



My Constitutional Act

The Queen cannot decide herself the religious denomination to which she wants to belong.

She must belong to the Evangelical-Lutheran Church. However, she need not necessarily be

legally competent means that you make your own decisions and may enter into binding agreements, for example concerning purchases. This section explains that a King is legally competent when he becomes 18 years of age.

This Constitutional Act applies to all parts of the Kingdom of Denmark.

Preface

The Constitutional Act is the Foundation of Danish Democracy

In the Constitutional Act, you can read about the distribution of power in society. About the Danish Parliament, Folketinget, the democratically elected assembly which passes Acts that apply to us all. About the Danish Government, which must ensure that the Acts are complied with by us citizens and by the public authorities which must ensure that, for example, we have good schools, hospitals and libraries. About the Courts, which are independent of the Government and Parliament because they have to pass judgement in conflicts between citizens and between public authorities and citizens.

The Constitutional Act also sets out the rights you enjoy as a citizen. We call them constitutional rights or human rights.

One type of constitutional rights includes freedom of expression, the right to assemble and demonstrate for your opinions and the right to set up associations and to be a member of an association. The Constitutional Act also ensures that you have the right to be a member of a political party and to be politically active, even if this conflicts with the opinions of the Government or the majority. These rights are intended to ensure that democracy can function. The rules in the Constitutional Act on referenda and elections to Parliament, for example, would not be worth much if we were not entitled to discuss political issues and express our opinions.

The other type of constitutional rights includes the rules on personal freedom, ownership and the inviolability of the home. These rules are intended primarily to protect citizens against infringement of their rights by the State. If you are arrested by the police, for example, you are entitled to have a judge decide on your case within 24 hours. If the public authorities want to examine your home, your private papers or your PC, they generally require the permission of a judge first. And if the public authorities want to take your house to demolish it in order to build a motorway or railway across the site, you are entitled to receive compensation equivalent to the value of the house and the site. The Constitutional Act thus sets limits on how the State may interfere in our private lives.

The Constitutional Act is intended to guarantee a stable framework for political life and the political struggles for power. It is also intended to guarantee that citizens' rights are not infringed. Both of these elements are guaranteed by the Constitutional Act being more difficult to amend than other Acts. The Danish Constitutional Act has only been amended a few times since it was passed more than 150 years ago. The language in many of the sections of the Act has not been modernised since then. Therefore, this booklet contains a few explanatory comments on the individual sections.

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01

The Form of Government

Part one is mainly about the fact that Denmark is a monarchy and is also about the tripartition of power.

Section 01

This Constitutional Act applies to all parts of the Kingdom of Denmark.

Section 01

The Constitutional Act applies to Denmark, the Faeroe Islands and Greenland. Special home rule arrangements have been introduced by law for the Faeroe Islands and Greenland. These arrangements give the Faeroese and Greenlanders far-reaching autonomy in respect of their own affairs.

Section 02

The form of government is a limited monarchy. Royal power is inherited by men and women in pursuance of the rules established in the Danish Act of Succession of 27 March 1953.

Section 02

Denmark is governed by a Monarch, i.e. a King or Queen. The current Monarch is Queen Margrethe the Second. She succeeded to the throne in 1972 when her father, King Frederik the Ninth, died. Although the Queen is Sovereign, she has no independent power. The country is governed by a Government accepted by Parliament. Both men and women may inherit royal power. The Danish Act of Succession describes the rules for who may inherit the title when the King or Queen dies or abdicates. The Act is from 27 March 1953. It granted women the right to succeed to the throne. However, a son always succeeds to the throne before a daughter.

The 1953 Danish Act of Succession has the same status as the Constitutional Act because it is directly mentioned in Section 2. Therefore, for example, Parliament may not just change the order of succession. That would conflict with the Constitutional Act.

Section 03

The King and Parliament jointly have legislative power. The King has executive power. The Courts have judicial power.

Section 03

This provision concerns the tripartition of power into legislative, executive and judicial power. Power is divided between different authorities (Parliament, the Government and the Courts) in order to prevent all power from being held by one authority. That might lead to an abuse of power.

Under the Constitutional Act, the Queen and Parliament jointly have the power to legislate. However, it is not quite like that in reality. In practice, the Government and Parliament define Acts. The Queen just signs them. The Queen has to implement the Acts – she has the executive power. Today this just means that, purely formally, she appoints the Ministers of a Government.

The Queen has no influence on who will be a Minister. The Prime Minister decides that. The Queen has no influence either on which Parties will form a Government. This is discussed, among other things, in Sections 12, 13, 14 and 15.

The Courts have the power to pass judgement. They decide whether people have committed offences under the Acts of the country and must be punished. And they decide the outcome of cases in which citizens have conflicts between themselves. The Courts also decide whether Ministries and Municipalities have committed offences under Acts and whether the Acts comply with the Constitutional Act.

In 1999, the Supreme Court ruled that the so-called Tvind Act contravened Section 3 of the Constitutional Act. The provision in the Tvind Act that a number of Tvind Schools should no longer receive funds from the State was therefore invalid.

Section 04

The Evangelical-Lutheran Church of Denmark (Folkekirken) is the established Church of Denmark and, as such, is supported by the State.

Section 04

The Evangelical-Lutheran Church of Denmark is Christian. It is based on the Gospels in the Bible and the teachings of the German Priest Martin Luther. The ori-

entation of the Church is called Protestant. The State has a duty to support the Church, including financially. The State may also support other religious denominations, for example by lending them buildings or subsidising education. However, it is under no obligation to do so.

02

The Royal Family

Part two concerns, in particular, the Royal Family.

Section 5

The King may not, without the consent of Parliament, be Sovereign of other countries.

Section 5

The Queen may not become Sovereign of another country just like that. Parliament must first grant permission.

Section 6

The King must belong to the Evangelical-Lutheran Church.

Section 6

The Queen cannot decide herself the religious denomination to which she wants to belong. She must belong to the Evangelical-Lutheran Church. However, she need not necessarily be a member of the Evangelical-Lutheran Church of Denmark (Folkekirken).

Section 7

The King is legally competent when he becomes 18 years of age. The same applies to the successor to the throne.

Section 7

Being legally competent means that you make your own decisions and may enter into binding agreements, for example concerning purchases. This Section explains that a King is legally competent when he becomes 18 years of age. The same applies to the successor to the throne. This provision may seem a little strange today, when everyone is legally competent at the age of 18 years. But that was not the case in 1953, when the Constitutional Act was last amended. At that time, most people did not become legally competent until they became 21 years of age.

Section 8

Before the King joins the Government, he makes a solemn written assurance in the Council of State firmly to observe the Constitutional Act. Two identical original copies of the assurance are issued. One is given to Parliament to be kept in its archive. The other is placed

in the Danish National Archives. If, on account of absence or for other reasons, the King is unable to make this assurance directly on succeeding to the throne, the Council of State is responsible for government until he does so, unless an Act stipulates otherwise. If the King has already made this assurance as the successor to the throne, he immediately joins the Government on succeeding to the throne.

Section 8

The Queen must promise that she will observe the Constitutional Act. She does this by signing a declaration in the Council of State. This is the name given to the meetings that the Queen holds with the Government. Two copies of the declaration must be kept. One is kept in the Parliament archive. The other is kept in the Danish National Archives. The Danish National Archives are the State archives where all important documents are stored.

Section 9

The rules concerning the conduct of government if the King is not legally competent, is ill or is absent are laid down in an Act. If there is no successor to the throne and the throne is vacant, Parliament chooses a King and specifies the future order of succession.

Section 9

Parliament has passed an Act determining who will govern if the Queen is not legally competent or prevented from being present. In practice, this means that the Queen has a deputy who takes charge when, for example, she is ill, travelling or on holiday. If the successor to the throne is legally competent, he or she is automatically the deputy. If the successor to the throne is not legally competent (or if he or she is prevented), the Queen appoints a Regent.

The Queen's two sons, Crown Prince Frederik and Prince Joachim, have often been deputies for the Queen. The Queen's sister, Princess Benedikte, has also been her deputy. If there are no successors to the throne, Parliament must choose a King and specify the order of succession that will apply in the future.

Section 10

Subsection 1. The State's payment to the King is determined for his period of government by an Act. This Act also determines which palaces and other State property will be handed over to the King for his use.

Subsection 2. The State's payment cannot be encumbered with debt.

Section 10

Subsection 1. Parliament determines how much money the King or Queen will have per annum. The money is called a civil list annuity. The Queen receives DKK 62.4 million per annum, of which DKK 6.2 million goes to Prince Henrik (the Queen's husband) and DKK 0.9 million goes to Princess Benedikte (December 2005). Parliament also decides which palaces and other State property the Queen may use. Other property includes, for example, the Royal Yacht "Dannebrog", which has been put at the disposal of the Queen. The yacht is owned by the State.

Subsection 2. The Queen may not borrow money on her civil list annuity.

Section 11

For members of the Royal Family, annuities may be determined by an Act. The annuities may not be received outside Denmark without the consent of Parliament.

Section 11

Several members of the Royal Family receive an annual sum from the State. This is called an annuity. For example, the Crown Prince receives DKK 15 million, of which DKK 1.5 million goes to Crown Princess Mary (April 2005).

The members of the Royal Family may not move abroad and receive their annuities there unless they have been granted permission to do so by Parliament in advance.

03

The Government

Part three concerns the King and the Ministers. It establishes that the power of the King is limited. The country is governed by a Government accepted by Parliament.

Section 12

With the limitations established in this Constitutional Act, the King has supreme authority over all the affairs of Denmark and exercises it via the Ministers.

Section 12

It sounds almost as if the Queen determines everything. However, in reality it is not like that. The Constitutional Act contains major restrictions on what she may determine. The Queen exercises her power via the Ministers in a Government. She has no independent power.

This is described in Sections 13 and 14.

Section 13

The King is free from responsibility. His person is sacrosanct. The Ministers are responsible for the conduct of government. Their responsibility is determined in further detail by an Act.

Section 13

The Queen has a very special legal position. She cannot be held responsible. She must observe the laws of Denmark but she cannot be charged and judged by the Courts. On the other hand, the Queen has no power either. The Ministers are responsible for what the Government does. The Ministers' responsibility is specified in further detail in a special Act called the Danish Ministerial Responsibility Act. It is from 1964.

Section 14

The King appoints and dismisses the Prime Minister and the other Ministers. He determines their number and the division of business between them. The King's signature on resolutions concerning legislation and the Government gives the resolutions validity when it is accompanied by the signature of one or more Ministers. Each Minister who has signed is responsible for the resolution.

Section 14

The Constitutional Act gives the Queen the power to

appoint the Prime Minister and the other Ministers. She may also decide how many Ministers there are to be and what they are to do. In addition, she may dismiss them again. However, this is no longer how things work.

The Queen has no real influence on who will be a Minister or will be fired. The Queen appoints the Ministers recommended by the Prime Minister. When a new Prime Minister is to be appointed, the current Prime Minister and the Queen work out which politician is able to put together a majority of the Members of Parliament. He or she may never have a majority against him or her. The Queen then appoints that person to be the new Prime Minister.

The Queen has to sign all Acts and important resolutions by the Government. However, the Acts and resolutions are valid only when one or more Ministers have also signed. The Queen is not responsible for the Acts and resolutions she signs. However, the Ministers are responsible for them.

Section 15

Subsection 1. No Minister may remain in office after Parliament has expressed a lack of confidence in him.

Subsection 2. If Parliament expresses a lack of confidence in the Prime Minister, the Prime Minister must tender his resignation unless an election is called. A Minister who has been the object of a no-confidence vote or who has tendered his resignation remains as an acting Minister until a new Minister has been appointed. Acting Ministers may only do what is necessary to ensure that the conduct of their official duties is undisturbed.

Section 15

Subsection 1. If a majority in Parliament no longer has confidence in a Minister, the Minister must resign. This is done by the Members of Parliament voting on a so-called no-confidence motion.

Subsection 2. If Parliament expresses a lack of confidence in the Prime Minister, the Government must resign or call an election. The "old" Government remains as the acting Government until a new one has been

elected. However, during this period, the Ministers may only carry out practical measures that are required to ensure that the Ministries and public administration can continue. Nothing else.

Section 16

Ministers may be charged by the King or Parliament for the conduct of their official duties. The Court of Impeachment decides cases brought against Ministers for the conduct of their official duties.

Section 16

A Minister is responsible for the manner in which he or she manages his or her Ministry. If, for example, he or she neglects his or her work or is suspected of doing something illegal, Parliament may demand that he or she be brought before a special Court. This is called the Court of Impeachment and is described in Section 59. The Court of Impeachment decides whether the Minister is guilty. According to the wording of the Constitutional Act, the Queen may also demand that Ministers be charged and brought before the Court of Impeachment. However, in practice, the Government has this right.

Since the Court of Impeachment was introduced in 1849, there have been five Court of Impeachment cases, but only two Ministers have been found guilty. In 1910, the former Minister of the Interior, Sigurd Berg, was ordered to pay a fine for having neglected to supervise Den Sjællandske Bondestands Sparekasse (The Zealand Farmers' Savings Bank) (the Alberti case). In 1995, the former Minister of Justice, Erik Ninn-Hansen, was given a suspended sentence of four months in prison for having prevented Tamil refugees from getting their families to Denmark (the Tamil case).

Section 17

Subsection 1. The Ministers jointly constitute the Council of State, in which the successor to the throne also participates when he is legally competent. The King chairs the Council of State apart from in the case stated in Section 8 and the cases in which the legislature has granted the Council of State authority to conduct government in accordance with the provision in Section 9.

Subsection 2. All Acts and important governmental measures are discussed in the Council of State.

Section 17

Subsection 1. The Council of State consists of all the Ministers, the Queen and the successor to the throne, if he or she is legally competent. The Queen chairs the meetings of the Council of State. If, for example, she is away travelling, the meetings are chaired by her deputy, a so-called Regent. These rules can be seen in Section 9.

Subsection 2. All Acts and important resolutions made by the Government must be discussed in the Council of State. However, in practice, the resolutions are made by the Government, not by the Council of State.

Section 18

If the King is prevented from holding a Council of State, he can have the matter discussed in a Council of Ministers. This consists of all Ministers and is chaired by the Prime Minister. Each Minister must enter his vote in the minutes and decisions are made by a majority of votes. The Prime Minister submits the minutes of the discussions, signed by the Ministers present, to the King, who decides whether he approves of the decision by the Council of Ministers or wants the matter discussed in the Council of State.

Section 18

If the Queen is prevented from coming to a Council of State, she may demand that the Ministers meet without her instead. This is called a Council of Ministers and consists of all Ministers. The Prime Minister is the chairman of the meeting. The Queen can subsequently sign the Council of Ministers' resolutions. This Section is no longer of great importance. No monarch has availed himself or herself of this opportunity since 1869. However, the Government holds "meetings of ministers" once a week. They are of great practical importance but are not mentioned in the Constitutional Act.

Section 19

Subsection 1. The King acts on behalf of the Kingdom in international affairs. However, without the consent of Parliament, he may not undertake any action that

increases or decreases the area of the Kingdom, or enter into any obligation, for the fulfilment of which the participation of Parliament is necessary, or which is of major importance in some other way. The King may not either, without the consent of Parliament, terminate any international agreement entered into with the consent of Parliament.

Subsection 2. Except to defend the Kingdom or Danish forces against armed attack, the King may not, without the consent of Parliament, use military force against any foreign State. Any measures that the King may take in pursuance of this provision must immediately be submitted to Parliament. If Parliament is not sitting, a sitting must immediately be convened.

Subsection 3. Parliament elects a Foreign Policy Committee from among its Members and the Government consults this Committee before making any decision of major foreign policy import. Further rules on the Foreign Policy Committee are laid down by an Act.

Section 19

The Queen exercises her power via the Ministers. She cannot be held responsible for what the Government does (Sections 12, 13 and 14). Therefore, the word “King” must be read as “the Government”.

Subsection 1. Parliament establishes the main direction of Denmark’s foreign policy. By far the majority of foreign policy decisions on agreements with other countries must be approved by Parliament. The Government cannot just make a decision itself. This applies when Denmark enters into agreements with other countries on cooperation such as NATO and the UN.

Subsection 2. The Government cannot either just decide that Danish military forces will attack other countries. Parliament must be asked first. However, there is one exception. The Government may use Danish forces for defence if we are attacked by another country. However, the military intervention must be submitted to Parliament immediately afterwards. If Parliament is not sitting, for example on account of holiday, a sitting must be convened immediately.

Subsection 3. Parliament must appoint a committee with which the Government must discuss major foreign policy decisions before the decisions are made. The committee is called the Foreign Policy Committee. The members of the committee have a duty of confidentiality. They must not talk publicly about what they learn at the meetings.

Section 20

Subsection 1. Powers that are granted to the authorities of the Kingdom under this Constitutional Act may, by means of an Act and to a specific extent, be transferred to international authorities created by mutual agreement with other States to promote international legal order and cooperation.

Subsection 2. A majority of five sixths of the Members of Parliament is required to pass Bills in this respect. If such a majority is not obtained, but the majority required to pass normal Bills is obtained, and the Government maintains the Bill, it is submitted to the parliamentary electors for approval or rejection in accordance with the rules established in Section 42 for referenda.

Section 20

Subsection 1. Denmark cooperates with other countries in organisations such as the EU. Situations may arise in which it is necessary for the international organisation to make decisions which the citizens in all member States must observe. This Section of the Constitutional Act makes this possible. It is called “surrendering sovereignty”. However, there are a number of conditions that must be met. Firstly, an Act must be passed. The purpose of this is to state which power Denmark is surrendering.

Subsection 2. It is not sufficient for the Act to be passed with a simple majority in Parliament. At least 150 of the 179 members of Parliament must vote for the Bill. This is equivalent to five sixths of the Members of Parliament. When normal bills are to be passed, it is sufficient for there to be more votes in favour than against. However, if the majority for a Bill on the surrender of sovereignty is less than five sixths, the Bill must be submitted to a referendum before it can

become an Act.
The rules for referenda are in Section 42.

Before Denmark became a member of the EC/EU in 1973, it was necessary to hold a referendum under Section 20. There was a large majority in Parliament in favour of membership; 141 Members voted yes and 34 voted no. But this majority was not five sixths. The referendum was held on 2 October 1972. Since then there have been several referenda on amendments to the EC/EU Treaties according to the rule in Section 20. An Act passed under Section 20 does not remain in force for ever. If a majority of Parliament so wishes, a treaty adopted under Section 20 may be terminated. This means that a majority of Parliament can decide that we will leave the EU.

Section 21

The King may have Bills and proposals for other resolutions submitted to Parliament.

Section 21

The Government may submit Bills and proposals for other resolutions that Parliament must decide on. In fact, all Members of Parliament are entitled to submit Bills and make proposals. These are called Private Member's Bills and are discussed in Section 41, Subsection 1. But, in practice, things work slightly differently. By far the majority of Bills come from the Government. It is also the Government that submits nearly all the Bills that are passed. This is because the Government is often supported by a majority in Parliament. The Government can also gain assistance from the various Ministries, where there are experts to prepare the individual Bills.

Section 22

A Bill passed by Parliament is enacted when it is affirmed by the King at the latest 30 days after it has finally been passed. The King orders the promulgation of the Act and ensures that it is carried out.

Section 22

The Queen affirms an Act by signing it. This means that the Act does not enter into force until she has signed it.

A Sovereign has not refused to sign a Bill since 1865. The Constitutional Act is interpreted today in such a way that the Sovereign has no right to refuse to sign. The Government must also sign the Bill. This is done by the Minister in the area in question signing it. A Bill does not become an Act if the Government refuses to sign it for one reason or another, or if the Bill is not signed before 30 days have passed.

Acts must be published before they take effect for citizens. This is usually done by them being printed in the Danish Law Gazette (Lovtidende). Applicable Acts are also available in an electronic version at www.retsinfo.dk.

Section 23

In very urgent cases, the King may, when Parliament cannot be convened, issue provisional Acts. Such Acts must not contravene the Constitutional Act and must always be submitted to Parliament for approval or rejection immediately after Parliament has been convened.

Section 23

This Section concerns provisional Acts. If it is not possible to convene Parliament, the Government may issue a provisional Act on its own initiative. However, the Act must not contravene the Constitutional Act. And it must be debated in Parliament as soon as Parliament can be convened. A majority of Members can approve or reject the Act.

This provision may only be used in very special cases. Moreover, Parliament must be prevented from being convened. This might, for example, be because of war or natural disasters. However, it might also be on account of an election. After an election, it takes a few days until the new Members of Parliament can be convened. However, the Finance Act cannot be passed as a provisional Act. This is stated in Section 46.

Section 24

The King may grant pardons and amnesties. He may only pardon Ministers convicted by the Court of Impeachment with the consent of Parliament.

Section 24

Originally, the King had the right to exempt people from a sentence or parts of a sentence. This is called a pardon. Today, the Minister of Justice has this right.

The Minister only pardons people if there are special personal circumstances in favour of a pardon. These might, for example, be illness, age or family circumstances. In practice, most pardons are granted before people have started to serve their sentence.

The Minister of Justice may also pardon a group of people sentenced for a crime. This is called an amnesty. Amnesties have been used, in particular, in connection with a number of political events, most recently at the end of the German occupation of Denmark in 1945.

The Government cannot, on its own initiative, pardon a Minister sentenced by the Court of Impeachment. The Government must make a proposal in Parliament and try to gain a majority.

Section 25

The King gives notice, either directly or via the proper Government authorities, of any grants and exemptions from the Acts either that are in use in accordance with the rules in force before 5 June 1849 or for which an Act issued since that time contains authority.

Section 25

The provision in Section 25 has a very special historical background. Before 1849, the King was autocratic. He decided the Acts and he could also make exemptions from them. In the period up to the passing of the Constitutional Act, normal legislative work had virtually come to a standstill. Instead, the King often made exemptions from Acts, for example with regard to divorces. At that time it was very difficult to be divorced under the Acts in force. Nevertheless, some married people were divorced because the King granted them divorces.

When the Constitutional Act was passed in 1849, it was obvious that it would take a long time before all the exemptions from previous Acts could be incorporated in new Acts. Therefore, Section 25 was created. The provision was intended primarily to ease the transition from autocracy.

Today, the provision has virtually no significance. Most areas are now covered by an Act.

Section 26

The King is entitled to coin money in accordance with the Constitutional Act.

Section 26

The State issues Danish coins. The State and thus the Government are also entitled to issue banknotes, but this is not contained in the Constitutional Act. In practice, the Danish National Bank (Danmarks Nationalbank) has an exclusive right to issue banknotes. This is stated in the Danish Act relating to the Danish National Bank.

Section 27

Subsection 1. Rules on the employment of civil servants are established by an Act. No one may be employed as a civil servant without having citizenship. Civil servants who are appointed by the King make a solemn assurance that they will observe the Constitutional Act.

Subsection 2. Regarding the dismissal, transfer and retirement of civil servants, rules are established by an Act, cf., however, Section 64.

Subsection 3. Without their consent, civil servants appointed by the King may only be transferred if the income they receive for their position is not decreased and if they are given the choice between such a transfer and retirement with a pension in accordance with the general rules.

Section 27

The State needs good, loyal civil servants who do not take bribes. Therefore, some of the most senior civil servants are employed according to special rules that protect them. For example, they cannot be dismissed without very good reasons. And they are entitled to a pension even if they are fired.

Subsection 1. The rules are established in an Act called the Danish Civil Servants Act. The State's civil servants must have Danish citizenship. This means that they must be Danish citizens. This requirement does not apply to municipal civil servants. Citizens from the EU and the Nordic countries may work as civil servants in Denmark without first becoming Danish citizens. Instead

they are employed on conditions similar to those of civil servants.

Subsection 2. An Act also establishes rules for dismissal, transfer and retirement. The rules are in the Danish Civil Servants Act and the Danish Civil Servants' Pension Act. However, judges may not be transferred against their will. This is stated in Section 64.

Subsection 3. Other civil servants may be transferred, for example by giving them a new position. But this must not mean that their pay decreases. If they are transferred, they must have the opportunity to choose between the new job or retirement.

04

Elections to the Danish Parliament

Part four concerns, in particular, the rules for election to Parliament.

Section 28

Parliament is an assembly consisting of a maximum of 179 Members, 2 of whom are elected on the Faeroe Islands and 2 in Greenland.

Section 28

Parliament may not consist of more than 179 Members. 2 Members are elected on the Faeroe Islands and 2 in Greenland.

Section 29

Subsection 1. Everyone who has Danish citizenship is a permanent resident of Denmark and has reached the voting age stated in Subsection 2 is entitled to vote in elections to Parliament, unless the person in question has been declared legally incompetent. An Act determines the extent to which criminal convictions and social security benefit that is regarded in legislation as poor relief should entail the loss of the right to vote.

Subsection 2. The voting age is the age that achieved a majority at a referendum in pursuance of the Act of 25 March 1953. The voting age applicable from time to time may be amended by an Act. A Bill for such an Act passed by Parliament may not be affirmed by the King until the provision on amendment of the voting age in accordance with Section 42, Subsection 5, has been subject to a referendum that did not result in the provision lapsing.

Section 29

Subsection 1. You have to be a Danish citizen to be able to vote in a parliamentary election. You must also live in Denmark. This means that you must be registered with the national register in Denmark. However, there are exceptions for some Danes who are abroad. For example, you are entitled to vote if you work for the Danish Ministry of Foreign Affairs or have been posted abroad by a Danish authority, company or society. You are also entitled to vote if you are abroad for educational or health-related reasons. You must also sign a document stating that you intend to return to Denmark within 2 years after your departure. The rules are

determined in Section 2 of the Danish Election Act. You cannot vote if you have been declared legally incompetent. This might, for example, be because of mental illness or mental disability. However, you no longer lose your right to vote if you receive financial assistance from the municipality or if you have a conviction.

Neither the Constitutional Act nor any other Act says anything about the Queen's or her family's right to vote. However, in practice, the Queen and her family do not vote. Nor are they listed in the electoral registers.

Subsection 2. In 1953, you had to be 23 to vote. Since then, the voting age has been reduced three times. Today it is 18 years of age.

Two things are required to change the voting age. Firstly, Parliament must pass an Act to change it. The proposal must then be the subject of a referendum, at which a majority must not vote against it. However, this majority must consist of at least 30 per cent of all voters.

Things do not always go the way the politicians want. In 1969, the politicians wanted to reduce the voting age from 21 to 18 years of age. However, the Danish population did not want this – they voted the proposal out. Not until a referendum in 1978 did the Danes vote in favour of reducing the voting age to 18.

Section 30

Subsection 1. Everyone who is entitled to vote in parliamentary elections may be elected to Parliament unless the person in question has been convicted of an offence that, in the general opinion, makes him unworthy of being a Member of Parliament.

Subsection 2. Civil servants who are elected Members of Parliament do not need the Government's permission to be elected.

Section 30

Subsection 1. If you are entitled to vote, you can also be elected to Parliament. However, you must not have been convicted of anything that, in the opinion of the people, makes you unworthy to sit in Parliament. Parliament decides whether a convicted Member is also unworthy.

In practice, the conviction is used as a guideline. If a Member of Parliament receives a custodial sentence, the Member must usually resign from Parliament. This happened, for example, to the former leader of the Progress Party (Fremskridtspartiet), Mogens Glistrup. He was found guilty of tax fraud and went to prison. Parliament therefore considered him to be unworthy to sit in Parliament and voted him out in 1983. When he had served his sentence, he put himself up for election and was re-elected to Parliament in 1987. And Parliament found him worthy again.

Subsection 2. Civil servants, for example in ministries, may be elected to Parliament. They do not need the Government's permission first. This provision is different from the constitutions of many other countries, where civil servants may not be Members of Parliament.

Section 31

Subsection 1. Members of Parliament are elected by standard, direct, secret elections.

Subsection 2. The detailed rules for exercising the right to vote are established by the Parliamentary Election Act of Denmark, which, in order to ensure equal representation of the various views among voters, stipulates the method of election, including whether proportional representation is to be used in connection with the elections in single-member constituencies or not.

Subsection 3. The population, the number of voters and population density must be taken into consideration in connection with local distribution of seats.

Subsection 4. The Parliamentary Election Act of Denmark establishes detailed rules regarding the election of deputies and their entry into Parliament, as well as rules regarding the procedure in cases in which second ballots may be necessary.

Subsection 5. Special rules concerning Greenland's representation in Parliament may be established by an Act.

Section 31

Subsection 1. All voters must have the opportunity to vote in parliamentary elections. The voters must be able to vote directly for the candidates for election to Parliament. And no one must be able to see where voters place their crosses. People can have help voting if, for example, they have problems seeing or reading the ballot paper. The ballot is still regarded as secret even if the helper sees where the cross is placed.

Subsection 2. The Danish Election Act states how elections are to be held. The Parliamentary Election Act of Denmark is passed by Parliament, but the Constitutional Act sets various requirements for the Act. The Parliamentary Election Act of Denmark must ensure that all political opinions are represented equally. This is done by using a special counting method called proportional representation. Using this method, the parties are allocated seats in relation to how many votes they receive. If, for example, a party receives ten per cent of all votes, it will also get around ten per cent of the seats in Parliament.

Subsection 3. The number of inhabitants, the number of voters and the population density must be taken into consideration when working out how the seats are to be distributed. This provision is included to make allowance for thinly populated areas of the country. This means that not so many votes are required to be elected in, for example, Northern Jutland, as in Copenhagen.

Subsection 4. If, for example, a Member of Parliament is ill or is on leave for a period of time, a deputy is summoned. These rules are in Parliament's Standing Orders.

If a Member resigns from Parliament or dies, for instance, the seat is passed to a deputy. These rules are in the Parliamentary Election Act of Denmark.

The Members of Parliament do not have personal deputies. Under the Parliamentary Election Act of Denmark, the deputy must be taken from among the candidates in the party who were not elected to Parliament. The person at the top of the list is normally taken.

The Parliamentary Election Act of Denmark also con-

tains a few provisions on second ballots. However, they are of no great practical significance. There has not been a second ballot since 1918.

Subsection 5. The two Members of Parliament for Greenland are elected directly. However, the provision gives the Greenlanders the opportunity to use indirect elections instead.

Section 32

Subsection 1. Members of Parliament are elected for four years.

Subsection 2. The King may, at any time, call an election, with the effect that the existing seats in Parliament lapse when the election has taken place. However, after the appointment of a new Government, an election may not be called before the Prime Minister has presented himself before Parliament.

Subsection 3. The Prime Minister is under an obligation to bring about the holding of an election before the expiry of the electoral period.

Subsection 4. Seats never lapse before an election has taken place.

Subsection 5. Special rules may be established by an Act regarding the commencement and termination of seats in Parliament representing the Faeroe Islands and Greenland.

Subsection 6. If a Member of Parliament is no longer eligible, his seat lapses.

Subsection 7. When his election has been approved, every new member makes a solemn assurance that he will observe the Constitutional Act.

Section 32

Subsection 1. There must be a parliamentary election at least every four years.

Subsection 2. The Prime Minister may call an election before the four years have passed. This is of great advantage to the Government. The Prime Minister can,

therefore, call an election at the time that is best for his party. The Prime Minister may not call an election immediately after he has formed a Government. He must first “present himself” to Parliament. This means that he must attend a debate and outline his plans in Parliament.

Subsection 3. The Prime Minister must ensure that an election is held before the four years have passed.

Subsection 4. When an election is called, the Members of Parliament retain their seats. Their seats are valid until the election is over. This also applies to Members of Parliament who do not stand for re-election.

Subsection 5. There are special Election Acts for the Faeroe Islands and Greenland.

Subsection 6. If a Member of Parliament is declared unworthy to sit in Parliament, he or she loses his or her seat. This also occurs if he or she moves abroad permanently or is declared legally incompetent. Read more about eligibility in Section 33.

Subsection 7. A Member of Parliament must solemnly promise that he or she will observe the Constitutional Act. This is done by signing a declaration. Otherwise he or she cannot participate in debates and votes in Parliament. Nor may he or she be a member of a parliamentary committee. These rules are in Parliament's Standing Orders.

Section 33

Parliament itself decides the validity of its Members' election and questions regarding whether a Member has lost his or her eligibility.

Section 33

Parliament itself decides whether an election took place correctly. It often happens that a few people complain about mistakes in connection with an election. For example, there may be complaints about mistakes in lists of candidates or mistakes in the counting of ballot papers. If there is a complaint about an election, Parliament must investigate the matter. A temporary committee is set up to assess what hap-

pened. This is called the Election Scrutiny Committee. If a mistake has been made, Parliament must decide what consequences this will have. First and foremost, Parliament must decide whether the mistake is so serious that the election should be declared invalid. However, in most cases, there is agreement that the mistake is not significant to the final election result.

Parliament also deals with questions regarding Members' eligibility. A permanent committee has been set up to investigate Members' affairs in the time between elections. It is called the Election Validation Committee. If you lose your eligibility, you cannot retain your seat in Parliament. The current practice is that you are "unworthy" to sit in Parliament if you have been sentenced to prison. Read more about this in Section 30. If the Election Validation Committee considers that a Member has lost his eligibility, it proposes that the Member should lose his seat. This proposal is the subject of a vote in Parliament.

Section 34

Parliament is inviolable. Anyone who infringes its security or freedom and anyone who issues or obeys any order with this intention is guilty of high treason.

Section 34

Parliament is the country's supreme authority. Any act that threatens Parliament's security or freedom to make decisions is regarded as high treason. Under the Danish Penal Code, this may be punished with prison for up to 16 years or for life. You are not exempted from liability even if you have been ordered to attack Parliament. If, for example, a soldier or a police officer receives such an order, he must refuse to obey it. Nor is it permitted to disturb the work of Parliament, for example by demonstrating in the Parliament Chamber. You will not be sentenced for high treason for this. However, it is illegal and usually results in a fine.

05

The Work of the Danish Parliament

Part five concerns, in particular, the legislation and rules for the work of Parliament.

Section 35

Subsection 1. A newly elected Parliament sits at midday on the twelfth weekday after the date of the election unless the King has convened a sitting beforehand.

Subsection 2. Immediately after the seats have been validated, Parliament constitutes itself by electing the Speaker and Deputy Speakers.

Section 35

Subsection 1. Parliament must be convened at midday on the twelfth weekday after an election. Weekdays are the same as working days. In practice, therefore, the provision means that Parliament must be convened at the latest 14 days after the election. However, the Government may convene Parliament for its first sitting before 14 days have passed. When Parliament does not sit immediately, this may be because it takes a little time to work out the precise results of the election.

Subsection 2. At the first sitting in Parliament, the Election Scrutiny Committee is appointed. The second sitting begins with a vote. In this vote, Parliament approves the election of all Members of Parliament unless the Election Scrutiny Committee has any objections. The Committee is discussed in Section 33.

Parliament's Speaker and four Deputy Speakers are then elected. The Speaker is elected by means of a vote in the chamber, while the four Deputy Speakers are appointed by the four largest parties. However, the Speaker's party may not be counted in this connection. The Speaker is usually elected in an uncontested election. This means that only one candidate is presented and that no actual vote takes place.

The Speaker and Deputy Speakers are elected after parliamentary elections and at the start of each parliamentary year.

Section 36

Subsection 1. The parliamentary year begins on the first Tuesday in October and lasts until the same Tuesday in the following year.

Subsection 2. On the first day of the parliamentary year, the Members sit at midday and Parliament again constitutes itself.

Section 36

Subsection 1. A parliamentary year begins on the first Tuesday in October and lasts until the same Tuesday the year after.

Subsection 2. Parliament sits automatically when the parliamentary year begins. The Speaker and Deputy Speakers are then elected, as discussed in Section 35.

Section 37

Parliament sits at the place where the Government has its seat. In extraordinary cases, however, Parliament may sit elsewhere in the Kingdom.

Section 37

Parliament must hold its sittings near the Government. There must be a close link between the Ministers and Parliament because the Ministers are very important to the work of Parliament. They give Members of Parliament information and explanations. They take various initiatives, for example Bills for new Acts or amendments of Acts. And they also implement Parliament's resolutions. Therefore, the Constitutional Act assumes to a high degree that the Ministers are personally present in Parliament. Read more about this in Section 40. Situations may arise in which Parliament is unable to follow the Government, for example if the Government and Parliament are separated on account of war or occupation. Therefore, the provision states that Parliament may sit elsewhere. However, only in very special cases.

Section 38

Subsection 1. At the first sitting in the parliamentary year, the Prime Minister gives an outline of the general position of Denmark and the measures intended by the Government.

Subsection 2. A general debate takes place on the basis of this outline.

Section 38

Subsection 1. At the first sitting of Parliament in October, the Prime Minister must make a speech. In this speech, he must outline the Government's plans for the coming year. He must state the Bills and reforms the Government would like to implement. This speech is called the opening speech or King's speech. The latter is an old expression from the time at which the King made the opening speech.

Subsection 2. When the speech has been made, it is put up for debate. The Speaker of Parliament has a duty to place the speech on the agenda. The political debate may well last several days, and the parties in Parliament must have an opportunity to express their opinions on the Government's outline. If a majority of Members of Parliament is unable to support the Government's plans, the Government may fall. Read more about this in Section 15. The Constitutional Act calls the debate a "general debate". This means that there are no limits to which subjects may be raised.

Section 39

The Speaker of Parliament convenes a sitting of Parliament by stating the agenda. The Speaker is under an obligation to convene a sitting when at least two fifths of the Members of Parliament or the Prime Minister submit a written request for a sitting with an agenda.

Section 39

The Speaker of Parliament convenes sittings of Parliament. He must also ensure that an agenda for the sitting is sent out to Members. An agenda determines the subjects that may be discussed at the sitting. However, the Speaker must also convene a sitting if two fifths of the Members of Parliament request a sitting in writing. This is equivalent to 72 Members. They must also have drawn up an agenda explaining the object of the sitting. The Prime Minister has the same right, but he must also give the Speaker an agenda.

Section 40

In their official capacity, Ministers have access to Parliament and are entitled to demand leave to speak during debates as often as they want, provided they

observe the standing orders. They have a right to vote only if they are also Members of Parliament.

Section 40

This provision gives Ministers the right to participate in both open and closed sittings in the Parliament Chamber. However, it does not give them the right to attend committee meetings. Ministers are not always elected to Parliament. Nevertheless they are entitled to participate in sittings. They may also demand to speak in Parliament. A Minister is entitled to vote only if he or she is also an elected Member of Parliament.

When Parliament debates a proposal, the Minister whom the proposal concerns is nearly always present in the Parliament Chamber. This is true regardless of whether the proposal has been submitted by a Member of Parliament or the Government.

A Minister is also present in the Parliament Chamber during question time and debates on issues. The only exception is when Parliament debates subjects that only concern Parliament, for example elections to parliamentary committees or amendments to Parliament's Standing Orders.

Section 41

Subsection 1. Every Member of Parliament is entitled to submit Bills and proposals for other resolutions to Parliament.

Subsection 2. A Bill cannot finally be passed until it has been read three times in Parliament.

Subsection 3. Two fifths of Members of Parliament may submit a request to the Speaker that the third reading take place at the earliest twelve weekdays after the Bill has been passed at the second reading. The request must be in writing and must be signed by the participating Members. However, there may be no postponement for bills for Finance Acts, supplementary estimates, temporary appropriation Acts, Government loan Acts, Acts concerning the granting of citizenship, Acts concerning expropriation, Acts concerning indirect taxes and, in urgent cases, Bills for Acts, the commencement of which cannot be postpo-

ned on account of the purpose of the Act.

Subsection 4. In the event of a general election and at the end of the parliamentary year, all Bills and proposals for other resolutions that have not already been finally passed lapse.

Section 41

Subsection 1. Normally, it is the Government that takes the initiative for a new Act. However, under Section 41, all Members of Parliament may propose Acts and parliamentary resolutions.

Subsection 2. A Bill must be read three times in Parliament before it can be passed. At the first reading, the Members of Parliament discuss the Bill in broad terms. Both the Government and Members of Parliament are entitled to propose amendments to the Bill, and the Members decide on the proposed amendments at the second reading. At the third reading, Members vote on the entire Bill.

Subsection 3. If 72 Members so desire, they may request that the third reading be postponed. They may demand that the third reading take place at the earliest “twelve weekdays” after the second reading. This is the same as 12 working days. However, they must ask the Speaker of Parliament for the postponement in writing.

However, the right to request postponement does not apply to all Bills.

Members may not request postponement when the debate concerns Finance Acts, supplementary estimates and temporary appropriation Acts or Bills concerning Government loans, citizenship, expropriation and indirect taxes. Expropriation means that the State, for example, seizes citizens’ private property and gives them compensation. Indirect taxes are, for example, VAT and duties on goods. Nor is it possible to request postponement if it is very important that an Act enter into force at a specific time.

Subsection 4. A Bill must have been passed before the first Tuesday in October, when a new parliamentary year begins. Otherwise it lapses. The same applies in the event of a general election. This provision is inclu-

ded to clear things up before a new parliamentary year begins.

Section 42

Subsection 1. When a Bill has been passed by Parliament, a third of the Members of Parliament may, within three weekdays of the final passing of the Bill, ask the Speaker for a referendum on the Bill. The request must be in writing and must be signed by the participating Members.

Subsection 2. A Bill that may be the subject of a referendum, cf. Subsection 6, may be affirmed by the King before the expiry of the deadline stated in Subsection 1 or before the referendum requested has taken place only in the case discussed in Subsection 7.

Subsection 3. When a referendum has been requested on a Bill, Parliament may, within five weekdays after the final passing of the Bill, decide that the Bill will lapse.

Subsection 4. If Parliament does not make a decision in accordance with Subsection 3, notice that the Bill will be examined by referendum must be given to the Prime Minister as soon as possible. The Prime Minister subsequently has the Bill published with notice that a referendum will take place. The referendum must be implemented according to the Prime Minister’s decision at the earliest twelve weekdays and at the latest eighteen weekdays after publication of the Bill.

Subsection 5. At the referendum, voters vote for and against the Bill. For the Bill to lapse, it is necessary for a majority of the parliamentary electors participating in the referendum, and at least 30 per cent of all those entitled to vote, to vote against the Bill.

Subsection 6. Bills for Finance Acts, supplementary estimates, temporary appropriation acts, Government loan Acts, Acts fixing the number and salaries of Government servants, wages and salaries Acts, pension Acts, Acts concerning the granting of citizenship, Acts concerning expropriation, Acts concerning direct and indirect taxes and Acts for the implementation of existing treaty obligations may not be the subject of referenda. The same applies to Bills for the Acts

discussed in Sections 8, 9, 10 and 11 and any resolutions stated in Section 19 which may be in statutory form unless it is decided by a special Act that such a referendum is to take place for the latter. The rules in Section 88 apply to constitutional amendments.

Subsection 7. In especially urgent cases, a Bill that may be the subject of a referendum may be affirmed by the King immediately after it has been passed if the Bill contains a provision to this effect. If a third of the Members of Parliament request a referendum on the Bill or the affirmed Act under the rules discussed in Subsection 1, such a referendum is held according to the above rules. If the Act is rejected by the referendum, this is announced by the Prime Minister without undue delay and at the latest fourteen days after the referendum was held. The Act lapses from the date of the announcement.

Subsection 8. Detailed rules on referenda, including the extent to which referenda are to take place on the Faeroe Islands and in Greenland, are established by an Act.

Section 42

This Section is the longest in the Constitutional Act. It concerns the right to submit Bills to a referendum. It protects a large minority from being voted down by a narrow majority.

Subsection 1. If an Act is passed, a minority may prevent it from entering into force without further ado. It may request that the Bill be submitted to a referendum. And if a majority of the population opposes the Act, the Bill cannot be enacted.

The minority must consist of at least 60 Members of Parliament, and they have to be fast. A maximum of three working days may pass after the Bill has been passed before the Members request a referendum in writing. The request and the signatures must be submitted to the Speaker of Parliament.

Subsection 2. An Act does not enter into force until it has been signed by the Queen. However, she may only sign an Act before three working days have passed in very special cases. The minority must have a real op-

portunity to request a referendum. Nor may the Queen sign an Act if a referendum has already been requested.

Subsection 3. If the minority has requested a referendum, the majority may cancel the Bill. It may withdraw the Bill even if the Act has actually been passed. The majority just needs to do so before five working days have passed after the Act was passed.

It may sound strange that politicians would want to withdraw an Act that they have just had passed. But it is a very good lifeline to have. Because, in political terms, losing a referendum creates problems. And the majority may be so afraid of losing the vote that they prefer to withdraw the Bill. In this way, they can, for example, postpone the Bill or implement it in amended form.

Subsection 4. If Parliament does not withdraw the Bill, the Prime Minister must call a referendum. He decides when it will be held. However, it must be held 12-18 working days after he called the referendum and published the Bill with notice that a referendum would be held.

Subsection 5. The voting rules are described here. Voters must vote for or against the Bill. And the Bill can only be rejected if a majority votes no. This majority must consist of at least 30 per cent of all voters. Invalid votes are not counted.

Subsection 6. This is Section 42's so-called exemption provision. It describes all the Acts that may not be submitted to a referendum.

It is mostly Acts concerning taxes, finances and foreign policy matters that may not be submitted to a referendum. For example, the population may not vote out a Finance Act. Nor may the population vote on State expropriations, which are discussed in Section 73. This Section gives the State the right to take people's property if it is in the "public" interest.

Some foreign policy matters may, however, be submitted to a referendum. If a majority of Parliament so decides, an Act passed under Section 19 may be submitted to a referendum. However, Parliament must first pass an Act to the effect that the resolution

must be submitted to a referendum. This possibility was used for the first time ever when the Maastricht Treaty was submitted to a referendum for the second time in 1993.

Subsection 7. In very special cases, the Queen may sign an Act immediately after it has been passed in Parliament. In this connection, a special guarantee has been introduced for the minority. 60 Members may request a referendum on the Act, even if it has actually been affirmed. This takes place according to the rules described in Subsections 1 and 5. If the Act is rejected by the population, it must be withdrawn. This takes place by the Prime Minister publishing the result of the referendum at the latest 14 days after the referendum.

Subsection 8. It is up to the politicians to establish the rules for referenda by an Act. They must also establish the rules for referenda on the Faeroe Islands and in Greenland. In principle, the Faeroe Islands and Greenland may hold referenda at different times to Denmark. However, Parliament has passed an Act stipulating that referenda must be held at the same time if the subject concerns all three countries.

Section 43

No tax may be imposed, changed or abolished except by an Act. Nor may any troops be conscripted or any Government loan raised except in pursuance of an Act.

Section 43

Parliament has the sole right to determine Denmark's taxes, duties and Government loans. It is one of Parliament's major powers and it may not be entrusted to the Government. Section 43 stipulates that matters relating to taxes, duties and Government loans may only be decided by an Act. And, of course, it is Parliament that passes the Acts. This provision ensures democratic control and supervision of taxation. Section 43 also stipulates that Parliament determines how many soldiers may be called up.

Section 44

Subsection 1. No foreigner may receive citizenship except by an Act.

Subsection 2. Rules concerning foreigners' rights to become owners of real property are established by an Act.

Section 44

Subsection 1. A foreigner may only become a Danish citizen if an Act is passed to that effect. The Government or another authority may not just grant Danish citizenship to a foreigner itself. Nor may they determine the rules for when a person may become a Danish citizen. Nevertheless, the current Act states that, in certain situations, a person becomes a Danish citizen automatically.

The Act relating to citizenship also contains rules to the effect that a person may receive Danish citizenship by making a declaration. However, there are a number of conditions that must be met first.

Otherwise a person can only become a Danish citizen directly by an Act. The practical procedure is that the Minister of Integration submits a Bill to the effect that a number of people will receive Danish citizenship. Before this, it will have been established that the persons also meet the conditions for becoming Danish citizens. The Bill is subsequently passed by a vote in Parliament.

Subsection 2. Foreigners cannot just buy land and property in Denmark. This was decided in an Act of 1959 which still applies, with certain amendments. The Act requires that a person be a permanent resident of Denmark or have lived in Denmark for at least five years before he or she may buy land. If not, a person must have permission from the Ministry of Justice before buying property.

However, there are certain exemptions for EU citizens and citizens of the old EFTA states that are still outside the EU. These are Norway, Iceland, Switzerland and Liechtenstein.

If a foreigner wishes to buy a holiday house in Denmark, they must obtain permission from the Ministry of Justice. This will be granted only if they have a particularly strong attachment to Denmark.

Section 45

Subsection 1. A Bill for the Finance Act (budget) for the coming financial year must be presented to Par-

liament at the latest four months before the start of the financial year.

Subsection 2. If the reading of the budget for the coming financial year cannot be completed before the start of the financial year, a Bill for a provisional appropriation Act must be submitted to Parliament.

Section 45

Subsection 1. A Finance Act is a budget of State revenue and expenses. The Finance Act determines how much money the State may spend.

The Finance Act applies for one year at a time, a so-called financial year. Since 1979, it has followed the calendar year. The budget must be presented at the latest four months before the next financial year begins. This means that the budget must be presented by 1 September. It must subsequently be presented again in October. This is stipulated in Section 41, Subsection 4.

Subsection 2. If Parliament does not finish reading the budget by the New Year, it may pass a provisional appropriation Act to cover the essential expenses. This applies until the Finance Act is passed. This provision was used, for example, in December 1990 because a general election delayed the reading of the budget for 1991.

Section 46

Subsection 1. Taxes may not be levied before the Finance Act or a provisional appropriation Act has been passed by Parliament.

Subsection 2. No expense may be paid without authority in the Finance Act passed by Parliament or in supplementary estimates or a provisional appropriation Act passed by Parliament.

Section 46

Subsection 1. The State may not levy taxes or duties unless Parliament has passed a Finance Act or a provisional appropriation Act.

Subsection 2. Nor may money be spent to pay expenses before Parliament has appropriated it. This may be done via the Finance Act, a provisional appropriation

Act or supplementary estimates. The latter is an Act containing a number of expenses that are not included in the Finance Act itself.

In practice, however, the provision has been amended a little. A Minister may pay expenses that have not been appropriated in the Finance Act. However, he or she must first obtain permission from a special parliamentary committee, the Finance Committee. Subsequently, the expense must be stated in supplementary estimates that must be passed by Parliament. The Minister may therefore pay the expense totally lawfully if the Finance Committee has given him or her permission to do so. This is also the case if it turns out subsequently that a majority in Parliament is not in favour of the appropriation.

Section 47

Subsection 1. Public accounts must be submitted to Parliament at the latest six months after the end of the financial year.

Subsection 2. Parliament elects a number of auditors. These auditors examine the annual public accounts and ensure that all State revenues are entered in the accounts and that no expense has been paid without authority in the Finance Act or another appropriation Act. They can request all necessary information and documents. The detailed rules for the number of auditors and their activities are established by an Act.

Subsection 3. The public accounts with the auditors' comments are submitted to Parliament for a resolution.

Section 47

Subsection 1. Public accounts of all expenses and revenues must be presented to Parliament at the latest six months after the end of the financial year.

Subsection 2. Parliament elects a number of auditors of public accounts. There must be at least four and at most six auditors of public accounts. At present, Parliament has elected six. The auditors may be Members of Parliament and often are. They are not required to be trained accountants.

The auditors must examine the public accounts. They

must check whether the accounts have been kept correctly and whether there is an appropriation for all the money spent by the State. The auditors of public accounts are helped to examine the accounts by an Auditor-General. He is independent and employed by Parliament. He is not a Member of Parliament.

Subsection 3. When the auditors have examined the accounts, they write their comments and give them to the Members of Parliament. The accounts must then be the subject of a vote in Parliament. In practice, the final annual accounts are approved without reservations. However, during the year, the auditors of public accounts issue a number of critical reports on concrete cases. For example, these may be IT projects, administration of appropriations for the State, special subsidy schemes or major public building projects.

Section 48

Parliament establishes its own standing orders, containing provisions concerning procedure and the maintenance of order.

Section 48

For Parliament to function properly, it must work according to specific rules. These are contained in the so-called standing orders that Parliament has passed. These contain, for example, rules on the conduct of Parliament, how sittings are to proceed and how votes are to be held. It also contains provisions on the administration of Parliament. There are also rules for how visitors in the Parliament Chamber are to behave. There is a tradition that Parliament adopts new standing orders every time the Constitutional Act is amended. Many of the rules have been amended over time, but some are as they always have been. Some go right back to Parliament's first standing orders. They were adopted on 11 February 1850.

Section 49

Sittings of Parliament are public. However, the Speaker or the number of Members specified in the standing orders or a Minister may demand that all unauthorised persons be removed, after which a decision is taken without debate as to whether the matter is to be debated in a public or closed sitting.

Section 49

People are free to attend sittings in the Parliament Chamber. However, the Speaker of Parliament, a Minister or 17 Members may propose that a matter is to be debated behind closed doors. A decision is then taken by a standard vote in Parliament. It is very rare for Parliament to hold sittings behind closed doors. The last time this happened was in 1924. At that time, there was a dispute about East Greenland between Norway and Denmark. Parliament chose to open the second reading behind closed doors.

The Speaker and Deputy Speakers of Parliament have also adopted rules that give the public the opportunity to follow the work of Parliament. All proposals, debates, committee reports and resolutions must be printed in the official report of parliamentary proceedings. They are also accessible on the Internet at www.folketinget.dk. If the visitors in the Parliament Chamber are not quiet and do not behave peacefully, the Speaker of Parliament may have them evicted. This does not mean that the sitting is closed. The press may still report on the sitting.

Section 50

Parliament may only pass a resolution when over half of the Members are present and participate in the vote.

Section 50

At least 90 Members of Parliament must be present before Parliament can vote on Acts and other resolutions. They have three options. They can vote for, vote against or abstain.

Section 51

Parliament may appoint commissions of its Members to investigate matters of public importance. The commissions are entitled to demand written or oral information both from private citizens and from public authorities.

Section 51

Parliament may appoint a so-called parliamentary commission to investigate an important matter. It consists of Members of Parliament. This opportunity

is not taken very frequently. Since 1849, a parliamentary commission has been appointed just five times. The first three commissions were to clarify various questions relating to legislation. The last two were to investigate whether there was a basis for instituting proceedings against various Ministers.

The most recent parliamentary commission was appointed in June 1945 after the end of the German occupation of Denmark. The commission was to investigate circumstances during the occupation. On the basis of its findings, Parliament had to consider whether any of the Ministers should be held responsible.

No parliamentary commission has been appointed since the Constitutional Act was amended in 1953. Instead, the Government and Parliament have often appointed a judge to investigate "causes célèbres".

Section 52

Parliament elects members for commissions and tasks on a proportional basis.

Section 52

Parliament elects members for commissions and committees on a proportional basis. This means that the places on the various committees are distributed according to the parties' representation. Most parliamentary committees have 17 members. If, for example, a party has ten seats in Parliament, it will normally have one member in each committee. A party with 20 seats will normally have two members, etc.

However, a small party can obtain a little more influence by entering into an electoral pact with another party. When the calculation is made, the two parties are then treated as one party. A party with, for example, 15 seats has only one member in each committee if the party is alone. However, if it enters into an electoral pact with another party with 15 seats, the two parties together obtain three places in each committee.

Section 53

Any Member of Parliament may, with Parliament's consent, submit any public matter to debate and demand Ministers' explanation of it.

Section 53

In pursuance of Section 40, Ministers have access to Parliament even if they are not Members of Parliament. Section 53 gives Members of Parliament the right to demand information and explanations from Ministers. This debate is called a debate on an issue, and the Minister is under an obligation to give an answer. Parliament must assent to a debate on an issue being held. However, Parliament has only refused to approve such a debate in very few cases.

It is also possible to ask a Minister questions during parliamentary debates or at question time on Wednesdays. Questions to a Minister are not the same as a debate on an issue. They need not be approved by Parliament and the Minister is not under an obligation to reply. It is possible to request that they be answered orally or in writing. Oral replies are made at question time on Wednesdays. Written replies are printed in the official report of parliamentary proceedings. It is not possible to hold a debate on a question and it is not possible to pass a resolution on a question.

In the parliamentary year 1997-98, a special question hour was also introduced. This takes place on Tuesdays. Members can put questions to the Ministers who are present. And they receive replies immediately.

In the last twenty years, the number of debates on issues and questions to Ministers has increased greatly. This allows Members of Parliament to monitor the Government and the individual Ministers.

Section 54

Petitions may only be handed to Parliament by one of its Members.

Section 54

If a citizen wishes Parliament to debate a specific subject or a specific matter, he must go to a Member of Parliament to get it on the agenda. The Speaker of Parliament can then refer the matter to a specific committee. This provision is not used very frequently. If individuals or organisations want to exert influence on legislation, they usually go directly to a party group or to one of Parliament's committees. They can also try

to persuade a Member of Parliament to put a question to a Minister, for example.

Section 55

An Act establishes that Parliament elects one or two persons who are not Members of Parliament to supervise the State's civil and military administration.

Section 55

Parliament may elect one or two persons to handle complaints about public administration. However, Parliament has decided to elect just one person. Such a person is called an ombudsman, and he or she may not be a Member of Parliament. Citizens may complain to the ombudsman if, for example, they think that a Government department or a municipality has made an incorrect decision.

The ombudsman cannot handle all types of complaint. For example, it is not possible to complain about an Act passed by Parliament. Nor is it possible to complain about a decision made by a Court.

The first ombudsman began work in 1955.

Section 56

Members of Parliament are bound only by their convictions and not by any directions from their electors.

Section 56

The Constitutional Act establishes that Members of Parliament are independent. They may vote freely according to their convictions. They are under no obligation to take into consideration what their party or electors say. Nor do they need to fulfil the promises they have made to electors in an election campaign, for example.

A Member of Parliament is also entitled to change his opinion and party. He or she may resign from his or her party and become an independent Member.

Once you have been elected to Parliament, you cannot lose your seat before the next general election unless you do something unlawful so that you are unworthy to sit in Parliament. Read more about this in Sections 30 and 33.

Conversely, Section 56 does not prevent a Member of Parliament from submitting to party discipline. This is

the path chosen by the great majority. It is unpleasant to go against the majority in your own party group, and it is often political suicide. A Member's re-election depends on whether the party wants him or her as a candidate again. Therefore, most Members of Parliament vote in the same way as the rest of the party group.

Section 57

No Member of Parliament may, without its consent, be charged or subjected to imprisonment of any kind unless he is caught red-handed. No Member of Parliament may, without Parliament's consent, be held responsible outside Parliament for his statements in Parliament.

Section 57

A Member of Parliament may not just be brought before a Court in a criminal case or be imprisoned. Parliament must first consent to criminal proceedings being brought against the Member. This is done by means of a special vote. This provision was introduced to protect Members of Parliament against arbitrary persecution by the Government. However, the protection applies only while a person is a Member of Parliament.

Once a person is no longer a Member, he or she may be prosecuted for things that occurred while he or she was a Member of Parliament. There is one single exception. If a Member of Parliament is caught "with his or her fingers in the till", i.e. caught red-handed, he or she may be brought before a Court or imprisoned without further ado. Members of Parliament may be sentenced to pay small fines, for example for driving too fast, without Parliament needing to give its consent. But only if the Member pays the fine voluntarily. In practice, Parliament always allows a Member to be charged or imprisoned.

The Constitutional Act also gives Members of Parliament an extended form of freedom of speech when they speak in Parliament. Actions for slander, for example, may not be brought against members for things they have said in Parliament unless Parliament permits the actions. Parliament's practice here is the opposite of that stated above. Parliament never permits that type of proceedings.

Section 58

Members of Parliament receive a fee, the size of which is fixed by the Danish Election Act.

Section 58

Parliament itself fixes the pay Members of Parliament are to receive for their work. It is determined in an Act called the General Election Act. Up to 1920, Members received a fee that was fixed as a specific amount per sitting day. That is no longer the case. Today, Members of Parliament receive a fixed amount per month. The pay consists of a basic fee and an expense supplement. The basic fee is equivalent to the pay earned by a civil servant in grade 38, which is DKK 527,624 per annum (April 2005). The expense supplement of DKK 51,153 per annum (October 2005) is to cover the expenses incurred by Members of Parliament in connection with their work. It is tax-free.

Members who live outside Copenhagen also receive an allowance for housing expenses.

Members of Parliament also receive a supplementary fee if they leave Parliament at a general election or in the event of illness. The fee is equivalent to the basic fee and is paid for 12-24 months after they leave Parliament.

Finally, they are entitled to a pension, spouse's pension and children's pension that are largely equivalent to what a civil servant receives. The maximum pension is received by persons who have been Members of Parliament for 20 years, and the pension is paid from the age of 60.

06

The Courts

Part six concerns the Courts.

Section 59

Subsection 1. The Court of Impeachment (Rigsretten) consists of up to 15 of the oldest ordinary members of Denmark's highest Court, according to length of service, and an equivalent number of members elected by Parliament on a proportional basis for 6 years. One or more deputies is elected for each of the members elected. Members of Parliament may not be elected to or act as members of the Court of Impeachment. If, in an individual case, any of the members of the highest Court cannot participate in the hearing and judgement of a case, an equivalent number of the members of the Court of Impeachment most recently elected by Parliament withdraw.

Subsection 2. The Court elects its Chairman from among its members.

Subsection 3. If a case is brought before the Court of Impeachment, the members elected by Parliament retain their seats in the Court for this case even if the period for which they were elected expires.

Subsection 4. Further rules on the Court of Impeachment are established by an Act.

Section 59

The Court of Impeachment is the specific Court that hears cases against Ministers. It is discussed in Section 16 of the Constitutional Act. Section 59 concerns how the Court of Impeachment is to be composed.

Subsection 1. The Court of Impeachment consists of a maximum of 15 judges from the Supreme Court (Højesteret) and the same number of members elected by Parliament.

The members elected by Parliament are intended to ensure that political expert knowledge is also included in cases against Ministers. The members of the Court of Impeachment elected by Parliament may not be Members of Parliament and they are elected for six years at a time.

The professional judges of the Court of Impeachment are the 15 judges from the Supreme Court who have

served longest as Supreme Court judges.

Parliament may decide in an Act that there will be fewer judges and political members of the Court of Impeachment. However, there may be a maximum of 15 of each, making a total of 30 members of the Court of Impeachment. It is very important that there are equal numbers of each. If, for example, one of the Supreme Court judges is prevented from being present for a case, one of the members elected by Parliament must also withdraw.

In the Court of Impeachment case in 1993-95 against the former Minister of Justice, Erik Ninn-Hansen, the Court of Impeachment initially consisted of 24 members. However, some withdrew so that, at the conclusion of the case, there were only 20 members.

Subsection 2. The Court of Impeachment elects its own Chairman. In the Court of Impeachment case against the former Minister of Justice, Erik Ninn-Hansen, the President of the Supreme Court was the Chairman of the Court of Impeachment.

Subsection 3. The members elected by Parliament may not be replaced in the middle of a case, even if their electoral period expires.

Subsection 4. Parliament has passed an Act establishing the rules for the Court of Impeachment. It is called the Court of Impeachment Act.

Section 60

Subsection 1. The Court of Impeachment decides cases brought against Ministers by the King or Parliament.

Subsection 2. The King may, with Parliament's consent, also have proceedings brought against other persons in the Court of Impeachment for offences that he finds particularly dangerous for the State.

Section 60

Subsection 1. Both the Government and Parliament may decide whether a case is to be brought against a Minister in the Court of Impeachment.

Subsection 2. A case may also be brought against other persons in the Court of Impeachment if the

Government and Parliament consider that the offence is particularly dangerous for the State. However, this provision has never been used.

Section 61

The exercise of judicial power may only be regulated by an Act. Special Courts with judicial authority may not be established.

Section 61

An Act is required to regulate Courts' affairs. The rules are contained in the Administration of Justice Act, which has more than 1000 sections. Under no circumstances may a special Court be established with the power to pass judgement. A special Court is a Court established to hear one specific case. The Court must therefore hear a case that is known before the judge is appointed. This is a problem because the Government may have an interest in choosing a judge who has a particular attitude to the case. Therefore, the Constitutional Act says that a special Court may not pass judgement. It may only examine a case.

Section 62

The administration of justice must always be kept separate from government. Rules on this are established by an Act.

Section 62

This Section states that the Courts must be independent of the Government and administration. This is closely linked to Section 3 of the Constitutional Act, which concerns the tripartition of power.

The Courts come under the Ministry of Justice. However, in 1998, an Act was introduced on a special Courts Agency. The Act is called the Courts Agency Act. The Agency has its own budget and it is administered independently of the Ministry of Justice.

Section 62 may easily be interpreted to mean that the same people may not work for the administration and the Courts. However, the Section is not interpreted in this way. For example, many judges also work as chairmen of various public complaints boards that handle citizens' complaints about State decisions.

Section 63

Subsection 1. The Courts are entitled to pass judgement on any matter relating to the limits of powers of public authorities. Anyone wishing to raise such matters may not, however, avoid temporarily complying with orders made by public authorities in connection with bringing the case before the Courts.

Subsection 2. Judgement of matters relating to the limits of powers of public authorities may be placed, by an Act, with one or more administrative Courts, the decisions of which must, however, be examined by the highest Court in Denmark. Further rules on this are established by an Act.

Section 63

Subsection 1. "Powers of public authorities" means the executive power. This means ministries, municipalities, special boards, etc. If a citizen considers that the State or the municipality, for example, has done something wrong, he or she may raise the matter in a Court. While the case is being heard, however, he or she must comply with what the State or municipality has decided. The Court case does not stay the proceedings. This provision goes right back to the first Constitutional Act of 1849. At that time, it was important to establish that it was possible to bring proceedings against the administration without the King's consent. Under auto-cocracy it was not possible to bring proceedings against the administration (in reality the King) without first obtaining the King's consent.

Subsection 2. Parliament may establish special administrative Courts to hear cases against the administration. This might be relevant, for example, if the politicians wanted to ensure that the judges had special expert knowledge in administrative matters. However, decisions by an administrative Court may always be brought before the Supreme Court. This provision was inserted when the Constitutional Act was most recently amended in 1953. However, no administrative Court has yet been established.

Section 64

In their vocation, judges must follow only the law. They cannot be dismissed except by means of a judgement.

Nor may they be transferred against their wishes except in the event of a reorganisation of the Courts. However, a judge who has reached 65 years of age may be dismissed, but without loss of income until the time at which he would have been dismissed on account of his age.

Section 64

Judges must only follow the provisions of Acts. The Government or Parliament may not decide how a judge is to pass judgement. And judges may not let themselves be influenced by others, whether they be private individuals, colleagues, associations, the media, etc. Nor may the Government dismiss a judge. Only another judge may do so.

If the Government could just dismiss a judge, the Courts would not be independent. In such a case, pressure could be exerted on a judge in a specific case by threatening him with the sack. For the same reason, judges cannot either be moved to other work unless they themselves wish to be transferred. However, it is possible, by means of an Act, to create new Courts or merge several Courts. If this happens, the judge may not refuse to be transferred or dismissed. Judges may be dismissed when they reach 65 years of age. However, they must still receive full pay until they become 70 years of age. Not until that age must a judge retire on account of age. Subsequently, he or she may receive a civil servant's pension.

Section 65

Subsection 1. In the administration of justice, proceedings are open and oral as far as possible.

Subsection 2. Laymen must participate in the administration of criminal justice. An Act establishes the cases in which and the forms under which this participation is to take place, including the cases in which jurors are to participate.

Section 65

Subsection 1. As far as possible, legal proceedings must be open to the public. People must be able to attend trials and the press must be able to write about them. Nevertheless, there are a number of exceptions

to this basic rule. They are contained in the Administration of Justice Act. For example, the judge may decide that a case is to be heard in camera. This is usually done out of consideration for the victim or the accused. And it happens fairly frequently.

The judge may also decide that there will be a ban on reporting or on revealing names. This means that the press may not report from the courtroom or publish the name of the victim or the accused. This also happens fairly frequently. A case may also be heard in camera out of consideration for the investigation of a case.

Subsection 2. Not only judges with legal training pass judgement in criminal cases. In pursuance of the Constitutional Act, ordinary citizens must also be present as judges. They are called laymen. This principle was introduced in 1849 because the legal system had functioned poorly in the last year of autocracy. There was a tendency for the Courts to come down very hard when the cases were political in some way or another. People who were critical of the Government often received very tough sentences. Although the principle of laymen was introduced in 1849, it was first implemented in the Administration of Justice Act in 1919.

It is up to Parliament to decide how the laymen are to function. This is done by means of legislation. The laymen appear in Court in two different forms, as lay judges and as jurors.

In a lay judge case, there are two "civil" lay judges and one professional judge if the case is heard in a District Court. In the High Court, there are three civil lay judges and three professional judges. They hear cases of a less serious nature. These may, for example, concern theft, where the accused has pleaded not guilty and the prosecution is asking for the accused to be sentenced to fewer than four years in prison. The lay judges and the professional judges decide jointly whether the accused is guilty or not. They also pass sentence jointly.

Jurors appear in major cases in the High Court, for example cases involving murder, grievous bodily harm or robbery, where the prosecution is asking for the ac-

cused to be sentenced to four years in prison or more. In such cases, there are 12 jurors (lay judges) and three professional judges. The 12 jurors must decide whether the accused is guilty or not, while the jurors and the professional judges pass sentence together. The professional judges may not change the decision reached by the jurors on the question of guilt. However, if the jurors have found an accused guilty and the professional judges consider that the accused should be acquitted, they may demand that the case be heard before a new jury.

07

The Evangelical-Lutheran Church of Denmark (Folkekirken)

Part seven concerns the Evangelical-Lutheran Church of Denmark (Folkekirken).

Section 66

The Constitution of the Evangelical-Lutheran Church of Denmark is regulated by an Act.

Section 66

The Evangelical-Lutheran Church of Denmark is governed via an Act passed by Parliament. Under the Constitutional Act, it must actually be a special Act, a "Constitution". This provision has been in place since the first Constitutional Act was passed. The idea then was that the Church should have a more independent role in relation to the State. Therefore, a separate Church Constitution should be drawn up. This has not yet happened. Instead we have an Act that gives the members of the Evangelical-Lutheran Church of Denmark influence via parochial church councils. However, many matters relating to the Church are decided by the Minister of Ecclesiastical Affairs.

Section 67

Citizens are entitled to associate in communities to worship God according to their convictions. However, nothing may be taught or done which contravenes decency or public order.

Section 67

People are under no obligation to be members of the Evangelical-Lutheran Church of Denmark. They may worship their God as they will. We have religious freedom. People are also entitled to hold services or to pray as they will. However, they must observe the rules that apply elsewhere in society, for example you cannot just build a Church or a Mosque. This must first be approved by the municipality, just like all other building projects. And if, for example, you want to hold a procession through town, you must inform the police about it. You must also respect the rules that apply to various places.

For example, a Somali man was expelled from a job retraining centre because he kneeled down on the floor in the canteen and bathroom of the college. The college forbade him to say his prayers in the common areas. Instead he had to use classrooms, workshops,

etc. When he continued to pray in the common areas of the college, he was expelled. The case was heard in both the High Court and the Supreme Court. And both Courts upheld the decision by the college. The expulsion was not an expression of discrimination on account of the Somali's religion.

Religious freedom does not just apply to Danes. It applies to everyone within the borders of Denmark, including people who are only in the country for a short time.

Section 68

No one is under an obligation to make personal contributions to any worship of God other than his own.

Section 68

As stated in Section 67, people are under no obligation to be members of the Evangelical-Lutheran Church of Denmark. The finances of the Evangelical-Lutheran Church of Denmark are structured in such a way that all members pay a so-called Church tax. It covers the expenses incurred by the Church to hold services and other religious ceremonies. Non-members of the Evangelical-Lutheran Church of Denmark are exempted from paying Church tax. However, under Section 4, the State is under an obligation to "support" the Evangelical-Lutheran Church of Denmark. Among other things, this means that the State pays some of the expenses of the Evangelical-Lutheran Church of Denmark. This is done via the other taxes and duties received by the State. Therefore, everyone pays a contribution to the Evangelical-Lutheran Church of Denmark, regardless of their faith. This does not conflict with Section 68 of the Constitutional Act. That just protects people against paying "personal" contributions. And the normal taxes and duties paid by people are not considered to be personal in this connection.

Section 69

The affairs of religious communities other than the Evangelical-Lutheran Church of Denmark are regulated by an Act.

Section 69

Parliament may pass an Act for other religious communities. This means religious communities outside

the Evangelical-Lutheran Church of Denmark. However, this has not yet happened. Instead a number of rules have been introduced. For example, priests from certain other religious communities may perform religious ceremonies such as weddings. The weddings have the same validity as if a priest from the Evangelical-Lutheran Church of Denmark had performed them. However, the State must have granted the religious community's priests permission to perform wedding ceremonies.

Section 70

No one may be deprived of access to full enjoyment of civil and political rights or evade fulfilment of any standard civic duty on account of his profession of faith or origin.

Section 70

This Section is the main provision relating to religious freedom. It establishes that no one may be discriminated against on account of his or her religion or race. Regardless of race or faith, everyone has the same political and civil rights. For example, the State may not prohibit Jews or Muslims from becoming teachers or civil servants. Nor may the State prohibit them from, for example, voting or being a candidate for a political party. On the other hand, all citizens also have the same duties and obligations in relation to society. For example, no one can avoid paying tax or doing military service because he has a different faith.

08

Citizens' Rights

Part eight concerns citizens' rights and freedoms. This Part is called the Constitutional Act's constitutional rights or human rights Part. In 1992, Parliament voted to implement the provisions of the European Convention on Human Rights in law in Denmark. Many of the European Convention on Human Rights' rules go further in their protection of human rights than the Danish Constitutional Act.

Section 71

Subsection 1. Personal freedom is inviolable. No Danish citizen may be subjected to any form of imprisonment on account of his political or religious convictions or his origin.

Subsection 2. Imprisonment may only take place with authority in an Act.

Subsection 3. Anyone who is taken into custody must appear before a judge within 24 hours. If the person taken into custody cannot immediately be released, the judge must decide, by means of a reasoned decision, which must be made as soon as possible and at the latest within three days, whether he is to be imprisoned and, if he can be released on bail, the judge must determine the nature and size of the bail. This provision may be derogated from by an Act for Greenland insofar as this may be regarded as necessary according to local conditions.

Subsection 4. The decision made by the judge may immediately be brought before a higher court by the person in question.

Subsection 5. No one may be subjected to remand for an offence that can only entail punishment by a fine or simple detention.

Subsection 6. Outside criminal justice, the legality of deprivation of freedom which has not been decided by a judicial authority and which does not have authority in the legislation on foreigners must be submitted to the ordinary Courts or another judicial authority for examination at the request of the person imprisoned or a person acting on his behalf. Detailed rules on this are established by an Act.

Subsection 7. The treatment of the persons discussed in Subsection 6 is subject to the supervision of a supervisory committee elected by Parliament to which the persons in question must have access to make an inquiry.

Section 71

Subsection 1. Parliament decides by an Act what is to be liable to punishment. However, the Constitutional Act has established some frameworks for what may not be liable to punishment. It establishes that people may not be taken into custody, imprisoned or locked up in any other way on account of their political attitudes, their faith or their origin. This provision applies only to Danish citizens. The rest of Section 71 applies to everyone present in Denmark. Subsections 1, 2, 6 and 7 were inserted in Section 71 when the Constitutional Act was revised in 1953. This was after the Second World War. The provision was greatly inspired by what happened during the German occupation of Denmark from 1940 to 1945. During this time, the Danish police imprisoned Danish communists, including those with seats in Parliament. And the Germans also persecuted Jews in Denmark so that many of them had to flee to Sweden.

Subsection 2. The police cannot just arrest people. There must be a suspicion that they have done something illegal. The conditions are contained in the Administration of Justice Act. Imprisonment by, for example, commitment to a psychiatric hospital is also regulated by an Act.

Subsection 3. If you are arrested by the police, you must be brought before a judge before 24 hours have passed. This is called a preliminary statutory hearing. The judge is entitled to postpone his decision on the imprisonment for three days. This is called remanding a suspect. This is usually done to give the police time to gather more evidence to support their case. However, the judge may not remand the suspect if it is quite clear that there is no case. At the preliminary statutory hearing, the police may request that the suspect should remain in prison. The police must state a reason. For example, this may be for their investigations. It can be difficult if the

suspect is free and can hide clues or talk to witnesses. If the judge agrees with the police, he or she may decide that the suspect is to be imprisoned for a period of time. This is called remand. The judge is under an obligation to give reasons for why the suspect is being remanded.

The Constitutional Act allows special rules to be introduced in Greenland. This must be done by means of an Act.

Subsection 4. The judge makes a decision. If a suspect is dissatisfied with a decision from the District Court, he or she may appeal to the High Court. The decision by the High Court must be followed. However, some time may pass before the High Court hears the case. And the suspect does not avoid being remanded during this period.

Subsection 5. A person may only be remanded if the judge considers that the offence involved is one that is punished by imprisonment. If the case concerns an offence that “only” results in a fine, the suspect may not be remanded.

Subsection 6. When a person is imprisoned, he is deprived of his freedom. However, this is not the only way in which to be deprived of freedom.

If, for example, you are so ill for a period of time that you are a danger to yourself or your environment, you may be forced to stay in a psychiatric hospital. In such a case, you are committed to the hospital and it has nothing to do with a sentence or the Danish Penal Code. Such deprivation of freedom may be brought before the Courts. It is not necessary for the patient to appeal himself. For example, a family member or a friend acting on the patient’s behalf may raise the matter.

Subsection 6 does not cover deprivation of freedom that occurs under the legislation on foreigners. Under the Danish Aliens Act, a foreigner may be deprived of his freedom if, for example, a decision is pending on his deportation. Such deprivation of freedom may always be brought before the Courts. This is guaranteed by the Danish Aliens Act, not the Constitutional Act.

Subsection 7. Parliament must elect a supervisory

committee to keep an eye on the treatment of the people discussed in Subsection 6. The supervisory committee consists of nine members and is elected at the start of each parliamentary session. Complaints about treatment may be made to this supervisory committee or to the ombudsman.

Section 72

The home is inviolable. House searches, seizure and examination of letters and other documents and breach of the confidentiality of the post, telegraph and telephone may only take place following a Court order where there is no authority in an Act for a specific exemption.

Section 72

This Section protects privacy. It sets limits for the interventions public authorities may make in people’s private lives. Private homes are protected above all. As are “private” premises and buildings which are not accessible to all and sundry. The protection means that the police cannot just break into private homes and search them. A judge must first grant them permission to do so. The police must have a Court order. This also applies if, for example, they want to open people’s letters or intercept their telephone calls. However, there are certain exceptions. There is not always time to obtain an Court order. If, for example, the police are hunting a criminal who is hiding in a house, the police are permitted to gain access to the house by force if there is a risk that the criminal would otherwise get away. Afterwards, a judge must approve this action. In certain cases, authorities other than the police, for example the tax authorities, may examine people’s private accounts without first obtaining permission from a judge.

Section 73

Subsection 1. Ownership is inviolable. No one may be ordered to relinquish his property except where the common good so demands. This may only take place in pursuance of an Act and against full compensation.

Subsection 2. When a Bill concerning expropriation of property is passed, a third of the Members of Parliament may, within three weekdays after the final pas-

sing of the Bill, demand that the Bill not be submitted for royal affirmation until a parliamentary election has taken place and the Bill has again been passed by the subsequent Parliament.

Subsection 3. Any question relating to the legality of the act of expropriation and the size of compensation may be brought before the Courts. Examination of the size of compensation may be referred, by means of an Act, to Courts created for this purpose.

Section 73

Subsection 1. This Section protects people's property. The protection covers all owners, both Danes and foreigners, companies and private individuals. The word property is to be interpreted very widely. The Constitutional Act protects the rights that are the basis of people's financial existence, for example Section 73 protects the right to pay and a pension a person has saved for. You have a right to the things you have purchased and own. This also applies if, for example, you have purchased a house or a piece of land.

However, it can happen that the State or the municipality needs people's property. If, for example, a public road is to be built, the project is not stopped because a property owner will not sell his land. In such a situation, the State and the municipality may take over people's property and pay compensation instead. This is called expropriating people's property. However, this cannot take place just like that. The project must benefit the community. An Act must be passed permitting the expropriation. And full compensation must be paid for the property the State or municipality takes over.

Subsection 2. It can be hard to pass an Act on expropriation. If a third of, i.e. 60, Members of Parliament are against an Act on expropriation, they may demand that it must be postponed until after the next parliamentary election. And then the new Parliament must vote on the Act. This demand by the minority must be made before three working days have passed. The time is calculated from the day on which the Act was passed.

Subsection 3. The provision to the effect that expropriation may only take place against full compensation is the most important element of the Constitutional

Act's protection of ownership. However, it is not always easy to decide what is "full compensation". Therefore, Subsection 3 makes it possible for a person to go to the Courts to have his case examined. The Courts may decide both whether the expropriation is legal and whether the compensation is, for example, high enough. If Parliament so wishes, it is possible to create a special Court to hear such cases. This has not happened.

Section 74

All restrictions to the free and equal access to trades that are not based on the common good must be abolished by an Act.

Section 74

This provision is from 1849, when the first Constitutional Act was drawn up. At that time, the various trades decided themselves how many competitors there would be. The carpenters' guild, the carpenters' union, decided the number of carpenters, the bakers' guild decided the number of bakers, etc. In this way, the tradesmen could maintain a specific price level for their work, among other things. Many people were dissatisfied with this power. Therefore, so-called freedom of trade was introduced with the Constitutional Act. However, there are still some restrictions to the freedom to carry on a trade.

However, it is no longer the individual trades that set the limits. Parliament and the municipalities do so. However, some trades are still strongly regulated. This applies, for example, to taxis and buses. You cannot just get into a car and call yourself a taxi driver. You need a special licence from the municipality. And only a limited number of taxi licences are issued.

Section 75

Subsection 1. To promote the common good, it should be an aim that every able-bodied citizen has the opportunity to work under conditions that safeguard his existence.

Subsection 2. A person who is unable to support himself or his dependants, and whom no one else is under an obligation to support, is entitled to assistance from the State, while accepting the obligations that the Act relating to such assistance imposes.

Section 75

Subsection 1. The Constitutional Act establishes that every citizen who can work must have the opportunity to do so under reasonable conditions. If it is possible. The last sentence is important. It means that an unemployed person cannot demand a job with reference to the Constitutional Act. Subsection 1 is not a provision that actually grants citizens rights. It has no direct effect. It can be compared with a political objectives provision stating what Parliament is to work towards.

Subsection 2. This part of Section 75 has greater practical significance than Subsection 1. It states that anyone who is unable to support himself must receive assistance from the State. Before the State steps in, the person must have exhausted his or her own possibilities.

This may be by working or using his or her assets. However, it may also be the case that others have an obligation to support him or her. Spouses or registered partners have an obligation to support each other. And parents have an obligation to support their children until they reach the age of 18. However, not everyone meets their obligations. If a divorced father, for example, does not pay maintenance to his ex-wife and their child, the State pays. This is specified in the social legislation.

A couple who live together but are not married have no obligation to support each other. Children have no obligation to support their parents. And parents have no obligation to support children aged 18 or over. State assistance is established in the social legislation. Subsection 2 says nothing specifically about who is entitled to State assistance. However, successive Acts have determined that "anyone who is residing lawfully in Denmark" is entitled to assistance. This is also stated in the latest social Acts, the Act relating to social services and the Act relating to active social policy. Citizens who are 18 years old or over are entitled to assistance. Foreigners also have such a right as the Constitutional Act does not require people to be Danish citizens to receive assistance. Students are enrolled in education and are therefore not available to the labour market. Therefore, students usually have no right to assistance.

Section 76

All children of compulsory education age are entitled to free education in a Danish municipal primary and lower secondary school (Folkeskolen). Parents or guardians who ensure that children receive an education on a par with that normally required at Folkeskolen are not under an obligation to have the children educated at Folkeskolen.

Section 76

All children are entitled to free education at Folkeskolen. In fact, all children are also under an obligation to be educated. Parliament has introduced an obligation to undergo nine years of education. This is contained in the Folkeskole Act. The Constitutional Act establishes that education at Folkeskolen must be free of charge. However, parents are not forced to send their children to Folkeskolen.

Their education may take place at home or in a private school. However, the education must be on a par with the education at Folkeskolen. Many people decide not to send their children to Folkeskolen for educational or religious reasons. However, if you choose a different type of school, you must pay for the education yourself. The Constitutional Act guarantees only that Folkeskolen is free of charge. The standard legislation contains rules to the effect that the State must subsidise private schools, etc.

Section 77

Anyone is entitled to publish his ideas in print, in writing and in speech, subject to the authority of the Courts. Censorship and other preventive measures may never be reintroduced.

Section 77

All citizens may articulate what they want. You can say, write or otherwise express your ideas publicly. However, at the same time you must also take responsibility for what you say or write. The legislation sets some limits for what you are permitted to say or write publicly. If, for example, you are very rude and offend another person publicly, you may risk being summoned in a slander case. And if, for example, you write something that threatens the security of Denmark, you may be charged and tried and sentenced by the Courts.

Occasionally, you see articles and contributions in newspapers or magazines without a by-line. In those cases, the editor responsible under the Danish Press Act is responsible for what is printed. Therefore, the name of the editor responsible must always be printed in the publication. The place where the publication was printed must also be printed.

Although the Constitutional Act guarantees freedom of expression for all, it may be limited in some situations. This applies, for example, to people in prison. The authorities are entitled to restrict inmates' freedom of expression if this is necessary for security and order.

The armed forces are also entitled to restrict soldiers' freedom of expression if this is necessary for order and discipline.

In principle, freedom of expression naturally also applies to employees of the State. However, at the same time, a case officer in a social security office, for example, is subject to a duty of confidentiality. The duty of confidentiality means, among other things, that the case officer may not talk about a range of personal information he or she has obtained via his or her work.

The Constitutional Act protects against "censorship and other preventive measures". The ban on censorship was introduced in 1849. Before that time, books and newspapers were examined by one of the King's civil servants before they were printed. He removed what he did not like and only then could the books and newspapers be published. The ban on censorship means that the police may not take action against a newspaper or a book until it has been published.

The authorities may not demand to read a manuscript in advance. Nevertheless, it is possible to take action against a publication before it has been printed, and without contravening the Constitutional Act. An injunction may be granted against a publication if a judge can be convinced that it will cause great damage and be illegal. It is up to the judge to decide whether a restraining injunction is to be granted against the publication.

This occurred, for example, in the 1980s, when the Ma-

sonic Order obtained an injunction against Danmarks Radio showing a TV broadcast about the Order. The broadcast would have revealed some of the Masonic Order's secret initiation rituals. The case was finally decided in the Supreme Court. The Masonic Order won. The Supreme Court considered that the initiation rituals were private matters. Therefore, they were protected against publication. The TV broadcast about the Masonic Order has never been shown.

In another case, it went the other way. This case was also from the 1980s. For a while back then there was much debate about farmers' use of drugs on livestock. The poster artist Mikael Witte entered the debate by making a poster containing the text: "Danish pigs are healthy. They are bursting with penicillin". The poster showed a drawing of a happy pig, which was a satirical imitation of advertising material from the Cooperative Slaughterhouses. The slaughterhouse organisations were angry. They tried to have the poster banned. But the Supreme Court decided that the poster was not illegal. The Court stressed that the poster was a contribution to a social debate and was therefore relevant to the public.

Section 78

Subsection 1. Citizens have the right to form associations for any legal purpose without prior permission.

Subsection 2. Associations that operate or attempt to achieve their aims by means of violence, incitement to violence or similar criminal action on those who think differently will be dissolved by means of a judgement.

Subsection 3. No association may be dissolved by a Government measure. However, an association may be provisionally banned, in which case action must be brought against it immediately for its dissolution.

Subsection 4. Cases concerning the dissolution of political associations may be brought before the highest Court in Denmark without special permission.

Subsection 5. The legal effects of the dissolution are established in further detail by an Act.

Section 78

Section 78 of the Constitutional Act guarantees freedom of association. This is a fundamental right in Danish society, where associations play an important role. The provision is included first and foremost to protect associations against the State interfering. However, it does not provide protection against private individuals interfering. Nor does it protect individual citizens' right to remain outside an association.

Subsection 1. Citizens have the right to form associations. They do not need to ask anyone first. However, the association must be legal. This means that its objective must not be to commit illegal acts.

Subsection 2. If an association uses violence or other illegal methods to achieve its aims, it must be dissolved. In such case, this must be done by means of a judgement. And the Minister of Justice must raise the matter. The special provision on associations that use violence was introduced in 1953, eight years after the German occupation of Denmark. During the occupation, corps and associations were formed, the aim of which was to carry out violence and terror against the population. The Hipo corps is an example of such a corps.

Subsection 3. The State or the Government cannot just dissolve an association. However, the Government may, in special cases, intervene and ban an association provisionally. However, the Government must immediately bring the case before the Courts. And if the Courts reach a different result from the Government, the dissolution is found to be invalid. The Courts have the last word in this connection.

Subsection 4. If a case concerns the dissolution of a political association, the case may go to the Supreme Court after having been heard in a District Court and the High Court. It is not necessary first to obtain permission from the special board called the Danish Board of Appeal Permissions (Procesbevillingsnævnet).

Subsection 5. The detailed rules for the effects of the dissolution of an association must be established by an Act. Parliament has not, however, passed such an Act.

The standard association rules and the Danish Penal Code are used instead.

Section 79

Citizens have the right to assemble without arms without prior permission. The police have the right to attend public meetings. Meetings outside may be banned when it is feared that they may represent a danger to public peace.

Section 79

This Section is closely associated with Sections 77 and 78. These three Sections describe the traditional constitutional rights, the right to speak freely, the right to form associations and the right to assemble. Section 79 ensures that all persons resident in Denmark have the right to hold meetings or demonstrate. They must just not have any weapons.

The police have the right to attend public meetings. If the meeting takes place outside, the police may ban it, but only if there is a "danger to public peace". This may be the case, for example, if there is a threat of extensive disturbances between demonstrators and other groups of people. The police may, however, demand that a meeting be moved elsewhere if the meeting disturbs the traffic significantly or is highly inconvenient to others. It is not necessary to ask the police for permission to hold a meeting.

However, anyone planning to hold a demonstration outside must inform the police in advance. The demonstration must be "notified" by stating the meeting time, the route and the meeting place. And this must be done at the latest 24 hours before the demonstration begins. If such notification is not given, there is a risk of receiving a fine. However, the demonstration is not illegal for this reason. These provisions are in the police regulations.

Section 80

In the event of a disturbance, the armed force may only intervene, unless it is attacked, after the crowd has been requested to disperse three times in the name of the King and the law.

Section 80

A disturbance is not the same as an assembly. However, an assembly can develop into a disturbance if it lacks management and self-control and develops into chaos and tumult. If a disturbance occurs, the police may intervene. However, the police must warn the crowd three times first. The Constitutional Act actually also defines what the police must say in this situation. They must request the crowd to disperse "in the name of the King and the law". Only if the crowd refuses to follow the request may the police attack. This "dissolution formula" is important.

After the disturbances in connection with the EU vote in 1993, the High Court acquitted some participants in the disturbances. They were charged with not following police orders. However, they were acquitted because the police had not used the "dissolution formula".

Section 81

Every man fit for military service is under an obligation to contribute with his person to the defence of his country in accordance with the provisions prescribed by law.

Section 81

If a man is healthy and fit, he is under an obligation to serve as a soldier. This is called military service. The Constitutional Act establishes only that there must be an obligation to do military service. It is up to Parliament to decide the rules for this obligation. Among other things, it has been decided that people may be exempted from military service if carrying weapons, for example, conflicts with their convictions. Conscientious objectors are forced to do community service, for example in a social institution, instead of military service.

Those who do military service are selected according to objective, uniform criteria such as age, health and education. And although the Section states "man fit for military service", Parliament may decide by an Act that military service is to be introduced for women as well. This has not happened.

Section 82

Municipalities' right to manage their affairs auto-

mously under the supervision of the State is regulated by an Act.

Section 82

Denmark is governed not only by the State and the Government. Many decisions are made closer to the citizens, where they live. Denmark is divided into 271 municipalities and 13 counties.

The municipalities deal with local matters such as schools, childcare, assistance for the elderly and sick and payment of social security benefits. The municipalities also provide electricity, water and refuse collection and organise various cultural events.

The counties deal with the tasks that the municipalities are too small to cope with. These include, for example, the education of young people after Folkeskolen, hospitals, building major roads and protection of the environment.

The Constitutional Act guarantees that municipalities are autonomous. However, the State supervises the municipalities and counties. This is regulated by an Act called the Local Government Act.

In 2005, Parliament is discussing a number of Bills intended to create fewer, larger municipalities. The aim is that they will be better equipped to cope with tasks in the future. The Government plans for the Acts to take effect in 2007.

Section 83

Every privilege associated in legislation with nobility, title and rank is abolished.

Section 83

This Section is directed at the advantages some people were born with in days gone by. At that time, society was more class-divided than today. People were born into a particular social class or with a specific title or rank. And this conferred many advantages, so-called privileges.

It was a big advantage to be an aristocrat, i.e. to have a title like Count or Baron. The aristocracy had privileges that no ordinary citizens had. For example, the aristo-

cracy paid less tax. These privileges were abolished by the first Constitutional Act in 1849. However, even at that time, the special rights of the aristocracy, among other things, were already partly a thing of the past. There were not many privileges left.

The constitutional provision abolished the rights once and for all. However, it did not abolish the right to ennoble specific people. However, this is of no great significance today.

Section 84

No fief, entailed estate or other family trust may be created for the future.

Section 84

In days gone by, large properties could be kept undivided in specific families. This might be done, for example, by the eldest son inheriting the property, perhaps an entire estate, without having to share it with his siblings. The Constitutional Act does away with this principle here. The King used to be able to reward his people by giving them estates and land. They were called fiefs. Many fiefs were created because they conferred certain financial advantages on the families who controlled the fiefs. They could earn large annual incomes from the management of the fiefs and did not have to pay much tax. The many fiefs also meant that a large part of Danish estates were linked to specific counties or baronies. They only benefited particular families. In the same way, entailed estates were also linked to particular families. The Danish word for entailed estate, "fideikommis", comes from Latin and means entrusted estate or money. Estates and property were inherited within the family undivided and could not be sold.

Since 1849, it has been illegal to create new estates of this type. In 1919, all the fiefs and entailed estates left were abolished. The owners received some compensation from the State and in return they had to surrender some of their assets.

Section 85

The provisions stipulated in Sections 71, 78 and 79 are only applicable to the armed forces with the restrictions that follow from the regulations in the military Acts.

Section 85

Soldiers' constitutional rights are restricted. They do not enjoy quite the same freedom of association and freedom of assembly as other citizens. For example, they must obtain special permission if they want to hold meetings in their barracks. Soldiers are also subject to a special military Penal Code and Administration of Justice Act. This means, among other things, that a soldier may be held for 72 hours before he comes before a judge.

09

The Faeroe Islands, Greenland and Iceland

Part nine consists of two Sections. It concerns, in particular, the Faeroe Islands, Greenland and Iceland.

Section 86

The voting age for local councils and parochial church councils is the voting age applicable to parliamentary elections from time to time. For the Faeroe Islands and Greenland, the voting age for local councils and parochial church councils is fixed by an Act or in pursuance of an Act.

Section 86

The voting age is the same, regardless of whether you are voting in a parliamentary election, parochial church council election or local election. It is 18 years of age. However, the Faeroe Islands and Greenland may decide a different voting age for local elections. They have not done so. In 1953, the Faeroe Islands had a lower voting age for local elections than for parliamentary elections. However, this has been changed.

Section 87

Citizens of Iceland who, in pursuance of the Act relating to the cancellation of the Act of Union between Denmark and Iceland, etc., enjoy equal rights to Danish citizens, retain the rights associated with Danish citizenship that are provided in the Constitutional Act.

Section 87

Iceland became independent in 1918. At that time, an Act of Union between Denmark and Iceland was passed that gave Icelanders in Denmark the same rights as Danish citizens, including the right to vote. The Act of Union between Denmark and Iceland was cancelled in 1944 as Iceland no longer wanted to be in a union with Denmark. However, the special rights for Icelanders living in Denmark also disappeared at the same time. Instead, a special scheme was introduced for Icelanders. The scheme was inserted in the Constitutional Act when it was revised in 1953. According to the Danish Ministry of the Interior and Health, there were just 26 Icelanders with these rights still alive at the parliamentary election on 8 February 2005.

10

Amendment of the Constitutional Act

Part ten contains one Section that determines how the Constitutional Act is amended.

Section 88

If Parliament passes a Bill for a new constitutional provision and the Government wishes to proceed with the matter, a general election is called. If the Bill is passed unamended by the new Parliament after the election, it must be submitted to the parliamentary electors, within six months after its final passing, for approval or rejection by a direct vote. The further rules for this vote are established by an Act. If a majority of those voting and at least 40 per cent of all those entitled to vote have voted for Parliament's decision, and it is affirmed by the King, it becomes part of the Constitutional Act.

Section 88

This Section contains the rules for amending the Constitutional Act. The Constitutional Act is the Act that is most difficult to amend. There is an extensive procedure that must be followed.

Firstly, Parliament must pass a constitutional amendment.

Then the Government may call an election if it wishes to "proceed with the matter".

After the election, Parliament must again pass the constitutional amendment. And the Bill must be worded in exactly the same way as before.

Finally, the constitutional amendment must be the subject of a referendum. The referendum is subject to a few very special rules that mean that, in practice, it can be very hard to implement an amendment. It is not enough for there to be a majority in favour of the constitutional amendment. The majority must consist of at least 40 per cent of all citizens who are entitled to vote. In fact, this means that all persons entitled to vote count, even if they do not vote or they abstain. If a lot of people stay at home instead of voting, it can be hard to get a constitutional amendment passed into law.

The referendum must take place at the latest six months after the constitutional Bill was passed by

Parliament. If a majority and at least 40 per cent of those entitled to vote vote for the constitutional amendment, it takes effect when the Queen has signed it.

11

Commencement of the Constitutional Act

Part eleven contains one Section. It explains when the Constitutional Act enters into force.

Section 89

This Constitutional Act enters into force immediately. However, the Parliament most recently elected in pursuance of the Constitutional Act of the Kingdom of Denmark of 5 June 1915 with amendments of 10 September 1920 remains in place until a general election has taken place in accordance with the rules in Part four. Until a general election has taken place, the provisions in the Constitutional Act of the Kingdom of Denmark of 5 June 1915 with amendments of 10 September 1920 relating to Parliament remain in force.

Section 89

The Constitutional Act entered into force on 5 June 1953 on the day on which it was published in the Danish Law Gazette. However, the old Parliament with 76 members of an Upper House and 151 members of a Lower House continued for a few more months. On 22 September 1953, parliamentary elections were then held in accordance with the new Constitutional Act. At this time the old Parliament was replaced by a new Parliament with 179 members, and the Upper House was abolished.