



LAWS OF FIJI

CHAPTER 1

CONSTITUTIONAL DOCUMENTS

CHAPTER 1

CONSTITUTION

FIJI INDEPENDENCE ACT 1970

ARRANGEMENT OF SECTIONS

SECTION

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AN ACT TO MAKE PROVISION FOR, AND IN CONNECTION WITH, THE
ATTAINMENT BY FIJI OF FULLY RESPONSIBLE STATUS WITHIN THE
COMMONWEALTH

[23rd July, 1970]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:-

Fully responsible status of Fiji

1.-(1) On and after 10th October 1970 (in this Act referred to as "the appointed day") Her Majesty's Government in the United Kingdom shall have no responsibility for the government of Fiji.

(2) No Act of the Parliament of the United Kingdom passed on or after the appointed day shall extend, or be deemed to extend, to Fiji as part of its law; and on and after that day the provisions of Schedule 1 to this Act shall have effect with respect to the legislative powers of Fiji.

Consequential modifications of British Nationality Acts

2.-(1) On and after the appointed day the British Nationality Acts 1948 to 1965 shall have effect as if in section 1(3) of the British Nationality Act 1948 (Commonwealth countries having separate citizenship) there were added at the end the words "and Fiji". (1948 c. 56)

(2) Except as provided by section 3 of this Act, any person who immediately before the appointed day is a citizen of the United Kingdom and Colonies shall on that day cease to be such a citizen if he becomes on that day a citizen of Fiji.

(3) Section 6(2) of the British Nationality Act 1948 (registration as citizens of the United Kingdom and Colonies of women who have been married to such citizens) shall not apply to a woman by virtue of her marriage to a person who on the appointed day ceases to be such a citizen under subsection (2) of this section, or who would have done so if living on the appointed day.

(4) In accordance with section 3(3) of the West Indies Act 1967, it is hereby declared that this and the next following section extend to all associated states.

(1967 c. 4)

Retention of citizenship of United Kingdom and Colonies by certain citizens of Fiji

3.-(1) Subject to subsection (5) of this section, a person shall not cease to be a citizen of the United Kingdom and Colonies under section 2(2) of this Act if he, his father or his father's father-

- (a) was born in the United Kingdom or in a colony or an associated state; or
- (b) is or was a person naturalised in the United Kingdom and Colonies; or
- (c) was registered as a citizen of the United Kingdom and Colonies; or
- (d) became a British subject by reason of the annexation of any territory included in a colony.

(2) A person shall not cease to be a citizen of the United Kingdom and Colonies under the said section 2(2) if either-

- (a) he was born in a protectorate or protected state, or
- (b) his father or his father's father was so born and is or at any time was a British subject.

(3) A woman who is the wife of a citizen of the United Kingdom and Colonies shall not cease to be such a citizen under the said section 2(2) unless her husband does so.

(4) Subject to subsection (5) of this section, the reference in subsection (1)(b) of this section to a person naturalised in the United Kingdom and Colonies shall include a person who would, if living immediately before the commencement of the British Nationality Act 1948, have become a person naturalised in the United Kingdom and Colonies by virtue of section 32(6) of that Act (persons given local naturalisation in a colony or protectorate before the commencement of that Act).

(1948 c. 56)

(5) In this section-

- (a) references to a colony shall be construed as not including any territory which, on the appointed day, is not a colony for the purposes of the British Nationality Act 1948 as that Act has effect on that day, and accordingly do not include Fiji, and
- (b) references to a protectorate or protected state shall be construed as not including any territory which, on the appointed day, is not a protectorate or a protected state (as the case may be) for the purposes of that Act as it has effect on that day;

and subsection (1) of this section shall not apply to a person by virtue of any certificate of naturalisation granted or registration effected by the Governor or Government of a territory which by virtue of this subsection is excluded, from references in this section to a colony, protectorate or protected state.

(6) Part III of the British Nationality Act 1948 (supplemental provisions) as in force at the passing of this Act shall have effect for the purposes of this section as if this section were included in that Act.

(1948 c. 56)

Consequential modification of other enactments

4.-(1) Notwithstanding anything in the Interpretation Act 1889, the expression "colony" in any Act of the Parliament of the United Kingdom passed on or after the appointed day shall not include Fiji. (1889 c. 63)

(2) On and after the appointed day-

(a) the expression "colony" in the Army Act 1955, the Air Force Act 1955 and the Naval Discipline Act 1957 shall not include Fiji, and

(1955 c. 18 1955 c. 19 1957 c. 53)

(b) in the definitions of "Commonwealth force" in section 225(1) and 223(1) respectively of the said Acts of 1955, and in the definition of "Commonwealth country" in section 135(1) of the said Act of 1957, at the end there shall be added the words "or Fiji";

and no Order in Council made on or after the appointed day under section 1 of the Armed Forces Act 1966 which continues either of the said Acts of 1955 in force for a further period shall extend to Fiji as part of its law. (1966 c. 45)

(3) On and after the appointed day the provisions specified in Schedule 2 to this Act shall have effect subject to the amendments specified respectively in that Schedule.

(4) Subsection (3) of this section, and Schedule 2 to this Act, shall not extend to Fiji as part of its law.

Interpretation

5.-(1) In this Act, and in any amendment made by this Act in any other enactment, "Fiji" means the territories which immediately before the appointed day constitute the Colony of Fiji.

(2) References in this Act to any enactment are references to that enactment as amended or extended by or under any other enactment.

Short title

6. This Act may be cited as the Fiji Independence Act 1970.

SCHEDULES

Section 1

SCHEDULE 1

LEGISLATIVE POWERS OF FIJI

1. The Colonial Laws Validity Act 1865 shall not apply to any law made on or after the appointed day by the legislature of Fiji. (1865 c. 63)

2. No law and no provision of any law made on or after the appointed day by that legislature shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of any Act of the Parliament of the United Kingdom, including this Act, or to any order, rule or regulation made under any such Act, and accordingly the powers of that legislature shall include the power to repeal or amend any such Act, order, rule or regulation in so far as it is part of the law of Fiji.

3. The legislature of Fiji shall have full power to make laws having extra-territorial operation.

4. Without prejudice to the generality of the preceding provisions of this Schedule-

- (a) sections 735 and 736 of the Merchant Shipping Act 1894 shall be construed as if references therein to the legislature of a British possession did not include references to the legislature of Fiji; and
(1894 c. 60)
- (b) section 4 of the Colonial Courts of Admiralty Act 1890 (which requires certain laws to be reserved for the signification of Her Majesty's pleasure or to contain a suspending clause) and so much of section 7 of that Act as requires the approval of Her Majesty in Council to any rules of court for regulating the practice and procedure of a Colonial Court of Admiralty shall cease to have effect in Fiji. *(1890. 27)*

Section 4

SCHEDULE 2

AMENDMENTS NOT AFFECTING THE LAW OF FIJI

Diplomatic Immunities

1. In section 1(6) of the Diplomatic Immunities (Commonwealth Countries and Republic of Ireland) Act 1952, before the word "and" in the last place where it occurs there shall be inserted the word "Fiji". *(1952 c. 18)*

2. In section 1(5) of the Diplomatic Immunities (Conferences with Commonwealth Countries and Republic of Ireland) Act 1961, before the word "and" in the last place where it occurs there shall be inserted the word "Fiji". *(1961 c. 11)*

Financial

3. In section 2(4) of the Import Duties Act 1958, before the words "together with" there shall be inserted the word "Fiji". *(1958 c. 6)*

Visiting forces

4. In the Visiting Forces (British Commonwealth) Act 1933, section 4 (attachment and mutual powers of command) shall apply in relation to forces raised in Fiji as it applies to forces raised in Dominions within the meaning of the Statute of Westminster 1931. *(1933 c. 6 1931 c. 4 (22 & 23 Geo. 5))*

5. In the Visiting Forces Act 1952-

(a) in paragraph (a) of section 1(1) (countries to which that Act applies) at the end there shall be added the words "Fiji or"; *(1952 c. 67)*

(b) in section 10(1)(a), the expression "colony" shall not include Fiji; and, until express provision with respect to Fiji is made by an Order in Council under section 8 of that Act (application to visiting forces of law relating to home forces), any such Order for the time being in force shall be deemed to apply to visiting forces of Fiji.

Ships and aircraft

6. In section 427(2) of the Merchant Shipping Act 1894, as set out in section 2 of the Merchant Shipping (Safety Convention) Act 1949, before the words "or in any" there shall be inserted the words "or Fiji". (1894 c. 60 1949 c. 43)

7. The Ships and Aircraft (Transfer Restriction) Act 1939 shall not apply to any ship by reason only of its being registered in, or licensed under the law of, Fiji; and the penal provisions of that Act shall not apply to persons in Fiji (but without prejudice to the operation with respect to any ship to which that Act does apply of the provisions thereof relating to the forfeiture of ships). (1939 c. 70)

8. In the Whaling Industry (Regulation) Act 1934, the expression "British ship to which this Act applies" shall not include a British ship registered in Fiji. (1934 c. 49)

9. In section 2(7)(b) of the Civil Aviation (Licensing) Act 1960, the expression "colony" shall not include Fiji. (1960 c. 38)

Commonwealth Institute

10. In section 8(2) of the Imperial Institute Act 1925, as amended by the Commonwealth Institute Act 1958 (power to vary the provisions of the said Act of 1925 if an agreement for the purpose is made with the governments of certain territories which for the time being are contributing towards the expenses of the Commonwealth Institute) at the end there shall be added the words "and Fiji". (1925 ch. xvii. 1958 c. 16)

THE FIJI INDEPENDENCE ORDER 1970

At the Court at Balmoral

The 30th Day of September, 1970

Present,

THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL

Her Majesty, in exercise of the 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 and commencement

1.-(1) This Order may be cited as the Fiji Independence Order 1970.

(2) This Order shall be published in the Gazette and shall come into operation on 10th October 1970:

Provided that subsections (2) and (3) of section 4 of this Order shall come into operation forthwith.

Interpretation

2.-(1) In this Order-

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

"the appointed day" means 10th October 1970;

"the existing Constitution" means the Constitution set out in Schedule 2 to the Fiji (Constitution) Order 1966(a) as amended by the Fiji (Constitution) (Amendment) Order 1967(b) and the Fiji (Constitution) (Amendment) Order 1970(c);

"the existing laws" means any Acts of the Parliament of the United Kingdom, Orders of Her Majesty in Council, Ordinances, rules, regulations, orders or other instruments having effect as part of the law of Fiji immediately before the appointed day but does not include any Order revoked by this Order;

"the existing Legislative Council" means the Legislative Council established by the existing Orders;

"the existing Orders" means the Orders revoked by section 3(1) of this Order.

(2) The provisions of sections 127, 128, 130(2) and 137 of the Constitution shall apply for the purposes of interpreting sections 1 to 16 of this Order and otherwise in relation thereto as they apply for the purpose of interpreting and in relation to the Constitution.

Revocations

3.-(1) The Fiji (Constitution) Order 1966, the Fiji (Constitution) (Amendment) Order 1967 and the Fiji (Constitution) (Amendment) Order 1970 are revoked.

(2) The Emergency Powers Order in Council 1939(d) and any Order in Council amending that Order shall cease to have effect as part of the law of Fiji on 10th April 1971 or such earlier date as Parliament may prescribe.

Establishment of Constitution

4.-(1) Subject to the provisions of this Order, the Constitution shall come into effect in Fiji on the appointed day.

(2) The Governor (as defined for the purposes of the existing Constitution) may at any time after this subsection comes into operation exercise any of the powers conferred upon the Governor-General by section 5(3) of this Order or section 45(1) or 69(1) of the Constitution, to such extent as may in his opinion be necessary or expedient to enable the Constitution to function as from the appointed day, and if the Governor directs that it is necessary on expedient for that purpose that any selection of persons under section 45(2) of the Constitution should take place before the appointed day that selection may take place accordingly.

(3) For the purposes of the exercise by the Governor under the preceding subsection of the powers conferred by the said section 45(1) the references therein to the Prime Minister and to the Leader of the Opposition shall be construed as if they were references respectively to the Chief Minister and the Leader of the Opposition as defined for the purposes of the existing Constitution.

Existing laws

5.-(1) The revocation of the existing Orders shall be without prejudice to the continued operation of any existing laws made, or having effect as if they had been

(a) 1966 III, p. 5104. (b) 1967 III, p. 5459. (c) L/N 67/1970.
 (d) See S.I. 1952 I, p. 621.

made, under any of those Orders; and the existing laws shall have effect on and after the appointed day as if they had been made in pursuance of the Constitution and shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Fiji Independence Act 1970^(a) 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 Fiji Independence Act 1970 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) The Governor-General may, by order published in the Gazette, at any time before 10th April 1971 make such amendments to any existing law (other than the Fiji Independence Act 1970 or this Order) as may appear to him to be necessary or expedient for bringing that law into conformity with the provisions of this Order or otherwise for giving effect or enabling effect to be given to those provisions.

(4) An order made under this section may be amended or revoked by Parliament or, in relation to any existing law affected thereby, by any other authority having power to amend, repeal or revoke that existing law.

(5) It is hereby declared, for the avoidance of doubt, that, save as otherwise provided either expressly or by necessary implication, nothing in this Order shall be construed as affecting the continued operation of any existing law.

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

Parliament

6.-(1) Notwithstanding anything in section 32 of the Constitution, the House of Representatives shall, until Parliament is first dissolved, consist of thirty-six elected members, and any person who immediately before the appointed day is an elected member of the existing Legislative Council shall on that day become a member of the House of Representatives (whether or not he becomes a citizen of Fiji on that day) and shall be deemed to have complied with the requirements of section 55 of the Constitution and shall hold his seat in the House in accordance with the provisions of the Constitution.

(2) If any vacancy among the members of the House of Representatives exists on the appointed day or occurs between that day and the first dissolution of Parliament the vacancy may be filled by an election held in the like manner as an election to fill that vacancy would have been held if the vacancy had occurred among the members of the existing Legislative Council and the law applicable thereto were (subject to any such modifications, adaptations, qualifications and exceptions as are mentioned in section 5(1) of this Order and to any amendments made under section 5(3) of this Order) that in force immediately before the appointed day:

(a) 1970 c. 50.

Provided that the provisions of sections 33, 37 and 44 of the Constitution shall apply, and the provisions of paragraphs (b) and (c) of section 48(1) and sections 49 and 53 of the existing Constitution shall not apply, in relation to that election.

(3) Any person who immediately before the appointed day holds the office of Speaker or Deputy Speaker of the existing Legislative Council shall on that day become the Speaker or, as the case may be, the Deputy Speaker of the House of Representatives and shall hold his office as such in accordance with the provisions of the Constitution.

(4) Notwithstanding anything in section 46(1) of the Constitution, until Parliament is first dissolved a person shall be qualified to be appointed as a member of the Senate if, and shall not be so qualified unless, he is registered immediately before the appointed day as a voter on one of the rolls referred to in section 47(2) of the existing Constitution and he shall be qualified to be so appointed whether or not he is a citizen of Fiji; but any member of the Senate who is not a citizen of Fiji on the date on which Parliament is first dissolved shall vacate his seat in the Senate on that date.

(5) The standing rules and orders of the existing Legislative Council as in force immediately before the appointed day shall, except as may be otherwise provided under section 54(1) of the Constitution, be the rules of procedure of the House of Representatives and of the Senate, but they shall be construed in relation to each House of Parliament with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.

(6) Any committee of the existing Legislative Council that stands constituted immediately before the appointed day by virtue of any resolution of the Council shall be deemed to have been constituted on that day by resolution of the House of Representatives as a committee of that House; and any elected member of the existing Legislative Council who immediately before the appointed day is a member of any committee of that Council (whether constituted as aforesaid or by the standing rules and orders of the Council) by virtue of any appointment made by the Speaker of the Council shall be deemed to have been appointed on that day to the corresponding committee of the House of Representatives by the Speaker of the House.

(7) Notwithstanding anything in subsection (2), (3) or (4) of section 70 of the Constitution, Parliament shall, unless sooner dissolved, stand dissolved on 11th November 1971:

Provided that, if the Electoral Commission advises the House of Representatives that there is likely to be difficulty in holding the next ensuing general election of members of the House in accordance with any of the provisions of the Constitution or of any other law if Parliament is dissolved not later than 11th November 1971, the House of Representatives may resolve that the provisions of this subsection shall have effect as if there were substituted for that date such other date, not being more than six months thereafter, as may be specified in the resolution; and thereupon this subsection shall have effect accordingly.

(8) Any person who immediately before the appointed day is registered as a voter on one of the rolls referred to in section 47(2) of the existing Constitution shall, subject to the provisions of section 40(2) of the Constitution, be qualified to be registered as mentioned in section 40(1) of the Constitution for the purposes of the first general election of members of the House of Representatives after the appointed day notwithstanding that he is not a citizen of Fiji; but, notwithstanding

anything contained in section 32 or 41 of the Constitution, a person who is registered as mentioned in section 40(1) of this Constitution by virtue of the foregoing provisions of this subsection shall not be qualified to be elected as a member of the House of Representatives in that general election or any subsequent election of members of the House or to vote at any such subsequent election unless he has, before the date prescribed for the nomination of candidates or, as the case may be, for polling in the election concerned, become a citizen of Fiji.

(9) Until Parliament is first dissolved, paragraph (a) of section 58(2) of the Constitution shall have effect as if the reference therein to seventeen members were a reference to fourteen members.

Ministers

7.-(1) Any person who immediately before the appointed day holds office as Chief Minister or any other Minister or Assistant Minister under the existing Constitution shall as from that day hold office as Prime Minister or, as the case may be, other Minister or Assistant Minister as if he had been appointed thereto under section 73 or 80 of the Constitution.

(2) Any person holding office as Prime Minister or other Minister by virtue of the preceding subsection who immediately before the appointed day was assigned responsibility for any business of the Government shall be deemed to have been assigned responsibility for such business under section 76 of the Constitution.

(3) Any person who holds office as Prime Minister, other Minister or Assistant Minister by virtue of subsection (1) of this section shall be deemed to have complied with the requirements of section 81 of the Constitution.

Leader of the Opposition

8. The person who immediately before the appointed day is the Leader of the Opposition (as defined for the purposes of the existing Constitution) shall as from that day hold office as Leader of the Opposition as if he had been appointed thereto under section 86 of the Constitution.

Public officers

9.-(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 public office established by the Constitution as if he had been appointed to do so in accordance with the provisions of the Constitution and shall be deemed to have taken any oaths required upon such appointment by any existing law:

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

(2) The provisions of the preceding subsection shall not apply to any person mentioned in paragraph (b)(i) of section 85(1) of the existing Constitution who is serving as a judge of the Court of Appeal immediately before the appointed day.

(3) Until Parliament otherwise prescribes the number of puisne judges of the Supreme Court shall be two.

(4) The provisions of this section shall be without prejudice to any powers conferred by or under the Constitution upon any person or authority to make provision for the abolition of offices and for the removal from office of persons holding or acting in any office.

Legal proceedings

10.-(1) All proceedings commenced or pending immediately before the appointed day before the Supreme Court or the Court of Appeal established by the existing Constitution may continue on and after that day before the Supreme Court or the Court of Appeal, as the case may be, established by the Constitution.

(2) Any decision given before the appointed day by the Supreme Court or the Court of Appeal established by the existing Constitution shall, for the purposes of its enforcement or of any appeal therefrom, have effect on and after that day as if it were a decision of the Supreme Court or the Court of Appeal, as the case may be, established by the Constitution.

Jurisdiction of Court of Appeal in relation to Western Pacific

11.-(1) Unless it is otherwise prescribed by Parliament, the Court of Appeal may exercise on and after the appointed day such jurisdiction and powers in relation to appeals from the High Court of the Western Pacific as may be conferred upon it by or in pursuance of section 19(1) of the Western Pacific (Courts) Order in Council 1961(b) (as amended by the Western Pacific (Courts) (Amendment) Order 1966(a)) or of any other law in that behalf for the time being in force in any territory in or in relation to which jurisdiction is for the time being exercisable by the said High Court.

(2) The provisions of section 100 of the Constitution shall not apply in relation to decisions of the Court of Appeal given in exercise of any jurisdiction and powers conferred upon it in relation to appeals from the High Court of the Western Pacific, and appeals shall lie to Her Majesty in Council from such decisions in accordance with the Western Pacific (Appeals to Privy Council) Order 1970(c) or any other law for the time being in force in the territories in or in relation to which jurisdiction is for the time being exercisable by the said High Court.

(3) Section 19 of the Western Pacific (Courts) Order in Council 1961, as amended, shall cease to form part of the law of Fiji with effect from the appointed day.

Magistrates' courts and magistrates

12.-(1) Any person who immediately before the appointed day is a person appointed to hold a magistrate's court of the first, second or third class, shall, as from that day, hold the office of first, second, or third class magistrate, respectively, (which offices are hereby constituted and established), and accordingly as from the appointed day-

(a) the jurisdiction and powers under any existing law of persons appointed to hold magistrate's courts of the first, second or third class, or of magistrates' courts of such classes, shall vest in the offices of first, second or third class magistrate, respectively, as constituted and established as aforesaid:

Provided that a person who holds or is acting in the office of senior magistrate immediately before that day shall have and exercise all the powers and jurisdiction conferred upon a first class magistrate by the provisions of this subsection;

(a) [S.I. 1961/1506](#) (1961 II, p. 3066).
 (b) [S.I. 1966/1183](#) (1966 III, p. 3071).
 (c) [S.I. 1970/1435](#).

(b) references to persons holding the office of first, second or third class magistrate, or to magistrates courts of the first, second or third class, in any existing law, or in any instrument, document or legal proceedings subsisting or continuing upon the appointed day, shall be construed as references to first, second or third class magistrates, respectively.

(2) The terms of service which apply immediately before the appointed day to a person appointed to hold a magistrate's court of the first, second or third class shall apply to such person in respect of his tenure of the office of a first, second or third class magistrate by virtue of the provisions of the preceding subsection.

Transitional provisions relating to Commissions

13.-(1) Any person who immediately before the appointed day holds or is acting in any office to which this subsection applies shall, as from the appointed day, hold or act in 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 such person who under the provisions of the existing Orders would have been required to vacate his office on the expiration of any period or at any other time specified in the instrument by which he was appointed shall vacate his office at the expiration of that period or at that time.

(2) A person shall become and continue to be the holder of the corresponding office by virtue of the preceding subsection, and may be re-appointed under the Constitution to that office at any time, notwithstanding that circumstances exist on the appointed day and continue to exist thereafter that under the Constitution would cause him to be disqualified for appointment to that office if the office to which that office corresponds was held by that person on 10th July 1970 and the like circumstances existed on that date.

(3) Subsection (1) of this section applies to the office of appointed member of the Judicial and Legal Services Commission established by the existing Constitution and to the office of any member of the Public Service Commission or the Police Service Commission established by that Constitution.

(4) Any power that, immediately before the appointed day, is vested in a Commission established by Chapter VII of the existing Constitution and that under that Constitution is then delegated to some other person or authority shall be deemed to have been delegated to that person or authority on the appointed day in accordance with the provisions of the Constitution; and any proceedings commenced or pending before any such Commission immediately before the appointed day may be carried on before the corresponding Commission established by Chapter VIII of the Constitution.

(5) The references to the House of Representatives in sections 38(3), 101(3), 104(2) and 106(2) of the Constitution shall, until the expiration of five years from the appointed day in the case of section 38(3) and of three years from that day in any other case, be construed as including references to the existing Legislative Council.

Compulsory retirement to facilitate appointment of local candidates

14.-(1) If the Prime Minister so requests, the Commission or other authority or person having power to make appointments in any branch of the public service (in this subsection referred to as "the appointing authority") shall consider whether there are more local candidates suitably qualified for appointment to, or promotion

in, that branch than there are vacancies in that branch that could appropriately be filled by such local candidates; and the appointing authority, if satisfied that such is the case, shall, if so requested by the Prime Minister, select officers in that branch to whom this section applies and whose retirement would in the opinion of the appointing authority cause vacancies that could appropriately be filled by such suitably qualified local candidates as are available and fit for appointment and inform the Prime Minister of the number of officers so selected; and if the Prime Minister specifies a number of officers to be called upon to retire (not exceeding the number of officers so selected) the appointing authority shall nominate that number of officers from among the officers so selected and by notice in writing require them to retire from the public service; and any officer who is so required to retire shall notwithstanding any provision of the Constitution, retire accordingly.

(2) A notice given under this section requiring an officer to retire from the public service shall be not less than six months from the date he receives the notice, at the expiration of which he shall proceed on leave of absence pending retirement:

Provided that, with the agreement of the officer or if the officer is on leave when it is given, a notice may specify a shorter period.

(3) This section applies to any officer who is the holder of a pensionable office in the public service and is a designated officer for the purposes of the Overseas Service (Fiji) Agreement 1961.

(4) Any notice given or other thing done under section 94A of the existing Constitution shall, as from the appointed day, have effect as if it had been given or done under this section.

Appeals in respect of certain decisions affecting pensions benefits

15.-(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 subsection (1) or (2) of section 111 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 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 the preceding subsection 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 and Legal Services 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) The provisions of subsections (1), (2), (3) and (4) of section 135 of the Constitution shall apply with the necessary modifications in relation to an Appeals Board established under this section as they apply in relation to a Commission established by the Constitution.

(7) In this section-

"pensions benefits" has the meaning assigned to that expression in section 110 of the Constitution; and

"legal representative" means a person lawfully in or entitled to be in Fiji and entitled to practise in Fiji as a barrister and solicitor.

(8) This section applies to an officer who is the holder of a pensionable office in the public service and-

- (a) who is a member of Her Majesty's Overseas Civil Service or of Her Majesty's Overseas Judiciary;
- (b) who has been designated for the purposes of the Overseas Service (Fiji) Agreement 1961; or
- (c) who was selected for appointment to any office in the public service, or whose appointment to any such office was approved, by a Secretary of State.

(9) This section also applies to any officer who is employed as a public officer on contract and who has been designated for the purposes of the Overseas Service (Fiji) Agreement 1961 or any agreement replacing that agreement; and for the purposes of the application of this section to such an officer-

- (a) references in this section to pensions benefits shall be construed as including references to any gratuity or other payment to which the officer is entitled under his contract on the expiration of the term of employment for which it provides;
- (b) references in this section to the grant of such benefits under any law or to any law with respect to pensions benefits shall be construed as including references respectively to the payment of such benefits under that contract and to that contract; and
- (c) references in this section to the removal of the officer from office and to his voluntary retirement shall be construed as references respectively to the termination of his contract and to the expiration of the term of employment for which it provides.

Alteration of this Order

16.-(1) Parliament may alter any of the provisions of this Order in the same manner as it may alter any of the provisions of the Constitution not specified in section 67(2) of the Constitution:

Provided that subsections (1), (2) and (7) of section 6, section 9, subsections (1), (2) and (3) of section 13 and this section may be altered by Parliament only in the same manner as the provisions so specified.

(2) Section 67(6) 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 section 67 of the Constitution to any provision of the Constitution and to the alteration of any such provision.

SCHEDULE TO THE ORDER

THE CONSTITUTION OF FIJI

ARRANGEMENT OF SECTIONS

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THE STATE AND THE CONSTITUTION

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6. Protection from slavery and forced labour.
7. Protection from inhuman treatment.
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9. Protection for privacy of home and other property.
10. Provisions to secure protection of law.
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SCHEDULE 3 TO THE CONSTITUTION

OFFICES TO WHICH SECTION 102 APPLIES

THE CONSTITUTION OF FIJI

Whereas on 10th October 1874 Cakobau, styled Tui Viti and Vunivalu, and other High Chiefs signified their loyalty to Her Most Gracious Majesty Queen Victoria and their dedication to God and to the rule of law by the solemn agreement known as the Deed of Cession made and concluded by them of the one part and Sir Hercules George Robert Robinson, the representative of Her Majesty, of the other part:

And Whereas in November 1879 the Chiefs of Rotuma similarly signified adherence to such principles by the Deed of Rotuma Cession:

And Whereas many persons of all races and creeds have come from divers countries and have desired peace and prosperity under the precepts and principles of such Cessions:

And Whereas all the peoples of Fiji have ever since acknowledged their allegiance to the Crown and their reverence for God and the rights and freedoms of the individual secured and safeguarded by adherence to the rule of law:

And Whereas those peoples have become united under a common bond, have progressively advanced economically and politically and have broadened their rights and freedoms in accordance with the dignity of the human person and the position of the family in a society of free men and free institutions:

Now, therefore, the people of Fiji do affirm their allegiance to Her Most Excellent Majesty Queen Elizabeth II, Her heirs and successors, their reverence

for God and their unshakeable belief that all are entitled to fundamental human rights and freedoms based upon and secured by the rule of law and to that end desire that the following provisions shall take effect as the Constitution of Fiji:-

CHAPTER I

THE STATE AND THE CONSTITUTION

The State

1. Fiji shall be a sovereign democratic State.

Constitution is supreme law

2. This Constitution is the supreme law of Fiji 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 Fiji is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely-

- (a) life, liberty, security of the person and the protection of the law;
- (b) freedom of conscience, of expression and of assembly and association;
- and
- (c) protection for the privacy of his home and other property and from deprivation of property without compensation,

the provisions of this Chapter shall have effect for the purpose of affording protection to those rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any person 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 a criminal offence of which he has been convicted.

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

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

- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) for the purpose of suppressing a riot, insurrection or mutiny; or
- (d) in order to prevent the commission by that person of a criminal offence, or if he dies as the result of a lawful act of war.

Protection of right to personal liberty

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 consequence of his unfitness to plead to a criminal charge or in execution of the sentence or order of a court, whether in Fiji or elsewhere, in respect of a criminal offence of which he has been convicted;
- (b) in execution of the order of a court punishing him for contempt of that 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;
- (f) under the order of a court or with the consent of his parent or guardian, for his education or welfare during any period ending not later than the date when he attains the age of eighteen years;
- (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 Fiji, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from Fiji; or
- (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 Fiji 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 Fiji in which, in consequence of any such order, his presence would otherwise be unlawful.

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

(3) Any person who is arrested or detained-

- (a) for the purpose of bringing him before a court in execution of the order of a court; or
- (b) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence,

and who is not released, shall be afforded reasonable facilities to consult a legal representative of his own choice and shall be brought without undue delay before a court.

(4) Where any person is brought before a court in execution of the order of a court in any proceedings or upon suspicion of his having committed or being about to commit an offence, he shall not be thereafter further held in custody in connection with those proceedings or that offence save upon the order of a court.

(5) If any person arrested or detained as mentioned in subsection (3)(b) of this section is not tried within a reasonable time, then, without prejudice to any further proceedings that may be brought against him, he shall be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.

(6) Any person who is unlawfully arrested or detained by any other person shall be entitled to compensation therefor from that other person, or from any other person or authority on whose behalf that other person was acting.

(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question authorises the taking during a period of public emergency of measures that are reasonably justifiable for the purpose of dealing with the situation that exists in Fiji during that period.

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 section, the expression "forced labour" does not include-

- (a) any labour required in consequence of the sentence or order of a court;
- (b) labour required of any person while he is lawfully detained which, though not required in consequence of the sentence or order of a court, is reasonably necessary in the interests of hygiene or for the maintenance of the place at which he is detained;
- (c) any labour required of a member of a disciplined force in pursuance of his duties as such or, in the case of a person who has conscientious objections to service as a member of a naval, military or air force, any labour that that person is required by law to perform in place of such service;
- (d) any labour required during a period of public emergency or in the event of any other emergency or 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 other emergency or calamity, for the purpose of dealing with that situation; or
- (e) any labour reasonably required as part of reasonable and normal communal or other civic obligations.

Protection from inhuman treatment

7. No person shall be subjected to torture or to inhuman or degrading punishment or other treatment.

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 under the authority of a law that-

- (a) requires the acquiring authority to give reasonable notice of the intention to take possession of, or acquire the interest in or right over, the property to any person owning the property or having any other interest or right therein that would be affected by such taking of possession or acquisition;
- (b) requires the acquiring authority to apply to the Supreme Court for an order authorising such taking of possession or acquisition or to apply thereto within thirty days of such taking of possession for such an order as aforesaid;
- (c) requires the Supreme Court not to grant such an order unless it is satisfied that the taking of possession or acquisition is necessary or expedient in the interests of defence, public safety, public order, public morality, public health, town and country planning or utilisation of any property in such a manner as to promote the public benefit;
- (d) requires the acquiring authority to pay damages in respect of such taking of possession prior to an application to the Supreme Court when such an order is not granted and requires the prompt payment of adequate compensation for the taking of possession or acquisition where such an order is granted;
- (e) requires the acquiring authority, if no agreement as to the amount and manner of payment of compensation has been concluded with any claimant to compensation within thirty days of the grant of the order referred to in paragraph (b) of this subsection, to apply to the Supreme Court for the determination of those matters in relation to that claimant (including, where necessary, any question as to his entitlement to compensation); and
- (f) requires the acquiring authority to pay the costs reasonably incurred by any other party in connection with the proceedings before the Supreme Court for any of the aforesaid purposes, including any appeal (not made unreasonably or frivolously) from any decision of that Court or the Court of Appeal given for those purposes.

(2) Nothing contained or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (1) of this section to the extent that the law in question authorises the taking of possession of property compulsorily during a period of public emergency or in the event of any other emergency or calamity that threatens the life or well-being of the community and makes provision that-

- (a) requires the acquiring authority promptly to inform any person owning the property of the taking of possession;
- (b) enables any such person to notify the acquiring authority that he objects to the compulsory possession of the property by that authority;
- (c) requires the acquiring authority, in the case of any such notification, to apply within thirty days thereafter to an independent and impartial tribunal, appointed by the Chief Justice from among persons who are

- qualified to practise as barristers and solicitors in Fiji, for a determination of the authority's entitlement to compulsory possession of the property;
- (d) requires the tribunal to order the acquiring authority to return the possession of the property unless the tribunal is satisfied that its possession by that authority is reasonably justifiable, in the circumstances of the situation existing, for the purpose of dealing with that situation;
 - (e) requires the prompt payment of adequate compensation for the taking of possession; and
 - (f) enables application to be made by any claimant to compensation to the tribunal for the determination of the amount and manner of payment of compensation in relation to that claimant (including, where necessary, any question as to his entitlement to compensation).
- (3) No person who is entitled to compensation under this section shall be prevented from remitting, within a reasonable time after he has received any amount of that compensation, the whole of that amount (free from any deduction, charge or tax made or levied in respect of its remission) to any country of his choice outside Fiji.
- (4) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of the preceding subsection to the extent that the law in question authorises-
- (a) the attachment, by order of a court, of any amount of compensation to which a person is entitled in satisfaction of the judgment of a court or pending the determination of civil proceedings to which he is a party; or
 - (b) the imposition of reasonable restrictions on the manner in which any amount of compensation is to be remitted.
- (5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (1) of this section-
- (a) to the extent that the law in question makes provision for the taking of possession or acquisition of any property-
 - (i) in satisfaction of any tax, duty, rate, cess or due;
 - (ii) by way of penalty for breach of the law, or forfeiture in consequence of a breach of the law;
 - (iii) as an incident of a grant, lease, tenancy, mortgage, charge, bill of sale, pledge, contract, permission or licence;
 - (iv) in the execution of judgments or order of a court;
 - (v) by reason of its being in a dangerous state or injurious to the health of human beings, animals, trees or plants;
 - (vi) in consequence of any law with respect to the limitation of actions or acquisitive prescription; or
 - (vii) for so long only as may be necessary for the purposes of any examination, investigation, trial or inquiry or, in the case of land, 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 (being work relating to such development or improvement that the owner or occupier of the land has been required, and has without reasonable excuse refused or failed, to carry out),

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

- (b) to the extent that the law in question makes provision for the taking of possession or acquisition of any of the following property (including an interest in or right over property), that is to say-
- (i) enemy property;
 - (ii) property of a person who has died or is unable, by reason of legal incapacity, to administer it himself, for the purpose of its administration for the benefit of the persons entitled to the beneficial interest therein;
 - (iii) property of a person adjudged bankrupt or a body corporate in liquidation, for the purpose of its administration for the benefit of the creditors of the bankrupt or body corporate and, subject thereto, for the benefit of other persons entitled to the beneficial interest in the property; or
 - (iv) property subject to a trust, for the purpose of vesting the property in persons appointed as trustees under the instrument creating the trust or by a court or, by order of a court, for the purpose of giving effect to the trust.

(6) Nothing in this section shall affect the making or operation of any law so far as it provides for the vesting in the Crown of the ownership of underground water or unextracted minerals.

(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision for the compulsory taking possession of any property or the compulsory acquisition of any interest in or right over property where that property, interest or right is held by a body corporate, established by law for public purposes, in which no moneys have been invested other than moneys provided from public funds.

(8) For the purposes of subsections (1) and (2) of this section "acquiring authority" means the person or authority intending to take possession of, or acquire the right or interest in, the property compulsorily or who has taken possession of, or acquired the interest or right in, the property compulsorily, as the context may require.

Protection for privacy of home and other property

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 or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision-

- (a) in the interests of defence, public safety, public order, public morality, public health, town and country planning, the development and utilisation or mineral resources, or the development or utilisation of any other property in such a manner as to promote the public benefit;
- (b) for the purpose of protecting the rights or freedoms of other persons;

- (c) that authorises an officer or agent of the Government, or of a local authority, or of a body corporate established 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, rate or due 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 civil proceedings, the search of any person or property by order of a court or the entry upon any premises by such order, except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

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 given 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;
 - (c) shall be given adequate time and facilities for the preparation of his defence;
 - (d) shall be permitted to defend himself in person or, at his own expense, by a legal representative of his own choice or, where so prescribed, by a legal representative provided at the public expense;
 - (e) shall be afforded facilities to examine in person or by his legal representative the witnesses called by the prosecution before any court and to obtain the attendance and carry out the examination of witnesses to testify on his behalf before that court on the same conditions as those applying to witnesses called by the prosecution; and
 - (f) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the charge,

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

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

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

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

(6) No person shall be tried for a criminal offence if he shows that he has been granted a pardon, by competent authority, 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 authority required or empowered by law to determine 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 authority the case shall be given a fair hearing within a reasonable time.

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

(10) Nothing in the preceding subsection shall prevent the court or other authority from excluding from the proceedings (except the announcement of the decision of the court or other authority) persons other than the parties thereto and their legal representatives to such extent as the court or other authority-

(a) may by law be empowered so to do and may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice, or in interlocutory proceedings, or in the interests of 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 to do so in the interests of defence, public safety or public order.

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

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

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

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

(12) For the purposes of subsection (2) of this section a person who has been served with a summons or other process requiring him to appear at the time and place appointed for his trial and who does not so appear shall be deemed to have consented to the trial taking place in his absence.

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 section the said freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.

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

(3) No religious community shall be prevented from providing religious instruction for persons of that community in the course of any education provided 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 eighteen 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) in the interests of defence, public safety, public order, public morality or public health;
- (b) for the purpose of protecting the rights or freedoms of other persons, including the right to observe and practise any religion without the unsolicited intervention of members of any other religion; or
- (c) 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,

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

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

Protection of freedom of expression

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 and to receive and impart ideas and information without interference, and freedom from interference with his correspondence.

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

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

- (b) for the purpose of protecting the reputations, rights or 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) for the imposition of restrictions upon public officers, except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

Protection of freedom of assembly and association

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 trade unions or other associations for the protection of his interests.

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

- (a) in the interests of defence, public safety, public order, public morality or public health;
- (b) for the purpose of protecting the rights or freedoms of other persons; or
- (c) for the imposition of restrictions upon public officers, except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

Protection of freedom of movement

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

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

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

- (a) for imposing restrictions on the movement or residence within Fiji of any person or on any person's right to leave Fiji that are reasonably required in the interests of defence, public safety or public order;
- (b) for imposing restrictions on the movement or residence within Fiji or on the right to leave Fiji of persons generally or any class of persons in the interests of defence, public safety, public order, public morality or public health, except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society;
- (c) for imposing restrictions, by order of a court, on the movement or residence within Fiji of any person or on any person's right to leave Fiji either in consequence of his having been found guilty of a criminal offence 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 Fiji;

- (d) for imposing restrictions on the movement or residence within Fiji of any person who is not a citizen of Fiji or for excluding or expelling any such person from Fiji;
- (e) for imposing restrictions on the acquisition or use by any person of any property in Fiji;
- (f) for imposing restrictions on the movement or residence within Fiji or on the right to leave Fiji of any public officer;
- (g) for the removal of a person from Fiji to be tried or punished in some other country for a criminal offence under the law of that other country or to undergo imprisonment in some other country in execution of the sentence of a court in respect of a criminal offence of which he has been convicted; or
- (h) for imposing restrictions on the right of any person to leave Fiji that are reasonably required in order to secure the fulfilment of any obligations imposed on that person by law, except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(4) If any person whose freedom of movement has been restricted by virtue of such a provision as is referred to in paragraph (a) of the preceding subsection so requests at any time during the period of that restriction not earlier than three months after the order imposing that restriction was made or three months after he last made such a request, as the case may be, his case shall be reviewed by an independent and impartial tribunal presided over by a person appointed by the Chief Justice from among persons who are qualified to practise as barristers and solicitors in Fiji.

(5) On any review by a tribunal in pursuance of the preceding subsection of the case of any person whose freedom of movement has been restricted, the tribunal may make recommendations concerning the necessity or expediency of continuing that restriction to the authority by whom it was ordered and, unless it is otherwise provided by law, that authority shall be obliged to act in accordance with any such recommendations.

Protection from discrimination on the grounds of race, etc.

15.-(1) Subject to the provisions of this section-

- (a) no law shall make any provision that is discriminatory either of itself or in its effect; and
- (b) no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

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

(3) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1)(a) of this section to the extent that the law in question makes provision-

- (a) for the appropriation of revenues or other funds of Fiji;
- (b) with respect to persons who are not citizens of Fiji;
- (c) for the application, in the case of persons of any such description as is mentioned in the preceding subsection (or of persons connected with such persons) of the law with respect to adoption, marriage, divorce, burial, devolution of property on death or other like matters that is the personal law applicable to persons of that description;
- (d) for the application of customary law with respect to any matter in the case of persons who, under that law, are subject to that law;
- (e) whereby persons of any such description as is mentioned in the last foregoing subsection may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society;
- (f) for standards or qualifications (not being standards or qualifications specifically relating to race, place of origin, political opinions, colour or creed) to be required of any person who is appointed to, or to act in, any public office, any office in the service of a local authority or any officer in a body corporate established by any law for public purposes; or
- (g) for authorising the taking during a period of public emergency of measures that are reasonably justifiable for the purpose of dealing with the situation that exists in Fiji during that period.

(4) Subsection (1)(b) of this section shall not apply to-

- (a) anything that is expressly or by necessary implication authorised to be done by any provision of law that is referred to in the preceding subsection; or
- (b) the exercise of 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.

(5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (1) of this section-

- (a) if the law in question was in force immediately before 23rd September 1966 and has continued in force at all times since that day; or
- (b) to the extent that it repeals and re-enacts any provision which has been contained in any written law at all time since immediately before that day.

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

(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision whereby persons of any such description as is mentioned in subsection (2) of this section may be subjected to any restriction on

the rights and freedoms guaranteed by sections 9, 11, 12, 13 and 14 of this Constitution, being such a restriction as is authorised by section 9(2), section 11(5), section 12(2), section 13(2), or section 14(3)(a) or (b), as the case may be.

Protection of persons detained under emergency laws

16.-(1) Where a person is detained by virtue of a law that authorises the taking during a period of public emergency of measures that are reasonably justifiable for the purpose of dealing with the situation that exists in Fiji during that period, the following provisions shall apply, that is to say-

- (a) he shall, as soon as reasonably practicable and in any case not more than seven days after the commencement of his detention, be furnished with a statement in writing, in a language that he understands, specifying in detail the grounds upon which he is detained;
- (b) not more than fourteen days after the commencement of his detention, a notification shall be published in the Gazette stating that he has been detained and giving particulars of the provision of law under which his detention is authorised;
- (c) not more than one month after the commencement of his detention and thereafter, during his detention at intervals of not more than six months, his case shall be reviewed by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice from among persons qualified to practise as barristers and solicitors in Fiji;
- (d) he shall be afforded reasonable facilities to consult a legal representative of his own choice who shall be permitted to make representations to the tribunal; and
- (e) at the hearing of his case by the tribunal he shall be permitted to appear in person or by a legal representative of his own choice.

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

(3) Nothing contained in subsection (1)(d) or (e) of this section shall be construed as entitling a person to legal representation at public expense.

Enforcement of protective provisions

17.-(1) If any person alleges that any of the provisions of this Chapter 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 Supreme Court for redress.

- (2) The Supreme Court shall have original jurisdiction-
 - (a) to hear and determine any application made in pursuance of the preceding subsection;
 - (b) to determine any question which is referred to it in pursuance of the next following subsection,

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 this Chapter:

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

(3) If any proceedings in any subordinate court any question arises as to the contravention of any of the provisions of this Chapter, the person presiding in that court may, and shall, if any party to the proceedings so requests, refer the question to the Supreme Court unless, in his judgment, which shall be final, the raising of the question is merely frivolous or vexatious.

(4) Where any question is referred to the Supreme Court in pursuance of the last foregoing subsection, the Supreme 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 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) No appeal shall lie from any determination by the Supreme Court that an application made in pursuance of subsection (1) of this section is merely frivolous or vexatious.

(6) The Supreme Court shall have such powers in addition to those conferred by this section as may be prescribed for the purpose of enabling that court more effectively to exercise the jurisdiction conferred on it by this section.

(7) The Chief Justice may make rules for the purposes of this section with respect to the practice and procedure of the Supreme Court (including rules with respect to the time within which applications may be brought and references shall be made to the Supreme Court).

Interpretation of Chapter II and savings

18.-(1) In this Chapter, unless the context otherwise requires-

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

"court" means any court of law having jurisdiction in Fiji, including Her Majesty in Council, but excepting, save in sections 4 and 6 of this Constitution, a court established by a disciplinary law;

"criminal offence" means a criminal offence under the law of Fiji;

"legal representative" means a person lawfully in or entitled to be in Fiji and entitled to practise in Fiji as a barrister and solicitor;

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

(2) Nothing contained in sections 12, 13 or 14 of this Constitution shall be construed as precluding the inclusion in the terms and conditions of service of public officers of reasonable requirements as to their communication or association with other persons or as to their movements or residence.

(3) In relation to any person who is a member of a disciplined force of Fiji, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter other than sections 4, 6 and 7.

(4) In relation to any person who is a member of a disciplined force that is not a disciplined force of Fiji and who is present in Fiji in pursuance of arrangements made between the Government of Fiji and another Government or an international organisation, 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.

(5) No measures taken in relation to a person who is a member of a disciplined force of a country with which Fiji is at war and no law, to the extent that it authorises the taking of any such measures, shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter.

(6) In this Chapter "period of public emergency" means any period during which-

- (a) Fiji is engaged in any war; or
- (b) there is in force a proclamation by the Governor-General declaring that a state of public emergency exists.

(7) Without prejudice to the power of the Governor-General to revoke at any time a proclamation made for the purposes of the last foregoing subsection, such a proclamation shall lapse at the expiration of six months from the date it was made unless it has in the meantime been approved by a resolution of each House of Parliament, and a proclamation that has been so approved shall remain in force so long as those resolutions remain in force and no longer.

(8) A resolution of either House of Parliament passed for the purposes of the preceding subsection shall remain in force for such period not exceeding six months as may be specified therein:

Provided that any such resolution may be extended from time to time by a further such resolution, each extension being for such period not exceeding six months from the date of the resolution effecting the extension as may be specified therein.

CHAPTER III

CITIZENSHIP

Persons who become citizens on 10th October 1970

19.-(1) Every person who, having been born in Fiji is on 9th October 1970 a citizen of the United Kingdom and Colonies shall-become a citizen of Fiji on 10th October 1970.

(2) Every person who, on 9th October 1970, 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 by the Governor of the former colony of Fiji as a British subject before that Act came into force;
- (b) having become such a citizen by virtue of his having been naturalised by the Governor of the former colony of Fiji under that Act; or
- (c) having become such a citizen by virtue of his having been registered by the Governor of the former colony of Fiji under that Act before the 6th May 1970,

shall become a citizen of Fiji on 10th October 1970.

(a) 1948 c. 56.

(3) Every person who, having been born outside Fiji, is on 9th October 1970 a citizen of the United Kingdom and Colonies shall, if his father becomes, or would but for his death have become, a citizen of Fiji by virtue of subsection (1) of subsection (2) of this section, become a citizen of Fiji on 10th October 1970.

Persons entitled to be registered as citizens

20.-(1) Any woman who, on 10th October 1970, is or has been married to a person-

- (a) who becomes a citizen of Fiji by virtue of the preceding section; or
- (b) who, having died before 10th October 1970 would, but for his death, have become a citizen of Fiji by virtue of that section,

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 Fiji:

Provided that, in the case of any woman who on 10th October 1970 is not a citizen of the United Kingdom and Colonies, the right to be registered as a citizen of Fiji under this subsection 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 is a Commonwealth citizen (otherwise than by virtue of being a citizen of Fiji) and who immediately before 10th October 1970 was a person deemed to belong to Fiji for the purposes of Chapter I of the Constitution set out in schedule 2 to the Fiji (Constitution) Order 1966 by virtue of such residence in Fiji as is mentioned in paragraph (b) of section 16(3) of that Constitution may, at any time before 10th October 1972, apply to be registered as a citizen of Fiji; and any person who applies under this subsection shall be entitled to be registered as such a citizen:

Provided that a person who, at the time of his application is a citizen of any country to which section 24 of this Constitution applies and has attained the age of twenty-one years shall not be registered as a citizen of Fiji under this subsection unless he has renounced his citizenship of that country or, if the law of that country does not permit him to renounce his citizenship thereof, has made such declaration as may be prescribed.

(3) Any application for registration under this section 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.

Persons born in *Fiji* after 9th October 1970

21. Every person born in Fiji after 9th October 1970 shall become a citizen of Fiji at the date of his birth:

Provided that a person shall not become a citizen of Fiji by virtue of this section 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 Fiji and neither of his parents is a citizen of Fiji; or
- (b) his father is an enemy alien and the birth occurs in a place then under occupation by the enemy.

Persons born outside Fiji after 9th October 1970

22. A person born outside Fiji after 9th October 1970 shall become a citizen of Fiji at the date of his birth if at that date his father is a citizen of Fiji otherwise than by virtue of this section or section 19(3) of this Constitution.

Marriage to citizen of Fiji

23. Any woman who after 9th October 1970 marries a person who is or becomes a citizen of Fiji 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 Fiji:

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

Commonwealth citizens

24.-(1) Every person who under this Constitution or any other law is a citizen of Fiji or under any enactment for the time being in force in any country to which this section 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, Guyana, Lesotho, Botswana, Barbados, Mauritius, Swaziland, Tonga and Southern Rhodesia.

(4) Parliament may, subject to the provisions of this Constitution, make provision prescribing the rights, privileges, duties and liabilities of persons having the status of Commonwealth citizen.

Powers of Parliament

25. Parliament may make provision-

- (a) for the acquisition of citizenship of Fiji by persons who are not eligible or who are no longer eligible to become citizens of Fiji by virtue of the provisions of this Chapter;
- (b) for depriving of his citizenship of Fiji any person who is a citizen of Fiji otherwise than by virtue of section 19, 20(2), 21 or 22 of the Constitution;
- (c) for the renunciation by any person of his citizenship of Fiji;
- (d) for the maintenance of a register of citizens of Fiji who are also citizens of other countries; or
- (e) for depriving of his citizenship of Fiji any citizen of Fiji who has attained the age of 21 years and who, being a citizen of some other country, has not, within such period as may be prescribed, renounced his citizenship of that other country or, if the law of that other country

(a) 1965 c. 34.

By Act 1 of 1971 Nauru and Western Samoa added Southern Rhodesia deleted.

does not permit him to renounce his citizenship of that other country, made such declaration as may be prescribed.

Interpretation

26.-(1) In this Chapter-

"alien" means a person who is not a Commonwealth citizen, a British protected person or a citizen of the Republic of Ireland;

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

(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 10th October 1970 and the birth occurred before 9th October 1970 the national status that the father would have had if he had died on 10th October 1970 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

27. There shall be a Governor-General and Commander-in-Chief of Fiji 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 Fiji.

Acting Governor-General

28. Whenever the office of Governor-General is vacant or the holder of the office is absent from Fiji 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 Fiji so appointed and able to perform those functions, by the Chief Justice.

Oaths to be taken by Governor-General

29. A person appointed to the office of Governor-General or assuming the functions of that office under the preceding section shall, before entering upon the duties of that office, take and subscribe the oath of allegiance and the oath of office as prescribed by schedule 1 to this Constitution, such oaths being administered by the Chief Justice or such other judge of the Supreme Court as may be designated by the Chief Justice.

CHAPTER V

PARLIAMENT

PART 1

*Composition of Parliament**Establishment of Parliament*

30. There shall be a Parliament for Fiji which shall consist of Her Majesty, a House of Representatives and a Senate.

PART 2

*The House of Representatives**The House of Representatives to consist of elected members*

31. The House of Representatives shall consist of persons elected in accordance with the provisions of this Constitution and, subject thereto, in such manner as may be prescribed.

Number and method of election of members

32.-(1) There shall be fifty-two members of the House of Representatives and they shall be elected to represent constituencies.

(2) For the purpose of electing the members of the House, voters shall be registered on one of three separate rolls, that is to say-

- (a) a roll of voters who are Fijians;
- (b) a roll of voters who are Indians; and
- (c) a roll of voters who are neither Fijians or Indians;

and all voters so registered shall also be registered on one additional roll (in this Constitution referred to as "the national roll").

(3) Twenty-two members of the House shall be elected from among persons who are registered on the roll of voters who are Fijians, and of those members-

- (a) twelve shall be elected by voters registered on that roll; and
- (b) ten shall be elected by voters registered on the national roll.

(4) Twenty-two members of the House shall be elected from among persons who are registered on the roll of voters who are Indians, and of those members-

- (a) twelve shall be elected by voters registered on that roll and
- (b) ten shall be elected by voters registered on the national roll.

(5) Eight members of the House shall be elected from among persons who are registered on the roll of voters who are neither Fijians nor Indians, and of those members-

- (a) three shall be elected by voters registered on that roll; and
- (b) five shall be elected by voters registered on the national roll.

Disqualifications for election as a member

33.-(1) No person shall be qualified to be elected as a member of the House of Representatives who-

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

- (b) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of the Commonwealth;
 - (c) is, under any law in force in Fiji, adjudged or otherwise declared to be of unsound mind;
 - (d) is under sentence of death imposed on him by a court in any part of the Commonwealth, or is under sentence of imprisonment (by whatever name called) for a term exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court;
 - (e) is disqualified for membership of the House under any law in force in Fiji relating to offences connected with elections;
 - (f) subject to any exceptions prescribed by Parliament, holds or is acting in any public office;
 - (g) has at any time during the immediately preceding three years held or acted in the office of a member of the Constituency Boundaries Commission, the Electoral Commission, the Judicial and Legal Services Commission, the Public Service Commission or the Police Service Commission or the office of Supervisor of Elections or Ombudsman;
 - (h) subject to any exceptions or limitations prescribed by Parliament, has any such interest in any such government contract as may be so prescribed; or
 - (i) holds or is acting in an office the functions of which involve any responsibility for, or in connection with, the conduct of any election to the House.
- (2) For the purposes of paragraph (d) of the preceding subsection-
- (a) two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of those terms; and
 - (b) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.
- (3) In paragraph (h) of subsection (1) of this section "government contract" means any contract made with the Government or with a department of the Government or with an officer of the Government contracting as such.

Vacation of seats of members

34.-(1) A member of the House of Representatives shall vacate his seat therein-

- (a) upon a dissolution of Parliament;
- (b) if he ceases to be a citizen of Fiji;
- (c) if he is absent from three consecutive meetings of the House without having obtained from the Speaker (or, if the office of Speaker is vacant or he is for any reason unable to perform the functions of his office, the deputy Speaker) before the termination of any of those meetings permission to be or to remain absent from that meeting;
- (d) if any circumstances arise that, if he were not a member of the House, would cause him to be disqualified for election thereto by virtue of paragraphs (a), (b), (c), (e), (f), (h) or (i) of subsection (1) of the preceding section.

(2) A member of the House may resign his seat therein by writing under his hand addressed to the Speaker and the seat shall become vacant when the writing is received by the Speaker or, if the office of Speaker is vacant or the Speaker is for any reason unable to perform the functions of his office, by the Deputy Speaker or such other person as may be specified in the rules of procedure of the House.

(3) For the purposes of paragraph (c) of subsection (1) of this section, "meeting" means the sittings of the House commencing when it first meets after being summoned at any time or after an adjournment *sine die* and terminating when it is adjourned *sine die* or at the conclusion of a session of Parliament.

Vacation of seat on sentence

35.-(1) Subject to the provisions of this section, if a member of the House of Representatives is sentenced by a court in any part of the Commonwealth to death or to imprisonment (by whatever name called) for a term exceeding twelve months, he shall forthwith cease to perform his functions as a member of the House and his seat in the House shall become vacant at the expiration of a period of thirty days thereafter:

Provided that the Speaker (or, if the office of Speaker is vacant or he is for any reason unable to perform the functions of his office, the Deputy 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 any appeal in respect of his conviction or sentence, so however that extensions of time exceeding in the aggregate three hundred and thirty days shall not be granted without the approval of the House signified by resolution.

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

(3) Paragraphs (a) and (b) of section 33(2) of this Constitution shall apply for the purposes of this section as they apply for the purposes of paragraph (d) of section 33(1).

Speaker and Deputy Speaker

36.-(1) The House of Representatives shall at its first sitting after any general election elect from among its members a Speaker and a Deputy Speaker.

(2) A member of the House shall not be qualified for election as Speaker or Deputy Speaker if he is a Minister or an Assistant Minister.

(3) The office of the Speaker or the deputy Speaker shall become vacant-

(a) if he ceases to be a member of the House otherwise than by reason of a dissolution of Parliament;

(b) if, under the provisions of the preceding section, he is required to cease to perform his functions as a member of the House;

(c) if he becomes a Minister or an Assistant Minister;

(d) if the House passes a resolution supported by the votes of not less than two-thirds of all the members thereof requiring his removal from office; or

(e) in the case of the Deputy Speaker, if he is elected as Speaker.

(4) A person holding the office of Speaker or Deputy Speaker may resign his office by writing under his hand addressed to the House and the office shall become vacant when the writing is received by the Clerk to the House.

(5) The office of the Speaker shall also become vacant when the House first sits after any general election; and the office of the Deputy Speaker shall also become vacant on a dissolution of Parliament.

(6) If the office of Speaker or Deputy Speaker becomes vacant under subsection (3) or (4) of this section the House shall, unless Parliament is sooner dissolved, elect one of its members to fill the vacancy at its next sitting after the occurrence of the vacancy or, in the case of the Deputy Speaker, as soon as practicable thereafter.

(7) No business shall be transacted in the House (other than the election of a Speaker) at any time when the office of Speaker is vacant.

Determination of questions of membership

37.-(1) The Supreme Court shall have jurisdiction to hear and determine any question whether-

- (a) any person has been validly elected as a member of the House of Representatives;
- (b) any member of the House has vacated his seat or is required, under the provisions of section 35 of this Constitution, to cease to perform his functions as member of the House.

(2) An application for the determination of any question under the preceding subsection may be made by any person registered as a voter for the purpose of electing members of the House or by the Attorney-General; and, if any such application is made by a person other than the Attorney-General, the Attorney-General may intervene and may then appear or be represented in the proceedings.

(3) A determination by the Supreme Court in proceedings under this section shall not be subject to an appeal.

(4) In the exercise of his functions under this section, the Attorney-General shall not be subject to the direction or control of any other person or authority.

Constituency Boundaries Commission

38.-(1) There shall be a Constituency Boundaries Commission consisting of a Chairman and two other members appointed by the Governor-General acting in accordance with the advice of the Prime Minister tendered after the Prime Minister has consulted the Leader of the Opposition.

(2) A person shall not be qualified to be appointed as the Chairman of the Commission unless he holds or has held high judicial office in some part of the Commonwealth.

(3) A person shall not be qualified to be appointed as a member of the Commission if he is, or has at any time during the five years preceding his appointment been-

- (a) a member of the House of Representatives, a member of the Senate or an elected member of any local authority;
- (b) nominated with his consent as a candidate for election as a member of the House of Representatives or any local authority;
- (c) the holder of an office (not being an office the functions of which relate only to a part of Fiji) in any political organisation that sponsors or otherwise supports or has during the said period of five years sponsored or otherwise supported a candidate for election as a member of the House of Representatives;

or if he is a public officer or a local government officer.

(4) Subject to the provisions of the next following subsection, a member of the Commission shall vacate his office-

- (a) at the expiration of five years from the date of 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.

(5) The provisions of section 108 of this Constitution shall apply to a member of the Constituency Boundaries Commission as they apply to the appointed member of the Judicial and Legal Services Commission except that subsection (7)(a) shall apply as if for the words "in accordance with the advice of the Chief Justice" there were substituted the words "in his own deliberate judgment".

Constituencies

39.-(1) Subject to the provisions of this section, the boundaries of constituencies for the purpose of the election of members of the House of Representatives shall be such as may be prescribed by order made by the Constituency Boundaries Commission.

(2) Fiji shall be divided-

- (a) into twelve constituencies each returning one of the members referred to in paragraph (a) of section 32(3) of this Constitution;
- (b) into twelve constituencies each returning one of the members referred to in paragraph (a) of section 32(4) of this Constitution;
- (c) into three constituencies each returning one of the members referred to in paragraph (a) of section 32(5) of this Constitution;
- (d) into ten constituencies each returning one of the members referred to in paragraph (b) of section 32(3) and one of the members referred to in paragraph (b) of section 32(4) of this Constitution; and
- (e) into five constituencies each of which shall consist of two of the constituencies referred to in the last foregoing paragraph and shall return one of the members referred to in paragraph (b) of section 32(5) of this Constitution.

(3) When the Constituency Boundaries Commission, prescribes the boundaries of the constituencies or, following a review of those boundaries, prescribes new boundaries for any constituencies, it shall do so in such a manner that-

- (a) the constituencies referred to in paragraph (a) of the preceding subsection contained as nearly equal numbers of adult Fijian inhabitants;
- (b) the constituencies referred to in paragraph (b) of that subsection contain as nearly equal numbers of adult Indian inhabitants;
- (c) the constituencies referred to in paragraph (c) of that subsection contain as nearly equal numbers of adult inhabitants who are neither Fijians nor Indians; and
- (d) the constituencies referred to in paragraph (d) of that subsection contain as nearly equal numbers of adult inhabitants,

as appears to the Commission to be reasonably practicable:

Provided that the Commission may depart from the foregoing principles to such extent as it considers expedient in order to take account of geographical features, the boundaries of existing administrative and recognised traditional areas, means of communication and density and mobility of populations.

(4) The boundaries of the constituencies shall be prescribed by the Commission as soon as practicable after the commencement of this Constitution; and thereafter the Commission may review the boundaries of the constituencies whenever it considers this to be desirable and shall do so not later than ten years after it first prescribed those boundaries or, as the case may be, last reviewed them.

(5) Every order made by the Commission under this section shall be published in the Gazette and shall take effect for the purpose of elections to the House of Representatives subsequent to the next dissolution of Parliament after it was made.

(6) In subsection (3) of this section "adult" means of or over the age of twenty-one years.

Qualifications and disqualifications for registration as a voter

40.-(1) Subject to the provisions of the next following subsection, a person shall be qualified to be registered on one of the rolls referred to in paragraphs (a), (b) and (c) of section 32(2) of this Constitution if, and shall not be so qualified unless, he is a citizen of Fiji and has attained the age of twenty-one years.

(2) No person shall be qualified to be so registered who-

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

(b) is under sentence of death imposed on him by a court in any part of the Commonwealth, or is under a sentence of imprisonment (by whatever name called) for a term exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court;

(c) is, under any law in force in Fiji adjudged or otherwise declared to be of unsound mind; or

(d) is disqualified for registration as a voter under any law in force in Fiji relating to offences connected with elections.

(3) The allocation of persons qualified to be registered on any roll to any particular constituency for the purpose of being registered as voters in that constituency shall be made in such manner as may be prescribed.

(4) Paragraphs (a) and (b) of section 33(2) of this Constitution shall apply for the purposes of subsection 2(b) of this section as they apply for the purposes of paragraph (d) of section 33(1) of this Constitution.

Right to vote at elections

41.-(1) Any person who is registered as a voter in any constituency shall be entitled to vote in such manner as may be prescribed at any election for the constituency unless-

(a) on the date appointed for polling he is under such a sentence of death or serving such a sentence of imprisonment as is referred to in paragraph (b) of section 40(2) of this Constitution or (except in so far as may be otherwise prescribed) he is for any other reason unable to attend in person at the place and time appointed for polling; or

(b) he is prohibited from so voting by any law in force in Fiji because he holds or is acting in any office the functions of which involve any responsibility for, or in connection with, the conduct of that election or because he has been convicted of any offence connected with elections.

(2) No person shall vote at any election for any constituency who is not registered as a voter in that constituency.

Electoral Commission

42.-(1) There shall be an Electoral Commission consisting of a Chairman appointed by the Governor-General acting in accordance with the advice of the Judicial and Legal Services Commission and not less than two nor more than four other members appointed by the Governor-General acting in accordance with the advice of the Prime Minister tendered after the Prime Minister has consulted the Leader of the Opposition.

(2) A person shall not be qualified to be appointed as a member of the Commission if he is a member of the House of Representatives, a member of the Senate, an elected member of any local authority, a candidate for election as a member of the House of Representatives or of a local authority nominated as such with his consent, a public officer or a local government officer.

(3) Subject to the provisions of the next following subsection, a member of the Commission shall vacate his office-

- (a) at the expiration of five years from the date of 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.

(4) The provisions of section 108 of this Constitution shall apply to a member of the Electoral Commission as they apply to the appointed member of the Judicial and Legal Services Commission except that subsection (7)(a) shall apply as if for the words "in accordance with the advice of the Chief Justice" there were substituted the words "in his own deliberate judgment".

Supervisor of Elections

43.-(1) There shall be a Supervisor of Elections whose office shall be a public office.

(2) Power to make appointments to the office of Supervisor of Elections shall vest in the Judicial and Legal Services Commission:

Provided that the Commission shall not select for appointment to hold that office a person who is not a citizen of Fiji and is not a public officer unless the Prime Minister has agreed that such a person may be so selected.

(3) A person shall not be qualified to hold or act in the office of Supervisor of Elections unless he is qualified to practise as a barrister and solicitor in Fiji.

(4) Without prejudice to the provisions of the next following section, in the exercise of his functions under this Constitution the Supervisor of Elections shall not be subject to the direction or control of any other person or authority.

Functions of Electoral Commission and Supervisor of Elections

44.-(1) The Electoral Commission shall have general responsibility for, and shall supervise, the registration of votes for the election of members of the House of Representatives and the conduct of elections of such members and the Commission shall have such powers and other functions relating to such registration and such elections as may be prescribed.

(2) The Supervisor of Elections shall have such powers and other functions relating to such registration and elections as may be prescribed; and he shall keep

the Electoral Commission fully informed concerning the exercise of his functions and shall have the right to attend meetings of the Commission, and he shall comply with any directions that the Commission may give to him concerning the exercise of his functions:

Provided that the question whether the Supervisor of Elections has acted in accordance with the directions of the Electoral Commission shall not be enquired into in any court of law.

(3) Every proposed bill and every proposed regulation or other instrument having the force of law relating to the registration of voters for the election of members of the House of Representatives or to the election of such members shall be referred to the Electoral Commission and to the Supervisor of Elections at such time as shall give them sufficient opportunity to make comments thereon before the bill is introduced in the House or, as the case may be, the regulation or other instrument is made.

(4) The Electoral Commission may make such reports to the Governor-General concerning the matters under their supervision, or any draft bill or instrument that is referred to them, as they may think fit, and if the Commission so requests in any such report other than a report on a draft bill or instrument that report shall be laid before the House of Representatives.

PART 3

The Senate

Composition of the Senate

45.-(1) The Senate shall consist of twenty-two members, of whom-

- (a) eight shall be appointed by the Governor-General acting in accordance with the advice of the Great Council of Chiefs;
- (b) seven shall be appointed by the Governor-General acting in accordance with the advice of the Prime Minister;
- (c) six shall be appointed by the Governor-General acting in accordance with the advice of the Leader of the Opposition; and
- (d) one shall be appointed by the Governor-General acting in accordance with the advice of the Council of Rotuma.

(2) In selecting persons for appointment under paragraph (a) of the preceding subsection the Great Council of Chiefs shall act in accordance with such procedure as the Great Council may determine; and in selecting a person for appointment under paragraph (d) of that subsection the Council of Rotuma shall act in accordance with such procedure as, subject to any provision in that behalf that may be prescribed by Parliament, the Council of Rotuma may determine.

Qualifications and disqualifications for membership

46.-(1) Subject to the provisions of the next following subsection, a person shall be qualified to be appointed as a member of the Senate, if, and shall not be so qualified unless, he is registered as a voter on one of the three separate rolls referred to in section 32(2) of the Constitution.

(2) No person shall be qualified to be appointed as a member of the Senate who-

- (a) *is* a member of the House of Representatives;
 - (b) is, by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to a power or state outside the Commonwealth;
 - (c) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of the Commonwealth;
 - (d) is, under any law in force in Fiji, adjudged or otherwise declared to be of unsound mind;
 - (e) *is* under sentence of death imposed on him by a court in any part of the Commonwealth, or is under a sentence of imprisonment (by whatever name called) for a term exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court;
 - (f) is disqualified for membership of the Senate under any law in force in Fiji relating to offences connected with elections;
 - (g) subject to any exceptions prescribed by Parliament, holds or is acting in any public office;
 - (h) has at any time during the immediately preceding three years held or acted in the office of a member of the Constituency Boundaries Commission, the Electoral Commission, the Judicial and Legal Services Commission, the Public Service Commission or the Police Service Commission or the office of Supervisor of Elections or Ombudsman.
- (3) For the purposes of paragraph (e) of the preceding subsection-
- (a) two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of those terms; and
 - (b) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.

Tenure of seats of members

47.-(1) Subject to the provisions of this section, the term of office of a member of the Senate shall be six years, and his tenure thereof shall not be affected by a dissolution of Parliament:

Provided that the term of office of a member appointed to fill a vacancy occurring because a person has vacated his seat in the Senate for a reason other than the expiration of his term of office shall be the unexpired portion of the term of office of that person.

- (2) Of the members of the Senate first appointed, the term of office of-
- (a) four of those appointed by the Governor-General acting in accordance with the advice of the Great Council of Chiefs, who shall be designated by the Governor-General acting in the same manner at the time of their appointment;
 - (b) three of those appointed by the Governor-General acting in accordance with the advice of the Prime Minister, who shall be designated by the Governor-General acting in the same manner at the time of their appointment;
 - (c) three of those appointed by the Governor-General acting in accordance with the advice of the Leader of the Opposition, who shall be

- designated by the Governor-General acting in the same manner at the time of their appointment; and
- (d) the member appointed by the Governor-General acting in accordance with the advice of the Council of Rotuma, shall be three years.
- (3) For the purpose of reckoning the date on which the term of office of a member of the Senate expires-
- (a) the term of office of the members first appointed shall be deemed to have begun on the date of the commencement of this Constitution; and
- (b) the term of office of a member appointed to fill a vacancy occurring by reason of the expiration of the term of office of a member shall be deemed to have begun immediately after the expiration of that term.
- (4) A member of the Senate shall vacate his seat therein-
- (a) upon the expiration of his term of office;
- (b) if he ceases to be a citizen of Fiji;
- (c) if he is absent from the sittings of the Senate for such period and in such circumstances as may be prescribed in the rules of procedure of the Senate;
- (d) if any circumstances arise that, if he were not a member of the Senate, would cause him to be disqualified for appointment as such by virtue of paragraphs (a), (b), (c), (d), (f), or (g) of subsection (2) of the preceding section.
- (5) A member of the Senate may resign his seat therein by writing under his hand addressed to the President of the Senate and the seat shall become vacant when the writing is received by the President or, if the office of President is vacant or the President is for any reason unable to perform the functions of his office, by the Vice-President or such other person as may be specified in the rules of procedure of the Senate.

Vacation of seat on sentence

48.-(1) Subject to the provisions of this section, if a member of the Senate is sentenced by a court in any part of the Commonwealth to death or to imprisonment (by whatever name called) for a term exceeding twelve months, he shall forthwith cease to perform his functions as a member of the Senate and his seat in the Senate shall become vacant at the expiration of a period of thirty days thereafter:

Provided that the President of the Senate (or, if the office of President is vacant or he is for any reason unable to perform the functions of his office, the Vice-President) 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 any appeal in respect of his conviction or sentence, so however that extensions of time exceeding in the aggregate three hundred and thirty days shall not be granted without the approval of the Senate signified by resolution.

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

(3) Paragraphs (a) and (b) of section 46(3) of this Constitution shall apply for the purposes of this section as they apply for the purposes of paragraph (e) of section 46(2).

Filling of vacancies in the Senate

49. Whenever a member of the Senate vacates his seat therein this vacancy shall be filled as soon as practicable by an appointment under the paragraph of section 45(1) of this Constitution under which that member was appointed:

Provided that no appointment shall be made under paragraph (b) or (c) of section 45(1)-

- (a) during any period between a dissolution of Parliament and the next ensuing general election of members of the House of Representatives; or
- (b) during any period following such an election for which the Governor-General, acting in his own deliberate judgment, may consider it desirable to postpone the making of such an appointment by reason of it appearing to the Governor-General that it is likely to be necessary to make a new appointment to the office of Prime Minister or the office of Leader of the Opposition in consequence of changes in the membership of the House of Representatives resulting from that election.

President and Vice-President

50.-(1) The Senate shall at its first sitting after the commencement of this Constitution elect from among its members a President and a Vice-President; and whenever the office of President or Vice-President becomes vacant the Senate shall elect one of its members to fill the vacancy at its next sitting after the occurrence of the vacancy or as soon as practicable thereafter.

(2) A member of the Senate shall not be qualified for election as President or Vice-President if he is a Minister or Assistant Minister.

(3) The office of the President or Vice-President shall become vacant-

- (a) if he ceases to be a member of the Senate;
- (b) if, under the provisions of section 48 of this Constitution, he is required to cease to perform his functions as a member of the Senate;
- (c) if he becomes a Minister or an Assistant Minister;
- (d) if the Senate passes a resolution supported by the votes of not less than two-thirds of all the members thereof requiring his removal from office; or
- (e) in the case of the Vice-President, if he is elected as President.

(4) A person holding the office of President or Vice-President may resign his office by writing under his hand addressed to the Senate and the office shall become vacant when the writing is received by the Clerk to the Senate.

Determination of questions of membership

51.-(1) The Supreme Court shall have jurisdiction to hear and determine any question whether-

- (a) any person has been validly appointed as a member of the Senate;
- (b) any member of the Senate has vacated his seat or is required, under the provisions of section 48 of this Constitution, to cease to perform his functions as a member of the Senate.

(2) An application for the determination of any question under the preceding subsection may be made by any person registered as a voter for the purpose of electing members of the House of Representatives or by the Attorney-General; and, if any such application is made by a person other than the Attorney-General,

the Attorney-General may intervene and may then appear or be represented in the proceedings.

(3) A determination by the Supreme Court in proceedings under this section shall not be subject to an appeal.

(4) In the exercise of his functions under this section, the Attorney-General shall not be subject to the direction or control of any other person or authority.

PART 4

Powers and Procedure

Power to make laws

52. Subject to the provisions of the Constitution, Parliament may make laws for the peace, order and good government of Fiji.

Mode of exercise of legislative power

53.-(1) The power of Parliament to make laws shall be exercised by bills passed by both Houses of Parliament (or, in the cases mentioned in sections 62, 63, 64 and 65 of this Constitution, by the House of Representatives) and assented to by the Governor-General on behalf of Her Majesty.

(2) A bill may originate only in the House of Representatives.

(3) When a bill has been passed by the House of Representatives it shall be sent to the Senate, and it shall be presented to the Governor-General for assent-

(a) when it has been passed by the Senate and agreement has been reached between the two Houses on any amendments made to it by the Senate; or

(b) when it is required to be so presented under section 62, 63, 64 or 65 of this Constitution.

(4) When a bill is presented to the Governor-General for assent in pursuance of the preceding subsection he shall signify that he assents or that he withholds assent.

(5) When the Governor-General assents to a bill that has been so presented to him the bill shall become law and the Governor-General shall thereupon cause it to be published in the Gazette as a law.

(6) No law made by Parliament shall come into operation until it has been published in the Gazette but Parliament may postpone the coming into operation of any such law and may make laws with retrospective effect.

(7) All laws made by Parliament shall be styled "Acts of Parliament" and the words of enactment shall be "Enacted by the Parliament of Fiji".

Regulation of procedure in each House

54.-(1) Subject to the provisions of this Constitution, each House of Parliament may regulate its own procedure and may make rules for that purpose, including in particular the orderly conduct of its own proceedings.

(2) Each House of Parliament may act notwithstanding any vacancy in its membership (including in the case of the House of Representatives any vacancy not filled when the House first meets after a general election) and the presence or participation of any person not entitled to be present at or participate in the proceedings of the House shall not invalidate those proceedings.

(3) Parliament may, for the purpose of the orderly and effective discharge of the business of the two Houses, make provision for the powers, privileges and immunities of those Houses and the committees and members thereof.

Oath of allegiance

55. No member of either House of Parliament shall take part in the proceedings of the House, other than the election of the Speaker or President of the House or proceedings necessary for the purposes of this section, until he has made and subscribed before the House the oath of allegiance.

Official language

56. The official language of Parliament shall be English, but any member of either House may address the chair in the House of which he is a member in Fijian or Hindustani.

Presiding

57.-(1) The Speaker or in his absence the Deputy Speaker or in their absence a member of the House of Representatives (not being a Minister or Assistant Minister) elected by the House for the sitting shall preside at any sitting of the House.

(2) The President or in his absence the Vice-President or in their absence a member of the Senate (not being a Minister or Assistant Minister) elected by the Senate for the sitting shall preside at any sitting of the Senate.

Quorum

58.-(1) If at any sitting of either House of Parliament a quorum of the House is not present and any member of the House who is present objects on that account to the transaction of business and, after such interval as may be prescribed by the rules of procedure of the House, the person presiding at the sitting ascertains that a quorum is still not present, he shall adjourn the House.

(2) For the purposes of this section-

- (a) a quorum of the House of Representatives shall consist of seventeen members in addition to the person presiding; and
- (b) a quorum of the Senate shall consist of seven members in addition to the person presiding.

Voting

59.-(1) Save as otherwise provided in this Constitution, all questions proposed for decision in either House of Parliament shall be determined by a majority of the votes of the members of the House present and voting.

(2) The person presiding in either House of Parliament shall not vote upon any question before the House that fails to be determined by a majority of the members of the House present and voting unless the votes cast are equally divided, in which case he shall exercise a casting vote.

Right of Attorney-General to attend either House

60. The Attorney-General shall be entitled to attend and take part in any proceedings of either House of Parliament notwithstanding that he is not a member of that House and whether or not he is then a member of the other House, but he shall not cast a vote in any proceedings of either House which he attends by virtue

of the provisions of this section and shall not be regarded as a member of that House for the purposes of any provision of this Constitution other than sections 54(3) and 56.

Restrictions with regard to certain financial measures

61.-(1) Except upon the recommendation of the Cabinet signified by a Minister, the House of Representatives shall not-

- (a) proceed upon any bill (including any amendment to a bill) that, in the opinion of the person presiding, makes provision for any of the following purposes-
 - (i) the imposition of taxation or the alteration of taxation otherwise than by reduction;
 - (ii) the imposition of any charge upon the Consolidated Fund or any other public fund of Fiji or the alteration of any such charge otherwise than by reduction;
 - (iii) the payment, issue or withdrawal from the Consolidated Fund or any other public fund of Fiji of any moneys not charged thereon or any increase in the amount of such payment, issue or withdrawal; or
 - (iv) the composition or remission of any debt to the Government;
 - (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 those purposes.
- (2) The Senate shall not-
- (a) proceed upon any amendment to a bill that, in the opinion of the person presiding, is an amendment that makes provision for any of the following purposes-
 - (i) the imposition, repeal or alteration of taxation;
 - (ii) the imposition, repeal or alteration of any charge upon the Consolidated Fund or any other public fund of Fiji;
 - (iii) the payment, issue or withdrawal from the Consolidated Fund or any other public fund of Fiji of any moneys not charged thereon or any alteration in the amount of such payment, issue or withdrawal;
 - (iv) the composition or remission of any debt to the Government;
 - (b) proceed upon any amendment to any provision contained in the bill that, in the opinion of the person presiding, is a provision for any of those purposes;
 - (c) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding, is that provision should be made for any of those purposes.

Limitation on powers of the Senate with respect to appropriation bills

62.-(1) If a bill that has been passed by the House of Representatives and certified by the Speaker under the next following subsection as an appropriation bill is not passed by the Senate without amendment by the end of the day after the day on which it was sent to the Senate, the bill shall, unless the House of Representatives otherwise resolves, be presented to the Governor-General for assent.

(2) When a bill that in the opinion of the Speaker is an appropriation bill is sent to the Senate from the House of Representatives it shall bear a certificate of the Speaker that it is an appropriation bill.

Limitation on powers of the Senate with respect to other money bills

63.-(1) Subject to the next following section, if a bill that has been passed by the House of Representatives and certified by the Speaker under the next following subsection as a money bill other than an appropriation bill, having been sent to the Senate at least twenty-one days before the end of the session, is not passed by the Senate without amendment within twenty-one days after the bill was sent to the Senate, the Bill shall, unless the House of Representatives otherwise resolves, be presented to the Governor-General for assent.

(2) When a bill that in the opinion of the Speaker is a money bill other than an appropriation bill is sent to the Senate from the House of Representatives it shall bear a certificate of the Speaker that it is a money bill other than an appropriation bill.

(3) In this section "money bill" means a bill that contains only provisions dealing with all or any of the following matters, that is to say-

- (a) the imposition, repeal, remission, alteration or regulation of taxation;
- (b) the imposition of charges on the Consolidated Fund or any other public fund of Fiji or the alteration or repeal of any such charges;
- (c) the grant of money to the Crown or to any other person or authority or the alteration or revocation of any such grant;
- (d) the appropriation, receipt, custody, investment, issue or audit of accounts of public money;
- (e) the raising or guarantee of any loan or the repayment thereof, or the establishment, alteration, administration or abolition of any sinking fund provided in connection with any such loan; or
- (f) subordinate matters incidental to any of the matters aforesaid:

Provided that the expressions "taxation", "public money" and "loan" do not include any taxation, money or loan raised by local authorities or other local bodies.

Limitation on powers of the Senate with respect to urgent bills

64.-(1) If the Governor-General, acting in accordance with the advice of the Prime Minister, by writing under his hand certifies to the President of the Senate that the enactment of a bill that has been passed by the House of Representatives is a matter of urgency and the bill, having been sent to the Senate at least seven days before the end of the session, is not passed by the Senate within seven days after it is so sent or is passed by the Senate with any amendment to which the House of Representatives does not agree within seven days after the bill was sent to the Senate, the bill (with such amendments, if any, as may have been agreed to by both Houses) shall, unless the House of Representatives otherwise resolves, be presented to the Governor-General for assent.

(2) This section does not apply to any bill for the purposes mentioned in section 67 or 68 of this Constitution.

Limitation on powers of the Senate with respect to other bills

65.-(1) This section applies to any bill other than-

- (a) a bill certified under section 62(2), 63(2) or 64(1) of this Constitution; or

(b) a bill for the purposes mentioned in section 67 or 68 of this Constitution.

(2) If any bill to which this section applies is passed by the House of Representatives in two successive sessions (whether or not Parliament is dissolved between those sessions) and, having been sent to the Senate in each of those sessions at least one month before the end of the session, is rejected by the Senate in each of those sessions, that bill shall, on its rejection for the second time by the Senate, unless the House of Representatives otherwise resolves, be presented to the Governor-General for assent:

Provided that the foregoing provisions of this subsection shall not have effect unless at least six months have elapsed between the date on which the bill is passed by the House of Representatives in the first session and the date on which it is passed by that House in the second session.

(3) For the purposes of this section, a bill shall be deemed to be rejected by the Senate if it is not passed by the Senate without amendment, or it is passed by the Senate with any amendment which is not agreed to by the House of Representatives.

(4) For the purposes of this section, a bill that is sent to the Senate in any session shall be deemed to be the same bill as a former bill sent to the Senate in the preceding session if, when it is sent to the Senate, it is identical with the former bill or contains only such alterations as are certified by the Speaker to be necessary owing to the time that has elapsed since the date of the former bill or to represent any amendments which have been made by the Senate in the former bill in the preceding session and agreed to by the House of Representatives.

(5) The House of Representatives may, if it thinks fit, on the passage through that House of a bill that is deemed to be the same bill as a former bill sent to the Senate in the preceding session, suggest any amendments without inserting the amendments in the bill, and any such amendments shall be considered by the Senate and, if agreed to by the Senate, shall be treated as amendments made by the Senate and agreed to by the House of Representatives; but the exercise of this power by the House of Representatives shall not affect the operation of this section in the event of the rejection of the bill by the Senate.

(6) There shall be inserted in any bill that is presented to the Governor-General for assent in pursuance of this section any amendments to it that are certified by the Speaker to have been made or recommended by the Senate in the second session and agreed to by the House of Representatives.

Functions of Speaker

66.-(1) When a bill is presented to the Governor-General for assent in pursuance of the provisions of section 62(1), 63(1), 64(1) or 65 of this Constitution, as the case may be, it shall bear a certificate of the Speaker that those provisions have been complied with.

(2) Whenever the office of Speaker is vacant or the Speaker is for any reason unable to perform any function conferred upon him by this section or by section 62, 63, 64 or 65 of this Constitution, that function may be performed by the Deputy Speaker.

(3) A certificate given by the Speaker or Deputy Speaker under this section shall be conclusive for all purposes and shall not be questioned in any court of law.

Alteration of Constitution

67.-(1) Subject to the provisions of this section, Parliament may alter this Constitution.

(2) A bill for an Act of Parliament under this section that alters any of the following provisions of this Constitution, that is to say-

- (a) this section;
- (b) Chapters I, II and III;
- (c) Sections 27, 28, 30, 31, 42, 43, 44, 45, 52, 53, 68, 69, 70, 72, 78 and 85;
- (d) Chapters VII, VIII and IX (including Schedules 2 and 3);
- (e) Sections 124 and 126; and
- (f) Chapter XI to the extent that it relates to any of the provisions specified in the preceding paragraphs,

shall not be passed by either House of Parliament unless it is supported at the final voting thereon in the House by the votes of not less than three-quarters of all the members of the House.

(3) A bill for an Act of Parliament under this section that does not alter any of the provisions specified in the preceding subsection shall not be passed by either House of Parliament unless it is supported at the final voting thereon in the House by the votes of not less than two-thirds of all the members of the House.

(4) Notwithstanding anything in the foregoing provisions of this section, Parliament shall not have power to alter sections 32, 38 or 39 of this Constitution until three months after a copy has been laid before each House of Parliament of a report of a Commission appointed on behalf of Her Majesty by the Governor-General at any time after the first general election of members of the House of Representatives held after this Constitution comes into force for the purpose of making recommendations as to the most appropriate method of electing members to, and representing the people of Fiji in, the House of Representatives; and, if Parliament subsequently makes any alteration to section 32, 38 or 39 of this Constitution, subsection (2)(c) of this section shall, as from the time the bill making that alteration becomes law, have effect as if sections 32, 38 and 39 were specified therein.

(5) Without prejudice to the provisions of subsection (2) of this section, a bill for an Act of Parliament that alters this subsection or paragraph (a) of section 45 (1) or section 68(2) of this Constitution shall not be passed by the Senate unless it is supported at the final voting thereon in the Senate by not less than six of the members of the Senate referred to in paragraph (a) of the said section 45(1).

(6) In this section-

- (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-
 - (i) to repealing it, with or without re-enactment thereof or the making of different provision in lieu thereof;
 - (ii) to modifying it, whether by omitting or amending any of its provisions or inserting additional provisions in it or otherwise;
 - (iii) to suspending its operation for any period, or terminating any such suspension; and
 - (iv) to making any other provision that is repugnant to or otherwise inconsistent with it.

Alteration of certain laws

68.-(1) A bill for an Act of Parliament that alters any of the provisions of the following laws, that is to say-

- (a) the Fijian Affairs Act;
- (b) the Fijian Development Fund Act;
- (c) the Native Lands Act;
- (d) the Native Land Trust Act;
- (e) the Rotuma Act; .
- (f) the Rotuma Lands Act;
- (g) the Agricultural Landlord and Tenant Act;
- (h) the Banaban Land Act; and
- (i) the Banaban Settlement Act,

shall not be passed by either House of Parliament unless it is supported at the final voting thereon in the House by the votes of not less than three-quarters of all the members of the House.

(2) Without prejudice to the provisions of the preceding subsection, a bill for an Act of Parliament that alters any provision of-

- (a) the Fijian Affairs Act;
- (b) the Fijian Development Fund Act;
- (c) the Native Lands Act;
- (d) the Native Land Trust Act;
- (e) the Rotuma Act;
- (f) the Rotuma Lands Act;
- (g) the Agricultural Landlord and Tenant Act;
- (h) the Banaban Lands Act; or
- (i) the Banaban Settlement Act,

that is a provision that affects Fijian land, customs or customary rights shall not be passed by the Senate unless it is supported at the final voting thereon in the House by the votes of not less than six of the members of the Senate referred to in paragraph (a) of section 45(1) of this Constitution.

(3) Subsections (1) and (2) of this section (except for the reference therein to the final voting) shall apply to a resolution of either House of Parliament that by virtue of any Act of Parliament, either of the resolution's own force or in conjunction with a corresponding resolution of the other House, alters any provision referred to in those subsections as those subsections apply to a bill for an Act of Parliament that alters any such provision.

(4) In this section-

- (a) references to the provisions of any law include references to any other law, whether made before or after the commencement of this Constitution, in so far as that law alters those provisions; and
- (b) references to altering the provisions of any law include references-
 - (i) to repealing it with or without re-enactment thereof the making of different provision in lieu thereof;
 - (ii) to modifying it, whether by omitting or amending any of its provisions or inserting additional provisions in it or otherwise;
 - (iii) to suspending its operation for any period, or terminating any such suspension; and
 - (iv) to making any other provision that is repugnant to or otherwise inconsistent with it.