

APPENDIX

THE CONSTITUTION

This is the official version of the Constitution as amended up to 31 December 1963. It supersedes any English text previously published.

The Constitution was published in the Official Bulletin No. 1 of 1 July 1960.

**THE CONSTITUTION
OF THE
SOMALI REPUBLIC**

THE PRESIDENT OF THE LEGISLATIVE ASSEMBLY

Acting in his capacity as Provisional President of the Republic:

HAVING SEEN the decision of the Constituent Assembly of 21 June 1960, approving the Constitution of the Somali Republic;

HAVING SEEN the first articles of the Transitional and Final Provisions of the Constitution;

HAVING SEEN paragraph 1 of the third article of the Transitional and Final Provisions of the Constitution;

HEREBY PROMULGATES

the Constitution of the Somali Republic in the following text:

PREAMBLE

IN THE NAME OF GOD
THE MERCIFUL AND BENEFICIENT
THE SOMALI PEOPLE

CONSCIOUS of the sacred right of self-determination of peoples solemnly consecrated in the Charter of the United Nations;

FIRMLY decided to consolidate and protect the independence of the Somali Nation and the right to liberty of its people, in a democracy based on the sovereignty of the people and on the equality of rights and duties of all citizens;

DETERMINED to cooperate with all peoples for the consolidation of liberty, justice and peace in the world, and in particular with those peoples with whom they are linked by history, religion, culture and political outlook for the creation of a better future;

IN CONSTITUTING THEMSELVES into a unitary, sovereign and independent Republic, lay down as the basis of the juridical and social order of the Somali Nation the following:

CONSTITUTION

PART I

GENERAL PROVISIONS

Article 1

The Republic

1. Somalia is an independent and fully sovereign State. It is a representative, democratic and unitary Republic. The Somali people is one and indivisible.
2. Sovereignty belongs to the people who shall exercise it in the forms determined by the Constitution and the laws. No part of the people nor any individual may claim sovereignty or assume the right to exercise it.
3. Islam shall be the religion of the State.
4. The national flag shall be azure in colour, rectangular, and shall have a white star with five equal points emblazoned in its centre.
5. The emblem of Somalia shall be composed of an azure escutcheon with a gold border and shall bear a silver five-pointed star. The escutcheon, surmounted by an embattlement with five points in Moorish stile, the two lateral points halved, shall be borne by two leopards rampant in natural form facing each other, resting on two lances crossing under the point of the escutcheon, with two palm leaves in natural form interlaced with a white ribbon.

Article 2

The People

1. The people consists of all the citizens.
2. The manner of acquiring and losing citizenship shall be established by law.
3. No person may be denied citizenship or deprived thereof for political reasons.

Article 3

Equality of the Citizens

All citizens, without distinction of race, national origin, birth, language, religion, sex, economic or social status, or opinion, shall have equal rights and duties before the law.

Article 4

Territory of the State

1. The national territory is sacred and inviolable.
2. The territorial sovereignty shall extend to the continental territory, the islands, the territorial sea, the subsoil, the air space above and the continental shelf.
3. Any modification of the national territory must be authorized by a law approved by a four-fifth majority of the members of the National Assembly.
4. The law shall determine the parts of the territory and the property which belong to the State and to public bodies, and establish the legal status thereof.

Article 5

Supremacy of the Law

1. The organization of the State and the relationships between the State and other persons, public or private, shall be governed by law.
2. Administrative acts contrary to law and legislative acts contrary to the Constitution may be invalidated on the initiative of the interested party in accordance with the provisions of the Constitution.

Article 6

The Republic in the International Order

1. The generally accepted rules of international law and international treaties duly concluded by the Republic and published in the manner prescribed for legislative acts shall have the force of law.
2. The Republic repudiates war as a means of settling international disputes.
3. It accepts, on conditions of parity with other States, limitations on its sovereignty necessary for the establishment of a system to ensure peace among nations.
4. The Somali Republic shall promote, by legal and peaceful means, the union of Somali territories and encourage solidarity among the peoples of the world, and in particular among African and Islamic peoples.

Article 7

Human Rights

The laws of the Somali Republic shall comply, in so far as applicable, with the principles of the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on 10 December 1948.

PART II

FUNDAMENTAL RIGHTS AND DUTIES OF THE CITIZEN

Article 8

Right to Vote

1. Every citizen who possesses the qualifications required by law shall have the right to vote.
2. The vote shall be personal, equal, free and secret.

Article 9

Right of Access to Public Office

Every citizen who possesses the qualifications required by law shall be equally eligible for public office.

Article 10

Right of Petition

1. Every citizen shall have the right to address written petitions to the President of the Republic, the National Assembly and the Government.
2. Every petition which is not manifestly unfounded shall be examined.

Article 11

Right of Residence

1. Every citizen shall have the right to reside and travel freely in any part of the territory of the State and shall not be subjected to deportation.
2. Every citizen shall have the right to leave the territory of the State and to return thereto.

Article 12

Right of Political Association

1. Every citizen shall have the right to associate in political parties, without previous authorization, for the purpose of co-operating democratically and peacefully in the shaping of national policy.
2. Political parties and associations which are secret, have an organization of a military character or have a tribal denomination shall be prohibited.

Article 13

Right to Form Trade Unions

1. Every citizen shall have the right to form trade unions or to join them for the protection of his economic interest.
2. Trade unions organized according to democratic principles shall be considered juridical persons according to law.
3. Trade unions being juridical persons may negotiate collective labour contracts binding on their members.

Article 14

Right to Economic Initiative

1. Every citizen shall have the right to economic initiative within the framework of the laws.
2. The law may control the exploration of the economic resources of the territory of the State.

Article 15

Duty of Loyalty to the Homeland

1. Every citizen shall be loyal to the State.
2. The defence of the homeland shall be the duty of every citizen.
3. Military service shall be governed by law.

PART III

FUNDAMENTAL RIGHTS AND DUTIES OF MAN

TITLE I

Right to Liberty

Article 16

Right to Life and to Personal Integrity

1. Every person shall have the right to life and to personal integrity.
2. Arbitrary limits to such rights may not be established.
3. The law may prescribe the death penalty only for the most serious crimes against human life or the personality of the State.

Article 17

Personal Liberty

1. Every person shall have the right to personal liberty.
2. Subjection to any form of slavery or servitude shall be punishable as a crime.
3. No person shall be liable to any form of detention or other restriction of personal liberty except when apprehended in *flagrante delicto* or pursuant to an act of the competent judicial authority, stating the grounds thereof, in the cases and in the manner prescribed by law.
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4. In cases of urgent necessity, expressly defined by law, the competent administrative authority may adopt provisional measures which

3. Any alien prosecuted in his own country for political offences shall have the right to asylum in the territory of the State in the cases and under the conditions provided by law.

Article 20

Limits to Personal Service and Property Levy

No personal service or property levy may be imposed save in accordance with law.

Article 21

Freedom of Domicile

1. Every person shall the right to the inviolability of his domicile.
2. No inspection, search or seizure shall be carried out in the domicile or in any other place reserved for personal use except in the cases and under the provisions laid down in paragraphs 3, 4 and 5 of Article 17 and in other cases as prescribed by law for judicial purposes, and in the manner prescribed therefor.

Article 22

Freedom of Correspondence

1. Every person shall have the right to freedom and secrecy of written correspondence and of any other means of communication.

2. Limitations thereon may be imposed only in the cases and under the provisions laid down in paragraphs 3, 4 and 5 of Article 17 and in

other cases as prescribed by law for judicial purposes, and in the manner prescribed therefor.

Article 23

Social Equality

All persons are equal in social dignity

Article 24

Property

1. The right to own property shall be guaranteed by law, which shall define the modes of acquisition and the limits of the enjoyment thereof for the purpose of ensuring its social function.

2. Property may be expropriated only for reasons of public interest and in the manner prescribed by law, in exchange for equitable and timely compensation.

Article 25

Freedom of Assembly

1. Every person shall have the right to assemble in a peaceful manner for a peaceful purpose.

2. The law may provide that previous notice of public meetings be given to the authorities. Meetings may be forbidden only for reasons of public health, safety, morality, order or security.

Article 26

Freedom of Association

1. Every person shall have the right freely to form associations without authorization.
2. No person may be compelled to join an association of any kind or to continue to belong to it.
3. Secret associations or those having an organization of military character shall be prohibited.

Article 27

Right to Strike

1. The right to strike is recognized and may be exercised within the limits prescribed by law. Any act tending to discriminate against, or to restrict, the free exercise of trade union rights shall be prohibited.

Article 28

Freedom of Opinion

1. Every person shall have the right freely to express his own opinion in any manner, subject to any limitations which may be prescribed by law for the purpose of safeguarding morals and public security.
2. Expressions of opinion may not be subject, to prior authorization or censorship.

Article 29

Freedom of Religion

Every person shall have the right to freedom of conscience and freely to profess his own religion and to worship it subject to any limitations which may be prescribed by law for the purpose of safeguarding morals, public health or order. However, it shall not be permissible to spread or propagandize any religion other than the religion of Islam(*). [Note (*): As amended by law No. 16 of 29 June 1963]

Article 30

Personal Status

1. Every person shall have the right to a personal status in accordance with his respective laws or customs.
2. The personal status of Muslims is governed by the general principles of the Islamic Sharia.

TITLE III

Social Rights

Article 31

Protection of the Family

1. The family based on marriage, as being the fundamental element of society, shall be protected by the State.
2. Parents shall provide for the support, education and instruction of their children, as required by law.

3. The law shall provide for the fulfillment of the obligations set out in the preceding paragraph in case of death of the parents and whenever, by reason of incapacity or otherwise, the parents do not perform them.
4. Children who are full age shall be obliged to support their parents when the latter are unable to provide for themselves.
5. The State shall protect motherhood and childhood and encourage the institutions necessary for this purpose.
6. The State shall recognize the protection of children of unknown parents as its duty.

Article 32

Welfare Institutions

The State shall promote and encourage the creation of welfare institutions for physically handicapped persons and abandoned children.

Article 33

Protection of Public Health

The State shall protect public health and promote free medical assistance for indigent persons.

Article 34

Safeguarding of Public Morality

The State shall safeguard public morality in the manner prescribed by law.

Article 35

Education

1. The State shall encourage education, as being a fundamental interest of the community, and provide for the creation of State schools open to all.
2. Primary education in public schools shall be free.
3. Freedom of teaching shall be guaranteed by law.
4. Organizations and individuals shall have the right to establish, in accordance with law and without financial support from the State, schools and educational institutions.
5. Private schools and educational institutions may have a parity of status with State schools and institutions under the conditions laid down by law.
6. Teaching of Islam shall be compulsory for pupils of Islamic faith in primary and secondary State schools and in schools having a parity of status. Teaching of Holy Koran shall be a fundamental element in primary and secondary State schools for Muslims.
7. Institutes of higher education shall have, their own ~utono- mous organization within the limits prescribed by law.

Article 36

Protection of Labour

1. The State shall protect labour and encourage it in all its forms and applications.
2. Forced and compulsory labour of any kind shall be prohibited. The cases in which labour may be ordered for military or civil necessity or pursuant to a penal conviction shall be pre-scribed by law.
3. Every worker shall have the right to receive, without any discrimination, equal pay for work of equal value, so as to ensure an existence consistent with human dignity.
4. Every worker shall have the right to a weekly rest and annual leave with pay; he shall not be compelled to renounce it.
5. The law shall establish the maximum working hours and the minimum age for the various types of work and shall ensure that minors and women work only under suitable conditions.
6. The State shall protect the physical and moral integrity of the workers.

Article 37

Social Security and Assistance

1. The State shall promote social security and assistance by law.
2. The State shall guarantee to its civil and military employees the right to pension; it also shall guarantee in accordance with law, assistance in case of accident, illness or incapacity for work.

TITLE III

Judicial Guarantees

Article 38

Right to Institute Legal Proceedings

Every person shall have the right to institute legal proceedings, under conditions of full equality, before a lawfully constituted court.

Article 39

Protection against Acts of the Public Administration

Judicial protection against acts of the public administration shall be allowed in all cases, in the manner and with the effects prescribed by law.

Article 40

Civil Liability of the State for the Acts of its Officials and Employees

1. Whoever suffers damages from acts or omissions in violation of his rights by officials or employees of the State or of public bodies in the performance of their duties, shall have the right to obtain compensation from the State or the public bodies concerned.

2. The penal, civil and administrative liability of officials and employees for the acts or omissions referred to in the preceding paragraph shall be governed by law.

Article 41

Right of Defence

1. The right of defence shall be allowed at every stage of legal proceedings.
2. The State shall guarantee, under the conditions and in the manner prescribed by law, free legal aid to the poor.

Article 42

Non-retroactive Nature of Penal Law

No person may be convicted for an act which was not punishable as an offence under the law in force at the time when it was committed; nor may a heavier punishment be imposed than the one applicable at that time.

Article 43

Penal Liability

1. Penal liabilities shall be personal. Any kind of collective punishment shall be forbidden.
2. The accused shall be presumed innocent until the conviction has become final.

Article 44

Social Purpose of Punishment

Punishments restrictive of personal liberty shall not consist of treatment contrary to feelings of humanity or be such as to obstruct the moral rehabilitation of the convicted person.

Article 45

Enforcement of Punishments

Supervision over the enforcement of punishment and security measures shall be exercised by the competent court in accordance with law.

Article 46

Redress of Judicial Errors

The conditions and the procedure for the redress of -judicial errors shall be prescribed by law.

TITLE IV

Duties Towards the State

Article 47

Duty to Observe the Constitution and the Laws

Every person shall loyally observe the Constitution and the laws of the State.

Article 48

Duty to Pay Taxes

1. Every person shall contribute to public expenditure according to his capacity to pay.

2. A system of taxation based on principles of social justice shall be established by law.

PART IV

ORGANIZATION OF THE STATE

TITLE I

The National Assembly

SECTION I

Organization of the National Assembly

Article 49

Legislative Power

The legislative power shall be vested in the National Assembly.

Article 50

The Doctrine of Islam in the Legislation

The doctrine of Islam shall be the main source of the laws of the State.

Article 51

National Assembly

1. The National Assembly shall consist of deputies elected by the people by universal, free, direct and secret ballot, and of deputies as of right.

2. The number of deputies and the electoral system shall be established by law.

3. Every citizen who has the right to vote and who in the year of the elections has completed at least twenty-five years of age shall be eligible to be a deputy. The law shall prescribe the grounds for ineligibility and incompatibility with membership in the National Assembly.

4. Whoever has been President of the Republic shall become a deputy for life as of right, in addition to the elected deputies, provided that he has not been convicted of any of the crimes referred to in paragraph 1 of Article 76.

Article 52

Term of Office and Elections

I. Each legislature shall be elected for a period of five years starting from the proclamation of the electoral results. Any modification of this term of office shall have no effect on the duration of the legislature during which such decision is taken.

2. The date for the elections to the new Assembly shall be fixed by the President of the Republic and shall take place during the last thirty days of the legislature in session.

3. The new Assembly shall meet for the first time within thirty days of the proclamation of the electoral results.

Article 53

Dissolution of the Assembly

1. The Assembly may be dissolved before the end of its term of office by the President of the Republic, having heard the opinion of the President of the Assembly, whenever it cannot discharge its functions or discharges them in a manner prejudicial to the normal exercise of legislative activity.

2. By the same decree dissolving the Assembly, the President of the Republic shall fix the date for the new elections, and the elections shall take place within sixty days of the dissolution.
3. No dissolution shall take place during the first year in office of the Assembly, nor during the last year in office of the President of the Republic.
4. The outgoing Assembly shall retain its powers in all cases until the proclamation of the electoral results for the new Assembly.

Article 54

Sessions of the Assembly

1. The Assembly shall hold two annual sessions commencing, respectively, in the months of April and October .
2. The Assembly may be convened in extraordinary session by its President, or on the request of the President of the Republic, or of the Government, or of one fourth of the deputies.

Article 55

Organization

1. At its first meeting, the National Assembly shall elect, from among the deputies, a President, one or more Vice-Presidents and the other members of the office of the Presidency.

2. Law and order in the Assembly shall be maintained by the Assembly itself through its President or through whoever acts in his place, in accordance with rules or procedure.

3. The meetings of the Assembly shall be public. In exceptional cases only, the Assembly may decide to meet in closed session on the motion of its President, or at the request of the President of the Republic, or of the Government, or of not less than thirty deputies.

4. The decision of the Assembly shall not be valid unless the absolute majority of the deputies, not counting the seats declared vacant, are present.

5. All decisions shall be taken by a vote of the majority of those present except when a special majority is required by the Constitution or by law.

6. No proposal rejected by the Assembly may be re-introduced until six months have elapsed after the rejection.

Article 56

Participation of the Ministers and Under-Secretaries of State

1. Ministers and Under-Secretaries shall have the right to attend the meetings of the Assembly and of the committees and to take part in the discussion. Officials and experts, at the

request of Ministers, may also attend such meetings and be heard

2. Ministers and Under-Secretaries shall be present at the meetings if requested by the Assembly.

Article 57

Rules of Procedure

Except as otherwise provided by the Constitution, the conduct of business in the Assembly shall be governed by rules of procedure approved by the Assembly on the proposal of its President or of at least five deputies.

Article 58

Deputies

1. Every deputy represents the people and shall exercise his functions without being bound by any mandate.
2. Upon assuming his functions, each deputy shall take the following oath of loyalty to the State before the Assembly: «In the name of God, I swear that I will discharge faithfully all my duties in the interest of the people and will abide by the Constitution and the laws».
3. Deputies shall not be prosecuted for facts mentioned, opinions expressed or votes cast in the exercise of their functions.
4. Without the authorization of the Assembly, no criminal proceedings shall be instituted against a deputy, nor shall a

deputy be arrested or otherwise deprived of personal liberty nor shall his person or domicile be subjected to search, except in case of *flagrante delicto* for a crime in respect of which a warrant or order of arrest is mandatory, nor shall he be placed under arrest or detention in execution of a sentence, even where it has become final.

5. In cases other than those involving criminal proceedings, an action may be taken against a deputy in accordance with law, without authorization of the Assembly.

6. Deputies in office shall be entitled to the emoluments and daily sitting allowances fixed by law.

Article 59

Decisions on the Validity of the Qualifications of Deputies

1. The Supreme Court shall have jurisdiction over petitions challenging the qualifications of deputies.
2. Petitions, stating the grounds thereof, may be filed by any citizen, who is a voter, within thirty days of the proclamation of the electoral results or of the occurrence of the cause of incompatibility or ineligibility.
3. The Supreme Court shall give a decision within ninety days from the date of expiry of the time-limit fixed for the filing of petitions.
4. Where a deputy ceases to exercise his functions, his seat shall be declared vacant by the Assembly and shall be filled in the manner prescribed by law:

SECTION II

Preparation of Laws and Other Functions of the National Assembly

Article 60

Presentation and Discussion of Draft Laws

1. Each deputy, the Government or at least 10,000 voters, shall have the right to present draft laws to the National Assembly.
2. The exercise of popular initiative shall be governed by law, and shall not pertain to matters of taxation.
3. Prior to the discussion in the Assembly, every draft law shall be examined by a parliamentary committee which shall present one or more reports thereon to the Assembly.
4. The Assembly shall discuss each draft law in accordance with the rules of procedure. It shall vote on it article by article, and in the end it shall vote on the draft law as a whole.

Article 61

Promulgation and Publication

1. Every law approved by the Assembly shall be promulgated by the President of the Republic within sixty days of its approval.
2. Where the Assembly declares, by an absolute majority of its members, that there is an urgent need, a law shall be pro-

mulgated within the time-limit fixed by the Assembly, provided that such time-limit shall not be less than five days.

3. Within the period fixed for promulgation, the President of the Republic may transmit to the Assembly a message, stating the grounds thereof, requesting that the law be reconsidered.
4. Where the Assembly approves such law again by a two-third majority, the President of the Republic shall promulgate it within thirty days of the approval.

5. Every law approved by the Assembly and promulgated by the Head of the State shall be published in the Official Bulletin and shall come into force on the fifteenth day following its publication, unless the law provides otherwise.

Article 62

Delegation of Legislative Power

1. The Assembly may delegate to the Government the power to issue, on specified subjects or matters and for a limited period, provisions having the force of law. In delegating authority, the Assembly may establish the policy and issue directives.
2. Provisions made under a delegated power shall be issued by decree of the President of the Republic on proposals approved by the Council of Ministers.

Article 63

Decree-Laws

1. In a case of urgent necessity, the Government may issue temporary provisions having the force of law. Such provisions shall be issued by decree of the, President of the Republic, on

proposals approved by the Council of Ministers, and shall, within five days from the date of their publication, be presented to the National Assembly for conversion into law.

2. If in session, the Assembly shall decide on their conversion into law within thirty days of the date of presentation; if not in session, it shall decide within thirty days of its first subsequent meeting.
3. Provisions which are not converted into law shall cease to have effect *ab initio*; the Assembly may, however, decide that such effect shall

cease on a different date and may regulate the legal consequences arising from the non-conversion of such provisions.

Article 64

Amnesty and Indult

1. The power of granting amnesty and indult may be delegated to the President of the Republic by a law approved by the Assembly, by a two-third majority of the deputies.
2. Amnesty and indult may not be granted in respect of offences committed after the presentation of the draft law on the delegation of powers.

Article 65

Taxation and Expenditure

1. The imposition, modification and abolition of taxes shall be effected only by law.
2. Laws involving new or larger State expenditure, shall specify the means for meeting such expenditure.
3. In the case of an expenditure to continue for more than one year, the means to meet it may be limited to the budget for the current year.

Article 66

Budget and Annual Accounts

1. The Assembly shall approve each year the estimated budget, which shall be presented by the Government at least two months before the end of the financial year.

2. The law approving the budget may not establish new fiscal charges and new expenditures.
3. Provisional application of the budget may be authorized by law for periods not exceeding three months in toto.
4. Within the first six months of each financial year, the Government shall present to the Assembly, for approval, the Annual Accounts relating to the previous financial year.

Article 67

International Treaties

The Assembly shall authorize by law the ratification of political, military and commercial international treaties or of treaties which involve a modification of the law or financial commitments not included in the budget.

Article 68

State of War

The Assembly shall authorize the declaration of a state of war and confer on the Government the necessary powers.

Article 69

Power of Investigation of the Assembly

1. Each deputy shall have the right to put questions or to submit interpellations to the Government and to propose motions to the Assembly. The Government shall reply within twenty days.
2. The Assembly may order investigations through committees consisting of deputies from all parliamentary groups, in order to investigate occurrences or situations of public interest. When it decides to order such an investigation the Assembly shall establish, within the limits

of the Constitution, the powers of the committee; it may also appoint experts to co-operate with the committees.

TITLE II

The President of the Republic

Article 70

Election

1. The President of the Republic shall be the Head of the State and represent the unity of the nation.
2. The President of the Republic shall be elected, by secret ballot, by the National Assembly, with a majority of two thirds of its members on the first and second ballots, or by an absolute majority of its members in subsequent ballots.
3. On assuming his functions, the President of the Republic shall take the following oath of loyalty to the State before the

National Assembly: «In the name of God I swear that I will discharge faithfully all my duties as President of the Republic and defend the Constitution with all my strength in the interest of the Country and the Nation».

Article 71

Qualifications for Eligibility

1. Any Muslim citizen whose father and mother are both original citizens, and who has the right to vote and is not less than forty five years

of age, shall be eligible to become President of the Republic. A person shall not be elected consecutively for more than two terms.

2. The President of the Republic shall not have been married to, nor shall he marry during his term of office, any woman who is not an original citizen.

3. The President of the Republic during his term of office shall not exercise any other public function, except the right to vote, nor shall he engage in any professional, commercial, industrial or financial activity.

Article 72

Term of Office

1. The term of office of the President of the Republic shall be six years from the date of his taking the oath. Any modification of this period shall not apply to the President in office.

2. The President of the National Assembly shall fix the date for the election of the new President of the Republic. The

election shall take place within thirty days prior to the expiry of the term of office of the President of the Republic.

3. Where the National Assembly is dissolved or where its term is due to expire within less than three months, the election of the President shall take place within thirty days following the first meeting of the new Assembly. During that period the President in office shall continue in power.

Article 73

Emoluments and Establishment of the

President of the Republic

The emoluments of the President of the Republic and the amount required for his establishment shall be fixed by law.

Article 74

Disability, Resignation, Death

1. In case of death, resignation, or permanent disability of the President of the Republic, the National Assembly shall meet within thirty days to elect a new President of the Republic.
2. Until the election provided for in the preceding paragraph has taken place and in cases when the powers of the President in office have been suspended under Article 76, as well as in all cases of temporary disability, the functions of the President shall be temporarily exercised with full legal effect by the President of the National Assembly, or, in his absence, by the most senior Vice-President.
3. In case of resignation, the President of the Republic shall give written notice thereof to the National Assembly.

Article 75

Powers and Duties

The President of the Republic shall exercise the functions conferred upon him by the Constitution and by law, in the legislative, executive and judicial fields. In addition, he shall:

- a) authorize the presentation to the National Assembly of draft legislation originating with the Government;
- b) address messages to the National Assembly;
- c) grant pardon and commute sentences;

- d) accredit and receive diplomatic agents;
- e) ratify international treaties, after previous authorization from the National Assembly, where required;
- f) be the commander-in-chief of the Armed Forces;
- g) declare a state of war after authorization from the National Assembly in accordance with Article 68;
- h) confer State honours.

Article 76

Responsibility

1. The President of the Republic shall not be responsible for acts performed in the exercise of his functions, except for crimes of high treason or attempts against the constitutional order, as provided by law.
2. The responsibility for acts of the President shall rest with the Prime Minister and the competent Ministers who subscribe to them.
3. In case of high treason or attempts against the constitutional order, the President of the Republic shall be impeached by a decision of the National Assembly taken on the motion of at least one fifth of its members and approved by secret ballot by a majority of two thirds of the deputies; he shall be tried by the Supreme Court constituted as the High Court of Justice.
4. Except in the cases mentioned in the preceding paragraph, the President of the Republic shall not be tried for any penal offence except when the Assembly gives its authorization, approved by secret ballot by a majority of two thirds of the deputies.
5. An approval of impeachment for high treason or for an attempt against the constitutional order or an authorization to institute criminal

proceedings for any other offence shall entail the automatic suspension of the powers of the President.

TITLE III

The Government

SECTION I

Organization of the Government

Article 77

Executive Power

The executive power shall be vested in the Government.

Article 78

The Government

1. The Government shall be composed of the Prime Minister and the Ministers.
2. The meeting of the Prime Minister and the Ministers shall constitute the Council of Ministers.
3. The Prime Minister shall be appointed and dismissed by the President of the Republic.
4. The Ministers shall be appointed and dismissed by the President of the Republic on the proposal of the Prime Minister .

5. Before assuming their functions, the Prime Minister and the Ministers shall take the following oath of loyalty to the State before the President of the Republic: «In the name of God I swear that I will discharge faithfully my duties in the interest of the people and will abide by the Constitution and the laws.»

Article 79

Under-Secretaries of State

1. The Ministers may be assisted by Under-Secretaries of State who shall be appointed and dismissed by the President of the Republic, on the proposal of the Prime Minister, having heard the Council of Ministers.
2. The Under-Secretaries shall assist the Ministers and exercise the functions delegated to them.
3. Before assuming their functions, the Under-Secretaries shall take the following oath of loyalty to the State before the Prime Minister: «In the name of God I swear that I will discharge

faithfully my duties in the interest of the people and will abide by the Constitution and the laws.”

Article 80

Qualifications for Appointment of Ministers

and Under-Secretaries

1. Any citizen possessing the qualifications required for election as a deputy may be appointed as Minister or Under-Secretary.
2. A Minister or Under-Secretary, during his period in office, shall not exercise any other public functions, except the exercise of the right to vote and of the functions as deputy in the National Assembly, nor shall he

engage in professional, commercial, industrial or financial activities. He shall not directly or indirectly obtain the lease of, or purchase property belonging to the State or to public bodies, except for premises to be used as his personal residence. He shall not, furthermore, sell or lease his own property to the State or to public bodies, or participate in a personal capacity in State enterprises or in enterprises controlled by the State.

Article 81

Presidency of the Council of Ministers and Ministries

1. The functions of the Presidency of the Council of Ministers as well as the number and the functions of the Ministries shall be established by law.
2. The organization of the Presidency of the Council of Ministers, of the Ministries and of subordinate offices shall be laid down in regulations issued by decree of the President of the Republic.

Article 82

Confidence of the National Assembly

1. The Government shall obtain the confidence of the National Assembly within thirty days of its formation. The Government shall present itself to the Assembly and request its confidence. Subsequently, the Government may ask the Assembly to express its confidence at any time.
2. The National Assembly shall express its confidence or no-confidence by means of a motion, stating the grounds thereof, approved by a simple majority in open vote.
3. A motion of no-confidence, stating the grounds thereof, may also be proposed at any time, by at least ten deputies, and shall be examined

not earlier than five days after its presentation. In order to be carried, it shall require an absolute majority in open vote.

4. Upon a vote of no-confidence by the Assembly, all the members of the Government shall resign.

5. The resigning Government shall continue in office for the purpose of carrying out routine duties until the appointment of the new Government.

SECTION II

Activities of the Government and Subordinate Organs

Article 83

Powers and Responsibilities of the Prime Minister and the Ministers

1. The Prime Minister shall direct the general policy of the Government and shall be responsible therefor. He shall main-

tain the unity of the Government's policy by co-ordinating and promoting the activities of the Ministers.

2. The Ministers shall direct the affairs within the competence of their Ministries and shall be individually responsible therefor.

3. The Prime Minister and the Ministers shall be jointly responsible for the acts of the Council of Ministers.

Article 84

Penal Responsibility of the Prime Minister and the Ministries

1. The Prime Minister and the Ministers are responsible for offences committed in the exercise of their functions.

2. In respect of such offences, the Prime Minister and the Ministers shall be impeached on a decision of the National Assembly taken on the motion of at least one fifth of its members and approved by secret ballot by a majority of two thirds of the deputies; they shall be tried by the Supreme Court constituted as the High Court of Justice.

3. Except as provided in the preceding paragraph, no criminal proceedings shall be instituted against the Prime Minister or the Ministers, except by authorization of the Assembly, approved by secret ballot by a majority of two thirds of the deputies.

4. The Prime Minister or a Minister committed for trial before the High Court of Justice shall be automatically suspended from exercising his functions.

Article 85

Power to Issue Regulations

Regulations shall be issued by decree of the President of the Republic on proposals approved by the Council of Ministers.

The power to issue regulations on specific matters may be given by law to other organs of the State and to public bodies.

Article 86

Administrative Decentralization

Whenever possible, administrative functions shall be decentralized and performed by the local organs of the State and by public bodies.

Article 87

Appointment of High Officials

High officials and commanders of the military forces specified by law shall be appointed by the President of the Republic, on the proposal of the competent Minister approved by the Council of Ministers.

Article 88

Civil Servants and Public Employees

1. Civil servants and public employees shall exercise their functions in accordance with the law and solely in the public interest.
2. Civil servants and public employees may not be leaders of political parties.
3. The categories of civil servants and public employees who shall not belong to political parties or engage in other activities incompatible with their functions shall be established by law.
4. Any civil servant or public employee who is on leave for any reason shall not be promoted except on grounds of seniority.
5. The status of civil servants shall be established by law.
6. Appointments to the permanent establishment of the civil service shall be made only after a public competitive examination, except in the cases provided by law.

Article 89

Civil Service Commission

1. A Civil Service Commission shall be established by a law which shall provide for its composition and powers.

2. The law establishing the Civil Service Commission shall guarantee the independence of its functions.

SECTION III

Auxiliary Bodies

Article 90

Magistrate of Accounts

1. The Magistrate of Accounts shall exercise a prior control over the legality of Government acts involving financial obligations and a post-audit on the State budget.
2. The Magistrate of Accounts shall participate, in the manner specified by law, in the control over the financial management

of agencies to which the State makes a regular contribution, and of agencies to which the State makes a substantial contribution as an extraordinary measure.

3. He shall report to the National Assembly on the results of his audit.
4. The law shall regulate the organization of this organ and guarantee the independence of its functions; it shall ensure that the organs and agencies subject to audit have the right to be heard in any judicial proceeding connected therewith.

Article 91

National Economic and Labour Council

The National Economic and Labour Council shall be composed, in the manner prescribed by law, of experts and representatives of categories

of producers of national wealth in proportion to their numerical strength and economic importance.

It shall be an advisory body to the National Assembly and to the Government in respect of matters and functions assigned to it by law.

TITLE IV

The Judiciary

Article 92

Judicial Power

The judicial power shall be vested in the Judiciary.

Article 93

Independence of the Judiciary

The Judiciary shall be independent of the executive and legislative powers.

Article 94

Supreme Court

1. The Supreme Court shall be the highest judicial organ of the Republic. It shall have jurisdiction over the whole territory of the State in civil, criminal, administrative and accounting matters, and in any other matter specified by the Constitution and by law.
2. The organization of the Supreme Court and of the other judicial organs shall be established by law.

Article 95

Unity of the Judiciary

1. No extraordinary or special courts shall be established.
2. There may only be established, as part of the ordinary courts, specialized sections for specific matters, with the participation, where necessary, of citizens who are experts, from outside the Judiciary.
3. The jurisdiction of Military Tribunals in time of war shall be established by law. In time of peace, they shall have jurisdiction

diction only in respect of military offences committed by members of the Armed Forces.[Note: As amended by Law No.6 of 30 January 1963.]

4. The people shall participate directly in assize proceedings, in the manner prescribed by law.

Article 96

Judicial Guarantees

1. In the exercise of their judicial functions, the members of the Judiciary shall be subject only to law.
2. The rules concerning the legal status and the appointments of members of the Judiciary shall be established by law.
3. Members of the Judiciary shall not be removed or transferred except in the cases specified by law.

4. Members of the Judiciary shall not hold offices, perform services or engage in activities incompatible with their functions.

5. Administrative and disciplinary measures relating to members of the Judiciary shall be adopted, as provided by law, by decree of the President of the Republic, on the proposal of the Minister of Grace and Justice, having heard the Higher Judicial Council.

Article 97

Judicial Procedure

1. Judicial proceedings shall be public; the court may decide, however, for reasons of morals, hygiene or public order, that the proceedings be held *in camera*.

2. No judicial decision shall be taken unless all the parties have had on opportunity of presenting their case.

3. All judicial decisions and all measures concerning personal liberty shall state the grounds therefor, and shall be subject to appeal in accordance with law.

4. The Police and Armed Forces shall be directly available to the judicial organs for the performance of acts pertaining to their functions.

PART V

CONSTITUTIONAL GUARANTEES

Title I

Review of the Constitutionality of Laws

Article 98

Constitutionality of Laws

1. Laws and provisions having the force of law shall conform to the Constitution and to the general principles of Islam.
2. In the course of a judicial proceeding, the question of the constitutionality of a law or a provision having the force of law may be raised, as to the form or substance, by means of a petition of the party concerned or of the Office of the Attorney General, or by the court on its own motion, where the decision depends, even though partially, on the application of the law or provision being challenged.
3. Where a petition is presented by the party concerned or by the Office of the Attorney General while the case is pending before a court of first or second instance, the court, where it finds the petition not manifestly unfounded, shall suspend judgment and refer the matter to the Supreme Court for a decision, which shall be binding upon the former court.
4. Where a petition is presented while the case is pending before the Supreme Court, the Supreme Court, where it finds the petition not manifestly unfounded, shall suspend judgment and proceed according to
5. The same procedure shall apply where the question of constitutionality is raised by a court of first or second instance, or by the Supreme Court, on their own motion.

Article 99

Constitutional Court

1. A question of constitutionality shall be decided by the Supreme Court constituted as the Constitutional Court, with the addition of two members appointed for a period of three years by the President of the

Republic, on the proposal of the Council of Ministers and two members, elected for the same period by the National Assembly by an absolute majority.

2. The qualifications of the additional members shall be prescribed by law.

Article 100

Judgment

A decision of the Supreme Court declaring that a law or a provision having the force of law is unconstitutional shall be communicated by the Court to the President of the Republic,

the President of the National Assembly and the Prime Minister, and shall be published in the manner prescribed for the publication of laws.

TITLE II

Criminal Proceedings Against the President of the Republic and the Members of the Government

Article 101

Impeachment

1. The articles of impeachment approved by the National Assembly under Article 76 or Article 84, shall specify the acts alleged to have been committed by the President of the Republic or any member of the Government and their accomplices, if any.
2. The National Assembly shall appoint, from among its members, or from outside, one or three Prosecuting Commissioners who shall act as Public Prosecutor in proceedings before the Supreme Court constituted as the High Court of Justice.

Article 102

High Court of Justice

The Supreme Court constituted as the High Court of Justice shall conduct the trials with six additional members, drawn by lot by the President of the Court at a public hearing from a special list of twelve citizens qualified for election as deputies. The twelve citizens shall be elected by the National Assembly at the beginning of each term from among persons who are not members of the Assembly.

Article 103

Organization

1. The provisions governing proceedings before the Supreme Court constituted as the Constitutional Court or the High Court of Justice shall be laid down by law.
2. The Court shall establish its own rules of court for the hearings.

TITLE III

Amendments to the Constitution

Article 104

Amendments and Additions to the Constitution

Amendments or additions to the provisions of the Constitution shall be decided by the National Assembly on the proposal of at least one fifth of its members, or of the Government, or of 10,000 voters, by two successive ballots held at an interval of not less than three months,

approval thereof requiring an absolute majority of the deputies on the first ballot and a two third majority on the second ballot.

Article 105

Limits on Amendments to the Constitution

The Constitution shall not be amended under the terms of the preceding article for the purpose of modifying the republican and democratic form of government or for restricting the fundamental rights and freedoms of the citizen and of man guaranteed by the Constitution.

TRANSITIONAL AND FINAL PROVISIONS

I

Transitional Exercise of Powers

1. Until the appointment of the Provisional President of the Republic, which shall take place not later than 1 July 1960, the powers and functions vested by the Constitution in the President of the Republic shall be exercised by the President of the Legislative Assembly acting as Provisional President of the Republic, with the exception of the power specified in paragraph 1 of Article 53.

He shall promulgate this Constitution.

2. Immediately after signing the Act of Union of the two Somali Territories (Somalia and SomaliLand), the new National Assembly shall elect, in the manner specified in paragraph 2 of Article 70, a Provisional President of the Republic, who shall remain in office until the election of the first President or of the other Provisional President provided for in paragraph 1 of provision No. IV.

II

Provisional President

The Provisional President shall exercise all the powers vested by the Constitution in the President of the Republic, with the exception of the power specified in Article 53, and shall, by decree, fix the date of the referendum provided for in the following provisions.

III

Entry into Force of the Constitution and Referendum

1. This Constitution shall provisionally come into force on 1 July 1960 and shall, within one year of such date, be submitted to a popular referendum in which all the voters shall be called upon to participate.
2. All voters shall have the right to express their approval or disapproval of the Constitution in a free, direct and secret manner and in accordance with a special law to be issued on the referendum.
3. The regularity of the referendum operations shall be confirmed by the Supreme Court, which shall decide on this matter not less than ten nor more than thirty days after the closure of the voting. The Supreme Court shall also decide on any complaint or appeal which may be presented, and such decision shall be final.

On giving the confirmation order, the Court shall also proclaim the results of the referendum,

4. In case of non-confirmation, a new referendum shall be held within three months of the date of the Court's decision.

IV

Results of the Referendum

1. If the results of the referendum are contrary to the adoption of this Constitution, the National Assembly shall, within fifteen days of the proclamation of the results by the Supreme Court, elect a new Provisional President of the Republic and declare the previous one to be no longer in office; the Constituent Assembly shall thereupon provide for the adoption of a new Constitution, which shall be submitted; to a referendum within

six months following the appointment of the new provisional President.

2. If the results of the referendum are favourable, this Constitution shall be considered final and, within fifteen days, the National Assembly shall elect the President of the Republic in accordance with this Constitution.

V

Final Provision

1. Until the proclamation of the result of the referendum, the text of the Constitution shall be posted at town halls and at the offices of the District Commissioners of the Republic so that every citizen may become acquainted with it.

2. The Constitution shall be faithfully observed as the fundamental law of the Republic by all the organs of the State and by all persons under its sovereignty.

The Constitution, embossed with the State's seal, shall be included in the Official Compilation of laws and Decrees of the Somali Republic.

Mogadishu, 1 July 1960.

ADEN ABDULLA OSMAN
President of the Legislative Assembly

ABDULLAHI ISSA MOHAMUD
Prime Minister

MOHAMED SCEK GABIOU
Minister for the Constitution

SCEK MOHAMUD MOHAMED FARAH
Minister of Grace and Justice