

Date Printed: 01/14/2009

JTS Box Number: IFES_29
Tab Number: 14
Document Title: CONSTITUTION OF NORTH SOLOMONS.
Document Date: 1975
Document Country: PNG
Document Language: ENG
IFES ID: CON00136



CONSTITUTION

of

NORTH SOLOMONS.

ARRANGEMENT OF SECTIONS

Preamble

Adoption of the Constitution.

Adoption of National Goals and

Directive Principles.

Declaration of Basic Rights and Basic

Social Obligations.

Declaration on Leadership.

Statement of Principles of Complementarity.

General Principles.

Application of Principles

of Complementarity within

Papua New Guinea.

Statement on Community and Local-level Government.

PART I. - INTRODUCTORY.

Division 1. - The North Solomons.

1. The Province.
2. The Provincial Government.
3. The jurisdiction of the Provincial Government.
4. Provincial symbols.
5. Provincial Capital.
6. The Provincial Declaration of Loyalty to North Solomons.

PART I. - INTRODUCTORY.

Division 1. - The North Solomons.

1. - THE PROVINCE.

For the purposes of this Constitution and of all provincial laws, and for all official and governmental purposes, the Bougainville Province as established under the National Constitution, by whatever name it may be known for the purposes of the National Constitutional Laws, shall be known as "North Solomons".

2. - THE PROVINCIAL GOVERNMENT.

For the purposes of this Constitution and of all provincial laws, and for all official and governmental purposes, the provincial government established for North Solomons by this Constitution and the Organic Law on Provincial Government shall be known as the "Provincial Government of North Solomons".

(2) An Act of the Provincial Assembly may make provision for the enforcement of any provision of this Constitution, and for establishing procedures and penalties for its enforcement.

(3) The National Court may, if it thinks it proper to do so, make any order that it thinks proper for preventing or remedying a breach of any prohibition, restriction or duty imposed by this Constitution.

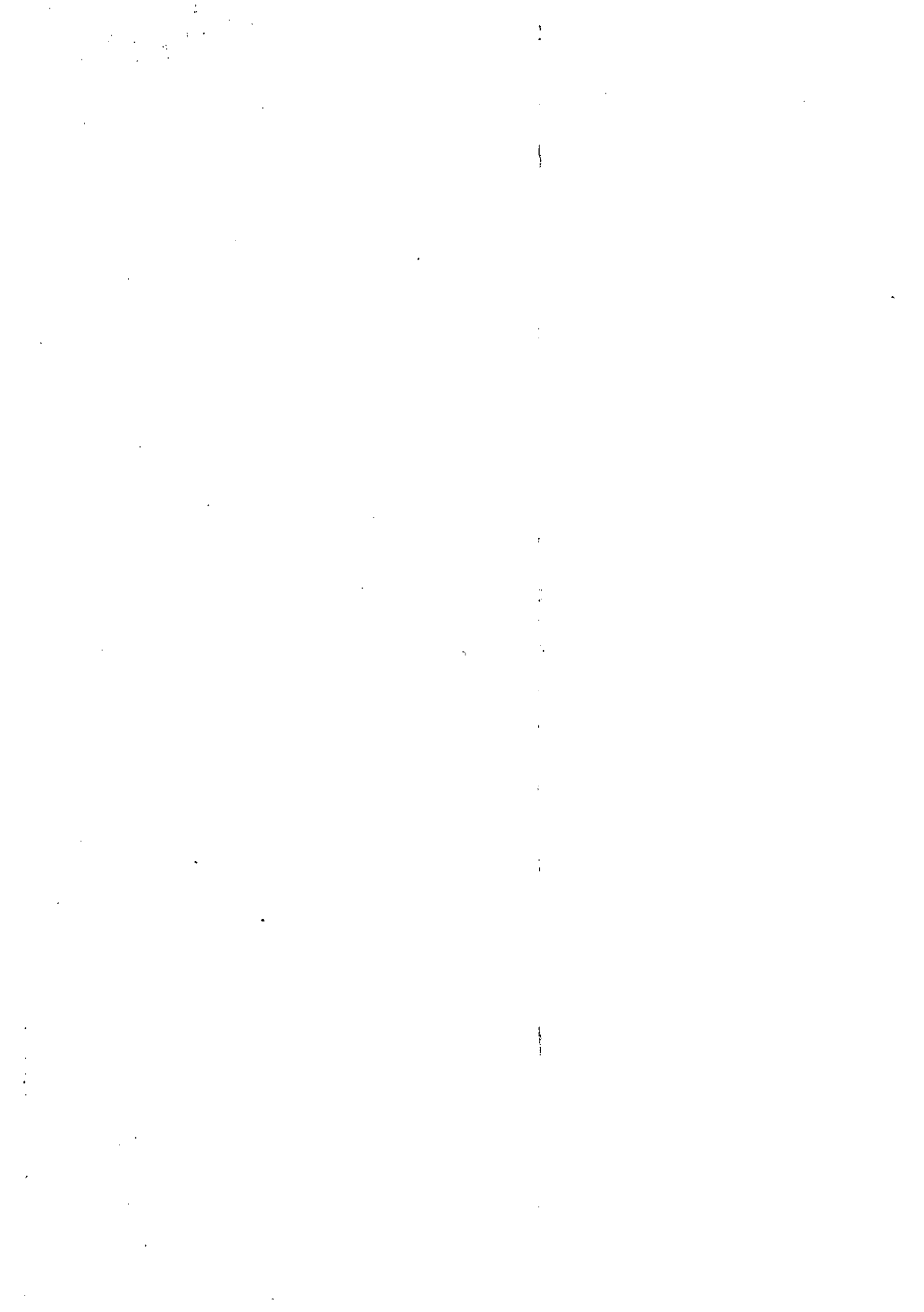
PART III. - THE PROVINCIAL GOVERNMENT.

15. - STRUCTURE OF GOVERNMENT.

(1) In accordance with, and subject to, this Constitution, the power, authority and jurisdiction of the People of North Solomons shall be exercised, on behalf of the People, by the Provincial Government of North Solomons.

(2) The Provincial Government consists of three principal arms, namely:-

- (a) the Provincial Assembly, which is the provincial legislature provided for by Section 15 (a) (general structure) of the Organic Law on Provincial Government; and
- (b) the Provincial Executive Council, which is the provincial executive provided for by Section 15 (b) (general structure) of the Organic Law on Provincial Government; and
- (c) the Provincial Secretariat.



Division 2. - Composition, etc., of the
Provincial Assembly.

17. - MEMBERSHIP OF THE PROVINCIAL ASSEMBLY.

(1) Subject to this section, the Provincial Assembly is a single-chamber legislature, consisting of -

(a) the Premier; and

(b) 21 other members being -

(1) 18 elected members; and

(11) three nominated members; and

(c) the Speaker (if any) appointed

under Section 25 (non-member as Speaker).

(2) Elected members of the National Parliament representing electorates in North Solomons are entitled to attend meetings of the Provincial Assembly and to take part in debate and proceedings in the same way as the members of the Assembly, but -

(a) may not introduce motions; and

(b) may not vote on any matter; and

(c) shall not be counted towards a quorum.

(3) No member of the Provincial Assembly may represent two or more electorates at the same time.

18. - QUALIFICATIONS FOR AND DISQUALIFICATIONS FROM ELECTION.

(1) A person is not qualified to stand for election to the Provincial Assembly if -

- (a) he is not qualified in accordance with Section 45 (right to vote) to vote in an election to the Provincial Assembly; or
- (b) subject to Section 23 (effect of convictions), he is under sentence of death or of imprisonment for a period of more than nine months; or
- (c) he is otherwise disqualified under any Provincial Constitutional Law.

(2) A person who is -

- (a) the Premier; or
- (b) a candidate for election as the Premier; or
- (c) in the case of a by-election - a member of the Provincial Assembly; or
- (d) a member of, or a candidate for election or appointment to, the National Parliament or another Provincial Government,

is not qualified to stand for election to the Provincial Assembly.

(3) A candidate for election in a constituency must have resided -

- (a) in North Solomons for a period of at least 10 consecutive years; and

(b) in the area of the constituency for at least five years immediately before the date of his nomination.

(4) A person who is a candidate for election in one constituency is not qualified to stand for election in another constituency.

(5) Nothing in the preceding provisions of this section derogates any right conferred by Section 50 (right to vote and stand for public office) of the National Constitution, but it is the considered opinion of the People of North Solomons, expressed through their Provincial Constituent Assembly, that any restrictions imposed by those provisions are reasonable and are reasonably justifiable in a democratic society having a proper regard for the rights and dignity of mankind.

19. - APPOINTMENT OF NOMINATED MEMBERS.

On the nomination of the Premier, the Provincial Assembly may, by an absolute majority vote, appoint a person (other than the Premier or a member of the Assembly) who is qualified to be an elected member of the Assembly to be a nominated member referred to in Section 17 (1) (b) (ii) (membership of the Provincial Assembly).

20. - ASSUMPTION OF OFFICE.

(1) Subject to Section 94 (requirement of Provincial Declaration of Loyalty), an elected member of the Provincial Assembly takes office -

(a) in the case of a member elected at a provincial general election-on the day after the day on which the result of the election is declared; and

(b) in the case of a member elected to fill a casual vacancy -

(1) if he was elected at a by-election, on the day after the result of the by-election was announced; or

(ii) if he was elected by the Provincial Assembly under Section 43 (4) (filling of casual vacancies), on his election by the Provincial Assembly.

(2) Subject to Section 94 (requirement of Provincial Declaration of Loyalty), a nominated member of the Provincial Assembly takes office on the day after his appointment by the Provincial Assembly.

21. - VACATION OF OFFICE.

(1) The office of a member of the Provincial Assembly, other than the office of the Premier (to whom Section 62 (vacation of office of Premier) applies), becomes vacant -

(a) at the end of the day on which the result of the next provincial general election after he last became a member is declared; or

Division 3. - The Speaker and the Deputy Speaker.

24. - OFFICES OF SPEAKER AND DEPUTY SPEAKER.

(1) Offices of Speaker and Deputy Speaker of the Provincial Assembly are hereby created.

(2) Subject to Section 25 (non-member as Speaker) and to Section 26 (2) (vacation of office of Speaker and Deputy Speaker), the Speaker and the Deputy Speaker must be members of the Provincial Assembly, and shall be elected by the Provincial Assembly in accordance with the Standing Orders of the Assembly.

(3) Subject to Section 26 (vacation of office of Speaker and Deputy Speaker), the Speaker and the Deputy Speaker hold office in accordance with the Standing Orders of the Provincial Assembly.

(4) No member of the Provincial Executive Council may be the Speaker or the Deputy Speaker, and if the Speaker or Deputy Speaker becomes a member of the Provincial Executive Council he vacates his office as Speaker or Deputy Speaker, as the case may be.

25. - NON-MEMBER AS SPEAKER.

(1) On the nomination of the Premier the Provincial Assembly may, by an absolute majority vote, appoint a person who -

- (a) is not a member of the Assembly; and
- (b) is otherwise qualified for election to the Assembly.

to be the Speaker of the Assembly.

(2) A Speaker appointed under this section shall, while he is the Speaker, be deemed to be a member of the Provincial Assembly (as provided for by Section 17 (1) (c) (membership of the Provincial Assembly)).

26. - VACATION OF OFFICE OF SPEAKER AND DEPUTY SPEAKER.

(1) The office of the Speaker or Deputy Speaker, as the case may be, becomes vacant -

- (a) in the case of the Speaker, at the commencement of the first meeting of the Provincial Assembly after the first provincial general election after he last became Speaker; or
- (b) subject to Subsection (2), if a Speaker who is an elected member of the Provincial Assembly ceases to be a member of the Assembly; or
- (c) if he resigns by written notice to the Clerk of the Provincial Assembly; or
- (d) if the Provincial Assembly resolves, by a three-quarters absolute majority vote, that he be removed from office; or
- (e) if he is dismissed from office as Speaker or Deputy Speaker under -

- (g) qualified to be a member of the Assembly; or
- (d) a member of the Assembly,

as the case requires.

Division 6. - Provincial Elections.

42. - GENERAL ELECTIONS.

(1) Subject to Subsection (4), a general election to the Provincial Assembly shall be held -

- (a) within the period of three months before the fourth anniversary of the declaration of the result of the previous provincial general election; or
- (b) if -
 - (i) after an election to the office of Premier has been held as required by Section 57 (special election of Premier), and before a provincial general election is otherwise required under this Constitution; or
 - (ii) after the third anniversary of the declaration of the result of the last provincial general election, a motion of no confidence in the Premier is passed in accordance with Section 71 (motions of no confidence) or
- (c) if the Provincial Assembly, by a three - quarters absolute majority vote, so decides.

(2) The Speaker, acting with, and in accordance with, the advice of the Provincial Electoral Authority, shall fix the first and last days of the period during which polling shall take place at a provincial general election, and the date by which the writs for the election shall be returned.

(3) In advising the Speaker under Subsection (2), and in conducting the election, the Provincial Electoral Authority shall do its best to ensure that -

- (a) in a case to which Subsection (1) (a) applies -
the date for the return of the writs is fixed as nearly as may reasonably be to the fourth anniversary of the declaration of the result of the previous provincial general election; and
- (b) in a case to which Subsection (1) (b) or (c) applies - the date for the return of the writs is fixed as soon as may reasonably be after the date of the relevant decision of the Provincial Assembly.

(4) Where the period allowed or to be allowed for a provincial general election, or a part of that period, would occur after the issue of the writs for a National general election and before the end of the polling for the election, the holding of a provincial general election may be postponed by the Speaker, acting with, and in accordance with, the advice of the Provincial Electoral Authority, for a period not exceeding 60 days.

(3) If within a reasonable period (which may be fixed by an Act of the Provincial Assembly) after the occurrence of a vacancy to which Subsection (2) applies -

- (a) the dates for a provincial general election have not been fixed under Section 42 (general elections); or
- (b) the Premier has not made a nomination under Subsection (2); or
- (c) the Provincial Assembly has not elected a person so nominated,

a by-election shall be held in accordance with Subsection (1).

(6) A person elected by the Provincial Assembly under this section to be a member of the Assembly is for all purposes an elected member of the Assembly.

(7) The provisions of this Constitution relating to provincial general elections, with the necessary modifications, apply to and in relation to a by-election under Subsection (1).

44. - FORM OF ELECTIONS.

Elections to the Provincial Assembly shall be by direct election under universal adult suffrage as provided for by this Constitution.

45. - RIGHT TO VOTE.

- (1) Subject to Subsection (2), a person who -
 - (a) is at least 18 years of age; and
 - (b) is a citizen of Papua New Guinea; and
 - (c) has been a resident of North Solomons for at

least 10 consecutive years; and

- (d) is not of unsound mind within the meaning of any law relating to the protection of the persons and property of persons of unsound mind,

is entitled to vote in an election to the Provincial Assembly.

(2) Nothing in Subsection (1) derogates any right conferred by Section 50 (right to vote and stand for public office) of the National Constitution, but it is the considered opinion of the People of North Solomons, expressed through their Provincial Constituent Assembly, that any restrictions imposed by Subsection (1) are reasonable and are reasonably justifiable in a democratic society having a proper regard for the rights and dignity of mankind.

46. - CONDUCT OF ELECTIONS.

(1) Subject to the preceding provisions of this Division and to Subsection (2), elections to the Provincial Assembly shall be conducted as provided by an Act of the Provincial Assembly.

(2) Subject to the Provincial Constitutional Laws, an Act of the Provincial Assembly referred to in Subsection (1) shall make provision for and in respect of -

- (a) the appointment, constitution and procedures of a Provincial Electoral Authority; and
- (b) the safeguarding of the independence of the Authority; and
- (c) the electoral system; and

- 4. -
- (d) the safeguarding of the integrity of elections; and
 - (e) appeals to the National Court in electoral matters.

(3) The Provincial Electoral Authority is not, except as provided by Subsection (4), subject to control or direction by any person or authority.

(4) Subsection (3) does not affect -

- (a) control or direction by a court; or
- (b) the regulation, by or under an Act of the Provincial Assembly, of the exercise or performance of the powers, functions, duties or responsibilities of the Provincial Electoral Authority; or
- (c) the exercise of jurisdiction -
 - (i) under Section 90 (responsibilities of certain office - holders); or
 - (ii) by any public accounts committee for North Solomons established in accordance with Section 74 (3) (control and audit of provincial accounts) of the Organic Law on Provincial Government.

PART V. - THE PROVINCIAL EXECUTIVE.

Division 1. - The Executive Power.

47. - EXERCISE OF THE EXECUTIVE POWER.

(1) Subject to the Provincial Constitutional Laws, the executive power of the People of North Solomons is vested in the Provincial Executive Council.

54. - DELEGATION BY THE PROVINCIAL EXECUTIVE COUNCIL, ETC.

An Act of the Provincial Assembly may make provision for the delegation -

- (a) by the Provincial Executive Council - to a member of the Council or to a member of the Provincial Secretariat; or
- (b) by a member of the Provincial Executive Council - to a member of the Provincial Secretariat or other person,

of all or any of its or his powers, functions, duties and responsibilities -

- (c) including, if the Act so provides, the power of delegation; and
- (d) not including any legislative power or any power in or in relation to the Provincial Assembly.

Division 3. - The Provincial Premier.

55. - OFFICE OF PREMIER.

An office of Premier of North Solomons is hereby established.

56. - ELECTION OF PREMIER.

(1) The Premier shall be elected by the electors of North Solomons.

(2) Except as provided by Section 57 (special election of Premier), the election of a Premier shall be held as part of, and at the same time as, each provincial general election, and for that purpose -

57. -

if a mo
accord
electio

to the
Premier
relatio

58. -

Premier

59. -

ration
provin
declar

- (a) the provisions of this Constitution relating to provincial general elections, with the necessary modifications, apply; and
- (b) the whole of North Solomons is a single constituency.

57. - SPECIAL ELECTION OF PREMIER.

(1) Subject to Section 42 (1) (b) (general elections), if a motion of no confidence in the Premier is passed in accordance with Section 71 (motions of no confidence), an election shall be held to fill the office of the Premier.

only motion of no confidence

(2) The provisions of this Constitution relating to the election of a Premier under Section 56 (election of Premier), with the necessary modifications, apply to and in relation to an election under Subsection (1).

58. - QUALIFICATIONS FOR ELECTION AS PREMIER.

A person is not qualified to stand for election as Premier if -

- (a) he is not qualified to stand as a candidate for election to the Provincial Assembly at the provincial general election as part of which the election of the Premier is held; and
- (b) he is not at least 25 years of age.

59. - ASSUMPTION OF OFFICE.

Subject to Section 94 (requirement of Provincial Declaration of Loyalty), a Premier who is elected at the time of a provincial general election takes office on the day after the declaration of the result of the election.

and otherwise as are provided for by or under an Act of the Provincial Assembly.

PART VIII. - COMMUNITY AND LOCAL - LEVEL GOVERNMENT.

80. - SYSTEM OF LOCAL - LEVEL GOVERNMENT.

As provided for by Section 24 (1) (i) (application of Division 3) and Section 25 (legislative powers of the provinces) of the Organic Law on Provincial Government, there shall be a system of community and other local -level government for North Solomons.

81. - ESTABLISHMENT OF THE SYSTEM.

The Provincial Assembly shall make a law providing for community or other local -level government, and for its structure and administration and its powers, functions, duties and responsibilities.

82. - APPLICATION OF PRINCIPLES OF COMPLEMENTARITY, DECLARATION ON LEADERSHIP AND DECLARATION ON COMMUNITY AND LOCAL-LEVEL GOVERNMENT.

In the establishment and operation of the system of community and other local -level government, and in the application and enforcement of the laws relating to it, full weight shall be given, in accordance with Section 7 (special status of the Preamble), to the Statement of Principles of Complementarity, the Declaration on Leadership and the Declaration on Community and Local -level Government, so that the system shall be based on them.

PART IX. - STATES OF EMERGENCY.

83. - INTERPRETATION OF PART IX.

For the purposes of this Part -

"emergency" includes, without limiting the generality of the expression -

- (a) an earthquake, volcanic eruption, storm, tempest, flood, fire or outbreak of pestilence or infectious disease, or any other natural or man-caused calamity whether similar to any such occurrence or not, such as to be likely to endanger the public safety or to deprive the community or any substantial portion of the community of supplies or services essential to life; and
- (b) action taken, or immediately threatened, by any person that is of such a nature as to be likely to endanger the public safety;

"state of emergency" means a state of emergency in North Solomons declared under Section 85 (declaration of state of emergency).

84. - APPLICATION OF EMERGENCY PROVISIONS OF NATIONAL CONSTITUTION.

(1) Nothing in this Part is intended to affect the operation of Part X. (emergency powers) of the National Constitution, or any emergency law or emergency order made under that Part.

(2)
the confer
or function
agency or
case the p
power or f
the exerc
subject to

85. - DE

the Pr
declar

meeti