STATUTORY INSTRUMENTS

1974 No. 1262

PACIFIC ISLANDS

The British Solomon Islands Order 1974

Made - - - -	*25th July* 1974
Laid before Parliament	*31st July* 1974
Coming into Operation	
Sections 1, 2 *and* 9 *of the Order*	*21st August* 1974
Sections 66, 67 *and* 68 *of the Schedule*	*On a day to be appointed under section* 4(2)
Remainder of the Order and the Schedule	*On a day to be appointed under section* 1(2)

At the Court at Buckingham Palace, the 25th day of July 1974

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the Foreign Jurisdiction Act 1890(a), sections 88, 737 and 738 of the Merchant Shipping Act 1894(b), section 8 of the Geneva Conventions Act 1957(c), section 11 of the Merchant Shipping (Liability of Shipowners and Others) Act 1958(d), sections 17 and 20 of the Fugitive Offenders Act 1967(e) or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation and commencement.

1.—(1) This Order may be cited as the British Solomon Islands Order 1974.

(2) This Order shall be published in the Gazette and shall come into operation on such day (in this Order referred to as " the appointed day ") as the Governor, in his discretion, by proclamation published in like manner shall appoint, which day shall not be earlier than the day when this Order is so published nor earlier than 21st August 1974:

Provided that this section and sections 2 and 9 of this Order shall come into operation on 21st August 1974.

Interpretation.

2.—(1) In this Order—

" the existing Orders " means the British Solomon Islands Order 1970(f) as amended by the British Solomon Islands (Amendment) Order 1972(g);

(a) 1890 c. 37. (b) 1894 c. 60. (c) 1957 c. 52.
(d) 1958 c. 62. (e) 1967 c. 68.
(f) S.I. 1970/482 (1970 I, p. 1607).
(g) S.I. 1972/959 (1972 II, p. 2982).

" the Constitution " means the Constitution set out in the Schedule to this Order ;

" the Governing Council " means the Governing Council established by the British Solomon Islands Order 1970 ;

" the High Commissioner " means Her Majesty's High Commissioner for the Western Pacific.

(2) References in this Order to " the Governor " shall be construed, in relation to any period before the appointed day, as references to the person holding the office of High Commissioner or to any person who is for the time being authorised to perform the functions of that office.

(3) Unless the context otherwise requires, expressions used in sections 1 to 13 (inclusive) of this Order have the same meaning as in the Constitution and the provisions of section 69 of the Constitution shall apply for the purposes of interpreting those sections as they apply for interpreting the Constitution.

Revocations.

3. The existing Orders are revoked with effect from the appointed day.

Establishment of Constitution.

4.—(1) Subject to the provisions of this section, the Constitution shall come into effect in the British Solomon Islands Protectorate on the appointed day.

(2) The provisions of sections 66, 67 and 68 of the Constitution (which relate to the Public Service Commission) shall come into effect on such day after the appointed day as the Governor, acting in his discretion, shall by notice in the Gazette appoint.

Adaptation of existing laws.

5.—(1) Subject to the following provisions of this section, the existing laws shall, as from the appointed day, be construed with such adaptations and modifications as may be necessary to bring them into conformity with the provisions of the Constitution.

(2)(*a*) The Governor, acting in his discretion may, by order published in the Gazette, at any time within twelve months after the appointed day, provide that any existing law shall be read and construed with such adaptations and modifications as may appear to him to be necessary or expedient for bringing that law into conformity with the provisions of the Constitution or otherwise for giving effect or enabling effect to be given to those provisions ; and any existing law shall have effect accordingly from such date as may be specified in the order.

(*b*) An order made under this subsection may be amended or revoked in relation to any law affected thereby by the authority competent to amend or revoke that law.

(3) In any existing law any reference to the High Commissioner shall in its application to the Protectorate be construed as a reference to the Governor, and any reference to the Chief Secretary shall be construed as a reference to the Deputy Governor:

Provided that the provisions of this subsection shall not apply to references to the High Commissioner in the Western Pacific (Courts) Order in Council 1961(**a**), as amended (**b**).

(**a**) S.I. 1961/1506 (1961 II, p. 3066).
(**b**) S.I. 1966/1183, 1967/586, 1970/1435, 1971/715 (1966 III, p. 3071; 1967 I, p. 1791; 1970 III, p, 4684; 1971 II, p. 1933).

(4) Without prejudice to the generality of the preceding subsection, the Emergency Powers Order in Council 1939(a), as amended (b), shall be amended by deleting paragraph (*b*) of section 2(1).

Existing offices and officers.

6.—(1) Any office constituted, or deemed to be constituted for the Protectorate by the High Commissioner under section 6 of the British Solomon Islands Order 1970 and subsisting immediately before the appointed day shall, on and after that day, be deemed to be an office constituted by the Governor under section 24 of the Constitution.

(2) Any person who, immediately before the appointed day, holds or is acting in any such office or any public office otherwise constituted, shall, on and after that day, continue to hold or to act in his office as if he had been appointed to it in accordance with the provisions of the Constitution.

(3) Any person to whom the last foregoing subsection applies who, before the appointed day, has made any oath required to be made by him before assuming the functions of his office shall not, by reason only of that subsection, be required to make a like oath.

Governing Council and Governor's interim power to make laws.

7. Notwithstanding the revocation by this Order of the British Solomon Islands Order 1970—

(*a*) the Governing Council shall, until such time as the Council of Ministers has been constituted under section 27 of the Constitution, continue on and after the appointed day to exist as if the provisions of Part III of that Order were still in force and shall perform its functions and be consulted by the Governor in accordance with the provisions of that Order and of any Instructions given under Her Majesty's Sign Manual and Signet ; and

(*b*) subject to the provisions of this Order, the Governor may make laws for the peace, order and good government of the Protectorate during the period beginning with the appointed day and ending when the Legislative Assembly first sits.

Electoral regulations.

8. Any electoral regulations made and subsisting immediately before the appointed day shall have effect on and after that day as if they were a law made under the Constitution, but may thereafter be amended or revoked by regulations made by the Governor or by a law made under the Constitution.

Regulations for election of Chief Minister.

9.—(1) Subject to the provisions of this section, the High Commissioner may, at any time before the appointed day, make regulations for giving effect to the provisions of section 28(1) of the Constitution and such regulations may be expressed to come into effect at any time after they are made.

(2) No regulations may be made under this section unless they have been approved in draft by the affirmative vote of two-thirds of all the elected members of the Governing Council.

(3) No election may be held in accordance with regulations made under this section until the appointed day.

(a) *See* S.I. 1952 I, p. 621.
(b) The relevant amending instruments are S.I. 1956/731; 1963/88 (1956 I, p. 512; 1963 I, p. 105).

(4) Any regulations made under this section shall be deemed to have been made under section 28(1) of the Constitution.

First elected members of the Legislative Assembly.

10. Any person who, immediately before the appointed day, is an elected member of the Governing Council shall be deemed to have been elected as a member of the Legislative Assembly established by the Constitution.

Rules of procedure of Legislative Assembly.

11. The Governor may, at any time before the Legislative Assembly first sits, make any rules and orders which the Assembly is empowered to make under section 54 of the Constitution and any rules and orders so made shall be deemed to have been made by the Assembly under that section.

Fundamental rights and freedoms.

12. Until the expiration of a period of twelve months commencing with the appointed day, nothing contained in any law made before the appointed day shall be held to be inconsistent with any of the provisions of sections 9, 10, 11, 12 or 13 of the Constitution, and until the expiration of that period nothing done under the authority of any such law shall be held to be done in contravention of those sections.

Power reserved to Her Majesty.

13. Nothing in this Order shall affect the power of Her Majesty in Council to make laws from time to time for the peace, order and good government of the Protectorate.

N. E. Leigh

THE SCHEDULE TO THE ORDER Section 2(1)

THE CONSTITUTION OF THE BRITISH SOLOMON ISLANDS PROTECTORATE

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CHAPTER I

PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL

Fundamental rights and freedoms of the individual.

1. Whereas every person in the Protectorate is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely—

(*a*) life, liberty, security of the person and the protection of the law ;

(*b*) freedom of conscience, of expression and of assembly and association ; and

(*c*) protection for the privacy of his home and other property and from deprivation of property without compensation,

the provisions of this Chapter shall have effect for the purpose of affording protection to those rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.

Protection of right to life.

2.—(1) No person shall be deprived of his life intentionally save in execution of the sentence of a court in respect of a criminal offence under the law in force in the Protectorate of which he has been convicted.

(2) A person shall not be regarded as having been deprived of his life in contravention of this section if he dies as the result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably justifiable—

(*a*) for the defence of any person from violence or for the defence of property ;

(*b*) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained ;

(*c*) for the purpose of suppressing a riot, insurrection or mutiny ; or

(*d*) in order to prevent the commission by that person of a criminal offence,

or if he dies as the result of a lawful act of war.

Protection of right to personal liberty.

3.—(1) No person shall be deprived of his personal liberty save as may be authorised by law in any of the following cases, that is to say—

(*a*) in consequence of his unfitness to plead to a criminal charge ;

(*b*) in execution of the sentence or order of a court, whether established for the Protectorate or some other country, in respect of a criminal offence of which he has been convicted ;

(*c*) in execution of the order of a court of record punishing him for contempt of that court or of a court inferior to it ;

(*d*) in execution of the order of a court made to secure the fulfilment of any obligation imposed on him by law ;

(*e*) for the purpose of bringing him before a court in execution of the order of a court ;

(*f*) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under the law in force in the Protectorate ;

(*g*) in the case of a person who has not attained the age of eighteen years, under the order of a court or with the consent of his parent or guardian, for the purpose of his education or welfare ;

(*h*) for the purpose of preventing the spread of an infectious or contagious disease ;

(*i*) in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his care or treatment or the protection of the community ;

(*j*) for the purpose of preventing the unlawful entry of that person into the Protectorate, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from the Protectorate or for the purpose of restricting that person while he is being conveyed through the Protectorate in the course of his extradition or removal as a convicted prisoner from one country to another ; or

(*k*) to such extent as may be necessary in the execution of a lawful order requiring that person to remain within a specified area within the Protectorate or prohibiting him from being within such an area, or to such extent as may be reasonably justifiable for the taking of proceedings against that person relating to the making of any such order, or to such extent as may be reasonably justifiable for restraining that person during any visit that he is permitted to make to any part of the Protectorate in which, in consequence of any such order, his presence would otherwise be unlawful.

(2) Any person who is arrested or detained shall be informed as soon as reasonably practicable, and in a language that he understands, of the reasons for his arrest or detention.

(3) Any person who is arrested or detained—

(*a*) for the purpose of bringing him before a court in execution of the order of a court ; or

(*b*) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under the law in force in the Protectorate,

and who is not released, shall be brought without undue delay before a court ; and if any person arrested or detained upon reasonable suspicion of his having committed or being about to commit a criminal offence is not tried within a reasonable time, then, without prejudice to any further proceedings that may be brought against him, he shall be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.

(4) Any person who is unlawfully arrested or detained by any other person shall be entitled to compensation therefor from that other person.

Protection from slavery and forced labour.

4.—(1) No person shall be held in slavery or servitude.

(2) No person shall be required to perform forced labour.

(3) For the purposes of this section, the expression " forced labour " does not include—

(*a*) any labour required in consequence of the sentence or order of a court ;

(*b*) any labour required of any person while he is lawfully detained that, though not required in consequence of the sentence or order of a court, is reasonably necessary in the interests of hygiene or for the maintenance of the place at which he is detained ;

(*c*) any labour required of a member of a disciplined force in pursuance of his duties as such or, in the case of a person who has conscientious objections to service as a member of a naval, military or air force, any labour that that person is required by law to perform in place of such service ;

(*d*) any labour required during any period of public emergency or in the event of any other emergency or calamity that threatens the life and well-being of the community, to the extent that the requiring of such labour is reasonably justifiable in the circumstances of any situation arising or existing during that period or as a result of that other emergency or calamity, for the purpose of dealing with that situation ; or

(*e*) any labour reasonably required as part of reasonable and normal communal or other civic obligations.

Protection from inhuman treatment.

5.—(1) No person shall be subjected to torture or to inhuman or degrading punishment or other treatment.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question authorises the infliction of any description of punishment that was lawful in the Protectorate immediately before the coming into operation of this Constitution.

Protection from deprivation of property.

6.—(1) No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except where the following conditions are satisfied, that is to say—

(*a*) the taking of possession or acquisition is necessary or expedient in the interests of defence, public safety, public order, public morality, public health, town or country planning or the development or utilisation of any property in such a manner as to promote the public benefit ; and

(*b*) there is reasonable justification for the causing of any hardship that may result to any person having an interest in or right over the property ; and

(*c*) provision is made by a law applicable to that taking of possession or acquisition—

(i) for the prompt payment of adequate compensation ; and

(ii) securing to any person having an interest in or right over the property a right of access to the High Court, whether direct or on appeal from any other authority, for the determination of his interest or right, the legality of the taking of possession or acquisition of the property, interest or right and the amount of any compensation to which he is entitled, and for the purpose of obtaining prompt payment of that compensation.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section—

(*a*) to the extent that the law in question makes provision for the taking of possession or acquisition of any property—

(i) in satisfaction of any tax, rate or duty ;

(ii) by way of penalty for breach of the law or forfeiture in consequence of a breach of the law ;

(iii) as an incident of a lease, tenancy, mortgage, charge, bill of sale, pledge or contract ;

(iv) in the execution of judgments or orders of a court in proceedings for the determination of civil rights or obligations ;

(v) in circumstances where it is reasonably necessary so to do because the property is in a dangerous state or injurious to the health of human beings, animals or plants ;

(vi) in consequence of any law with respect to the limitation of actions or acquisitive prescription ; or

(vii) for so long only as may be necessary for the purposes of any examination, investigation, trial or inquiry or, in the case of land, the carrying out thereon—

(A) of work of soil conservation or of conservation of other natural resources ; or

(B) of work relating to agricultural development or improvement which the owner or occupier of the land has been required, and has without reasonable excuse refused or failed, to carry out,

except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society ; or

(*b*) to the extent that the law in question makes provision for the taking of possession or acquisition of—

(i) enemy property ;

(ii) property of a deceased person, a person of unsound mind, a person who has not attained the age of twenty-one years or a person who is absent from the Protectorate, for the purpose of its administration for the benefit of the persons entitled to the beneficial interest therein ;

(iii) property of a person declared to be insolvent or a body corporate in liquidation, for the purpose of its administration for the benefit of the creditors of the insolvent or body corporate and, subject thereto, for the benefit of other persons entitled to the beneficial interest in the property ; or

(iv) property subject to a trust, for the purpose of vesting the property in persons appointed as trustees under the instrument creating the trust or by a court or, by order of a court, for the purpose of giving effect to the trust.

(3) Nothing in this section shall be construed as affecting the making or operation of any law for the compulsory taking of possession in the public interest of any property, or the compulsory acquisition in the public interest of any interest in or right over property, where that property, interest or right is held by a body corporate established for public purposes by any law and in which no moneys have been invested other than moneys provided by the Government of the Protectorate.

Protection for privacy of home and other property.

7.—(1) Except with his own consent, no person shall be subjected to the search of his person or his property or the entry by others on his premises.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision—

(*a*) in the interests of defence, public safety, public order, public morality, public health, town and country planning, the development and utilisation of mineral resources, or the development or utilisation of any other property in such a manner as to promote the public benefit ;

(*b*) for the purpose of protecting the rights or freedoms of other persons ;

(*c*) for the purpose of authorising an officer or agent of the Government of the Protectorate, a local government authority or a body corporate established by law for a public purpose to enter on the premises of any person in order to inspect those premises or anything thereon for the purpose of any tax, rate or duty or in order to carry out work connected with any property that is lawfully on those premises and that belongs to that Government, authority or body corporate, as the case may be ;

(*d*) for the purpose of authorising the entry upon any premises in pursuance of an order of a court for the purpose of enforcing the judgment or order of a court in any proceedings ; or

(*e*) for the purpose of authorising the entry upon any premises for the purpose of preventing or detecting criminal offences,

and except so far as that provision or, as the case may be, anything done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

Provisions to secure protection of law.

8.—(1) If any person is charged with a criminal offence, then, unless the charge is withdrawn, the case shall be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.

(2) Every person who is charged with a criminal offence—

(*a*) shall be presumed to be innocent until he is proved or has pleaded guilty ;

(*b*) shall be informed as soon as reasonably practicable, in detail and in a language that he understands, of the nature of the offence charged ;

(*c*) shall be given adequate time and facilities for the preparation of his defence ;

(*d*) shall be permitted to defend himself before the court in person or, at his own expense, by a legal representative of his own choice ;

(*e*) shall be afforded facilities to examine in person or by his legal representative the witnesses called by the prosecution before the court, and to obtain the attendance and carry out the examination of witnesses to testify on his behalf before the court on the same conditions as those applying to witnesses called by the prosecution ; and

(*f*) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the charge,

and, except with his own consent, the trial shall not take place in his absence unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable and the court has ordered him to be removed and the trial to proceed in his absence.

(3) When a person is tried for any criminal offence, the accused person or any person authorised by him in that behalf shall, if he so requires and subject to payment of such reasonable fee as may be prescribed by law, be given within a reasonable time after judgment a copy for the use of the accused person of any record of the proceedings made by or on behalf of the court.

(4) No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence that is severer in degree or description than the maximum penalty that might have been imposed for that offence at the time when it was committed.

(5) No person who shows that he has been tried by a competent court for a criminal offence and either convicted or acquitted shall again be tried for that offence or for any other criminal offence of which he could have been convicted at the trial for that offence, save upon the order of a superior court in the course of appeal or review proceedings relating to the conviction or acquittal.

(6) No person shall be tried for a criminal offence if he shows that he has been pardoned for that offence.

(7) No person who is tried for a criminal offence shall be compelled to give evidence at the trial.

(8) Any court or other adjudicating authority prescribed by law for the determination of the existence or extent of any civil right or obligation shall be established or recognised by law and shall be independent and impartial; and where proceedings for such a determination are instituted by any person before such a court or other adjudicating authority, the case shall be given a fair hearing within a reasonable time.

(9) Except with the agreement of all the parties thereto, all proceedings of every court and proceedings for the determination of the existence or extent of any civil right or obligation before any other adjudicating authority, including the announcement of the decision of the court or other authority, shall be held in public.

(10) Nothing in the last preceding subsection shall prevent the court or other adjudicating authority from excluding from the proceedings persons other than the parties thereto and their legal representatives to such extent as the court or other authority—

(*a*) may by law be empowered so to do and may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice or in interlocutory proceedings or in the interests of decency, public morality, the welfare of persons under the age of eighteen years or the protection of the private lives of persons concerned in the proceedings; or

(*b*) may by law be empowered or required so to do in the interests of defence, public safety or public order.

(11) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of—

(*a*) subsection (2)(*a*) of this section to the extent that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts;

(*b*) subsection (2)(*e*) of this section to the extent that the law in question imposes reasonable conditions that must be satisfied if witnesses called to testify on behalf of an accused person are to be paid their expenses out of public funds; or

(*c*) subsection (5) of this section to the extent that the law in question authorises a court to try a member of a disciplined force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of that force, so, however, that any court so trying such a member and convicting him shall in sentencing him to any punishment take into account any punishment awarded him under that disciplinary law.

(12) in this section—

"criminal offence" means a criminal offence under the law in force in the Protectorate;

"legal representative" means a person lawfully in, or entitled to be in, the Protectorate and entitled to practise in the Protectorate as an advocate or as a barrister and solicitor.

Protection of freedom of conscience.

9.—(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this section the said freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.

(2) Every religious community shall be entitled, at its own expense, to establish and maintain places of education and to manage any place of education which it wholly maintains.

(3) No religious community shall be prevented from providing religious instruction for persons of that community in the course of any education provided at any place of education which it wholly maintains or in the course of any education which it otherwise provides.

(4) Except with his own consent (or, if he is a person who has not attained the age of twenty-one years, the consent of his guardian) no person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance if that instruction, ceremony or observance relates to a religion other than his own.

(5) No person shall be compelled to take any oath which is contrary to his religion or belief or to take any oath in a manner which is contrary to his religion or belief.

(6) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision which is reasonably required—

(*a*) in the interests of defence, public safety, public order, public morality or public health ; or

(*b*) for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practise any religion without the unsolicited intervention of members of any other religion,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(7) References in this section to a religion shall be construed as including references to a religious denomination, and cognate expressions shall be construed accordingly.

Protection of freedom of expression.

10.—(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression, and for the purposes of this section the said freedom includes the freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference and freedom from interference with his correspondence.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision—

(*a*) in the interests of defence, public safety, public order, public morality or public health ;

(*b*) for the purpose of protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, or regulating the administration or the technical operation of telephony, telegraphy, posts, wireless, broadcasting or television ; or

(*c*) that imposes restrictions upon public officers,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

Protection of freedom of assembly and association.

11.—(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to political parties or to form or belong to trade unions or other associations for the protection of his interests.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision—

(*a*) in the interests of defence, public safety, public order, public morality or public health ;

(*b*) for the purpose of protecting the rights or freedoms of other persons ; or

(*c*) that imposes restrictions upon public officers,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

Protection of freedom of movement.

12.—(1) No person shall be deprived of his freedom of movement, and for the purposes of this section the said freedom means the right to move freely throughout the Protectorate, the right to reside in any part of the Protectorate, the right to enter the Protectorate and immunity from expulsion from the Protectorate.

(2) Any restriction on a person's freedom of movement that is involved in his lawful detention shall not be held to be inconsistent with or in contravention of this section.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision—

(*a*) for the imposition of restrictions on the movement or residence within the Protectorate of any person or on any person's right to leave the Protectorate that are reasonably required in the interests of defence, public safety or public order ;

(*b*) for the imposition of restrictions on the movement or residence within the Protectorate or on the right to leave the Protectorate of persons generally or any class of persons that are reasonably required in the interests of defence, public safety, public order, public morality or public health ;

(*c*) for the imposition of restrictions on the movement or residence within the Protectorate of any person who does not belong to the Protectorate or the exclusion or expulsion from the Protectorate of any such person ;

(*d*) for the imposition of restrictions on the acquisition or use by any person of land or other property in the Protectorate ;

(*e*) for the imposition of restrictions upon the movement or residence within the Protectorate of public officers ;

(*f*) for the removal of a person from the Protectorate to be tried or punished in some other country for a criminal offence under the law of that other country or to undergo imprisonment in that other country in execution of the sentence of a court in respect of a criminal offence under the law in force in the Protectorate of which he has been convicted ; or

(*g*) for the imposition of restrictions, by order of a court, on the movement or residence within the Protectorate of any person or on any person's right to leave the Protectorate either in consequence of his having been found guilty of a criminal offence under the law of the Protectorate or for the purpose of ensuring that he appears before a court at a later date for trial or for proceedings relating to his extradition or lawful removal from the Protectorate.

(4) If any person whose freedom of movement has been restricted by virtue only of such a provision as is referred to in subsection (3)(*a*) of this section so requests at any time during the period of that restriction not earlier than six months after he last made such a request during that period, his case shall be reviewed by an independent and impartial tribunal presided over by a person, qualified to be admitted to practice in the Protectorate as an advocate or as a barrister and solicitor, appointed by the Chief Justice.

(5) On any review by a tribunal in pursuance of the last preceding subsection of the case of a person whose freedom of movement has been restricted, the tribunal may make recommendations concerning the necessity or expediency of continuing the restriction to the authority by which it was ordered but, unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with any such recommendations.

Protection from discrimination on the grounds of race, etc.

13.—(1) Subject to the provisions of subsections (5), (6) and (9) of this section, no law shall make any provision that is discriminatory either of itself or in its effect.

(2) Subject to the provisions of subsections (7), (8) and (9) of this section, no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

(3) Subject to the provisions of subsection (9) of this section, no person shall be treated in a discriminatory manner in respect of access to shops, hotels, lodging-houses, public restaurants, eating-houses or places of public entertainment or in respect of access to places of public resort maintained wholly or partly out of public funds or dedicated to the use of the general public.

(4) In this section, the expression " discriminatory " means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, place of origin, political opinions, colour or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

(5) Subsection (1) of this section shall not apply to any law so far as that law makes provision—

(*a*) for the imposition of taxation or the appropriation of revenue by the Government of the Protectorate or any local authority or body for local purposes ;

(*b*) with respect to persons who do not belong to the Protectorate ;

(*c*) for the application, in the case of persons of any such description as is mentioned in the last preceding subsection (or of persons connected with such persons), of the law with respect to adoption, marriage, divorce, burial, devolution of property on death or other like matters that is the personal law applicable to persons of that description ;

(*d*) for the application of customary law with respect to any matter in the case of persons who, under that law, are subject to that law ;

(*e*) with respect to land, the tenure of land, the resumption and acquisition of land and other like purposes ; or

(*f*) whereby persons of any such description as is mentioned in subsection (4) of this section may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society.

(6) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) of this section to the extent that it makes provision with respect to standards or qualifications (not being standards or qualifications specifically relating to race, place of origin, political opinions, colour or creed) to be required of any person who is appointed to any office in the public service, any office in a disciplined force, any office in the service of a local authority or any office in a body corporate established directly by any law for public purposes, or who wishes to engage in any trade or business.

(7) Subsection (2) of this section shall not apply to anything which is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in subsection (5) or (6) of this section.

(8) Subsection (2) of this section shall not affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under this Constitution or any other law.

(9) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision whereby

persons of any such description as is mentioned in subsection (4) of this section may be subjected to any restriction on the rights and freedoms guaranteed by sections 7, 9, 10, 11 and 12 of this Constitution, being such a restriction as is authorised by section 7(2), 9(6), 10(2), 11(2) or 12(3), as the case may be.

(10) Nothing contained in or done under the authority of any law shall be held to be inconsistent with the provisions of this section—

(*a*) if that law was in force immediately before the coming into operation of this Constitution and has continued in force at all times since the coming into operation of this Constitution ; or

(*b*) to the extent that the law repeals and re-enacts any provision which has been contained in any enactment at all times since immediately before the coming into operation of this Constitution.

Provision for periods of public emergency.

14.—(1) Nothing contained in or done under the authority of any regulation made under the Emergency Powers Order in Council 1939, as amended, shall be held to be inconsistent with or in contravention of section 3, 4(2), 7, 9, 10, 11, 12 or 13 of this Constitution to the extent that the regulation in question makes in relation to any period of public emergency provision, or authorises the doing during any such period of anything, that is reasonably justifiable in the circumstances of any situation arising or existing during the period for the purpose of dealing with that situation.

(2) Where any person who is lawfully detained in pursuance only of such a regulation as is referred to in the last preceding subsection so requests at any time during the period of that detention not earlier than six months after he last made such a request during that period, his case shall be reviewed by an independent and impartial tribunal established by law and presided over by a person, qualified to be admitted to practice in the Protectorate as an advocate or as a barrister and solicitor, appointed by the Chief Justice.

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

Enforcement of protective provisions.

15.—(1) Subject to the provisions of subsection (6) of this section, if any person alleges that any of the provisions of sections 1 to 14 (inclusive) of this Constitution has been, is being or is likely to be contravened in relation to him (or, in the case of a person who is detained, if any other person alleges such a contravention in relation to the detained person) then, without prejudice to any other action with respect to the same matter which is lawfully available, that person (or that other person) may apply to the High Court for redress.

(2) The High Court shall have original jurisdiction—

(*a*) to hear and determine any application made by any person in pursuance of the last preceding subsection ;

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

and may make such orders, issue such writs and give such direction, as it may consider appropriate for the purpose of enforcing or securing the enforcement of any of the provisions of sections 1 to 14 (inclusive) of this Constitution:

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

(3) If in any proceedings in any subordinate court any question arises as to the contravention of any of the provisions of sections 1 to 14 (inclusive) of this Constitution, the person presiding in that court may, and shall if any party to the proceedings so requests, refer the question to the High Court unless, in his opinion, the raising of the question is merely frivolous or vexatious.

(4) Any person aggrieved by any determination of the High Court under this section may appeal therefrom to the Fiji Court of Appeal:

Provided that no appeal shall lie from a determination of the High Court under this section dismissing an application on the ground that it is frivolous or vexatious.

(5) A law made under section 48 of this Constitution may confer upon the High Court powers additional to those conferred by this section for the purpose of enabling that court more effectively to exercise the jurisdiction conferred upon it by this section.

(6) Rules of court making provision with respect to the practice and procedure of the High Court in relation to the jurisdiction conferred on it by or under this section (including rules with respect to the time within which any application or reference shall or may be made or brought) may be made by the person or authority for the time being having power to make rules of court with respect to the practice and procedure of that court generally.

Interpretation and savings.

16.—(1) In this Chapter, unless the context otherwise requires—

"contravention", in relation to any requirement, includes a failure to comply with that requirement, and cognate expressions shall be construed accordingly;

"court" means any court of law having jurisdiction in the Protectorate, other than a court established by a disciplinary law, and includes Her Majesty in Council and in sections 2 and 4 of this Constitution a court established by a disciplinary law;

"disciplinary law" means a law regulating the discipline of any disciplined force;

"disciplined force" means—

(*a*) any naval, military or air force;

(*b*) the Solomon Islands Police Force;

(*c*) the Special Constabulary; or

(*d*) any other constabulary or police force established by a law made under section 48 of this Constitution;

"member", in relation to a disciplined force, includes any person who, under the law regulating the discipline of that force, is subject to that discipline.

(2) In this Chapter "a period of public emergency" means any period during which Part II of the Emergency Powers Order in Council 1939, as amended, is in force in the Protectorate or any part thereof.

(3) For the purposes of this Chapter a person shall be deemed to belong to the Protectorate if he is a British subject or a British protected person and—

(*a*) was born in the Protectorate ; or

(*b*) has lawfully resided in the Protectorate for any period of seven years during which he has not been absent therefrom for a period or periods amounting in all to more than eighteen months, and since the completion of such period of residence has not been ordinarily resident continuously for a period of two years or more in any territory within the Commonwealth in circumstances in which he has acquired or retained a right of residence in that territory ; or

(*c*) has obtained the status of a British subject by reason of having been naturalised in the Protectorate before the British Nationality Act 1948(**a**) came into force or by reason of his having been naturalised in the Protectorate as a citizen of the United Kingdom and Colonies under that Act or registered in the Protectorate as such under any provision of that Act ; or

(*d*) is the wife of a person to whom any of the foregoing paragraphs applies not living apart from such person under a decree of a court or a deed of separation ; or

(*e*) is the child, stepchild, or child adopted in a manner recognised by law under the age of eighteen years of a person to whom any of the foregoing paragraphs applies ; or

(*f*) is a member of any other class of persons that may be prescribed by any law enacted under this Constitution:

Provided that for the purpose of calculating the period for which any person has been lawfully resident in the Protectorate no account shall be taken—

(i) of any period during which he was serving a sentence of imprisonment exceeding six months imposed on him by a court or substituted by competent authority for some other sentence imposed upon him by a court ; or

(ii) of any period during which any adjudication that he was of unsound mind was in force under the law of the Protectorate or during which he was lawfully detained in the Protectorate as a criminal lunatic ; or

(iii) of any period during which his presence in the Protectorate was unlawful.

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

(**a**) 1948 c. 56.

(5) In relation to any person who is a member of a disciplined force raised otherwise than as aforesaid and lawfully present in the Protectorate, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter.

CHAPTER II

THE GOVERNOR

The Governor, his functions and emoluments.

17.—(1) There shall be a Governor for the Protectorate who shall be appointed by Her Majesty by commission under Her Sign Manual and Signet and shall hold office during Her Majesty's pleasure.

(2) The Governor shall have such functions as may be conferred upon him by or under this Constitution or any other law for the time being in force in the Protectorate and such other functions as Her Majesty may assign to him and, subject to the provisions of this Constitution (and, in the case of functions conferred upon him by or under any other law, subject to the provisions of that law or any law amending that law) shall perform all the functions of his office including those he exercises in his discretion according to such instructions as may be given to him by Her Majesty:

Provided that the question whether or not the Governor has in any matter complied with any such instructions shall not be inquired into in any court.

(3) The holder of the office of Governor shall receive such emoluments as may be prescribed from time to time by a Secretary of State and which are hereby charged on and shall be paid out of the Consolidated Fund of the Protectorate.

Publication of commission and making of oaths.

18. Every person appointed to the office of Governor shall, before assuming the functions of his office—

(*a*) cause the commission appointing him to be Governor to be read and published in the presence of the Chief Justice, or such person as the Chief Justice may designate for the purpose, and of such members of the Council of Ministers as can conveniently attend; and

(*b*) make before the above-mentioned persons the oaths of allegiance and for the due execution of his office in the forms set out in the Annex to this Constitution, which oaths the Chief Justice, or person designated by him, shall administer.

Office of Deputy Governor.

19.—(1) There shall be a Deputy Governor, who shall be appointed by the Governor in pursuance of instructions given by Her Majesty through a Secretary of State and shall hold office during Her Majesty's pleasure.

(2) If the office of Deputy Governor is vacant or the person holding that office is absent from the Protectorate or is for any other reason unable to discharge the functions of the office, then the Governor, acting in his discretion, may appoint a person to act as Deputy Governor and any such person shall continue to act as Deputy Governor until his appointment is revoked by the Governor, acting in his discretion.

Succession to Government.

20.—(1) Whenever the office of Governor is vacant or the Governor is absent from the Protectorate or is for any other reason unable to discharge the functions of his office—

(*a*) the Deputy Governor ; or

(*b*) if the office of Deputy Governor is vacant or the Deputy Governor is absent from the Protectorate or is for any other reason unable to discharge the functions of his office, such person as Her Majesty may have designated by instructions given through a Secretary of State (hereinafter referred to as " the person designated "),

shall, during Her Majesty's pleasure, discharge the functions of the office of Governor and administer the government of the Protectorate accordingly.

(2) Before assuming the administration of the government of the Protectorate, the Deputy Governor or the person designated shall make before the Chief Justice, or such person as the latter may designate for the purpose, the oaths of allegiance and for the due execution of the office of Governor in the forms set out in the Annex to this Constitution.

(3) The Deputy Governer shall not continue to administer the government after the Governor has informed him that he is about to assume or resume the administration of the government, and the person designated shall not continue to administer the government after the Governor or the Deputy Governor has so notified him.

(4) The Governor (or, if the Deputy Governor or the person designated has entered upon the discharge of the functions of the office of the Governor under subsection (1) of this section, the Deputy Governor or, as the case may be, the person designated) acting in his discretion, may, if he has occasion to be absent from the Protectorate for a period that in his opinion will be of short duration, direct by notice published in the Gazette that, notwithstanding his absence from the Protectorate, he will continue to administer the government of the Protectorate.

(5) For the purposes of subsection (1) of this section—

(*a*) the Governor or the Deputy Governor shall not be regarded as absent from the Protectorate or as unable to discharge the functions of the office of Governor by reason only of the fact that he is in passage from one part of the Protectorate to another ;

(*b*) so long as any direction given by the Governor under the last preceding subsection is in force, he shall not be regarded as absent from the Protectorate or as unable to discharge the functions of the office of Governor by reason only that he is in passage to or from, or is in, any place outside the Protectorate ;

(c) when the Deputy Governor or the person designated has entered upon the discharge of the functions of the office of Governor, then, so long as any direction given by him under the last preceding subsection is in force, he shall not be regarded as absent from the Protectorate or as unable to discharge the functions of the office of Governor by reason only that he is in passage to or from, or is in, any place outside the Protectorate.

(6) In this section " the Governor " means the person holding the office of Governor and " the Deputy Governor " means the person holding the office of Deputy Governor.

Discharge of Governor's functions by Deputy Governor.

21.—(1) The Governor, acting in his discretion, may, by writing under his hand, authorise the Deputy Governor to exercise for and on behalf of the Governor, subject to such exceptions and conditions as the Governor may from time to time specify, any or all of the functions of the office of Governor.

(2) The powers and authority of the Governor shall not be affected by any authority of the Deputy Governor under the preceding subsection otherwise than as Her Majesty may from time to time direct; and the Deputy Governor shall conform to and observe such instructions relating to the exercise by him of any of the functions of the office of Governor as the Governor, acting in his discretion, may from time to time address to him.

(3) Any authority given under subsection (1) of this section may at any time be varied or revoked by Her Majesty by instructions through a Secretary of State or by the Governor, acting in his discretion, by writing under his hand.

(4) In subsection (1) of this section the reference to any functions of the office of Governor does not include a reference to—

(*a*) the functions conferred upon the Governor by this section; or

(*b*) any functions, other than functions of the Governor under this Constitution, conferred upon the Governor by any Act of Parliament or by an Order of Her Majesty in Council or other instrument made under any such Act.

Governor to consult the Council of Ministers.

22.—(1) The Governor shall consult the Council of Ministers in the formulation of policy and in the exercise of all powers conferred upon him by this Constitution or by any other law for the time being in force in the Protectorate, except in the exercise of—

(*a*) any power conferred upon him by this Constitution which he is empowered to exercise in his discretion;

(*b*) any power conferred by any law which he is empowered or directed, either expressly or by necessary implication, by that or any other law to exercise without consulting the Council;

(*c*) any power conferred upon him by this Constitution or any other law which he is required or authorised to exercise after consultation with or in accordance with the advice of a person or authority other than the Council; or

(*d*) any power that in his opinion relates to—

(i) defence;

(ii) external affairs;

(iii) internal security;

(iv) the police; or

(v) the appointment (including the appointment on promotion or transfer, appointment on contract and appointment to act in an office) of any person to any public office, the suspension, termination of employment, dismissal, or retirement of any public officer or taking of disciplinary action in respect of such an officer, the application to any public officer of the terms or conditions of employment of the public service (including salary scales, allowances, leave, passages or pensions) for which financial provision has been made, or the organisation of the public service to the extent that it does not involve new financial provision.

(2) The Governor shall not be required to consult the Council of Ministers in any case in which, in his judgment—

(*a*) the service of Her Majesty would sustain material prejudice thereby ;

(*b*) the matters to be decided are too unimportant to require such consultation ; or

(*c*) the urgency of the matter requires him to act before the Council can be consulted.

(3) In every case falling within paragraph (*c*) of the last foregoing subsection the Governor shall, as soon as practicable, communicate to the Council of Ministers the measures which he has adopted and the reasons for those measures.

(4) Subject to the provisions of the next following section, the Governor shall act in accordance with the advice of the Council of Ministers in exercising any power in the exercise of which he is obliged by this section to consult the Council.

(5) The question whether the Governor has exercised any power after consultation with or in accordance with the advice of the Council of Ministers shall not be enquired into by any court of law.

(6) The references in this section to the powers of the Governor shall not include references to the power to make laws for the peace, order and good government of the Protectorate conferred upon the Governor by section 48 of this Constitution but shall include references to any power to make subsidiary instruments conferred upon the Governor, whether by a law enacted under that section or otherwise.

Governor may act against advice of the Council of Ministers.

23.—(1) In any case in which the Governor is required by the immediately preceding section to consult the Council of Ministers, he may act against the advice given to him by the Council if he considers it expedient in the interests of public order, public faith or good government, which expressions shall, without prejudice to their generality, include maintaining or securing the financial or economic stability of the Protectorate, or if it is in order to secure that a condition attached to a financial grant or loan made by the United Kingdom Government to the Government of the Protectorate is complied with.

(2) Where the Governor acts against the advice of the Council of Ministers in pursuance of subsection (1) of this section he shall at the first convenient opportunity report the matter to a Secretary of State with the reasons for his action.

(3) Whenever the Governor acts against the advice of the Council of Ministers any member of the Council may require that there shall be recorded in the minutes any advice or opinion that member may give upon the question at issue and his reasons.

Governor's powers as respects offices.

24.—(1) Subject to the provisions of this Constitution and of any other law for the time being in force in the Protectorate, the Governor shall have power, in Her Majesty's name and on Her Majesty's behalf—

(*a*) to constitute such offices as may lawfully be constituted by Her Majesty and abolish any office so constituted by him ;

(*b*) to make appointments (including appointments on promotion or transfer) to any office so constituted by him ; and

(*c*) to terminate the appointment of or dismiss any person so appointed, or suspend him from performing the functions of his office, or take such other disciplinary action with respect to him as may be necessary.

(2) A person appointed to an office constituted under this section shall, unless it is otherwise provided by law, hold office during Her Majesty's pleasure.

(3) The Governor may delegate to any public officer, in such manner and on such conditions as he may think fit, any of the powers conferred upon him by this section.

(4) If any law or other instrument in force in the Protectorate immediately before the appointed day confers upon any public officer any power to appoint, promote, transfer, terminate the appointment of, dismiss, or exercise disciplinary control over, other public officers, that power shall be deemed to have been delegated to that officer by the Governor under this section, and shall be exercisable by that officer until it is revoked by the Governor or until the provision conferring it has been repealed or revoked.

(5) Before allocating any person to the office of Permanent Secretary or other such supervising office the Governor shall consult the Chief Minister.

(6) Subject to the provisions of the immediately preceding subsection, the powers conferred upon the Governor by this section shall be exercised by him in his discretion.

Prerogative of mercy.

25.—(1) The Governor, acting in his discretion, may, in Her Majesty's name and on Her Majesty's behalf—

(*a*) grant to any person in respect of any offence against the law in force in the Protectorate a pardon, either free or subject to lawful conditions ;

(*b*) grant to any person a respite, either indefinite or for a specified period, of the execution of any punishment imposed on that person for such an offence ;

(*c*) substitute a less severe form of punishment for that imposed on any person for such an offence ; and

(*d*) remit the whole or part of any punishment imposed on any person for such an offence or any penalty or forfeiture otherwise due to Her Majesty on account of such an offence.

(2) The provisions of this section shall not apply in relation to any conviction by a court-martial established under any Act of Parliament of the United Kingdom, any punishment imposed in respect of any such conviction or any penalty or forfeiture due under any such Act.

Public seal.

26. The Governor shall keep and use the public seal.

CHAPTER III

THE COUNCIL OF MINISTERS

The Council of Ministers.

27. There shall be a Council of Ministers in and for the Protectorate which shall consist of—

(*a*) the Chief Minister elected in accordance with the provisions of the next following section ;

(*b*) not less than four nor more than six other Ministers, as the Chief Minister shall determine, appointed in accordance with the provisions of section 29 of this Constitution from among the elected members of the Legislative Assembly ; and

(*c*) the Deputy Governor, the Attorney-General and the Financial Secretary.

The Chief Minister.

28.—(1) There shall be a Chief Minister who shall be elected as such by the elected members of the Legislative Assembly from amongst their number in accordance with regulations made by the Governor which have been approved in draft by the affirmative vote of two-thirds of all elected members.

(2)(*a*) If, by reason of his illness or absence from the Protectorate or for any other reason, the Chief Minister is incapable of performing the functions of his office, the Governor may, by directions in writing, authorise some other Minister to perform those functions (other than the functions conferred by this section) and that Minister may perform those functions until his authority is revoked by the Governor.

(*b*) The powers of the Governor under this sub-section shall be exercised by him in accordance with the advice of the Chief Minister:

Provided that if, in the opinion of the Governor, it is impracticable to obtain the advice of the Chief Minister owing to the latter's illness or absence, the Governor may exercise those powers without that advice.

Appointment of Ministers.

29. Ministers other than the Chief Minister shall be appointed by the Governor, acting in accordance with the advice of the Chief Minister, by instrument under the public seal.

Tenure of office of Chief Minister and Ministers.

30.—(1) The office of the Chief Minister shall become vacant—

(*a*) upon the happening of any of the events specified in paragraphs (*a*), (*b*) or (*c*) of subsection (2) of this section ; or

(*b*) if a motion of no confidence in the Chief Minister receives in the Legislative Assembly the affirmative votes of two-thirds of all the elected members.

(2) The office of a Minister shall become vacant—

(*a*) when, after a general election, the elected members of the Legislative Assembly meet, in accordance with regulations made in accordance with the provisions of section 28(1) of this Constitution, to elect the Chief Minister ;

(*b*) if he ceases to be an elected member of the Legislative Assembly for any reason other than a dissolution of the Assembly ;

(*c*) if he resigns such office by writing under his hand addressed to the Governor ;

(*d*) if his appointment to the office of Minister is revoked by the Governor, acting in accordance with the advice of the Chief Minister, by instrument under the public seal ; or

(*e*) if the office of Chief Minister becomes vacant.

(3) Any question whether the office of Chief Minister or of a Minister has become vacant shall be determined by the Governor, acting in his discretion.

Temporary Ministers.

31.—(1) Whenever a Minister other than the Chief Minister is, by reason of his illness or absence from the Protectorate or for any other reason, incapable of performing his functions as a member of the Council of Ministers, or has been authorised, in accordance with the provisions of section 28(2) of this Constitution, to act as Chief Minister, the Governor, acting in accordance with the advice of the Chief Minister,

may, by instrument under the public seal, appoint an elected member of the Legislative Assembly, who is not already a Minister, to be temporarily a Minister:

Provided that, if occasion arises for making an appointment under this section between a dissolution of the Assembly and the date appointed for the completion of the voting in the next following general election, a person who was an elected member of the Assembly immediately before the dissolution may be appointed as if he were still a member of the Assembly.

(2) Subject to the provisions of this section, the provisions of this Constitution shall apply to a person appointed under this section as they apply in relation to the Minister in whose place he has been temporarily appointed.

(3) A person appointed under subsection (1) of this section to be temporarily a Minister shall vacate his office if the Governor, acting in accordance with the advice of the Chief Minister, revokes his appointment, or when he is informed by the Governor that the circumstances giving rise to the appointment have ceased to exist.

Oaths by members.

32. Before assuming the functions of his office every member of the Council of Ministers shall make before the Governor, or some person authorised in that behalf by the Governor, oaths of allegiance and for the due execution of his office in the forms set out in the Annex to this Constitution:

Provided that if a person has been a member of the Council ex-officio, or a temporary member of the Council, and again becomes such a member it shall not be necessary for that person to make the oaths referred to in this section before assuming the functions of his office as a member of the Council unless there has been a general election since he last made those oaths in the manner required by this section.

Summoning of the Council of Ministers.

33. The Council of Ministers shall not be summoned except by authority of the Governor, acting in his discretion.

Presiding in the Council of Ministers.

34. There shall preside at meetings of the Council of Ministers—

(*a*) the Governor, as far as practicable;

(*b*) in his absence, the Deputy Governor;

(*c*) in the absence of the Governor and the Deputy Governor, such member of the Council as may be generally or specially appointed by the Governor, acting in his discretion, for that purpose.

Proceedings in the Council of Ministers.

35.—(1) No business except that of adjournment shall be transacted in the Council of Ministers if objection is taken by any member present that there are less than four members present besides the Governor or member presiding.

(2) Subject to the provisions of subsection (1) of this section, the Council of Ministers shall not be disqualified for the transaction of business by reason of any vacancy in its membership, and any proceedings in the Council shall be valid notwithstanding that some person who was not entitled to do so took part in those proceedings.

Agenda.

36. The Governor shall decide what business shall be considered at any meeting of the Council of Ministers.

Summoning of persons to attend the Council of Ministers.

37. The Governor, or the member presiding, may summon any person to a meeting of the Council of Ministers, notwithstanding that that person is not a member of the Council, when in his opinion the business before the Council makes the presence of that person desirable:

Provided that a person shall not be under any obligation to answer any question put to him by any member of the Council, or by the Governor, at such meeting.

Assignment of responsibilities to Ministers.

38.—(1) The Governor, acting in accordance with the advice of the Chief Minister, may, by directions in writing, assign to any Minister responsibility for the conduct (subject to the provisions of this Constitution and of any other law) of any business of the Government of the Protectorate including responsibility for the administration of any department of government:

Provided that a Minister shall not be charged with responsibility under this section for finance or for any of the matters mentioned in section 22(1)(*d*) of this Constitution.

(2) The Governor, acting in his discretion, may at any time call for any official papers or seek any official information or advice available to a Minister with respect to a matter for which that Minister is responsible under this section.

(3) The Governor acting in his discretion, may, by order published in the Gazette, provide that, subject to such limitations and conditions as may be prescribed in the order, any of the functions of the Governor or of any public officer under any local enactment that are specified in the order may be performed by the Minister charged with responsibility for matters to which those functions relate.

(4) Where an order under subsection (3) of this section in relation to any functions is in force—

(*a*) the Governor or public officer, as the case may be, shall not perform those functions;

(*b*) the Minister performing those functions may vary or rescind anything previously done in the performance thereof to the same extent as the Governor or public officer, as the case may be, could have done.

(5) Where, by reason of the revocation or amendment of a direction under subsection (1) of this section or of an order under subsection (3) of this section, functions cease to be performed by a Minister anything done by him in the performance thereof and having effect immediately before the revocation or amendment shall continue to have effect, but without prejudice to the power of the Governor or public officer or any other Minister authorised under this section to perform the functions to rescind or vary the same.

(6) Nothing in this section shall apply to—

(*a*) any functions relating to the making of any subsidiary instrument;

(*b*) the functions of any judge, magistrate or court of law.

Direction, etc. of government departments.

39. Where any Minister has been charged with responsibility for the administration of any department of the Government, he shall exercise general direction and control over that department and, subject to such direction and control, any department in the charge of a Minister (including the office of the Chief Minister or any other Minister) shall be under the supervision of a Permanent Secretary or of some other supervising officer:

Provided that—

(*a*) any such department may be under the joint supervision of two or more supervising officers ; and

(*b*) different parts of any such department may respectively be under the supervision of different supervising officers.

Collective responsibility.

40. The members of the Council of Ministers shall be collectively responsible to the Legislative Assembly for any advice given to the Governor in the exercise of their functions under this Constitution and for all things done by or under the authority of any member of the Council in the exercise of his functions:

Provided that the provisions of this section shall not apply to any advice given by the Chief Minister under section 28(2), 29, 30(2)(*d*), 31 or 38(1) of this Constitution.

CHAPTER IV

THE LEGISLATIVE ASSEMBLY

Composition

The Legislative Assembly.

41.—(1) There shall be a Legislative Assembly for the Protectorate.

(2) Subject to the provisions of this Constitution, the Legislative Assembly shall consist of—

(*a*) the Deputy Governor, the Attorney-General and the Financial Secretary ;

(*b*) twenty-four elected members.

Elected members.

42.—(1) The elected members of the Legislative Assembly shall be persons qualified for election as such under the provisions of this Constitution, and shall be elected in the manner provided by any law for the time being in force in the Protectorate.

(2) For the purposes of the election of the elected members the Protectorate shall be divided in the manner provided by any such law into twenty-four constituencies, and one member shall be elected for each constituency.

Qualifications for elected membership.

43. Subject to the provisions of the next following section, a person shall be qualified for election as an elected member of the Legislative Assembly if, and shall not be so qualified unless—

(*a*) he is a British subject or a British protected person ;

(*b*) he has attained the age of twenty-one years ; and

(*c*) he has resided in the Protectorate during the three years immediately before the date of his election for a period of, or periods amounting in the aggregate to, not less than two years, or is domiciled in the Protectorate and is resident there at that date.

Disqualifications for elected membership.

44.—(1) No person shall be qualified for election as an elected member of the Legislative Assembly who—

(*a*) is, by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to a foreign power or state ;

(*b*) holds, or is acting in, any public office ;

(*c*) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law for the time being in force in any part of the Commonwealth ;

(*d*) is certified to be insane or otherwise adjudged to be of unsound mind under any law for the time being in force in the Protectorate ;

(*e*) is under sentence of death imposed on him by a court in any part of the Commonwealth, or is under a sentence of imprisonment (by whatever name called) for a term of, or exceeding, six months, other than a sentence in lieu of a fine, but including a suspended sentence, imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court ;

(*f*) is disqualified for membership of the Assembly or for registration as a voter or for voting at elections under any law for the time being in force in the Protectorate relating to offences connected with elections ; or

(*g*) holds, or is acting in, any office the functions of which involve any responsibility for, or in connection with, the conduct of any election to the Assembly or the compilation or revision of any electoral register for that purpose.

(2) For the purpose of paragraph (*e*) of the last foregoing subsection two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of those terms.

Vacation of seats by elected members.

45. An elected member of the Legislative Assembly shall vacate his seat—

(*a*) on a dissolution of the Assembly ;

(*b*) if he resigns his seat by writing under his hand addressed to the Governor ;

(*c*) if he is absent from two consecutive meetings of the Assembly without having obtained from the person presiding, before the termination of either meeting, permission to be or to remain absent therefrom unless, in the opinion of the Governor acting in his discretion, such absence was due to causes beyond the member's control ;

(*d*) if any circumstance arises that, if he were not a member of the Assembly, would cause him to be disqualified for election thereto by virtue of paragraph (*a*), (*b*), (*c*), (*d*), (*f*) or (*g*) of subsection (1) of the immediately preceding section ; or

(*e*) in the circumstances mentioned in the next following section.

Vacation of seat on sentence, etc.

46.—(1) Subject to the provisions of this section, if an elected member of the Legislative Assembly is sentenced by a court in any part of the Commonwealth to death or to imprisonment (by whatever name called) for a term of, or exceeding, six months, including a suspended

sentence, he shall forthwith cease to perform his functions as a member of the Assembly, and his seat in the Assembly shall become vacant at the expiration of a period of thirty days thereafter:

Provided that the Governor, acting in his discretion, may, at the request of the member, from time to time extend that period for thirty days to enable the member to pursue any appeal in respect of his conviction or sentence so however that extensions of time exceeding in the aggregate one hundred and fifty days shall not be given without the approval of the Assembly signified by resolution.

(2) If at any time before the member vacates his seat he is granted a free pardon or his conviction is set aside or his sentence is reduced to a term of imprisonment of less than six months or a punishment other than imprisonment is substituted, his seat in the Legislative Assembly shall not become vacant under the provisions of this section, and he may again perform his functions as a member of the Assembly.

(3) For the purposes of this section—

(*a*) two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of those terms; and

(*b*) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.

Determination of questions as to membership.

47.—(1) The High Court shall have jurisdiction to hear and determine any question whether—

(*a*) any person has been validly elected as a member of the Legislative Assembly; or

(*b*) any elected member of the Legislative Assembly has vacated his seat therein or is required by virtue of section 46 of this Constitution to cease to perform his functions as a member.

(2) No appeal shall lie from any decision of the High Court in proceedings under subsection (1) of this section.

Legislation

Power to make laws.

48.—(1) Subject to the provisions of this Constitution, the Governor with the advice and consent of the Legislative Assembly may make laws for the peace, order and good government of the Protectorate.

(2) The laws referred to in this section shall take the form of Bills passed by the Legislative Assembly and assented to in accordance with section 50 of this Constitution.

(3) In the making of laws the Governor and the Legislative Assembly shall conform as nearly as may be to the directions contained in any Instructions given under Her Majesty's Sign Manual and Signet which may from time to time be addressed to the Governor in that behalf.

(4) Nothing in this section shall be construed as requiring subsidiary instruments to be made in the manner prescribed by this section.

Introduction of Bills, etc.

49. Except on the recommendation of the Governor the Legislative Assembly shall not—

(*a*) proceed upon any Bill (including any amendment to a Bill) which, in the opinion of the person presiding—

(i) makes provision for imposing or increasing any tax, for imposing or increasing any charge on the Consolidated Fund

or other funds of the Protectorate, or for altering any such charge otherwise than by reducing it, or for compounding or remitting any debt due to the Protectorate; or

(ii) would effect any alteration in the salary, allowances or other conditions of service (including leave, passages and promotion) of any public officer or in the law, regulations or practice governing the payment of pensions, gratuities or other like benefits to any public officer or former public officer or his widow, children, dependants or personal representatives;

(*b*) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding in the Assembly, is that provision should be made for any of the purposes aforesaid; or

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

Assent to Bills.

50.—(1) A Bill passed by the Legislative Assembly shall not become a law until either—

(*a*) the Governor has assented to it in Her Majesty's name and on Her Majesty's behalf and has signed it in token of his assent; or

(*b*) Her Majesty has given Her assent to it through a Secretary of State, and the Governor has signified Her assent by proclamation published in the Gazette together with the law.

(2) When a Bill is presented to the Governor for his assent, he shall, acting in his discretion, but subject to any Instructions given under Her Majesty's Sign Manual and Signet or through a Secretary of State, declare that he assents, or refuses to assent, to it, or that he reserves the Bill for the signification of Her Majesty's pleasure.

Publication and commencement of laws.

51. A law made under section 48 of this Constitution—

(*a*) shall be published in the Gazette; and

(*b*) shall come into operation on the date of such publication or, if it is enacted either in the law or in some other law, that it shall come into operation on some other date, on that date.

Disallowance of laws.

52.—(1) Any law to which the Governor has assented may be disallowed by Her Majesty through a Secretary of State.

(2) Whenever any law has been disallowed by Her Majesty the Governor shall cause notice of the disallowance to be published in the Gazette.

(3) A law disallowed by Her Majesty shall be annulled with effect from the date of publication of notice of the disallowance.

(4) Section 38(2) of the Interpretation Act 1889(a) shall apply to the annulment of any law under this section as it applies to the repeal of an Act of Parliament, save that any enactment amended or repealed by or in pursuance of that law shall have effect as from the date of the annulment as if that law had not been made.

(a) 1889 c. 63.

Governor's reserved power.

53.—(1) If the Governor considers that it is expedient in the interest of public order, public faith or good government (which expressions shall, without prejudice to their generality, include the responsibility of the Protectorate as a territory within the Commonwealth, and all matters pertaining to the creation or abolition of any public office or to the salary or other conditions of service of any public officer), that any Bill introduced, or any motion proposed, in the Legislative Assembly should have effect, then, if the Assembly fail to pass such Bill or to carry such motion within such time and in such form as the Governor thinks reasonable and expedient, the Governor may, at any time that he thinks fit, and notwithstanding any provisions of this Constitution or of any rules of procedure of the Assembly, declare that such Bill or motion shall have effect as if it had been passed or carried by the Assembly either in the form in which it was so introduced or proposed or with such amendments as the Governor thinks fit that have been moved or proposed in the Assembly, including any committee thereof; and the Bill or the motion shall be deemed thereupon to have been so passed or carried, and the provisions of this Constitution, and in particular the provisions relating to assent to Bills and disallowance of laws, shall have effect accordingly.

(2) The Governor shall forthwith report to a Secretary of State every case in which he makes any such declaration and the reasons therefor.

(3) If any member of the Legislative Assembly objects to any declaration made under this section, he may, within seven days of the making thereof, submit to the Governor a statement in writing of his reasons for so objecting, and a copy of such statement shall, if furnished by such member, be forwarded by the Governor as soon as practicable to a Secretary of State.

(4) Any declaration made under this section, other than a declaration relating to a Bill, may be revoked by a Secretary of State and the Governor shall cause notice of such revocation to be published in the Gazette; and from the date of such publication any motion that is deemed to have been carried by virtue of the declaration shall cease to have effect and the provisions of section 38(2) of the Interpretation Act 1889 shall apply to such revocation as they apply to the repeal of an Act of Parliament.

(5) The powers conferred on the Governor by this section shall be exercised by him in his discretion.

Procedure

Rules of procedure of the Legislative Assembly.

54. Subject to the provisions of this Constitution, the Legislative Assembly may from time to time make, amend and revoke rules and orders for the regulation and orderly conduct of its proceedings and the despatch of business, and for the passing, intituling and numbering of Bills and the presentation thereof to the Governor for assent:

Provided that no such rules or orders shall have effect unless they have been approved by the Governor.

Oath of allegiance.

55. No member of the Legislative Assembly shall be permitted to take part in the proceedings of the Assembly (other than proceedings necessary for the purpose of this section) until he has made before the Assembly an oath of allegiance in the form set out in the Annex to this Constitution.

The Speaker and Deputy Speaker.

56.—(1) There shall be a Speaker of the Legislative Assembly who shall be appointed by the Governor, acting after consultation with the elected members of the Assembly, from among persons who are not members of the Assembly.

(2) The Governor shall appoint as Deputy Speaker of the Legislative Assembly such person as may be nominated by the elected members of the Assembly from amongst their number.

(3) The Speaker and Deputy Speaker shall hold office during Her Majesty's pleasure and, subject thereto, for such period as may be specified in the instrument by which each is appointed.

(4) Any appointment made under subsections (1) and (2) of this section shall be by instrument under the public seal.

(5) No person shall be appointed as Speaker or Deputy Speaker if—

(*a*) he is not a British subject or a British protected person ;

(*b*) he is a person disqualified for election as an elected member of the Legislative Assembly by virtue of any provision of section 44 of this Constitution other than paragraph (*b*) of subsection (1) thereof.

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

(*a*) if he announces the resignation of his office to the Legislative Assembly or if, by writing under his hand addressed to the Assembly and received by the Clerk of the Assembly, he resigns that office ;

(*b*) if he ceases to be a British subject or a British protected person ;

(*c*) if any circumstances arise that would cause him to be disqualified for election as an elected member of the Legislative Assembly by virtue of any provision of section 44 of this Constitution other than paragraph (*b*) of subsection (1) thereof ;

(*d*) if he is at the date of his appointment a party to (or a partner in a firm or a director or manager of a company which is a party to) any contract with the Government of the Protectorate for or on account of the public service and if, before the expiration of a period of thirty days from the date of his appointment, he has not disclosed to the Legislative Assembly the nature of such contract and his interest, or the interest of such firm or company, therein and the Assembly has not exempted him from vacating his office under this paragraph ; or

(*e*) on a dissolution of the Legislative Assembly.

Presiding in the Legislative Assembly.

57.—(1) Subject to the provisions of subsection (2) of this section, the Speaker or, in his absence or when his office is vacant, the Deputy Speaker shall preside at each sitting of the Legislative Assembly.

(2) If both the Speaker and Deputy Speaker are absent or their offices are vacant, there shall preside at each sitting of the Assembly such elected member of the Legislative Assembly as the Governor, acting in his discretion, may generally or specifically designate.

Quorum.

58. If objection is taken by any member of the Legislative Assembly present that there are present in the Assembly (besides the person presiding) less than twelve members of the Assembly and, after such interval as may be prescribed in the rules of procedure of the Assembly, the person presiding ascertains that the number of members present is still less than twelve, he shall thereupon adjourn the Assembly.

Proceedings in the Legislative Assembly.

59. Subject to the provisions of the previous section, the Legislative Assembly shall not be disqualified for the transaction of business by reason of any vacancy in its membership, and any proceedings in the Assembly shall be valid notwithstanding that some person who was not entitled to do so took part in those proceedings.

Privileges of Legislative Assembly and its members.

60. A law made under this Constitution may determine and regulate the privileges, immunities and powers of the Legislative Assembly and its members, but no such privileges, immunities or powers shall exceed those of the Commons House of Parliament of the United Kingdom of Great Britain and Northern Ireland or of its members.

Proceedings of the Legislative Assembly to be held in public.

61. The proceedings of the Legislative Assembly shall be held in public except in so far as its rules of procedure otherwise provide.

Voting.

62.—(1) Subject to the provisions of this Constitution, all questions proposed for decision in the Legislative Assembly shall be determined by a majority of the votes of the members present and voting.

(2) If the person presiding is:

(*a*) the Speaker, he shall have neither an original nor a casting vote;

(*b*) the Deputy Speaker or a member designated by the Governor in accordance with the provisions of section 57(2) of this Constitution, he shall not have an original vote but shall have and shall exercise a casting vote if on any question the votes are equally divided.

(3) Subject to the provisions of subsection (2)(*b*) of this section, if upon any question the votes are equally divided the motion shall be declared lost.

Summoning, Prorogation and Dissolution

Sessions of the Legislative Assembly.

63.—(1) Subject to the provisions of this section, each session of the Legislative Assembly shall be held at such place within the Protectorate and shall commence at such time as the Governor, acting in his discretion, may appoint by proclamation published in the Gazette.

(2) The first session of the Legislative Assembly shall be held within six months after the appointed day, and thereafter sessions shall be held so that a period of twelve months does not intervene between the end of one session and the first sitting of the Assembly in the next session.

Prorogation and dissolution.

64.—(1) The Governor, acting in his discretion, may at any time prorogue or dissolve the Legislative Assembly by proclamation published in the Gazette.

(2) The Governor shall dissolve the Legislative Assembly at the expiration of three years from the appointed day and thereafter at the expiration of four years from the date when the Assembly first sits after any general election unless the Assembly has been sooner dissolved under subsection (1) of this section.

General elections.

65. There shall be a general election at such time within four months of every dissolution of the Legislative Assembly as the Governor, acting in his discretion, shall appoint by proclamation published in the Gazette.

CHAPTER V

Public Service Commission

Public Service Commission.

66.—(1) There shall be for the Protectorate a Public Service Commission, and subject to the provisions of subsection (3) of this section, the Commission shall consist of a Chairman and such other members as may be appointed by the Governor in such manner as may be prescribed by regulations made under section 68 of this Constitution.

(2) The Governor may terminate the appointment of any member of the Commission at any time and, subject as aforesaid, the members of the Commission shall hold office upon such terms and conditions as may be prescribed by regulations made under section 68 of this Constitution.

(3) No person shall be appointed, or shall remain, a member of the Public Service Commission if he is, or becomes—

(*a*) a member of the Legislative Assembly ; or

(*b*) an officer of any society or association which the Governor is satisfied is of a political nature.

(4) The powers conferred on the Governor by this section shall be exercised by him in his discretion.

Functions of Public Service Commission.

67.—(1)(*a*) The Governor may refer to the Public Service Commission for their advice any question which relates to the appointment, promotion, transfer, termination of appointment, dismissal or disciplinary control of public officers, and any other question which, in his opinion, affects the public service or any public officer.

(*b*) The power conferred on the Governor by this subsection to refer to the Commission any question relating to or affecting any public officer shall not apply in relation to—

(i) the Attorney-General or any officer subordinate to the Attorney-General who is required to possess legal qualifications ; or

(ii) any person holding any office in the public service, or class of office in the public service, excluded from the purview of the Public Service Commission by regulations made by the Governor.

(2) The Governor may, by regulations, authorise any public officer or class of public officer to seek on his behalf, subject to such conditions as may be prescribed in the regulations, the advice of the Public Service Commission on any question on which the Governor may seek advice under the last foregoing subsection.

(3) It shall be the duty of the Public Service Commission to advise the Governor, or any public officer authorised to seek their advice on his behalf, on any question referred to them in accordance with the provisions of this section, but the Governor or such public officer shall not be obliged to act in accordance with their advice.

(4) The powers conferred on the Governor by this section shall be exercised by him in his discretion.

Regulations regarding Public Service Commission.

68.—(1) Subject to the provisions of this Part of this Constitution, the Governor, acting in his discretion, may make regulations for giving effect to the provisions of the two last foregoing sections, and in particular and without prejudice to the generality of the foregoing power, may by such regulations provide for all or any of the following matters relating to the Public Service Commission—

(*a*) the number of members of the Commission additional to the Chairman ;

(*b*) the appointment, tenure of office and terms of service of members of the Commission and of their staff ;

(*c*) the organisation of the work of the Commission ;

(*d*) consultation by the Commission with other persons or authorities ;

(*e*) the delegation to any member of the Commission of all or any of the functions of the Commission ;

(*f*) the protection and privileges of members of the Commission in performing their functions, and the privilege in legal proceedings of communications to and from the Commission or members of the Commission ;

(*g*) the attendance of persons for the purpose of answering questions arising at any enquiry by the Commission or relating to their functions ; and

(*h*) the definition and trial of offences connected with the functions of the Commission and the imposition of penalties for such offences :

Provided that no such penalty shall exceed a fine of two hundred and fifty dollars and imprisonment for a term of one year.

(2) Regulations made under this section or the last foregoing section shall be published in the Gazette and shall have effect as from the date of publication.

CHAPTER VI

INTERPRETATION

Interpretation.

69.—(1) In this Constitution, unless the context otherwise requires—

"the Chief Justice" means the Chief Justice of the Western Pacific ;

"existing law" means any law that has effect as part of the law of the Protectorate immediately before the appointed day and is not revoked by the Order to which this Constitution is scheduled but does not include any Act of the Parliament of the United Kingdom ;

"functions" include rights, duties and powers ;

" the Gazette " means the British Solomon Islands Protectorate Gazette ;

" general election " means a general election of the elected members of the Legislative Assembly ;

" the High Court " means the High Court of the Western Pacific as reconstituted by the Western Pacific (Courts) Order in Council 1961(a) ;

" law " means any Act of Parliament, Order of Her Majesty in Council, Ordinance, proclamation, regulation, order, rule or other like instrument having the force of law ;

" local enactment " means any law made under this Constitution, any subsidiary instrument made under any such law and any existing law ;

" meeting " in relation to the Legislative Assembly means any sittings of the Assembly commencing when the Assembly first meets after being summoned at any time, and terminating when the Assembly is adjourned *sine die* or at the conclusion of a session ;

" Minister " means the Chief Minister or a Minister referred to in section 27(*b*) of this Constitution ;

" oath " includes affirmation ;

" the Protectorate " means the British Solomon Islands Protectorate ;

" public office " means, subject to the provisions of subsections (4) and (5) of this section, an office of emolument in the public service ;

" public officer " means a person holding or acting in any public office ;

" the public seal " means the public seal of the Protectorate ;

" the public service " means the service of the Crown in a civil capacity in respect of the government of the Protectorate ;

" session " means the sittings of the Legislative Assembly commencing when the Assembly first meets after the appointed day or after its prorogation or dissolution at any time and ending when the Assembly is prorogued or is dissolved without having been prorogued ;

" sitting " means, in relation to the Legislative Assembly, a period during which the Assembly sits without adjournment and includes any period during which the Assembly is in committee ;

" subsidiary instrument " means any proclamation, regulation, order, rule or other like instrument having the force of law.

(2) Any reference in this Constitution to power to make appointments to any office shall be construed as including a reference to power to appoint a person to act or perform the functions of that office during any period during which it is vacant or during which the holder thereof is unable (whether by reason of absence or of infirmity of body or mind or any other cause) to perform those functions.

(a) S.I. 1961/1506 (1961 II, p. 3066).

(3) In this Constitution, unless the context otherwise requires, a reference to the holder of an office by the term designating his office shall be construed as including a reference to any person who is for the time being lawfully acting in or performing the functions of that office.

(4) Reference to a public officer or public office in Chapters III and IV of this Constitution shall be construed as including references to a judge of the High Court in the service of the Protectorate or, as the case may be, to the office of such a judge ; but such references in other provisions of this Constitution shall not be so construed.

(5) For the purposes of this Constitution a person shall not be treated as holding, or acting in, a public office by reason only that he—

(*a*) is on leave of absence pending relinquishment of a public office, or is on leave of absence without salary from a public office ;

(*b*) is receiving a pension or other like allowance from the Crown ;

(*c*) is receiving any remuneration or allowance as a member of the Legislative Assembly or the Council of Ministers ;

(*d*) is a special constable or a retired or reserve member of Her Majesty's forces ;

(*e*) is a headman, or a member of a local government council established under any law for the time being in force in the Protectorate ;

(*f*) is in receipt of any remuneration or allowance as a member of the Public Service Commission ; or

(*g*) is the holder of an office in the service or appointment of the Crown, or is performing any functions on behalf of the Crown, if the only payments he receives in respect of that office or those functions are by way of travelling or subsistence allowances or a refund of out-of-pocket expenses—

Provided that provision in any law for the time being in force in the Protectorate that a person shall not be treated as holding, or acting in, a public office for all or any of the purposes of this Constitution shall have effect as if it were included in this Constitution.

(6) Whenever the holder of any office constituted for the Protectorate by or under this Constitution, or any public office otherwise constituted, is on leave of absence pending relinquishment of his office—

(*a*) another person may be appointed to that office ; and

(*b*) that person shall, for the purpose of any function of that office, be deemed to be the sole holder of that office.

(7) Any person who has vacated his seat in the Council of Ministers or in the Legislative Assembly or has vacated any other office constituted for the Protectorate under this Constitution, may, if qualified, be reappointed or re-elected, as the case may require, from time to time.

(8) Where any power is conferred by this Constitution to make any proclamation, regulation, order or rule, or to give any direction or instructions, the power shall be construed as including the power, exercisable in like manner, to amend or revoke any such proclamation, regulation, order, rule, direction or instructions.

(9) Save as otherwise provided in this Constitution the Interpretation Act 1889 shall apply, with the necessary adaptations, for the purpose of interpreting this Constitution, and otherwise in relation thereto, as it applies for the purpose of interpreting, and in relation to, Acts of Parliament of the United Kingdom.

ANNEX TO THE CONSTITUTION

Sections 18(b), 20(2), 32 and 55

FORMS OF OATHS AND AFFIRMATIONS

1. Oath of Allegiance

I, ..., do swear [*or* solemnly affirm] that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, Her Heirs and Successors, according to law. [So help me God.]

2. Oath for the due execution of the office of Governor

I, ..., do swear [*or* solemnly affirm] that I will well and truly serve Her Majesty Queen Elizabeth II, Her Heirs and Successors, in the office of Governor of the British Solomon Islands Protectorate. [So help me God.]

3. Oath for the due execution of the office of member of the Council of Ministers.

I, ..., being a member of the Council of Ministers, do swear [*or* solemnly affirm] that I will to the best of my judgment, at all times when so required, freely give my counsel and advice to the Governor of the British Solomon Islands Protectorate (or any other person for the time being lawfully performing the functions of the office of Governor) for the good management of the public affairs of the Protectorate, and I do further swear [*or* solemnly affirm] that I will not on any account, at any time whatsoever, disclose the counsel, advice, opinion or vote of any particular member of the Council of Ministers, and that I will not, except with the authority of the Governor and to such extent as may be required for the good management of the affairs of the Protectorate, directly or indirectly reveal the business or proceedings of the Council of Ministers or any matter coming to my knowledge in my capacity as a member of the Council and that in all things I will be a true and faithful member of the Council. [So help me God.]

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

This Order provides a new Constitution for the British Solomon Islands Protectorate. It establishes the offices of Governor, Deputy Governor, Speaker and Deputy Speaker and provides for the election of a Chief Minister and the appointment of Ministers. The existing Governing Council is replaced by a Council of Ministers and a Legislative Assembly.

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