STATUTORY INSTRUMENTS

1962 No. 1870

CARIBBEAN AND NORTH ATLANTIC TERRITORIES

The British Caribbean Court of Appeal (Amendment) (No. 2) Order in Council 1962

Made - - - -	*24th August* 1962
Laid before Parliament	*30th August* 1962
Coming into Operation	*Immediately before 31st August* 1962

At the Court at Balmoral, the 24th day of August 1962

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue of the powers conferred upon Her by section 4 of the West Indies Act 1962(a) and all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered as follows:—

Citation, interpretation and commencement.

1.—(1) This Order may be cited as the British Caribbean Court of Appeal (Amendment) (No. 2) Order in Council 1962 and shall be read and construed as one with the British Caribbean Court of Appeal Order in Council 1962(b) and the British Caribbean Court of Appeal (Amendment) Order in Council 1962(c).

(2) This Order shall come into operation immediately before 31st August 1962.

Amendment of article 2 (1) of principal Order.

2. The British Caribbean Court of Appeal Order in Council 1962 (hereinafter called "the principal Order") is amended by deleting from article 2 (1) the definition of "the Territories" and substituting the following definition—

"'the Territories" means the following territories (with their respective dependencies, if any) that is to say, the Colonies of—

(*a*) Antigua,

(*b*) Barbados,

(*c*) British Guiana,

(*d*) Dominica,

(*e*) Grenada,

(*f*) Montserrat,

(*g*) Saint Christopher, Nevis and Anguilla,

(a) 10 & 11 Eliz. 2. c. 19. (b) S.I. 1962/1086 (1962 II, p. 1247).
(c) S.I. 1962/1245 (1962 II, p. 1367).

(*h*) Saint Lucia,

(*i*) Saint Vincent, and

(*j*) the Virgin Islands,

and " Territory " means any of the territories aforesaid.'.

Reconstitution of the British Caribbean Court of Appeal.

3.—(1) The judges of the British Caribbean Court of Appeal constituted by article 3 (1) of the principal Order shall be—

(*a*) a President and one or more Justices of Appeal, who shall be appointed by the Commissioner by instrument, in accordance with instructions given by Her Majesty through a Secretary of State; and

(*b*) the Chief Justice and other judges of the Supreme Court of the Windward Islands and the Leeward Islands and of the Supreme Court of British Guiana and the Chief Judge and other judges of the Island of Barbados, who shall be members of the Court *ex officio*.

(2) A person shall be qualified for appointment under paragraph (1) of this article to the office of President or Justice of Appeal of the Court if, and shall not be so qualified unless—

(*a*) he is, or has been, a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; or

(*b*) he has been qualified to practise as an advocate in such a court or courts, and he has been qualified for a period of, or periods amounting in the aggregate to, not less than five years to practise as an advocate or solicitor in such a court or courts.

(3) For the purposes of paragraph (2) of this article a person serving in an office under the Government of some part of the Commonwealth the functions of which include appearing as an advocate in such a court on behalf of that Government shall be deemed to be in practice as an advocate in such a court.

(4) Notwithstanding the provisions of article 4 (1) of the principal Order, a person appointed to the office of President or Justice of Appeal under paragraph (1) of this article shall be appointed for such period as is prescribed in the instrument appointing him, and shall vacate his office at the expiration of that period or of such longer period as may be agreed between the Commissioner and that person.

(5) For the avoidance of doubt, it is hereby declared that an appointment may be made under paragraph (1) of this article to the office of President or Justice of Appeal notwithstanding that the person appointed under article 3 (2) of the principal Order to the office of President or Justice of Appeal, as the case may be, is still holding that office, if such person is on leave of absence pending his relinquishment of that office; and in such an event, the person appointed under paragraph (1) of this Order to the office of President or Justice of Appeal, as the case may be, shall be deemed to be the sole holder of that office.

(6) The Court shall be deemed to be duly constituted notwithstanding any vacancy in the office of any judge of the Court, including any vacancy not filled when this Order comes into operation.

Interpretation of certain other laws.

4.—(1) The provisions of the Federal Supreme Court (Salaries and Pensions) Act 1958 and of the Interim Commissioner (Pensions) Regulations 1962 made by the Commissioner, shall not apply to the President or a Justice of Appeal appointed under article 3 (1) of this Order.

(2) Subject to the provisions of paragraph (1) of this article, any reference in any law or rule of court in force in any Territory immediately before the commencement of the principal Order (other than the reference in section 26 (1) (*b*) of the Windward Islands and Leeward Islands (Courts) Order in Council 1959(**a**) as amended by the West Indies (Dissolution and Interim Commissions) Order in Council 1962(**b**)) and the reference in article 3 (5) of the principal Order to a Justice of Appeal shall be construed as a reference to a judge of the Court.

E. N. Landale.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

The British Caribbean Court of Appeal ceased to have jurisdiction to hear appeals from the Courts of Jamaica on the 6th August 1962 and will cease to have jurisdiction to hear appeals from the Courts of Trinidad and Tobago on the 31st August. Consequently it is desirable to reconstitute the Court, and this Order makes fresh provision accordingly.

(a) S.I. 1959/2197 (1959 I, p. 563). (b) S.I. 1962/1084 (1962 II, p. 1220).