

**THE LEGAL SYSTEM
OF THE KINGDOM OF DENMARK**

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CHAPTER TWO (A)

SECTION TWO

THE LEGAL SYSTEM OF THE KINGDOM OF DENMARK

TABLE OF CONTENTS

§ 1.1. Background and History.	3.60.5
§ 1.1(A). <i>Geography and Climate.</i>	3.60.5
§ 1.1(B). <i>The Population.</i>	3.60.6
§ 1.1(C). <i>The Economy.</i>	3.60.7
§ 1.1(D). <i>The History.</i>	3.60.8
§ 2.1. The Constitution.	3.60.9
§ 2.1(A). <i>History of the Constitution.</i>	3.60.9
§ 2.1(B). <i>General Principles of the Danish Constitution.</i>	3.60.11
§ 2.1(C). <i>The Bill of Rights.</i>	3.60.13
§ 3.1. The Form of Government.	3.60.13
§ 3.1(A). <i>In Summary.</i>	3.60.13
§ 3.1(B). <i>The Legislative Power.</i>	3.60.13
§ 3.1(C). <i>The Executive Power.</i>	3.60.14
§ 3.1(D). <i>The Judicial System.</i>	3.60.16
§ 3.1(E). <i>The Ombudsman.</i>	3.60.17
§ 3.1(F). <i>The Local Government.</i>	3.60.17
§ 4.1. Political Life in Denmark.	3.60.17
§ 4.1(A). <i>In General.</i>	3.60.17
§ 4.1(B). <i>The Different Parties.</i>	3.60.19
§ 4.1(B)(a). <i>The Social Democrats.</i>	3.60.19
§ 4.1(B)(b). <i>The Conservatives.</i>	3.60.19
§ 4.1(B)(c). <i>The Liberals.</i>	3.60.20
§ 4.1(B)(d). <i>The Socialist People's Party.</i>	3.60.20
§ 5.1. The Judicial System.	3.60.20
§ 5.1(A). <i>Short History of Danish Law.</i>	3.60.20
§ 5.1(B). <i>In General.</i>	3.60.21
§ 5.1(C). <i>The Different Courts.</i>	3.60.22
§ 5.1(C)(a). <i>The Lower Courts.</i>	3.60.22
§ 5.1(C)(b). <i>The High Courts.</i>	3.60.23
§ 5.1(C)(c). <i>The Supreme Court.</i>	3.60.23
§ 5.1(C)(d). <i>The Maritime and Commercial Court.</i>	3.60.23

§ 5.1(C)(e). The Tax Tribunals.	3.60.23
§ 5.1(C)(f). The Special Court of Appeals.	3.60.24
§ 5.1(C)(g). The Labour Court.	3.60.24
§ 5.1(C)(h). Miscellaneous.	3.60.24
§ 6.1. The Law-making Process.	3.60.24
§ 7.1. The Legal Education.	3.60.26
§ 7.1(A). <i>In General</i>	3.60.27
§ 7.1(B). <i>The Degree</i>	3.60.27
§ 7.1(C). <i>Subjects to Study</i>	3.60.27
§ 8.1. The Legal Practice in Denmark.	3.60.27
§ 8.1(A). <i>General Requirements for the Practice of Law</i>	3.60.27
§ 8.1(A)(a). <i>Twenty-five Years Old</i>	3.60.27
§ 8.1(A)(b). <i>Danish Nationality</i>	3.60.27
§ 8.1(A)(c). <i>Not Under Bankruptcy or Insolvent on the Moment of the Application</i>	3.60.27
§ 8.1(A)(d). <i>A Law Degree of a Danish University</i>	3.60.27
§ 8.1(A)(e). <i>A Good Moral Status</i>	3.60.28
§ 8.1(A)(f). <i>Practical Legal Training</i>	3.60.28
§ 8.1(B). <i>Lawyers Monopoly</i>	3.60.28
§ 8.1(C). <i>The Law Society</i>	3.60.28
§ 8.1(D). <i>Foreign Lawyers</i>	3.60.28
§ 9.1. The Home Rule and the Example of Greenland.	3.60.28
§ 9.1(A). <i>Greenland</i>	3.60.28
§ 9.1(A)(a). <i>A Little History</i>	3.60.28
§ 9.1(A)(b). <i>Home Rule in Greenland</i>	3.60.30
§ 9.1(A)(b)(1). <i>In General</i>	3.60.30
§ 9.1(A)(b)(2). <i>Delegated Powers</i>	3.60.30
§ 10.1. Recent Developments.	3.60.31
§ 10.1(A). <i>Political Changes</i>	3.60.31
§ 10.1(B). <i>Recent Legislation</i>	3.60.31
§ 10.1(C). <i>NATO Restructuring</i>	3.60.32
§ 10.1(D). <i>The European Community</i>	3.60.32
Annotated Bibliography.	3.60.33
Books	3.60.33
Articles	3.60.33

CHAPTER TWO (A)**SECTION TWO****THE LEGAL SYSTEM OF THE KINGDOM OF DENMARK****§ 1.1. Background and History.****§ 1.1(A). Geography and Climate.**

Denmark is strategically situated in the north of Western Europe, at the mouth of the Baltic Sea. It may be described, in the fullest sense, as an archipelago. The land frontier with Germany is only 42 miles (67.7 km.) and the coastline exceeds 4,536 miles (7,300 km.). Denmark is thus one of the most dissected landmasses in Europe.¹

It is difficult to give the exact size of metropolitan Denmark, because of the constant variations owing to marine erosion and deposit and to reclamation work.² In 1984, it had an area of 16,632 square miles (43,076 square kmn.),³ divided into Jutland peninsula, which has an area of about 11,500 square miles (about 29,770 square km.), and the islands, which have an area of about 5,540 square miles (about 13,300 square km.).⁴ The largest of these islands are Zealand (Sjælland, 2,709 square miles), Funen (1,152 square miles), Lolland (480 square miles), Bornholm (227 square miles) and Falster (198 square miles).⁵ Of the about 406 islands, 100 are inhabited. The straits between these islands connect the Baltic and the North seas.⁶

The capital of Denmark is Copenhagen, which has a population of about 1.2 million people. It is situated on Zealand, very close to Sweden. Other cities are Aarhus (249,000 inhabitants), Odense (169,000 inhabitants) and Aalborg (154,000 inhabitants).⁷

The terrain of Denmark is low and flat or slightly rolling.⁸ Its highest point, Yding Skovhøj in East Jutland, is 568 feet (173 meters) above the sea level. The surface relief is characterized by glacial moraine deposits, which form undulating plains alternating with gently rolling hills and abundant lakes. Seventy-six of these lakes have areas which exceed 0.19 square miles (0.5 square km.). The largest lake is Arresø, which has an area of 15.7 square miles (40.6 square km.).⁹

The climate of Denmark is a pronounced maritime one. Because it is traversed by water masses from southern latitudes (the North Atlantic Westerly drift or Gulf Stream), the average temperature is higher than in many places in the same latitude. The mean temperature in the coldest month, February, is 31°F (minus 0.4°C); that of the warmest month, July, 61.5°F (16.6°C). The coast has normally 70 frost days, the interior 120.¹⁰ Due to the frequent changes in the direction of the wind, the weather is changeable from day to day.¹¹ The annual precipitation is about 1.90 feet.¹²

The Kingdom of Denmark also includes the Faroe Islands. These 48 inhabited and three uninhabited¹³ islands are situated between 6° 15' and 7° 41' W. longitude, the zone time being, therefore, Greenwich Mean Time. The latitude, between 61° 26' and 62° 24' N. latitude, is six degrees north to the north of metropolitan Denmark, and has a correspondingly lower zenith. The total area of the islands is 540 square miles (1,399 square km.), the largest of them being Streymoy (144 square miles, 374 square km.).¹⁴ The islands are part of the great basalt area of the north Atlantic, formed by the tertiary eruptions and extending from Scotland to Iceland and Greenland.¹⁵ Flat stratified series of basalt sheets, with intervening thinner layers of solidified volcanic ash (tufa), alternate with glacial action which has carved the valleys into trough-shaped hollows and formed steep-faced peaks. The highest of these peaks are Slattaretindur (2,894 feet) and Østerø. Millions of seabirds nest on the rocky coastal ledges. There is almost no agriculture possible because of the cool ocean climate. Forest does not thrive and the vegetation is poor. The temperature varies from 38° F in January (3.2° C) to 51° F in July (10.8° C). The precipitation is quite high, namely 63 inches (159 cm.). Fogs are very frequent.¹⁶

Greenland is also part of the Kingdom of Denmark. It is the largest island in the world with a total area of 840,000 square miles (2,175,600 square km.). Of this total area, 708,100 square miles (1,833,900 square km.) lies under the ice cap. Of the ice-free area, 132,000 square miles (341,700 square km.), some 58,000 square miles (150,000 square km.), chiefly in the southwestern part, may be considered as inhabited. The northernmost part is Cape Morris Jesup, 83° 39' N. latitude; the southern tip, Cape Farewell, is at 59° 46' N. latitude. Greenland is thus entirely situated in the polar zone.¹⁷ The landscape of the island is mountainous, with a low-running area under the ice cap. The highest peak in the ice-free part is Gunnsbjørns Fjæld (12,140 feet, 3,700 m.). The highest point in the area covered by ice is 10,825 feet (3,300 m.) above the sea level. On some places, the ice is 6,500 feet (2,000 m.) thick, but the average thickness is 4,971 feet (1,515 m.).¹⁸ The climate variation is serious between the south and the north. In southern Greenland, the temperature in July is 50° F (9.9° C), in February 18° F (minus 7.9° C). In northern Greenland, however, the temperature varies from 41° F (4.9° C) in July to minus 9° F (minus 23° C) in February. The annual precipitation in the north is 9 inches (23 cm.) and that in the south 41 inches (113 cm.). The ice cap has its own climate, with temperatures mainly below the freezing point.¹⁹

§ 1.1(B). The Population.

The number of inhabitants of Denmark is about 5,124,000.²⁰ The population of the Faroe Islands and Greenland is, respectively, 45,500 and 52,940.²¹

The annual growth rate is about 0.6 per thousand inhabitants. The density is 308 per square mile or 119 per square kilometre.²² The Danes are, with their Gothic-Germanic background, one of the most homogeneous groups of people in Europe.²³ There are few ethnic and linguistic minorities. In south Jutland, there is, for example, a German minority.²⁴ Almost all of the Danes are Evangelical Lutheran (97%), which is the state church.²⁵ The official language is Danish. There are many dialects, but they are gradually supplanted by the standard Danish. The alphabet is the same as in English, except for some letters. English is the second language.²⁶

In Greenland, the principal language is Greenlandic, in the Faroe Islands Faroese.²⁷

§ 1.1(C). The Economy.

Since World War II, the Danish economy has been characterized by industrial expansion and diversification, continued dependence on foreign trade—exports and imports each account for about 35% of gross national product—and recurrent balance-of-payments deficit aggravated by the first oil-shock in 1973 and subsequent international recessions. During the period 1962-72, the gross national product (GNP) increased at an average annual rate of some 4.5%, but the oil-shocks in 1973 and 1979 reduced average annual growth to 2% in the period 1972-82. Since 1975, unemployment has been over 5%, reaching 10% in 1982.

The postwar boom did not generate major inflationary pressures until the 1960s, when prices began to climb and balance-of-payments deficits developed. During the period 1962-72, consumer prices rose 80% or about 6% annually as hourly wages in manufacturing almost tripled. Inflation peaked in 1974 at 15% with the wave of increases in oil and raw material prices. During the period 1975-82, annual inflation was reduced to 10%-11%. The inflation rate dropped to 6% in 1983 as a result of the government's suspension of the hitherto sacrosanct automatic wage adjustments for inflation, acceptance by labor of wage increases in both 1983 and 1984 close to the government's 4% target, and the government's intention not to devalue the Danish Krone as its predecessors had done several times in recent years. Domestic developments are aided by positive international developments such as lower oil prices and declining interest rates.

In the 1970s and the early 1980s, gains in really disposable income were reduced by inflation and rising taxes. Between 1972 and 1982, when wages more than tripled, consumer spending rose only 18% in real terms while public spending rose close to 50%. Ambitious public programs with rising costs, not least because of the heavy labor factor in the public sector, made it difficult for the government to exercise the fiscal restraint required to check inflation and payments deficits. Slight budgetary surpluses were maintained during the entire post war period until 1974, when the budget dropped deeply into continuous deficit, which reached a level close to 11% in 1982.

With high unemployment causing rising outlays for social benefits as public resistance to tax increases grows, the government has been forced to resort to deficit financing at high interest rates. Market rates peaked at 22% in 1982 before falling to about 13% in 1983. Since 1974, rising production costs make Denmark increasingly vulnerable to international competition and economic fluctuations. Because of the international recession and declining domestic demand in the private sector, export markets shrank and GNP growth stopped in 1980 and 1981. The economy expanded by 2.5% in 1982 on the strength of investments in North Sea oil and gas development, construction of a national gas distribution net, an export rise of 2% despite slack foreign markets, and an increase in consumer spending of 2.5%. Generous unemployment benefits help maintain consumption. The GNP expanded less in 1983, about 1%. Trade in goods and services has swung into surplus, and Denmark's continuous balance-of-payments deficit is now accounted for almost entirely by interest payments on the growing external debt, which reached one-third of GNP in 1983.²⁸

Agriculture and related products consist of 10% of the GNP. The most important of them are meat, dairy products, fish and fur. The industry takes 15% of the GNP for its account. Denmark produces industrial and construction equipment, electronics, furniture and textiles. The natural resources are oil, gas and fish in the North Sea; zinc, lead, iron ore, coal, molybdenum, cryolite, uranium and fish in Greenland and fish in the Faroe Islands.²⁹

§ 1.1(D). The History.

Little is known about the early history in Denmark.³⁰ The first inhabitants, hunters, roamed the area in 50,000 B.C., during the last interglacial period.³¹

The Viking period can be seen as the most expansional period of the Scandinavian people.³² Denmark was a great power on the Jutland peninsula, the island of Zealand and the southern part of what is now Sweden.³³ Its sailors took part in the Viking raids, especially in those against England.³⁴

In the tenth century, the Jelling kings, Grom and his wife, called the nationbuilders, gave Denmark its final form. Their son, Harald Bleutooth, was the first Christian king of Denmark.³⁵ His son, Sweyn and his grandson, Canute the Great, succeeded in conquering England. They reigned over a union made up of Denmark, Norway and England. This union lasted almost 30 years, but a few weeks before the Battle of Hastings, Denmark lost England in a previous battle and Norway seceded.³⁶

By the latter part of the thirteenth century, the king's authority was not unchallenged, and in 1282 King Erik Klipping was forced to sign the great charter, often considered as the first constitution of Denmark. In this charter, the king recognized important limits to his power and agreed to summon an annual parliament or assembly of nobles.³⁷ Subsequent monarchs made similar agreements at the start of their reigns because the struggle between the king and the nobility continued.³⁸

At the end of the fourteenth century, Queen Margrethe I succeeded in uniting Denmark, Norway, Sweden, Finland, the Faroe Islands, Iceland and Greenland under the Danish crown. This union, in its character at once Atlantic and Baltic, was to last until 1814 in the case of Norway, until 1943 in the case of Iceland, while the Faroe Islands and Greenland have remained under the Danish rule. Sweden's and Finland's membership, however, was of a very short duration. They both left the union in 1520.³⁹

The Reformation was introduced in Denmark during the reign of Christian III in 1539. The Lutheran movement penetrated from Germany through southern Jutland, and it soon gained the monarchy's support. The state took over the church lands and the king became the head of the new church, with the bishops as his officials.⁴⁰

A series of wars during the seventeenth century resulted in the loss of Denmark's provinces in southern Sweden in 1658.⁴¹

Meanwhile, under Frederik III and Christian V, absolute monarchy was established and strengthened. It remained in force until 1849.⁴²

In 1814, Denmark was forced to cede Norway to Sweden in the Peace Treaty of Kiel because of its alliance with Napoleon and this latter's defeat.⁴³

As a result of the Danish wars of 1848-1849 and 1864, Denmark lost her southern provinces of Slesvig, Holstein and Lauenburg, so that the German part was lost like the Norwegian. Furthermore, Denmark was forced to adopt a policy of neutrality.⁴⁴

In the latter part of the nineteenth century, the Danes concentrated on internal affairs, instituting important economic changes (in particular specialization in dairy production). This transformed the country from a nation of poor peasantry into one of prosperous smallholders.⁴⁵ Social reforms took place, and the basis for the present welfare state was laid down.⁴⁶

During the First World War, Denmark maintained its neutrality and after a plebiscite in 1920, North Slesvig was reincorporated to Denmark.⁴⁷

Disregarding a declaration of neutrality at the beginning of World War II, Denmark

was invaded by the Germans in 1940 and occupied until the Allied Forces liberated it in May 1945.⁴⁸

Since the end of the Second World War, agricultural and manufacturing production have risen considerably. Denmark has been growing in economic, social and cultural terms.⁴⁹

Denmark became a charter member of the United Nations, one of the original signers of the North Atlantic Treaty, a member of the Council of Europe, a member of Intelsat, a member of the Nordic Council, a member of the Organization for Economic Cooperation and Development and a member of the European Economic Community.⁵⁰

§ 2.1. The Constitution.

§ 2.1(A). History of the Constitution.

Denmark has been a monarchy for as long as there have been written records, although the king's functions in the first centuries were largely restricted to commanding the army in war time.⁵¹ The kings were elected by the Landsting, which also had the supreme legislative and judicial authority. However, the choice was limited to one family and the eldest male heir of the late king was nearly always chosen.

In the eleventh and the twelfth century, the royal power grew as the executive action grew. The king also took greater responsibility in the judicial and legislative field. In the late thirteenth century, the nobility was able to force the present king to sign "The Great Charter," because of the rivalry between the crown and the lords spiritual and temporal. This became the first constitution of Denmark. The king agreed to summon an annual parliament.⁵² Furthermore, he accepted, as a restriction on his judicial power, that no one should be imprisoned unless convicted by a court, nor punished in ways contrary to the law. He also reaffirmed the freedoms which the church had enjoyed. Subsequent monarchs made similar grants until the establishment of royal absolutism in 1660.⁵³

Soon the assembly of nobles, called the Danehof, became more important than the Landsting in making laws, passing judgments or voting taxes. It was now this body which chose the king.

But at the end of the fourteenth century, the Rigsrad or Council of the Realm, a small group of spiritual and temporal lords, took over the power. Together with the king, they exercised gradually more judicial authority. Furthermore, they in reality also chose the king and took over the government when the king died until a new king acceded.⁵⁴

After 1320, a special arrangement was made by which every king was obliged before his formal election to sign an agreement in which he recognized the rights and privileges of the various estates of the realm and accepted the obligation to rule with the aid of the council.⁵⁵ For more than three centuries, Denmark was governed by this "Constitution by Charter," in association of the king and the council. They divided the power and sometimes the king was the stronger part, sometimes the council was.⁵⁶

But towards the sixteenth century, the Reformation resulted in an abolishment of the old church organization and the king became the head of the new state church, after having confiscated all the church properties. Clergymen no longer sat as members of the council.⁵⁷

At the end of the sixteenth century, the nobility became very prosperous on the economic and political level. However, in following decades their might decreased as a

result of economic changes and great wars. Furthermore, their self-seeking antagonized other classes.⁵⁸ In 1660, King Frederik III summoned a Rigsdag which consisted of members of the nobility, burghers and the clergy. When the nobility refused to make a contribution to national reconstruction after the war with Sweden, the other estates, with the encouragement of the king and the backing of the army, acted against them.⁵⁹ The king, relying on the army and in league with the clergy and the burghers, issued the "Royal Law" in 1665.⁶⁰ This constitution can be seen as a radical constitutional change, which established an absolute monarchy. Elected monarchy was abolished, the charter was dropped, the Council of the Realm disappeared, the nobility lost many of its privileges and above all, burghers and clergymen obtained the same opportunities for office as the nobles.⁶¹ Denmark's king was turned after nearly 200 years from the most limited to the most unlimited ruler in all of Christianity.⁶² But in fact, he remained strongly bound by the existing laws and the legal tradition. The real center of gravity in government administration laid not in the king's person, but in a bureaucracy, which was created as a new administrative system.⁶³ This absolutism could survive because of several reasons. The chief reason is that the urban middle class people were given an important place in the government, together with the nobility. Furthermore, the courts enjoyed a great independence, and a series of radical social and economic reforms was introduced at the end of the eighteenth century.⁶⁴

In the beginning of the 1830's, the absolutism was weakening.⁶⁵ Frederik VI established four consultative assemblies for the Danish Island, North Jutland, Slesvig and Holstein. The right to vote was very limited and only 2.8% obtained it. Furthermore, not only were the functions of these organs purely consultative, but they created greater political interest among the people. Limited local self-governments were also introduced by the king. Here again, the franchise was restricted to a narrow circle of landowners and the biggest taxpayers.⁶⁶

Under mild pressure from public opinion in Copenhagen, in 1848 Frederik VII appointed an all-party ministry and announced that henceforth he would consider himself as a constitutional monarch.⁶⁷

A constituent assembly had to be chosen to draft a new constitution. One-fourth of the members were chosen by the king, the rest by all independent men over 30.⁶⁸ The new constitution was approved by the king on June 5, 1849. This new charter provided for a separation of powers. The legislative power was vested in the king and the Rigsdag or the parliament, the executive power in the king and the judicial power in independent courts. The power of the king was largely restricted. His signature was valid only if countersigned by one of his ministers. The lower chamber (the Folketing) could impeach the ministers in a national court (Rigsret), comprised of judges of the supreme court and an equal number of members of the upper chamber. The king could not levy taxes without the consent of the parliament. The Rigsdag consisted of two houses, the Folketing and the Landsting. The right to vote was extended to all males over the age of 30. Both houses had the same power, but their composition was different. Members of the Folketing were elected in direct elections for three-year terms, while members of the Landsting were chosen indirectly for eight-year terms, with half the membership chosen every four years. The members had to be 40 years old and meet certain taxpaying or property requirements.⁶⁹

In July 1866, an amendment to the constitution gave the higher income groups more power in the election of the Landsting and accorded the king the right to appoint 12 of its 66 members.⁷⁰

The political strife during the last decades of the nineteenth century between the conservatives and the democrats ended in 1901 in a victory for the democrats. Before that time, the king always appointed governments based on the conservative majority in the upper chamber. The democratic party, which had the majority in the Folketing, was simply blocked by this situation. But when in 1901 the elections almost eliminated the conservatives from the Folketing, the king had to accept the "change of system" and appointed a ministry based on the majority in the lower chamber. Since that moment, government by political majority has been obtained, though it was not written in the constitution until 1953.⁷¹

An amendment on June 5, 1915 abolished the electoral privileges of the upper chamber. All citizens over 35 could vote for the electors, who then chose the members of the Landsting. All members over 25 could vote for members of the Folketing. Furthermore, the king lost his power to appoint some members of the Landsting while the outgoing chamber was given the authority to vote for one-fourth of its members. Plurality elections in single member districts were replaced by a proportional representation. At the same time, the dissolution of the chamber was made more difficult.⁷²

When the Social Democrats and the Radical Liberals gained a majority in both chambers in 1936, they proposed a new constitution, together with more sweeping democratic reforms. However, the proposal fell through in the spring of 1939, when it failed to obtain the required support in a referendum, as is demanded by the constitution.⁷³

After World War II, constitutional revision was again attempted. The Prime Minister appointed a constitutional commission of experienced political leaders in February 1946. These persons studied 25 constitutions and consulted many Danish organizations. The main issue was whether to keep the bicameralism or abolish it. Furthermore, the parties were interested in some form of popular referendum as a check on the legislative majority. The commission could not decide whether to lower the age required for voting from 25 to 23 or to 21, and therefore they decided to hold a referendum together with the vote on the constitution.⁷⁴ The age became 23 until 1981 and changed to 18 in 1978.⁷⁵

The Rigsdag gave the draft of the constitution an overwhelming vote of approval in March 1953. The people did the same in a referendum, but here the margin was narrower. The king signed the constitution on June 5, 1953.⁷⁶

§ 2.1(B). General Principles of the Danish Constitution.

The Danish constitution contains 89 sections. To a considerable extent, the phraseology of the 1953 constitution is identical to that of the 1849 constitution.⁷⁷ This constitution applies to all parts of the Kingdom of Denmark. This means: Denmark proper, the Faroe Islands and Greenland. Denmark is a constitutional monarchy.⁷⁸ The heir can be male as well as female, the latter in the case where there is no male successor. Abolished in 1853, this rule came back into force with the Succession to the Throne Act of 1953. The ruler must be a member of the Lutheran church.⁷⁹

The principle of parliamentarism is explicitly recognized in the Danish constitution. Sections 13 to 15 of the Danish constitution give the constitutional force to the practice which already had existed for several years.

The constitution of 1953 abolished the Landsting so that only the Folketing remained. As a result, Denmark is a unicameral parliament of no more than 179 members.⁸⁰

Section 42 makes a referendum possible if one-third of Folketing requests this. People can vote for and against a bill. A number of bills, however, including finance and tax matters, cannot be subject to a referendum.⁸¹

The constitution also made it possible to delegate powers to international authorities, set up by mutual agreement with other states for the promotion of international rules of law and cooperation. Enabling legislation requires the consent of five-sixth of the members of the Folketing or a majority of the members together with an approval in a popular referendum.⁸²

The organization of the courts was left to the legislature, but the constitution wanted to guarantee the independence of the judiciary. It is stated in section 62 that the administration of justice shall always remain independent of the executive power and section 64 says that a judge shall be directed only by the law in the performance of his duties.

The procedure for constitutional amendment was very complicated under the previous constitution. It became little easier under the 1953 constitution. A bill amending the constitution must be adopted twice by the Folketing, with an intervening general election between the first and the second adoption. It must then be accepted by the voters in a referendum. Approval means not only a majority in favor of the bill, but furthermore a majority of at least 40 percent of the total electorate. Finally, the bill must receive the royal assent.⁸³

§ 2.1(C). The Bill of Rights.

Chapter VIII of the Danish constitution can be referred to as the bill of rights. However, some provisions concerning civil rights are found elsewhere, and chapter VIII also contains sections on other matters.⁸⁴

One can distinguish in general three groups of liberties.⁸⁵ Some rules have as their purpose to secure the citizen either the liberty exercising some activities or a secluded sphere in which the government may not interfere or may do so only by using a special procedure. These liberties include personal liberty, section 71; the inviolability of the dwelling, section 72; the protection of the right of property, section 73; and to some extent also religious liberty, sections 67, 68, and 70.

A second category of rules wants to secure the citizen the possibility of freely forming a public opinion, which is a precondition for democracy being able to function. To this group belong the freedom of speech, section 77; the freedom of association, section 78, and the freedom of assembly, section 79.

Finally, the constitution provides for some rules the purpose of which is to secure the citizens various social and cultural rights. This category includes freedom from restraint of the free access to trade, section 74; the right to work and public assistance, section 75, and the right to instruction in the elementary school, section 76. Most of the liberties of this latter category have been realized by the government at this moment so that they are of no real significance anymore.⁸⁶

All of these human rights provisions apply to Danes as well as to aliens, except where express provision is made to the contrary. In regard to civil liberties, it should be mentioned that Denmark has signed the European Convention on the Protection of Human Rights.⁸⁷

If one makes a comparison between the rights guaranteed in the Danish constitution

and those guaranteed in international instruments and in other national constitutions, this "Bill of Rights" seems to be incomplete and unsystematic, as to the rights enumerated and their definition. However, these rights are supplemented by ordinary statute law as well as by general principles of law. Only if rights form a natural and integrated part of the legislation of a country, they can be effective. Furthermore, one can remark that some rights, such as the rights of entry of citizens and the prohibition of retroactive penal system, are so taken for granted that it was not necessary to state them expressly.⁸⁸

§ 3.1. The Form of Government.⁸⁹

§ 3.1(A). In Summary.

The 1953 constitution confirms in section 2 that Denmark is a constitutional monarchy.⁹⁰ The guiding principle of its government is the separation of powers. Thus, section 3 tells us that the legislative power shall be vested jointly in the monarch and the Folketing, the executive power in the King and the judicial power in the courts.

§ 3.1(B). The Legislative Power.

In 1953 the bicameral Rigsdag was replaced by a one-house Folketing. The Folketing shall consist of one assembly of 179 members of whom two members are elected in the Faroe Islands and two members in Greenland.⁹¹ The members are elected for a period of four years unless the legislature is dissolved before that period because the government issues a writ for a new election.⁹² In that situation the seats are vacated when a new general election has been held.⁹³ The Folketing is elected by direct universal suffrage of all Danish citizens over the age of 18 whose permanent residence is in the Realm and who have not been declared incapable of conducting their own affairs.⁹⁴ The age qualifying for suffrage is fixed by an ordinary statute. However, before it can get Royal assent, it has to be put to a referendum which may not result in the rejection of the provision.⁹⁵ The move toward vote at 18 has been very cautious and was only achieved, finally, in 1978.⁹⁶ In a referendum in 1969, 78.3 percent still voted no. Furthermore, the constitution stipulates that a person shall be eligible for membership of the Folketing, unless he has been convicted of an act which in the eyes of the public makes him unworthy of being a member of the Folketing.⁹⁷ Whether the election is valid or not and whether a member has lost his eligibility or not is decided by the Folketing itself.⁹⁸ Without the consent of the Folketing none of its members may be prosecuted or imprisoned for any offense, except where the member is caught committing the offense. Similarly, no member is answerable outside of the Folketing for any statement made there, again in the absence of such consent.⁹⁹ The constitution provides for a proportional representation "to secure equal protection of the various opinions of the Electorate," but the Folketing makes the exact arrangements by electoral laws.¹⁰⁰ The regular session of the Folketing begins each year on the first Tuesday of October, except for a newly elected Folketing, which assembles on the twelfth weekday after the day of the election at 12 o'clock noon, unless the King has previously invoked a meeting of its members.¹⁰¹

The president and the vice-president are chosen at the first meeting after the election providing of the mandates.¹⁰²

The competence of the Folketing is considered unlimited, apart from such limitations as follow from specific provisions of the constitution.¹⁰³ So it is derived from Part VI of

the constitution that the legal assembly shall not decide judicial cases. This power is vested in the courts. The Folketing can delegate its competence to the administration. However, some sections explicitly demand that the Folketing shall rule them by statute (e.g., section 43: taxes, conscription and public loans).

The legislative function of the Folketing will be considered in the next chapter. We only need to stipulate now that we meet the participation of the king in the legislative process where he has to confirm the legislative act before it becomes valid.¹⁰⁴

Next to its legislative task, however, the Folketing has some other important duties. The most important one is the supervision of the activities of the government and the executive generally.

No minister shall remain in office after the Folketing has passed a vote against him. Furthermore, if such a vote of no confidence is passed against the prime minister the whole government has to resign, unless writs are to be issued for a general election.¹⁰⁵ However, when a motion of no confidence is passed against one minister, the whole cabinet will resign because it is considered as an attack on the total government. This parliamentary responsibility dominates political life in Denmark. Other procedures are derived from this central fact.¹⁰⁶ The Folketing also has a financial control. Section 43 provides that no tax or source of revenue may be imposed, amended or abolished, nor any government loans raised other than by means of legislation. Furthermore, public accounts are scrutinized by a number of state accountants elected by the Folketing among its members.¹⁰⁷

Ministers can be impeached by the Folketing or the king in respect of their official conduct. Their case is brought before the "Rigsretten" or the High Court of the Realm.¹⁰⁸ This court consists of up to 15 of the eldest, according to seniority of office, ordinary members of the highest court of the Realm and an equal number of members elected for six years by the Folketing according to proportional representation.¹⁰⁹

Denmark also has a "parliamentary questions" system. The Folketing indeed provides for a weekly session of parliamentary questions. The members are required to give a two-day notice. The consent of the Folketing is not required.¹¹⁰ They are used for controlling government action as a means of soliciting information on the record, of urging action on some matter and indeed of scoring political points. They are mostly used by the opposition.¹¹¹ Article 53 of the constitution gives each member of the Folketing the right, with the latter's consent, to initiate a debate on any matter of public interest, and to demand for explanations from ministers. This normally caused an extensive political debate.¹¹²

The legislative power possessed by the Folketing can also be viewed as a mechanism of control over the government and the administration generally.¹¹³ Nobody can ignore legislation, of course,¹¹⁴ but there is a more positive side to this as well. According to a well-established "principle of legality," all public acts must be based upon law, and the greater the intervention in the private sphere, the clearer the relevant legal authority has to be demonstrated. Although such authority is not confined to legislative enactments, but includes other sources of law, e.g., customary law, this rule helps to ensure the supremacy of the Folketing.

§ 3.1(C). The Executive Power.

Denmark has been a hereditary constitutional monarchy since 1849. The king has been the head of the executive, but has not exercised executive power directly. Until the early

twentieth century, he did have considerable influence and intervened directly in matters of state, but since then his influence has gradually declined to the point where all executive power is vested in the government.¹¹⁵ The issue of the Succession to the Throne Act in 1953 made the inheritance of the throne by women possible.¹¹⁶ This change was made necessary by the fact that King Frederick IX had only daughters. Female succession was now restored, after it had been altered in 1853. However, the male precedence remained: son over daughter, brother over sister.¹¹⁷ As a result of this, Queen Margarethe II became Queen of Denmark in January 1972, after the death of her father.¹¹⁸

The governments are appointed by the king. This is the only constitutional area where the king has an influence not completely curtailed by the directives of the ministers.¹¹⁹ Here the king has a wider choice than, for example, in Britain where usually one of the two parties has a majority. And even where there is a change in the leadership of a party in power, there is usually no royal discretion in Britain, since both the main parties now elect their leaders. In Denmark there is sometimes no obvious coalition in view, and even if there is one it is not always clear which personality should lead the government. The Danish monarch will conduct the negotiations personally. Normally, he convokes all the leaders of all the parties represented in parliament around the table. Each person will then designate the person whom he considers should form the government. If there is a clear majority indicating a certain person, the monarch will ask him to attempt to form a government.¹²⁰ The government will vary in size, consisting usually of between 17 and 21 members. Coalition governments will often be larger than homogeneous governments. In 1978-79 the Social-Democratic-Venstre coalition had 21 members. In 1974-75 the homogeneous Venstre government had 12 members.¹²¹

There are no "ministers of state" or deputy ministers in Denmark, although sometimes a minister without portfolio is explicitly designated to assist another minister. Constitutionally, they become members of the Cabinet. There is also no deputy minister. However, where there is a coalition government, leaders of the coalition parties function as a sort of inner cabinet.¹²² Decisions are formally taken by a "Kongelige Beslutning" (Royal decision) in the "Statsråd" (State council), composed of the ministers and the monarch, but increasingly decisions in almost all matters are in reality taken by the Cabinet and subsequently ratified in the Statsråd, without any debate. The Cabinet meets at least once a week to consider major policy issues, approve bills or budgetary appropriations before presentation to the parliament and consider foreign policy initiatives and Ministerial interventions in the Folketing. The decisions are normally taken in an informal way, by consensus. Cabinet discussion can have a special importance in coalition governments where some parties do not have ministers with direct responsibility for certain policy areas. There are Cabinet committees composed of four or five ministers, who prepare issues for Cabinet decisions. These exist for taxation, energy policy, economic policy and EEC policy. The EEC committee is paralleled by a civil service committee representing the same ministers. Ministers prepare bills or other policy action with their officials, coordinate with other ministers, and economic proposals in the appropriate ministerial committee before the Cabinet takes a decision. Before a bill goes to the Statsråd for formal approval, the minister will usually inform his parliamentary group. Each May, ministers forward proposed legislation for the next Folketing session in October. These proposals are collected by the Prime Minister's office, and they are the basis for discussion on the government's programme to be announced by the Prime Minister at the opening session.¹²³

No dependent authority has been vested in the king. He shall not be answerable for his actions, but the ministers shall be responsible for the government's conduct. It is assumed that, as a repercussion of this provision, the king is bound to act in accordance with the directives of the ministers, whenever he takes action in matters now of a purely private nature.¹²⁴ If he issues resolutions relating to legislation and government, the constitution explicitly provides that the signature of the king shall be valid only where the signature is endorsed by the signature or signatures of one or more ministers.¹²⁵

However, we already know that the king has a separate influence in the appointment of the ministers.¹²⁶ There his authority is limited by the parliamentary system. Indeed, no minister or government shall remain in office after the Folketing has approved a vote of no confidence in him or in it.¹²⁷ This means the king cannot appoint a government if it is known to him that it will be defeated immediately in the Folketing by a vote of no confidence.¹²⁸ Furthermore, we saw that the Folketing may put questions to the ministers during the weekly question time, that some members of the Folketing may jointly submit any matter for discussion and that it exercises a significant control in its approval of the annual public accounts.¹²⁹ Besides this political responsibility the members of the government are subject to impeachment by the high court of the Realm (see *supra*).

Various provisions in the constitution refer to the authority vested in the king or the government in their role of executive power.

The most important provision is that the king can act on behalf of the Realm in international affairs.¹³⁰ There are, however, some limits on this power. In some cases, the government needs the consent of the Folketing.

Another power of the king is that he may issue at any time, writs for a new parliamentary election.¹³¹

Furthermore, the king has some small powers, which really don't mean too much. He can, for example, grant a pardon and amnesty.¹³²

Another aspect of the power of the executive branch is public administration.¹³³ This power is not very important because the executive has no independent power in this respect but is always obliged to follow the law in taking any action.

§ 3.1(D). The Judicial System.

This subject will be discussed in a separate section, namely section 5.

§ 3.1(E). The Ombudsman.

The institution of the ombudsman was introduced in Denmark in 1953. The Danish constitution provided in article 55 that a statute would give the power to the Folketing to appoint "one or two persons, who shall not be members of the Folketing, to control the civil and military administration of the State." The specific details on this matter have been established in a statute of December 1, 1967 (Act No. 342), as amended by Act No. 258 of June 9, 1971. The ombudsman can be considered as the most important of all forms of extra-judicial review.¹³⁴

The ombudsman is independent of the executive and judicial branches.¹³⁵ He is appointed by the Folketing, after each election, and he may be freely dismissed by the Folketing.¹³⁶

The Folketing may establish general rules for the ombudsman, but may not intervene in his handling individual cases.¹³⁷ He must submit a yearly report to the Folketing.¹³⁸

The creation of this institution had two main purposes. On the one hand, it was intended to afford the citizen a quicker and cheaper form of legal redress against the administration. On the other hand, the goal was to render subject to review administrative action which would not normally be capable of challenge in court.¹³⁹

In a sense the ombudsman has a dual role: curative and preventive. He may condemn administrative acts, illegal, arbitrary and unjust, but he may also prevent that such acts recur.¹⁴⁰ The ombudsman can act on his own initiative or on the receiving of a complaint.¹⁴¹ In the latter case, there are two conditions. First, that there is no longer appeal possible in the administration itself and second, that the complaint is made within a time limit of one year.¹⁴² In his job, the ombudsman has a real big power according to investigations.¹⁴³ He may reject any complaint after his investigations. When he finds ground, he can report the case to the local government, the minister involved or even to the Folketing. He can then criticize or recommend something in respect to administrative procedures. If necessary, he may ask the appropriate authorities to indicate disciplinary or criminal proceedings against officials who have acted in breach of the law or any regulation.¹⁴⁴ It must be said that the ombudsman has a lot of work to do, but that he also has a very great authority over the administration.¹⁴⁵

§ 3.1(F). The Local Government.

The local government plays an important role in the Danish system.

Article 82 of the Danish constitution includes a guarantee for a certain self-government. This means that the Ministry of the Interior can change the power of the local government at any time, but it may not abolish them. We have two main divisions in the local governments in Denmark.

First, there are the Amter (counties). In 1970, these Amter were reduced in number from 25 to 14.

On the one hand you have an Amtmand in these Amter. He is the representative of the central government. On the other hand, there is the Amstrad, which has from 13 to 21 members, depending on size and population. These councils have functions in respect of secondary education, regional transport and hospitals.

Secondly, there are the Kommuner. The Kommuner can be divided into two categories: those with a Magistrate (executive) and those with a Borgmester (mayor) and committee structure only. The capital city has a special structure, a kind of refinement of the Magistrate system. A normal Primaer Kommuner has five to 25 members. They are responsible for the provision of utility services, local social provision and libraries, primary education and the local road network. The finance of the local governments is made up from charges, local taxation and state grants which are now block grants not earmarked for specific spending.¹⁴⁶

§ 4.1. Political Life in Denmark.

§ 4.1(A). In General.

Political life in Denmark is orderly and democratic. One might have some political changes gradually, though the process of consensus, political methods and attitudes is general moderate. Compromise is an essential element in Danish political life, as no single party since 1945 has been able to command a majority in the Folketing.¹⁴⁷

The present coalition is composed of four center-right parties: the Conservatives, the Liberals, the Center Democrats and the Christian People's Party. It is what we call a minority coalition because they have only 77 (or 76) of the seats in the Folketing.¹⁴⁸ This coalition came in power in September 1982 when the previous coalition, made up of the Social Democratic Party and two smaller parties, fell apart and resigned only nine months after winning the election. For the first time since 1907 the Danish government was in the hands of the Conservative Party, and the Social Democrats, who had dominated Danish politics for 50 years, had to leave the government. The situation was affirmed in the elections of January 1984.¹⁴⁹ The minority government under Prime Minister Paul Schluter has had some success in passing much of its economic program through the Folketing. However, the Social Democrats and other parties have maintained a strong influence in foreign affairs and security policy.¹⁵⁰

Situation in the Last 10 Years

	1977	1979	1981	1984
Social Democrats	65	68	59	56
Liberals	21	22	20	22
Conservatives	15	22	26	42
Progress Party	26	20	15	6
Socialist People's Party	7	11	21	21
Radical Liberals	6	10	9	10
Center Democrats	10	6	15	8
Left-Socialists	5	6	5	5
Single Tax Party	6	5	0	0
Christian People's Party	6	5	4	5
Communist Party	7	0	0	0
Greenland	2	2	2	2
Faroese	2	2	2	2
Other	1	0	1	0

Indeed, since 1982, when the coalition came to power they met frequent difficulties. Under the pressure of other parties and as a result of being a minority party, the government, although Denmark is a NATO member, had to go against the NATO basic policy regarding the deployment of new versus medium-range missiles in Europe. However, in the last years, priority is given to the economic situation in Denmark. The need for austerity is very great, because Denmark has relied on foreign loans to maintain its comprehensive welfare system. When the Conservative government took power in 1982 the budget deficit accounted for 9.2 percent of gross domestic product and the employment stood at 9.9 percent (registered unemployment). To tackle these problems, the government presented a package of public spending cuts and restrictions on wages. It also adopted measures to stabilize the kroner and to lower interest rates, thereby discouraging the outflow of capital and promoting domestic investment. These measures partially relieved the financial difficulties resulting from the country's welfare policy and promoted an economic recovery. The policy was attacked, but this government is still in power.¹⁵¹

§ 4.1(B). The Different Parties.

It is not our intention to focus on all the parties. We therefore will only take into account the most important ones.

§ 4.1(B) (a). The Social Democrats.

This party is, with her 56 seats in the Folketing, the biggest party in Denmark. It was founded in 1871 by Louis Pio as a Danish section of the First International.¹⁵² Like the British Labour Party, "Social Demokratiet" began as an outgrowth of the trade union movement and was first indistinguishable from it. However, at the first Congress in 1876 it developed into a political party with organic links to the unions, but with its own organization. Originally, the ideas were Marxist, but they turned into reformism as time went by.¹⁵³ The first program had clearly a Marxist influence because it declared wide common ownership, labor as a source of all wealth and the attack of capitalism.¹⁵⁴ In the program of 1977 the aim of democratic socialism is declared to be the liberation of man, to ensure his security and give him the possibility of full development in society and responsible to society, and it builds respect for the individual and equal opportunity for all. It condemns both private and state capitalism equally and seeks to further equality, freedom and solidarity.¹⁵⁵ The main emphasis is placed on economic democracy, the quality of life and of economic growth and the economic context of Denmark's new relationship with the Third World and membership of the EEC.¹⁵⁶ The Social Democratic party has been represented in the Folketing since 1884.¹⁵⁷ They had two seats in 1884, which was increased to 12 in 1898.¹⁵⁸ After 1924 they emerged as the largest party,¹⁵⁹ and from that moment on they were almost always in the government except for a short period between 1950-1953 where there was a Liberal-conservative government.¹⁶⁰ In 1982, they left the government and a four-party government was formed.¹⁶¹ However, they still have a great influence because of their large number of seats in the Folketing.¹⁶² The Social Democratic Party is supported by trade unionists, public servants, tradesmen, small farmers, retirement pensioners and some intellectuals.¹⁶³

§ 4.1(B) (b). The Conservatives.

The Conservatives made great progress in 1984, and the party is now the second biggest in Denmark.¹⁶⁴ The party was formed in 1915, when some people broke with the reactionary policy of the old Right, adopting a programme of reform under its new name, which included introduction of proportion representation.¹⁶⁵

The party supports freedom and economic initiative and incentive.¹⁶⁶ They also stress democracy within a context of responsibility. This party wants to gain progress without giving up man's freedom and our Christian humanist culture. Progress must be used to give every single citizen new possibilities to create a richer life, both economically and culturally.¹⁶⁷

The Conservatives have a strong nationalist tradition.¹⁶⁸ They strongly support NATO and the defense effort.¹⁶⁹ They also want to extend inter-Scandinavian cooperation.¹⁷⁰ It is the most pro-EEC party of all the Danish parties.¹⁷¹ The Conservatives have rarely been represented in the government.¹⁷² For the moment, they are forming a four-party government together with the Liberal Party, Centre Democratic Party, and the Christian People's Party.

§ 4.1(B) (c). The Liberals.

The Liberal Party was founded in 1870.¹⁷³ It came into being in the period after 1848, in the struggle for democratic parliamentary government.¹⁷⁴

The party has traditionally sought balance and moderation. It supported and indeed fought for the parliamentary system, but in the 1930's and early 1940's it opposed radical reforms of the constitution. At first it opposed the abolition of the Landsting and only accepted it when the other parties agreed upon the principle of abrogative referendum.¹⁷⁵ The goal of the Liberals is "a liberal society where the individual lives and works in the greatest possible freedom and security."¹⁷⁶ In their programme of 1970¹⁷⁷ it is stated: "The nation must found its future on freedom. Through political democracy, the nation lays the outlines of a partnership between individuals and groups, respecting the right of the other individuals and groups to freedom and development. Democracy is also an attitude which should influence our everyday life and its manifold fellowships of work, education, housing, organization, etc."¹⁷⁸ The keynote of their ideas is that there should be the greatest possible freedom for individuals, so they could use their special abilities in harmony with their own desires.¹⁷⁹ But the economic freedom cannot be total, and social solidarity must be expressed through a system of social security, which has, however, become too extensive in recent years.¹⁸⁰ Their main purpose at this moment is economic stabilization.

The Liberals have been part of the government several times. At this moment, they form a government together with the Conservatives, Central Democratic and Christian parties.¹⁸¹ The Liberal party was chiefly supported originally by farmers, rural tradespeople and businessmen, but following urbanization after the Second World War, the party has gained support among the urban middle classes.¹⁸²

§ 4.1(B) (d). The Socialist People's Party.

The Socialist Party was formed in 1959 by former members of the Communist Party.¹⁸³ The idea behind this party is that it would be "a real man's party, and not a steel hard militant sect."¹⁸⁴ It was to be a party which builds on working people, but which is able to stimulate Danish politics and cooperate with all democratic and socialist forces.¹⁸⁵ The main policies of the parties are: anti-capitalist, emphasizing public control and intervention in the economy, workers' participation in industry and strong social services.¹⁸⁶ In foreign policy, the party seeks closer ties with the Socialist and the Third World countries.¹⁸⁷ This party was the greatest opponent of those who wanted membership in the EEC, and it also opposed the membership of Denmark in NATO.¹⁸⁸ Their members in the parliament follow very strictly the line that the 1972 referendum gave only a limited mandate for entry to the community as it then was not for further institutional development.¹⁸⁹ The party was not always very successful,¹⁹⁰ but won a great deal of seats in the 1981 elections. It is now the fourth party in Denmark.¹⁹¹ This party is supported by organized workers and intellectuals.¹⁹²

§ 5.1. The Judicial System.**§ 5.1(A). Short History of Danish Law.**

The historical development of Danish law has been marked by a great stability and

continuity.¹⁹³ Danish law and Danish justice stem neither from Roman law nor from Anglo-Saxon common law, but from their own national roots.¹⁹⁴ Written law goes back to at least 1200 A.D. when three codes—the Jutland, the Zealand, and the Scanean—were in use in different parts of the country.¹⁹⁵ Gradually the Jutland code superseded and became also applicable outside the Jutland area. The Jutland code, forming only a general basis, was supplemented by many laws of radical importance over the years.¹⁹⁶ In 1683, after the introduction of absolutism in Denmark, King Christian V introduced a general code applicable to the whole country, known as the Danish Code of King Christian V.¹⁹⁷ This code was no break with the past but built upon the Jutland code and other enactments.¹⁹⁸ It was with this great code that judicial uniformity was introduced throughout the country.¹⁹⁹ During the seventeenth and eighteenth centuries, authors of Danish legal textbooks had a significant influence on the development of law.²⁰⁰ Indeed, the code of Christian V was of a casuistic nature just as the laws upon which it is based, and general principles of law are only laid down by way of exception.²⁰¹

In their effort to clarify and systematize, text writers sometimes introduced legal principles not previously known in Denmark but which became accepted as supplements to the code provisions. In this way Roman law was introduced.²⁰² During the nineteenth century, Danish legal scholars discussed the development of a modern code to replace that of the seventeenth century. However, it was not possible to carry out this project because of the great influence of Savigny and the German historical school of jurisprudence.²⁰³ Today, most of the Danish code has been rescinded or superseded by different legislation. Certain important principles of law, however, are still based upon the Danish code,²⁰⁴ but the number of provisions still in force is so limited that one can hardly say that the Danish code is the basis of Danish law.²⁰⁵

All the legislation since 1683 has been in the form of separate statutes on particular matters. No attempt has been made to codify this mass of legislation in a comprehensive code and Denmark does not possess a general civil code.²⁰⁶ The rules of court procedure are laid down in the Retsplegjløven of 1876 as subsequently amended especially in 1969 (Administration of Justice Act).²⁰⁷ We will not discuss here the Nordic legal cooperation because it is done in Volume Four of the Modern Legal Systems Cyclopaedia.

§ 5.1(B). In General.

The Constitution of 1953, in accordance with Montesquieu's theory of the separation of powers, establishes the organizational separation of the states into the legislature, the executive and the judiciary.²⁰⁸ In the constitution, one can find rules governing the organization of the courts.²⁰⁹ Article 59 sets up the Rigsret and Article 61 outlaws any form of extraordinary courts.

Article 62 says that the administration of justice shall always remain independent of the executive power and that the judiciary is to be regulated by law. Furthermore, judges in discharging their judicial functions are to be guided solely by the law (Article 64). Judges shall not be dismissed except by judgment, and they may not be transferred against their will, except in the instance where a rearrangement of the courts of justice is made. They may, however, be retired at the age of 65 but without loss of income up to the time when he is due for retirement on account of age.²¹⁰

Proceedings shall be public and oral in Denmark and laymen shall take part in the administration of justice. The constitution, however, does not establish the extent of that participation.

The constitution does not contain any provision on the right of the courts to judge the constitutionality of the laws passed by the Folketing.²¹¹ The 1849 and the 1953 constitution are silent on this point. Neither does the Danish legal system provide for any constitutional court or special administrative courts.²¹² Certainly, there has been a strong political resistance to such power, especially from the Social Democrats and the Radicals.²¹³ The question has been relevant in a number of cases brought before the ordinary courts.²¹⁴ In none of these have the government counsels argued for dismissal of the proceedings on the grounds that the courts do not possess the power. The legislature has never adopted a clear united stance on this question.²¹⁵ It is, however, generally accepted that a court can decide whether a law passed by the Folketing is contrary to the constitution.²¹⁶ However, the Danish Supreme Court definitely adopts a more reserved attitude than either the United States Supreme Court or the German Bundesverfassungsgericht.

Administrative courts have not been established in Denmark, but the constitution gives the courts the power of review of administrative acts in relation to both statute law and the constitution.²¹⁷ The legislature, however, can exclude the right to bring an action in court by stipulating that the decision of the relevant executive agency is final. Furthermore, the power of judicial review is generally considered to be quite limited in character, if a statute leaves wide scope for the exercise of discretion. Regulations of the administration may also be the subject of review in regard to their compatibility both with statute law and with the constitution. All administrative acts must be authorized directly or indirectly by law, and judicial review of an administrative act will therefore, for all practical purposes, be a question of examining the compatibility of the act, with the relevant statute or with the general principles of administrative law or on the constitutionality of the statute authorizing the particular administrative act.²¹⁸

§ 5.1(C). The Different Courts.

Within the regular judicial structure there are three kinds of courts: the lower courts (underretter), the high courts (landsretter), and the Supreme Court (højesteret).²¹⁹ All general cases—civil, criminal, administrative and fiscal—come under the jurisdiction of these general courts.²²⁰ In addition to this court, there is a Maritime and Commercial court (So- og Handelsretten) and a Tax Tribunal (Landkatteretten) who deal with special cases.²²¹ Administrative courts have not yet been introduced, although the constitution expressly allows the establishment of such courts.²²²

§ 5.1(C) (a). The Lower Courts (Underret).

According to the Administration of Justice Act (Retsplejeloven) of 1976, the country is divided into just over 100 lower court (Underret) districts.²²³ The lowest tier of courts is made up of the 84 underretter, mostly with only one judge, except in cities. For example, Copenhagen has 29 judges and Aarhus has eight judges in their city courts.²²⁴ In each case only one professional judge presides,²²⁵ especially in larger districts. These underretter deal with civil cases where the value of the suit is less than 10,000 D.K., family law and criminal cases where the penalty provided for by law is less than eight years imprisonment.²²⁶ The duties of a judge in the lower courts include, besides the actual administration of justice, the functions of bailiff (foged), estate administration (skifteforvalter), and notary (notar), and he is also responsible for the system of records

and registrations (tinglysningsvoesenet).²²⁷ When the underretter hear cases under the Rent Acts, they are sitting with lay expert assessors. In criminal cases, the underretter mostly sit with two lay assessors as well as the judge. These assessors, like jurors, are members of the public.²²⁸

§ 5.1(C) (b). The High Courts (Landsretter).

The next layer of courts is the two landsretter. The Østre Landsret (Eastern High Court), with 36 judges, meets in Copenhagen and the Venstre Landsret (Western High Court), with 20 judges, sits in Viborg in Jutland.²²⁹ The Western High Court has jurisdiction over Jutland. Its area comprises 56 legal districts and six jury districts. The Eastern High Court (Østre Landsret) has jurisdiction over the rest of Denmark. Its area includes 47 legal districts and nine jury districts.²³⁰ Each case is heard by at least three judges.²³¹ These courts deal with serious civil and criminal cases as courts of first instance, with appeal lying to the Hojesteret.²³² In fact, all cases not specifically referred by the Administration of Justice Act to a lower court are tried in the first place by one of the two High Courts.²³³ These courts also have appellate jurisdiction over civil and criminal cases heard in the lower courts.²³⁴ In criminal cases, the Landsretter sits with a 12-member jury which judges the guilt or innocence of the accused.

§ 5.1(C) (c). The Supreme Court (Hojesteret).

The highest court in Denmark is the Hojesteret (Supreme Court). It is composed of 15 judges and it sits in Copenhagen.²³⁵ Usually it hears cases in a chamber with five to seven members. At least five judges have to hear the case.²³⁶ Cases involving matters of major importance are heard by—more usually—seven.²³⁷ The court deals with appeals in all civil, criminal and administrative cases.²³⁸ Appeals reach the court from the high courts and from some special tribunals.²³⁹ The right to appeal when an appeal has already gone to the appropriate Landsret is not absolute, and can only be granted by the Minister of Justice on the grounds that the case raises important legal issues or questions of public policy.²⁴⁰ It will be granted when, for example, the case concerns a doubtful legal point, or if the case has further important consequences for the Appellant.²⁴¹ Most court cases are based on oral and public pleas, except in appeals before the Hojesteret which are largely dealt with through written pleas.²⁴²

§ 5.1(C) (d). The Maritime and Commercial Court.

This court, which is located in Copenhagen, tries cases in which the special knowledge of either maritime or commercial matters is required. It consists, for each case, of one professional judge and two or four lay judges, who are experts in the field. Outside Copenhagen the high courts and lower courts are in certain cases supplemented by maritime or commercial experts. Appeal against decisions of the Maritime and Commercial Court may be made to the Supreme Court.²⁴³

§ 5.1(C) (e). The Tax Tribunals.

Tax cases are dealt with by a special administrative court, the Tax Tribunal (Landskatteretten).²⁴⁴ Although Denmark has no separate system of administrative courts with general powers, this is an exception to the rule. Its awards may be tested by submission to the ordinary courts by instituting proceedings in the high court.²⁴⁵

§ 5.1(C) (f). The Special Court of Appeals (Den Saerlige Klageret).

This special court was established in 1939 outside the regular court system. It hears two types of cases: those involving charges against a judge and those dealing with the reconsideration of certain criminal cases. All appeals from the Special Court go to the Supreme Court.²⁴⁶

§ 5.1(C) (g). The Labour Court (Arbejdsretten).

This court deals with alleged violations of contracts and agreements in the Labor Market.²⁴⁷

§ 5.1(C) (h). Miscellaneous.

Prior to 1919, there was a separate hierarchy of military courts, but since then military cases fell within the jurisdiction of the regular courts. Certain matters involving the clergy and other officials of the established church may be heard by ecclesiastical courts.

There are, as we already know, no administrative courts in Denmark, but in recent years administrative decisions may be appealed to higher levels of authority within the agency and ultimately to the minister, and some administrative appeal boards have been created that are more or less independent of the minister. Certain types of administrative decisions may be reviewed in the regular courts, and of course, the ombudsman also stands guard against abuses. The ombudsman's authority, however, does not extend over the courts and their personnel.²⁴⁸

§ 6.1. The Law-Making Process.

The legislative procedure begins with the introduction of a bill. These bills can be written or oral.²⁴⁹ In most cases, the written method is chosen.²⁵⁰ Bills can be introduced by the government as well as by the members of the Folketing. The number of government bills, however, far surpasses the number of private bills.²⁵¹ The bills introduced by the M.F.'s usually come from the opposition parties. Their reason is almost entirely political: to fulfill electoral promises, to show a party's voters and affected interest groups that it is taking action, and to embarrass other parties and especially the government by forcing them to take up a position on the issue and to demonstrate thereby that certain parties are not willing to vote for the proposals in question.²⁵²

Government measures may have a number of different origins. Some may come from a ministry's civil servants. They have a close contact with existing law and they are most aware of defects. The changes they propose are mostly technical. Another important source of legislation, especially for major issues, is a special commission or committee appointed by the appropriate minister. Those may work for years, with several people, and their report will likely serve as a basis for legislation sponsored by a ministry. A third major source of legislation is the political party or parties involved in the government. Most government bills are prepared in the ministry concerned, usually in consultation with the interests affected by them. The minister presents the bill to the Cabinet, which may approve, reject or amend it, or return it to the ministry for changes or perhaps further consultation with those affected by it. A government bill is to be discussed and approved in a council of state with the monarch, before it is introduced.

An opposition party or parties may also seek the passage of a resolution (Folketingsbeslutning) calling on the government to introduce a bill of a certain kind or to appoint a commission to study or investigate a particular legislative problem.²⁵³

A minister ordinarily introduces a government bill by sending a copy of it, along with a summary and a discussion of its principal points, to the Speaker, who announces in the chamber that the bill has been introduced.²⁵⁴ Shortly thereafter, the statement is printed in the Folketingstidende (Hansard) and it is distributed to the members.²⁵⁵ At this stage, there is no debate or a vote.²⁵⁶

Oral introduction is usually reserved for bills of major political importance. Again, the minister informs the Speaker, who announces the introduction; but here the minister presents his summary and discussion of the measure orally to the legislature. The government tries to bring its proposals before March 15 so that they may be acted upon before the end of the Folketing year.²⁵⁷

The constitution requires three readings before a bill shall be finally passed.²⁵⁸ The speaker is obligated to see that a bill gets its first reading, but then it is up to the Folketing to decide whether it goes further or not. First reading occurs at the earliest two days after a copy of the bill has been distributed to the members, but usually, it will be a week or two later. The first reading provides a debate on the general principles of the bill, not on its details, and no amendments are in order. This stage is very important because it may alert interested organizations, the press and the general public to the measure and because it allows parties without representation on the Folketing committees to present their views and thus indirectly to affect committee action.²⁵⁹ The debate is led, in this as well as in other stages, by official spokesmen (ordforere) for each party group and by the minister who has introduced the bill; other members may speak, but few of them do so. At the end of the debate, the Folketing votes whether to give the bill a second reading. It is possible for an uncomplicated measure on which there is general agreement to go directly from the first reading to the second one (after an interval of at least two days).²⁶⁰ But in almost all the cases, the spokesman for the largest party makes sure that the bill is sent to a committee, which will examine the bill in detail.²⁶¹ In most cases, a new committee is erected for every measure. However, the same committee may be used for a number of different bills. Places in the committee are allocated in accordance with the proportional representation method provided in the rules, and members are appointed by the various party groups. Under these rules, no party is entitled to a representative on the committee unless it has at least 10 members in the Folketing.²⁶² The committee elects its chairman and vice-chairman from the largest party.²⁶³

The committee has several different types of procedures at their disposal in seeking to obtain information on matters before them; these are not confined to the legislative work of the committees. The committee may hold closed hearings of ministers, may receive deputations from organizations to hear their views and receive written submissions. They may also ask written questions of ministers.²⁶⁴ Generally, one can say that there is a very intense activity and interaction between the committees, the government and interests. The committee then reports to the Folketing, and each report may include several minority reports. It will ask for disposal of a measure and explain its background. It may suggest acceptance or rejection and may propose amendments.²⁶⁵ The Folketing then proceeds to the second reading, no earlier than two days after the distribution of the committee report. During this reading, the bill is examined line by line, and amendments may be tabled. This is the principal discussion of the bill and the decisive stage in most

instances. At this stage, upon conclusion of the debate, the Folketing will vote on the bill as a whole as it stands amended. If no one objects, the Speaker may send it directly to third reading. In some cases, however, it may be referred back for a second committee stage.²⁶⁶ The committee will now be more concerned with technical changes and the language of the bill.²⁶⁷

Finally, as early as two days after the second reading, or two days after the distribution of the supplementary committee report, the bill is presented for a third reading. Here, too, amendments may be presented and spokesmen for the parties may intervene. Normally there is no debate at all on the third reading.²⁶⁸

Once a bill has been passed by the Folketing, the Speaker and one of the Secretaries sign it and send it to the Prime Minister. It becomes law if it receives the Royal Assent not later than 30 days after it. The minister who has been in charge of the measure submits a written report on it to the king, the king signs and the minister countersigns.²⁶⁹ Special constitutional provisions exist for certain kinds of legislative actions. If a law delegates national powers to international authorities, a majority of five-sixths of the members of the Folketing is required. This may be replaced by an ordinary majority plus submission of the bill to the people for approval in a referendum.²⁷⁰ Where a bill relating to the expropriation and the amount of compensation has been passed, one-third of the members of the Folketing may within three weekdays from the final passing of such bill, demand that it shall not be presented for the Royal Assent until new elections to the Folketing have been held and the bill has again been passed by the Folketing assembling thereupon.²⁷¹ In an emergency, the king may, when the Folketing cannot assemble, issue provisional laws provided that they shall not be at variance with the Constitution Act, and that they shall always immediately on the assembling of the Folketing, be submitted to it for approval or rejection.²⁷² Furthermore, because there is no second chamber, other safeguards have been designed to prevent hasty action, give an opportunity for second thoughts or allow people to overrule their legislators.²⁷³

Two-fifths of the Folketing members can, through a request in writing to the Speaker, require a third meeting not to take place until 12 weekdays after a bill's passage on second reading.²⁷⁴ But a more important instrument is the referendum. One-third of the members of the Folketing may within three weekdays from the final passing of the bill request of the President that the bill be subjected to a referendum. The request must be made in writing. If the Folketing majority decides not to withdraw the bill, the Prime Minister must publish it and announce the holding of a referendum on a date, not less than 12 nor more than 18 weekdays after publication. At the referendum, votes shall be cast for and against the bill. Rejection requires a majority vote against it, and this negative majority must include at least 30 percent of the eligible voters. If this is not the case, the bill goes to the king for approval like any other measure.²⁷⁵ A number of bills are not subject to referenda.²⁷⁶ The referendum is not often used.

The Folketing can, besides laws, also pass Folketing (decisions) which require a less onerous procedure than laws. These decisions may affect internal organization, representation of the Folketing on outside bodies (e.g., the Radio Council) or bind the government to present legislation or ratify treaties. They may come from the government, from committees, and from individual members.²⁷⁷

§ 7.1. The Legal Education.

§ 7.1(A). In General.

Of Denmark's three universities (Copenhagen, Aarhus and Odense), Copenhagen and Aarhus have law faculties where you can obtain your law degree. To become a professor at those faculties, you have to make work of scholarship, normally a thesis for a doctorate.²⁷⁸

§ 7.1(B). The Degree.

The Danish law degree (candidatus juris) is obtained by formal studies at a Danish university. The study takes four and one-half to six and one-half years, followed by formal examinations, but in most cases it takes six and one-half years. To become a Danish lawyer and thus to have the certificate, the degree is required.²⁷⁹

§ 7.1(C). Subjects to Study.

The subjects are divided into major subjects and minor subjects. Major subjects are covered by professorships. These subjects are compulsory.

The major subjects for the first year are personal, family and inheritance law with economics. The second year requires the study of international law, administrative law, constitutional law, and jurisprudence or legal history. In the third year, criminal law and procedures are required to be studied. And the fourth year students have to take the law of contracts and torts and property law.

Furthermore, students can take a number of minor subjects of great practical importance, such as tort law, industrial law, company law, insurance law, maritime law, etc. The teachers of these subjects may be practicing lawyers, as well as civil servants.²⁸⁰

§ 8.1. The Legal Practice in Denmark.²⁸¹**§ 8.1(A). General Requirements for the Practice of Law.**

The general requirements for the practice of law are governed by The Procedural Code (Retsplejeloven) Law Number 488 of 2 October 1978, concerning civil and criminal proceedings. The first requirement is that one has a certificate issued by the Ministry of Justice. You can only get this certificate if you fulfill six other requirements.

§ 8.1(A) (a). Twenty-five Years Old.

You must be 25 years old before you can get the certificate. This is no problem, because the studies take you normally until 25. This requirement is indispensable.

§ 8.1(A) (b). Danish Nationality.

Here an exception is made for EEC members (art. 7 EEC treaty).

§ 8.1(A) (c). Not Under Bankruptcy or Insolvent on the Moment of Application.**§ 8.1(A) (d). A Law Degree From a Danish University.**

See for this requirement § 7.

§ 8.1(A) (e). A Good Moral Status.

This must be proved by a written statement from two individual persons, who are not family of the applicant.

§ 8.1(A) (f). Practical Legal Training.

Normally, you need three years of practical training before you can become a lawyer. Deviation is in some circumstances possible.

§ 8.1(B). Lawyers Monopoly.

Lawyers do in fact various jobs, but they only have a monopoly in handling cases before the court. However, everybody can defend his own case before the court. In practice, only lawyers appear in the courts. Other possible jobs for lawyers are handling real estate transactions, estate planning, conveyancing, etc. The total number of lawyers in Denmark is approximately 3,000. To appear before a high court, the lawyer has to pass a test, which consists of defending two cases before this court. If he fails, he may try once again. If he passes, he can apply for admission to the Supreme Court.

§ 8.1(C). The Law Society.

All Danish lawyers are, by provision of the Procedural Code, members of the Law Society. This society takes care of general professional areas, in order to maintain the status of the law profession. It furthermore looks after the good legal practice of the lawyers. It can initiate disciplinary action against a lawyer who fails to fulfill his professional responsibilities. Sanctions are suspension for not more than one year and a fine with a maximum of 50,000 Danish Crowns.

§ 8.1(D). Foreign Lawyers.

Foreign lawyers are allowed to practice law in Denmark. They may, however, not use the title "Advokat" as Danish lawyers do. They have to use the title of their homeland.

Inhabitants of the European communities may, if they are qualified lawyers, perform their services in Denmark and appear before Danish courts.

There are two conditions: they must be accompanied by a Danish lawyer, qualified for the court in question and they are under the supervision of the Danish Law Society.

§ 9.1. The Home Rules and the Example of Greenland.**§ 9.1(A). Greenland.****§ 9.1(A) (a). A Little History.**

It is believed that Greenland was discovered some 4,000 years ago by the Unuit Eskimos, ethnically and linguistically related to those of Canada, Alaska and Siberia.²⁸² However, the first settlements didn't appear until 100-1300 A.D. when Eskimos in the West and Scandinavian peasants from Iceland in the East settled in Greenland.²⁸³ The Scandinavian colony perished, but the land became politically attached to the Kingdom of Denmark-Norway.²⁸⁴ In the early 18th century, a new colonization began with the

arrival of the Lutheran missionaries, especially clergyman Hans Egede.²⁸⁵ During this period, the largest island of the world became permanently attached to the Kingdom of Denmark-Norway.²⁸⁶

The first major general regulation concerning Greenland, "Instructions regarding Trade and Whalehunters in Greenland," was issued on April 19, 1782. In this act, the Danish king laid down Denmark's general policy regarding its northern colony. The administration should apply the guiding principle that any work undertaken in Greenland should be done in the best interest of the Greenlanders. Trading should also be promoted as much as possible, but should have second priority.²⁸⁷

As a result of the Napoleonic wars, Denmark was obliged to cede Norway to Sweden, but was allowed to retain Greenland and the Faroes.²⁸⁸ Greenland was then solely under Danish rule. Denmark's colonial rule was recognized by the Permanent Court of International Justice as being based on a better title to sovereignty over the whole island than that claimed by Norway.²⁸⁹ In 1862 an elected advisory council was established. This became the forerunner of the present Provincial Council.²⁹⁰

After the Second World War, Greenland wanted to be more independent. During the Second World War, Greenland was supplied and defended by the USA. This meant a stronger contact with the surrounding world, which caused new goods and an extended economy, the need and the expectation of a new epoch.²⁹¹ In 1953, Greenland's status as a colony came to an end because it became an integral part of the Danish realm with equal rights.²⁹² Consequently, Danish laws apply to Greenland unless otherwise stated in an individual act.²⁹³ The United Nations approved the integration of Denmark after hearing representatives of Greenland in 1954.²⁹⁴ The main goal of both Denmark and Greenland was in 1953 to create the greatest possible equality between the Danes and the Greenlanders. Many committees and commissions were established in order to find ways to reach this goal.²⁹⁵ In 1960, a commission to plan and implement full normalization of Greenland's position in the kingdom concluded that the climatic natural and cultural conditions of the island were so different from those of Denmark that it would never be possible for Greenland to support the same standard of living.²⁹⁶

In 1967, the Provincial Council could, under the new Provincial Act, elect its own chairman from among its democratically elected members. Here a new desire for more autonomy and local control surged up.²⁹⁷ In 1970, the Greenland Provincial Council and Local Government Act was passed. It provided for the election and procedures of the Provincial Council and the local councils for each district.²⁹⁸ In 1972, Greenland joined the EEC, together with Denmark, despite a 75 percent against vote. In October of that year, the Provincial Council submitted a note to the Danish government requesting the appointment of a home rule committee. In December it was set up, consisting only of Greenland politicians.²⁹⁹

The Home Rule committee submitted a first report and suggestions for negotiations on January 18, 1975. In this report was said, among other things, that a dialogue between Danish and Greenland politicians was desirable. As a result of that, the commission on Home Rule in Greenland was established on October 9, 1975. They finished their work in 1978 so that the Home Rule Act could be adopted unamended on November 17, 1978 by the Danish parliament. On January 17, 1979, the population of Greenland approved the entering into force of the Home Rule Act on May 1, 1979. The result was 70.1 percent in favor, and 25.8 percent against out of a total voting percentage of 63.3 of the entire electorate.³⁰⁰

§ 9.1(A) (b). Home Rule in Greenland.**§ 9.1(A) (b) (1). In General.**

The Home Rule can be defined as a special status of limited autonomy in certain administrative matters within the Kingdom of Denmark.³⁰¹ It was generally accepted that the introduction of the Home Rule should be done "within the framework of the unity of the realm."³⁰² The principle that the national unity shall be preserved implies, for example, that Greenland remains a part of the Kingdom of Denmark, with sovereignty entrusted exclusively in the authorities of the realm and that the Home Rule is exclusively based on the national act and not on an international act. Furthermore, this principle means that not all the competence of the Danish authorities can be delegated, but only matters which pertain exclusively to Greenland and not to the realm as a whole or to other parts of the realm.³⁰³

§ 9.1(A) (b) (2). Delegated Powers.

The Home Rule transfers powers and thus responsibility from Danish political authorities to Greenland political authorities. These latter authorities shall not only administer the community tasks taken over from the state, but they shall also establish rules to be applied in administration and they shall have an independent financial responsibility. Consequently, a framework had to be built in the Home Rule Act for the exercise of the responsibility and for the competent executive organs.³⁰⁴

The Home Rule authorities consist of a popularly elected Landsting (the Greenland assembly) and a Landssture (the Greenland administration) which will be elected by the assembly, so that the latter will act on behalf of the assembly.³⁰⁵ But the administration can also be given independent powers.³⁰⁶

The powers of the Home Rule authorities are enumerated in Chapter 2 of the Home Rule Act. Some powers cannot be delegated in consequence of the principle of national unity. No constitutional law matters can be delegated.³⁰⁷ And these remain national: external relations, national finances, financial, monetary, and currency policy, defense policy, criminal proceedings, and imprisonment as well as fundamental principles regarding the law of persons, family law, inheritance law and the law of contacts.³⁰⁸ As in the case of the Faroe Islands there has been unanimity in relation to Greenland Home Rule on the basic principle: no division between the legislative power and the power of the purse.

This does not mean that it is not possible that Greenland, with grants from the government, could finance itself.

Some 17 matters can be considered as part of the authority of the Home Rule organs.³⁰⁹

Furthermore, it is stated in section 8 that the resident population of Greenland has fundamental rights in respect of Greenland's natural resources. Section 9 says that Greenlandic shall be the principal language, but both Danish and Greenlandic may be used for official purposes.

Section 18 regulates how conflicts arising in relation to the powers between Home Rule authorities and national authorities are to be solved. A board, consisting of two members appointed by Home Rule authorities, two members appointed by the Government and three Supreme Court Judges nominated by its President, one of whom shall be the chairman, shall deal with these matters. An issue shall be decided if the four "politicians"

agree, otherwise the three judges will decide.

The basic philosophy may be expressed in the terms that the population of Greenland does not wish national independence but improved possibilities of strengthening and expanding the identity of Greenland through an increased independent responsibility.³¹⁰

§ 10.1 Recent Developments.*

§ 10.1(A). Political Changes.

On December 12, 1990, the Conservative Party of Premier Poul Schluter lost some support in the Danish general elections, but Schluter was expected to return as the nations leader atop a center right minority government. Schluter, who has ruled Denmark since 1982, called the elections after talks on economic issues between his government and the opposition, the Social Democratic Party, broke down in mid-November. The primary issue in that debate was whether the nation's top tax rate should be reduced. This tax rate in Denmark was sixty-eight percent compared to the United States of thirty-three percent.

In the election, Schluter's Conservatives won thirty seats. The other two parties in Schluter's previous government were the Liberals, who gained seven seats to make a total of twenty-nine, and the Radical Liberals who lost three seats for a total of seven. In all, Schluter's former government lost one seat for a total of sixty-six.

On December 13, 1990, Schluter said he would try to form a four-Party coalition with the Liberals, the Center Democratic Party, and the Christian Peoples' Party. The Radical Liberals said they would leave the coalition but would continue to support Schluter as Premier.

On December 17, 1990, Premier Schluter instead announced that he would form a two-Party minority government. The new coalition between Schluter's Conservative Party and the Liberal Party had called a general election five days earlier. This prompted Schluter's announcement. Schluter's government would control only 59 seats in the 179 seat parliament. The Premier, who had ruled since 1982, also introduced a tax reform plan that called for 1.35 billion dollars in tax cuts which would be balanced by other budgetary measures. The tax cuts were intended to benefit both the people of Denmark and their economy.

§ 10.1(B). Recent Legislation.

On May 26, 1989, the Danish Parliament passed legislation allowing civil marriages between homosexuals. The legislation would give homosexual couples virtually the same legal status as persons in conventional marriage. This law is the first of its kind in the twelve member European Community.

On October 1, 1989, eleven couples of gay men were joined in "registered partnerships" in Copenhagen, Denmark. The homosexual couples, including Protestant minister Reverend Ivan Larson and Ove Carlson, were the first to be "married" under Denmark's unprecedented new law that gave the couples the legal rights of married couples, except homosexual couples have no right to adopt or obtain custody of children.

*The editors wish to thank Aldous Strauch, J.D., for his work on this update.

§ 10.1(C). NATO Restructuring.

The United States troop strength in Europe was estimated at 320,000 before the Persian Gulf War. This figure was to be reduced by as much as fifty percent within five or six years under this re-organization. The plan also revised NATO's military strategy, which had been predicated on stopping an attack through Central Europe by the Soviet Union and its allies. Some key features of the plan included: (1) One of the corps would be a British led multinational rapid reaction force that would be capable of responding within one week to military emergencies. Britain would supply two divisions to the corps and another two divisions would be drawn from various NATO countries. A division consists of 15,000 troops. The U.S. would be responsible for air lifting the force to trouble spots and for providing combat air support. (2) Six of the corps would be multinational "main defense forces." The United States, Belgium, and the Netherlands would each command one corps, and Germany would command two corps. The remaining multinational corps would be under joint German-Danish command. (3) The eight corps would be an all German force stationed in the eastern part of Germany to counter balance the remaining Soviet forces in that region. Although the Denmark forces were relatively small, they remained a consistent contributor to NATO.

§ 10.1(D). The European Community.

The proposed beer probe against leading brewers was foreshadowed on March 16, 1989 when the European Commission announced a review of the amount of beer sold in the Community. In particular, the Commission said it would review a 1984 exemption granted E.C. brewers from restrictions on vertical integration. In all E.C. nations except Denmark and Britain, the most common arrangement of vertical integration was a so called Lumtje Arrangement under which brewers made cheap loans to retail establishments in return for exclusive purchasing accords.

The European Community draft treaty would keep foreign policy decisions within the E.C. Council and outside the realm of the E.C. Commission in Brussels and the European Parliament in Strasbourg. Once E.C. leaders identified by a consensus an area in which a common foreign policy should be pursued, a majority of the twelve could form a policy. France and Britain, who are permanent members of the United Nations Security Council, and the E.C.'s most prominent players on the international scene were reluctant to yield influence over foreign policies to the twelve. However, Denmark favored retaining unanimous votes to set foreign policies.

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71. *Id.*, at 7; *Id.*, at 123.
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73. *Id.*, 8; Denmark, *supra* note 1, at 123.
74. IV Constitutions of the World, *supra* note 2, at 9.
75. J. FITZMAURICE, POLITICS IN DENMARK 52 (1981).
76. IV Constitutions of the World, *supra* note 2, at 10.
77. H. GAMMELTOFT-HANSEN, B. GOMARD AND A. PHILIP, DANISH LAW, A GENERAL SURVEY 37 (1982).
78. IV Constitutions of the World, *supra* note 2, at 10.
79. *Id.*
80. Section 28 of the Danish Constitution.
81. Section 42, para. 6 of the Danish Constitution.
82. Section 20 of the Danish Constitution.
83. Section 88 of the Danish Constitution.
84. 17 THE IRISH JURIST 15 (1982).
85. H. Gammeltoft and others, *supra* note 27, at 45.
86. *Id.*
87. *Id.*
88. 17 Irish Jurist, *supra* note 33, at 16.
89. J. FITZMAURICE, POLITICS IN DENMARK 42 (1981); IV CONSTITUTIONS OF THE WORLD 10 (DENMARK) (1985); DENMARK, AN OFFICIAL HANDBOOK 146 (1974); H. GAMMELTOFT-HANSEN, B. GOMARD AND A. PHILIP, DANISH LAW, A GENERAL SURVEY 38 (1982); K. MILLER, GOVERNMENT AND POLITICS IN DENMARK 127 (1968).
90. Section 2 of the Danish Constitution.
91. Section 28 of the Danish Constitution. The four members from Greenland and the Faroe Islands, together with the members from the German minority, when the Slesvig Party was represented in the Folketing, abstain from voting on controversial matters and do not vote when their vote may be decisive. In 1960, a Greenland member did join the Social Democratic-Radical government and caused complaints among the opposition parties, K. MILLER, *supra* note 1, at 128.
92. Section 32, para. 1 and 2 of the Danish Constitution.
93. Section 32, para. 4 of the Danish Constitution.
94. Sections 29, para. 1 and 31, para. 1 of the Danish Constitution.
95. Section 29, para. 2 of the Danish Constitution.
96. J. Fitzmaurice, *supra* note 1, at 52.
97. Section 30, para. 1 of the Danish Constitution.
98. Section 33 of the Danish Constitution.
99. Section 57 of the Danish Constitution.
100. Section 31, para. 2 of the Danish Constitution.
101. Section 35, para. 1 of the Danish Constitution.
102. Section 35, para. 2 of the Danish Constitution.
103. H. Gammeltoft-Hansen and others, *supra* note 1, at 42.

104. Section 22 of the Danish Constitution.
105. Section 15 of the Danish Constitution.
106. J. Fitzmaurice, *supra* note 1, at 60.
107. Section 47 of the Danish Constitution.
108. Section 16 of the Danish Constitution.
109. Sections 59 and 60 of the Danish Constitution.
110. 17 IRISH JURIST 10 (1982).
111. J. Fitzmaurice, *supra* note 1, at 61.
112. 17 Irish Jurist, *supra* note 22, at 9.
113. *Id.* at 10.
114. Except within the field of "royal prerogatives," see in particular section 19 of the Danish Constitution.
115. J. Fitzmaurice, *supra* note 1, at 43.
116. Section 1 of the Succession to the Throne Act.
117. Denmark, An Official Handbook, *supra* note 1, at 124.
118. E. KJERSGAARD, A HISTORY OF DENMARK 102 (1974).
119. H. Gammeltoft-Hansen and others, *supra* note 1, at 39.
120. J. Fitzmaurice, *supra* note 1, at 44.
121. *Id.* at 49.
122. *Id.* at 50.
123. *Id.* at 51.
124. Section 13 of the Danish Constitution; H. Gammeltoft-Hansen and others, *supra* note 1, at 39.
125. Section 14 of the Danish Constitution.
126. *Id.*
127. Section 15 of the Danish Constitution.
128. H. Gammeltoft-Hansen and others, *supra* note 1, at 39.
129. See sections 53 and 57 of the Danish Constitution.
130. Section 19 of the Danish Constitution.
131. Section 32 of the Danish Constitution.
132. See generally: P. MEYER, THE ADMINISTRATIVE ASPECTS OF THE CONSTITUTION OF THE NORTHERN COUNTRIES 40 (year unknown).
133. H. Gammeltoft-Hansen and others, *supra* note 1, at 40.
134. 17 Irish Jurist, *supra* note 1, at 22.
135. *Id.*
136. Section 1, subsection 1 of the Act No. 342 of December 1, 1961, as amended by Act No. 258 of June 9, 1971.
137. *Id.*, section 3.
138. *Id.*, section 10, subsection 2.
139. 17 Irish Jurist, *supra* note 1, at 22.
140. J. Fitzmaurice, *supra* note 1, at 74.
141. *Id.*; 17 Irish Jurist, *supra* note 22, at 22; H. Gammeltoft-Hansen and others, *supra* note 1, at 63.
142. J. Fitzmaurice, *supra* note 1, at 74; H. Gammeltoft-Hansen and others, *supra* note 1, at 64.
143. J. Fitzmaurice, *supra* note 1, at 56.
144. H. Gammeltoft-Hansen and others, *supra* note 1, at 64; J. Fitzmaurice, *supra* note 1, at 75.
145. *Id.*
146. J. Fitzmaurice, *supra* note 1, at 75-9.
147. BACKGROUND NOTES DENMARK, UNITED STATES DEPARTMENT OF STATE 4 (1984).
148. The Economist, December 24, 1983, at 42, col. 1-3.
149. 5-6 BEIJING L. REV. 14; The Economist, *supra* note 2, at 42.
150. Background Notes, *supra* note 1, at 4.
151. 5-6 Beijing L. Rev., *supra* note 2, at 14.
152. J. FITZMAURICE, POLITICS IN DENMARK 103 (1981).
153. DENMARK, AN OFFICIAL HANDBOOK 195 (1974).
154. J. Fitzmaurice, *supra* note 6, at 103; K. MILLER, GOVERNMENT AND POLITICS IN DENMARK 61 (1968).
155. J. Fitzmaurice, *supra* note 6, at 104.
156. *Id.*
157. *Id.* at 105; Denmark, An Official Handbook, *supra* note 7, at 195.

158. J. Fitzmaurice, *supra* note 6, at 105.
159. *Id.*; K. Miller, *supra* note 8, at 61; Denmark, *An Official Handbook*, *supra* note 7, at 195.
160. J. Fitzmaurice, *supra* note 6, at 105.
161. Background Notes, *supra* note 1, at 5; *The Economist*, *supra* note 2, at 42; 5-6 *Beijing L. Rev.*, *supra* note 3, at 14.
162. 5-6 *Beijing L. Rev.*, *supra* note 3, at 14.
163. Denmark, *An Official Handbook*, *supra* note 7, at 196.
164. See statistics Background Notes, *supra* note 1, at 4.
165. J. Fitzmaurice, *supra* note 6, at 113; Denmark, *An Official Handbook*, *supra* note 7, at 196; K. Miller, *supra* note 8, at 79.
166. J. Fitzmaurice, *supra* note 6, at 113.
167. K. Miller, *supra* note 8, at 79.
168. J. Fitzmaurice, *supra* note 6, at 113.
169. *Id.*; Denmark, *An Official Handbook*, *supra* note 7, at 197.
170. Denmark, *An Official Handbook*, *supra* note 7, at 197.
171. J. Fitzmaurice, *supra* note 6, at 113; P. MOLLER (ed.), *DE POLITISKE PARTIER 84-90, 1950-3 AND 1968-71* (1974).
172. Denmark, *An Official Handbook*, *supra* note 7, at 197.
173. J. Fitzmaurice, *supra* note 6, at 111.
174. *Id.*
175. *Id.*, at 112.
176. K. Miller, *supra* note 8, at 71.
177. The program is called: "Towards the Year 2000."
178. Denmark, *An Official Handbook*, *supra* note 7, at 198.
179. K. Miller, *supra* note 8, at 71.
180. J. Fitzmaurice, *supra* note 6, at 112.
181. *The Economist*, *supra* note 2, at 42.
182. Denmark, *An Official Handbook*, *supra* note 7, at 198.
183. *Id.*, at 199; J. Fitzmaurice, *supra* note 6, at 109; K. Miller, *supra* note 8, at 89.
184. K. Miller, *supra* note 8, at 89; J. Fitzmaurice, *supra* note 6, at 109.
185. *Id.*
186. J. Fitzmaurice, *supra* note 6, at 109.
187. *Id.*; K. Miller, *supra* note 8, at 90; Denmark, *An Official Handbook*, *supra* note 7, at 201.
188. J. Fitzmaurice, *supra* note 6, at 109.
189. *Id.*
190. *Id.*, at 110.
191. See Statistics Background Notes, *supra* note 1, at 4.
192. Denmark, *An Official Handbook*, *supra* note 7, at 201.
193. DENMARK, *AN OFFICIAL HANDBOOK 225* (1974); K. MILLER, *GOVERNMENT AND POLITICS IN DENMARK 172* (1968).
194. Denmark, *An Official Handbook*, *supra* note 1, at 225.
195. K. Miller, *supra* note 1, at 172; HGAMMELTOFT-HANSEN, B. GOMARD AND A. PHILIP, *DANISH LAW, A GENERAL SURVEY 21* (1982).
196. Denmark, *An Official Handbook*, *supra* note 1, at 225; K. Miller, *supra* note 1, at 172.
197. Denmark, *An Official Handbook*, *supra* note 1, at 225; K. Miller, *supra* note 1, at 172; H. Gammeltoft-Hansen and others, *supra* note 3, at 25.
198. *Id.*; H. Gammeltoft-Hansen and others, *supra* note 3, at 25.
199. Denmark, *An Official Handbook*, *supra* note 1, at 225.
200. K. Miller, *supra* note 1, at 172.
201. *Id.*; H. Gammeltoft-Hansen and others, *supra* note 3, at 25. As an example of the code's incompleteness, one may mention the fact that while the code contained provisions on the bearing of force upon the validity of a contract, it contained no such provisions on fraud.
202. K. Miller, *supra* note 1, at 172.
203. *Id.*; H. Gammeltoft-Hansen and others, *supra* note 3, at 26.
204. See for example: Article 3-19-2 of the Danish Code, which is interpreted as authorizing a general liability for the faults of employees and Article 5-5-1 on prescription.

205. H. Gammeltoft-Hansen and others, *supra* note 3, at 26.
206. Denmark, *An Official Handbook*, *supra* note 1, at 225.
207. J. FITZMAURICE, *POLITICS IN DENMARK* 72 (1981); K. Miller, *supra* note 1, at 173.
208. Denmark, *An Official Handbook*, *supra* note 1, at 225.
209. See Part VI of the Danish Constitution.
210. Section 64 of the Danish Constitution.
211. J. Fitzmaurice, *supra* note 14, at 73; 17 *Irish Jurist* 19 (1982).
212. 17 *Irish Jurist*, *supra* note 19, at 19.
213. J. Fitzmaurice, *supra* note 14, at 73.
214. 17 *Irish Jurist*, *supra* note 19, at 19.
215. *Id.*; J. Fitzmaurice, *supra* note 19, at 72; K. Miller, *supra* note 1, at 174.
216. 17 *Irish Jurist*, *supra* note 19, at 19; J. Fitzmaurice, *supra* note 14, at 73; 1 (D) *INTERNATIONAL ENCYCLOPEDIA OF COMPARATIVE LAW* 24.
217. Section 63 of the Danish Constitution.
218. 17 *Irish Jurist*, *supra* note 19, at 21.
219. J. Fitzmaurice, *supra* note 14, at 72; 1 *International Encyclopedia of Comparative Law*, *supra* note 24, at 24; Denmark, *An Official Handbook*, *supra* note 1, at 226; K. Miller, *supra* note 1, at 173.
220. Denmark, *An Official Handbook*, *supra* note 1, at 227.
221. *Id.*; 1 *International Encyclopedia of Comparative Law*, *supra* note 24, at 24.
222. Denmark, *An Official Handbook*, *supra* note 1, at 227.
223. *International Encyclopedia of Comparative Law*, *supra* note 24, at 24; K. Miller, *supra* note 1, at 174.
224. J. Fitzmaurice, *supra* note 24, at 72; 1 *International Encyclopedia of Comparative Law*, *supra* note 24, at 24; Denmark, *An Official Handbook*, *supra* note 1, at 226.
225. *International Encyclopedia of Comparative Law*, *supra* note 24, at 24; Denmark, *An Official Handbook*, *supra* note 1, at 226.
226. Denmark, *An Official Handbook*, *supra* note 1, at 226; J. Fitzmaurice, *supra* note 14, at 72.
227. Denmark, *An Official Handbook*, *supra* note 1, at 226.
228. J. Fitzmaurice, *supra* note 14, at 73.
229. Denmark, *An Official Handbook*, *supra* note 1, at 226; J. Fitzmaurice, *supra* note 14, at 72; K. Miller, *supra* note 2, at 174; 1 *International Encyclopedia of Comparative Law*, *supra* note 24, at 24.
230. K. Miller, *supra* note 1, at 174.
231. *International Encyclopedia of Comparative Law*, *supra* note 24, at 24; Denmark, *An Official Handbook*, *supra* note 1, at 226; K. Miller, *supra* note 1, at 174.
232. J. Fitzmaurice, *supra* note 14, at 72; K. Miller, *supra* note 1, at 174.
233. Denmark, *An Official Handbook*, *supra* note 1, at 226.
234. K. Miller, *supra* note 1, at 174.
235. J. Fitzmaurice, *supra* note 14, at 72; K. Miller, *supra* note 1, at 174; *International Encyclopedia of Comparative Law*, *supra* note 24, at 24; Denmark, *An Official Handbook*, *supra* note 1, at 226; 1 *THE EUROPA YEARBOOK* 1985, 406 (1985).
236. J. Fitzmaurice, *supra* note 14, at 72; Denmark, *An Official Handbook*, *supra* note 1, at 226; K. Miller, *supra* note 1, at 174.
237. Denmark, *An Official Handbook*, *supra* note 1, at 226.
238. J. Fitzmaurice, *supra* note 14, at 72; Denmark, *An Official Handbook*, *supra* note 1, at 226; K. Miller, *supra* note 1, at 174.
239. *Id.*
240. *Id.*
241. Denmark, *An Official Handbook*, *supra* note 1, at 227.
242. J. Fitzmaurice, *supra* note 14, at 73.
243. *International Encyclopedia of Comparative Law*, *supra* note 24, at 24; Denmark, *An Official Handbook*, *supra* note 1, at 227; K. Miller, *supra* note 1, at 181.
244. Denmark, *An Official Handbook*, *supra* note 1, at 227; J. Fitzmaurice, *supra* note 14, at 73.
245. Denmark, *An Official Handbook*, *supra* note 1, at 227.
246. K. Miller, *supra* note 1, at 182.
247. *Id.*
248. *Id.*
249. J. FITZMAURICE, *POLITICS IN DENMARK* 66 (1981); K. MILLER, *GOVERNMENT AND POLITICS IN DENMARK* 132 (1968).

250. J. Fitzmaurice, *supra* note 1, at 66.
251. *Id.* at 63; K. Miller, *supra* note 1, at 132.
252. J. Fitzmaurice, *supra* note 1, at 73.
253. K. Miller, *supra* note 1, at 132.
254. *Id.* at 134.
255. *Id.* at 134; J. Fitzmaurice, *supra* note 1, at 66.
256. J. Fitzmaurice, *supra* note 1, at 67.
257. K. Miller, *supra* note 1, at 133.
258. Section 42 of the Danish Constitution.
259. K. Miller, *supra* note 1, at 134.
260. *Id.*
261. *Id.*; J. Fitzmaurice, *supra* note 1, at 67.
262. This caused complaints in the smaller parties, who say that even if they introduce a bill, they cannot take part in the discussion on it except when another larger party yields a place for them.
263. Here, the smaller parties also complain that, if the bill is introduced by them, the chairman should be someone of their party, K. Miller, *supra* note 1, at 135.
264. These questions can take two forms: written questions for written answers by departments and questions for discussion with ministers during committee proceedings, J. Fitzmaurice, *supra* note 1, at 67.
265. J. Fitzmaurice, *supra* note 1, at 68.
266. *Id.* at 68; K. Miller, *supra* note 1, at 136.
267. K. Miller, *supra* note 1, at 136.
268. *Id.* at 136; J. Fitzmaurice, *supra* note 1, at 68.
269. K. Miller, *supra* note 1, at 137.
270. Section 20 of the Danish Constitution.
271. Section 73 of the Danish Constitution.
272. Section 23 of the Danish Constitution.
273. K. Miller, *supra* note 1, at 137.
274. Section 41 of the Danish Constitution.
275. Section 42 of the Danish Constitution.
276. Section 42, para. 6 of the Danish Constitution.
277. J. Fitzmaurice, *supra* note 1, at 69.
278. DENMARK, AN OFFICIAL HANDBOOK 669 (1974).
279. 1 TRANSNATIONAL LEGAL PRACTICE 81 (1982).
280. Denmark, An Official Handbook, *supra* note 1, at 669-70.
281. This chapter is based on 1 TRANSNATIONAL LEGAL PRACTICE 81 (1982).
282. 10 EUR. L. REV. 174 (1985). See also Volume Three, Chapter Two, Section One.
283. *Id.*; IV CONSTITUTIONS OF THE WORLD 51 (DENMARK) (1985).
284. *Id.*
285. IV Constitutions of the World, *supra* note 2, at 51; 10 Eur. L. Rev., *supra* note 1, at 174; 17 COMM. M. L. REV. 91 (1980).
286. IV Constitutions of the World, *supra* note 2, at 51.
287. 17 Comm. M. L. Rev., *supra* note 4, at 91.
288. IV Constitutions of the World, *supra* note 2, at 51; 10 Eur. L. Rev., *supra* note 4, at 174.
289. 10 Eur. L. Rev., *supra* note 4, at 174; P.C.I.J. REP., SERIES A Bno. 53 (1933).
290. 17 Comm. M. L. Rev., *supra* note 4, at 91; Volume Constitutions of the World, *supra* note 2, at 51.
291. *Id.*
292. IV Constitutions of the World, *supra* note 2, at 52; Comm. M. L. Rev., *supra* note 4, at 92; 10 Eur. L. Rev., *supra* note 4, at 174.
293. IV Constitutions of the World, *supra* note 2, at 52.
294. 17 Comm. M. L. Rev., *supra* note 4, at 92; RESOLUTION 849 (IX), UNITED NATIONS YEARBOOK 319-323 (1954).
295. 17 Comm. M. L. Rev., *supra* note 4, at 92.
296. IV Constitutions of the World, *supra* note 2, at 52.
297. *Id.*
298. *Id.*
299. *Id.*; 17 Comm. M. L. Rev., *supra* note 4, at 92.

300. 17 Comm. M. L. Rev., *supra* note 4, at 92.
301. 10 Eur. L. Rev., *supra* note 4, at 175; Section 1, Subsection 1 of the Greenland Home Rule Act.
302. Section 1, Subsection 1 of the Greenland Home Rule Act.
303. 17 Comm. M. L. Rev., *supra* note 4, at 95.
304. *Id.* at 99.
305. Section 1, Subsection 2 of the Greenland Home Rule Act.
306. 17 Comm. M. L. Rev., *supra* note 4, at 99.
307. *Id.*
308. *Id.*
309. *Id.* at 100.
310. *Id.* at 108.

