
Fifth Session Third Parliament Trinidad and Tobago
25 Elizabeth II



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R. No. 5 L 1962 (Pg. after Pg. 140)

TRINIDAD AND TOBAGO
Act No. 4 of 1976

[L.S.]

CD. 116/76 (295)
1.8.76

AN ACT to establish the Republic of Trinidad and Tobago and to enact the Constitution thereof in lieu of the former Constitution.

[Assented to 29th March, 1976]

WHEREAS it is enacted by subsection (1) of section 38 of the former Constitution that Parliament may alter any of the provisions thereof: Preamble

And whereas it is enacted by subsection (2) of the said section 38 that in so far as it alters certain provisions of the former Constitution a Bill for an Act of Parliament under the said section 38 shall not be passed by Parliament unless at the final voting thereon in each House it is supported by the votes of not less than two-thirds of all the members of each House:

And whereas it is enacted by subsection (3) of the said section 38 that in so far as it alters that section and certain other sections of the former Constitution, a Bill for an Act of Parliament under the said section 38 shall not be passed by Parliament unless it is supported at the final voting thereon—

- (i) in the House of Representatives by the votes of not less than three-fourths of all the members of the House;
- (ii) in the Senate by the votes of not less than two-thirds of all the members of the Senate:

And whereas it is intended by this Parliament by this Act to alter the former Constitution:

Enactment

NOW, THEREFORE, BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Trinidad and Tobago, and by the authority of the same, as follows:—

Short title

1. (1) This Act may be cited as the Constitution of the Republic of Trinidad and Tobago Act, 1976.

(2) This Act shall have effect for the purpose of the alteration of the former Constitution.

Interpretation

2. In this Act—

“alter” has the same meaning as in section 38(6)(b) of the former Constitution;

“appointed day” means the day fixed for the coming into operation of the Constitution by Proclamation of the Governor-General under section 4;

“the Commonwealth” has the same meaning as in section 3 of the Constitution;

“the Constitution” means the Constitution set out in the Schedule;

“existing law” means a law that had effect as part of the law of Trinidad and Tobago immediately before the appointed day;

“the former Constitution” has the same meaning as in section 3 of the Constitution;

“law” has the same meaning as in section 3 of the Constitution;

“the Order-in-Council of 1962” means the Trinidad and Tobago (Constitution) Order-in-Council, 1962;

“public office” has the same meaning as in section 3 of the Constitution;

“the State” means the Republic of Trinidad and Tobago.

3. On the appointed day all the provisions of the former Constitution are repealed and the Order-in-Council of 1962 is revoked, and thereupon the Constitution shall have effect as the supreme law of the State in place of the former Constitution.

Former
Constitution
repealed and
new Constitution
enacted.

4. The Governor-General shall by Proclamation published in the *Gazette* fix a day after the dissolution of the last Parliament under the former Constitution for the coming into operation of the Constitution.

Appointed day

5. (1) Subject to the provisions of this section, the operation of the existing law on and after the appointed day shall not be affected by the revocation of the Order-in-Council of 1962 but the existing laws shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Act.

Existing law

(2) The President, may by Order published in the *Gazette* made at any time within the period of three years next after the appointed day, make such modifications to any existing law as may appear to him to be necessary or expedient for bringing that law into conformity with the Constitution, without prejudice, however, to any powers conferred by any law upon any other person or authority to modify any existing law.

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

(4) In subsection (3) “modification” includes amendment, adaptation or other alteration authorised by subsection (1).

(5) Without prejudice to the generality of subsections (1) to (4) and subject to any Order made under subsection (2), in any existing law which continues in force after the

appointed day or in any public document, in relation to any time or any period commencing on or after the appointed day, unless the context otherwise requires—

- (a) any reference to Her Majesty the Queen, whether or not that expression is used, or to the Crown in respect of Trinidad and Tobago, shall be read and construed as if it were a reference to the State;
- (b) any reference to the Governor-General, shall be read and construed as if it were a reference to the President;
- (c) any reference to Crown land or Crown forest shall be read and construed as a reference to State land or State forest, respectively;
- (d) any reference to Her Majesty's dominions shall be read and construed as a reference to the Commonwealth.

**Prerogative and
privilege**

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

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

**Legal proceedings
and other matters**

7. (1) Subject to subsection (2) all actions, suits and other legal proceedings pending before any court on the appointed day shall continue before that court, including the Supreme Court established by the Constitution, as if they had been commenced in that court under the Constitution.

(2) Any criminal proceedings pending in any court immediately before the appointed day in which Her Majesty the Queen is a party in respect of Trinidad and Tobago, may be continued after the appointed day with the substitution of the State as a party.

(3) Where any matter or thing has been commenced before the appointed day by the Governor-General in exercise of any power in that behalf under any existing law, such matter or thing may be continued and completed by the President on or after the appointed day.

8. (1) All property which, immediately before the appointed day, is vested in Her Majesty or the Governor-General for the purposes of the Government of Trinidad and Tobago, shall, on the appointed day, vest in the State. Succession to property

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

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

9. (1) All rights, liabilities and obligations of Her Majesty in respect of the Government of Trinidad and Tobago, shall, on and after the appointed day, be rights, liabilities and obligations of the State. Rights, liabilities and obligations

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

(3) In this section, rights, liabilities and obligations include rights, liabilities and obligations arising from contract or otherwise, other than rights mentioned in sections 6 and 8.

10. (1) Subject to the provisions of this Act and of the Constitution, every person who immediately before the appointed day holds or is acting in a public office shall, as from that day, continue to hold or act in the like office as if he had been appointed thereto in accordance with the provisions of the Constitution. Existing officers

(2) A person who under the Order-in-Council of 1962 or any existing law would have been required to vacate his office at the expiration of any period shall vacate his office at the expiration of that period.

Judges of the
Supreme Court

11. (1) The Judges of the Supreme Court, holding office immediately before the appointed day shall, as from that day, continue to hold office as if they had been appointed thereto under the provisions of Chapter 7 of the Constitution.

(2) Until other provision is made under Chapter 11 of the Constitution the salaries and allowances of the Judges of the Supreme Court shall be the salaries and allowances to which, immediately before the appointed day, the Judges of the Supreme Court were entitled.

Oaths

12. (1) Any person who holds any office to which this section applies as from the appointed day, by virtue of having been the holder of any office before that day, shall be deemed to have complied with the requirements of the Constitution or any other law in force in Trinidad and Tobago relating to the taking of oaths with respect to that office.

(2) This section applies to any office to which section 10 or 11 applies, to the office of Prime Minister, Minister, Parliamentary Secretary, President of the Senate, Speaker, the Leader of the Opposition, the Auditor General, to any member of a Service Commission other than the Judicial and Legal Service Commission and a member of the Elections and Boundaries Commission.

Transitional provisions relating to existing Commissions

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

(2) Any matter which immediately before the appointed day is pending before an existing Commission or, as the case may be, before any person or authority to whom the power to deal with such matters has been delegated under the former Constitution shall, as from the appointed

day be continued before the corresponding Commission established by the Constitution or, as the case may be, the said person or authority where such delegation has been continued under subsection (1), so however that where an existing Commission or, as the case may be, any person or authority as aforesaid has, immediately before the appointed day, partly completed the hearing of a disciplinary proceeding (in this section referred to as "the original hearing") no person shall take part in the continued hearing unless he has also taken part in the original hearing; and where by virtue of this subsection the original hearing cannot be so continued the hearing of the disciplinary proceeding shall be recommenced.

(3) Except in the case of the Judicial and Legal Service Commission, a person who immediately before the appointed day holds the office of Chairman or other member of a Service Commission (within the meaning of section 3 of the Constitution) established by the former Constitution shall, as from the appointed day continue to hold the like office as if he had been appointed thereto in accordance with the provisions of the Constitution.

(4) Section 126(3)(a) of the Constitution shall have effect in relation to such a person as if the date of his appointment under the former Constitution were the date of his appointment under the Constitution.

(5) The persons holding the office of Chairman and members of the Elections Commission under the former Constitution shall, as from the appointed day, continue to hold the like office in the Elections and Boundaries Commission under the Constitution as if they had been appointed thereto in accordance with the Constitution. This subsection shall have effect only during the period of twelve months next after the appointed day.

14. (1) The person who immediately before the appointed day holds the office of Prime Minister under the former Constitution shall as from that day hold office as Prime Minister under the Constitution as if he had been appointed thereto under the provisions of section 76 of the Constitution.

Saving for offices
of Prime Minister
and Ministers

(2) Where the person who is Prime Minister under subsection (1) is for any reason unable to act or where the office of Prime Minister is vacant, the President, acting on the advice of the Prime Minister, if the Prime Minister is able so to do, shall appoint a person who is a Minister under

subsection (3) to perform the functions of Prime Minister until such time as that person is again able to perform his functions as Prime Minister or until the next general election after the appointed day is held, whichever first occurs.

(3) The persons, other than the Prime Minister, who immediately before the appointed day hold office as Ministers under the former Constitution shall as from that day hold the like office as if they had been appointed thereto under section 76 of the Constitution.

(4) Any person holding the office of Prime Minister or other Minister by virtue of the provisions of subsections (1) to (3) who, immediately before the appointed day, was assigned responsibility for any matter or department of Government under the former Constitution shall, as from that date be deemed to have been assigned responsibility for such matter or department under section 79 of the Constitution.

(5) The persons who, immediately before the appointed day hold offices of Parliamentary Secretaries under the former Constitution, shall, as from that date, hold the like offices as if they had been appointed thereto under section 82 of the Constitution.

(6) A person who, immediately before the appointed day, holds the office of President of the Senate or Speaker under the former Constitution, shall, as from that date, hold the like office as if he had been elected thereto under section 45 or 50, respectively of the Constitution.

(7) The person who, immediately before the appointed day, holds the office of Leader of the Opposition or Auditor General under the former Constitution, shall, as from that date, hold the like office as if he had been appointed thereto under section 83 or 117, respectively of the Constitution.

Alteration to this
Act

15. Parliament may alter any of the provisions of this Act, including this section, other than the Schedule, in the same manner as it may alter the provisions of the Trinidad and Tobago Independence Act, 1962 of the United Kingdom.

16. (1) Where it is necessary under subsection (4) of section 68 of the Constitution for the two Houses to be summoned before the next ensuing general election after the appointed day is held, the two Houses of the last Parliament under the former Constitution shall be deemed to be the two Houses of the preceding Parliament under the Constitution for all the purposes of that subsection and those Houses may proceed to deal with any business before them, notwithstanding any difference in the composition of the Senate under the former Constitution and under the Constitution.

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

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

17. Until a person is appointed to the office of Director of Public Prosecutions under the Constitution the functions of that office shall be performed by the Solicitor General.

18. All enactments passed or made by any Parliament or person or authority under or by virtue of the former Constitution and not before the appointed day declared by a competent court to be void by reason of any inconsistency with any provision of the former Constitution including in particular sections 1 and 2 thereof and that are not repealed, lapsed, spent or that had not otherwise had their effect, shall be deemed to have been validly passed or made and to have had full force and effect as part of the law of Trinidad and Tobago immediately before the appointed day, even if any such enactments were inconsistent with any provision of the former Constitution including in particular sections 1 and 2 thereof.

Saving for
prescribed
matters under
former Constitution

19. All enactments passed or made by any Parliament or person or authority in pursuance of the former Constitution for the purpose of prescribing any matter or thing authorised or required to be prescribed by the former Constitution that is correspondingly authorised or required to be prescribed for the purposes of the Constitution shall, until some other matter or thing is prescribed in pursuance of the Constitution for the purposes thereof continue in full force and effect for all the purposes of the Constitution.

Saving for
Standing Orders

20. The Standing Orders of the Senate and of the House of Representatives of the last Parliament under the former Constitution as in force immediately before the appointed day shall, except as may be otherwise provided in pursuance of section 56(1) of the Constitution, be the Standing Orders of the Senate and of the House of Representatives established by the Constitution, but shall be read and construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Act.

Transitional as to
constituency
boundaries and
list of electors

21. (1) Notwithstanding section 54(2)(b) of the former Constitution, the Boundaries Commission shall prepare a fresh report of the boundaries of the constituencies in accordance with the said section 54 and any other law relating to the registration of voters of 18 years and over.

(2) The last report of the Boundaries Commission under section 54 of the former Constitution shall—

- (a) be submitted by the Commission to the Prime Minister and the Speaker for presentation to the House of Representatives of the last Parliament under the former Constitution as soon as possible after the passing of this Act; and
- (b) be deemed to be the first report of the Elections and Boundaries Commission under section 72 of the Constitution and any other law for all the purposes of the Constitution.

(3) The list of electors prepared by the Elections Commission pursuant to any law relating to the registration of voters of the age of 18 years and over and used for the purpose of the preparation of the report of the Commission on the boundaries of the constituencies under section 54 of the former Constitution shall be deemed to be the list of electors prepared by the Elections and Boundaries Commission under section 72 of the Constitution and the Representation of the People Act, 1967 for all the purposes of the Constitution.

22. (1) The Clerk of the Senate and the Clerk of the House of Representatives shall certify whether this Act is one the Bill for which has been passed by the Senate and the House, respectively, and at the final voting thereon in the Senate and in the House, respectively, has been supported, in the Senate by the votes of not less than two-thirds of all the members of the Senate, and in the House, by the votes of not less than three-fourths of all the members of the House.

(2) The certificates of the Clerk of the Senate and the Clerk of the House of Representatives under subsection (1) duly signed and authenticated by them shall be conclusive evidence that this Act is one the Bill for which has been passed by both Houses of Parliament and at the final voting thereon in each House has been supported by the votes of not less than two-thirds of all the members of the Senate and three-fourths of all the members of the House of Representatives, as provided for in section 38 of the former Constitution.

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(Section 2)

THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND
TOBAGO

Whereas the People of Trinidad and Tobago—

- (a) have affirmed that the Nation of Trinidad and Tobago is founded upon principles that acknowledge the supremacy of God, faith in fundamental human rights and freedoms, the position of the family in a society of free men and free institutions, the dignity of the human person and the equal and inalienable rights with which all members of the human family are endowed by their Creator;
- (b) respect the principles of social justice and therefore believe that the operation of the economic system should result in the material resources of the community being so distributed as to subserve the common good, that there should be adequate means of livelihood for all, that labour should not be exploited or forced by economic necessity to operate in inhumane conditions but that there should be opportunity for advancement on the basis of recognition of merit, ability and integrity;
- (c) have asserted their belief in a democratic society in which all persons may, to the extent of their capacity, play some part in the institutions of the national life and thus develop and maintain due respect for lawfully constituted authority;
- (d) recognise that men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law;
- (e) desire that their Constitution should enshrine the above-mentioned principles and beliefs and make provision for ensuring the protection in Trinidad and Tobago of fundamental human rights and freedoms;

Now, therefore the following provisions shall have effect as the Constitution of the Republic of Trinidad and Tobago:

PRELIMINARY

The State

1. (1) The Republic of Trinidad and Tobago shall be a sovereign democratic State.

(2) Trinidad and Tobago shall comprise the Island of Trinidad, the Island of Tobago and any territories that immediately before the 31st day of August, 1962 were dependencies of Trinidad and Tobago, including the seabed and subsoil situated beneath the territorial sea and the continental shelf of Trinidad and Tobago ("territorial sea" and "continental shelf" here having the same meaning as in the Territorial Sea Act, 1969 and the Continental Shelf Act, 1969, respectively), together with such other areas as may be declared by Act to form part of the territory of Trinidad and Tobago.

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No. 43 of 1969

The Supreme
Law

2. This Constitution is the supreme law of Trinidad and Tobago, and any other law that is inconsistent with this Constitution is void to the extent of the inconsistency.

3. (1) In this Constitution—

Interpretation

- “the Cabinet” means the Cabinet constituted under this Constitution;
- “the Commonwealth” means Trinidad and Tobago, any country to which section 18 applies and any dependency of any such country;
- “Court” means any court of law in Trinidad and Tobago other than a court martial and shall be construed as including the Judicial Committee;
- “financial year” means any period of twelve months beginning on the first day of January in any year or such other date as may be prescribed;
- “general election” means a general election of members to serve in the House of Representatives;
- “House” means either the House of Representatives or the Senate as the context may require;
- “Judge” includes the Chief Justice, a Judge of Appeal and a Puisne Judge;
- “Judicial Committee” means the Judicial Committee of the Privy Council established by the Judicial Committee Act, 1833 of the United Kingdom as from time to time amended by any Act of Parliament of the United Kingdom;
- “law” includes any enactment, and any Act or statutory instrument of the United Kingdom that before the commencement of this Constitution had effect as part of the law of Trinidad and Tobago, having the force of law and any unwritten rule of law;
- “oath” includes affirmation;
- “oath of allegiance” means the oath of allegiance set out in the First Schedule or such other oath as may be prescribed;
- “Parliament” means the Parliament of Trinidad and Tobago;
- “parliamentary election” means an election of a member or members to serve in the House of Representatives;
- “prescribed” means prescribed by or under an Act of Parliament;
- “public office” means an office of emolument in the public service;
- “public officer” means the holder of any public office and includes any person appointed to act in any such office;
- “public service” means subject to the provisions of subsections (4) and (5), the service of the Government of Trinidad and Tobago in a civil capacity;
- “Service Commission” means the Judicial and Legal Service Commission, the Public Service Commission, the Police Service Commission or the Teaching Service Commission;
- “session” means, in relation to a House, the sittings of that House commencing when it first meets after this Constitution comes into force or after the prorogation or dissolution of Parliament at any time, and terminating when Parliament is prorogued or is dissolved without having been prorogued;
- “sitting” means, in relation to a House, a period during which that House is sitting continuously without adjournment, and includes any period during which the House is in committee;

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“Trinidad and Tobago” has the meaning attributed to that expression in the Trinidad and Tobago Independence Act, 1962;

“the former Constitution” means the Trinidad and Tobago Constitution set out in the Second Schedule to the Trinidad and Tobago (Constitution) Order in Council, 1962.

(2) In this Constitution—

(a) a reference to an appointment to any office shall be construed as including a reference to the appointment of a person to act in or perform the functions of that office at any time when the office is vacant or the holder thereof is unable (whether by reason of absence or infirmity of mind or body or any other cause) to perform the functions of that office; and

(b) a reference to the holder of an office by the term designating his office shall be construed as including a reference to any person for the time being lawfully acting in or performing the functions of that office.

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

(4) For the purposes of this Constitution a person shall not be considered to hold an office in the public service by reason only that—

(a) he is in receipt of a pension or other like allowance in respect of public service;

(b) he holds the office of—

(i) President;

(ii) Speaker, President of the Senate, Deputy Speaker or Vice-President of the Senate, Minister, Parliamentary Secretary, member or temporary member of the Senate or member of the House of Representatives;

(iii) Ombudsman or member of the Integrity Commission or member of any other Commission established by this Constitution;

(iv) Judge or member of a Superior Court of Record or any special judicial tribunal established by Act of Parliament or member of the Public Service Appeal Board;

(v) member of any board, commission, committee or similar body, whether incorporated or not, established by any enactment;

(vi) member of the personal staff of the President.

(c) he is—

- (i) a consultant or adviser appointed for specific purposes; or
- (ii) a person appointed on contract for a period not exceeding five years.

(5) Where Parliament so provides, a person shall not be considered for the purposes of this Constitution or any part of this Constitution to hold office in the public service by reason only that he is the holder of a special office established by or under an Act.

(6) References in this Constitution to the power to remove a public officer from his office shall be construed as including references to any power conferred by any law to require or permit that officer to retire from the public service.

(7) Any 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.

(8) Nothing in subsection (6) shall be construed as conferring on any person or authority power to require a Judge or the Auditor General to retire from the public service.

(9) Where any power is conferred by this Constitution to make any proclamation, order, rules or regulations or to give any directions, the power shall be construed as including a power exercisable in like manner to amend or revoke any such proclamation, order, rules regulations or directions.

CHAPTER I

THE RECOGNITION AND PROTECTION OF FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

PART I

Rights enshrined

4. It is hereby recognised and declared that in Trinidad and Tobago there have existed and shall continue to exist without discrimination by reason of race, origin, colour, religion or sex, the following fundamental human rights and freedoms, namely:—

Recognition and
declaration of
rights and freedoms

- (a) the right of the individual to life, liberty, security of the person and enjoyment of property and the right not to be deprived thereof except by due process of law;
- (b) the right of the individual to equality before the law and the protection of the law;
- (c) the right of the individual to respect for his private and family life;
- (d) the right of the individual to equality of treatment from any public authority in the exercise of any functions;
- (e) the right to join political parties and to express political views;

- (f) the right of a parent or guardian to provide a school of his own choice for the education of his child or ward;
- (g) freedom of movement;
- (h) freedom of conscience and religious belief and observance;
- (i) freedom of thought and expression;
- (j) freedom of association and assembly; and
- (k) freedom of the press.

**Protection of rights
and freedoms**

5. (1) Except as is otherwise expressly provided in this Chapter and in section 54, no law may abrogate, abridge or infringe or authorise the abrogation, abridgement or infringement or any of the rights and freedoms hereinbefore recognised and declared.

(2) Without prejudice to subsection (1), but subject to this Chapter and to section 54, Parliament may not—

- (a) authorise or effect the arbitrary detention, imprisonment or exile of any person;
- (b) impose or authorise the imposition of cruel and unusual treatment or punishment;
- (c) deprive a person who has been arrested or detained—
 - (i) of the right to be informed promptly and with sufficient particularity of the reason for his arrest or detention;
 - (ii) of the right to retain and instruct without delay a legal adviser of his own choice and to hold communication with him;
 - (iii) of the right to be brought promptly before an appropriate judicial authority;
 - (iv) of the remedy by way of habeas corpus for the determination of the validity of his detention and for his release if the detention is not lawful;
- (d) authorise a court, tribunal, commission, board or other authority to compel a person to give evidence unless he is afforded protection against self-incrimination and, where necessary to ensure such protection, the right to legal representation;
- (e) deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations;
- (f) deprive a person charged with a criminal offence of the right—
 - (i) to be presumed innocent until proved guilty according to law, but this shall not invalidate a law by reason only that the law imposes on any such person the burden of proving particular facts;
 - (ii) to a fair and public hearing by an independent and impartial tribunal or;
 - (iii) to reasonable bail without just cause;

- (g) deprive a person of the right to the assistance of an interpreter in any proceedings in which he is involved or in which he is a party or a witness, before a court, commission, board or other tribunal, if he does not understand or speak English; or
- (h) deprive a person of the right to such procedural provisions as are necessary for the purpose of giving effect and protection to the aforesaid rights and freedoms.

PART 2

Exceptions for Existing Law

6. (1) Nothing in sections 4 and 5 shall invalidate—

Savings for existing
law

- (a) an existing law;
- (b) an enactment that repeals and re-enacts an existing law without alteration; or
- (c) an enactment that alters an existing law but does not derogate from any fundamental right guaranteed by this Chapter in a manner in which or to an extent to which the existing law did not previously derogate from that right.

(2) Where an enactment repeals and re-enacts with modifications an existing law and is held to derogate from any fundamental right guaranteed by this Chapter in a manner in which or to an extent to which the existing law did not previously derogate from that right then, subject to sections 13 and 54, the provisions of the existing law shall be substituted for such of the provisions of the enactment as are held to derogate from the fundamental right in a manner in which or to an extent to which the existing law did not previously derogate from that right.

- (3) In this section—

“alters” in relation to an existing law, includes repealing that law and re-enacting it with modifications or making different provisions in place of it or modifying it;

“existing law” means a law that had effect as part of the law of Trinidad and Tobago immediately before the commencement of this Constitution, and includes any enactment referred to in subsection (1);

“right” includes freedom.

PART 3

Exceptions for Emergencies

7. (1) Without prejudice to the power of Parliament to make Emergency powers provision in the premise, but subject to this section, where any period of public emergency exists, the President may, due regard being had to the circumstances of any situation likely to arise or exist during such period make regulations for the purpose of dealing with that situation and issue orders and instructions for the purpose of the exercise of any powers conferred on him or any other person by any Act referred to in subsection (3) or instrument made under this section or any such Act.

(2) Without prejudice to the generality of subsection (1) regulations made under that subsection may, subject to section 11, make provision for the detention of persons.

(3) An Act that is passed during a period of public emergency and is expressly declared to have effect only during that period or any regulations made under subsection (1) shall have effect even though inconsistent with sections 4 and 5 except in so far as its provisions may be shown not to be reasonably justifiable for the purpose of dealing with the situation that exists during that period.

Period of public
emergency

8. (1) Subject to this section, for the purposes of this Chapter, the President may from time to time make a Proclamation declaring that a state of public emergency exists.

(2) A Proclamation made by the President under subsection (1) shall not be effective unless it contains a declaration that the President is satisfied—

- (a) that a public emergency has arisen as a result of the imminence of a state of war between Trinidad and Tobago and a foreign State;
- (b) that a public emergency has arisen as a result of the occurrence of any 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.

Grounds for, and
initial duration of
Proclamation

9. (1) Within three days of the making of the Proclamation, the President shall deliver to the Speaker for presentation to the House of Representatives a statement setting out the specific grounds on which the decision to declare the existence of a state of public emergency was based, and a date shall be fixed for a debate on this statement as soon as practicable but in any event not later than fifteen days from the date of the Proclamation.

(2) A Proclamation made by the President for the purpose^s of and in accordance with this section shall, unless previously revoked, remain in force for fifteen days.

Extension of
Proclamation

10. (1) Before its expiration the Proclamation may be extended from time to time by resolution supported by a simple majority vote of the House of Representatives, so however, that no extension exceeds three months and the extensions do not in the aggregate exceed six months.

(2) The Proclamation may be further extended from time to time for not more than three months at any one time, by a resolution passed by both Houses of Parliament and supported by the votes of not less than three-fifths of all the members of each House.

(3) The Proclamation may be revoked at any time by a resolution supported by a simple majority vote of the House of Representatives.

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

- (a) Trinidad and Tobago is engaged in any war; or
- (b) there is in force a Proclamation by the President declaring that a state of public emergency exists; or
- (c) there is in force a resolution of both Houses of Parliament supported by the votes of not less than two-thirds of all the members of each House declaring that democratic institutions in Trinidad and Tobago are threatened by subversion.

11. (1) Where any person who is lawfully detained by virtue only of such an Act or regulations as is referred to in section 7 so requests at any time during the period of that detention and thereafter not earlier than six months after he last made such a request during that period, his case shall be reviewed by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice from among the persons entitled to practise in Trinidad and Tobago as barristers or solicitors.

(2) On any review by a tribunal in pursuance of subsection (1) of the case of any detained person, the tribunal may make recommendations concerning the necessity or expediency of continuing his detention to the authority by whom it was ordered but, unless otherwise provided by law, that authority shall not be obliged to act in accordance with such recommendations.

12. (1) Where at any time it is impracticable or inexpedient to publish in the *Gazette* any Proclamation, Notice, Regulation or Order in pursuance of this Part, the President may cause the same to be published by notices thereof affixed to public buildings or distributed amongst the public or by oral public announcements.

(2) Upon the publication of any Proclamation under this Part all such detention orders, curfew orders or other instruments, directions or instructions as are authorised to be made, issued or given by any regulations referred to in section 7 may be made, issued or given and executed upon any person or authority, even if such regulations have not yet been published pursuant to subsection (1).

PART 4

Exceptions for Certain Legislation

13. (1) An Act to which this section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 and, if any such Act does so declare, it shall have effect accordingly unless the Act is shown not to be reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual.

(2) An Act to which this section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House.

(3) For the purposes of subsection (2) the number of members of the Senate shall, notwithstanding the appointment of temporary members in accordance with section 44, be deemed to be the number of members specified in section 40(1).

PART 5

General

Enforcement of
the protective
provisions

14. (1) For the removal of doubts it is hereby declared that if any person alleges that any of the provisions of this Chapter has been, is being, or is likely to be contravened in relation to him, then without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the High Court for redress by way of originating motion.

(2) The High Court shall have original jurisdiction—

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

(b) to determine any question arising in the case of any person which is referred to it in pursuance of subsection (4),

and may, subject to subsection (3), make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing, or securing the enforcement of, any of the provisions of this Chapter to the protection of which the person concerned is entitled.

No. 17 of 1966

(3) The State Liability and Proceedings Act, 1966 shall have effect for the purpose of any proceedings under this section.

(4) Where in any proceedings in any court other than the High Court or the Court of Appeal any question arises as to the contravention of any of the provisions of this Chapter 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.

(5) Any person aggrieved by any determination of the High Court under this section may appeal therefrom to the Court of Appeal and shall be entitled as of right to a stay of execution of the order and may in the discretion of the Court be granted bail.

(6) Nothing in this section shall limit the power of Parliament to confer on the High Court or the Court of Appeal such powers as Parliament may think fit in relation to the exercise by the High Court or the Court of Appeal, as the case may be, of its jurisdiction in respect of the matters arising under this Chapter.

CHAPTER 2

CITIZENSHIP

Continuation of
citizenship of
citizens under
section 9 of
former
Constitution

15. Any person who became a citizen by birth under section 9(1) or a citizen by descent under section 9(2) of the former Constitution and who has not ceased to be a citizen under that Constitution, shall continue to be a citizen under this Constitution.

16. Any person who became a citizen of Trinidad and Tobago by virtue of registration under the former Constitution or by virtue of an acquisition of citizenship under Part II of the Trinidad and Tobago Citizenship Act, 1962, and who has not ceased to be a citizen under any law in force in Trinidad and Tobago shall continue to be a citizen under this Constitution.

Continuation of citizenship of citizens by registration, naturalization, etc.
No. 11 of 1962

17. (1) Subject to subsection (2), every person born in Trinidad and Tobago after the commencement of this Constitution shall become a citizen of Trinidad and Tobago at the date of his birth.

Acquisition of citizenship by birth or descent.
Continuation of citizenship.
Retrospective citizenship

(2) A person shall not become a citizen of Trinidad and Tobago by virtue of subsection (1), if at the time of his birth—

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

(3) A person born outside Trinidad and Tobago after the commencement of this Constitution shall become a citizen of Trinidad and Tobago at the date of his birth if at that date either of his parents is, or was, but for his parent's death, a citizen of Trinidad and Tobago otherwise than by descent, so however that, in the case of a person employed in service under the Government or under an authority of the Government that requires him to reside outside Trinidad and Tobago for the proper discharge of his functions, this subsection shall be read as if the words "otherwise than by descent" were deleted.

(4) Any person who became a citizen by birth under section 12(1) or a citizen by descent under section 12(2) of the former Constitution and who has not ceased to be a citizen under that Constitution, shall continue to be a citizen under this Constitution.

(5) A person born outside Trinidad and Tobago after the 30th August, 1962 whose mother was a citizen of Trinidad and Tobago otherwise than by descent at the date of his birth but who did not become a citizen at that date shall be deemed to have become a citizen at that date and shall continue to be a citizen of Trinidad and Tobago under this Constitution.

18. (1) Every person who under this Constitution or any Act of Parliament is a citizen of Trinidad and Tobago or, under any law for the time being in force in any country to which this section applies, is a citizen of that country shall, by virtue of that citizenship, have the status of a Commonwealth citizen.

Commonwealth citizens

(2) Every person who is a British subject without citizenship under the British Nationality Act, 1948 of the United Kingdom or who continues to be a British subject under section 2 of that Act or who is a British subject under the British Nationality Act, 1965 of the United Kingdom shall, by virtue of that status, have the status of a Commonwealth citizen.

11 and 12 Geo. VI c. 56

(3) The countries to which this section applies are Australia, the Bahamas, Bangladesh, Barbados, Botswana, Canada, Cyprus, Fiji, The Gambia, Ghana, Grenada, Guyana, India, Jamaica, Kenya, Lesotho, Malawi, Malaysia, Malta, Mauritius, Nauru, New Zealand, Nigeria, Sierra Leone, Singapore, Sri Lanka, Swaziland, Tanzania, Tonga, Uganda, United Kingdom and Colonies, Western Samoa and Zambia.

(4) The President may from time to time, by Order subject to affirmative resolution of the Senate and the House of Representatives amend subsection (3) by adding any Commonwealth country thereto or by deleting any Commonwealth country therefrom.

Criminal
liability of
Commonwealth
citizens

19. (1) A Commonwealth citizen who is not a citizen of Trinidad and Tobago, or a citizen of the Republic of Ireland who is not a citizen of Trinidad and Tobago, shall not be guilty of any offence against any law in force in Trinidad and Tobago by reason of anything done or omitted in any part of the Commonwealth other than Trinidad and Tobago or in the Republic of Ireland or in any foreign country unless—

(a) the act or omission would be an offence if he were an alien; and

(b) in the case of an act or omission in any part of the Commonwealth or in the Republic of Ireland, it would be an offence if the country in which the act was done or the omission made were a foreign country.

(2) In this section "foreign country" means a country (other than the Republic of Ireland) that is not part of the Commonwealth.

Powers of
Parliament

20. Parliament may make provisions relating to citizenship including provision—

(a) for the acquisition of citizenship of Trinidad and Tobago by persons who are not or do not become citizens of Trinidad and Tobago by virtue of the provisions of this Chapter;

(b) for depriving of his citizenship of Trinidad and Tobago any citizen of Trinidad and Tobago but only on the acquisition of citizenship of some other country in the case of a citizen by birth or descent; or

(c) for the renunciation by any person of his citizenship of Trinidad and Tobago.

Interpretation
of Ch. 2.

21. (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 of the United Kingdom;

"citizen by birth" means a person—

(a) who is a citizen of Trinidad and Tobago under section 17(1); or

(b) who became a citizen of Trinidad and Tobago under section 9(1) or 12(1) of the former Constitution;

11 and 12 Geo. VI
C: 56

“citizen by descent” means a person—

- (a) who is a citizen of Trinidad and Tobago under section 17(3) or any enactment; or
- (b) who became a citizen of Trinidad and Tobago under section 9(2) or 12(2) of the former Constitution.

(2) For the purposes of this Chapter, a person born outside Trinidad and Tobago 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 has been registered or, as the case may be, in that country.

CHAPTER 3

The President

22. There shall be a President of Trinidad and Tobago elected in accordance with the provisions of this Chapter who shall be the Head of State and Commander-in-Chief of the armed forces.

Establishment
of office and
election of
President

23. (1) A person is qualified to be nominated for election as President if, and is not so qualified unless, he is a citizen of Trinidad and Tobago of the age of thirty-five years or upwards who at the date of his nomination has been ordinarily resident in Trinidad and Tobago for ten years immediately preceding his nomination.

Qualifications
and disqualifi-
cations for
office of
President

(2) For the purposes of subsection (1) a person shall be deemed to reside in Trinidad and Tobago if he holds an office in the service of the Government of Trinidad and Tobago and lives outside Trinidad and Tobago because he is required to do so for the proper discharge of his functions.

(3) A person is not qualified to be nominated for election as President who is disqualified for election as a member of the House of Representatives by virtue of section 48(1) or any law made under section 48(2).

24. (1) Where a member of the Senate or the House of Representatives is elected as President, his seat in the Senate or the House of Representatives respectively, shall thereupon become vacant.

Other conditions
of office

(2) Except in the case of a person acting as, or performing the functions of President under section 27, but subject to sections 44(2) and 56(8), the President shall not hold any other office of emolument or profit whether in the public service or otherwise.

(3) The salary and allowances of a President and his other terms of service shall not be altered to his disadvantage after he has assumed office.

25. (1) The person holding the office of Governor-General of Trinidad and Tobago at the commencement of this Constitution shall hold the office of President under this Constitution until a President is elected under the provisions of this Chapter and assumes office.

Transitional
provision

(2) Where at any time between the appointed day and the election of the first President of the Senate under section 45, the President under subsection (1) is for any reason unable to perform the functions of President then, until the President under subsection (1) is again able to perform his functions as President those functions shall be performed by the person who last held the office of President of the Senate under the former Constitution.

Holding of
elections for
President

26. (1) The Speaker of the House of Representatives shall be responsible for the holding of elections for President.

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

(3) An election for President shall be held not more than one hundred and twenty days nor less than ninety days after the first sitting of the House of Representatives under this Constitution and the President who is so elected shall assume office on the expiration of thirty days next after his election.

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

(5) Where the office of President becomes vacant under section 34 before the expiration of the term of that office prescribed by section 33, an election shall be held to fill the vacancy within ninety days of the occurrence of the vacancy.

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

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

Where office
vacant

27. (1) Where the office of President is vacant or the President is incapable of performing his functions as President by reason of his absence from Trinidad and Tobago or by reason of illness, the President of the Senate shall act temporarily as President.

(2) Where the President of the Senate is for any reason unable to act as President under subsection (1) or section 36(2) the functions of President shall be performed by the Speaker.

(3) Where the Speaker is for any reason unable to perform the functions of President under subsection (2), the Vice-President of the Senate shall perform those functions, so however that a meeting of the Electoral College shall be held, upon the summons of the Deputy Speaker giving at least forty-eight hours notice thereof, within seven days of the Vice-President of the Senate commencing to perform the functions of President for the purpose of holding an election of a person to fill the vacancy in the office of President under section 26(5), or of a person to act temporarily as President during such period as the President is incapable of performing his functions.

(4) Upon his election to fill the vacancy in the office of President under section 26(5) or to act temporarily as President during such period as the President is incapable of performing his functions in accordance with subsection (3) the person shall immediately assume office.

28. (1) There shall be an Electoral College for the purposes of this Chapter which shall be a unicameral body consisting of all the members of the Senate and all the members of the House of Representatives assembled together. Electoral
College

(2) The Electoral College shall be convened by the Speaker.

(3) The Speaker shall preside as Chairman over the proceedings of the Electoral College and shall have an original vote.

(4) Subject to this Chapter, the Electoral College may regulate its own procedure and may make provision for the postponement or adjournment of its meetings and such other provisions as may be necessary to deal with difficulties that may arise in the carrying out of elections under this Chapter.

(5) Ten Senators, the Speaker and twelve other members of the House of Representatives shall constitute a quorum of the Electoral College.

29. The President shall be elected by the Electoral College voting by secret ballot. Mode of
elections

30. A person shall not be a candidate for election as President unless he is nominated for election by a nomination paper which— Nomination of
candidates

(a) is signed by him and by twelve or more members of the House of Representatives; and

(b) is delivered to the Speaker at least seven days before the election.

31. (1) The candidate who is unopposed or who obtains the greatest number of the votes cast shall be declared elected. Procedure for
balloting

(2) Where the votes cast for two or more candidates are equally divided the Speaker shall have and exercise a casting vote.

32. (1) Subject to subsection (2), an instrument which— Determination
of questions
as to election

(a) in the case of an uncontested election for the office of President is signed and sealed by the Speaker and states that a person named in the instrument was the only person nominated for the election and was in consequence declared elected; or

(b) in the case of a contested election is signed and sealed by the Speaker and states that a person named in the instrument was declared elected at that meeting in consequence of the ballot,

shall be conclusive evidence that the person so named was so elected, and no question as to the validity of the election of the person so named shall be inquired into in any court.

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

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

**Term of
office**

33. (1) Subject to this section and to sections 34 and 36, a President elected at an election under section 26(3) or (4) shall hold office for a term of five years.

(2) Parliament may make provision for the postponement of the date of expiration of the term of office of the President under subsection (1), for a period not exceeding four months, in order to avoid the holding of an election for that office during a period of dissolution of Parliament or at a time too close to the beginning or to the end of such a period.

(3) Where for any reason at the date on which the term of office of the President is due to expire under subsection (1) or (2) there is no person entitled by election under section 26(4) to fill the office of President upon its expiration, the current term of that office shall continue until thirty days after a person is elected to the office of President whereupon the current term of that office shall expire.

(4) Where a person is elected to fill a vacancy in the office of President in an election under section 26(5) he shall hold office only for the unexpired portion of the term of office of his predecessor.

**Vacation of
office**

34. The office of President shall become vacant before the expiration of the term of his office as prescribed by section 33 where—

- (a) the person holding that office dies or resigns the office by writing signed by him addressed to the House of Representatives and delivered to the Speaker; or
- (b) he is removed from office under section 36.

**Removal from
office**

35. The President may be removed from office under section 36 where—

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

36. (1) The President shall be removed from office where—
- Procedure
for removal
from office
- (a) a motion that his removal from office should be investigated by a tribunal is proposed in the House of Representatives;
- (b) the motion states with full particulars the grounds on which his removal from office is proposed, and is signed by not less than one-third of the total membership of the House of Representatives;
- (c) the motion is adopted by the vote of not less than two-thirds of the total membership of the Senate and the House of Representatives assembled together;
- (d) a tribunal consisting of the Chief Justice and four other Judges appointed by him, being as far as practicable the most senior Judges, investigate the complaint and report on the facts to the House of Representatives;
- (e) the Senate and the House of Representatives assembled together on the summons of the Speaker consider the report and by resolution supported by the votes of not less than two-thirds of the total membership of the Senate and the House of Representatives assembled together declare that he shall be removed from office.

(2) Where a motion is adopted as is provided for in subsection (1)(a), (b) and (c) the President shall cease to perform any of his functions as President and the President of the Senate shall act temporarily as President.

(3) The procedure of the tribunal shall be such as is prescribed, but, subject to such procedure, the tribunal may regulate its own procedure.

(4) Upon the adoption of the resolution in accordance with subsection (1)(c) the office shall become vacant.

37. (1) A President shall before entering upon the duties of his office take and subscribe the oath of office set out in the First Schedule, such oath being administered by the Chief Justice or such other Judge as may be designated by the Chief Justice.

Oath
First Schedule

(2) Subsection (1) shall apply to any person required under this Constitution to perform the functions of the office of President as it applies to a person elected as such.

38. (1) Subject to section 36, the President shall not be answerable to any court for the performance of the functions of his office or for any act done by him in the performance of those functions.

Immunities of
President

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

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

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

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

CHAPTER 4

PARLIAMENT

PART I

COMPOSITION OF PARLIAMENT

Establishment

Establishment of Parliament

39. There shall be a Parliament of Trinidad and Tobago which shall consist of the President, the Senate and the House of Representatives.

The Senate

Composition of Senate

40. (1) The Senate shall consist of thirty-one members (in this Constitution referred to as "Senators") who shall be appointed by the President in accordance with this section.

(2) Of the thirty-one Senators—

- (a) sixteen shall be appointed by the President acting in accordance with the advice of the Prime Minister;
- (b) six shall be appointed by the President acting in accordance with the advice of the Leader of the Opposition; and
- (c) nine shall be appointed by the President in his discretion from outstanding persons from economic or social or community organizations and other major fields of endeavour.

Qualifications for appointment as Senator

41. Subject to section 42, a person shall be qualified to be appointed as a Senator if, and shall not be qualified to be so appointed unless, he is a citizen of Trinidad and Tobago of the age of twenty-five years or upwards.

Disqualifications for appointment as Senator

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

- (a) is a citizen of a country other than Trinidad and Tobago having become such a citizen voluntarily or is under a declaration of allegiance to such a country;
- (b) is a member of the House of Representatives,
- (c) is an undischarged bankrupt having been adjudged or otherwise declared bankrupt under any law in force in Trinidad and Tobago;

- (d) is mentally ill, within the meaning of the Mental Health No. 30 of 1975 Act, 1975;
- (e) is under sentence of death imposed on him by a court or is serving a sentence of imprisonment, by whatever name called, exceeding twelve months imposed on him by a court or substituted by competent authority for some other sentence imposed on him by a court, or is under such a sentence of imprisonment the execution of which has been suspended;
- (f) is disqualified for membership of the House of Representatives by virtue of any law in force in Trinidad and Tobago by reason of his having been convicted of any offence relating to elections; or
- (g) is not qualified to be registered as an elector at a Parliamentary election under any law in force in Trinidad and Tobago.
- (2) Parliament may provide that, subject to such exceptions and limitations, if any, as may be prescribed, a person shall be disqualified for membership of the Senate by virtue of—
- (a) his holding or acting in any office or appointment, either individually or by reference to a class of office or appointment;
- (b) his belonging to any of the armed forces of the State or to any class of person that is comprised in any such force; or
- (c) his belonging to any police force or to any class of person that is comprised in any such force.
- (3) For the purposes of subsection (1)(e)—
- (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.
43. (1) Every Senator shall vacate his seat in the Senate at the next dissolution of Parliament after his appointment. Tenure of
office of
Senators
- (2) A Senator shall also vacate his seat in the Senate where—
- (a) he is absent from the sittings of the Senate for such period and in such circumstances as may be prescribed in the rules of procedure of the Senate;
- (b) with his consent, he is nominated as a candidate for election to the House of Representatives, or he is elected to be a member of the House of Representatives;
- (c) he ceases to be a citizen of Trinidad and Tobago;
- (d) subject to the provisions of subsection (3) any circumstances arise that, if he were not a Senator, would cause him to be disqualified for appointment as such by virtue of subsection (1) of section 42 or any law enacted in pursuance of subsection (2) of that section; or

(e) the President, acting in accordance with the advice of the Prime Minister in the case of a Senator appointed in accordance with that advice, or in accordance with the advice of the Leader of the Opposition in the case of a Senator appointed in accordance with that advice, or in his discretion in the case of a Senator appointed by him in his discretion, declares the seat of that Senator to be vacant.

(3) Where circumstances such as are referred to in subsection (2) (*d*) arise because a Senator is under sentence of death or imprisonment, is mentally ill, declared bankrupt or convicted of an offence relating to elections, and where it is open to the Senator to appeal against the decision, either with the leave of a court or other authority or without such leave, he shall forthwith cease to perform his functions as a Senator, so however that, subject to the provisions of this section, he shall not vacate his seat until the expiration of a period of thirty days thereafter.

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

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

(6) Where at any time before the Senator vacates his seat, such circumstances as are mentioned in this section cease to exist, his seat shall not become vacant on the expiration of the period referred to in subsection (3) and he may resume the performance of his functions as a Senator.

**Appointment of
temporary
Senators**

44. (1) Where a Senator has temporarily vacated his office under subsection (2) or is incapable of performing his functions as a Senator by virtue of the provisions of section 43(3) or by reason of—

- (a) his absence from Trinidad and Tobago, or
- (b) illness,

the President may appoint a person qualified for appointment as a Senator to be temporarily a member of the Senate during such vacation of office, suspension, absence or illness.

(2) Where the President of the Senate or the Vice-President of the Senate is acting as, or temporarily performing the functions of, President in accordance with section 27 then, without prejudice to the power of the Prime Minister, the Leader of the Opposition, or the President, as the case may be, with respect to appointments under section 40(2), the person holding the office of President of the Senate or Vice-President of the Senate shall vacate that office temporarily during such period as he is acting as, or temporarily performing the functions of, President.

(3) Section 43(1) and (2) shall apply in relation to a person appointed under this section as they apply in relation to a Senator, except that paragraph (*d*) of the said subsection (2) shall apply as if it were not

expressed to be subject to subsection (3) of the said section 43, and an appointment made under this section shall in any case cease to have effect if the person appointed is notified by the President that the circumstances giving rise to his appointment have ceased to exist.

(4) In the exercise of the powers conferred upon him by this section the President shall act—

- (a) in accordance with the advice of the Prime Minister in relation to a Senator appointed in pursuance of section 40(2)(a);
- (b) in accordance with the advice of the Leader of the Opposition in relation to a Senator appointed in pursuance of section 40(2)(b); and
- (c) in accordance with his own judgment in relation to a Senator appointed by him pursuant to section 40(2)(c).

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

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

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

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

- (a) he ceases to be a Senator; so however that the President of the Senate shall not vacate his office by reason only that he has ceased to be a Senator on a dissolution of Parliament until the Senate first meets after that dissolution;
- (b) he is appointed to be a Minister or a Parliamentary Secretary;
- (c) he announces the resignation of his office to the Senate or where, by writing under his hand addressed, in the case of the President of the Senate, to the Clerk of the Senate, and in the case of the Vice-President of the Senate to the President of the Senate (or, where the office of President of the Senate is vacant or the President of the Senate is absent from Trinidad and Tobago, to the Clerk of the Senate), he resigns that office.

(5) Where, by virtue of section 43(3) the President of the Senate or Vice-President of the Senate is required to cease to perform his functions as a Senator he shall also cease to perform his functions as

President of the Senate or Vice-President of the Senate as the case may be, and those functions shall, until he vacates his seat in the Senate or resumes the performance of the functions of his office, be performed—

(a) in the case of the President of the Senate by the Vice-President of the Senate or if the office of Vice-President of the Senate is vacant or the Vice-President of the Senate is required to cease to perform his functions as a Senator by virtue of section 43(3) by such Senator not being a Minister or Parliamentary Secretary, as the Senate may elect for the purpose;

(b) in the case of the Vice-President of the Senate by such Senator not being a Minister or Parliamentary Secretary, as the Senate may elect for the purpose.

(6) Where the President of the Senate or Vice-President of the Senate resumes the performance of his functions as a Senator, in accordance with the provisions of section 43(6) he shall also resume the performance of his functions as President of the Senate or Vice-President of the Senate, as the case may be.

The House of Representatives

Composition of House of Representatives

46. (1) Subject to the provisions of this section, the House of Representatives shall consist of members who shall be elected in the manner provided by Parliament.

(2) There shall be thirty-six members of the House of Representatives or such other number of members as corresponds with the number of constituencies as provided for by an Order made by the President under section 72.

(3) Where any person who is not a member of the House of Representatives is elected to be Speaker of the House he shall, by virtue of holding the office of Speaker, be a member of the House in addition to the thirty-six or other number of members aforesaid.

Qualifications for election as member

47. Subject to the provisions of section 48, a person shall be qualified to be elected as a member of the House of Representatives if, and shall not be qualified to be so elected unless, he—

(a) is a citizen of Trinidad and Tobago of the age of eighteen years or upwards, and

(b) has resided in Trinidad and Tobago for a period of two years immediately before the date of his nomination for election or is domiciled and resident in Trinidad and Tobago at that date.

Disqualifications for election as member

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

(a) is a citizen of a country other than Trinidad and Tobago having become such a citizen voluntarily, or is under a declaration of allegiance to such a country;

(b) is an undischarged bankrupt having been adjudged or otherwise declared bankrupt under any law in force in Trinidad and Tobago;

- (c) is mentally ill, within the meaning of the Mental Health No. 30 of 1975 Act, 1975;
- (d) is under sentence of death imposed on him by a court or is serving a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him by a court or substituted by competent authority for some other sentence imposed on him by a court, or is under such a sentence of imprisonment the execution of which has been suspended;
- (e) is disqualified for membership of the House of Representatives by any law in force in Trinidad and Tobago by reason of his holding, or acting in, any office the functions of which involve:—
- (i) any responsibility for, or in connection with, the conduct of any election, or
 - (ii) any responsibility for the compilation or revision of any electoral register;
- (f) is disqualified for membership of the House of Representatives by virtue of any law in force in Trinidad and Tobago by reason of his having been convicted of any offence relating to elections; or
- (g) is not qualified to be registered as an elector at a Parliamentary election under any law in force in Trinidad and Tobago.

(2) Parliament may provide that, subject to such exceptions and limitations, if any, as may be prescribed, a person may be disqualified for membership of the House of Representatives by virtue of—

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

(3) For the purposes of paragraph (d) of subsection (1)—

- (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.

49. (1) Every member of the House of Representatives shall vacate his seat in the House at the next dissolution of Parliament after his election. Tenure of office
of members

(2) A member of the House of Representatives shall also vacate his seat in the House where—

- (a) he resigns it by writing under his hand addressed to the Speaker, or where the office of Speaker is vacant or the Speaker is absent from Trinidad and Tobago, to the Deputy Speaker;
- (b) 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;
- (c) he ceases to be a citizen of Trinidad and Tobago;
- (d) subject to the provisions of subsection (3), any circumstances arise that, if he were not a member of the House of Representatives, would cause him to be disqualified for election thereto by virtue of subsection (1) of section 48 or any law enacted in pursuance of subsection (2) of that section.

(3) Where circumstances such as are referred to in paragraph (d) of subsection (2) arise because any member of the House of Representatives is under sentence of death or imprisonment, is mentally ill, declared bankrupt or convicted of an offence relating to elections, and where it is open to the member to appeal against the decision, either with the leave of a court or other authority or without such leave, he shall forthwith cease to perform his functions as a member of the House so however, that subject to the provisions of this section, he shall not vacate his seat until the expiration of a period of thirty days thereafter.

(4) The Speaker may, 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.

(5) Where on the determination of any appeal, such circumstances continue to exist and no further appeal is open to the member, or where, 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.

(6) Where at any time before the member of the House vacates his seat such circumstances as are mentioned in this section cease to exist his seat shall not become vacant on the expiration of the period referred to in subsection (3) and he may resume the performance of his functions as a member of the House.

Speaker and
Deputy Speaker

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

(2) The Speaker may be elected either from among the members of the House of Representatives who are not Ministers or Parliamentary Secretaries or subject to subsection (3), from among persons who are not members of either House.

(3) A person who is not a member of either House shall not be elected Speaker where—

- (a) he is not a citizen of Trinidad and Tobago; or
- (b) he is a person disqualified for election as a member of the House of Representatives by virtue of subsection (1) of section 48 or any law enacted in pursuance of subsection (2) of that section.

(4) When the House of Representatives first meets after any general election 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 Minister or a Parliamentary Secretary, to be Deputy Speaker of the House; and if the office of Deputy Speaker falls vacant at any time before the next dissolution of Parliament, the House shall, as soon as practicable, elect another such member to that office.

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

- (a) in the case of a Speaker elected from among the members of the House of Representatives or in the case of the Deputy Speaker—
 - (i) where he ceases to be a member of the House, so however that the Speaker shall not vacate his office by reason only that he has ceased to be a member of the House on a dissolution of Parliament, until the House first meets after that dissolution;
 - (ii) where he is appointed to be a Minister or a Parliamentary Secretary;
- (b) in the case of a Speaker elected from among persons who are not members of either House—
 - (i) when the House first meets after any dissolution of Parliament;
 - (ii) where he ceases to be a citizen of Trinidad and Tobago; or
 - (iii) where any circumstances arise that would cause him to be disqualified for election as a member of the House by virtue of subsection (1) of section 48 or any law enacted in pursuance of subsection (2) of that section;
- (c) where he announces the resignation of his office to the House of Representatives or if by writing under his hand addressed, in the case of the Speaker to the Clerk of the House and in the case of the Deputy Speaker to the Speaker, or, if the office of Speaker is vacant or the Speaker is absent from Trinidad and Tobago, to the Clerk of the House, he resigns that office; or
- (d) in the case of the Deputy Speaker, where he is elected to be Speaker.

(6) Where, by virtue of section 49(3) the Speaker or Deputy Speaker is required to cease to perform his functions as a member of the House of Representatives or where, in the case of the Speaker, by reason of circumstances referred to in subsection (8), he has temporarily vacated his office, he shall also cease to perform his functions as Speaker or Deputy Speaker, as the case may be, and those functions shall, until he vacates his seat in the House or resumes the performance of the functions of his office, be performed—

- (a) in the case of the Speaker, by the Deputy Speaker or, if the office of Deputy Speaker is vacant or the Deputy Speaker is required to cease to perform his functions as a member of the House of Representatives by virtue of section 49(3) by such member of the House, not being a Minister or Parliamentary Secretary, as the House may elect for the purpose;
- (b) in the case of the Deputy Speaker, by such member of the House not being a Minister or Parliamentary Secretary, as the House may elect for the purpose.

(7) Where the Speaker or Deputy Speaker resumes the performance of his functions as a member of the House, in accordance with the provisions of section 49(3) he shall also resume the performance of his functions as Speaker or Deputy Speaker, as the case may be.

(8) Where the Speaker is acting as or performing the functions of President under section 27, he shall vacate the office of Speaker temporarily during such period as he is acting as, or temporarily performing the functions of, President.

**Qualifications
of voters**

51. Subject to such disqualifications as Parliament may prescribe, a person shall be qualified to vote at an election of members to serve in the House of Representatives if, and shall not be qualified to vote at such an election unless, he—

- (a) is a Commonwealth citizen (within the meaning of section 18) of the age of eighteen years or upwards; and
- (b) has such other qualifications regarding residence or registration as may be prescribed.

General

**Determination of
questions as to
membership**

52. (1) Any question whether—
- (a) any person has been validly appointed as a Senator or validly elected as a member of the House of Representatives;
 - (b) any Senator or member of the House of Representatives has vacated his seat or is required, under the provisions of section 43(3) or section 49(3) to cease to exercise any of his functions as a Senator or as a member of the House of Representatives; or
 - (c) any person has been validly elected as Speaker of the House of Representatives from among persons who are not Senators or members of the House of Representatives,

shall be determined by the High Court.

(2) Proceedings for the determination of any question referred to in subsection (1) shall not be instituted except with the leave of a Judge of the High Court.

(3) An appeal shall lie to the Court of Appeal from—

- (a) the decision of a Judge of the High Court granting or refusing leave to institute proceedings for the determination of any question referred to in subsection (1);
- (b) the determination by the High Court of any such question.

(4) No appeal shall lie from any decision of the Court of Appeal given in an appeal brought in accordance with subsection (3).

PART 2

Powers, Privileges and Procedure of Parliament

53. Parliament may make laws for the peace, order and good government of Trinidad and Tobago, so however that the provisions of this Constitution or (in so far as it forms part of the law of Trinidad and Tobago) the Trinidad and Tobago Independence Act, 1962 of the United Kingdom may not be altered except in accordance with the provisions of section 54.

54. (1) Subject to the provisions of this section, Parliament may alter any of the provisions of this Constitution or (in so far as it forms part of the law of Trinidad and Tobago) any of the provisions of the Trinidad and Tobago Independence Act, 1962.

(2) In so far as it alters—

- (a) sections 4 to 14, 20(b), 21, 43(1), 53, 58, 67(2), 70, 83, 101, to 108, 110, 113, 116 to 125 and 133 to 137; or
- (b) section 3 in its application to any of the provisions of this Constitution specified in paragraph (a),

a Bill for an Act under this section shall not be passed by Parliament unless at the final vote thereon in each House it is supported by the votes of not less than two-thirds of all the members of each House.

(3) In so far as it alters—

- (a) this section;
- (b) sections 22, 23, 24, 26, 28 to 34, 38 to 40, 46, 49(1), 51, 55, 61, 63, 64, 68, 69, 71, 72, 87 to 91, 93, 96(4) and (5), 97, 109, 115, 138, 139 or the Second and Third Schedules;
- (c) section 3 in its application to any of the provisions specified in paragraph (a) or (b); or
- (d) any of the provisions of the Trinidad and Tobago Independence Act, 1962,

a Bill for an Act under this section shall not be passed by Parliament unless it is supported at the final vote thereon—

- (i) in the House of Representatives by the votes of not less than three-fourths of all the members of the House; and
- (ii) in the Senate by the votes of not less than two-thirds of all the members of the Senate.

(4) For the purposes of subsections (2) and (3) the number of members of the Senate shall, even though circumstances requiring the appointment of temporary members in accordance with section 44(1) have arisen, continue to be the number of members specified in section 40(1).

(5) No Act other than an Act making provision for any particular case or class of case, inconsistent with provisions of this Constitution, not being those referred to in subsections (2) and (3), shall be construed as altering any of the provisions of this Constitution, or (in so far as it forms part of the law of Trinidad and Tobago) any of the provisions of the Trinidad and Tobago Independence Act, 1962, unless it is stated in the Act that it is an Act for that purpose.

(6) In this section references to the alteration of any of the provisions of this Constitution or the Trinidad and Tobago Independence Act, 1962, include references to repealing it, with or without re-enactment thereof or the making of different provisions in place thereof or the making of provision for any particular case or class of case inconsistent therewith, to modifying it and to suspending its operation for any period.

Privileges and
immunities of
Parliament

55. (1) Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of the Senate and House of Representatives, there shall be freedom of speech in the Senate and House of Representatives.

(2) No civil or criminal proceedings may be instituted against any member of either House for words spoken before, or written in a report to, the House of which he is a member or in which he has a right of audience under section 62 or a committee thereof or any joint committee or meeting of the Senate and House of Representatives or by reason of any matter or thing brought by him therein by petition, bill, resolution, motion or otherwise; or for the publication by or under the authority of either House of any report, paper, votes or proceedings.

(3) In other respects, the powers, privileges and immunities of each House and of the members and the committees of each House, shall be such as may from time to time be prescribed by Parliament after the commencement of this Constitution and until so defined shall be those of the House of Commons of the Parliament of the United Kingdom and of its members and committees at the commencement of this Constitution.

(4) A person called to give any evidence before either House or any committee shall enjoy the same privileges and immunities as a member of either House.

Regulation of
procedure in
each House

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

(2) Each House may act notwithstanding any vacancy in its membership (including any vacancy not filled when the House first meets after the commencement of this Constitution or after any dissolution of Parliament), 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.

57. No member of either House shall take part in the proceedings of that House (other than proceedings necessary for the purposes of this section) until he has made and subscribed before that House the oath of allegiance, so however, that the election of a Speaker and Deputy Speaker of the House of Representatives and the election of a President of the Senate and Vice-President of the Senate may take place before the members of the House of Representatives, or the members of the Senate, as the case may be, have made and subscribed such oath.

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

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

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

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

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

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

60. (1) A quorum of the House of Representatives shall consist of twelve members of the House and a quorum of the Senate shall consist of ten Senators, so however that the person presiding at the sitting of either House shall not be included in reckoning whether there is a quorum of that House present.

(2) Where at any sitting of either House any member of the House who is present draws the attention of the person presiding at the sitting of the absence of a quorum and, after such interval as may be prescribed by that House, the person presiding at the sitting ascertains that a quorum of the House is still not present the House shall be adjourned.

61. (1) Subject to the provisions of this Constitution, the power of Parliament to make laws shall, except where otherwise authorised by statute, be exercised by Bills passed by the House of Representatives and the Senate and assented to by the President.

(2) When a Bill is presented to the President for assent, he shall signify that he assents or that he withholds assent.

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

(4) A Bill may be assented to during the period occurring between the end of one session of Parliament and the beginning of the next or at any subsequent time during the life of that Parliament.

Attendance of
Ministers in
either House

62. (1) A Minister who is a Member of the House of Representatives and a Minister who is a Senator—

(a) has the right to attend any sitting of the Senate or the House of Representatives, respectively,

(b) may be required at the instance of the President of the Senate or the Speaker to attend any sitting of Senate or the House of Representatives, respectively.

(2) A Minister may not be required to attend any sitting of either House under subsection 1(b) except on the adoption by that House of a motion for the purpose.

(3) A Minister attending any sitting of the Senate or the House of Representatives under subsection (1) may take part in any debate or other proceedings concerning matters falling within his portfolio in such House and may speak on any motion before the House concerning such matters and move amendments to any such motions, save that such a Minister shall have no vote thereon.

(4) Nothing in this section shall preclude the Attorney General from attending any sitting of the Senate or the House of Representatives, as the case may be, and taking part in debates and other proceedings and speaking on any motion before any such House, as the case may be, and moving amendments to any such motions even though the matter falls within the portfolio of some other Minister.

Introduction of
Bills, etc.

63. (1) A Bill other than a Money Bill may be introduced in either House; a Money Bill shall not be introduced in the Senate.

(2) Except on the recommendation or with the consent of the Cabinet neither House shall—

(a) proceed upon any Bill, including any amendment to a Bill, which, in the opinion of the person presiding, makes provision for any of the following purposes—

(i) for imposing or increasing any tax;

(ii) for imposing or increasing any charge on the revenues or other funds of Trinidad and Tobago or for altering any such charge otherwise than by reducing it; or

(iii) for compounding or remitting any debt due to Trinidad and Tobago;

(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 the purposes aforesaid; or

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

64. (1) Where a Money Bill, having been passed by the House of Representatives and sent to the Senate at least one month before the end of the session, is not passed by the Senate without amendment within one month after it is sent to the Senate, the Bill shall, unless the House of Representatives otherwise resolves, be presented to the President for assent notwithstanding that the Senate has not consented to the Bill.

Restrictions on
powers of
Senate as to
Money Bills

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

65. (1) Where any Bill other than a Money Bill is passed by the House of Representatives in two successive sessions, whether or not Parliament is dissolved between those sessions, and, having been sent to the Senate in each of those sessions at least one month before the end of the session, is rejected by the Senate in each of those sessions that Bill shall, on its rejection for the second time by the Senate, unless the House of Representatives otherwise resolves, be presented to the President for assent notwithstanding that the Senate has not consented to the Bill.

Restrictions on
powers of Senate
as to Bills
other than
Money Bills

(2) Nothing in subsection (1) shall have effect until at least six months have elapsed between the date on which the Bill is passed by the House of Representatives in the first session and the date on which it is passed by that House in the second session.

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

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

(5) For the purposes of this section a Bill shall be deemed to be rejected by the Senate where—

- (a) it is not passed by the Senate without amendments; or
- (b) it is passed by the Senate with any amendment that is not agreed to by the House of Representatives.

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

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

(8) The provisions of this section shall not apply to a Bill for an Act which is required by section 13 or section 54 to be supported at the final vote thereon in the Senate by the votes of not less than three-fifths or two-thirds respectively of all the members of the Senate.

Provisions
relating to
sections 63, 64
and 65

66. (1) In sections 63, 64 and 65 "Money Bill" means a public Bill which, in the opinion of the Speaker, contains only provisions dealing with all or any of the following matters, namely:—

- (a) the imposition, repeal, remission, alteration or regulation of taxation;
- (b) the imposition, for the payment of debt or other financial purposes, of charges on public money or the variation or repeal of any such charges;
- (c) the grant of money to the State or to any authority or person, or the variation or revocation of any such grant;
- (d) the appropriation, receipt, custody, investment, issue or audit of accounts of public money;
- (e) the raising or guarantee of any loan or the repayment thereof, or the establishment, alteration, administration or abolition of any sinking fund provided in connection with any such loan; or
- (f) subordinate matters incidental to any of the matters referred to in this subsection.

(2) In subsection (1) the expressions "taxation", "debt", "public money" and "loan" do not include any taxation imposed, debt incurred or money provided or loan raised by any local authority or body for local purposes.

(3) Where the office of Speaker is vacant or the Speaker is for any reason unable to perform any function conferred upon him by section 64 or 65 or subsection (1) that function may be performed by the Deputy Speaker.

(4) A certificate of the Speaker or the Deputy Speaker under section 64 or 65 shall be conclusive for all purposes and shall not be questioned in any court.

(5) Before giving any certificate under section 64 or 65 the Speaker or the Deputy Speaker, as the case may be, shall consult the Attorney General or, if the Attorney General is absent from the seat of government, such legal officer in the Ministry of Legal Affairs as the Attorney General may designate for that purpose.

PART 3

Summoning, Prorogation and Dissolution

67. (1) Each session of Parliament shall be held at such place Sessions of within Trinidad and Tobago and shall commence at such time as the Parliament President may by Proclamation appoint.

(2) There shall be a session of each House once at least in every year, so that a period of six months shall not intervene between the last sitting of Parliament in one session and the first sitting thereof in the next session.

68. (1) The President, acting in accordance with the advice of the Prorogation and Prime Minister, may at any time prorogue or dissolve dissolution of Parliament.

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

(3) At any time when Trinidad and Tobago is at war, Parliament may extend the period of five years specified in subsection (2) for not more than twelve months at a time; so however that the life of Parliament shall not be extended under this subsection for more than five years.

(4) Where, between a dissolution of Parliament and the next ensuing general election of members to the House of Representatives, an emergency arises of such a nature that in the opinion of the Prime Minister, it is necessary for the two Houses to be summoned before that general election can be held, the President, acting in accordance with the advice of the Prime Minister, may summon the two Houses of the preceding Parliament but the election of members of the House of Representatives shall proceed and the Parliament that has been summoned shall, if not sooner dissolved, again stand dissolved on the day on which the general election is held.

69. (1) A general election of members of the House of Representatives General elections shall be held at such time within three months after every dissolution of of and appointment Parliament as the President, acting in accordance with the advice of the of Senators Prime Minister, shall appoint.

(2) As soon as practicable after every general election, the President shall proceed under section 40 to the appointment of Senators.

(3) Where a vacancy occurs in the House of Representatives within the first four years of the life of the Parliament a bye-election shall be held to fill such vacancy.

PART 4

Elections and Boundaries Commission

70. (1) Trinidad and Tobago shall be divided into thirty-six constituencies Constituencies or such other number as may be provided for by an Order made by the President in accordance with the provisions of this Part and each such constituency shall return one member to the House of Representatives.

Elections and
Boundaries
Commission

(2) Not less than two such constituencies shall be in the Island of Tobago.

71. (1) There shall be an Elections and Boundaries Commission for Trinidad and Tobago (in this Part referred to as "the Commission").

(2) The members of the Commission shall be a Chairman and not less than two nor more than four other members.

(3) The Chairman and other members of the Commission shall be appointed by the President, after consultation with the Prime Minister and the Leader of the Opposition.

(4) A person shall not be qualified to hold office as a member of the Commission who is a Minister, a Parliamentary Secretary, a member of the House of Representatives, a Senator, a temporary member of the Senate, or a public officer.

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

(a) at the expiration of five years from the date of his appointment, but is eligible for re-appointment; or

(b) where any circumstances arise, that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(6) Three members of the Commission shall constitute a quorum.

(7) Where there is a quorum, the Commission shall not be disqualified for the transaction of business by reason of any vacancy among its members, and any proceeding of the Commission shall be valid even though some person who was not entitled so to do took part therein.

(8) The Commission may regulate its own procedure.

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

(10) The salaries and allowances of the staff of the Commission shall be a charge on the Consolidated Fund.

(11) The registration of voters and the conduct of elections in every constituency shall be subject to the direction and supervision of the Commission.

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

Procedure for
review of
constituency
boundaries

72. (1) The Commission shall, in accordance with the provisions of this section, review the number and boundaries of the constituencies into which Trinidad and Tobago is divided and submit to the Prime Minister and the Speaker for presentation to the House of Representatives in accordance with this section reports either—

(a) showing the constituencies into which it recommends that Trinidad and Tobago should be divided in order to give effect to the rules set out in the Second Schedule; or

(b) stating that, in the opinion of the Commission, no alteration is required to the existing number or boundaries of constituencies in order to give effect to the said rules.

(2) Reports under subsection (1) shall be submitted by the Commission not less than two nor more than five years from the date of the submission of its last report.

(3) As soon as may be after the Commission has submitted a report under subsection (1)(a) the Minister designated by the Prime Minister for this purpose (in this section called "the Minister") shall lay before the House of Representatives for its approval the draft of an Order by the President for giving effect, whether with or without modifications, to the recommendations contained in the report, and that draft may make provision for any matters which appear to the Minister to be incidental to or consequential upon the other provisions of the draft.

(4) Where any draft made under this section gives effect to any such recommendations with modifications, the Minister shall lay before the House of Representatives together with the draft a statement of the reasons for the modifications.

(5) Where the motion for the approval of any draft made under this section is rejected by the House of Representatives, or is withdrawn by leave of that House, the Minister shall amend the draft and lay the amended draft before the House of Representatives.

(6) Where any draft made under this section is approved by resolution of the House of Representatives, the Minister shall submit it to the President who shall make the Order in terms of the draft; and that Order shall come into force on such day as may be specified therein and, until revoked by a further Order made by the President in accordance with the provisions of this section, shall have the force of law.

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

PART 5

System of Balloting

73. (1) The election of members of the House of Representatives shall be by secret ballot and in accordance with the first-past-the-post system.

(2) For the purposes of subsection (1), the votes shall be cast in ballot boxes of a design calculated to ensure their efficiency and reliability.

CHAPTER 5

EXECUTIVE POWERS

74. (1) The executive authority of Trinidad and Tobago shall be vested in the President and, subject to this Constitution, may be exercised by him either directly or through officers subordinate to him.

Executive
authority of
Trinidad and
Tobago

(2) Without prejudice to the generality of subsection (1), the supreme command of the armed forces of Trinidad and Tobago shall be vested in the President and the exercise of this power shall be regulated by law.

(3) Nothing in this section shall prevent Parliament referring functions on persons or authorities other than the Pr

The Cabinet

75. (1) There shall be a Cabinet for Trinidad and Tobago have the general direction and control of the government and Tobago and shall be collectively responsible therefor to

(2) The Cabinet shall consist of the Prime Minister number of other Ministers (of whom one shall be the Attorney appointed in accordance with the provisions of section 76, Minister may consider appropriate.

**Appointment of
Ministers**

76 (1) Where there is occasion for the appointment of a Minister, the President shall appoint as Prime Minister—

(a) a member of the House of Representatives who in that House of the party which commands the support of the majority of members of that House; or

(b) where it appears to him that that party does not have an undisputed leader in that House or that no party has the support of such a majority, the member of the House of Representatives who, in his judgment, is most likely to command the support of the majority of members of that House;

and who is willing to accept the office of Prime Minister.

(2) The Attorney General shall, subject to section 76, be responsible for the administration of legal affairs in Trinidad and Tobago and legal proceedings for and against the State shall be taken—

(a) in the case of civil proceedings, in the name of the Attorney General;

(b) in the case of criminal proceedings, in the name of the

(3) The Ministers other than the Prime Minister shall be appointed by the President, acting in accordance with the provisions of section 76, from among the members of the House of Representatives and the Senators.

(4) Where occasion arises for making an appointment of Prime Minister while Parliament is dissolved, a person who, at the time of the appointment, is a Minister, may be appointed as Prime Minister.

(5) Where occasion arises for making an appointment of Minister while Parliament is dissolved, a person who, before the dissolution, was a Senator or a member of the House of Representatives may be appointed Minister.

**Tenure of office
of Ministers**

77. (1) Where the House of Representatives passes a resolution supported by the votes of a majority of all the members of the House declaring that it has no confidence in the Prime Minister and the Prime Minister does not within seven days of the passing of such a resolution either resign or advise the President to dissolve Parliament, the President shall revoke the appointment of the Prime Minister.

(2) The Prime Minister shall also vacate his office—

- (a) when after any dissolution of Parliament he is informed by the President that the President is about to re-appoint him as Prime Minister or to appoint another person as Prime Minister; or
- (b) where for any reason other than a dissolution of Parliament he ceases to be a member of the House of Representatives.

(3) A Minister other than the Prime Minister shall vacate his office—

- (a) when any person is appointed or reappointed as Prime Minister;
- (b) where for any reason other than a dissolution of Parliament he ceases to be a member of the House from among the members of which he was appointed;
- (c) where his appointment is revoked by the President acting in accordance with the advice of the Prime Minister.

(4) Where at any time the Prime Minister is required under the provisions of section 49 (3) to cease to perform his functions as a member of the House of Representatives, he shall cease during such time to perform any of his functions as Prime Minister.

(5) Where at any time a Minister other than the Prime Minister is required under section 43(3) or section 49(3) to cease to perform his functions as a member of the House to which he belongs, he shall cease during such time to perform any of his functions as Minister.

78. (1) Where the Prime Minister is absent from Trinidad and Tobago or is unable by reason of illness or of the provisions of section 77(4) to perform the functions conferred on him by this Constitution, the President may authorise some other member of the Cabinet to perform those functions (other than the functions conferred by subsection (2)) and that member may perform those functions until his authority is revoked by the President.

Performance of
functions of Prime
Minister during
absence, illness or
suspension

(2) The powers of the President under this section shall be exercised by him in accordance with the advice of the Prime Minister, save that where the President considers that it is impracticable to obtain the advice of the Prime Minister owing to his absence or illness, or where the Prime Minister is unable to tender advice by reason of the provisions of section 77(4) the President may exercise those powers without the advice of the Prime Minister.

79. (1) The President, 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 of Trinidad and Tobago, including the administration of any department of government.

Allocation of
portfolios to
Ministers

(2) Where a Minister is incapable of performing his functions by reason of his absence from Trinidad and Tobago or by reason of illness the President, acting in accordance with the advice of the Prime Minister, may appoint a member of the House of Representatives or a Senator to act in the office of such Minister during such absence or illness,

**Exercise of
President's
functions**

80. (1) In the exercise of his functions under this Constitution or any other law, the President 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 other provision is made by this Constitution or such other law, and, without prejudice to the generality of this exception, in cases where by this Constitution or such other law he is required to act—

- (a) in his discretion;
- (b) after consultation with any person or authority other than the Cabinet; or
- (c) in accordance with the advice of any person or authority other than the Cabinet.

(2) Where by this Constitution the President is required to act in accordance with the advice of, or after consultation with, any person or authority, the question whether he has in any case so acted shall not be enquired into in any court.

(3) Without prejudice to any other case in which the President is authorised or required to act in his discretion, the President shall act in accordance with his own deliberate judgment in the performance of the following functions—

- (a) in the exercise of the power to appoint the Prime Minister conferred upon him by section 76(1) or (4);
- (b) in the exercise of the powers conferred upon him by section 78 (which relates to the performance of the functions of the Prime Minister during absence, illness or suspension) in the circumstances described in the proviso to subsection (2) of that section;
- (c) in the exercise of the power to appoint the Leader of the Opposition and to revoke any such appointment conferred upon him by section 83.

**President to be
informed concern-
ing matters of
government**

81. The Prime Minister shall keep the President fully informed concerning the general conduct of the government of Trinidad and Tobago and shall furnish the President with such information as he may request with respect to any particular matter relating to the government of Trinidad and Tobago.

**Parliamentary
Secretaries**

82. (1) The President, acting in accordance with the advice of the Prime Minister, may appoint Parliamentary Secretaries from among the Senators and members of the House of Representatives to assist Ministers in the performance of their duties.

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

- (3) The office of a Parliamentary Secretary shall become vacant—
 - (a) where for any reason other than a dissolution of Parliament he ceases to be a member of the House from among the members of which he was appointed;
 - (b) upon the appointment or re-appointment of any person as Prime Minister; or

- (c) where the President, acting in accordance with the advice of the Prime Minister, so directs.

83. (1) There shall be an office of Leader of the Opposition and appointments thereto shall be made by the President. Leader of the
Opposition

(2) The President shall, if the person concerned is willing to be appointed, appoint as Leader of the Opposition the member of the House of Representatives who, in his judgment is best able to command the support of the greatest number of members of the House of Representatives who do not support the Government.

(3) The office of Leader of the Opposition shall become vacant where—

- (a) he resigns his office;
- (b) the holder thereof ceases to be a member of the House of Representatives for any cause other than a dissolution of Parliament;
- (c) he is not a member of the House of Representatives when the House of Representatives first meets after a dissolution of Parliament;
- (d) by virtue of section 49(3) he is required to cease to exercise his functions as a member of the House of Representatives;
- (e) he is appointed to the office of Prime Minister; or
- (f) his appointment is revoked under the provisions of subsection (4).

(4) Where in the judgment of the President, the Leader of the Opposition is no longer the member of the House of Representatives best able to command the support of a majority of those members of the House of Representatives who do not support the Government, the President shall revoke the appointment of the Leader of the Opposition.

(5) Nothing in subsection (4) shall apply while Parliament is dissolved.

(6) Where the office of Leader of the Opposition is vacant, whether because there is no member of the House of Representatives so qualified for appointment or because no one qualified for appointment is willing to be appointed, or because the Leader of the Opposition has resigned his office or for any other reason, any provision in this Constitution requiring consultation with the Leader of the Opposition shall, in so far as it requires such consultation, be of no effect.

84. 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 and oath for the due execution of his office. Oaths to be
taken by
Ministers,
etc.

85. (1) Where any Minister has been assigned responsibility for any department of government, he shall exercise general direction and control over that department; and, subject to such direction and control the department shall be under the supervision of a Permanent Secretary whose office shall be a public office. Permanent
Secretaries

(2) For the purposes of this section:—

- (a) two or more government departments may be placed under the supervision of one Permanent Secretary; or
- (b) two or more Permanent Secretaries may supervise any department of government assigned to a Minister.

Constitution
of offices,
etc.

86. Subject to the provisions of this Constitution and of any enactment, the President may constitute offices for Trinidad and Tobago, make appointments to any such office and terminate any such appointment.

Power of
pardon, etc.

87. (1) The President may grant to any person a pardon, either free or subject to lawful conditions, respecting any offences that he may have committed. The power of the President under this subsection may be exercised by him either before or after the person is charged with any offence and before he is convicted thereof.

(2) The President may—

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

(3) The power of the President under subsection (2) may be exercised by him in accordance with the advice of a Minister designated by him, acting in accordance with the advice of the Prime Minister.

Advisory Com-
mittee on power
of pardon

88. There shall be an Advisory Committee on the Power of Pardon which shall consist of—

- (a) the Minister referred to in section 87(3) who shall be Chairman;
- (b) the Attorney General;
- (c) the Director of Public Prosecutions;
- (d) not more than four other members appointed by the President, after consultation with the Prime Minister and the Leader of the Opposition.

Functions of
Advisory Com-
mittee

89. (1) Where an offender has been sentenced to death by any court for an offence against the law of Trinidad and Tobago, the Minister shall cause a written report of the case from the trial judge, together with such other information derived from the record of the case or elsewhere as the Minister may require, to be taken into consideration at a meeting of the Advisory Committee.

(2) The Minister may consult with the Advisory Committee before tendering any advice to the President under section 87(3) in any case not falling within subsection (1).

(3) The Minister shall not be obliged in any case to act in accordance with the advice of the Advisory Committee.

(4) The Advisory Committee may regulate its own procedure.

(5) In this section "the Minister" means the Minister referred to in section 87(3).

CHAPTER 6

THE DIRECTOR OF PUBLIC PROSECUTIONS AND THE OMBUDSMAN

PART 1

Director of Public Prosecutions

90. (1) The provisions of this section shall, subject to section 76(2) Appointment, tenure and functions have effect with respect to the conduct of prosecutions.

(2) There shall be a Director of Public Prosecutions for Trinidad and Tobago whose office shall be a public office.

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

- (a) to institute and undertake criminal proceedings against any person before any court in respect of any offence against the law of Trinidad and Tobago;
- (b) to take over and continue any such criminal proceedings that may have been instituted by any other person or authority;
- (c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.

(4) The powers conferred upon the Director of Public Prosecutions by subsection (4)(b) and (c) shall be vested in him to the exclusion of the person or authority who instituted or undertook the criminal proceedings, except that a person or authority that has instituted criminal proceedings may withdraw them at any stage before the person against whom the proceedings have been instituted has been charged before the Court.

(5) For the purposes of this section a reference to criminal proceedings includes an appeal from the determination of any court in criminal proceedings or a case stated or a question of law reserved in respect of those proceedings.

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

PART 2

*Ombudsman*Appointment and
conditions of
office

91. (1) There shall be an Ombudsman for Trinidad and Tobago who shall be an officer of Parliament and who shall not hold any other office of emolument whether in the public service or otherwise nor engage in any occupation for reward other than the duties of his office.

(2) The Ombudsman shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.

(3) The Ombudsman shall hold office for a term not exceeding five years and is eligible for re-appointment.

(4) Subject to subsection (3) the Ombudsman shall hold office in accordance with section 136.

(5) Before entering upon the duties of his office, the Ombudsman shall take and subscribe the oath of office before the Speaker of the House of Representatives.

Appointment of
staff of
Ombudsman

92. (1) The Ombudsman shall be provided with a staff adequate for the efficient discharge of his functions.

(2) The staff of the Ombudsman shall be public officers appointed in accordance with section 121(3).

Functions of
Ombudsman

93. (1) Subject to this section and to sections 94 and 95 the principal function of the Ombudsman shall be to investigate any decision or recommendation made, including any advice given or recommendation made to a Minister, or any act done or omitted by any department of Government or any other authority to which this section applies, or by officers or members of such a department or authority, being action taken in exercise of the administrative functions of that department or authority.

(2) The Ombudsman may investigate any such matter in any of the following circumstances—

- (a) where a complaint is duly made to the Ombudsman by any person alleging that the complainant has sustained an injustice as a result of a fault in administration;
- (b) where a member of the House of Representatives requests the Ombudsman to investigate the matter on the ground that a person or body of persons specified in the request has or may have sustained such injustice;
- (c) in any other circumstances in which the Ombudsman considers that he ought to investigate the matter on the ground that some person or body of persons has or may have sustained such injustice.

(3) The authorities other than departments of Government to which this section applies are—

- (a) local authorities or other bodies established for purposes of the public service or of local Government;

- (b) authorities or bodies the majority of whose members are appointed by the President or by a Minister or whose revenues consist wholly or mainly of moneys provided out of public funds;
- (c) any authority empowered to determine the person with whom any contract shall be entered into by or on behalf of Government;
- (d) such other authorities as may be prescribed.

94. (1) In investigating any matter leading to, resulting from or connected with the decision of a Minister, the Ombudsman shall not inquire into or question the policy of the Minister in accordance with which the decision was made. Restrictions on matters for investigation

(2) The Ombudsman shall have power to investigate complaints of administrative injustice under section 93 notwithstanding that such complaints raise questions as to the integrity or corruption of the public service or any department or office of the public service, and may investigate any conditions resulting from, or calculated to facilitate or encourage corruption in the public service, but he shall not undertake any investigation into specific charges of corruption against individuals.

(3) Where in the course of an investigation it appears to the Ombudsman that there is evidence of any corrupt act by any public officer or by any person in connection with the public service, he shall report the matter to the appropriate authority with his recommendation as to any further investigation he may consider proper.

- (4) The Ombudsman shall not investigate—
 - (a) any action in respect of which the complainant has or had
 - (i) a remedy by way of proceedings in a court; or
 - (ii) a right of appeal, reference or review to or before an independent and impartial tribunal other than a court; or
 - (b) any such action, or action taken with respect to any matter, as is described in the Third Schedule.
- (5) Notwithstanding subsection (4) the Ombudsman—
 - (a) may investigate a matter notwithstanding that the complainant has or had a remedy by way of proceedings in a court if satisfied that in the particular circumstances it is not reasonable to expect him to take or to have taken such proceedings;
 - (b) is not in any case precluded from investigating any matter by reason only that it is open to the complainant to apply to the High Court for redress under section 14 (which relates to redress for contravention of the provisions for the protection of fundamental rights).

95. In determining whether to initiate, continue or discontinue an investigation, the Ombudsman shall, subject to sections 93 and 94 act in his discretion and, in particular and without prejudice to the generality Discretion of Ombudsman

of this discretion, the Ombudsman may refuse to initiate or may discontinue an investigation where it appears to him that—

- (a) a complaint relates to action of which the complainant has knowledge for more than twelve months before the complaint was received by the Ombudsman;
- (b) the subject matter of the complaint is trivial;
- (c) the complaint is frivolous or vexatious or is not made in good faith; or
- (d) the complainant has not a sufficient interest in the subject matter of the complaint.

Report on investigation

96. (1) Where a complaint or request for an investigation is duly made and the Ombudsman decides not to investigate the matter or where he decides to discontinue an investigation of the matter, he shall inform the person who made the complaint or request of the reasons for his decision.

(2) Upon the completion of an investigation the Ombudsman shall inform the department of government or the authority concerned of the results of the investigation and if he is of the opinion that any person has sustained an injustice in consequence of a fault in administration, he shall inform the department of government or the authority of the reasons for his opinion and make such recommendations as he thinks fit. The Ombudsman may in his original recommendations, or at any later stage if he thinks fit, specify the time within which the injustice should be remedied.

(3) Where the investigation is undertaken as a result of a complaint or request, the Ombudsman shall inform the person who made the complaint or request of his findings.

(4) Where the matter is in the opinion of the Ombudsman of sufficient public importance or where the Ombudsman has made a recommendation under subsection (2) and within the time specified by him no sufficient action has been taken to remedy the injustice, then, subject to such provision as may be made by Parliament, the Ombudsman shall lay a special report on the case before Parliament.

(5) The Ombudsman shall make annual reports on the performance of his functions to Parliament which shall include statistics in such form and in such detail as may be prescribed of the complaints received by him and the results of his investigations.

Power to obtain evidence

97. (1) The Ombudsman shall have the powers of the High Court to summon witnesses to appear before him and to compel them to give evidence on oath and to produce documents relevant to the proceedings before him and all persons giving evidence at those proceedings shall have the same duties and liabilities and enjoy the same privileges as in the High Court.

(2) The Ombudsman shall have power to enter and inspect the premises of any department of government or any authority to which section 93 applies, to call for, examine and where necessary retain any document kept on such premises and there to carry out any investigation in pursuance of his functions.

98. (1) Subject to subsection (2), Parliament may make provision— **Prescribed matters concerning Ombudsman**

- (a) for regulating the procedure for the making of complaints and requests to the Ombudsman and for the exercise of the functions of the Ombudsman;
- (b) for conferring such powers on the Ombudsman and imposing such duties on persons concerned as are necessary to facilitate the Ombudsman in the performance of his functions; and
- (c) generally for giving effect to the provisions of this Part.

(2) The Ombudsman may not be empowered to summon a Minister or a Parliamentary Secretary to appear before him or to compel a Minister or a Parliamentary Secretary to answer any questions relating to any matter under investigation by the Ombudsman.

(3) The Ombudsman may not be empowered to summon any witness to produce any Cabinet papers or to give any confidential income tax information.

(4) No complainant may be required to pay any fee in respect of his complaint or request or for any investigation to be made by the Ombudsman.

(5) No proceedings, civil or criminal, may lie against the Ombudsman, or against any person holding an office or appointment under him for anything he may do or report or say in the course of the exercise or intended exercise of the functions of the Ombudsman under this Constitution, unless it is shown that he acted in bad faith.

(6) The Ombudsman, and any person holding office or appointment under him may not be called to give evidence in any Court, or in any proceedings of a judicial nature, in respect of anything coming to his knowledge in the exercise of his functions.

(7) Anything said or any information supplied or any document, paper, or thing produced by any person in the course of any enquiry by or proceedings before an Ombudsman under this Constitution is privileged in the same manner as if the enquiry or proceedings were proceedings in a Court.

(8) No proceeding of the Ombudsman may be held bad for want of form, and, except on the ground of lack of jurisdiction, no proceeding or decision of an Ombudsman is liable to be challenged, reviewed, quashed or called in question in any Court.

CHAPTER 7

THE JUDICATURE

PART 1

The Supreme Court

99. There shall be a Supreme Court of Judicature for Trinidad and Tobago consisting of a High Court of Justice (hereinafter referred to as "the High Court") and a Court of Appeal with such jurisdiction and powers as are conferred on those Courts respectively by this Constitution or any other law. **Establishment of Supreme Court**

Constitution of
High Court

100. (1) The Judges of the High Court shall be the Chief Justice who shall be *ex officio* a Judge of that Court, and such number of Puisne Judges as may be prescribed.

(2) The High Court shall be a superior court of record and save as otherwise provided by Parliament, shall have all the powers of such a court, including all such powers as are vested in the Supreme Court of Trinidad and Tobago immediately before the commencement of this Constitution.

*The Court of Appeal*Constitution of
Court of Appeal

101. (1) The Judges of the Court of Appeal shall be the Chief Justice who shall be the President of the Court of Appeal and such number of Justices of Appeal as may be prescribed.

(2) The Court of Appeal shall be a superior court of record and, save as otherwise provided by Parliament, shall have all the powers of such a court.

Appointment of
Chief Justice

102. The Chief Justice shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.

Acting appoint-
ments as Chief
Justice

103. Where the office of Chief Justice is vacant or where the Chief Justice is for any reason unable to perform the functions of his office, then, until a person has been appointed to and has assumed the functions of such office or until the Chief Justice has resumed those functions, as the case may be, those functions shall be performed by such other of the Judges as may be appointed by the President, after consultation with the Prime Minister and the Leader of the Opposition.

*Appointment of Judges*Appointment of
Justices of Appeal
and Puisne Judges

104. (1) The Judges, other than the Chief Justice, shall be appointed by the President, acting in accordance with the advice of the Judicial and Legal Service Commission.

(2) Where—

(a) the office of any such Judge is vacant;

(b) any such Judge is for any reason unable to perform the functions of his office;

(c) any such Judge is acting as Chief Justice or a Puisne Judge is acting as a Justice of Appeal; or

(d) the Chief Justice advises the President that the state of business of the Court of Appeal or the High Court so requires,

the President, acting in accordance with the advice of the Judicial and Legal Service Commission, may appoint a person to act in the office of Justice of Appeal or Puisne Judge, as the case may require.

(3) The appointment of any person under subsection (2) to act in the office of Justice of Appeal or Puisne Judge shall continue to have effect until it is revoked by the President, acting in accordance with the advice of the Judicial and Legal Service Commission.

Qualification of
Judges

105. A person shall not be appointed as a Judge or to act as a Judge unless he has such qualifications for appointment as may be prescribed.

106. (1) Subject to section 104(3) a Judge shall hold office in accordance with sections 136 and 137. Tenure of office

(2) No office of Judge shall be abolished while there is a substantive holder of that office.

107. A Judge shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and the oath for the due execution of his office set out in the First Schedule. Oaths to be taken
by Judges
First Schedule

108. An appeal to the Court of Appeal shall be as of right from decisions of the High Court in the following, among other cases, that is to say— Appeals on
Constitutional
questions and
fundamental rights,
etc.

- (a) any order or decision in any civil or criminal proceedings on questions as to the interpretation of this Constitution;
- (b) any order or decision given in exercise of the jurisdiction conferred on the High Court by section 14 (which relates to redress for contravention of the provisions for the protection of fundamental rights);
- (c) any order or decision given in the determination of any of the questions for the determination of which a right of access to the High Court is guaranteed by sections 4(a) and 5(1);
- (d) any order or decision of the High Court granting or refusing leave to institute proceedings for the determination of any question referred to it under section 52 or determining any such question (which relates to the appointment, qualification, election or membership of a Senator or a member of the House of Representatives, as the case may be);
- (e) any order or decision of a Court in the exercise of its jurisdiction to punish for contempt of court, including criminal contempt.

PART 2

Appeals to the Judicial Committee

109. (1) An appeal shall lie from decisions of the Court of Appeal to the Judicial Committee as of right in the following cases— Appeals from
Court of Appeal
to the Judicial
Committee

- (a) final decisions in civil proceedings where the matter in dispute on the appeal to the Judicial Committee is of the value of fifteen hundred dollars or upwards or where the appeal involves directly or indirectly a claim to or question respecting property or a right of the value of fifteen hundred dollars or upwards;
- (b) final decisions in proceedings for dissolution or nullity of marriage;
- (c) final decisions in any civil, criminal or other proceedings which involve a question as to the interpretation of this Constitution; and
- (d) except in cases falling under section 108(d), any case referred to in that section;
- (e) final decisions in disciplinary matters under section 81(3) to (5) of the Supreme Court of Judicature Act, 1962 and under the Solicitors Ordinance; Ch. 7. No. 4
- (f) such other cases as may be prescribed.

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

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

(3) An appeal shall lie to the Judicial Committee with the special leave of the Judicial Committee from decisions of the Court of Appeal in any civil or criminal matter in any case in which, immediately before the date on which Trinidad and Tobago became a Republic, an appeal could have been brought with the special leave of Her Majesty to Her Majesty in Council from such decisions.

(4) Subsections (1), (2) and (3) are subject to the provisions of sections 32(2) and 52(4).

(5) Subject to this section, provision may be made by or under any Act regulating the procedure to be adopted by the Court of Appeal with respect to any appeal to the Judicial Committee under this section or by parties to any such appeal.

(6) Any decision given by the Judicial Committee in any appeal under this section shall be enforced in like manner as if it were a decision of the Court of Appeal.

(7) Subject to subsection (6) the Judicial Committee shall, in relation to any appeal to it under this section in any case, have all the jurisdiction and powers possessed in relation to that case by the Court of Appeal.

PART 3

Judicial and Legal Service Commission

Judicial and Legal Service Commission 110. (1) There shall be a Judicial and Legal Service Commission for Trinidad and Tobago.

(2) The members of the Judicial and Legal Service Commission shall be—

- (a) the Chief Justice, who shall be Chairman;
- (b) the Chairman of the Public Service Commission;
- (c) such other members (hereinafter called "the appointed members") as may be appointed in accordance with subsection (3).

(3) The appointed members shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition as follows:—

- (a) one, 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 appeal from any such court;

(b) two from among persons with legal qualifications at least one of whom is not in active practice as such, after the President has consulted with such organisations, if any, as he thinks fit.

(4) Subject to section 126(3)(a) an appointed member shall hold office in accordance with section 136.

111. (1) Subject to the provisions of this section, power to appoint persons to hold or act in the offices to which this section applies, including power to make appointments on promotion and transfer and to confirm appointments, and to remove and exercise disciplinary control over persons holding or acting in such offices shall vest in the Judicial and Legal Service Commission. Appointment of
Judicial officers,
etc.

(2) Before the Judicial and Legal Service Commission makes any appointment to the offices of Solicitor General, Chief Parliamentary Counsel, Director of Public Prosecutions, Registrar General or Chief State Solicitor it shall consult with the Prime Minister.

(3) A person shall not be appointed to any such office if the Prime Minister signifies to the Judicial and Legal Service Commission his objection to the appointment of that person to that office.

(4) This section applies to such public offices as may be prescribed, for appointment to which persons are required to possess legal qualifications.

CHAPTER 8

FINANCE

112. (1) All revenues or other moneys raised or received by Trinidad and Tobago, not being revenues or other moneys payable under this Constitution or any other law into some other public fund established for a specific purpose shall, unless Parliament otherwise provides, be paid into and form one Consolidated Fund. Establishment of
Consolidated Fund

(2) No moneys shall be withdrawn from the Consolidated Fund except to meet expenditure that is charged upon the Fund by this Constitution or any Act or where the issue of those moneys has been authorised by an Appropriation Act or an Act passed in pursuance of section 114 or in accordance with any other law.

(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 an Act.

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

113. (1) The Minister responsible for finance shall cause to be prepared and laid before the House of Representatives before or not later than thirty days after the commencement of each financial year estimates of the revenues and expenditure of Trinidad and Tobago for that year. Authorisation of
expenditure from
Consolidated Fund

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

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

- (a) that the amount appropriated by the Appropriation Act for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Act; or
- (b) that any moneys have been expended for any purpose in excess of the amount appropriated for the purpose by the Appropriation Act or for a purpose for which no amount has been appropriated by the Act,

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

Authorisation of
expenditure in
advance of appro-
priation

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

Contingencies
Fund

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

(2) Where any advance is made in accordance with subsection (1) a supplementary estimate shall be presented and a Supplementary Appropriation Bill shall be introduced as soon as possible for the purposes of replacing the amount so advanced.

Establishment of
office and functions
of Auditor General

116. (1) There shall be an Auditor General for Trinidad and Tobago, whose office shall be a public office.

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

(3) The Auditor General is hereby empowered to carry out audits of the accounts, balance sheets and other financial statements of all enterprises that are owned or controlled by or on behalf of the State.

(4) The Auditor General shall submit his reports annually to the Speaker, the President of the Senate and the Minister of Finance.

(5) The President of the Senate and the Speaker shall cause the report to be laid before the Senate and the House of Representatives, respectively, at the next sitting of the Senate and the House of Representatives after the receipt thereof, respectively.

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

117. (1) The Auditor General shall be appointed by the President ^{Auditor General} after consultation with the Prime Minister and the Leader of the Opposition and shall hold office in accordance with section 136.

(2) Where the office of Auditor General is vacant or the holder of the office is for any reason unable to perform the functions of his office the President after consultation with the Prime Minister and the Leader of the Opposition may appoint a person to act in the office, and any person so appointed shall, subject to the provisions of subsection (4) continue to act until his appointment is revoked by the President, after consultation with the Prime Minister and the Leader of the Opposition.

(3) Before entering upon the duties of his office the Auditor General shall take and subscribe the oath of office before the President or a person appointed by the President for the purpose.

(4) Nothing done by the Auditor General shall be invalid by reason only that he has attained the age at which he is required under section 136 to vacate his office.

(5) The Auditor General shall be provided with a staff adequate for the efficient discharge of his functions.

(6) The staff of the Auditor General shall be public officers appointed in accordance with section 121(8).

118. (1) The public debt of Trinidad and Tobago shall be secured on ^{Public debt} the revenues and assets of Trinidad and Tobago.

(2) In this section references to the public debt of Trinidad and Tobago include references to the interest on that debt, sinking fund payments in respect of that debt, and the cost, charges and expenses incidental to the management of that debt.

119. (1) There shall be a Public Accounts Committee which shall ^{Public Accounts Committees} consist of not less than six nor more than ten members.

(2) The Chairman of the Public Accounts Committee shall be a member of the Opposition in the House, if any, and if willing to act. The Chairman and other members may comprise an equal number of members of the House of Representatives and the Senate as the House of Representatives may determine.

(3) Where the members of the Opposition in the House of Representatives are unwilling to act as Chairman of the Public Accounts Committee a member of the Opposition in the Senate shall be appointed and where the members of the Opposition in the Senate are unwilling so to act one of the Senators, appointed by the President under section 40(2)(b) shall be appointed Chairman.

(4) The Public Accounts Committee shall consider and report to the House of Representatives on—

- (a) appropriation accounts of moneys expended out of sums granted by Parliament to meet the public expenditure of Trinidad and Tobago;
- (b) such other accounts as may be referred to the Committee by the House of Representatives or as are authorised or required to be considered by the committee under any other enactment; and
- (c) the report of the Auditor General on any such accounts.

(5) In addition to the Public Accounts Committee established under subsection (1) there shall be a Public Accounts (Enterprises) Committee which shall consist of not less than six nor more than ten members.

(6) The Chairman of the Public Accounts (Enterprises) Committee shall be one of the Senators, if any, and if willing to act, appointed under section 40(2)(b) in accordance with the advice of the Leader of the Opposition and the other members such members of the House of Representatives and Senators as the House of Representatives may determine.

(7) Where the members of the Opposition in the Senate are unwilling to act as Chairman of the Public Accounts (Enterprises) Committee, a member of the Opposition in the House of Representatives shall be appointed and where the members of the Opposition in the House of Representatives are unwilling so to act, one of the Senators appointed by the President under section 40(2)(b) shall be appointed Chairman.

(8) The Public Accounts (Enterprises) Committee shall consider and report to the House of Representatives on—

- (a) the audited accounts, balance sheets and other financial statements of all enterprises that are owned or controlled by or on behalf of the State; and
- (b) the Auditor General's report on any such accounts, balance sheets and other financial statements.

(9) For the purposes of subsection (8) and section 116(3) an enterprise shall be taken to be controlled by the State if the Government or any body controlled by the Government—

- (a) exercises or is entitled to exercise control directly or indirectly over the affairs of the enterprise;
- (b) is entitled to appoint a majority of the directors of the Board of Directors of the enterprise; or
- (c) holds at least fifty per cent of the ordinary share capital of the enterprise,

as the case may be.

CHAPTER 9

APPOINTMENTS TO, AND TENURE OF OFFICES

PART 1

SERVICE COMMISSIONS, ETC.

Public Service Commission

120. (1) There shall be a Public Service Commission for Trinidad and Tobago which shall consist of a Chairman, a Deputy Chairman and not less than two nor more than four other members.

(2) The members of the Public Service Commission shall be appointed by the President, after consultation with the Prime Minister and the Leader of the Opposition.

(3) The members of the Public Service Commission shall hold office in accordance with section 126.

121. (1) Subject to the provisions of this Constitution, power to ^{Appointments, etc.,} appoint persons to hold or act in offices to which this section applies, ^{of Public Officers} including power to make appointments on promotion and transfer and to confirm appointments, and to remove and exercise disciplinary control over persons holding or acting in such offices shall vest in the Public Service Commission.

(2) The Public Service Commission shall not remove, or inflict any punishment on a public officer on the grounds of any act done or omitted to be done by that officer in the exercise of a judicial function conferred upon him unless the Judicial and Legal Service Commission concurs therein.

(3) Before the Public Service Commission makes any appointment to an office to which this subsection applies it shall consult the Prime Minister.

(4) A person shall not be appointed to an office to which subsection (3) applies if the Prime Minister signifies to the Public Service Commission his objection to the appointment of that person to that office.

(5) Subject to subsections (6) and (7), subsection (3) applies to the offices of Permanent Secretary, Chief Technical Officer, Director of Personnel Administration, to a head of a department of government, to the chief professional adviser in a Ministry of government and to the office of Deputy to any of these offices.

(6) Power to make appointments on transfer to the following offices shall vest in the Prime Minister:

- (a) any office of Permanent Secretary from one such office to another such office carrying the same salary;
- (b) any office the holder of which is required to reside outside Trinidad and Tobago for the proper discharge of his functions, and such offices in the Ministry of External Affairs as may from time to time be designated by the Prime Minister after consultation with the Public Service Commission.

(7) This section applies to all public offices including in particular offices in the Civil Service, the Fire Service and the Prison Service, but this section does not apply to offices to which appointments are made by the Judicial and Legal Service Commission, the Police Service Commission or the Teaching Service Commission or offices to which appointments are to be made by the President.

(8) Before the Public Service Commission makes any appointment to or transfers a member of the staff of the Auditor General or Ombudsman it shall first consult with the Auditor General or Ombudsman, as the case may be.

No. 29 of 1965
No. 30 of 1965
No. 31 of 1965

(9) In subsection (7) "Civil Service", "Fire Service" and "Prison Service" means respectively the Civil Service established under the Civil Service Act, 1965, the Fire Service established under the Fire Service Act, 1965 and the Prison Service established under the Prison Service Act, 1965.

Police Service Commission

Police Service
Commission

122. (1) There shall be a Police Service Commission for Trinidad and Tobago which shall consist of a Chairman and four other members.

(2) The members of the Police Service Commission shall be appointed by the President, after consultation with the Prime Minister and the Leader of the Opposition.

(3) The Chairman of the Police Service Commission shall be either the Chairman or the Deputy Chairman of the Public Service Commission.

(4) The members of the Police Service Commission shall hold office in accordance with section 126.

Appointments,
etc., of Police
Officers.
No. 30 of 1965

123. (1) Power to appoint persons to hold or act in an office in the Police Service established under the Police Service Act, 1965, including appointments on promotion and transfer and the confirmation of appointments, and to remove and exercise disciplinary control over persons holding or acting in such offices shall vest in the Police Service Commission.

(2) The Police Service Commission shall not remove, or inflict any punishment on, the holder of an office in the Police Service on the grounds of any act done or omitted to be done by him in the exercise of a judicial function conferred upon him unless the Judicial and Legal Service Commission concurs therein.

(3) Before the Police Service Commission makes an appointment to the office of Commissioner or Deputy Commissioner of Police it shall consult the Prime Minister, and a person shall not be appointed to such an office if the Prime Minister signifies to the Police Service Commission his objection to the appointment of that person to such an office.

Teaching Service Commission

Teaching Service
Commission

124. (1) There shall be a Teaching Service Commission for Trinidad and Tobago which shall consist of a Chairman and not more than four other members.

(2) The members of the Teaching Service Commission shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.

(3) The members of the Teaching Service Commission shall hold office in accordance with section 126.

Appointment of
teachers
No. 1 of 1966

125. Subject to the provisions of this Constitution, power to appoint persons to hold or act in public offices in the Teaching Service, established under the Education Act, 1966, including power to make appointments on

promotion and transfer and to confirm appointments, and to remove and exercise disciplinary control over persons holding or acting in such offices shall vest in the Teaching Service Commission.

General Provisions on Service Commissions

126. (1) A person who—

- (a) is a member of the House of Representatives or the Senate; or
- (b) holds or is acting in any public office or has held any public office within the period of three years preceding his proposed appointment,

Qualifications,
Tenure of office,
etc.

is not qualified to hold the office of member of a Service Commission.

(2) A person who has held office or acted as a member of a Service Commission shall not, within a period of three years commencing with the date on which he last held or acted in such an office, be eligible for appointment to any public office.

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

- (a) upon the expiration of five years from the date of his appointment or such shorter period, not being less than three years, as may be specified at the time of his appointment; or
- (b) where with his consent he is nominated for election to the House of Representatives or where he is appointed a Senator.

(4) A member of a Service Commission, other than the Judicial and Legal Service Commission, may be removed from office by the President acting in his discretion 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 a Service Commission may not be removed from office except in accordance with the provisions of this section.

(6) Before entering upon the duties of his office a member of a Service Commission shall take and subscribe the oath of office before the President or a person appointed by the President for the purpose.

127. (1) A Service Commission may, with the approval of the Prime Minister and subject to such conditions as it may think fit, delegate any of its functions under this Part other than any power conferred on the Commission by section 129, to any of its members or—

Delegation of
functions

- (a) in the case of the Judicial and Legal Service Commission, to a Judge;
- (b) in the case of the Public Service Commission, or the Teaching Service Commission, to any public officer; and
- (c) in the case of the Police Service Commission to the Commissioner of Police or a Deputy Commissioner of Police.

(2) In this section and in section 129, as regards any matter concerning the holder of any office referred to in section 121(5) or 123(3) a reference to "public officer" includes a reference to a Judge as well as a retired public officer.

Consultation with
other Service
Commissions

128. Before a Service Commission appoints to an office a person holding or acting in any office, power to make appointments to which is vested by this Constitution in another Service Commission, it shall consult that other Commission.

Powers and pro-
cedure of Service
Commissions and
protection from
legal proceedings

129. (1) Subject to subsection (3), a Service Commission may, with the consent of the Prime Minister, by regulation or otherwise regulate its own procedure, including the procedure for consultation with persons with whom it is required by this Constitution to consult, and confer powers and impose duties on any public officer or in the case of the holder of an office referred to in section 111(2), a Judge or on any authority of the Government, for the purpose of the discharge of its functions.

(2) At any meeting of a Service Commission three members shall constitute a quorum.

(3) The question whether—

(a) a Service Commission has validly performed any function vested in it by this Constitution;

(b) a member of a Service Commission or any other person has validly performed any function delegated to that member or person under section 127;

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

may not be enquired into in any court.

(4) No penalty may be imposed on any public officer except as a result of disciplinary proceedings.

PART 2

Public Service Appeal Board

Constitution of
Appeal Board

130. (1) There shall be a Public Service Appeal Board (hereinafter referred to as "the Appeal Board") to which appeals shall lie from such decisions against public officers as are specified in section 132.

(2) The Appeal Board shall consist of a Chairman who shall be a Judge, appointed by the President after consultation with the Chief Justice and two other members appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.

(3) One member of the Appeal Board shall be a retired public officer.

Tenure of office,
etc.

131. (1) Section 126 (which relates to qualifications for appointment, eligibility for public office and the term and tenure of office of members of Service Commissions) shall apply to members of the Public Service Appeal Board as they apply to members of a Service Commission.

(2) Before entering upon the duties of his office, a member of the Appeal Board shall take and subscribe the oath of office before the President or a person appointed by the President for the purpose.

132. (1) An appeal shall lie to the Public Service Appeal Board from any decision of a Service Commission, or of any person to whom the powers of the Commission have been delegated, as a result of disciplinary proceedings brought against a public officer. Appeals in
disciplinary cases

(2) An appeal under subsection (1) shall lie to the Appeal Board at the instance of the public officer in respect of whom the decision is made.

(3) Upon an appeal under this section, the Appeal Board may affirm or set aside the decision appealed against or may substitute any other decision which the Service Commission or the person from whom the appeal lies could have made.

(4) Every decision of the Appeal Board shall require the concurrence of the majority of its members.

(5) The Appeal Board may by regulations make provision for—

(a) procedure of its own; and

(b) the procedure in appeals under this section.

(6) With the consent of the Prime Minister, the Appeal Board may by regulation or otherwise confer powers and impose duties on any public officer or any authority of the Government of Trinidad and Tobago for the purpose of the exercise of the functions of the Appeal Board.

(7) This section and sections 130 and 131 shall be, in addition to and not in derogation of any other provisions for review of the decision of any Service Commission.

Pensions

133. (1) Subject to section 134 the law applicable to any benefits to which this section applies shall, in relation to any person who has been granted or who is eligible for the grant of such benefits, be that in force on the relevant date or any later law that is not less favourable to that person. Protection of
pension rights

(2) In this section, "the relevant date" means—

(a) in relation to any benefits granted before the commencement of this Constitution the date prescribed by section 100 of the former Constitution;

(b) in relation to any benefits granted or to be granted on or after the commencement of this Constitution to or in respect of any person who was a public officer before that date, the commencement of this Constitution;

(c) in relation to any benefits granted or to be granted to or in respect of any person who becomes a public officer on or after the commencement of this Constitution the date on which he becomes a public officer.

(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 specified by him in exercising the option shall, for the purposes of this section be deemed to be more favourable to him than the other law or laws.

(4) Any benefit to which this section applies, not being a benefit that is a charge on some other public fund of Trinidad and Tobago, shall be a charge on the Consolidated Fund.

(5) A reference in this section to the law applicable to any benefits includes, without prejudice to the generality of the expression, a reference to any law relating to the time at which and the manner in which any person may retire in order to become eligible for those benefits.

(6) For the purposes of this section, service as President or as a Judge shall be deemed to be public service.

(7) This section applies to any benefits payable under any law providing for the grant of pensions, gratuities or compensation to persons who are or have been public officers in respect of their service in the public service, or to the widows, children, dependants or personal representatives of such persons in respect of such service.

Powers of Commissions in relation to grant of pensions, etc.

134. (1) Where under any law an authority has power to withhold, reduce in amount or suspend any benefits to which this section applies, that power shall not be exercised without the approval specified in subsection (2) or subsection (3).

(2) Where a person who has been granted benefits, or who is eligible for benefits, in respect of public service was at the time he ceased to be a public officer subject to the jurisdiction of the Judicial and Legal Service Commission, the Police Service Commission or the Teaching Service Commission, the power referred to in subsection (1) shall not be exercised with respect to those benefits without the approval of that Commission.

(3) Where a person who has been granted benefits, or who is eligible for benefits, in respect of public service, was not at the time he ceased to be a public officer subject to the jurisdiction of the Judicial and Legal Service Commission, the Police Service Commission, or the Teaching Service Commission, the power referred to in subsection (1) shall not be exercised without the approval of the Public Service Commission.

(4) No benefits to which this section applies that have been granted to or in respect of any person who is or has been the holder of an office referred to in section 136(12) to (16) or for which any such person or his widow, children, dependants or his personal representatives may be eligible, shall be withheld, reduced in amount or suspended on the ground that that person has been guilty of misbehaviour, unless that person has been removed from his office under this Constitution by reason of such misbehaviour.

(5) For the purposes of this section, service as a Judge, shall be deemed to be public service.

(6) This section applies to any benefits payable under any law providing for the grant of pensions, gratuities or compensation to persons who are or have been public officers in respect of their service in the public service or to the widows, children or personal representatives of such persons in respect of such service.

Special Offices

135. (1) The President acting in accordance with the advice of the Prime Minister shall have power to appoint persons to the offices to which this section applies and to remove persons from any such office.

Appointments of
principal repre-
sentatives of
Trinidad and
Tobago

(2) Before tendering any advice for the purposes of this section in relation to any person who holds or is acting in any public office other than an office to which this section applies, the Prime Minister shall consult the appropriate Service Commission.

(3) This section applies to the office of—

- (a) Ambassador or High Commissioner; and
- (b) any principal representative of Trinidad and Tobago in any other country.

136. (1) The holder of an office to which this subsection and sub-sections (3) to (11) apply (in this section referred to as "the officer") shall vacate his office on attaining the age of sixty-five years or such other age as may be prescribed.

Tenure of special
offices

(2) Notwithstanding that he has attained the age at which he is required by or under subsection (1) to vacate his office, a Judge may, with the permission of the President, acting in accordance with the advice of the Chief Justice, continue in office for such period after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

(3) Nothing done by the officer shall be invalid by reason only that he has attained the age at which he is required under this section to vacate his office.

(4) The officer shall vacate his office if with his consent, he is appointed a Senator or nominated for election to the House of Representatives.

(5) The salaries and allowances payable to the holders of the offices to which subsection (1) and subsections (3) to (11) apply or an office referred to in subsections (13) to (16) shall be a charge on the Consolidated Fund.

(6) The salary and allowances payable to the holder of any office to which subsection (1) and subsections (3) to (11) apply or an office referred to in subsections (13) to (16) and his other terms of service shall not be altered to his disadvantage after his appointment and for the purposes of this subsection, in so far as the terms of service of any person depend upon the option of that person, the terms for which he opts shall be taken to be more advantageous to him than any other terms for which he might have opted.

(7) The officer may be removed from office only for inability to discharge the functions of his office whether arising from infirmity of mind or body or any other cause, or for misbehaviour and shall not be so removed except in accordance with the provisions of subsection (10).

(8) A decision that the question of removing the officer from office ought to be investigated may be made at any time—

- (a) in the case of the Ombudsman by resolution of the House of Representatives; and

(b) in any other case by the President either on his own initiative or upon the representation of the Prime Minister.

(9) Where a decision is made under subsection (8) that the question of removing the officer from office ought to be investigated, then—

(a) the President shall appoint a Tribunal which shall consist of a Chairman and not less than two other members all of whom shall be selected by the President acting in accordance with the advice of the Judicial and Legal Service Commission from among persons who hold or have held office as a Judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; and

(b) the Tribunal shall inquire into the matter and report on the facts to the President and advise the President whether the officer ought to be removed from office on any of the grounds specified in subsection (7).

(10) Where the question of removing the officer from office is referred to a Tribunal appointed under subsection (9) and the Tribunal advises the President that the officer ought to be removed from office, the President shall, by writing signed by him, remove the officer from office.

(11) Where the question of removing the officer from office has been referred to a Tribunal under subsection (9), the President, after consultation with the Judicial and Legal Service Commission, may suspend the officer from performing the functions of his office and any such suspension may at any time be revoked by the President and shall in any case cease to have effect if the Tribunal advises the President that the officer ought not to be removed from office.

(12) Subsection (1) and subsections (3) to (11) apply to the office of Auditor General and to such other offices as may be prescribed.

(13) Subsections (1) to (6) apply to the office of Judge.

(14) Subsection (1) and subsections (3) to (6) apply to the office of Director of Public Prosecutions, Chief Parliamentary Counsel and Solicitor General.

(15) Subsections (5) to (11) apply to the office of Ombudsman, a member of the Elections and Boundaries Commission, a member of the Integrity Commission, a member of a Service Commission, a member of the Salaries Review Commission and to such other offices as may be prescribed.

(16) Subsections (5) and (6) apply to the office of President.

**Removal from
office of Judge**

137. (1) A Judge may be removed from office only for inability to perform the functions of his office, (whether arising from infirmity of mind or body or any other cause), or for misbehaviour, and shall not be so removed except in accordance with the provisions of this section.

(2) A Judge shall be removed from office by the President where the question of removal of that Judge has been referred by the President to the Judicial Committee and the Judicial Committee has advised the President that the Judge ought to be removed from office for such inability or for misbehaviour.

(3) Where the Prime Minister, in the case of the Chief Justice, or the Judicial and Legal Service Commission, in the case of a Judge, other than the Chief Justice, represents to the President that the question of removing a Judge under this section ought to be investigated, then—

- (a) the President shall appoint a tribunal, which shall consist of a chairman and not less than two other members, selected by the President, acting in accordance with the advice of the Prime Minister in the case of the Chief Justice or the Prime Minister after consultation with the Judicial and Legal Service Commission in the case of a Judge, from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court;
- (b) the tribunal shall enquire into the matter and report on the facts thereof to the President and recommend to the President whether he should refer the question of removal of that Judge from office to the Judicial Committee; and
- (c) where the tribunal so recommends, the President shall refer the question accordingly.

(4) Where the question of removing a Judge from office has been referred to a tribunal under subsection (3), the President, acting in accordance with the advice of the Prime Minister in the case of the Chief Justice or the Chief Justice in the case of a Judge, other than the Chief Justice, may suspend the Judge from performing the functions of his office, and any such suspension may at any time be revoked by the President, acting in accordance with the advice of the Prime Minister in the case of the Chief Justice or the Chief Justice in the case of a Judge, other than the Chief Justice, and shall in any case cease to have effect—

- (a) where the tribunal recommends to the President that he should not refer the question of removal of the Judge from office to the Judicial Committee; or
- (b) where the Judicial Committee advises the President that the Judge ought not to be removed from office.

CHAPTER 10

THE INTEGRITY COMMISSION

138. (1) There shall be an Integrity Commission (in this section and in section 139 referred to as “the Commission”) for Trinidad and Tobago consisting of such number of members, qualified and appointed in such manner and holding office upon such tenure as may be prescribed.

The Integrity
Commission

- (2) The Commission shall be charged with the duty of—
- (a) receiving from time to time, declarations in writing of the assets, liabilities and income of members of the House of Representatives, Ministers of Government, Parliamentary Secretaries, Permanent Secretaries and Chief Technical Officers.
 - (b) the supervision of all matters connected therewith as may be prescribed.

Power to make
laws relating to
Commission

139. Subject to this Constitution, Parliament may make provision for—

- (a) the procedure in accordance with which the Commission is to perform its functions;
- (b) conferring such powers on the Commission and imposing such duties on persons concerned as are necessary to enable the Commission to carry out effectively the purposes of section 138;
- (c) the proper custody of declarations and other documents delivered to the Commission;
- (d) the maintenance of secrecy in respect of all information received by the Commission in the course of its duties with respect to the assets, liabilities and income of any member of Parliament and any other person; and
- (e) generally to give effect to the provisions of section 138.

CHAPTER 11

THE SALARIES REVIEW COMMISSION

Constitution of
Commission

140. (1) There shall be a Salaries Review Commission which shall consist of a Chairman and four other members all of whom shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.

(2) The members of the Salaries Review Commission shall hold office in accordance with section 126.

Functions of
Commission

141. (1) The Salaries Review Commission shall from time to time with the approval of the President review the salaries and other conditions of service of the President, the holders of offices referred to in section 136 (12) to (15), members of Parliament, including Ministers of Government and Parliamentary Secretaries, and the holders of such other offices as may be prescribed.

(2) The report of the Salaries Review Commission concerning any review of salaries or other conditions of service, or both, shall be submitted to the Prime Minister for presentation to the Cabinet and shall be laid as soon as possible thereafter on the table of each House.

CHAPTER 12

MISCELLANEOUS AND GENERAL

142. (1) Subject to the provisions of this Constitution, any person who is appointed or elected to or otherwise selected for any office established by this Constitution, including the office of Prime Minister or other Minister, or Parliamentary Secretary, may resign from that office by writing under his hand addressed to the person or authority by whom he was appointed, elected or selected. Resignations

(2) The resignation of any person from any such office shall take effect when the writing signifying the resignation is received by the person or authority to whom it is addressed or by any person authorised by that person or authority to receive it.

143. (1) Where any person has vacated any office as established by this Constitution, including the office of Prime Minister or other Minister, or Parliamentary Secretary, he may, if qualified, again be appointed, elected or otherwise selected to hold that office in accordance with the provisions of this Constitution. Re-appointment,
etc.

(2) Where by this Constitution a power is conferred upon any person or authority to make any appointment to any public 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 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.

FIRST SCHEDULE

FORMS OF OATH (OR AFFIRMATION) OF ALLEGIANCE
AND OF OFFICE

Form of oath (affirmation) for the President:

Section 37

I, A. B., do swear by.....(solemnly affirm) that I will bear true faith and allegiance to Trinidad and Tobago and to the best of my ability preserve and defend the Constitution and the law, that I will conscientiously and impartially discharge the functions of President and will devote myself to the service and well-being of the people of Trinidad and Tobago.

Form of oath (affirmation) for a Minister or Parliamentary Secretary: Section 84

I, A. B., do swear by.....(solemnly affirm) that I will bear true faith and allegiance to Trinidad and Tobago and will uphold the Constitution and the law, that I will conscientiously, impartially and to the best of my ability discharge my duties as.....and do right to all manner of people without fear or favour, affection or ill-will.

Section 57

Form of oath (affirmation) for a member of the House of Representatives or the Senate:

I, A. B., having been elected/appointed a member of Parliament do swear by.....(solemnly affirm) that I will bear true faith and allegiance to Trinidad and Tobago, will uphold the Constitution and the law, and will conscientiously and impartially discharge the responsibilities to the people of Trinidad and Tobago upon which I am about to enter.

Sections 3, 91, 107,
117, 126, 131

Form of oath (affirmation) for the Ombudsman, a Judge, the Auditor General, a member of a Service Commission or a member of the Public Service Appeal Board:

I, A. B., having been appointed..... of Trinidad and Tobago do swear by..... (solemnly affirm) that I will bear true faith and allegiance to Trinidad and Tobago and will uphold the Constitution and the law, that I will conscientiously, impartially and to the best of my knowledge, judgment and ability discharge the functions of my office and do right to all manner of people after the laws and usages of Trinidad and Tobago without fear or favour, affection or ill-will.

SECOND SCHEDULE

(Section 72)

BOUNDARIES OF CONSTITUENCIES

1. These rules are the Delimitation of Constituencies Rules in accordance with which the constituencies of Trinidad and Tobago are to be delimited under section 72(1).

2. Subject to paragraph 3, the electorate shall, so far as is practicable be equal in all constituencies.

3. The number of constituencies in Tobago shall not be less than two.

4. In Trinidad and in Tobago, respectively, the electorate in any constituency shall not be more than one hundred and ten per cent nor be less than ninety per cent of the total electorate of the island divided by the number of constituencies in that island.

5. Special attention shall be paid to the needs of sparsely populated areas which on account of size, isolation or inadequacy of communications cannot adequately be represented by a single member of Parliament.

6. Natural boundaries such as major highways and rivers shall be used wherever possible.

7. In this Schedule "Trinidad" means the Island of Trinidad and its offshore islands, and "Tobago" means the Island of Tobago and its offshore islands.

THIRD SCHEDULE

[(Section 94(4)(b))]

MATTERS NOT SUBJECT TO INVESTIGATION

1. Action taken in matters certified by the Attorney General to affect relations or dealings between the Government of Trinidad and Tobago and any other Government or any International Organisation.

2. Action taken in any country or territory outside Trinidad and Tobago by or on behalf of any officer representing or acting under the authority of the Government of Trinidad and Tobago.

3. Action taken under any law relating to extradition or fugitive offenders.

4. Action taken for the purposes of investigating crime or of protecting the security of the State.

5. The commencement or conduct of civil or criminal proceedings before any court in Trinidad and Tobago or before any international court or tribunal.

6. Any exercise of the power of pardon.

7. Action taken in matters relating to contractual or other commercial transactions, being transactions of a department of government or an authority to which section 93 applies not being transactions for or relating to—

- (a) the acquisition of land compulsorily or in circumstances in which it could be acquired compulsorily;
- (b) the disposal as surplus of land acquired compulsorily or in circumstances in which it could be acquired compulsorily.

8. Action taken in respect of appointments or removals, pay, discipline, superannuation or other personnel matters in relation to service in any office or employment in the public service or under any authority as may be prescribed.

9. Any matter relating to any person who is or was a member of the armed forces of Trinidad and Tobago in so far as the matter relates to—

- (a) the terms and conditions of service as such member; or
- (b) any order, command, penalty or punishment given to or affecting him in his capacity as such member.

10. Any action which by virtue of any provision of this Constitution may not be enquired into by any court,

Passed in the House of Representatives this 26th day of March, 1976.

J. E. CARTER

Clerk of the House

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fourths of all the members of the House, that is to say by the votes of 31 members of the House.

J. E. CARTER

Clerk of the House

Passed in the Senate this 24th day of March, 1976.

R. GRIFFITH

Clerk of the Senate

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than two-thirds of all the members of the Senate, that is to say by the votes of 17 Senators.

R. GRIFFITH

Clerk of the Senate

Sec 8 - 165/76(382),

Sec 28(4) - 107/76(423),

Sec 32(1)(c) - 195/76(462)