1966 No. 575

CARIBBEAN AND NORTH ATLANTIC TERRITORIES

The Guyana Independence Order 1966

Made - - - -	16*th May* 1966
Laid before Parliament	20*th May* 1966
Coming into Operation	
Sections 4 *and* 13	16*th May* 1966
Remainder - -	26*th May* 1966

At the Court at Buckingham Palace, the 16th day of May 1966

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers vested in Her by sections 6 and 7 of the Guyana Independence Act 1966(a) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation, commencement and construction.

1.—(1) This Order may be cited as the Guyana Independence Order 1966.

(2) Subject to the provisions of sections 4 and 13 of this Order, this Order shall come into operation on 26th May 1966 (in this Order referred to as " the appointed day ").

(3) Save where the context otherwise requires, expressions used in sections 1 to 19 (inclusive) of this Order have the same meaning as in the Constitution set out in Schedule 2 to this Order and the provisions of article 125 of that Constitution shall apply for the purpose of interpreting those sections as they apply for the purpose of interpreting that Constitution.

(4) References in article 92 of the said Constitution to any question as to the interpretation of that Constitution shall be construed as including references to any question as to the interpretation of any provision of this Order.

Revocations and amendments.

2.—(1) The Orders in Council specified in Schedule 1 to this Order (hereinafter referred to as " the existing Orders ") are revoked.

(2) The British Caribbean Court of Appeal Order in Council 1962(b) (as amended by the British Caribbean Court of Appeal (Amendment) (No. 2) Order in Council 1962(c)) is amended by the deletion of paragraph (*c*) (which specifies British Guiana) of the definition of " the Territories " in article 2(1); and the last mentioned Order is amended by the deletion of the words " and of the Supreme Court of British Guiana " in paragraph (*b*) of article 3(1).

(a) 1966 c. 14.
(b) S.I. 1962/1086 (1962 II, p. 1247). (c) S.I. 1962/1870 (1962 II, p. 2186).

Establishment of Constitution

3. Subject to the provisions of the next following section and to the other provisions of this Order, the Constitution of Guyana set out in Schedule 2 to this Order (hereinafter referred to as "the Constitution") shall come into effect on the appointed day.

Exercise before appointed day by the Governor of powers of the Governor-General.

4.—(1) Where the Governor-General has power by or under this Order to make any appointment or make any order (other than an order under section 5(4) of this Order relating to any Act of the Parliament of the United Kingdom or any Order of Her Majesty in Council) or to do any other thing for the purposes of this Order, that power may be exercised by the Governor and Commander-in-Chief of the Colony of British Guiana (hereinafter referred to as "the Governor") at any time after the making of this Order to such extent as may, in his opinion, be necessary or expedient to enable the Constitution to function as from the appointed day.

(2) For the purposes of the exercise by the Governor under the preceding subsection of any power conferred by the Constitution, the provisions of the Constitution relating to the exercise of that power by the Governor-General (including any provisions requiring any person or authority to consult with, or obtain the concurrence of, any other person or authority before tendering any advice or recommendation to the Governor-General) shall apply and have effect, but any references therein to the Prime Minister, the Attorney-General, the Cabinet, the Government or the National Assembly of Guyana or the Speaker or members of the National Assembly shall be construed as if they were references respectively to the Prime Minister, the Attorney-General, the Council of Ministers, the Government or the House of Assembly of the Colony of British Guiana or the Speaker or members of the House of Assembly.

Existing laws.

5.—(1) Subject to the provisions of this Order, all laws (including laws made or having effect as if made under the existing Orders) in force in, or otherwise having effect as part of the law of, British Guiana immediately before the appointed day (in this section referred to as "existing laws") shall continue to have effect as part of the law of Guyana on and after that day but all such laws shall, as from that day, be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Guyana Independence Act 1966 and this Order.

(2) Where any matter that falls to be prescribed or otherwise provided for under the Constitution by Parliament or by any other authority or person is prescribed or provided for by or under an existing law (including any amendment to any such law made under this section) or is otherwise prescribed or provided for immediately before the appointed day by or under the existing Orders, that prescription or provision shall, as from that day, have effect (with such modifications, adaptations, qualifications and exceptions as may be necessary to bring it into conformity with the Guyana Independence Act 1966 and this Order) as if it had been made under the Constitution by Parliament or, as the case may require, by the other authority or person.

(3) Without prejudice to the generality of the foregoing provisions of this section, if a proclamation of emergency is in force under article 14 of the Constitution set out in the Annex to the British Guiana (Constitution) Order in Council 1961(a) immediately before

(a) S.I. 1961/1188 (1961 II, p. 2152).

the appointed day by virtue of a resolution of the House of Assembly, the proclamation shall, as from the appointed day, have effect as if it had been made under article 16 of the Constitution of Guyana and (without prejudice to its continuance in force for further periods by virtue of the provisions of paragraph (3)(*c*) of the said article) as if its continuance in force to the date referred to in that resolution had been approved by a resolution of the National Assembly; and if any person is on the appointed day detained or restricted in the manner referred to in article 17(1) of the Constitution of Guyana the provisions of that article requiring his case to be reviewed by a tribunal established for the purposes of that article not later than three months from the commencement of the detention or restriction shall, in relation to that person, have effect as if the detention or restriction had commenced on the appointed day.

(4) The Governor-General may by order made at any time before 26th May 1967 make such amendments to any existing law as may appear to him to be necessary or expedient for bringing that law into conformity with the provisions of the Guyana Independence Act 1966 and this Order or otherwise for giving effect or enabling effect to be given to those provisions.

(5) An order made by the Governor-General under the preceding subsection shall have effect from such day, not earlier than the appointed day, as may be specified therein.

(6) The provisions of this section shall be without prejudice to any powers conferred by this Order or by any other law upon any person or authority to make provision for any matter, including the amendment or repeal of any existing law.

(7) Nothing contained in or done under the authority of any written law having effect as part of the law of British Guiana immediately before 18th July 1961 (being the date appointed under section 1(2) of the British Guiana (Constitution) Order in Council 1961) and, except in proceedings commenced before 26th November 1966, nothing contained in or done under the authority of any law made under the existing Orders shall be held to have been inconsistent with or in contravention of any provision of articles 2 to 12 (inclusive) of the Constitution set out in the Annex to the said Order of 1961; and accordingly, except in so far as any such law has before the appointed day been repealed or held to be inconsistent with any such provision, and without prejudice to any proceedings commenced before 26th November 1966 (including proceedings commenced before the appointed day) with respect to a law made under the existing Orders, any such law shall, notwithstanding any inconsistency with any such provision, be deemed for the purposes of subsection (1) of this section and of article 18(1) of the Constitution to be a law having effect as part of the law of British Guiana immediately before the appointed day.

(8) In this section "amendment" includes modification and adaptation.

Ministers, Attorney-General and Parliamentary Secretaries.

6.—(1) The persons who immediately before the appointed day hold office as Prime Minister or other Minister, Attorney-General or Parliamentary Secretary shall, as from the appointed day, hold the like offices as if they had been appointed thereto in accordance with the provisions of the Constitution, and shall be deemed to have taken and subscribed any necessary oath under the Constitution.

(2) Any person holding the office of Prime Minister or other Minister by virtue of the provisions of the preceding subsection who, immediately before the appointed day, was charged with responsibility for any matter or department of Government under the existing Orders shall, as from the appointed day, be deemed to have been assigned responsibility for that matter or department under article 36 of the Constitution.

High Court.

7.—(1) The persons who immediately before the appointed day are members of the House of Assembly constituted by the existing Orders (in this section referred to as " the existing Assembly ") shall as from the appointed day be deemed to have been elected as members of the National Assembly in pursuance of the provisions of article 58 of the Constitution, and shall hold their seats in the National Assembly in accordance with the provisions of the Constitution ; and accordingly any reference in the Constitution to a list of candidates entered at, or anything done as a result of, the preceding election of members of the National Assembly shall, until an election to the Assembly is held, be construed as a reference to a list of candidates entered at, or the corresponding thing done as a result of, the election of members of the existing Assembly next preceding the appointed day.

(2) The persons who immediately before the appointed day are the Speaker and Deputy Speaker of the existing Assembly shall as from the appointed day be deemed to have been elected as such in pursuance of article 62 of the Constitution, and shall hold office in accordance with the provisions of that article.

(3) Unless and until the National Assembly otherwise resolves, any person who is a member of the Assembly by virtue of the preceding provisions of this article shall be deemed to have made and subscribed before the Assembly the oaths referred to in article 76 of the Constitution.

(4) The Standing Orders of the existing Assembly as in force immediately before the appointed day shall, until it is otherwise provided by the National Assembly under article 74(1) of the Constitution, be the rules of procedure of the National Assembly but they shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.

(5) Notwithstanding anything contained in article 82(3) of the Constitution (but subject to the provisions of paragraphs (4) and (5) of that article) Parliament shall, unless sooner dissolved, stand dissolved on 1st January 1969.

(6) Until Parliament otherwise provides, the fifty-third day before the day appointed for the holding of the election shall be the day prescribed for the purposes of paragraph (*b*) of article 59 of the Constitution.

Parliament.

8.—(1) The Supreme Court of British Guiana in existence immediately before the appointed day shall, as from that day, be the High Court for the purposes of the Constitution, and any proceedings pending before the Supreme Court immediately before the appointed day may be continued and any judgment of that Court given, but not satisfied, before that day may be enforced accordingly.

(2) The provisions of section 11 of this Order shall apply in relation to the offices of Chief Justice or Puisne Judge as if those offices were

public offices, and any person who, by virtue of the provisions of this subsection, holds or acts in any such office as from the appointed day shall be deemed to have taken and subscribed any necessary oath under the Constitution.

Appeals to British Caribbean Court of Appeal.

9.—(1) Any proceedings pending immediately before the appointed day on appeal from the Supreme Court of British Guiana to the British Caribbean Court of Appeal may be continued on or after that day before the Court of Appeal established by the Constitution.

(2) Any judgment of the British Caribbean Court of Appeal in an appeal from the Supreme Court given, but not satisfied, before the appointed day of this Order, may be enforced on or after that day as if it were a judgment of the Court of Appeal established by the Constitution.

Appeals to Her Majesty in Council.

10. Until Parliament otherwise provides, an appeal shall lie under article 92(2) of the Constitution from decisions of the Court of Appeal to Her Majesty in Council in the cases mentioned in paragraphs (*a*) and (*b*) of section 3 of the British Caribbean (Appeal to Privy Council) Order in Council 1962(a) as if references therein to the British Caribbean Court of Appeal were references to the Court of Appeal established by the Constitution.

Existing public officers.

11.—(1) Every person who immediately before the appointed day holds or is acting in a public office shall, as from the appointed day, hold or act in that office or the corresponding office established by the Constitution as if he had been appointed to do so in accordance with the provisions of the Constitution:

Provided that any person who under the existing Orders or any existing law would have been required to vacate his office at the expiration of any period shall vacate his office at the expiration of that period.

(2) In this section "existing law" has the same meaning as in section 5 of this Order.

(3) Nothing in this section shall be construed as applying to any person who immediately before the appointed day holds or is acting in the office of Clerk or Deputy Clerk of the House of Assembly, appointed member of the Judicial Service Commission or member of the Public Service Commission or the Police Service Commission established by the existing Orders.

Delegation of powers of appointment, etc., of public officers.

12.—(1) Any power of the Governor that, immediately before the appointed day, is validly delegated to any person under the existing Orders or is deemed to have been so delegated by virtue of section 17 of the British Guiana (Constitution) Order in Council 1961 shall, to the extent that that power could be delegated under article 94(2) or 96(2) of the Constitution to that person, be deemed, as from the appointed day and until the Judicial Service Commission or the Public Service Commission, as the case may be, otherwise directs, to have been so delegated:

Provided that, where a power is deemed by virtue of the provisions of this subsection to have been delegated in a manner which, if the delegation had been made under the said article 96(2), would have

(a) S.I. 1962/1087 (1962 II, p. 1255).

required the consent of the Prime Minister, the Prime Minister (in addition to the Public Service Commission) may direct that the power shall no longer be deemed to have been so delegated.

(2) Where any law having effect immediately before the appointed day confers on any member of the Police Force any of the powers referred to in paragraph (1) or (3) of article 108 of the Constitution that power shall, to the extent that it could have been delegated under paragraph (2) or (4) of that article to that member, be deemed, as from the appointed day and until the Police Service Commission or the Commissioner of Police, as the case may be, otherwise directs, to have been so delegated.

(3) Any act done by way of the exercise of disciplinary control by a member of the Police Force over another such member at any time between the coming into force of Part VI of the Constitution set out in the Annex to the British Guiana (Constitution) Order in Council 1961 and the appointed day that would have been valid had regulation 56 or 57 of the Police Regulations(a) or the Delegation of Powers (Police Officers) Regulations 1960(b) been a law of the Legislature in force at that time for the purposes of article 103 of that Constitution shall be deemed to have been validly done:

Provided that nothing in this subsection shall affect any proceedings with respect to any such act instituted before the making of this Order.

Regulations relating to retirement of certain public officers and the payment of benefits thereto.

13.—(1) The Governor may, with the concurrence of a Secretary of State, make by regulations such provision as appears to him to be necessary or expedient for the retirement from the public service of such persons or classes of persons holding office in that service as may be specified by or under those regulations and for the payment of compensation, pensions, gratuities and other like allowances in such cases.

(2) The preceding subsection shall have effect as if service as a Judge of the Supreme Court established by the existing Orders or as a Judge of the Supreme Court of Judicature or the Clerk or Deputy Clerk of the National Assembly established by the Constitution were service in the public service.

(3) All sums payable by virtue of regulations made under this section shall be a charge on and paid out of the revenues of British Guiana or, as from the appointed day, the Consolidated Fund of Guyana.

(4) This section shall come into operation forthwith.

Appeals in respect of certain decisions affecting pensions benefits.

14.—(1) The provisions of this section shall have effect for the purpose of enabling an officer to whom this section applies or his personal representatives to appeal against any of the following decisions, that is to say:—

(*a*) a decision of the appropriate Commission to give such concurrence as is required by paragraph (1) or (2) of article 104 of the Constitution in relation to the refusal, withholding, reduction in amount or suspending of any pensions benefits in respect of such an officer's service as a public officer;

(*b*) a decision of any authority to remove such an officer from office if the consequence of the removal is that any pensions benefits

(a) Laws of British Guiana, Rev. Edn. 1953, Vol. VIII, c. 77.
(b) Regs. No. 23 of 1960.

cannot be granted in respect of the officer's service as a public officer ; or

(*c*) a decision of any authority to take some other disciplinary action in relation to such an officer if the consequence of the action is, or in the opinion of the authority might be, to reduce the amount of any pensions benefits that may be granted in respect of the officer's service as a public officer.

(2) Where any such decision as is referred to in subsection (1) of this section is taken by any authority, the authority shall cause to be delivered to the officer concerned, or to his personal representatives, a written notice of that decision stating the time, not being less than twenty-eight days from the date on which the notice is delivered, within which he, or his personal representatives, may apply to the authority for the case to be referred to an Appeals Board.

(3) If application is duly made within the time stated in the notice, the authority shall notify the Prime Minister in writing of that application and the Prime Minister shall thereupon appoint an Appeals Board consisting of—

(*a*) one member selected by the Prime Minister ;

(*b*) one member selected by an association representative of public officers or a professional body, nominated in either case by the applicant ; and

(*c*) one member selected by the two other members jointly (or, in default of agreement between those members, by the Judicial Service Commission) who shall be the Chairman of the Board.

(4) The Appeals Board shall enquire into the facts of the case, and for that purpose—

(*a*) shall, if the applicant so requests in writing, hear the applicant either in person or by a legal representative of his choice, according to the terms of the request, and shall consider any representations that he wishes to make in writing ;

(*b*) may hear any other person who, in the opinion of the Board, is able to give the Board information on the case ; and

(*c*) shall have access to, and shall consider, all documents that were available to the authority concerned and shall also consider any further document relating to the case that may be produced by or on behalf of the applicant or the authority.

(5) When the Appeals Board has completed its consideration of the case, then—

(*a*) if the decision that is the subject of the reference to the Board is such a decision as is mentioned in paragraph (*a*) of subsection (1) of this section, the Board shall advise the appropriate Commission whether the decision should be affirmed, reversed or modified and the Commission shall act in accordance with that advice ; and

(*b*) if the decision that is the subject of the reference to the Board is such a decision as is referred to in paragraph (*b*) or paragraph (*c*) of subsection (1) of this section, the Board shall not have power to advise the authority concerned to affirm, reverse or modify the decision but—

(i) where the officer has been removed from office the Board may direct that there shall be granted all or any part of the pensions benefits that, under any law, might have been granted

in respect of his service as a public officer if he had retired voluntarily at the date of his removal and may direct that any law with respect to pensions benefits shall in any other respect that the Board may specify have effect as if he had so retired ; and

(ii) where some other disciplinary action has been taken in relation to the officer the Board may direct that, on the grant of any pensions benefits under any law in respect of the officer's service as a public officer, those benefits shall be increased by such amount or shall be calculated in such manner as the Board may specify in order to offset all or any part of the reduction in the amount of those benefits that, in the opinion of the Board, would or might otherwise be a consequence of the disciplinary action,

and any direction given by the Board under this paragraph shall be complied with notwithstanding the provisions of any other law.

(6) In this section—

" pensions benefits " means any benefits to which article 104 of the Constitution applies ; and

" legal representative " means a person entitled to practise as an advocate or a solicitor in Guyana.

(7) This section applies to any officer who is the holder of a pensionable office and who is designated under the Overseas Service Aid Scheme.

Temporary provision relating to recruitment to the Police Force.

15. During the period beginning with the appointed day and ending immediately before 22nd December 1970, nothing in article 15 of the Constitution shall prevent the power to make appointments to offices in the Police Force under article 108(3) of the Constitution from being exercised in accordance with the recommendation contained in paragraph 69 of the Report of the Commission of Inquiry referred to in the British Guiana (Constitution) (No. 3) Order 1965(a), being the recommendation set out in section 2 of the said Order.

Emergency Powers Order in Council 1939.

16. The Emergency Powers Order in Council 1939(b) and any Order in Council amending that Order shall cease to have effect as part of the law of Guyana on 26th May 1967 or such earlier date as Parliament may prescribe.

Alteration of certain provisions of Amerindian Lands Commission Ordinance 1966.

17.—(1) Notwithstanding anything contained in the Constitution, sections 2 and 3 of the Amerindian Lands Commission Ordinance 1966(c) enacted by the Legislature constituted by the existing Orders, as in force immediately before the appointed day, may be altered by Parliament only in the same manner as the provisions specified in paragraph (*b*) of article 73(3) of the Constitution.

(2) Article 73(4) of the Constitution shall apply for the purpose of construing references in this section to any provision of the Amerindian Lands Commission Ordinance 1966 and to the alteration of any such provision as it applies for the purpose of construing references in the said article 73 to any provision of the Constitution and to the alteration of any such provision.

(a) S.I. 1965/2161 (1965 III, p. 6332). (b) See S.I. 1952 I at p. 621
(c) No. 23 of 1966.

Appeals to Her Majesty in Council and to Judicial Committee if a resolution is passed under article 73(5) of Constitution.

18. If the National Assembly passes a resolution in accordance with the provisions of article 73(5) of the Constitution then—

(1) as from the day specified in the resolution—

(*a*) subject to the provisions of paragraph (2) of this section, no appeal shall lie to Her Majesty in Council, whether as of right or by leave either of Her Majesty in Council or of any court established for Guyana, from any decision given in any civil or criminal matter by any such court;

(*b*) the Judicial Committee shall have and exercise the jurisdiction in respect of appeals from the Court of Appeal and in respect of proceedings concerning Judges of the Supreme Court of Judicature that, in the law of Guyana, is conferred on the Committee by Chapter VII of the Constitution or any Act of Parliament;

(*c*) the provisions of the Judicial Committee Act 1833(a) and of any rules made thereunder from time to time shall, in so far as they relate to the powers of the Committee and the procedure to be adopted with respect to proceedings before the Committee, apply in relation to such appeals to or other proceedings before the Committee, and for that purpose they shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary by reason of the nature of those proceedings or otherwise to bring them into conformity with the provisions of the Constitution and any such Act;

(2) any appeal or petition for special leave to appeal to Her Majesty in Council from a decision of the Court of Appeal, being an appeal or a petition that is pending immediately before the day specified as aforesaid and—

(*a*) in the case of an appeal, is one in which the records have been registered in the Office of the Privy Council before that day; or

(*b*) in the case of a petition, is one that has been filed in that Office before that day,

shall continue to lie to Her Majesty in Council and may be prosecuted and disposed of in accordance with the law regulating the procedure in such appeals that is in force immediately before that day;

(3) any Order made by Her Majesty in Council on any appeal that lies to Her Majesty in Council by virtue of the preceding paragraph or on any appeal that has been made to Her Majesty in Council at any time before the day specified as aforesaid shall be enforced in accordance with the law regulating the enforcement of such Orders that is in force immediately before that day.

Alteration of this Order.

19.—(1) Parliament may alter any of the provisions of this Order (in so far as those provisions form part of the law of Guyana) in the same manner as it may alter any of the provisions of the Constitution:

Provided that—

(*a*) sections 3 and 7(5) and this section may be altered by Parliament only in the same manner as the provisions specified in paragraph (*a*) of article 73(3) of the Constitution; and

(a) 1833 c. 41.

(*b*) sections 8, 9, 11, 13, 14, 15, 17 and 18 may be altered by Parliament only in the same manner as the provisions specified in paragraph (*b*) of the said article 73(3).

(2) Article 73(4) of the Constitution shall apply for the purpose of construing references in this section to any provision of this Order and to the alteration of any such provision as it applies for the purpose of construing references in the said article 73 to any provision of the Constitution and to the alteration of any such provision.

W. G. Agnew.

SCHEDULE 1 TO THE ORDER

Section 2(1).

EXISTING ORDERS REVOKED BY THIS ORDER

Titles of Orders	*References*
The British Guiana (Constitution) Order in Council 1961.	S.I. 1961/1188 (1961 II, p. 2152).
The British Guiana (Emergency Provisions) Order 1964.	S.I. 1964/776 (1964 II, p. 1654).
The British Guiana (Constitution) Order 1964.	S.I. 1964/921 (1964 II, p. 2050).
The British Guiana (Constitution) (No. 2) Order 1964.	S.I. 1964/1970 (1964 III, p. 4450).
The British Guiana (Constitution) (No. 3) Order 1964.	S.I. 1964/2040 (1964 III, p. 5124).
The British Guiana (Constitution) Order 1965.	S.I. 1965/587 (1965 I, p. 1843).
The British Guiana (Constitution) (No. 2) Order 1965.	S.I. 1965/979 (1965 I, p. 2417).
The British Guiana (Constitution) (No. 3) Order 1965.	S.I. 1965/2161 (1965 III, p. 6332).

SCHEDULE 2 TO THE ORDER

Section 3.

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THE CONSTITUTION OF GUYANA

Whereas the People of Guyana—

(*a*) acknowledge that reverence for the Deity and respect for the inherent dignity and the equal and inalienable rights of all men are the foundation of freedom, justice and peace in society;

(*b*) affirm the entitlement of all men to the fundamental rights and freedoms of the individual;

(*c*) recognise that the said rights and freedoms are best established and secured in a democratic society founded upon the rule of law:

Now, therefore, the following articles, which make provision for the government of Guyana as such a democratic society, shall have effect as the Constitution of Guyana :—

CHAPTER I

THE STATE AND THE CONSTITUTION

The State and its territory.

1.—(1) Guyana shall be a sovereign democratic State.

(2) The territory of Guyana shall comprise all the areas that, immediately before 26th May 1966, were comprised in the former Colony of British Guiana together with such other areas as may be declared by Act of Parliament to form part of the territory of Guyana.

The Constitution.

2. This Constitution is the supreme law of Guyana and if any other law is inconsistent with this Constitution, that other law shall, to the extent of the inconsistency, be void.

CHAPTER II

PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL

Fundamental rights and freedoms of the individual.

3. Whereas every person in Guyana 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 following 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.

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

(2) Without prejudice to any liability for a contravention of any other law with respect to the use of force in such cases as are hereinafter mentioned, a person shall not be regarded as having been deprived of his life in contravention of this article if he dies as the result of the use of force to such extent as is reasonably justifiable in the circumstances of the case—

(*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.

5.—(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 execution of the sentence or order of a court, whether established for Guyana or some other country, in respect of a criminal offence of which he has been convicted;

(*b*) in execution of an order of the High Court or the Court of Appeal or such other court as may be prescribed by Parliament punishing him for contempt of any such court or of another court or tribunal;

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

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

(*e*) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under the law of Guyana;

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

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

(*h*) 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;

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

(*j*) to such extent as may be necessary in the execution of a lawful order requiring that person to remain within a specified area within Guyana 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 with a view to the making of any such order or relating to such an order after it has been made

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 Guyana in which, in consequence of any such order, his presence would otherwise be unlawful;

(*k*) subject to the provisions of the next following paragraph, for the purposes of his preventive detention.

(2) (*a*) No law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless a tribunal established for the purposes of this paragraph has reported before the expiration of the said period of three months that there is, in its opinion, sufficient cause for such detention.

(*b*) The references in subparagraph (*a*) of this paragraph to a period of three months include references to any lesser periods that amount in the aggregate to three months:

Provided that no two such lesser periods shall be aggregated for this purpose if the period between the expiration of the first and the commencement of the second is more than one month.

(*c*) A person who has been detained by virtue of the provisions of any law providing for preventive detention and who has been released from detention in consequence of a report of a tribunal established for the purposes of this paragraph that there is, in its opinion, insufficient cause for his detention shall not be again detained by virtue of such provisions within the period of six months from his release on the same grounds as he was originally detained.

(*d*) For the purposes of subparagraph (*c*) of this paragraph a person shall be deemed to have been detained on the same grounds as he was originally detained unless a tribunal established as aforesaid has reported that, in its opinion, there appear, *prima facie*, to be new and reasonable grounds for the detention (but the giving of any such report shall be without prejudice to the provisions of subparagraph (*a*) of this paragraph).

(*e*) A tribunal established for the purposes of this paragraph shall be established by law and shall consist of persons who are Judges of the Supreme Court of Judicature or who are qualified to be appointed as Puisne Judges of the High Court.

(3) Any person who is arrested or detained shall be informed as soon as reasonably practicable, in a language that he understands, of the reasons for his arrest or detention and shall be permitted, at his own expense, to retain and instruct without delay a legal adviser of his own choice, being a person entitled to practise in Guyana as an advocate or solicitor, and to hold communication with him.

(4) 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,

and who is not released, shall be brought before a court as soon as is reasonably practicable; 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 which 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.

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

(6) Nothing in the provisions of paragraphs (3) and (4) of this article shall apply to any person arrested or detained by virtue of the provisions of any law providing for preventive detention except in so far as the provisions of the said paragraph (3) require that he shall be permitted to retain and instruct a legal adviser and to hold communication with him.

Protection from slavery and forced labour.

6.—(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 article, 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; or

(*d*) any labour required during any period when Guyana is at war or in the event of any hurricane, earthquake, flood, fire or other like calamity that threatens the life or 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 calamity, for the purpose of dealing with that situation.

Protection from inhuman treatment.

7.—(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 article to the extent that the law in question authorises the infliction of any punishment or the administration of any treatment that was lawful in the former Colony of British Guiana immediately before 26th May 1966.

Protection from deprivation of property.

8.—(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 by or under the authority of a written law and where provision applying to that acquisition or taking of possession is made by a written law—

(*a*) requiring the prompt payment of adequate compensation; and

(*b*) giving to any person claiming such compensation a right of access, either directly or by way of appeal, for the determination of his interest in or right over the property and the amount of compensation, to the High Court.

(2) Subject to the provisions of paragraph (5) of this article, nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of the preceding paragraph—

(*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, duty, rate, cess or other impost;

(ii) by way of penalty for breach of the law, whether under civil process or after conviction of a criminal offence under the law of Guyana;

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

(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

(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, for the purposes of the carrying out thereon of work of soil conservation or the conservation of other natural resources or work relating to agricultural development or improvement; or

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

(i) property of the Amerindians of Guyana for the purpose of its care, protection and management;

(ii) enemy property;

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

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

(v) 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 article shall be construed as affecting the making or operation of any law so far as it provides for the orderly marketing or production or growth or extraction of any agricultural product or mineral or any article or thing prepared for market or manufactured therefor or for the reasonable restriction of the use of any property in the interest of safeguarding the interests of others or the protection of tenants, licensees or others having rights in or over such property.

(4) Nothing in this article shall be construed as affecting the making or operation of any law for the compulsory taking 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 directly by law for public purposes in which moneys provided by Parliament or by any Legislature established for the former Colony of British Guiana have been invested.

(5) The resumption of possession by or on behalf of the Crown (otherwise than by reason of breach of a condition of defeasance subject to which the property is held) of any property which, immediately before 26th May 1966, was expressed, in whatever manner, to be held by any person during the pleasure of the Crown shall be deemed to be a compulsory taking of possession of such property for the purposes of this article:

Provided that such resumption or possession shall not be required to be authorised by a written law.

Protection against arbitrary search or entry.

9.—(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 article to the extent that the law in question makes provision—

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

(*b*) that is reasonably required for the purpose of protecting the rights or freedoms of other persons;

(*c*) that authorises an officer or agent of the Government of Guyana, or of a local government authority or of a body corporate established directly by law for public purposes to enter on the premises of any person in order to inspect those premises or anything thereon for the purpose of any tax, duty, rate, cess or other impost 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; or

(*d*) that authorises, for the purpose of enforcing the judgment or order of a court in any proceedings, the entry upon any premises by order of a court.

Provisions to secure protection of law.

10.—(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 a language that he understands and in detail, 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 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 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 more severe in degree or nature than the most severe 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 proceedings relating to the conviction or acquittal.

(6) No person shall be tried for a criminal offence if he shows that he has been granted a pardon 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 tribunal prescribed by law for the determination of the existence or extent of any civil right or obligation shall be established 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 tribunal, 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 tribunal, including the announcement of the decision of the court or other tribunal, shall be held in public.

(10) Nothing in the preceding paragraph shall prevent the court or other tribunal from excluding from the proceedings persons other

than the parties thereto and their legal representatives to such extent as the court or other tribunal—

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

(*b*) paragraph (2)(*e*) of this article to the extent that the law in question imposes 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*) paragraph (5) of this article 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 the case of any person who is held in lawful detention, the provisions of paragraph (1), paragraph (2)(*d*) and (*e*) and paragraph (3) of this article shall not apply in relation to his trial for a criminal offence under the law regulating the discipline of persons held in such detention.

(13) Nothing contained in paragraph (2)(*d*) of this article shall be construed as entitling a person to legal representation at public expense.

(14) In this article "criminal offence" means a criminal offence under the law of Guyana.

Protection of freedom of conscience.

11.—(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 article 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 by that community, whether or not that community is in receipt of any government subsidy, grant or other form of financial assistance designed to meet, in whole or in part, the cost of such course of education.

(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 which is not 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 article to the extent that the law in question makes provision—

(*a*) which is reasonably required—

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

(ii) 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 ; or

(*b*) with respect to standards or qualifications to be required in relation to places of education including any instruction (not being religious instruction) given at such places.

(7) References in this article 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.

12.—(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression, that is to say, 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 article to the extent that the law in question makes provision—

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

(*b*) that is reasonably required 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 technical administration or the technical operation of telephony, telegraphy, posts, wireless broadcasting or television ; or

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

Protection of freedom of assembly and association.

13.—(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 article to the extent that the law in question makes provision—

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

(*b*) that is reasonably required for the purpose of protecting the rights or freedoms of other persons; or

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

Protection of freedom of movement.

14.—(1) No person shall be deprived of his freedom of movement, that is to say, the right to move freely throughout Guyana, the right to reside in any part of Guyana, the right to enter Guyana, the right to leave Guyana and immunity from expulsion from Guyana.

(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 article.

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

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

(*b*) for the imposition of restrictions on the movement or residence within Guyana or on the right to leave Guyana 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 or for the purpose of preventing the subversion of democratic institutions in Guyana;

(*c*) for the imposition of restrictions on the acquisition or use of land or other property in Guyana;

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

(*e*) for the imposition of restrictions on the freedom of movement of persons who are not citizens of Guyana;

(*f*) for the imposition of restrictions upon the movement or residence within Guyana or on the right to leave Guyana of public officers;

(*g*) for the removal of persons from Guyana—

(i) to be tried or punished in some other country for a criminal offence under the law of that country; or

(ii) to undergo imprisonment in some other country in execution of the sentence of a court in respect of a criminal offence under the law of Guyana of which he has been convicted; or

(iii) to be detained in an institution in some other country for the purpose of giving effect to the order of a court made in

pursuance of a law of Guyana relating to the treatment of offenders under a specified age; or

(iv) to be detained for care or treatment in a hospital or other institution in pursuance of a law of Guyana relating to persons suffering from defect or disease of the mind; or

(*h*) for the imposition of restrictions on the right of any person to leave Guyana that are reasonably required in order to secure the fulfilment of any obligations imposed on that person by law.

(4) The provisions of article 17 of this Constitution shall apply in relation to a person whose freedom of movement is restricted by virtue of such a provision as is referred to in paragraph (3)(*a*) of this article as they apply in relation to a person whose freedom of movement is restricted by virtue of such a provision as is referred to in article 16(2) of this Constitution.

Protection from discrimination on the grounds of race, etc.

15.—(1) Subject to the provisions of this article—

(*a*) no law shall make any provision that is discriminatory either of itself or in its effect; and

(*b*) no persons 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.

(2) In this article, 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 afforded to persons of another such description.

(3) Paragraph (1)(*a*) of this article shall not apply to any law so far as that law makes provision—

(*a*) with respect to persons who are not citizens of Guyana;

(*b*) with respect to adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law; or

(*c*) whereby persons of any such description as is mentioned in the preceding paragraph 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.

(4) Nothing contained in any law shall be held to be inconsistent with or in contravention of paragraph (1)(*a*) of this article 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 opinion, 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, or any office in the service of a local government authority or of a body corporate established by any law for public purposes.

(5) Paragraph (1)(*b*) of this article 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 either of the two preceding paragraphs.

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

(*a*) whereby persons of any such description as is mentioned in paragraph (2) of this article may be subjected to any restriction on the rights and freedoms guaranteed by articles 9, 11, 12, 13 and 14 of this Constitution, being such a restriction as is authorised by article 9(2), article 11(6), article 12(2), article 13(2), or article 14(3) other than subparagraph (*c*) thereof, as the case may be;

(*b*) for the appropriation of revenue or other funds of Guyana; or

(*c*) for the protection, well-being or advancement of the Amerindians of Guyana.

(7) Paragraph (1)(*b*) of this article 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.

Provisions for time of war or emergency.

16.—(1) This article applies to any period when—

(*a*) Guyana is at war; or

(*b*) there is in force a proclamation (in this article referred to as a "proclamation of emergency") made by the Governor-General declaring that a state of public emergency exists for the purposes of this article; or

(*c*) there is in force a resolution of the National Assembly, in favour of which there were cast the votes of not fewer than two-thirds of all the elected members, declaring that democratic institutions in Guyana are threatened by subversion.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of article 5, 6(2) or 9, any provision of article 10 other than paragraph (4) thereof, or any provision of articles 11 to 15 (inclusive) of this Constitution to the extent the law in question makes in relation to any period to which this article applies provision, or authorises the doing during any such period of anything, which is reasonably justifiable in the circumstances of any situation arising or existing during that period for the purpose of dealing with that situation.

(3) (*a*) Where any proclamation of emergency has been made, copies thereof shall as soon as practicable be laid before the National Assembly, and if, by reason of its adjournment or the prorogation of Parliament, the Assembly is not due to meet within five days the Governor-General shall, by proclamation, summon the Assembly to meet within five days, and the Assembly shall accordingly meet and sit upon the day appointed by the proclamation and shall continue to sit and act as if it had stood adjourned or Parliament had stood prorogued to that day.

(*b*) A proclamation of emergency shall, unless it is sooner revoked by the Governor-General, cease to be in force at the expiration of a period of fourteen days beginning on the date on which it was made or such longer period as may be provided under the next following subparagraph, but without prejudice to the making of another proclamation of emergency at or before the end of that period.

(*c*) If at any time while a proclamation of emergency is in force (including any time while it is in force by virtue of the provisions of this subparagraph) a resolution is passed by the Assembly approving its continuance in force for a further period, not exceeding six months, beginning on the date on which it would otherwise expire, the proclamation shall, if not sooner revoked, continue in force for that further period.

(4) A resolution such as is referred to in paragraph (1)(*c*) of this article shall, unless it is sooner revoked by a resolution of the Assembly, cease to be in force at the expiration of two years beginning on the date on which it was passed or such shorter period as may be specified therein, but without prejudice to the passing of another resolution by the Assembly in the manner prescribed by that paragraph at or before the end of that period.

Reference to tribunal in certain cases.

17.—(1) Where any person is lawfully detained by virtue of such a provision as is referred to in article 16(2) of this Constitution, or the movement or residence within Guyana of any person or any person's right to leave Guyana is (otherwise than by order of a court) lawfully restricted by virtue of such a provision as aforesaid, his case shall be reviewed by a tribunal established for the purposes of this article not later than three months from the commencement of the detention or restriction and thereafter not later than six months from the date on which his case was last reviewed as aforesaid.

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

(3) A tribunal established for the purposes of this article shall be so established by law and constituted in such manner as to secure its independence and impartiality and presided over by a person appointed by the Chancellor from among the persons entitled to practise in Guyana as advocates or solicitors.

Saving of existing laws and disciplinary laws.

18.—(1) Except in proceedings commenced before 26th November 1966 with respect to a law made under the British Guiana (Constitution) Orders 1961 to 1965, nothing contained in or done under the authority of any written law shall be held to be inconsistent with or in contravention of any provision of articles 4 to 15 (inclusive) of this Constitution to the extent that the law in question—

(*a*) is a law (in this article referred to as "an existing law") that had effect as part of the law of the former Colony of British Guiana immediately before 26th May 1966, and has continued to have effect as part of the law of Guyana at all times since that day;

(*b*) repeals and re-enacts an existing law without alteration; or

(*c*) alters an existing law and does not thereby render that law inconsistent with any provision of the said articles 4 to 15 in a manner in which, or to an extent to which, it was not previously so inconsistent.

(2) In subparagraph (*c*) of the preceding paragraph the reference to altering an existing law includes references to repealing it and re-enacting it with modifications or making different provisions in lieu thereof, and to modifying it; and in the preceding paragraph "written law" includes any instrument having the force of law and in this and the preceding paragraph references to the repeal and re-enactment of an existing law shall be construed accordingly.

(3) In relation to any person who is a member of a disciplined force raised under a law in force in Guyana, 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 articles 4, 6 and 7.

(4) In relation to any person who is a member of a disciplined force raised otherwise than as aforesaid and lawfully present in Guyana, 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.

Enforcement of protective provisions.

19.—(1) Subject to the provisions of paragraph (6) of this article, if any person alleges that any of the provisions of articles 4 to 17 (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 preceding paragraph;

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

and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of any of the provisions of articles 4 to 17 (inclusive) of this Constitution:

Provided that the High Court shall not exercise its powers under this paragraph if it is satisfied that adequate means of redress are or have been available to the person concerned under any other law.

(3) If in any proceedings in any court subordinate to the High Court any question arises as to the contravention of any of the provisions of articles 4 to 17 (inclusive) of this Constitution, the person presiding in that court shall refer the question to the High Court unless, in his opinion, the raising of the question is merely frivolous or vexatious.

(4) Where any question is referred to the High Court in pursuance of paragraph (3) of this article, the High Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision or, if that decision is the subject of an appeal under this Constitution to the Court of Appeal or to Her Majesty in Council, in accordance with the decision of the Court of Appeal or, as the case may be, of Her Majesty in Council.

(5) Parliament may confer upon the High Court such powers in addition to those conferred by this article as may appear to Parliament to be necessary or desirable for the purpose of enabling the High Court more effectively to exercise the jurisdiction conferred upon it by this article.

(6) Parliament may make provision with respect to the practice and procedure—

(*a*) of the High Court in relation to the jurisdiction and powers conferred upon it by or under this article;

(*b*) of the High Court and the Court of Appeal in relation to appeals to the Court of Appeal from decisions of the High Court in the exercise of such jurisdiction;

(*c*) of subordinate courts in relation to references to the High Court under paragraph (3) of this article;

including provision with respect to the time within which any application, reference or appeal shall or may be made or brought; and, subject to any provision so made, provision may be made with respect to the matters aforesaid by rules of court.

Interpretation.

20. 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 Guyana other than a court established by a disciplinary law, and includes Her Majesty in Council and, in articles 4 and 6, a court established by a disciplinary law;

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

"disciplined force" means—

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

(*b*) a police force; or

(*c*) a prison service;

"legal representative", in relation to any court or other tribunal, means a person entitled to practise as an advocate before such court or tribunal; and

"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.

CHAPTER III

CITIZENSHIP

Persons who become citizens on 26th May 1966.

21.—(1) Every person who, having been born in the former Colony of British Guiana, is on 25th May 1966 a citizen of the United Kingdom and Colonies shall become a citizen of Guyana on 26th May 1966.

(2) Every person who, having been born outside the former Colony of British Guiana, is on 25th May 1966 a citizen of the United Kingdom and Colonies shall, if his father becomes or would but for his death have become a citizen of Guyana in accordance with the provisions of the preceding paragraph, become a citizen of Guyana on 26th May 1966.

Persons entitled to be registered as citizens.

22.—(1) Any woman who, on 25th May 1966, is or has been married to a person—

(*a*) who becomes a citizen of Guyana by virtue of the preceding article ; or

(*b*) who, having died before 26th May 1966, would, but for his death, have become a citizen of Guyana by virtue of that article,

shall be entitled, upon making application and, if she is a British protected person or an alien, upon taking the oath of allegiance, to be registered as a citizen of Guyana:

Provided that, in the case of any woman who on 26th May 1966 is not a citizen of the United Kingdom and Colonies, the right to be registered as a citizen of Guyana under this paragraph shall be subject to such exceptions or qualifications as may be prescribed in the interests of national security or public policy.

(2) Any person who, on 25th May 1966, is a citizen of the United Kingdom and Colonies—

(*a*) having become such a citizen under the British Nationality Act 1948(a), by virtue of his having been naturalised in the former Colony of British Guiana as a British subject before that Act came into force ; or

(*b*) having become such a citizen by virtue of his having been naturalised or registered in the former Colony of British Guiana under that Act,

shall be entitled, upon making application before 26th May 1971, to be registered as a citizen of Guyana.

(3) Any person who, on 26th May 1966, is a Commonwealth citizen (otherwise than by virtue of being a citizen of Guyana) and is ordinarily resident in Guyana and has during the period of ten years preceding that day been so resident in the former Colony of British Guiana for a period of, or periods amounting in the aggregate to, five years shall be entitled, upon making application before 26th May 1971, to be registered as a citizen of Guyana.

(4) Any woman who on 25th May 1966 is or has been married to a person who subsequently becomes a citizen of Guyana by registration under paragraph (2) or (3) of this article shall be entitled, upon making application and, if she is a British protected person or an alien, upon taking the oath of allegiance, to be registered as a citizen of Guyana:

Provided that, in the case of any woman who on 26th May 1966 is not a citizen of the United Kingdom and Colonies, the right to be registered as a citizen of Guyana under this paragraph shall be subject to such exceptions or qualifications as may be prescribed in the interests of national security or public policy.

(5) Any application for registration under this article shall be made in such manner as may be prescribed as respects that application:

Provided that such an application may not be made by a person who has not attained the age of twenty-one years and is not a woman who is or has been married but shall be made on behalf of that person by a parent or guardian of that person.

(a) 1948 c. 56.

Persons born in Guyana after 25th May 1966.

23. Every person born in Guyana after 25th May 1966 shall become a citizen of Guyana at the date of his birth:

Provided that a person shall not become a citizen of Guyana by virtue of this article if at the time of his birth—

(*a*) his father possesses such immunity from suit and legal process as is accorded to an envoy of a foreign sovereign power accredited to Guyana and neither of his parents is a citizen of Guyana ; or

(*b*) his father is an enemy alien and the birth occurs in a place then under occupation by the enemy.

Persons born outside Guyana after 25th May 1966.

24. A person born outside Guyana after 25th May 1966 shall become a citizen of Guyana at the date of his birth if at that date his father is a citizen of Guyana otherwise than by virtue of this article or article 21(2) of this Constitution.

Marriage to citizen of Guyana.

25. Any woman who, after 25th May 1966, marries a person who is or becomes a citizen of Guyana shall be entitled, upon making application in such manner as may be prescribed and, if she is a British protected person or an alien, upon taking the oath of allegiance, to be registered as a citizen of Guyana:

Provided that the right to be registered as a citizen of Guyana under this article shall be subject to such exceptions or qualifications as may be prescribed in the interests of national security or public policy.

Deprivation of citizenship on acquisition of, or exercise of rights of, another citizenship.

26.—(1) If the Governor-General is satisfied that any citizen of Guyana has at any time after 25th May 1966 acquired by registration, naturalisation or other voluntary and formal act (other than marriage) the citizenship of any country other than Guyana, the Governor-General may by order deprive that person of his citizenship.

(2) If the Governor-General is satisfied that any citizen of Guyana has at any time after 25th May 1966 voluntarily claimed and exercised in a country other than Guyana any rights available to him under the law of that country, being rights accorded exclusively to its citizens, the Governor-General may by order deprive that person of his citizenship.

Commonwealth citizens.

27.—(1) Every person who under this Constitution or any Act of Parliament is a citizen of Guyana or under any enactment for the time being in force in any country to which this article applies is a citizen of that country shall, by virtue of that citizenship, have the status of a Commonwealth citizen.

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

(3) Save as may be otherwise provided by Parliament, the countries to which this section applies are the United Kingdom and Colonies, Canada, Australia, New Zealand, India, Pakistan, Ceylon, Ghana, Malaysia, Nigeria, Cyprus, Sierra Leone, Tanzania, Jamaica, Trinidad and Tobago, Uganda, Kenya, Malawi, Malta, Zambia, The Gambia, Singapore and Southern Rhodesia.

(a) 1965 c. 34.

Powers of Parliament.

28. Parliament may make provision—

(*a*) for the acquisition of citizenship of Guyana by persons who do not become citizens of Guyana by virtue of the provisions of this Chapter;

(*b*) for depriving of his citizenship of Guyana any person who is a citizen of Guyana otherwise than by virtue of article 21, 23 or 24 of this Constitution; or

(*c*) for the renunciation by any person of his citizenship of Guyana.

Interpretation.

29.—(1) In this Chapter—

"British protected person" means a person who is a British protected person for the purposes of the British Nationality Act 1948;

"prescribed" means prescribed by or under any Act of Parliament.

(2) Any reference in this Chapter to the father of a person shall, in relation to a person born out of wedlock, be construed as a reference to the mother of that person.

(3) For the purposes of this Chapter, a person born aboard a registered ship or aircraft, or aboard an unregistered ship or aircraft of the government of any country, shall be deemed to have been born in the place in which the ship or aircraft was registered or, as the case may be, in that country.

(4) Any reference in this Chapter to the national status of the father of a person at the time of that person's birth shall, in relation to a person born after the death of his father, be construed as a reference to the national status of the father at the time of the father's death; and where that death occurred before 26th May 1966 and the birth occurred after the 25th May 1966 the national status that the father would have had if he had died on 26th May 1966 shall be deemed to be his national status at the time of his death.

CHAPTER IV

THE GOVERNOR-GENERAL

Establishment of office of Governor-General.

30. There shall be a Governor-General and Commander-in-Chief of Guyana who shall be appointed by Her Majesty and shall hold office during Her Majesty's pleasure and who shall be Her Majesty's representative in Guyana.

Acting Governor-General.

31. Whenever the office of Governor-General is vacant or the holder of the office is absent from Guyana or is for any other reason unable to perform the functions of his office, those functions shall be performed by such person as Her Majesty may appoint or, if there is no such person in Guyana so appointed and able to perform those functions, by the Chancellor.

Oaths to be taken by Governor-General.

32. A person appointed to the office of Governor-General or assuming the functions of that office under the preceding article shall, before entering upon the duties of that office, take and subscribe the oath of allegiance and the oath of office, such oaths being administered by the Chancellor or such other Judge of the Supreme Court of Judicature as may be designated by the Chancellor.

CHAPTER V

THE EXECUTIVE

PART 1

General provisions as to the Government of Guyana

Executive authority of Guyana.

33.—(1) The executive authority of Guyana shall be vested in Her Majesty.

(2) Subject to the provisions of this Constitution, the executive authority of Guyana may be exercised on behalf of Her Majesty by the Governor-General either directly or through officers subordinate to him.

(3) Nothing in this article shall prevent Parliament from conferring functions on persons or authorities other than the Governor-General.

Ministers of the Government of Guyana.

34.—(1) There shall be a Prime Minister of Guyana who shall be appointed by the Governor-General.

(2) Subject to the provisions of article 42 of this Constitution, there shall be, in addition to the office of Prime Minister, such other offices of Minister of the Government of Guyana as may be established by Parliament or, subject to the provisions of any Act of Parliament, by the Governor-General, acting in accordance with the advice of the Prime Minister.

(3) The Governor-General shall appoint as Prime Minister the elected member of the National Assembly who appears to him best able to command the support of a majority of the elected members of the Assembly and who is willing to be appointed.

(4) The other Ministers shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister, from among persons who are elected members of the Assembly or are qualified to be elected as such members:

Provided that—

(*a*) the number of Ministers holding office at any time who are not elected members of the Assembly and were not elected members at the time of their appointment shall not exceed four; and

(*b*) for the purposes of this paragraph the references in paragraph (*b*) of article 59 of this Constitution to a day prescribed by Parliament shall be construed as if they were references to the day on which it is proposed to appoint a person to be a Minister.

(5) Paragraphs (3) and (4) of this article shall have effect in relation to any period between a dissolution of Parliament and the day on which the next election of members of the Assembly is held as if Parliament had not been dissolved.

(6) A Minister who was not an elected member of the Assembly at the time of his appointment shall (unless he becomes such a member) be a member of the Assembly by virtue of holding the office of Minister but shall not vote in the Assembly.

(7) For the purposes of paragraph (*a*) of the proviso to paragraph (4) of this article no account shall be taken of any appointment made under article 42(4) of this Constitution.

The Cabinet.

35. There shall be a Cabinet for Guyana, which shall consist of the Prime Minister and the other Ministers and shall have the general

direction and control of the government of Guyana and shall be collectively responsible therefor to Parliament.

Allocation of portfolios.

36. The Governor-General, acting in accordance with the advice of the Prime Minister, may assign to the Prime Minister or any other Minister responsibility for any business of the Government of Guyana, including the administration of any department of Government; and one Minister shall be charged with responsibility for Amerindian affairs:

Provided that authority to exercise any power or discharge any duty that is conferred or imposed by this Constitution or by any other law on the Governor-General or on any other person or authority, not being the Minister concerned, shall not be conferred upon any Minister under this article.

Tenure of office of Ministers.

37.—(1) If the National Assembly passes a resolution, supported by the votes of a majority of all the elected members of the Assembly, declaring that it has no confidence in the Government and the Prime Minister does not within seven days of the passing of such a resolution either resign or advise the Governor-General to dissolve Parliament, the Governor-General shall revoke the appointment of the Prime Minister.

(2) The Governor-General may remove the Prime Minister from office if, at any time between the holding of an election of members of the Assembly and the date on which the Assembly first meets thereafter, the Governor-General considers that, in consequence of changes in the membership of the Assembly resulting from that election, the Prime Minister will not be the elected member best able to command the support of a majority of the elected members of the Assembly.

(3) The office of a Minister who was not an elected member of the Assembly at the time of his appointment and has not subsequently become such a member shall become vacant if the holder of the office—

(*a*) ceases to be a Commonwealth citizen; or

(*b*) if he becomes disqualified for election as a member of the Assembly by virtue of article 60 of this Constitution or of any law enacted in pursuance thereof.

(4) The office of any other Minister shall become vacant if the holder of the office—

(*a*) ceases to be a member of the Assembly for any cause other than a dissolution of Parliament;

(*b*) is not a member of the Assembly when the Assembly first meets after a dissolution of Parliament; or

(*c*) is, by virtue of article 61(3) of this Constitution, required to cease to perform his functions as a member of the Assembly.

(5) The office of a Minister other than the Prime Minister shall become vacant—

(*a*) if the Governor-General, acting in accordance with the advice of the Prime Minister, so directs;

(*b*) if the Prime Minister resigns his office within seven days after the passing of a resolution such as is mentioned in paragraph (1) of this article or the Governor-General revokes the appointment of the Prime Minister under that paragraph; or

(*c*) on the appointment of any person to the office of Prime Minister.

Prime Minister's absence or illness.

38.—(1) Whenever the Prime Minister is absent from Guyana or is unable by reason of illness to perform his functions as Prime Minister, the Governor-General may authorise some other member of the Cabinet to perform those functions (other than the functions conferred by this article) and that member may perform those functions until his authority is revoked by the Governor-General.

(2) The powers of the Governor-General under this article shall be exercised by him in accordance with the advice of the Prime Minister:

Provided that if the Governor-General considers that it is impracticable to obtain the advice of the Prime Minister owing to his absence or illness, he may exercise those powers without the advice of the Prime Minister.

Leader of the Opposition.

39.—(1) There shall be an office of Leader of the Opposition and appointments thereto shall be made by the Governor-General.

(2) The Governor-General shall, if the person concerned is willing to be appointed, appoint as Leader of the Opposition the member of the National Assembly who, in his judgment, is best able to command the support of a majority of those members who do not support the Government:

Provided that this paragraph shall have effect in relation to any period between a dissolution of Parliament and the day on which the next election of members of the Assembly is held as if Parliament had not been dissolved.

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

(*a*) the holder thereof ceases to be a member of the Assembly for any cause other than a dissolution of Parliament;

(*b*) he is not a member of the Assembly when the Assembly first meets after a dissolution of Parliament;

(*c*) by virtue of article 61(3) of this Constitution he is required to cease to exercise his functions as a member of the Assembly;

(*d*) he is appointed to the office of Prime Minister; or

(*e*) if his appointment is revoked under the provisions of the next following paragraph.

(4) If, in the judgment of the Governor-General, the Leader of the Opposition is no longer the member of the Assembly best able to command the support of a majority of those members of the Assembly who do not support the Government, the Governor-General shall revoke the appointment of the Leader of the Opposition.

(5) Whenever the office of Leader of the Opposition is vacant by reason of the fact that the person qualified for appointment thereto is not willing to be appointed, any provision of this Constitution that requires any person or authority to perform any function after consultation with the Leader of the Opposition shall, in so far as it contains that requirement, be of no effect.

Exercise of Governor-General's powers.

40.—(1) In the exercise of his functions under this Constitution or any other law, the Governor-General shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet, except—

(*a*) in cases where, by this Constitution or by any other law, he is required to act in accordance with the advice or on the recommendation of any person or authority other than the Cabinet, and

(*b*) in the cases as respects which other provision is made by this article.

(2) The Governor-General shall act in accordance with his own deliberate judgment in the performance of the following functions—

(*a*) in the exercise of the power to appoint the Prime Minister conferred upon him by article 34(3) of this Constitution;

(*b*) in the exercise of the power to remove the Prime Minister from office conferred upon him by article 37(2) of this Constitution;

(*c*) in the exercise of the powers conferred upon him by article 38 of this Constitution (which relates to the absence or illness of the Prime Minister) in the circumstances described in the proviso to paragraph (2) of that article;

(*d*) in the exercise of the powers to appoint and revoke the appointment of the Leader of the Opposition conferred upon him by the preceding article; and

(*e*) in the exercise of the power conferred upon him by article 96(3) of this Constitution to concur in appointments to his personal staff.

(3) Nothing in the foregoing provisions of this article shall apply to functions conferred upon the Governor-General by any of the following provisions of this Constitution, that is to say—

(*a*) article 37(1) (which requires the Governor-General to revoke the appointment of the Prime Minister in certain circumstances);

(*b*) the proviso to article 82(2) (which requires the Governor-General to dissolve Parliament in certain circumstances);

(*c*) article 41 (which entitles the Governor-General to information);

(*d*) article 90(4) (which requires the Governor-General to remove a Judge from office in certain circumstances);

(*e*) article 118(3) (which makes similar provision regarding the holders of other offices).

(4) Subject to paragraph (5) of the preceding article, where by this Constitution the Governor-General is directed to exercise any function on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, the following steps shall be taken:—

(*a*) the Prime Minister shall first consult the Leader of the Opposition and thereafter tender his recommendation to the Governor-General;

(*b*) the Governor-General shall then inform the Leader of the Opposition of that recommendation and if the Leader of the Opposition concurs therein the Governor-General shall act in accordance therewith;

(*c*) if the Leader of the Opposition does not concur in the recommendation, the Governor-General shall so inform the Prime Minister and refer the recommendation back to him;

(*d*) the Prime Minister shall then advise the Governor-General and the Governor-General shall act in accordance with that advice.

(5) Except as provided in the preceding paragraph, where by this Constitution the Governor-General is directed to exercise any function on the recommendation of any person or authority, he may, in accordance with his own deliberate judgment, once refer any such recommendation back for reconsideration by the person or authority concerned, and if that person or authority, having reconsidered the original

recommendation, substitutes therefor a different recommendation, the Governor-General shall act in accordance therewith; but save as aforesaid he shall act in accordance with the original recommendation.

Governor-General to be kept informed.

41. The Prime Minister shall keep the Governor-General fully informed concerning the general conduct of the government of Guyana and shall furnish the Governor-General with such information as he may request with respect to any particular matter relating to the government of Guyana.

Attorney-General.

42.—(1) There shall be an Attorney-General of Guyana who shall be the principal legal adviser to the Government of Guyana and who shall be appointed by the Governor-General.

(2) A person shall not be qualified to be appointed as Attorney-General unless he is qualified to be appointed as a Puisne Judge of the High Court and is a Commonwealth citizen.

(3) If the Attorney-General is an elected member of the National Assembly at the time of his appointment or subsequently becomes such a member, he shall be a Minister by virtue of holding the office of Attorney-General and the provisions of paragraphs (4) and (5) of article 37 of this Constitution shall apply to the office of Attorney-General.

(4) If the Attorney-General is not an elected member of the Assembly but is qualified to be elected as such a member, he may be appointed by the Governor-General to be a Minister:

Provided that for the purposes of this paragraph the references in paragraph (*b*) of article 59 of this Constitution to a day prescribed by Parliament shall be construed as if they were references to the day on which it is proposed to appoint the Attorney-General to be a Minister.

(5) If an Attorney-General appointed to be a Minister under the preceding paragraph resigns his office as Attorney-General he shall also vacate his office as a Minister.

(6) If the Attorney-General is not a Minister he shall vacate his office if he ceases to be a Commonwealth citizen or if his appointment is revoked by the Governor-General.

(7) If the office of Attorney-General is vacant or the holder of the office is for any reason unable to perform the functions thereof the Governor-General may appoint a person, being a person qualified for admission as an advocate in Guyana, to act in the office; but the provisions of paragraphs (3) and (4) of this article shall not apply to a person so appointed.

(8) An appointment under the preceding paragraph shall cease to have effect when it is revoked by the Governor-General.

(9) The powers of the Governor-General under this article shall be exercised by him in accordance with the advice of the Prime Minister.

Parliamentary Secretaries.

43.—(1) The Governor-General, acting in accordance with the advice of the Prime Minister, may appoint Parliamentary Secretaries from among the members of the National Assembly to assist Ministers in the discharge of their functions:

Provided that this paragraph shall have effect in relation to any period between a dissolution of Parliament and the day on which the next election of members of the Assembly is held as if Parliament had not been dissolved.

(2) The provisions of paragraphs (4) and (5) of article 37 of this Constitution shall apply to the office of a Parliamentary Secretary as they apply to the office of a Minister.

Oaths of Ministers, etc.

44. The Prime Minister, every other Minister and every Parliamentary Secretary shall, before entering upon the duties of his office, make and subscribe the oath of allegiance and the oath of office.

Permanent secretaries.

45. Where any Minister has been charged with responsibility for any department of Government, he shall exercise general direction and control over that department; and, subject to such direction and control, the department shall be under the supervision of a permanent secretary, whose office shall be a public office:

Provided that two or more government departments may be placed under the supervision of one permanent secretary.

Secretary to the Cabinet.

46.—(1) There shall be a Secretary to the Cabinet whose office shall be a public office.

(2) The Secretary to the Cabinet, who shall have charge of the Cabinet Office, shall be responsible, in accordance with such instructions as may be given him by the Prime Minister, for arranging the business for, and keeping the minutes of, the Cabinet and for conveying the decisions of the Cabinet to the appropriate person or authority and shall have such other functions as the Prime Minister may direct.

Office and functions of Director of Public Prosecutions.

47.—(1) There shall be a Director of Public Prosecutions (referred to in this article as "the Director") whose office shall be a public office.

(2) The Director shall have power in any case in which he considers it desirable so to do—

(*a*) to institute and undertake criminal proceedings against any person before any court, other than a court-martial, in respect of any offence against the law of Guyana;

(*b*) to take over and continue any such criminal proceedings that may have been instituted by any other person or authority; and

(*c*) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by him or any other person or authority.

(3) The powers of the Director under the preceding paragraph may be exercised by him in person or through other persons acting under and in accordance with his general or special instructions.

(4) The powers conferred upon the Director by subparagraphs (*b*) and (*c*) of paragraph (2) of this article shall be vested in him to the exclusion of any other person or authority:

Provided that, where any other person or authority has instituted criminal proceedings, nothing in this paragraph shall prevent the withdrawal of those proceedings by or at the instance of that person or authority and with the leave of the court.

(5) In the exercise of the powers conferred upon him by this article the Director shall not be subject to the direction or control of any other person or authority.

(6) For the purposes of this article, any appeal from any determination in any criminal proceedings before any court, or any case stated or question of law reserved for the purposes of any such proceedings,

to any other court in Guyana or to Her Majesty in Council shall be deemed to be part of those proceedings.

Constitution of offices.

48. Subject to the provisions of this Constitution and of any other law, the Governor-General may constitute offices for Guyana, make appointments to any such office and terminate any such appointment.

Prerogative of Mercy.

49.—(1) The Governor-General may, in Her Majesty's name and on Her Majesty's behalf—

(*a*) grant to any person convicted of any offence under the law of Guyana 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 any punishment imposed on any person for such an offence; or

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

(2) Subject to the provisions of the next following paragraph, the powers of the Governor-General under the preceding paragraph shall be exercised by him in accordance with the advice of such Minister as may from time to time be designated by the Governor-General, acting in accordance with the advice of the Prime Minister.

(3) In addition to the Minister designated generally under the preceding paragraph, a second Minister may, in the manner prescribed in that paragraph, be specially designated in relation to persons convicted by courts-martial under the law of Guyana; and at any time when there is a second Minister so designated, the powers of the Governor-General under paragraph (1) of this article shall, in relation to such persons, be exercised in accordance with the advice of that other Minister.

Advisory Council on Prerogative of Mercy.

50.—(1) There shall be an Advisory Council on the Prerogative of Mercy, which shall consist of—

(*a*) the Minister for the time being designated under paragraph (2) of the preceding article, who shall be Chairman;

(*b*) the Attorney-General (if he is not the Chairman); and

(*c*) not less than three nor more than five other members, who shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister, and of whom at least one shall be a person who is a qualified medical practitioner.

(2) A person shall not be qualified to be appointed as a member of the Advisory Council under subparagraph (*c*) of the preceding paragraph if he is a member of the House of Assembly; and not less than three of the members so appointed shall be persons who are not public officers.

(3) A member of the Advisory Council appointed under the said subparagraph (*c*) shall hold office for three years:

Provided that his seat on the Council shall become vacant—

(*a*) if he becomes a member of the House of Assembly or if, not having been a public officer at the time of his appointment, he becomes such an officer; or

(*b*) if he is removed from office by the Governor-General, acting in accordance with the advice of the Prime Minister, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause whatsoever) or for misbehaviour.

Functions of Advisory Council.

51.—(1) Where under the law of Guyana any person has been sentenced to death by any court other than a court-martial for any offence against that law, the Minister designated under paragraph (2) of article 49 of this Constitution shall cause a written report of the case from the trial judge, together with such other information derived from the record of the case or elsewhere as the Minister may require, to be taken into consideration at a meeting of the Advisory Council; and after obtaining the advice of the Council the Minister shall decide in his own deliberate judgment whether to advise the Governor-General that he should exercise any of his powers under that article in relation to that person.

(2) The Minister designated under the said paragraph (2) may consult the Advisory Council before making any recommendation to the Governor-General under that paragraph in any case not falling within the preceding paragraph, but shall not be obliged to act in accordance with the advice of the Advisory Council.

(3) The Advisory Council may regulate its own procedure.

PART 2

The Ombudsman

Establishment of office of Ombudsman and appointment, etc. of Ombudsman.

52.—(1) For the purpose of conducting investigations in accordance with the provisions of this Part of this Constitution, there shall be an Ombudsman.

(2) The Ombudsman shall be appointed by the Governor-General acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition.

(3) The Ombudsman shall not perform the functions of any public office and shall not, without the approval of the Prime Minister in each particular case, hold any other office of emolument, other than his office as Ombudsman, or engage in any occupation for reward outside the duties of his office.

(4) Subject to the provisions of the next following paragraph, a person holding the office of Ombudsman shall vacate that office at the expiration of four years from the date of his appointment.

(5) The provisions of article 118 of this Constitution (which relate to removal from office) shall apply to the office of Ombudsman, and for the purposes of paragraphs (4) and (6) of that article the prescribed authority shall be the Prime Minister.

Matters subject to investigation by the Ombudsman.

53.—(1) Subject to the provisions of this article, the Ombudsman may investigate any action taken by any department of Government or by any other authority to which this article applies, or by Ministers, officers or members of such a department or authority, being action taken in exercise of the administrative functions of that department or authority on or after 26th May 1966.

(2) The Ombudsman may investigate any such action as aforesaid in any of the following circumstances, that is to say—

(*a*) if a complaint in respect of the action is duly made to the Ombudsman by any person or body of persons, whether incorporated or not, alleging that the complainant has sustained injustice in consequence of a fault in administration;

(*b*) if a Minister or a member of the National Assembly requests the Ombudsman to investigate the action on the ground that a person or body of persons specified in the request has or may have sustained such injustice;

(*c*) in any other circumstances in which the Ombudsman considers that he ought to investigate the action on the ground that some person or body of persons has or may have sustained such injustice.

(3) The Ombudsman shall not investigate under this Part—

(*a*) any action in respect of which the complainant has or had—

(i) a remedy by way of proceedings in a court; or

(ii) a right of appeal, reference or review to or before an independent and impartial tribunal other than a court; or

(*b*) any such action, or action taken with respect to any such matter, as is described in the First Schedule to this Constitution:

Provided that the Ombudsman—

(i) may conduct an investigation notwithstanding that the complainant has or had a remedy by way of proceedings in a court if satisfied that in the particular circumstances it is not reasonable to expect him to take or to have taken such proceedings;

(ii) shall not in any case be precluded from conducting an investigation in respect of any matter by reason only that it is open to the complainant to apply to the High Court for redress under article 19(1) of this Constitution (which relates to redress for contraventions of provisions for the protection of fundamental rights and freedoms).

(4) In determining whether to initiate, continue or discontinue an investigation under this Part, the Ombudsman shall, subject to the foregoing provisions of this article, act in accordance with his individual judgment and in particular, and without prejudice to the generality of the foregoing, the Ombudsman may refuse to initiate, or may discontinue, any investigation if it appears to him that—

(*a*) the complaint relates to action of which the complainant has had knowledge for more than twelve months before the complaint was received by the Ombudsman;

(*b*) the subject matter of the complaint is trivial;

(*c*) the complaint is frivolous or vexatious or is not made in good faith; or

(*d*) the complainant has not a sufficient interest in the subject matter of the complaint.

(5) The authorities other than departments of Government to which this article applies are—

(*a*) any authority empowered to determine the person with whom any contract or class of contracts shall be entered into by or on behalf of the Government of Guyana; and

(*b*) such other authorities as may be prescribed by Parliament.

(6) For the purposes of this article the Judicial Service Commission, the Public Service Commission and the Police Service Commission shall not be regarded as departments of Government.

(7) For the purposes of paragraph (2)(*a*) of this article a complaint may be made by a person aggrieved himself or, if he is dead or for any reason unable to act for himself, by any person duly authorised to represent him.

(8) Any question whether a complaint or a request for an investigation is duly made under this Part or any law enacted in pursuance of article 55 of this Constitution shall be determined by the Ombudsman.

(9) Where a complaint or request for an investigation is duly made as aforesaid and the Ombudsman decides not to investigate the action to which the complaint or request relates or to discontinue an investigation of that action, he shall inform the person or body of persons who made the complaint or request of his decision.

(10) In this article "action" includes failure to act and "action taken" shall be construed accordingly.

Ombudsman's functions on concluding an investigation, and reports to the Assembly.

54.—(1) After conducting an investigation under this Part the Ombudsman shall inform the department or authority concerned of the result of that investigation and, if he is of the opinion that any person or body of persons has sustained injustice in consequence of a fault in administration, he shall inform that department or authority of the reasons for that opinion and may make such recommendations for action by that department or authority as he thinks fit.

(2) After conducting an investigation under this Part in pursuance of a complaint or a request for an investigation made by a Minister or a member of the National Assembly, the Ombudsman shall—

(*a*) if he is of the opinion that the complainant or, in the case of an investigation conducted in pursuance of such a request, the person or body of persons specified in the request has sustained injustice in consequence of a fault in administration, inform the person or body of persons who made the complaint or request that he is of that opinion and the nature of the injustice that he considers has been sustained;

(*b*) if he is of the opinion that the complainant or, in the case of an investigation conducted in pursuance of such a request, the person or body of person specified in the request has not sustained injustice, inform the person or body of persons who made the complaint or request that he is of that opinion and the reasons therefor.

(3) Where the Ombudsman has made a recommendation under paragraph (1) of this article and within a reasonable time thereafter no action has been taken which appears to the Ombudsman adequately to remedy the injustice, he may lay before the Assembly a special report on the case.

(4) The Ombudsman shall annually lay before the Assembly a general report on the performance of his functions under this Part.

Power of Parliament to make supplementary provision.

55. Parliament may make provision for such supplementary and ancillary matters as may appear necessary or expedient in consequence of any of the provisions of this Part, including (without prejudice to the generality of the foregoing power) provision—

(*a*) for the procedure to be observed by the Ombudsman in performing his functions;

(*b*) for the manner in which complaints and requests for investigation shall be made to the Ombudsman and for the payment of fees in respect of any complaint or investigation; and

(*c*) for the powers, duties and privileges of the Ombudsman or of other persons or authorities with respect to the obtaining or disclosure of information for the purposes of any investigation or report by the Ombudsman.

Interpretation.

56. In this Part—

"complainant" means the person or body of persons by or on whose behalf a complaint under this Part is made; and

"fault in administration" includes, without prejudice to its generality, any contravention of article 15 of this Constitution (which relates to discrimination on grounds of race, place of origin, political opinions, colour or creed).

CHAPTER VI

PARLIAMENT

PART 1

Composition of Parliament

Establishment of Parliament.

57. There shall be a Parliament of Guyana, which shall consist of Her Majesty and a National Assembly.

Composition of National Assembly.

58.—(1) Subject to the next following paragraph and to articles 34 and 42 of this Constitution, the National Assembly shall consist of fifty-three members, or such greater number of members as Parliament may prescribe, who shall be elected in accordance with the provisions of this Constitution and, subject thereto, in accordance with any law made by Parliament in that behalf.

(2) If any person who is not a member of the National Assembly is elected to be Speaker of the Assembly he shall, by virtue of holding the office of Speaker, be a member of the Assembly in addition to the members aforesaid.

Qualifications for election as members.

59. Subject to the next following article, a person shall be qualified for election as a member of the National Assembly if, and shall not be so qualified unless, he—

(*a*) is a Commonwealth citizen of the age of twenty-one years or upwards;

(*b*) has resided in Guyana for a period of one year immediately preceding such day before the day appointed for the holding of the election as may be prescribed by Parliament or is domiciled and resident in Guyana on the first-mentioned day; and

(*c*) is able to speak and, unless incapacitated by blindness or other physical cause, to read the English language with a degree of proficiency sufficient to enable him to take an active part in the proceedings of the Assembly.

Disqualifications for election as members.

60.—(1) No person shall be qualified for election as a member of the National 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*) has been adjudged or otherwise declared insolvent under any law in force in Guyana and has not been discharged ;

(*c*) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in Guyana ;

(*d*) is under sentence of death imposed on him by a court, or is serving a sentence of imprisonment (by whatever name called) exceeding six months imposed on him by a court or substituted by competent authority for some other sentence imposed on him by a court, or is under such a sentence of imprisonment the execution of which has been suspended ; or

(*e*) holds or is acting in the office of any Judge of the Supreme Court of Judicature, a member of the Elections Commission, the Judicial Service Commission, the Public Service Commission or the Police Service Commission, the Director of Public Prosecutions, the Ombudsman, or the Director of Audit.

(2) Without prejudice to the provisions of the preceding paragraph, Parliament may provide that a person shall not be qualified for election as a member of the National Assembly in any of the following cases, that is to say—

(*a*) if he holds or is acting in any office that is specified by Parliament and the functions of which involve responsibility for, or in connection with, the conduct of an election or the compilation or revision of any register of electors for the purposes of an election ;

(*b*) subject to any exceptions and limitations prescribed by Parliament, if he has any such interest in any such Government contract, as may be so prescribed ;

(*c*) subject as aforesaid, if—

(i) he holds or is acting in any office or appointment prescribed by Parliament either individually or by reference to a class of office or appointment ;

(ii) he belongs to any armed force of Guyana or to any class of person that is comprised in any such force ; or

(iii) he belongs to any police force of Guyana or to any class of person that is comprised in any such force ;

(*d*) if, during such period (not exceeding five years) preceding the election day as may be prescribed by Parliament, he—

(i) has been convicted by a court of an offence relating to excitement of hostility or ill-will against any person or class of persons on the grounds of his or their race ; or

(ii) has been convicted by a court of any offence connected with an election that is so prescribed or has been reported guilty of such an offence by the High Court in proceedings under article 71 of this Constitution:

Provided that Parliament may empower the court to exempt a person from disqualification for election on account of such a conviction or report if the court deems it just so to do.

(3) For the purposes of paragraph (1)(*d*) of this article—

(*a*) two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds six months, but if any one of those sentences exceeds that term they shall be regarded as one sentence ; and

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

(4) In paragraph (2)(*b*) of this article "Government contract" means any contract made with the Government of Guyana or with a department of that Government or with an officer of that Government contracting as such.

Tenure of seats of members.

61.—(1) Whenever Parliament is dissolved, every member of the National Assembly shall vacate his seat in the Assembly.

(2) A member of the National Assembly shall also vacate his seat therein—

(*a*) if he resigns it by writing under his hand addressed to the Speaker or, if the office of Speaker is vacant or the Speaker is absent from Guyana, to the Deputy Speaker;

(*b*) if he is absent from the sittings of the Assembly for such period, and in such circumstances, as may be prescribed in the rules of procedure of the Assembly;

(*c*) if he ceases to be a Commonwealth citizen; or

(*d*) subject to the next following paragraph, if any circumstances arise that, if he were not a member of the Assembly, would cause him to be disqualified for election as a member thereof by virtue of the preceding article or of any law enacted in pursuance thereof.

(3) (*a*) If circumstances such as are referred to in subparagraph (*d*) of the preceding paragraph arise in relation to a member of the Assembly by virtue of the fact that he is declared insolvent, adjudged to be of unsound mind, sentenced to death or imprisonment, or convicted or reported guilty of an offence and if it is open to the member to appeal against the decision (either with the leave of a court or other authority or without such leave), he shall forthwith cease to perform his functions as a member of the Assembly but, subject to the next following subparagraph, he shall not vacate his seat until the expiration of a period of thirty days thereafter:

Provided that the Speaker may, at the request of the member, from time to time extend that period for further periods of thirty days to enable the member to pursue an appeal against the decision, so, however, that extensions of time exceeding in the aggregate one hundred and fifty days shall not be given without the approval of the Assembly signified by resolution.

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

(*c*) If at any time before the member of the Assembly vacates his seat such circumstances as aforesaid cease to exist, his seat shall not become vacant by reason of those circumstances, and he may resume the performance of his functions as a member of the Assembly.

Speaker and Deputy Speaker.

62.—(1) When the National Assembly first meets after any election and before it proceeds to the despatch of any other business, it shall elect a person to be the Speaker of the Assembly; and, if the office of

Speaker falls vacant at any time before the next dissolution of Parliament, the Assembly shall, as soon as practicable, elect another person to that office.

(2) The Speaker may be elected either from among the members of the Assembly who are not Ministers or Parliamentary Secretaries or from among persons who are not members of the Assembly but are qualified for election as members:

Provided that, for the purposes of this paragraph, the references in paragraph (*b*) of article 59 of this Constitution to a day prescribed by Parliament shall be construed as if they were references to the day on which it is proposed to elect a person to be Speaker.

(3) When the National Assembly first meets after any election and before it proceeds to the despatch of any other business except the election of the Speaker, the Assembly shall elect a member of the Assembly who is not a Minister or a Parliamentary Secretary to be Deputy Speaker of the Assembly; and if the office of Deputy Speaker falls vacant at any time before the next dissolution of Parliament, the Assembly shall, as soon as convenient, elect another such member to that office.

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

(*a*) in the case of a Speaker elected from among the members of the Assembly or in the case of the Deputy Speaker—

(i) if he ceases to be a member of the Assembly:

Provided that when the Speaker ceases to be a member of the Assembly in consequence of a dissolution of Parliament, he shall not, by reason thereof, vacate his office until the Assembly first meets after that dissolution;

(ii) if, by virtue of paragraph (3)(*a*) of the preceding article, he is required to cease to perform his functions as a member of the Assembly; or

(iii) if he is appointed to be a Minister or a Parliamentary Secretary;

(*b*) in the case of a Speaker elected from among persons who are not members of the House of Assembly—

(i) when the Assembly first meets after any dissolution of Parliament; or

(ii) if he ceases to be a Commonwealth citizen or if any circumstances arise that would cause him to be disqualified for election as a member of the Assembly by virtue of article 60 of this Constitution or of any law enacted in pursuance thereof;

(*c*) if he announces the resignation of his office to the Assembly or if by writing under his hand addressed, in the case of the Speaker, to the Clerk of the Assembly or in the case of the Deputy Speaker, to the Speaker (or, if the office of Speaker is vacant or the Speaker is absent from Guyana, to the Clerk) he resigns that office; or

(*d*) in the case of the Deputy Speaker, if he is elected to be Speaker.

Clerk and Deputy Clerk.

63.—(1) There shall be a Clerk and a Deputy Clerk of the National Assembly, and appointments to those offices shall be made by the Governor-General acting in accordance with the advice of the Speaker.

(2) Subject to the provisions of the next following paragraph, the Clerk shall vacate his office when he attains the age of sixty-five years or such later age as may, in any particular case, be prescribed by the Commission appointed under paragraph (5) of this article.

(3) The Clerk shall be removed from office by the Governor-General if, but shall not be so removed unless, the National Assembly, by a resolution which has received the affirmative votes of a majority of all the elected members thereof, has resolved that he ought to be so removed for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(4) The provisions of paragraphs (2) and (3) of this article shall apply to the Deputy Clerk as they apply to the Clerk.

(5) Subject to the provisions of article 115(3) of this Constitution, the terms of service (including salary and allowances) of the Clerk and Deputy Clerk shall be determined from time to time by a Commission consisting of the Speaker, as Chairman, the Minister responsible for finance or a person nominated by that Minister to represent him at any meeting of the Commission and one other Minister designated from time to time by the Prime Minister.

(6) A person who is a public officer may, without ceasing to hold office in the public service, be appointed in accordance with the provisions of this article to the office of Clerk or Deputy Clerk, but—

(*a*) no such appointment shall be made without the concurrence of the appropriate service authority;

(*b*) the provisions of paragraphs (2), (3) and (4) of this article shall, in relation to an officer so appointed, apply, subject to the provisions of subparagraph (*d*) of this paragraph, as respects his service as Clerk or Deputy Clerk but not as respects his service as a public officer;

(*c*) an officer so appointed shall not, during his continuance in the office of Clerk or Deputy Clerk, perform the functions of any public office; and

(*d*) an officer so appointed may at any time be appointed by the appropriate service authority to assume or resume the functions of a public office and he shall thereupon vacate his office as Clerk or Deputy Clerk, but no appointment under this subparagraph shall be made without the concurrence of the Speaker.

(7) In the preceding paragraph "the appropriate service authority" means the authority in which, under the provisions of this Constitution, is vested the power to make appointments to the public office held by the person to be appointed as Clerk or Deputy Clerk or the functions of which the Clerk or Deputy Clerk is to be appointed to assume or resume, as the case may be.

(8) The functions conferred by this article on the Speaker shall, if there is no person holding the office of Speaker or if the Speaker is absent from Guyana or is otherwise unable to perform those functions, be performed by the Deputy Speaker.

Unqualified persons sitting or voting.

64.—(1) Any person who sits or votes in the National Assembly, knowing or having reasonable ground for knowing that he is not entitled to do so, shall be liable to a penalty of fifty dollars for each day upon which he so sits or votes.

(2) Any such penalty shall be recoverable by civil action in the High Court at the suit of the Attorney-General.

PART 2

Elections

Qualifications and disqualifications for electors.

65.—(1) No person shall vote at an election unless he is registered as an elector.

(2) Subject to the provisions of paragraphs (3) and (4) of this article, a person shall be qualified to be registered as an elector for elections if, and shall not be so qualified unless, on the qualifying date, he is of the age of twenty-one years or upwards and either—

(*a*) is a citizen of Guyana who is domiciled in Guyana or who is resident in Guyana and has been so resident for a period of one year immediately preceding the qualifying date; or

(*b*) is a Commonwealth citizen who is not a citizen of Guyana and who is domiciled and resident in Guyana and has been so resident for a period of one year immediately preceding the qualifying date.

(3) No person shall be qualified to be so registered who on the qualifying date—

(*a*) is under sentence of death imposed on him by a court, or is serving a sentence of imprisonment (by whatever name called) exceeding six months imposed on him by a court or substituted by competent authority for some other sentence imposed on him by a court, or is under such a sentence of imprisonment the execution of which has been suspended;

(*b*) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in Guyana.

(4) No person shall be qualified to be so registered if during such period (not exceeding five years) preceding the qualifying date as may be prescribed by Parliament, he has been convicted by a court of any offence connected with elections that is so prescribed or has been reported guilty of such an offence by the High Court in proceedings under article 71 of this Constitution:

Provided that Parliament may empower the court to exempt a person from disqualification for registration on account of such a conviction or report if the court deems it just so to do.

(5) In this article, "the qualifying date" means such date as may be appointed by or under an Act of Parliament as the date with reference to which a register of electors shall be compiled or revised.

(6) For the purposes of paragraph (3)(*a*) of this article—

(*a*) two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds six months, but if any one of those sentences exceeds that term they shall be regarded as one sentence; and

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

Electoral system.

66.—(1) The election of members of the National Assembly shall be conducted by secret ballot in accordance with the system of proportional representation prescribed by this article.

(2) Subject to the provisions of the next following paragraph—

(*a*) votes shall be cast throughout Guyana in favour of lists of candidates ;

(*b*) each elector shall have one vote and may cast it in favour of any of the lists ; and

(*c*) the seats of elected members in the Assembly shall be allocated between the lists in such a manner that the proportion that the number of such seats allocated to each list bears to the number of votes cast in favour of the list is as nearly as may be the same for each list.

(3) Parliament may make provision for the division of Guyana into such number of electoral areas, not being more than half the number of elected members of the Assembly, as Parliament may prescribe and for the election in each such area of one member of the Assembly, each elector having for this purpose one vote in addition to the vote which he may cast in favour of a list of candidates ; but, if Parliament makes provision as aforesaid, then—

(*a*) a person may stand as a candidate for election in any such electoral area only if, in such manner as Parliament may prescribe, he has declared that he supports, or has otherwise identified himself with, one of the lists ; and

(*b*) those seats in the Assembly for which members are not elected in electoral areas as aforesaid shall be allocated between the lists in accordance with the results of the voting throughout Guyana in favour of lists in such a manner that the proportion that the number of seats allocated to each list, when added to the number of members identified with that list elected in electoral areas, bears to the number of votes cast in favour of that list is as nearly as may be the same for each list.

(4) Subject to the provisions of this Constitution, Parliament may make provision for—

(*a*) the registration of electors ;

(*b*) the manner in which lists of candidates shall be prepared and entered for an election ;

(*c*) the manner in which the number of seats to be allocated to each list shall be calculated in order to give effect to the provisions of paragraph (2) or paragraph (3), as the case may be, of this article ;

(*d*) for the combination of lists of candidates for the purpose of the allocation of seats (but not for the purpose of voting) ;

(*e*) for the extraction from the lists and declaration of names of the candidates who have been elected ; and

(*f*) generally for the conduct of elections and for giving effect to the provisions of this article.

Times for elections.

67. An election of members of the National Assembly shall be held on such day within three months after every dissolution of Parliament as the Governor-General, acting in accordance with the advice of the Prime Minister, shall appoint by proclamation.

68.—(1) There shall be an Elections Commission for Guyana consisting of a Chairman and such other members as may be appointed in accordance with the provisions of this article. Elections Commission.

(2) Subject to the provisions of paragraph (6) of this article, the Chairman of the Elections Commission shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister, from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court.

(3) In addition to the Chairman, there shall be one member of the Commission (hereinafter referred to as a "representative member") in respect of every list of candidates which at the election next preceding the appointment of such member obtained not less than five seats in the Assembly:

Provided that no appointment shall be made under this paragraph during the period of three months immediately following the date of an election.

(4) For the purposes of the preceding paragraph a list shall be regarded as having obtained a seat in the Assembly if a seat has been allocated to that list or if a person identified with that list has been elected in an electoral area established under article 66(3) of this Constitution.

(5) Subject to the provisions of paragraph (6) of this article, a representative member of the Commission shall be appointed by the Governor-General, acting in accordance with the advice of the member of the Assembly whose name appears first on the list in respect of which the member is appointed or, if a majority of the members of the Assembly who belong to that list notify the Governor-General that he should act in accordance with the advice of some other member of the Assembly who belongs to that list, in accordance with the advice of that member:

Provided that if occasion arises for making an appointment while Parliament stands dissolved this subsection shall have effect as if Parliament had not been dissolved.

(6) A person shall be disqualified for appointment as a member of the Commission if he is a public officer or an alien.

(7) A member of the Elections Commission shall vacate his office—

(*a*) at the expiration of three months from the date of the election next following his appointment; or

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

(8) The provisions of article 118 of this Constitution (which relate to removal from office) shall apply to the office of member of the Elections Commission, and, for the purposes of paragraphs (4) and (6) of that article, the prescribed authority shall be the Prime Minister:

Provided that, before tendering any advice to the Governor-General under paragraph (4) of the said article in relation to the representative member appointed in respect of a list other than that to which the Prime Minister belongs, the Prime Minister shall consult the person

on whose advice, if the office of that member were vacant, the Governor-General would act under paragraph (5) of this article in appointing a person to fill the vacancy.

(9) If, by reason of his illness, absence from Guyana or suspension under the said article 118, any member of the Elections Commission is unable to perform his functions as such, a temporary member may be appointed in his place.

(10) The provisions of this article shall apply in relation to the appointment of a temporary member of the Commission and to a temporary member appointed in accordance with this article as they apply in relation to the member of the Commission in whose place he is appointed:

Provided that his appointment shall have effect only for the period ending when the person in whose place he has been appointed resumes his functions as, or ceases to be, a member of the Commission.

(11) For the purposes of paragraphs (5) and (8) of this article a person shall be regarded as belonging to a list if his name appears on that list or if he was identified with that list and elected in an electoral area established under article 66(3) of this Constitution.

Functions of Elections Commission.

69.—(1) The Elections Commission shall have such functions connected with or relating to the registration of electors or the conduct of elections as are conferred upon it by or under this Constitution or, subject thereto, any Act of Parliament; and, subject to the provisions of this Constitution, the Commission—

(*a*) shall exercise general direction and supervision over the registration of electors and the administrative conduct of elections; and

(*b*) shall issue such instructions and take such action as appear to it necessary or expedient to ensure impartiality, fairness and compliance with the provisions of this Constitution or of any Act of Parliament on the part of persons exercising powers or performing duties connected with or relating to the matters aforesaid.

(2) Notwithstanding anything to the contrary in this Constitution, if the Elections Commission is satisfied that the holding of an election on the day appointed therefor under article 67 of this Constitution would be attended, either generally or in a particular area, by danger or serious hardship, it may, after consultation with the Prime Minister and the Leader of the Opposition, by notice published in the Gazette—

(*a*) postpone the holding of the election to a day specified in the notice; or

(*b*) postpone the voting in any area specified in the notice to a day so specified.

Filling of casual vacancies.

70.—(1) Subject to the provisions of paragraph (3) of this article, if the seat of an elected member of the National Assembly is vacant for any cause other than a dissolution of Parliament, the vacancy shall be filled by the person who is not an elected member of the Assembly but is qualified for election as, and willing to become, such a member and whose name is on the relevant list of candidates and appears nearest to the top thereof, disregarding the name of every person who became at the preceding election, or has since become, an elected member of the Assembly; and if there is no such person the seat shall remain

vacant until it is filled consequent upon an ensuing election.

(2) In the preceding paragraph, "the relevant list of candidates" means the list in which was included the name of the member of the Assembly vacating his seat or, where the vacancy exists because a person is held in proceedings under the next following article not to have been qualified to be elected as a member, the name of that person.

(3) If Parliament makes provision under article 66(3) of this Constitution for members of the Assembly to be elected in electoral areas, Parliament may also make provision for the filling of vacancies among the seats of members who are so elected caused otherwise than by a dissolution of Parliament, and nothing in the foregoing provisions of this article shall apply to the filling of such vacancies.

Determination of questions as to membership and elections.

71.—(1) Subject to the provisions of this article, the High Court shall have exclusive jurisdiction to determine any question—

(*a*) regarding the qualification of any person to be elected as a member of the National Assembly;

(*b*) whether—

(i) either generally or in any particular place, an election has been lawfully conducted or the result thereof has been, or may have been, affected by any unlawful act or omission;

(ii) the seats in the Assembly have been lawfully allocated;

(iii) a seat in the Assembly has become vacant; or

(iv) any member of the Assembly is required under the provisions of article 61(3) of this Constitution, to cease to exercise any of his functions as a member thereof;

(*c*) regarding the filling of a vacant seat in the Assembly; or

(*d*) whether any person has been validly elected as Speaker of the Assembly from among persons who are not members thereof or, having been so elected, has vacated the office of Speaker.

(2) Proceedings for the determination of any question referred to in the preceding paragraph may be instituted by any person (including the Attorney-General) and, where such proceedings are instituted by a person other than the Attorney-General, the Attorney-General if he is not a party thereto may intervene and (if he intervenes) may appear or be represented therein.

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

(*a*) from the decision of a Judge of the High Court granting or refusing leave to institute proceedings for the determination of any question referred to in paragraph (1) of this article;

(*b*) from the determination by the High Court of any such question, or against any order of the High Court made in consequence of such determination.

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

(5) Parliament may make provision with respect to—

(*a*) the circumstances and manner in which and the conditions upon which proceedings for the determination of any question under this article may be instituted in the High Court and an appeal may be brought to the Court of Appeal under this section;

(*b*) the consequences of the determination of any question under this article and the powers of the High Court in relation to the determination of any such question, including (without prejudice to the generality of the foregoing power) provision empowering the High Court to order the holding of a fresh election throughout Guyana or a fresh ballot in any part thereof or the re-allocation of seats in whole or in part; and

(*c*) the practice and procedure of the High Court in relation to the jurisdiction and powers conferred upon it by or under this article and of that Court and the Court of Appeal in relation to appeals to the Court of Appeal under this article;

and, subject to any provision so made, provision may be made with respect to the matters aforesaid by rules of court.

PART 3

Powers and Procedure of Parliament

Legislative power.

72.—(1) Subject to the provisions of this Constitution, Parliament may make laws for the peace, order and good government of Guyana.

(2) Without prejudice to the generality of paragraph (1) and subject to the provisions of paragraphs (3), (4) and (5) of this article, Parliament may by law determine the privileges, immunities and powers of the National Assembly and the members thereof.

(3) No civil or criminal proceedings may be instituted against any member of the Assembly for words spoken before, or written in a report to, the Assembly or to a committee thereof or by reason of any matter or thing brought by him therein by petition, bill, resolution, motion or otherwise.

(4) For the duration of any session, members of the Assembly shall enjoy freedom from arrest for any civil debt.

(5) No process issued by any court in the exercise of its civil jurisdiction shall be served or executed within the precincts of the Assembly while the Assembly is sitting or through the Speaker, the Clerk or any officer of the Assembly.

Alteration of this Constitution.

73.—(1) Subject to the provisions of this article, Parliament may alter this Constitution.

(2) A Bill for an Act of Parliament under this article shall not be passed by the National Assembly unless it is supported at the final voting in the Assembly by the votes of a majority of all the elected members of the Assembly.

(3) A Bill to alter any of the following provisions of this Constitution, that is to say—

(*a*) this article, articles 1, 2, 30, 33, 40, 57, 58, 66, 68, 69, 71, 81 and 82, article 119 in its application to the Elections Commission and article 125 in its application to any of the provisions mentioned in this subparagraph; and

(*b*) Chapter II, Chapter III, article 47, Part 2 of Chapter V (other than article 53(3) and (5) and the First Schedule), articles 59, 60 and 65, Chapter VII (other than article 91), Chapter VIII, Chapter IX, articles 115, 116 and 118, article 119 in its application to any Commission other than the Elections Commission and article 125 in its application to any of the provisions mentioned in this subparagraph;

shall not be submitted to the Governor-General for his assent unless the Bill, not less than two nor more than six months after its passage through the National Assembly, has, in such manner as Parliament may prescribe, been submitted to the vote of the electors qualified to vote in an election and has been approved by a majority of the electors who vote on the Bill:

Provided that if the Bill does not alter any of the provisions mentioned in subparagraph (*a*) of this paragraph and is supported at the final voting in the Assembly by the votes of not less than two-thirds of all the elected members of the Assembly it shall not be necessary to submit the Bill to the vote of the electors.

(4) In this article—

(*a*) references to this Constitution or to any particular provision thereof include references to any other law in so far as that law alters the Constitution or, as the case may be, that provision; and

(*b*) references to altering this Constitution or any particular provision thereof include references to repealing it, with or without re-enactment thereof or the making of different provision in lieu thereof, to modifying it and to suspending its operation for any period.

(5) If the National Assembly, upon a motion introduced by the Prime Minister and supported by the votes of a majority of all the elected members of the National Assembly, resolves that, on such day after the passing of the resolution as may be specified therein, Guyana shall become a Republic and accordingly cease to be part of Her Majesty's dominions and that for that purpose the alterations to this Constitution set out in the Second Schedule to this Constitution shall have effect, the provisions of this Constitution mentioned in the first column of Part I of that Schedule shall, on the day so specified, be altered in the manner mentioned in the second column of that Part:

Provided that—

(*a*) notice of a motion under this paragraph shall be given not less than three months before the National Assembly proceeds upon the motion; and

(*b*) notice of such a motion shall not be given before 1st January 1969.

(6) Anything done under any provision of this Constitution (other than a provision of Chapter IV) before its alteration under the preceding paragraph and which would, but for this paragraph, cease by virtue of that alteration to have effect, shall continue to have effect as if done under that provision as so altered.

Regulation of procedure.

74.—(1) Subject to the provisions of this Constitution, the National Assembly may regulate its own procedure and may make rules for that purpose.

(2) The Assembly may act notwithstanding any vacancy in its membership (including any vacancy not filled when the Assembly first meets after the commencement of this Constitution or after any dissolution of Parliament) and the presence or participation of any person not entitled to be present at or to participate in the proceedings of the Assembly shall not invalidate those proceedings.

Presiding in the Assembly.

75.—(1) The Speaker, or, in his absence, the Deputy Speaker or, if they are both absent, a member of the National Assembly (not being

a Minister or a Parliamentary Secretary) elected by the Assembly for the sitting shall preside at any sitting of the Assembly.

(2) References in this article to circumstances in which the Speaker or Deputy Speaker is absent include references to circumstances in which the office of Speaker or Deputy Speaker is vacant.

Oaths of members.

76. No member of the National Assembly shall take part in the proceedings of the Assembly (other than proceedings necessary for the purpose of this article) until he has made and subscribed before the Assembly the oath of allegiance and the oath of office:

Provided that the election of a Speaker and Deputy Speaker of the Assembly may take place before the members thereof have made and subscribed such oaths.

Voting.

77.—(1) Save as otherwise provided by this Constitution, all questions proposed for decision in the National Assembly shall be determined by a majority of the votes of the members present and voting.

(2) Except as provided by the next following paragraph, the Speaker or other member presiding in the Assembly shall not vote unless on any question the votes are equally divided, in which case he shall have and exercise a casting vote.

(3) A Speaker elected from among persons who are not members of the Assembly shall have neither an original nor a casting vote and if, upon any question before the Assembly when such a Speaker is presiding, the votes of the members are equally divided, the motion shall be lost.

Quorum.

78. If objection is taken by any member of the National Assembly present that there are present in the Assembly (besides the person presiding) less than one-third of all the elected 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 there are still present less than one-third of all the elected members, he shall thereupon adjourn the Assembly.

Mode of legislation.

79.—(1) Subject to the provisions of article 73(3) of this Constitution, the power of Parliament to make laws shall be exercised by Bills passed by the National Assembly and assented to by the Governor-General on behalf of Her Majesty.

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

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

Introduction of Bills, etc.

80.—(1) Subject to the provisions of this Constitution and of the rules of procedure of the National Assembly, any member of the Assembly may introduce any Bill or propose any motion for debate in, or may present any petition to, the Assembly, and the same shall be debated and disposed of according to the rules of procedure of the Assembly.

(2) Except on the recommendation or with the consent of the Cabinet signified by a Minister, the Assembly shall not—

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

(i) for imposing or increasing any tax;

(ii) for imposing any charge upon the Consolidated Fund or any other public fund of Guyana or for altering any such charge otherwise than by reducing it;

(iii) for the payment, issue or withdrawal from the Consolidated Fund or any other public fund of Guyana of any moneys not charged thereon or any increase in the amount of such a payment, issue or withdrawal; or

(iv) for compounding or remitting any debt due to Guyana; or

(*b*) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding, would be to make provision for any of the purposes aforesaid.

PART 4

Summoning, Prorogation and Dissolution

Sessions of Parliament.

81.—(1) Each session of Parliament shall be held at such place within Guyana and shall begin at such time (not being later than six months from the end of the preceding session if Parliament has been prorogued or four months from the end of that session if Parliament has been dissolved) as the Governor-General shall appoint by proclamation.

(2) Subject to the provisions of the preceding paragraph, the sittings of the National Assembly shall be held at such time and place as the Assembly may, by its rules of procedure or otherwise, determine.

Prorogation and dissolution of Parliament.

82.—(1) The Governor-General, acting in accordance with the advice of the Prime Minister, may at any time by proclamation prorogue Parliament.

(2) The Governor-General, acting in accordance with the advice of the Prime Minister, may at any time by proclamation dissolve Parliament:

Provided that if the office of Prime Minister is vacant and the Governor-General considers that there is no prospect of his being able within a reasonable time to appoint to that office a person who can command the support of a majority of the elected members of the National Assembly, he shall dissolve Parliament.

(3) Parliament, unless sooner dissolved, shall continue for five years from the date when the Assembly first meets after any dissolution and shall then stand dissolved.

(4) At any time when Guyana is at war Parliament may from time to time extend the period of five years specified in the preceding paragraph by not more than twelve months at a time:

Provided that the life of Parliament shall not be extended under this paragraph by more than five years.

(5) If, after a dissolution and before the holding of the election of members of the Assembly, the Prime Minister advises the Governor-General, that owing to the existence of a state of war or of a state of

emergency in Guyana or any part thereof, it is necessary to recall Parliament, the Governor-General shall summon the Parliament that has been dissolved to meet, but the election of members of the Assembly shall proceed and the Parliament that has been recalled shall, if not sooner dissolved, again stand dissolved on the day before the day on which the election is held.

CHAPTER VII

THE JUDICATURE

PART 1

The Supreme Court of Judicature

Establishment of Supreme Court of Judicature.

83.—(1) There shall be for Guyana a Supreme Court of Judicature consisting of a Court of Appeal and a High Court, with such jurisdiction and powers as are conferred on those Courts respectively by this Constitution or any other law.

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

Constitution of Court of Appeal.

84. The Judges of the Court of Appeal shall be the Chancellor, who shall be the President of the Court of Appeal, the Chief Justice and such number of Justices of Appeal as may be prescribed by Parliament.

Constitution of High Court.

85. The Judges of the High Court shall be the Chief Justice and such number of Puisne Judges as may be prescribed by Parliament.

PART 2

Judges of the Supreme Court of Judicature

Interpretation.

86. Except as otherwise expressly provided or required by the context, in this Part the word "Judge" includes the Chancellor, the Chief Justice, a Justice of Appeal and a Puisne Judge.

Appointment of Chancellor and Chief Justice.

87.—(1) The Chancellor and the Chief Justice shall be appointed by the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition.

(2) If the office of Chancellor or Chief Justice is vacant or if the person holding the office of Chancellor is performing the functions of the office of Governor-General or is for any other reason unable to perform the functions of his office or if the person holding the office of Chief Justice is for any reason unable to perform the functions of his office, then, until a person has been appointed to and has assumed the functions of such office or until the person holding such office has resumed those functions, as the case may be, those functions shall be performed by such other of the Judges as may be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister.

Appointment of Justices of Appeal and Puisne Judges.

88.—(1) The Judges, other than the Chancellor and the Chief Justice, shall be appointed by the Governor-General, acting in accordance with the advice of the Judicial Service Commission.

(2) If—

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

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

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

(*d*) the Chancellor advises the Governor-General that the state of business of the Court of Appeal or the High Court so requires,

the Governor-General, acting in accordance with the advice of the Judicial Service Commission, may appoint a person to act in the office of Justice of Appeal or Puisne Judge, as the case may require:

Provided that a person may be so appointed notwithstanding that he has attained the age at which that office is required by article 90 of this Constitution to be vacated by a holder thereof.

(3) The appointment of any person under the preceding paragraph to act in the office of a Justice of Appeal or Puisne Judge shall continue to have effect until it is revoked by the Governor-General, acting in accordance with the advice of the Judicial Service Commission.

Qualifications of Judges.

89.—(1) A person shall not be qualified to be appointed to hold or to act in the office of a Judge unless—

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

(*b*) he is qualified for admission as an advocate in Guyana and has been so qualified for such period as may be prescribed by Parliament.

(2) Parliament may prescribe different periods under subparagraph (*b*) of the preceding paragraph in relation to the offices of the different Judges mentioned in article 86 of this Constitution.

Tenure of office of Judges.

90.—(1) Notwithstanding the provisions of articles 84 and 85 of this Constitution, the office of a Justice of Appeal or a Puisne Judge shall not be abolished while there is a substantive holder thereof.

(2) Subject to the provisions of this article, a person holding the office of Judge shall vacate that office on attaining—

(*a*) in the case of a Puisne Judge, the age of sixty-two years; and

(*b*) in the case of any other Judge, the age of sixty-five years:

Provided that the Governor-General, acting in accordance with the advice of the Judicial Service Commission, may permit—

(i) a Puisne Judge, who has attained the age of sixty-two years, to continue in office until he has attained such later age, not exceeding sixty-five years, as may (before the Judge has attained the age of sixty-two years) have been agreed with the Judge; or

(ii) any Judge to continue in office for such period after attaining the age at which he is required by the other provisions of this paragraph to vacate his office as may be necessary to enable him to deliver judgment or to do any other thing in relation to any proceedings heard by him before he attained that age.

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

(4) A Judge shall be removed from office by the Governor-General if the question of removal of that Judge has, in pursuance of the next following paragraph, been referred by Her Majesty to the Judicial

Committee, and the Judicial Committee has advised Her Majesty that the Judge ought to be removed from office for inability as aforesaid or for misbehaviour.

(5) If the Prime Minister, in the case of the Chief Justice or the Chancellor, or the Judicial Service Commission, in the case of any other Judge, represents to the Governor-General that the question of removing such Judge from office under this article ought to be investigated, then—

(*a*) the Governor-General shall appoint a tribunal, which shall consist of a Chairman and not less than two other members, selected by the Governor-General, acting in accordance with the advice of the Prime Minister in the case of the Chancellor or the Chief Justice or of the Prime Minister after consultation with the Judicial Service Commission in the case of any other Judge, from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court;

(*b*) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to the Governor-General whether he should request that the question of the removal of that Judge from office should be referred by Her Majesty to the Judicial Committee; and

(*c*) if the tribunal so recommends, the Governor-General shall request that the question should be referred accordingly.

(6) The provisions of the Commissions of Inquiry Ordinance(a) as in force immediately before 26th May 1966 shall, subject to the provisions of this article and of the Third Schedule to this Constitution, apply as nearly as may be in relation to tribunals appointed under the preceding paragraph or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Ordinance, and in such application shall have effect as if they formed part of this Constitution.

(7) If the question of removing a Judge from office has been referred to a tribunal under paragraph (5) of this article, the Governor-General, acting in accordance with the advice of the Prime Minister in the case of the Chancellor or the Chief Justice, of the Chancellor in the case of a Justice of Appeal, or of the Chief Justice in the case of a Puisne Judge, may suspend such Judge from performing the functions of his office, and any such suspension may at any time be revoked by the Governor-General, acting in accordance with such advice as aforesaid, and shall in any case cease to have effect—

(*a*) if the tribunal recommends to the Governor-General that he should not request that the question of the removal of the Judge from office should be referred by Her Majesty to the Judicial Committee; or

(*b*) if the Judicial Committee advises Her Majesty that the Judge ought not to be removed from office.

(8) The provisions of this article shall be without prejudice to the provisions of article 88(3) of this Constitution.

Oaths of Judges.

91. A Judge shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and the oath of office.

(a) Laws of British Guiana, Rev. Edn. 1953, Vol. II, c. 59.

PART 3

Appeals

Appeals on constitutional questions and fundamental rights.

92.—(1) An appeal to the Court of Appeal shall lie as of right from decisions of the High Court in the following cases, that is to say—

(*a*) final decisions in any civil or criminal proceedings on questions as to the interpretation of this Constitution;

(*b*) final decisions given in exercise of the jurisdiction conferred on the High Court by article 19 of this Constitution (which relates to the enforcement of fundamental rights and freedoms); and

(*c*) final decisions in the determination of any of the questions for the determination of which a right of access to the High Court is guaranteed by article 8 of this Constitution (which relates to the rights of persons whose property is compulsorily acquired);

and an appeal shall lie as of right to Her Majesty in Council from any decision of the Court of Appeal in any such case.

(2) Parliament may provide for an appeal to lie from decisions of the Court of Appeal to Her Majesty in Council, either as of right or with the leave of the Court of Appeal, in such other cases as may be prescribed by Parliament.

(3) Nothing in the two preceding paragraphs shall apply to the matters for which provision is made by article 71 of this Constitution.

(4) Nothing in this article shall affect any right of Her Majesty to grant special leave to appeal from decisions of the Court of Appeal to Her Majesty in Council in any civil or criminal matter.

PART 4

Judicial Service Commission

Establishment and composition of Commission.

93.—(1) There shall be a Judicial Service Commission for Guyana.

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

(*a*) the Chancellor, who shall be Chairman;

(*b*) the Chief Justice;

(*c*) the Chairman of the Public Service Commission; and

(*d*) such other members (hereinafter called "the appointed members") as may be appointed in accordance with the provisions of the next following paragraph.

(3) The appointed members shall be appointed by the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, as follows, that is to say—

(*a*) one from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; and

(*b*) not less than one nor more than two from among persons not in active practice as advocates or solicitors, after the Prime Minister has also consulted such bodies as appear to him to represent advocates and solicitors respectively in Guyana:

Provided that a person shall be disqualified for appointment as a member of the Commission if he is a public officer.

(4) Subject to the provisions of the next following paragraph, the office of an appointed member of the Judicial Service Commission shall become vacant—

(*a*) at the expiration of three years from the date of his appointment or at such earlier time as may be specified in the instrument by which he was appointed; or

(*b*) if he is appointed to the office of Chancellor, Chief Justice or Chairman of the Public Service Commission or if he becomes a public officer.

(5) The provisions of article 118 of this Constitution (which relate to removal from office) shall apply to the office of an appointed member of the Judicial Service Commission, and for the purposes of paragraphs (4) and (6) of that article the prescribed authority shall be the Prime Minister and the Chancellor respectively.

(6) If the office of an appointed member is vacant or an appointed member is for any reason unable to perform the functions of his office, a person may be appointed to act in that office and the provisions of paragraph (3) of this article shall apply to such an appointment as they apply to the appointment of a person to hold the office of the member concerned; and any person appointed to act in the office of an appointed member shall, subject to the provisions of paragraphs (4)(*b*) and (5) of this article, continue to act until a person has been appointed to the office in which he is acting and has assumed the functions thereof or, as the case may be, until the holder thereof resumes those functions.

(7) A person shall not, while he holds or is acting in the office of a member appointed under paragraph (3)(*b*) of this article, or within a period of three years commencing with the date on which he last held or acted in that office, be eligible for appointment to or to act in any office power to make appointments to which is vested by this Constitution in the Governor-General acting in accordance with the advice of the Judicial Service Commission or in that Commission.

(8) If, by virtue of provision made by Parliament under article 94(3), 97(6) or 99(3), of this Constitution, power to make appointments to or to act in any office or to remove or exercise disciplinary control over persons holding or acting in any office is vested in the Governor-General acting in accordance with the advice of the Judicial Service Commission or is vested in the Judicial Service Commission, Parliament may provide for the inclusion in the Commission, for the purpose of the exercise of any function or power vested in the Commission by virtue of that provision and of any proceedings of the Commission relating thereto, of members additional to those mentioned in paragraph (1) of this article and for the appointment (including disqualifications for appointment) and tenure of office of such additional members; and provision for the inclusion of different additional members may be made in relation to functions or powers vested in the Commission as aforesaid in relation to different offices.

Appointment, etc., of judicial and legal officers.

94.—(1) Power to make appointments to the offices to which this article applies and to remove and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Judicial Service Commission.

(2) The Judicial Service Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under the preceding paragraph to any one or more of its members or to any person holding or acting in an office in respect of which power to make appointments is vested in the Governor-General acting in accordance with the advice of the Commission or to which this article applies.

(3) This article applies to the office of Magistrate, and to such other offices (not being offices in respect of which provision for the making of appointments is made by any provision of this Constitution other than article 96) connected with the courts of Guyana or for appointment to which legal qualifications are required as may be prescribed by Parliament:

Provided that Parliament may provide that this article shall apply to the office of Solicitor-General so far as it relates to the power to remove or to exercise disciplinary control.

CHAPTER VIII

THE PUBLIC SERVICE

PART 1

The Public Service Commission

Establishment and composition of Commission.

95.—(1) There shall be a Public Service Commission for Guyana.

(2) The Public Service Commission shall consist of not less than five nor more than six members who shall be appointed as follows, that is to say—

(*a*) three members appointed by the Governor-General acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition;

(*b*) two members appointed by the Governor-General acting in accordance with the advice of the Prime Minister after the Prime Minister has consulted such bodies as appear to him to represent public officers or classes of public officers; and

(*c*) if the Prime Minister so advises the Governor-General, one other member appointed by the Governor-General acting in accordance with the advice of the Prime Minister:

Provided that a person shall be disqualified for appointment as a member of the Commission if he is a public officer.

(3) A Chairman and a Deputy Chairman of the Public Service Commission shall be appointed by the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, from among the members appointed under subparagraphs (*a*) and (*b*) of the preceding paragraph.

(4) Subject to the provisions of the next following paragraph, the office of a member of the Public Service Commission shall become vacant at the expiration of five years from the date of his appointment or at such earlier time as may be specified in the instrument by which he was appointed.

(5) The provisions of article 118 of this Constitution (which relate to removal from office) shall apply to the office of a member of the Public Service Commission, and for the purposes of paragraphs (4)

and (6) of that article the prescribed authority shall be the Prime Minister except that, in relation to a member other than the Chairman or a member for the time being acting in the office of Chairman under the next following paragraph, the prescribed authority for the purposes of the said paragraph (6) shall be the Chairman.

(6) If the office of Chairman of the Public Service Commission is vacant or the holder thereof is for any reason unable to perform the functions of his office, then the holder of the office of Deputy Chairman, or if that office is vacant or the holder thereof is for any reason unable to perform the functions of the office of Chairman, such one of the other members as the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, may appoint shall act in the office of Chairman; and the Deputy Chairman or such other member shall continue so to act until a person has been appointed to the office of Chairman and has assumed the functions of that office or, as the case may be, until the Chairman, or if a member other than the Deputy Chairman is acting therein, the Deputy Chairman has assumed or resumed those functions.

(7) If the office of a member of the Public Service Commission other than the Chairman is vacant or if the holder thereof is acting as Chairman under the preceding paragraph or is for any other reason unable to perform the functions of his office, a person may be appointed to act in that office and the provisions of paragraph (2) of this article shall apply to such an appointment as they apply to the appointment of a person to hold the office of the member concerned; and any person appointed under this paragraph shall, subject to the provisions of paragraph (5) of this article, continue to act until a person has been appointed to the office in which he is acting and has assumed the functions thereof or, as the case may be, until the holder thereof resumes those functions.

(8) A person shall not, while he holds or is acting in the office of a member of the Public Service Commission or within a period of three years commencing with the date on which he last held or acted in that office, be eligible for appointment to or to act in any public office.

Appointment, etc., of public officers.

96.—(1) Subject to the provisions of this Constitution, the power to make appointments to public offices and to remove and exercise disciplinary control over persons holding or acting in such offices shall vest in the Public Service Commission.

(2) The Public Service Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under the preceding paragraph to any one or more members of the Commission or, with the consent of the Prime Minister, to any public officer or, in relation to any office on the staff of the Clerk of the National Assembly, to the Clerk.

(3) No person shall be appointed under this article to or to act in any office on the personal staff of the Governor-General except with the concurrence of the Governor-General.

(4) Before the Public Service Commission or any member or officer exercising powers under this article appoints to or to act in any public office any person who holds or is acting in any office power to make appointments to which is vested under this Constitution in the Judicial

or the Police Service Commission, the Public Service Commission or that member or officer shall consult with the Commission in which that power is vested.

(5) Before the Public Service Commission or any member thereof exercises any of the powers mentioned in paragraph (1) of this article in relation to any office on the staff of the Clerk of the National Assembly (other than the Deputy Clerk) or any person holding or acting in such an office, the Commission or that member shall consult the Clerk.

(6) A public officer shall not be removed from office or subjected to any other punishment under this article on the grounds of any act committed by him in the exercise of a judicial function conferred on him unless the Judicial Service Commission concurs therein.

(7) The provisions of this article shall not apply in relation to any of the following offices, that is to say—

(*a*) the office of Director of Public Prosecutions;

(*b*) the office of Director of Audit;

(*c*) so far as they relate to power to make appointments thereto, the office of a permanent secretary;

(*d*) so far as they relate to power to make appointments thereto, the office of the Secretary to the Cabinet;

(*e*) any office to which article 101 of this Constitution applies;

(*f*) so far as they relate to power to make appointments on transfer, any office to which article 102 of this Constitution applies;

(*g*) any office to which article 94 of this Constitution (relating to offices within the jurisdiction of the Judicial Service Commission) applies; or

(*h*) the office of Commissioner of Police or any other office in the Police Force.

PART 2

Appointments, etc., to particular offices

Appointment, etc., of Director of Public Prosecutions.

97.—(1) The Director of Public Prosecutions (in this article referred to as "the Director") shall be appointed by the Governor-General, acting in accordance with the advice of the Public Service Commission tendered after the Commission has consulted the Prime Minister.

(2) If the office of the Director is vacant or if the holder thereof is for any reason unable to perform the functions thereof, the Governor-General, acting in accordance with the advice of the Public Service Commission tendered as aforesaid, may appoint a person to act in the office of the Director, and any person so appointed shall, subject to the provisions of paragraphs (4) and (5) of this article, continue to act until a person has been appointed to the office of the Director and has assumed the functions of that office or, as the case may be, until the holder thereof has resumed those functions.

(3) A person shall not be qualified to be appointed to hold or to act in the office of the Director unless he is qualified to be appointed as a Puisne Judge of the High Court.

(4) Subject to the provisions of the next following paragraph, the Director shall vacate his office when he attains the age of sixty years:

Provided that the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, may permit a Director who has attained the age of sixty years to continue in office until he has attained such later age, not exceeding sixty-five years, as may (before the Director has attained the age of sixty years) have been agreed with the Director.

(5) The provisions of article 118 of this Constitution (which relate to removal from office) shall apply to the office of the Director, and the prescribed authority for the purposes of paragraph (4) of that article shall be the Prime Minister or the Chairman of the Public Service Commission and for the purposes of paragraph (6) of that article shall be the Public Service Commission.

(6) Parliament may provide that appointments to, or to act in, the office of the Director shall be made by the Governor-General acting in accordance with the advice of the Judicial Service Commission instead of the Public Service Commission and, if Parliament provides as aforesaid, the references to the Public Service Commission in paragraphs (1), (2) and (5) of this article shall have effect as if they were references to the Judicial Service Commission.

Appointment, etc., of Director of Audit.

98.—(1) The Director of Audit shall be appointed by the Governor-General, acting in accordance with the advice of the Public Service Commission.

(2) If the office of Director of Audit is vacant or the holder of the office is for any reason unable to perform the functions thereof, the Governor-General, acting in accordance with the advice of the Public Service Commission, may appoint a person to act in the office, and any person so appointed shall, subject to the provisions of paragraphs (3) and (4) of this article, continue to act until a person has been appointed to the office of the Director of Audit and has assumed the functions of that office or, as the case may be, until the holder thereof has resumed those functions.

(3) Subject to the provisions of the next following paragraph, the Director of Audit shall vacate his office when he attains such age as may be prescribed by Parliament.

(4) The provisions of article 118 of this Constitution (which relate to removal from office) shall apply to the office of Director of Audit, and the prescribed authority for the purposes of paragraph (4) of that article shall be the Prime Minister or the Chairman of the Public Service Commission and for the purposes of paragraph (6) of that article shall be the Public Service Commission.

Appointments of permanent secretaries and Solicitor-General.

99.—(1) The power to make appointments to the office of a permanent secretary (however styled) shall vest in the Governor-General, acting in accordance with the advice of the Public Service Commission:

Provided that, before tendering advice for the purposes of this paragraph, the Public Service Commission shall consult the Prime Minister.

(2) The power to make appointments to the office of a permanent secretary on transfer from another such office carrying the same salary shall vest in the Governor-General, acting in accordance with the advice of the Prime Minister.

(3) The provisions of this article shall apply to the office of Solicitor-General as they apply to the office of a permanent secretary:

Provided that Parliament may provide that the power to make appointments to, or to act in, the office of the Solicitor-General shall vest in the Governor-General acting in accordance with the advice of the Judicial Service Commission instead of the Public Service Commission and, if Parliament provides as aforesaid, the references to the Public Service Commission in paragraph (1) of this article shall, in relation to that office, have effect as if they were references to the Judicial Service Commission.

Appointment of Secretary to the Cabinet.

100. The power to make appointments to the office of Secretary to the Cabinet shall vest in the Governor-General, acting in accordance with the advice of the Prime Minister:

Provided that, before tendering advice for the purposes of this article, the Prime Minister shall select a person for appointment from among the persons whose names appear on a list submitted to him by the Public Service Commission.

Appointments, etc., of principal representatives of Guyana abroad.

101.—(1) The power to make appointments to the offices to which this article applies and to remove from office persons holding or acting in such offices shall vest in the Governor-General, acting in accordance with the advice of the Prime Minister.

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

(3) The offices to which this article applies are the offices of Ambassador, High Commissioner or other principal representative of Guyana in any other country or accredited to any international organisation.

(4) In paragraph (2) of this article "the appropriate Commission" means, in the case of a person who holds an office power to make appointments to which is vested in the Governor-General acting in accordance with the advice of the Judicial Service Commission or is vested in that Commission, the Judicial Service Commission, in the case of a person who holds an office power to make appointments to which is vested in the Governor-General acting in accordance with the advice of the Police Service Commission or is vested in that Commission, the Police Service Commission, and in any other case the Public Service Commission.

Appointments on transfer to certain offices.

102.—(1) The power to make appointments on transfer to the offices to which this article applies shall vest in the Prime Minister.

(2) The offices to which this article applies are—

(*a*) offices (other than those to which the preceding article applies) the holders of which are required to reside outside Guyana for the proper discharge of their functions; and

(*b*) such offices in the department responsible for the external affairs of Guyana as may from time to time be designated by the Prime Minister.

PART 3

Pensions

Protection of pension rights.

103.—(1) Subject to the provisions of the next following article, the law applicable to any benefits to which this article applies shall, in relation to any person who has been granted, or who is eligible for the

grant of, such benefits, be that in force on the relevant date or any later law that is not less favourable to that person.

(2) In the preceding paragraph "the relevant date" means—

(*a*) in relation to any benefits granted before 26th May 1966, the date on which those benefits were granted;

(*b*) in relation to any benefits granted or to be granted on or after 26th May 1966, to or in respect of any person who was a public officer before that date, 25th May 1966;

(*c*) in relation to any benefits granted or to be granted to or in respect of any person who becomes a public officer on or after 26th May 1966, the date on which he becomes a public officer.

(3) Where a person is entitled to exercise an option as to which of two or more laws shall apply in his case, the law specified by him in exercising the option shall, for the purposes of this article, be deemed to be more favourable to him than the other law or laws.

(4) Any benefit to which this article applies (not being a benefit that is a charge upon some other public fund of Guyana) shall be a charge upon the Consolidated Fund.

(5) In this article references to the law applicable to any benefits to which this article applies include (without prejudice to their generality) references to any law relating to the time at which and the manner in which any person may retire in order to become eligible for those benefits.

Power of Commissions in relation to pensions, etc.

104.—(1) Where under any law any person or authority has a discretion—

(*a*) to decide whether or not any benefits to which this article applies shall be granted; or

(*b*) to withhold, reduce in amount or suspend any such benefits that have been granted,

those benefits shall be granted and may not be withheld, reduced in amount or suspended unless the appropriate Commission concurs in the refusal to grant the benefits or, as the case may be, in the decision to withhold them, reduce them in amount or suspend them.

(2) Where the amount of any benefits to which this article applies that may be granted to any person is not fixed by law, the amount of the benefits to be granted to him shall be the greatest amount for which he is eligible unless the appropriate Commission concurs in his being granted benefits of a smaller amount.

(3) The appropriate Commission shall not concur under paragraph (1) or paragraph (2) of this article in action taken on the ground that any person who holds or has held the office of a Judge of the Supreme Court of Judicature, Director of Public Prosecutions, Director of Audit or Commissioner of Police has been guilty of misbehaviour unless he has been removed from office by reason of such misbehaviour.

(4) In this article "the appropriate Commission" means—

(*a*) in the case of benefits for which any person may be eligible or that have been granted in respect of the service in the public service of a person who, immediately before he ceased to be a public officer—

(i) was a Judge of the Supreme Court of Judicature, or was the Director of Public Prosecutions and provision was then in force

under article 97(6) of this Constitution, or was subject to the disciplinary control of the Judicial Service Commission, the Judicial Service Commission;

(ii) was the Commissioner of Police or other member of the Police Force, the Police Service Commission; and

(*b*) in any other case, the Public Service Commission.

Interpretation.

105.—(1) The preceding two articles apply to any benefits that are or may become payable under any law providing for the grant of pensions, compensation, gratuities or other like allowances to persons in respect of their service as public officers or to the widows, children, dependants or personal representatives of such persons in respect of such service.

(2) The said two articles and paragraph (1) of this article shall have effect as if service as a Judge of the Supreme Court of Judicature or as the Clerk or Deputy Clerk of the National Assembly were service in the public service.

CHAPTER IX

The Police

Establishment and composition of Police Service Commission.

106.—(1) There shall be a Police Service Commission for Guyana which shall consist of—

(*a*) the Chairman of the Public Service Commission who shall be Chairman; and

(*b*) not more than four other members (hereinafter referred to as "appointed members") appointed by the Governor-General acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition:

Provided that a person shall be disqualified for appointment as a member of the Commission if he is a public officer.

(2) Subject to the provisions of the next following paragraph, the office of an appointed member of the Police Service Commission shall become vacant at the expiration of five years from the date of his appointment or at such earlier time as may be specified in the instrument by which he was appointed.

(3) The provisions of article 118 of this Constitution (which relate to removal from office) shall apply to the office of an appointed member of the Police Service Commission, and the prescribed authority for the purposes of paragraph (4) of that article shall be the Prime Minister or the Chairman of the Police Service Commission, and for the purposes of paragraph (6) of that article shall be the Chairman of the Police Service Commission.

(4) If the office of an appointed member of the Police Service Commission is vacant or if the holder thereof is for any reason unable to perform the functions of his office, the Governor-General, acting in accordance with the recommendation of the Prime Minister after consultation with the Leader of the Opposition, may appoint a person who is qualified to be appointed as a member of the Commission to act in that office; and any person so appointed shall, subject to the provisions of paragraph (3) of this article, continue to act until a person has been appointed to the office in which he is acting and has assumed the functions thereof or, as the case may be, until the holder thereof resumes those functions.

(5) A person shall not, while he holds or is acting in the office of an appointed member of the Police Service Commission or within a period of three years commencing with the date on which he last held or acted in that office, be eligible for appointment to or to act in any public office.

Appointment, etc., of Commissioner of Police.

107.—(1) The Commissioner of Police shall be appointed by the Governor-General, acting in accordance with the advice of the Police Service Commission:

Provided that the Commission shall not tender any advice for the purposes of this paragraph unless the Prime Minister concurs in that advice.

(2) If the office of Commissioner of Police is vacant or if the holder thereof is for any reason unable to perform the functions of his office, a person may be appointed to act in that office and the provisions of the preceding paragraph shall apply to such an appointment as they apply to the appointment of a person to hold that office; and any person appointed to act in the office of Commissioner of Police shall, subject to the provisions of paragraphs (3) and (4) of this article, continue to act until a person has been appointed to that office and has assumed the functions thereof or, as the case may be, until the holder thereof resumes those functions.

(3) Subject to the provisions of the next following paragraph, the Commissioner of Police shall vacate his office when he attains such age as may be prescribed by Parliament.

(4) The provisions of article 118 of this Constitution (which relate to removal from office) shall apply to the office of Commissioner of Police, and the prescribed authority for the purposes of paragraph (4) of that article shall be the Prime Minister or the Chairman of the Police Service Commission and for the purposes of paragraph (6) of that article shall be the Police Service Commission.

(5) The provisions of article 122 of this Constitution shall apply to resignation from the office of Commissioner of Police as they apply to resignation from an office established by this Constitution.

Appointment, etc., of other members of Police Force.

108.—(1) The power to make appointments to any offices in the Police Force of or above the rank of Inspector, the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Police Service Commission:

Provided that the Commission shall not appoint a person to hold or to act in the office of Deputy Commissioner of Police unless the Prime Minister concurs in that appointment.

(2) The Police Service Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under the preceding paragraph (other than the power to appoint a person to hold or to act in the office of Deputy Commissioner of Police) to any one or more members of the Commission or to the Commissioner of Police or, in the case of the power to exercise disciplinary control, to any other member of the Police Force.

(3) The power to make appointments to any offices in the Police Force below the rank of Inspector, the power to exercise disciplinary control over persons holding or acting in such offices and the power

to remove such persons from office shall vest in the Commissioner of Police.

(4) The Commissioner of Police may, by directions given in such manner as he thinks fit and subject to such conditions as he thinks fit, delegate any of his powers under the preceding paragraph to any other member of the Police Force.

(5) Parliament may provide that, where the power to exercise disciplinary control over any member of the Police Force (including the power to remove him from office) has been exercised under this section by any person (hereinafter referred to as " the disciplinary authority ") other than the Police Service Commission, the member of the Police Force in respect of whom it was exercised may appeal from the decision of the disciplinary authority to the Police Service Commission:

Provided that Parliament or, in the case of a decision of the disciplinary authority that is made in the exercise of a power delegated to that authority under the preceding paragraph, the Commissioner of Police may require appeals to be made to the Commissioner of Police or a member of the Police Force of higher rank than the disciplinary authority before they are made to the Police Service Commission.

(6) Parliament may make provision with respect to offences against Police Force discipline and the punishment that may be imposed for any such offence, and any power to exercise disciplinary control (including any power to remove a person from office) or to determine an appeal from a decision to exercise such a power that is exercisable by any person or authority under the provisions of this article shall be exercised in accordance with any such provision.

(7) Before the Police Service Commission or any member of the Commission or of the Police Force exercising powers under this article appoints to or to act in an office in the Police Force any person who holds or is acting in any office power to make appointments to which is vested under this Constitution in the Judicial or the Public Service Commission, the Police Service Commission or that member shall consult the Commission in which that power is vested.

(8) If provision is made by or under any law—

(*a*) altering the ranks into which the Police Force established by the Police Ordinance 1957(**a**) is divided ; or

(*b*) establishing a police force other than that Police Force, or altering the ranks into which any such other police force is divided,

the Police Service Commission may by order specify some rank (other than the rank of Inspector) in the Police Force or, as the case may be, in that other police force as being equivalent to the rank of Inspector as it exists in the Police Force under the law in force immediately before 26th May 1966, and the references in paragraphs (1) and (3) of this article to the rank of Inspector shall then be construed as if they were, in relation to the Police Force, or, as the case may be in relation to that other police force, references to the rank for the time being so specified.

(9) In this article references to the office of Deputy Commissioner of Police are references to the office, however styled, that ranks next in seniority in the Police Force after the office of Commissioner of Police.

(**a**) No. 39 of 1957.

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CHAPTER X

FINANCE

Establishment of Consolidated Fund.

109. All revenues or other moneys raised or received by Guyana (not being revenues or other moneys that are payable, by or under an Act of Parliament, into some other fund established for any specific purpose or that may, by or under such an Act, be retained by the authority that received them for the purpose of defraying the expenses of that authority) shall be paid into and form one Consolidated Fund.

Withdrawals from Consolidated Fund or other public funds.

110.—(1) No moneys shall be withdrawn from the Consolidated Fund except—

(*a*) to meet expenditure that is charged upon the Fund by this Constitution or by any Act of Parliament; or

(*b*) where the issue of those moneys has been authorised by an Appropriation Act; or

(*c*) where the issue of those moneys has been authorised under article 112 of this Constitution.

(2) Where any moneys are charged by this Constitution or any Act of Parliament upon the Consolidated Fund or any other public fund, they shall be paid out of that fund by the Government of Guyana to the person or authority to whom payment is due.

(3) No moneys shall be withdrawn from any public fund other than the Consolidated Fund unless the issue of those moneys has been authorised by or under an Act of Parliament.

(4) Parliament may prescribe the manner in which withdrawals may be made from the Consolidated Fund or any other public fund.

Authorisation of expenditure from Consolidated Fund by appropriation.

111.—(1) The Minister responsible for finance shall cause to be prepared and laid before the National Assembly before or not later than sixty days after the commencement of each financial year estimates of the revenues and expenditure of Guyana for that year.

(2) When the estimates of expenditure (other than expenditure charged upon the Consolidated Fund by this Constitution or any Act of Parliament) have been approved by the Assembly a bill, to be known as an Appropriation Bill, shall be introduced in the Assembly, providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

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

(*a*) that the amount appropriated by the Appropriation Act for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by that Act; or

(*b*) that any moneys have been expended for any purpose in excess of the amount appropriated for that purpose by the Appropriation Act or for a purpose for which no amount has been appropriated by that Act,

a supplementary estimate or, as the case may be, a statement of excess showing the sums required or spent shall be laid before the Assembly.

Authorisation of expenditure in advance of appropriation.

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

(2) Where a supplementary estimate or statement of excess is laid before the National Assembly under paragraph (3) of the preceding article or paragraph (2) of the next following article and is approved by the Assembly by resolution, that resolution shall be authority for the issue of the sums in question from the Consolidated Fund, but the aggregate sums the issue of which is so approved shall be included, under appropriate heads, in a supplementary Appropriation Bill.

(3) Where at any time Parliament has been dissolved before any provision or any sufficient provision is made under this Chapter for the carrying on of the government of Guyana, the Minister responsible for finance may authorise the withdrawal of such sums from the Consolidated Fund as he may consider necessary for the purpose of meeting expenditure on the public services until the expiry of a period of three months commencing with the date on which the National Assembly first meets after that dissolution, but a statement of the expenditure so authorised shall, as soon as practicable, be laid before the Assembly and, when the statement has been approved by the Assembly, that expenditure shall be included, under the appropriate heads, in the next Appropriation Bill.

Contingencies Fund.

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

(2) Where any advance is made from the Contingencies Fund a supplementary estimate shall, as soon as practicable, be laid before the National Assembly for the purpose of authorising the replacement of the amount so advanced.

Public debt.

114. The public debt of Guyana and the service of that debt (including the interest on that debt, sinking fund payments and redemption moneys in respect of that debt and costs, charges and expenses of and incidental to the management of that debt) are hereby charged on the Consolidated Fund.

Remuneration of holders of certain offices.

115.—(1) There shall be paid to the holders of the offices to which this article applies such salaries and such allowances as may be prescribed by or under any law or, in the case of the Clerk and Deputy Clerk of the National Assembly, as may be determined under article 63(5) of this Constitution.

(2) The salaries and allowances payable to the holders of the offices to which this article applies are hereby charged on the Consolidated Fund.

(3) The salary and allowances payable to the holder of any office to which this article applies and his other terms of service shall not be altered to his disadvantage after his appointment, and, for the purposes

of this paragraph, in so far as the terms of service of any person depend upon the option of that person, the terms for which he opts shall be taken to be more advantageous to him than any other terms for which he might have opted.

(4) This article applies to the offices of Governor-General, Speaker, Deputy Speaker, Clerk and Deputy Clerk of the National Assembly, any Judge of the Supreme Court of Judicature, members of the Elections Commission, the Judicial Service Commission, the Public Service Commission or the Police Service Commission, the Ombudsman, the Director of Public Prosecutions, the Director of Audit, and the Commissioner of Police.

Office and functions of Director of Audit.

116.—(1) There shall be a Director of Audit for Guyana, whose office shall be a public office.

(2) The public accounts of Guyana and of all officers and authorities of the Government of Guyana (including the Commissions established by this Constitution) and the accounts of the Clerk of the National Assembly and of all courts in Guyana shall be audited and reported on by the Director of Audit, and for that purpose the Director of Audit or any person authorised by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.

(3) The Director of Audit shall submit his reports to the Minister responsible for finance, who shall cause them to be laid before the National Assembly.

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

CHAPTER XI

MISCELLANEOUS

Rules of court.

117. Where under this Constitution any provision may be made by rules of court, rules for the purpose may be made by the authority for the time being empowered generally, by law in force in Guyana, to make rules of court in relation to civil proceedings in the High Court or, in so far as the provision relates to the bringing of any appeal to, or the practice and procedure of, the Court of Appeal, by the authority so empowered in relation to civil proceedings in that Court.

Removal from office of certain persons.

118.—(1) Where it is provided in this Constitution that this article shall apply to any office, a person holding such office (in this article referred to as "the office") shall not be removed therefrom or suspended from the exercise of the functions thereof except in accordance with the provisions of this article; and the prescribed authority for the purpose of paragraph (4) or (6) of this article shall, in relation to any office, be the authority prescribed for that purpose by the provision of this Constitution by which this article is applied to that office.

(2) The officer may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause whatsoever) or for misbehaviour.

(3) The officer shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed under this article and the tribunal has recommended to the

Governor-General that the officer ought to be removed from office for inability as aforesaid or for misbehaviour.

(4) If the prescribed authority advises the Governor-General that the question of removing the officer from office under this article ought to be investigated then—

(*a*) the Governor-General shall appoint a tribunal which shall consist of a Chairman and not less than two other members, selected by the Prime Minister after consultation with the Judicial Service Commission from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court or who are qualified to be admitted to practise in Guyana as advocates or solicitors and have been so qualified for such period as is prescribed by Parliament for the purposes of subparagraph (*b*) of article 89(1) of this Constitution in relation to the office of Puisne Judge ; and

(*b*) that tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to him whether the officer ought to be removed under this article.

(5) The provisions of the Commissions of Inquiry Ordinance as in force immediately before 26th May 1966 shall, subject to the provisions of this article and of the Third Schedule to this Constitution, apply as nearly as may be in relation to tribunals appointed under this article or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Ordinance, and in such application shall have effect as if they formed part of this Constitution.

(6) If the question of removing the officer from office has been referred to a tribunal under this article, the Governor-General acting in accordance with the advice of the prescribed authority, may suspend the officer from performing the functions of his office, and any such suspension may at any time be revoked by the Governor-General, acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor-General that the officer should not be removed from office.

Powers and procedure of Commissions.

119.—(1) Save as otherwise provided in this Constitution, in the exercise of its functions under this Constitution a Commission shall not be subject to the direction or control of any other person or authority.

(2) Subject to the provisions of this Constitution, a Commission may regulate its own procedure and, with the consent of the Prime Minister or of any Minister designated by the Prime Minister for the purpose, may make rules for that purpose or for conferring powers or imposing duties on any public officer or on any authority of the Government of Guyana for the purpose of the discharge of the Commission's functions.

(3) A Commission may, subject to the next following paragraph, act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings.

(4) Any question for decision by a Commission shall be determined by a majority of the votes of the members of the Commission present and voting at a meeting of the Commission at which a quorum is

present, and if on any question the votes are equally divided the Chairman or other member presiding shall have a casting vote in addition to his original vote:

Provided that, where the votes are equally divided on the question whether any power to remove a public officer from his office should be exercised, the Chairman or other member presiding shall not have a casting vote and the Commission shall be deemed to have decided that that power should not be exercised.

(5) For the purposes of the preceding paragraph a quorum shall consist, in the case of the Elections Commission, of the Chairman and not less than two-thirds of the number of representative members (not being temporary members) for the time being appointed to the Commission and, in the case of any other Commission, of such members of the Commission as may be prescribed by the rules of procedure of the Commission:

Provided that if, in the case of the Elections Commission, the number of such representative members is two, the Chairman and one such member shall constitute a quorum.

(6) Any question whether—

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

(*b*) any member of a Commission or any other person has validly performed any function delegated to such member or person by a Commission in pursuance of the provisions of this Constitution; or

(*c*) any member of a Commission or any other person has validly performed any other function in relation to the work of the Commission or in relation to any such function as is referred to in the preceding subparagraph;

shall not be enquired into in any court.

(7) In this article, except as otherwise provided or required by the context, the expression "Commission" means the Elections Commission, the Judicial Service Commission, the Public Service Commission or the Police Service Commission:

Provided that (without prejudice to the power of Parliament to make provision in relation to the functions of the Elections Commission) in the preceding paragraph that expression does not include the Elections Commission.

Disqualification for office of persons exciting racial hostility.

120. Notwithstanding any provision of this Constitution relating to the making of appointments to, removal of persons from, or the vacation of, any office, Parliament may provide for the imposition of disqualification for any office prescribed by Parliament on any person convicted by a court of an offence relating to excitement of hostility or ill-will against any person or class of persons on the grounds of his or their race.

CHAPTER XII

INTERPRETATION

Appointments.

121.—(1) Where any person has vacated any office established by this Constitution (including any office established under article 34(2), 84 or 85 of this Constitution), he may, if qualified, again be appointed, elected or otherwise selected to hold that office in accordance with the provisions of this Constitution.

(2) Where by this Constitution a power is conferred upon any person or authority to make any appointment to any public office, a person may be appointed to that office notwithstanding that some other person may be holding that office, when that other person is on leave of absence pending relinquishment of the office; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this paragraph, then for the purposes of any function conferred upon the holder of that office the person last appointed shall be deemed to be the sole holder of the office.

(3) The preceding paragraph shall have effect in relation to the office of any Judge of the Supreme Court of Judicature or the Clerk or Deputy Clerk of the National Assembly as if that office were a public office.

Resignations.

122.—(1) Any person who is appointed or elected to or otherwise selected for any office established by this Constitution (including any office established under article 34(2), 84 or 85 of this Constitution) may resign from that office and save as otherwise provided by articles 61(2) and 62(4) of this Constitution, shall do so by writing under his hand addressed to the person or authority by whom he was appointed, elected or selected.

(2) The resignation of any person from any such office as aforesaid signified by writing under his hand shall take effect when the writing signifying the resignation is received by the person or authority to whom it is addressed or by any person authorised by that person or authority to receive it or employed to assist that person in the performance of the functions of his office.

Vacation of office on attaining a prescribed age.

123. Where by this Constitution a person is required to vacate an office when he attains an age prescribed by or under the provisions of this Constitution nothing done by him in the performance of the functions of that office shall be invalid by reason only that he has attained the age so prescribed.

Certain questions not to be enquired into in any court.

124. Where by this Constitution the Governor-General or any other person or authority is required to perform any function in accordance with the advice or recommendation of, or after consultation with, another person or authority, or not to make an appointment without the concurrence of another person or authority, the question whether the Governor-General or that other person or authority has received or acted in accordance with such advice or recommendation, or whether such consultation has taken place, or whether the appointment has received such concurrence, shall not be enquired into in any court.

Interpretation.

125.—(1) In this Constitution, except as otherwise provided or required by the context—

"advocate" means a person having a general right of audience in the Supreme Court of Judicature;

"alien" means a person who is not a Commonwealth citizen, a British protected person or a citizen of the Republic of Ireland;

"Commissioner of Police" means the officer, however styled, commanding the Police Force;

"the Commonwealth" means Guyana and any country to which article 27 of this Constitution applies and any dependency of any such country;

" court " means any court of law in Guyana and shall be construed as including Her Majesty in Council ;

" financial year " means any period of twelve months beginning on the first day of January in any year or such other date as Parliament may prescribe ;

" election " means an election of members to serve in the National Assembly ;

" Guyana " includes, in relation to any period before 26th May 1966 or anything done before that day, the former Colony of British Guiana ;

" the Judicial Committee " means the Judicial Committee of the Privy Council established by the Judicial Committee Act 1833(a) as from time to time amended by any Act of the Parliament of the United Kingdom ;

" law " includes any instrument having the force of law and any unwritten rule of law and " lawful " and " lawfully " shall be construed accordingly ;

" oath " includes affirmation ;

" oath of allegiance " means the oath of allegiance set out in the Fourth Schedule to this Constitution or such other oath of allegiance as may be prescribed by Parliament ;

" oath of office " means, in relation to any office, the oath for the due execution of that office set out in the Fourth Schedule to this Constitution or such other oath in that behalf as may be prescribed by Parliament ;

" Parliament " means the Parliament of Guyana ;

" the Police Force " means the Police Force established by the Police Ordinance 1957 and includes any other police force established by or under an Act of Parliament to succeed to or to supplement the functions of that Force but does not include any police force forming part of any naval, military or air force or any police force established by any local government authority ;

" public office " means an office of emolument in the public service ;

" public officer " means the holder of any public office and includes any person appointed to act in any such office ;

" the public service " means, subject to the provisions of paragraph (5) of this article, the service of the Crown in a civil capacity in respect of the government of Guyana ;

" session " means, in relation to the National Assembly, the sittings of the Assembly commencing when it first meets after this Constitution comes into force or after the prorogation or dissolution of Parliament at any time and terminating when Parliament is prorogued or is dissolved without having been prorogued ;

" sitting " means, in relation to the National Assembly, a period during which the Assembly is sitting continuously without adjournment and includes any period during which the Assembly is in committee.

(a) 1833 c. 41.

(2) In this Constitution, unless it is otherwise provided or required by the context—

(*a*) a reference to power to make appointments to any office shall be construed as including a reference to power to make appointments on promotion and transfer and to confirm appointments and to power to appoint a person to act in or perform the functions of that office at any time when the office is vacant or the holder thereof is unable (whether by reason of absence or infirmity of mind or body or any other cause) to perform the functions of that office; and

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

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

(4) For the purposes of this Constitution, a person shall not be considered to hold a public office by reason only that he is in receipt of a pension or other like allowance in respect of public service.

(5) In this Constitution references to the public service shall not be construed as including service in—

(*a*) the office of Prime Minister or other Minister, Attorney-General, Parliamentary Secretary, Speaker, Deputy Speaker, Leader of the Opposition, Ombudsman, or member of the National Assembly;

(*b*) the office of a member of any Commission established by this Constitution;

(*c*) the office of a member of any board, committee or other similar body (whether incorporated or not) established by any law in force in Guyana; or

(*d*) the office of any Judge of the Supreme Court of Judicature or Clerk or Deputy Clerk of the National Assembly except for the purposes of the next following paragraph and save as otherwise provided in any other provision of this Constitution;

or, to such extent as Parliament may prescribe, as including service as a teacher in a school or other place of education.

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

Provided that—

(*a*) nothing in this paragraph shall be construed as conferring on any person or authority power to require a Judge of the Supreme Court of Judicature, the Director of Public Prosecutions, the Commissioner of Police, the Director of Audit, or the Clerk or Deputy Clerk of the National Assembly to retire from his office; and

(*b*) any power conferred by any law to permit a person to retire from the public service shall, in the case of any public officer who may be removed from office by some person or authority other than a Commission established by this Constitution, vest in the Commission that, if he were to retire, would be the appropriate Commission in relation to him for the purposes of article 104 of this Constitution.

(7) Any provision in this Constitution that vests in any person or authority the power to remove any public officer from his office shall be without prejudice to the power of any person or authority to abolish that office or to any law providing for the compulsory retirement of public officers generally or any class of public officer on attaining an age specified by or under that law.

(8) No provision of this Constitution that any person or authority shall not be subject to the direction or control of any other person or authority in the exercise of any functions shall be construed as precluding a court from exercising jurisdiction in relation to any question whether that person or authority has exercised those functions in accordance with this Constitution or any other law.

(9) The Interpretation Ordinance (a) as in force immediately before 26th May 1966 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, an Ordinance of the Legislature of the former Colony of British Guiana, and in such application shall have effect as if it formed part of this Constitution.

Article 53 (3)

FIRST SCHEDULE

Action and Matters not Subject to Investigation under Part 2 of Chapter V

1. Matters certified by a Minister to affect relations or dealings between the Government of Guyana and any other Government or any international organization.

2. Action taken for the purposes of protecting the security of the State or of investigating crime, including action taken with respect to passports for either of those purposes.

3. The commencement or conduct of civil or criminal proceedings in any court.

4. Action taken in respect of appointments to offices or other employment in the service of the Crown or appointments made by or with the approval of the Governor-General or any Minister, and action taken in relation to any person as the holder or former holder of any such office, employment or appointment.

5. Action taken with respect to orders or directions to any disciplined force or member thereof as defined in article 20 of this Constitution.

6. The exercise of the powers conferred by article 49 of this Constitution.

7. The grant of honours, awards or privileges within the gift of the Crown.

8. Action taken in matters relating to contractual or other commercial dealings with members of the public other than action by an authority mentioned in subparagraph (*a*) of article 53(5) of this Constitution.

(a) Laws of British Guiana, Rev. Edn. 1953, Vol. I, c. 5.

9. Action taken in any country outside Guyana by or on behalf of any officer representing the Government of Guyana or any officer of that Government.

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

SECOND SCHEDULE

Article 73 (5)

ALTERATIONS TO THE CONSTITUTION TO HAVE EFFECT IF A RESOLUTION IS PASSED IN ACCORDANCE WITH ARTICLE 73(5)

PART I

Constitutional Provisions	*Alterations*
1. Article 8(5)	The substitution for the word "Crown" where it first appears of the word "State".
2. Chapter IV	The substitution therefor of the Chapter set out in Part II of this Schedule.
3. Article 33	The substitution therefor of the following article— "1.—(1) The executive authority of of Guyana shall be vested in the President and, subject to the provisions of this Constitution, may be exercised by him either directly or through officers subordinate to him. (2) Nothing in this article shall prevent Parliament from conferring functions on persons or authorities other than the President.".
4. Article 44	The deletion of the words "the oath of allegiance and".
5. Article 49(1)	The substitution for the words "The Governor-General may, in Her Majesty's name and on Her Majesty's behalf" of the words "the President may", and the substitution for the words "Her Majesty" in subparagraph (*d*) of the words "the State".
6. Article 57	The substitution for the words "Her Majesty" of the words "the President".
7. Article 75(1)	The addition thereto of the following proviso— "Provided that, while the Assembly is sitting for the purpose of electing a President of Guyana, no person who is a candidate for election to the office of President at that election shall preside.".
8. Article 76	The deletion of the words "the oath of allegiance and", and the substitution for the word "oaths" in the proviso of the word "oath".

Constitutional Provisions	*Alterations*
9. Article 79(1)	The substitution for the words "Governor-General on behalf of Her Majesty" of the word "President".
10. Article 90(4)	The substitution therefor of the following paragraph— "(4) A Judge shall be removed from office by the President if the question of removal of that Judge has, in pursuance of the next following paragraph, been referred by the President to the Judicial Committee, and the Judicial Committee has advised the President that the Judge ought to be removed from office for inability as aforesaid or for misbehaviour.".
11. Article 90(5)(*b*) and (*c*)	The substitution therefor of the following subparagraphs— "(*b*) the tribunal shall enquire into the matter and report on the facts thereof to the President and recommend to the President whether he should refer the question of removal of that Judge from office to the Judicial Committee; and (*c*) if the tribunal so recommends, the President shall refer that question accordingly.".
12. Article 90(7)(*a*) and (*b*)	The substitution therefor of the following subparagraphs— "(*a*) if the tribunal recommends to the President that he should not refer the question of removal of the Judge from office to the Judicial Committee; or (*b*) if the Judicial Committee advises the President that the Judge ought not to be removed from office.".
13. Article 91	The deletion of the words "the oath of allegiance and".
14. Article 92(3)	The insertion after the word "article" of "30(13) or".
15. Article 92(4)	The substitution therefor of the following paragraphs:— "(4) Save as otherwise provided by Parliament, an appeal shall lie to the Judicial Committee with the special leave of the Judicial Committee from decisions of the Court of Appeal in any civil or criminal matter in any case in which, immediately before the date on which Guyana became a republic, an appeal could have been brought with the special leave of Her

Constitutional Provisions	*Alterations*
15. Article 92(4) (*contd.*) ...	Majesty to Her Majesty in Council from such decisions. (5) Subject to the provisions of this article, provision may be made by or under an Act of Parliament regulating the procedure to be adopted by the Court of Appeal with respect to any appeal to the Judicial Committee under this article or by the parties to any such appeal. (6) Any decision given by the Judicial Committee in any appeal under this article shall be enforced in like manner as if it were a decision of the Court of Appeal. (7) Subject to the provisions of the preceding paragraph, the Judicial Committee shall, in relation to any appeal to it under this article in any case, have all the jurisdiction and powers possessed in relation to that case by the Court of Appeal.".
16. Article 117	The insertion after the words "appeal to," of the words "or the institution of other proceedings in,".
17. Article 122(1)	The insertion after the word "articles" of "31(2),".
18. Article 125(1)	The deletion of the definition of "oath of allegiance"; and the substitution in the definition of "the public service" for the words "the service of the Crown in a civil capacity in respect of the government of Guyana" of the words "the service of the Government of Guyana in a civil capacity".
19. First Schedule, paragraph 4.	The substitution for the word "Crown" of the words "Government of Guyana" and for the word "Governor-General" of the word "President".
20. First Schedule, paragraph 7.	The substitution for the word "Crown" of the word "President".
21. Fourth Schedule ...	The deletion of the form of oath of allegiance.
22. The provisions not mentioned in the foregoing items of this Schedule.	The substitution for the word "Governor-General", wherever it appears, of the word "President" and the substitution for the words, "Her Majesty in Council", wherever they appear, of the words "the Judicial Committee".

PART II

CHAPTER IV

THE PRESIDENT

Establishment of office and election of President.

30.—(1) There shall be a President of Guyana, who shall be the Head of State and Commander-in-Chief of the armed forces of Guyana.

(2) The President shall be elected by the National Assembly in accordance with this article.

(3) A person shall not be qualified for election as President unless he is a citizen of Guyana of the age of forty years or upwards, and a person shall be disqualified for election as President if he is disqualified for election as a member of the Assembly by virtue of any provision of article 60 of this Constitution other than paragraph (1)(*e*) or of any law enacted in pursuance thereof other than a law enacted in pursuance of paragraph (2)(*a*) or (*c*) thereof.

(4) The President shall be elected by secret ballot at a meeting of the Assembly held for the purpose of electing the President (in this article referred to as an "election meeting"); and each elected member of the Assembly shall be entitled to a single vote in each ballot for the election of the President taken at such a meeting (in this article referred to as a "Presidential ballot").

(5) An election meeting shall commence on such date (in this article referred to as "the Presidential election date") and at such time as the President shall determine by order published in the Gazette at least twenty-one days before the election date:

Provided that, where the office of President becomes vacant before a person is elected to hold that office for the next succeeding term, the Presidential election date shall be so determined that the election meeting shall commence during the period of sixty days beginning with the date when the office of President becomes vacant, but in reckoning the said period of sixty days no account shall be taken of any period commencing with the dissolution of Parliament and ending on the day on which the next following election of members of the Assembly is held.

(6) A person shall not be a candidate for election as President at an election meeting unless he is nominated for election or re-election as the President by a nomination paper which—

(*a*) is signed by him and by three or more elected members of the Assembly; and

(*b*) is delivered to the Speaker at least fourteen days before the Presidential election date.

(7) The names of the candidates, together with the names of the persons by whom their nomination papers are signed, shall be published in the Gazette and if they have not been so published at least ten days before the Presidential election date, the election meeting shall be adjourned until the tenth day after the date of such publication unless, on the Presidential election date, the Assembly, by resolution supported by the votes of not less than two-thirds of all the elected members thereof, resolves that the meeting shall not be adjourned or shall be adjourned to some other date.

(8) A candidate in a Presidential ballot shall be declared to be elected if, and shall not be declared to be elected unless, he receives the votes of more than half of all the elected members of the Assembly.

(9) If in a Presidential ballot—

(*a*) there are three or more candidates; and

(*b*) none of the candidates is elected; and

(*c*) one of the candidates receives a smaller number of votes than each of the others,

that one of the candidates shall not be a candidate in any subsequent Presidential ballot at the same election meeting.

(10) If in a Presidential ballot—

(*a*) the conditions specified in subparagraphs (*a*) and (*b*) of the preceding paragraph are satisfied, but the condition specified in subparagraph (*c*) of that paragraph is not; and

(*b*) two of the candidates each receives the same number of votes and that number is smaller than the number of votes received by the other candidate or each of the other candidates, as the case may be,

a ballot shall forthwith be held for the purpose of determining which of the two shall be treated for the purposes of the preceding paragraph as the candidate mentioned in subparagraph (*c*) thereof; and the candidate who receives the smaller number of the votes cast in that ballot shall be so treated and that paragraph shall apply accordingly.

(11) Where in a ballot taken in pursuance of the preceding paragraph each candidate receives the same number of votes, one of them, as determined by lot, shall be deemed to have received the smaller number of votes.

(12) If in a Presidential ballot no candidate is declared elected, a further Presidential ballot shall be taken at the same election meeting; and an election meeting shall continue until a candidate is declared elected in a Presidential ballot taken at that meeting but may be adjourned from time to time for not more than two days exclusive of the days on which and to which it is adjourned.

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

(14) Parliament may make provision with respect to the persons by whom, the manner in which and the conditions upon which proceedings for the determination of any question such as is mentioned in the preceding paragraph may be instituted in the Court of Appeal, and, subject to any provision so made, provision may be made with respect to the matters aforesaid by rules of court.

(15) Subject to the provisions of paragraph (13) of this article, an instrument which—

(*a*) is executed under the hand and seal of the person who presided at an election meeting at the time of a Presidential ballot, and

(*b*) states that a person named in the instrument was declared elected as President at that meeting in consequence of that ballot,

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

Tenure of office of President.

31.—(1) Subject to the provisions of the next following paragraph, a person holding the office of the President shall vacate that office at the expiration of the period of six years beginning with the day on which he was last elected as President.

(2) The office of President shall become vacant before the expiration of the said period—

(*a*) if the person holding that office resigns it by writing under his hand addressed to the Speaker; or

(*b*) if, in pursuance of the preceding article, he or another person is elected as President.

(3) A person elected as President shall be disqualified for any other office, employment or appointment to which this paragraph applies and accordingly

on entering upon the duties of the office of President shall vacate any such other office, employment or appointment held by him.

(4) The preceding paragraph applies to the offices of Minister, Attorney-General, Speaker, member, Clerk or Deputy Clerk of the National Assembly, any Judge of the Supreme Court of Judicature, member of the Elections Commission, the Judicial Service Commission, the Public Service Commission or the Police Service Commission, any public office, employment in any armed force of Guyana and any paid appointment as a member or employee of a body corporate established by law of Guyana for public purposes.

Discharge of President's functions during vacancy, etc.

32. During any period when—

(*a*) the office of President is vacant; or

(*b*) the President is absent from Guyana; or

(*c*) the President is unable to perform the functions of his office by reason of illness or any other cause whatsoever;

the functions of the office of President shall be performed by the Chancellor.

Oath to be taken by President.

32A.—(1) A person elected as President shall, before entering upon the duties of the office of President, take and subscribe the oath of office, such oath being administered by the Chancellor or such other Judge of the Supreme Court of Judicature as may be designated by the Chancellor.

(2) The provisions of the foregoing paragraph shall apply to any person required by the preceding article to perform the functions of the office of President as they apply to a person elected as President.

THIRD SCHEDULE

Articles 90 (6) and 118 (5).

PROVISIONS RELATING TO APPLICABILITY OF COMMISSIONS OF INQUIRY ORDINANCE TO TRIBUNALS APPOINTED UNDER THIS CONSTITUTION

1. The following provisions of the Ordinance shall not apply, that is to say—

(*a*) section 2—the whole section;

(*b*) section 3—so much of the section as follows the words "in his place";

(*c*) section 5—the whole section;

(*d*) section 7—the words "after taking such oath or affirmation";

(*e*) section 16—the whole section.

2. For the words "such sums so directed to be paid shall be paid out of general revenue on the warrant of the Governor" in section 15 of the Ordinance there shall be substituted the words "such sums, so directed to be paid, shall be charged on and paid out of the Consolidated Fund".

3. All powers and duties conferred or imposed on the Governor under the Ordinance shall be exercised or performed by the Governor-General acting in each case in the manner prescribed by this Constitution.

Article 125 (1).

FOURTH SCHEDULE

FORMS OF OATHS

Oath of Allegiance

I, ..., do swear [or solemnly affirm] that I will faithfully bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law.

So help me God. [To be omitted in affirmation.]

Oath of Office

I, ..., do swear [or solemnly affirm] that I will faithfully execute the office of ..... without fear or favour, affection or ill-will and that in the execution of the functions of that office I will honour, uphold and preserve the Constitution of Guyana.

So help me God. [To be omitted in affirmation.]

EXPLANATORY NOTE

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

By virtue of the Guyana Independence Act 1966 British Guiana will attain fully responsible status within the Commonwealth on 26th May 1966 and is to be called Guyana. This Order makes provision for a Constitution for Guyana to come into effect on that day, including provision for the executive government, the legislature, the judicature and the public service. The Constitution also contains provision relating to citizenship of Guyana, fundamental rights and freedoms of the individual and the establishment of an Ombudsman.