and 86(5) (which require the Governor-General to remove the holders of certain offices from office in certain circumstances).

## 56. Governor-General to be informed concerning matters of government

The Prime Minister shall keep the Governor-General fully informed concerning the general conduct of the government of Saint Vincent and shall furnish the Governor-General with such information as he may request with respect to any particular matter relating to the government of Saint Vincent.

## 57. Parliamentary Secretaries

1. The Governor-General, acting in accordance with the advice of the Prime Minister, may appoint Parliamentary Secretaries from among the members of the House to assist Ministers in the performance of their duties:

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

2. The office of a Parliamentary Secretary shall become vacant--
  - a. if the Governor-General, 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 House or is removed from office under section 51(6) 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 House otherwise than by reason of a dissolution of Parliament;
  - e. if, when the House first meets after the dissolution of Parliament, he is not then a member of the House; or
  - f. if, by virtue of section 29(4) of this Constitution, he is required to cease to perform his functions as a member of the House.

## 58. Oaths to be taken by Ministers, etc

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

## 59. Leader of the Opposition

1. There shall (except at times when there are no Representatives who do not support the Government) be a Leader of the Opposition who shall be appointed by the Governor-General.
2. Whenever there is occasion for the appointment of a Leader of the Opposition the Governor-General shall appoint the Representative who appears to him most likely to command the support of a majority of the Representatives who do not support the Government: or, if no Representative appears to him to command such support, the Representative who appears to him to command the support of the largest single group of Representatives who do not support the Government:

Provided that--

- a. if there are two or more Representatives who do not support the Government but none of them commands the support of the other or others, the Governor-General may, acting in his own deliberate judgment, appoint any one of them as Leader of the Opposition; and
  - b. in the exercise of his judgment the Governor-General shall be guided by the seniority of each based on his length of service as a Representative, by the number of votes cast in favour of each at the last election of Representatives or by both such seniority and such number of votes.
3. If occasion arises to appoint a Leader of the Opposition during the period between a dissolution of Parliament and the day on which the ensuing election of Representatives is held, an appointment may be made as if Parliament had not been dissolved.
  4. The office of Leader of the Opposition shall become vacant--
    - a. if he ceases to be a member of the House otherwise than by reason of a dissolution of Parliament;
    - b. if, when the House first meets after a dissolution of Parliament, he is not then a member of the House;
    - c. if, under the provisions of section 29(4) of this Constitution, he is required to cease to perform his functions as a member of the House; or
    - d. if he is removed from office by the Governor-General under the provisions of subsection (5) of this section.



5. If it appears to the Governor-General that the Leader of the Opposition is no longer able to command the support of a majority of the Representatives who do not support the Government or (if no Representative appears to him to be able to command such support) the support of the largest single group of Representatives who do not support the Government, he shall remove the Leader of the Opposition from office.

6. The powers of the Governor-General under this section shall be exercised by him in his own deliberate judgment.

## **60. Permanent secretaries**

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

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

## **61. Secretary to the Cabinet**

1. There shall be a Secretary to the Cabinet whose office shall be a public office.

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

## **62. Constitution of offices, etc**

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

## **63. Attorney-General**

1. There shall be an Attorney-General who shall be the principal legal adviser to the Government.

2. The office of Attorney-General shall be either a public office or the office of a Minister.

3. No person shall be qualified to hold the office of Attorney-General unless he holds one of the specified qualifications.

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

5. Where the offices of Attorney-General and Director of Public Prosecutions are held by the same person the following provisions of this Constitution shall have effect as if references therein to the Director included references to the Attorney-General, that is to say, sections 73, 81(6), (7), (8) and (9), 89(3) and 105(8)(a); but the provisions of this subsection shall be without prejudice to the powers of Parliament or, subject to the provisions of any law enacted by Parliament, the Governor-General to determine that the office of Attorney-General shall be the office of a Minister.

## 64. Control of public prosecutions

1. There shall be a Director of Public Prosecutions whose office shall be a public office.
2. The Director of Public Prosecutions shall have power in any case in which he considers it desirable so to do--
  - a. to institute and undertake criminal proceedings against any person before any court of law (other than a court-martial) in respect of any offence alleged to have been committed by that person;
  - b. to take over and continue any such criminal proceedings that have been instituted or undertaken by any other person or authority; and
  - c. to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.
3. The powers of the Director of Public Prosecutions under subsection (2) of this section may be exercised by him in person or through other persons acting under and in accordance with his general or special instructions.
4. The powers conferred on the Director of Public Prosecutions by paragraphs (b) and (c) of subsection (2) of this section shall be vested in him to the exclusion of any other person or authority:  
Provided that where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance of that person or authority and with the leave of the court.
5. For the purposes of this section, any appeal from a judgment in criminal proceedings before any court or any case stated or question of law reserved for the purpose of any such proceedings, to any other court (including Her Majesty in Council) shall be deemed to be part of those proceedings:  
Provided that the power conferred on the Director of Public Prosecutions by subsection (2)(c) of this section shall not be exercised in relation to any appeal by a person convicted in any criminal proceedings or to any case stated or question of law reserved at the instance of such a person.
6. In the exercise of the powers vested in him by subsection (2) of this section and section 42 of this Constitution, the Director of Public Prosecutions shall not be subject to the direction or control of any other person or authority.

## 65. Prerogative of mercy

1. The Governor-General 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, of the execution of any punishment imposed on that person for any offence;
  - c. substitute a less severe form of punishment for any punishment imposed on any person for any offence; or
  - d. remit the whole or any part of any punishment imposed on any person for any offence or of any penalty or forfeiture otherwise due to the Crown on account of any offence.
2. The powers of the Governor-General under subsection (1) of this section shall be exercised by him in accordance with the advice of such Minister as may from time to time be designated by the Governor-General acting in accordance with the advice of the Prime Minister.

## 66. Advisory Committee on Prerogative of Mercy

1. There shall be an Advisory Committee on the Prerogative of Mercy for Saint Vincent (hereinafter in this section referred to as the Committee) which shall consist of--
  - a. the Minister for the time being designated under section 65(2) of this Constitution, who shall be chairman;
  - b. the Attorney-General; and
  - c. not less than three nor more than four other members appointed by the Governor-General by writing under his hand, of whom at least one shall be a Minister and at least one shall be a person entitled to practise in Saint Vincent as a medical practitioner.

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

Provided that his seat shall become vacant--

- a. in the case of a person who at the date of his appointment was a Minister, if he ceases to be a Minister; or
  - b. in the case of a person who, at the date of his appointment, was entitled to practise in Saint Vincent as a medical practitioner, if he ceases to be so entitled; or
  - c. if the Governor-General, by writing under his hand, so directs.
3. The Committee may act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings.
4. The Committee may regulate its own procedure.
5. In the exercise of his functions under this section, the Governor-General shall act in accordance with the advice of the Prime Minister.

## 67. Functions of Advisory Committee

1. Where any person has been sentenced to death (otherwise than by a court-martial) for an offence, the Minister for the time being designated under section 65(2) of this Constitution shall cause a written report of the case from the trial judge (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 he may require, to be taken into consideration at a meeting of the Advisory Committee on the Prerogative of Mercy; and after obtaining the advice of the Committee he shall decide in his own deliberate judgment whether to advise the Governor-General to exercise any of his powers under section 65(1) of this Constitution.

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

## CHAPTER V

## FINANCE

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### 68. Consolidated Fund

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

## **69. Withdrawals from Consolidated Fund or other public funds**

1. No moneys shall be withdrawn from the Consolidated Fund except--
  - a. to meet expenditure that is charged upon the Fund by this Constitution or by any law enacted by Parliament; or
  - b. where the issue of those moneys has been authorised by an appropriation law or by a law made in pursuance of section 71 of this Constitution.
2. Where any moneys 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 moneys shall be withdrawn from any public fund other than the Consolidated Fund unless the issue of those moneys has been authorised by or under any law.
4. 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 moneys 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.

## **70. Authorisation of expenditure from Consolidated Fund by appropriation law**

1. The Minister for the time being responsible for finance shall cause to be prepared and laid before the House before, or not later than thirty days after, the commencement of each financial year estimates of the revenues and expenditure of Saint Vincent 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 House, a bill, known as an appropriation bill, shall be introduced in the House, providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums, under separate votes for the several services required, to the purposes specified therein.
3. If in respect of any financial year it is found--
  - a. that the amount appropriated by the appropriation law 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 moneys 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 House and, when the supplementary estimate has been approved by the House, a supplementary appropriation bill shall be introduced in the House providing for the issue of such sums from the Consolidated Fund and appropriating them to the purposes specified therein.

## **71. Authorisation of expenditure in advance of appropriation**

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 moneys 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.

## 72. Contingencies Fund

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 House and when the supplementary estimate has been approved by the House, a supplementary appropriation bill shall be introduced as soon as possible in the House for the purpose of replacing the amount so advanced.

## 73. Remuneration of certain officers

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 a person's salary or other terms of service depend upon his option, the salary or terms for which he opts shall, for the purposes of subsection (3) of this section, be deemed to be more advantageous to him than any others for which he might have opted.
5. This section applies to the offices of the Governor-General, member of the Public Service Commission, member of the Police Service Commission, member of the Public Service Board of Appeal, the Director of Public Prosecutions and the Director of Audit.
6. Nothing in this section shall be construed as prejudicing the provisions of section 88 of this Constitution (which protects pensions rights in respect of service as a public officer).

## 74. Public debt

1. All debt charges for which Saint Vincent is liable shall be a charge on the Consolidated Fund.
2. For the purposes of this section debt charges include interest, sinking fund charges, the repayment or amortization of debt and all expenditure in connection with the raising of loans on the security of the Consolidated Fund and the service and redemption of the debt created thereby.

## 75. Audit of public accounts, etc

1. There shall be a Director of Audit whose office shall be a public office.
2. The Director of Audit shall--
  - a. satisfy himself that all moneys 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, the accounts of all officers and authorities of the Government, the accounts of all courts of law in Saint Vincent (including any accounts of the Supreme Court maintained in Saint Vincent), the accounts of every Commission established by this Constitution and the accounts of the Clerk of the House.
3. The Director of Audit and any officer authorised by him shall have access to all books, records, returns, reports and other documents which in his opinion relate to any of the accounts referred to in subsection (2) of this section.
4. The Director of Audit shall submit every report made by him in pursuance of subsection (2) of this section to the Minister for the time being responsible for finance who shall, not later than seven days

after the House first meets after he has received the report, lay it before the House.

5. If the Minister fails to lay a report before the House in accordance with the provisions of subsection (4) of this section the Director of Audit shall transmit copies of that report to the Speaker who shall, as soon as practicable, present them to the House.

6. The Director of Audit 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.

7. In the exercise of his functions under subsections (2), (3), (4) and (5) of this section, the Director of Audit shall not be subject to the direction or control of any other person or authority.

## 76. Public Accounts Committee

The House shall, at the commencement of each session, appoint a Public Accounts Committee from among its members, whose duties shall be to consider the accounts referred to in section 75(2) of this Constitution in conjunction with the report of the Director of Audit and in particular to report to the House--

- 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,

and such other duties relating to public accounts as the House may from time to time direct.

## CHAPTER VI

# THE PUBLIC SERVICE

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## PART 1 The Public Service Commission

### 77. Public Service Commission

1. There shall be a Public Service Commission for Saint Vincent (hereinafter in this section referred to as the Commission) which shall consist of--

- a. a chairman appointed by the Governor-General, acting in accordance with the advice of the Prime Minister;
- b. one member appointed by the Governor-General, acting in accordance with the advice of the Prime Minister; and
- c. not less than one nor more than three other members appointed by the Governor-General, acting in accordance with the advice of the Prime Minister:  
Provided that the Prime Minister shall--
  - i. consult the Civil Service Association (or, if that association ceases to exist, such body or bodies representing the interests of public officers as he may determine) before tendering any advice to the Governor-General for the purposes of paragraph (b) of this subsection; and
  - ii. consult the Leader of the Opposition before tendering any advice to the Governor-General for the purposes of paragraph (c) of this subsection.

2. 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 member of the House or nominated for election as a Representative;
  - 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 member of any local government authority; or
  - c. he is, or has at any time during the three years preceding his appointment been, a judge of the Supreme Court or a public officer.
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 public office.
4. Subject to the provisions of this section, 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 subsection (2) of this section.
5. 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.
6. A member of the Commission shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed under subsection (7) of this section and the tribunal has recommended to the Governor-General that he ought to be removed from office for inability as aforesaid or for misbehaviour.
7. If the Prime Minister represents to the Governor-General that the question of removing a member of the Commission under this section ought to be investigated then--
  - a. the Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court; and
  - b. the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to him whether the member ought to be removed under this section.
8. If the question of removing a member of the Commission has been referred to a tribunal under this section, the Governor-General, acting in accordance with the advice of the Prime Minister, may suspend that member from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor-General, acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor-General that that member should not be removed.
9. 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 and has assumed the functions of that office or until the person holding that office has resumed those functions, as the case may be, they shall be exercised by such other member of the Commission as may for the time being be designated by the Governor-General, acting in accordance with the advice of the Prime Minister.
10. If at any time there are less than two members of the Commission beside the chairman or if any such member is acting as chairman or is for any reason unable to exercise the functions of his office, the Governor-General, acting in accordance with the advice of the Prime Minister, may appoint a person who is qualified to be appointed as a member of the Commission to act as a member, and any person so appointed shall, subject to the provisions of subsection (4) of this section, continue to act until the office in which he is acting has been filled or, as the case may be, until the holder thereof has resumed his functions or until his appointment to act has been revoked by the Governor-General,

acting in accordance with the advice of the Prime Minister.

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

12. 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.

13. 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.

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

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

## **78. Appointment, etc., of public officers**

1. The power to appoint persons to hold or act in offices in the public service (including the power to confirm appointments), and, subject to the provisions of section 87 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.

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

3. The provisions of this section shall not apply in relation to the following offices, that is to say--

- a. any office to which section 79 of this Constitution applies;
- b. the office of Attorney-General;
- c. the office of Director of Public Prosecutions;
- d. the office of Director of Audit;
- e. any office to which section 83 of this Constitution applies: or
- f. any office in the Police Force.

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

5. Before any of the powers conferred by this section are exercised by the Public Service Commission or any other person or authority in relation to the Clerk of the House or a member of his staff, the Commission or that person or authority shall consult with the Speaker.

6. Before the Public Service Commission or any other person exercises any power under this section to appoint to, or to act in, any public office any person who holds or is acting in any office the power to make appointments to which is vested by this Constitution in the Governor-General acting in accordance with the advice of the Judicial and Legal Services Commission, the Public Service Commission or that person shall consult with the Judicial and Legal Services Commission.

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



## **PART 2 Appointments, etc., to particular offices**

### **79. Appointment, etc., of permanent secretaries and certain other officers**

1. This section applies to 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 for the proper discharge of their functions or as an office in Saint Vincent whose functions relate to external affairs.

2. The power to appoint persons to hold or to act in offices to which this section applies (including the power to confirm appointments), and, subject to the provisions of section 87 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 Governor-General, acting in accordance with the advice of the Public Service Commission:

Provided that--

- a. the power to appoint a person to hold or act in an office of permanent secretary on transfer from another such office carrying the same salary shall vest in the Governor-General, acting in accordance with the advice of the Prime Minister;
- b. before the Public Service Commission tenders advice to the Governor-General 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 and if the Prime Minister signifies his objection to the appointment of any person to the office, the Commission shall not advise the Governor-General to appoint that person;
- c. in relation to any office of Ambassador, High Commissioner or other principal representative of Saint Vincent in any other country or accredited to any international organization the Governor-General shall act in accordance with the advice of the Prime Minister, who shall, before tendering any such advice in respect of any person who holds any public office to which appointments are made by the Governor-General on the advice of or after consultation with some other person or authority, consult that person or authority.

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

### **80. Attorney-General when a public officer**

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 63(5) of this Constitution, the power to remove the Attorney-General from office at any such time shall vest in the Governor-General, 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 the Judicial and Legal Services Commission shall consult with the Prime Minister.

## 81. Director of Public Prosecutions

1. The Director of Public Prosecutions shall be appointed by the Governor-General, acting in accordance with the advice of the Judicial and Legal Services Commission.
2. 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 Governor-General, acting in accordance with the advice of the Judicial and Legal Services Commission, may appoint a person to act as Director.
3. 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.
4. A person appointed to act in the office of Director of Public Prosecutions shall, subject to the provisions of subsections (5), (7), (8) and (9) of this section, cease so to act--
  - a. when a person is appointed to hold that office and has assumed the functions thereof or, as the case may be, when the person in whose place he is acting resumes the functions of that office; or
  - b. at such earlier time as may be prescribed by the terms of his appointment.
5. Subject to the provisions of subsection (7) of this section, the Director of Public Prosecutions shall vacate his office when he attains the prescribed age.
6. 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.
7. The Director of Public Prosecutions shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed under subsection (8) of this section and the tribunal has recommended to the Governor-General that he ought to be removed for inability as aforesaid or for misbehaviour.
8. If the Prime Minister or the chairman of the Judicial and Legal Services Commission represents to the Governor-General that the question of removing the Director of Public Prosecutions under this section ought to be investigated, then--
  - a. the Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court; and
  - b. the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to him whether the Director ought to be removed under this section.
9. If the question of removing the Director of Public Prosecutions has been referred to a tribunal under this section, the Governor-General, acting in accordance with the advice of the Judicial and Legal Services Commission, may suspend the Director from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor-General acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor-General that the Director should not be removed.
10. The prescribed age for the purposes of subsection (5) 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 be or to act as Director of Public Prosecutions, shall not have effect in relation to that person unless he consents that it should have effect.

## 82. Director of Audit

1. The Director of Audit shall be appointed by the Governor-General, acting in accordance with the advice of the Public Service Commission.
2. If the office of Director of Audit is vacant or if the holder of that office is for any reason unable to exercise the functions of his office, the Governor-General, acting in accordance with the advice of the Public Service Commission, may appoint a person to act as Director.
3. Before tendering advice for the purposes of subsection (1) or subsection (2) of this section, the Public Service Commission shall consult with the Prime Minister.
4. A person appointed to act in the office of Director of Audit shall, subject to the provisions of subsection (5), (7), (8) and (9) of this section, 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.
5. Subject to the provisions of subsection (7) of this section the Director of Audit shall vacate his office when he attains the prescribed age.
6. A person holding the office of Director of Audit may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.
7. The Director of Audit shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed under subsection (8) of this section and the tribunal has recommended to the Governor-General that he ought to be removed for inability as aforesaid or for misbehaviour.
8. If the Prime Minister or the chairman of the Public Service Commission represents to the Governor-General that the question of removing the Director of Audit under this section ought to be investigated--
  - a. the Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court; and
  - b. the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to him whether the Director ought to be removed under this section.
9. If the question of removing the Director of Audit has been referred to a tribunal under this section, the Governor-General, acting in accordance with the advice of the Public Service Commission, may suspend the Director of Audit from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor-General acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor-General that the Director should not be removed.
10. The prescribed age for the purposes of subsection (5) of this section is the age of fifty-five 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 be or to act as Director of Audit, shall not have effect in relation to that person unless he consents that it should have effect.

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

1. This section applies to the offices of magistrate, registrar of the High Court and assistant 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 confirm appointments) and, subject to the provisions of section 87 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 Governor-General, acting in accordance with the advice of the Judicial and Legal Services Commission.

## PART 3 The Police

### 84. Police Service Commission

1. There shall be a Police Service Commission for Saint Vincent which shall consist of--
  - a. the chairman of the Public Service Commission;
  - b. one member appointed by the Governor-General, acting in accordance with the advice of the Prime Minister tendered after the Prime Minister has consulted the Saint Vincent Police Welfare Association (or, if that association ceases to exist such, body representing the interests of police officers as the Prime Minister may determine); and
  - c. the member or members of the Public Service Commission appointed under paragraph (c) of section 77(1) of this Constitution.
2. The provisions of subsections (2) to (8) (inclusive) and (11) of section 77 of this Constitution shall apply in relation to the member of the Police Service Commission referred to in paragraph (b) of subsection (1) of this section as they apply in relation to a member of the Public Service Commission.
3. The member of the Public Service Commission for the time being performing the functions of the chairman of that Commission shall perform the functions of the chairman of the Police Service Commission.
4. Any person for the time being authorised to act as a member of the Public Service Commission under section 77(10) of this Constitution (other than a person so authorised on account of the inability of the member of the Commission appointed under section 77(1)(b) of this Constitution) shall act as a member of the Police Service Commission.
5. If at any time the member of the Commission appointed under paragraph (b) of subsection (1) of this section is for any reason unable to exercise the functions of his office, the Governor-General, acting in accordance with the advice of the Prime Minister, may appoint a person who is qualified to be appointed as a member of the Commission to act as a member, and any person so appointed shall, subject to the provisions of subsection (2) of this section, continue to act until the holder of the office has resumed his functions or until his appointment to act has been revoked by the Governor-General, acting in accordance with the advice of the Prime Minister.
6. The Commission shall, in the exercise of its functions under this Constitution, not be subject to the direction or control of any other person or authority.
7. The Commission may by regulation or otherwise regulate its own procedure and, with the consent of the 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.

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

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

## **85. Police Force**

1. The power to appoint a person to hold or act in the office of Commissioner of Police or Deputy Commissioner of Police and, subject to the provisions of section 87 of this Constitution, the power to remove the Commissioner or Deputy Commissioner from office shall vest in the Governor-General, acting in accordance with the advice of the Police Service Commission:

Provided that before the Commission tenders advice to the Governor-General with respect to the appointment of any person to hold the office of Commissioner or Deputy Commissioner the Commission shall consult with the Prime Minister and if the Prime Minister signifies his objection to the appointment of any person to the office the Commission shall not advise the Governor-General to appoint that person.

2. The power to appoint persons to hold or act in offices in the Police Force below the rank of Deputy Commissioner of Police but above the rank of Sergeant (including the power to confirm appointments), and, subject to the provisions of section 87 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 Service Commission.

3. The power to appoint persons to hold or act in offices in the Police Force of or below the rank of Sergeant (including the power to confirm appointments), and, subject to the provisions of section 87 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 Force.

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 Force are altered (whether in consequence of the reorganization or replacement of an existing part of the Force or the creation of an additional part), be construed as references to such rank or ranks as may be specified by the Police Service Commission by order published in the Official Gazette, being a rank or ranks that in the opinion of the Commission most nearly correspond to the rank of Sergeant as it existed before the alteration.

## **PART 4 The Public Service Board of Appeal**

### **86. Public Service Board of Appeal**

1. There shall be a Public Service Board of Appeal for Saint Vincent (hereinafter in this section and in section 87 of this Constitution referred to as the Board) which shall consist of--

- a. one member appointed by the Governor-General, acting in his own deliberate judgment, who shall be chairman;
- b. one member appointed by the Governor-General, acting in accordance with the advice of the Prime Minister;

- c. one member appointed by the Governor-General, acting in accordance with the advice of the Civil Service Association (or such other body as may be determined under paragraph (i) of the proviso to section 77(1) of this Constitution); and
  - d. one member appointed by the Governor-General, acting in accordance with the advice of the Saint Vincent Police Welfare Association (or such other body as may be determined under paragraph (b) of the proviso to section 84(1) of this Constitution).
2. 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 House;
    - b. he is, or has at any time during that period been, nominated as a candidate for election as a Representative; 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 member of any local government authority.
  3. Subject to the provisions of this section, 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 subsection (2) of this section.
  4. A member of the Board may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.
  5. A member of the Board shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed under subsection (6) of this section and the tribunal has recommended to the Governor-General that he ought to be removed from office for inability as aforesaid or for misbehaviour.
  6. If the Governor-General considers that the question of removing a member of the Board under this section ought to be investigated, then--
    - a. the Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the 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 thereof to the Governor-General and recommend to him whether the member ought to be removed under this section.
  7. If the question of removing a member of the Board has been referred to a tribunal under this section, the Governor-General may suspend that member from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor-General and shall in any case cease to have effect if the tribunal recommends to the Governor-General that that member should not be removed.
  8. If at any time any member of the Board is for any reason unable to exercise the functions of his office, the Governor-General may appoint a person who is qualified to be appointed as a member of the Board to act as a member, and any person so appointed shall, subject to the provisions of subsection (3) of this section, continue to act until the holder thereof has resumed his functions or until his appointment to act has been revoked by the Governor-General.
  9. In the exercise of the powers conferred upon him by subsections (6), (7) and (8) of this section the Governor-General shall, in the case of a member of the Board appointed under paragraph (b) of subsection (1) of this section, act in accordance with the advice of the Prime Minister and shall in any other case act in his own deliberate judgment.
  10. 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.

## 87. Appeals in discipline cases

1. This section applies to--
  - a. any decision of the Governor-General, 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 on appeal from or confirming a decision of any person to whom powers are delegated under section 78(2) of this Constitution);
  - b. any decision of any person to whom powers are delegated under section 78(2) of this Constitution to remove a public officer from office or to exercise disciplinary control over a public officer (not being a decision which is subject to appeal to or confirmation by the Public Service Commission);
  - c. any decision of the Public Service Commission to give such concurrence as is required by section 89(1) or (2) of this Constitution in relation to the refusal, withholding, reduction in amount or suspending of any pensions benefits in respect of an officer's service as a public officer; or
  - d. any decision of the Governor-General, acting in accordance with the advice of the Police Service Commission, to remove the Commissioner of Police or the Deputy Commissioner of Police from office or any decision of the Police Service Commission to remove a member of the Police Force from office or to exercise disciplinary control over such a member under section 85(2) of this Constitution.
  - e. if it is so provided by Parliament, any decision of the Commissioner of Police under subsection (3) of section 85 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;
  - f. such decisions with respect to the discipline of any military, naval or air force of Saint Vincent as may be prescribed by Parliament.

2. Subject to the provisions of this section, an appeal shall lie to the Board from any decision to which this section applies at the instance of the public officer, police officer 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 subsection (1)(e) of this section, an appeal shall lie in the first instance to the Police Service 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 (3) of this section.

3. Under an appeal under this section the Board may affirm or set aside the decision appealed against or may make any other decision which the authority or person from whom the appeal lies could have made.
4. Every decision of the Board shall require the concurrence of a majority of all the members of the Board entitled to participate for the purpose of making the decision.
5. The member of the Public Service Board of Appeal appointed under paragraph (d) of section 86(1) 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 from decisions mentioned in paragraphs (a), (b) and (c) of subsection (1) of this section or of making regulations under subsection (6)(b) or (c) of this section with respect to the procedure in such appeals or excepting any such decisions from the provisions of the said subsection (1); and the member of the Board appointed under paragraph (c) of section 86(1) 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 from decisions mentioned in paragraph (d) of subsection (1) or subsection (2) of this section or of making regulations under subsection (6)(b) or (c) of this section with respect to the procedure in such appeals or excepting any such decisions from the provisions of the said subsection (1).

6. Subject to the provisions of subsection (5) of this section, 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 subsection (1) of this section decisions in respect of public officers holding offices whose emoluments do not exceed such sum as may be prescribed by the regulations or such decisions to exercise disciplinary control, other than decisions to remove from office, as may be so prescribed.
7. Regulations made under this section may, with the consent of the Prime Minister, confer powers or impose duties on any public officer or any authority of the Government for the purpose of the exercise of the functions of the Board.
8. The Board may, subject to the provisions of this section and to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings.

## **PART 5 Pensions**

### **88. Pensions laws and protection of pensions rights**

1. The law to be applied with respect to any pensions 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 pensions benefits (not being benefits to which subsection (1) of this section applies) shall--
  - a. in so far as those benefits are wholly in respect of a period of service as a judge or officer of the Supreme Court or a public officer or a member of the House of 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 public officer or a member of the House of Assembly 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 pensions 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 "pensions benefits" means any pensions, compensation, gratuities or other like allowances for persons in respect of their service as members of the House, judges or officers of the Supreme Court or public officers or for the widows, children, dependants or personal representatives of such persons in respect of such service.
6. References in this section to the law with respect to pensions benefits include (without prejudice to their generality) references to the law regulating the circumstances in which such benefits may be granted or in which the grant of such benefits may be refused, the law regulating the circumstances in which any such benefits that have been granted may be withheld, reduced in amount or suspended and the law regulating the amount of any such benefits.



## 89. Power to withhold pensions, etc

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 concurs in the refusal to grant the benefits or, as the case may be, in the decision to withhold them, reduce them in amount or suspend them.
2. Where the amount of any pensions benefits that may be granted to any person is not fixed by law, the amount of the benefits to be granted to him shall be the greatest amount for which he is eligible unless the Public Service Commission concurs in his being granted benefits of a smaller amount.
3. The Public Service Commission shall not concur under subsection (1) or subsection (2) of this section in any action taken on the ground that any person who holds or has held the office of judge of the Supreme Court, Director of Public Prosecutions or Director of Audit has been guilty of misbehaviour in that office unless he has been removed from that office by reason of such misbehaviour.
4. Before the Public Service Commission concurs under subsection (1) or subsection (2) of this section in any action taken on the ground that any person who holds or has held any office to which, at the time of such action, section 83 of this Constitution applies has been guilty of misbehaviour in that office, the Public Service Commission shall consult the Judicial and Legal Services Commission.
5. In this section "pensions benefits" means any pensions, compensation, gratuities or other like allowances for persons in respect of their service as judges or officers of the Supreme Court or public officers or for the widows, children, dependants or personal representatives of such persons in respect of such service.

## CHAPTER VII

# CITIZENSHIP

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## 90. Persons who become citizens on 27th October 1979

1. Every person who, having been born in Saint Vincent, is immediately before the commencement of this Constitution a citizen of the United Kingdom and Colonies shall become a citizen at such commencement.
2. Every person who, immediately before the commencement of this Constitution, is a citizen of the United Kingdom and Colonies--
  - a. having become such a citizen under the British Nationality Act 1948 [FN: 1948 c. 56.] by virtue of his having been naturalised in Saint Vincent as a British subject before that Act came into force; or
  - b. having while resident in Saint Vincent become such a citizen by virtue of his having been naturalised or registered under that Act,shall become a citizen at such commencement.

3. Every person who, having been born outside Saint Vincent, is immediately before the commencement of this Constitution a citizen of the United Kingdom and Colonies shall, if his father or mother becomes, or would but for his death or the renunciation of his citizenship of the United Kingdom and Colonies have become, a citizen by virtue of subsection (1) or subsection (2) of this section, become a citizen at such commencement.

4. Every woman who, having been married to a person who becomes, or but for his death or the renunciation of his citizenship of the United Kingdom and Colonies would have become, a citizen by virtue of subsection (1), (2) or (3) of this section, is a citizen of the United Kingdom and Colonies immediately before the commencement of this Constitution shall become a citizen at such commencement.

## **91. Persons born in Saint Vincent on or after 27th October 1979**

Every person born in Saint Vincent after the commencement of this Constitution shall become a citizen at the date of his birth:

Provided that a person shall not become a citizen by virtue of this section if at the time of his birth--

- a. neither of his parents is a citizen of Saint Vincent and his father or mother possesses such immunity from suit and legal process as is accorded to the envoy of a foreign sovereign power accredited to Saint Vincent; or
- b. his father is a citizen of a country with which Saint Vincent is at war and the birth occurs in a place then under occupation by that country.

## **92. Persons born outside Saint Vincent on or after 27th October 1979**

A person born outside Saint Vincent after the commencement of this Constitution shall become a citizen at the date of his birth if, at that date, his father or mother is a citizen otherwise than by virtue of this section or section 90(3) of this Constitution.

## **93. Registration**

1. The following persons shall be entitled, upon making application, to be registered as citizens--
  - a. any woman who is married to a citizen or who has been married to a person who, at any time during the period during which they were married to each other, was a citizen;
  - b. any person who, being a Commonwealth citizen, is ordinarily resident in Saint Vincent at the commencement of this Constitution, having been so resident for the period of seven years immediately preceding such commencement;
  - c. 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;
  - d. 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 at the commencement of this Constitution;
  - e. any woman who is married to any such person as is mentioned in paragraph (b), (c) or d. of this subsection 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 be registered as a citizen under any such paragraph;
  - f. any woman who, before the commencement of this Constitution, has been married to a person--
    - i. who becomes a citizen by virtue of section 90 of this Constitution; or
    - ii. who, having died before such commencement, would but for his death have become a citizen by virtue of that section, but whose marriage has been terminated by death or dissolution before such commencement.

2. The following persons shall be entitled, upon making application, to be registered as citizens--
  - a. any man who is married to a citizen or who has been married to a person who, at any time during the period during which they were married to each other, was a citizen;
  - b. any person who, being a Commonwealth citizen, is and for seven years previous to his application has been ordinarily resident in Saint Vincent;
  - c. any man who is married to any such person as is mentioned in paragraph (b), (c) or (d) of subsection (1) of this section 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;
  - d. any person under the age of twenty-one years who is the stepchild 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:

Provided that 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 responsible for the matter 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)(d) 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 twenty-one years, applies for registration under this section shall, before such registration, take the oath of allegiance.

## 94. Acquisition, deprivation and renunciation

There shall be such provision as may be made by Parliament for--

- a. the acquisition of citizenship by persons who are not eligible or who are no longer eligible to become citizens under the provisions of this Chapter;
- b. depriving of his citizenship any person who is a citizen otherwise than by virtue of section 90, 91 or 92 of this Constitution;
- c. the renunciation by any person of his citizenship.

## 95. Interpretation

1. In this Chapter--

- "alien" means a person who is not a Commonwealth citizen, a British protected person or a citizen of the Republic of Ireland;
- "British protected person" means a person who is a British protected person for the purposes of the British Nationality Act 1948;
- "the British Nationality Act 1948" includes any Act of the Parliament of the United Kingdom altering that Act;
- "father", in relation to a child born out of wedlock and not legitimated, includes a person who acknowledges and can show that he is the father of the child.

2. For the purposes of this Chapter, a person born aboard a registered ship or aircraft, or aboard an unregistered ship or aircraft of the Government of any country, shall be deemed to have been born in the place in which the ship or aircraft was registered or, as the case may be, in that country.
3. Any reference in this Chapter to the national status of the father of a person at the time of that person's birth shall, in relation to a person born after the death of his father, be construed as a reference to the national status of the father at the time of the father's death; and where that death occurred before the commencement of this Constitution and the birth occurred after such commencement the national status that the father would have had if he had died immediately after such commencement shall be deemed to be his national status at the time of his death.

## CHAPTER VIII

# JUDICIAL PROVISIONS

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### 96. Original jurisdiction of High Court in constitutional questions

1. Subject to the provisions of section 22(2), 38(8)(b), 102(2) and 105(10) of this Constitution, any person who alleges that any provision of this Constitution (other than a provision of Chapter I thereof) has been or is being contravened may, if he has a relevant interest, apply to the High Court for a declaration and for relief under this section.
2. The High Court shall have jurisdiction on an application made under this section to determine whether any provision of this Constitution (other than a provision of Chapter I thereof) has been or is being contravened and to make a declaration accordingly.
3. Where the High Court makes a declaration under this section that a provision of this Constitution has been or is being contravened and the person on whose application the declaration is made has also applied for relief, the High Court may grant to that person such remedy as it considers appropriate, being a remedy available generally under any law in proceedings in the High Court.
4. The Chief Justice may make rules with respect to the practice and procedure of the High Court in relation to the jurisdiction and powers conferred on the Court by or under this section, including provision with respect to the time within which any application under this section may be made.
5. A person shall be regarded as having a relevant interest for the purpose of an application under this section only if the contravention of this Constitution alleged by him is such as to affect his interests.
6. The rights conferred on a person by this section to apply for a declaration and relief in respect of an alleged contravention of this Constitution shall be in addition to any other action in respect of the same matter that may be available to that person under any law.
7. Nothing in this section shall confer jurisdiction on the High Court to hear or determine any such question as is referred to in section 36 of this Constitution.

## 97. Reference of constitutional questions to High Court

1. Where any question as to the interpretation of this Constitution arises in any court of law established for Saint Vincent (other than the Court of Appeal, the High Court or a court martial) and the court is of opinion that the question involves a substantial question of law, the court shall refer the question to the High Court.
2. Where any question is referred to the High Court in pursuance of this section, the High Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision or, if the decision is the subject of an appeal to the Court of Appeal or to Her Majesty in Council, in accordance with the decision of the Court of Appeal or, as the case may be, of Her Majesty in Council.

## 98. Appeals to Court of Appeal

Subject to the provisions of section 36 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 decision in any civil or criminal proceedings on questions as to the interpretation of this Constitution;
- b. final decisions given in exercise of the jurisdiction conferred on the High Court by section 16 of this Constitution (which relates to the enforcement of the fundamental rights and freedoms); and
- c. such other cases as may be prescribed by Parliament.

## 99. Appeals to Her Majesty in Council

1. An appeal shall lie from decisions of the Court of Appeal to Her Majesty in Council as of right in the following cases--
  - a. final decisions in any civil proceedings where the matter in dispute on the appeal to Her Majesty in Council 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; and
  - d. such other cases as may be prescribed by Parliament.
2. An appeal shall lie from decisions of the Court of Appeal to Her Majesty in Council with the leave of the Court of Appeal in the following cases--
  - a. 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 Her Majesty in Council; and
  - b. such other cases as may be prescribed by Parliament.
3. An appeal shall lie to Her Majesty in Council with the special leave of Her Majesty from any decision of the Court of Appeal in any civil or criminal matter.
4. References in this section to decisions of the Court of Appeal shall be construed as references to decisions of the Court of Appeal in exercise of the jurisdiction conferred by this Constitution or any other law.
5. In this section the prescribed value means the value of fifteen hundred dollars or such other value as may be prescribed by Parliament.
6. This section shall be subject to the provisions of section 36(7) of this Constitution.

## 100. Interpretation

In this Chapter references to the contravention of any provision of, or the interpretation of, this Constitution shall be construed as including references to the contravention of any provision of, or the interpretation of, the Supreme Court Order.

## CHAPTER IX

## MISCELLANEOUS

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### 101. Supreme law

This Constitution is the supreme law of Saint Vincent 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.

### 102. Functions of Governor-General

1. Any reference in this Constitution to the functions of the Governor-General shall be construed as a reference to his powers and duties in the exercise of the executive authority of Saint Vincent and to any other powers and duties conferred or imposed on him as Governor-General by or under this Constitution or any other law.
2. Where by this Constitution the Governor-General is required to perform any function in accordance with the advice of any person or authority, the question whether the Governor-General has so exercised that function shall not be enquired into in any court of law.

### 103. Resignations

1. A Representative or a Senator may resign his seat 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 House.
2. The Speaker or the Deputy Speaker may resign his office by writing under his hand addressed to the House and the resignation shall take effect, and the office shall accordingly become vacant, when the writing is received by the Clerk of the House.
3. Any person who has been appointed to an office established by this Constitution (other than an office to which subsection (1) or (2) of this section applies) or any office of Minister established under this Constitution may resign that office by writing under his hand 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.

## 104. Re-appointment and concurrent appointments

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

## 105. Interpretation

1. In this Constitution, unless the context otherwise requires--
  - "citizen" means a citizen of Saint Vincent and "citizenship" shall be construed accordingly;
  - "Commonwealth citizen" has such meaning as Parliament may prescribe;
  - "dollars" means dollars in the currency of Saint Vincent;
  - "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;
  - "the Government" means the Government of Saint Vincent;
  - "the House" means the House of Assembly;
  - "law" means any law in force in Saint Vincent or any part thereof, including any instrument having the force of law and any unwritten rule of law and "lawful" and "lawfully" shall be construed accordingly;
  - "Minister" means a Minister of the Government;
  - "Parliament" means the Parliament of Saint Vincent;
  - "oath" includes affirmation;
  - "oath of allegiance" means such oath of allegiance as may be prescribed by law;
  - "oath of office" means, in relation to any office, such oath for the due execution of that office as may be prescribed by law;
  - "oath of secrecy" means such oath of secrecy as may be prescribed by law;
  - "the Police Force" means the Royal Saint Vincent Police Force and includes any other police force established to succeed to the functions of the Royal Saint Vincent Police Force;
  - "public office" means any office of emoluments in the public service;
  - "public officer" means a person holding or acting in any public office;
  - "the public service" means, subject to the provisions of this section, the service in a civil capacity of the Government;
  - "Saint Vincent" means Saint Vincent and the Grenadines;
  - "session" means, in relation to the House, the period beginning when it 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 House, the period during which it is sitting continuously without adjournment and includes any period during which it is in committee;
  - "Speaker" and "Deputy Speaker" mean the respective persons holding office as Speaker and Deputy Speaker of the House.

2. In this Constitution references to an office in the public service shall not be construed as including--
  - a. references to the office of the Speaker or Deputy Speaker, the Prime Minister or any other Minister, a Parliamentary Secretary or a member of the House;
  - b. references to the office of a member of any Commission established by this Constitution or a member of the Advisory Committee on the Prerogative of Mercy or a member of the Public Service Board of Appeal;
  - c. references to the office of judge or officer of the Supreme Court;
  - d. 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. references to the Supreme Court Order include references to any law altering that Order;
  - b. 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;
  - c. references to the Chief Justice have the same meaning as in the Supreme Court Order;
  - d. references to a judge of the Supreme Court are references to a judge of the High Court or 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
  - e. references to officers of the Supreme Court are references to the Chief Registrar 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 practice as a barrister or a solicitor in Saint Vincent.
5. For the purposes of this Constitution, a person shall not be regarded as holding an office by reason only of the fact that he is in receipt of a pension or other like allowance.
6. In this Constitution, unless the context otherwise requires, a reference to the holder of an office by the term designating his office shall be construed as including, to the extent of his authority, a reference to any person for the time being authorised to exercise the functions of that office.
7. Except in the case where this Constitution provides for the holder of any office thereunder to be such person holding or acting in any other office as may for the time being be designated in that behalf by some other specified person or authority, no person may, without his consent, be nominated for election to any such office or be appointed to or to act therein or otherwise be selected therefor.
8. References in this Constitution to the power to remove a public officer from his office shall be construed as including references to any power conferred by any law to require or permit that officer to retire from the public service:  
Provided that--
  - a. nothing in this subsection shall be construed as conferring on any person or authority the power to require the Director of Public Prosecutions or the Director of Audit to retire from the public service; and
  - b. any power conferred by any law to permit a person to retire from the public service shall, in the case of any public officer who may be removed from office by some person or authority other than a Commission established by this Constitution, vest in the Public Service Commission.
9. Any provision in this Constitution that vests in any person or authority the power to remove any public officer from his office shall be without prejudice to the power of any person or authority to abolish any office or to any law providing for the compulsory retirement of public officers generally or any class of public officer on attaining an age specified by or under that law.
10. Where this Constitution vests in any person or authority the power to appoint any person to act in or to exercise the functions of any office if the holder thereof is himself unable to exercise those



functions, no such appointment shall be called in question on the grounds that the holder of the office was not unable to exercise those functions.

11. No provision of this Constitution that any person or authority shall not be subject to the direction or control of any other person or authority in the exercise of any functions under this Constitution shall be construed as precluding a court 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.

12. Without prejudice to the provisions of section 14 of the Interpretation Act 1978 [FN: 1978 c. 30.] (as applied by subsection (15) of this section), where any power is conferred by this Constitution to make any order, regulation or rule or give any direction or make any designation, the power shall be construed as including the power, exercisable in like manner and subject to the like conditions, if any, to amend or revoke any such order, regulation, rule, direction, or designation.

13. Save as may be otherwise provided by Parliament, the provisions (except sections 2 and 16) of the Commissions of Enquiry Ordinance of Saint Vincent shall apply, with the necessary adaptations, in relation to tribunals appointed under sections 32(6), 77(7), 81(8), 82(8) and 86(6) 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 Ordinance.

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

15. The Interpretation Act 1978 shall apply, with the necessary adaptations, for the purpose of interpreting this Constitution and otherwise in relation thereto as it applies for the purpose of interpreting and in relation to Acts of the Parliament of the United Kingdom.

## THE SCHEDULE TO THE CONSTITUTION

# ALTERATION OF CONSTITUTION AND SUPREME COURT ORDER (Section 38)

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### PART 1 Provisions of Constitution referred to in section 38(3)

- i. Chapter 1;
- ii. sections 19, 20 and 50;
- iii. sections 23, 24(1), 27, 28, 32, 33 (except the number of constituencies), 34, 36, 37, 43, 47, 48 and 49;
- iv. section 64;
- v. Chapter V;
- vi. Chapter VI (except sections 86 and 87);
- vii. Chapter VIII;
- viii. section 105 in its application to any of the provisions mentioned in this Schedule.

## **PART 2 Provisions of Supreme Court Order referred to in section 38(3**

Sections 4, 5, 6, 8, 11, 18 and 19.