

A BILL

ENTITLED

AN ACT to Amend the Constitution of Jamaica to provide for the replacement of appeals to Her Majesty in Council with new provisions for appeals to the Caribbean Court of Justice as Jamaica's final appellate court; and for connected matters.

[]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica in accordance with the provisions of section 49 of the Constitution of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Constitution (Amendment) (Caribbean Court of Justice) Act, 2015, and shall be read and construed as one with the Constitution of Jamaica (hereinafter referred to as “the Constitution”) and all amendments thereto.

Short title,
construction
and
commence-
ment.

(2) This Act shall come into operation on a day to be appointed by the Minister by notice published in the *Gazette*.

Amendment
of section 1 of
the
Constitution.

2. Section 1 of the Constitution is amended by inserting in the appropriate alphabetical sequence the following definitions—

“Agreement” means the Agreement Establishing the Caribbean Court of Justice, that was signed at Bridgetown, Barbados on the 14th day of February, 2001 (as amended by the Protocol to the Agreement Establishing the Caribbean Court of Justice Relating to the Juridical Personality and Legal Capacity of the Court signed at Montego Bay, Jamaica on the 4th day of July, 2003, and any further amendments) as is in force in relation to Jamaica as at the date of commencement of this Act, and includes any amendments thereto which may hereafter have force in relation to and become part of the law of Jamaica;

“Caribbean Court of Justice” means the Caribbean Court of Justice established under the Agreement;

“Regional Judicial and Legal Services Commission” means the Commission established by Article V of the Agreement”.

Amendment
of section 94
of the
Constitution.

3. Section 94 of the Constitution is amended by deleting from subsection (7) the words “Judicial Committee of Her Majesty’s Privy Council” and substituting therefor the words “Caribbean Court of Justice”.

Amendment
of section 100
of the
Constitution.

4. Section 100 of the Constitution is amended—

(a) by deleting subsection (5) and substituting therefor the following—

“ (5) A Judge of the Supreme Court shall be removed from office by the Governor-General, by instrument under the Broad Seal, if the question of the removal of that Judge from office has, in

pursuance of subsection (6) of this section, been referred by the Governor-General to the Caribbean Court of Justice and the Court has advised the Governor-General that the Judge ought to be removed from office for inability as aforesaid or for misbehaviour.”;

- (b) in subsection (6), by deleting paragraph (b) and substituting therefor the following—

“ (b) that tribunal shall enquire into the matter and report on the facts thereof to the Governor-General, and recommend to the Governor-General whether he should refer the question of the removal of that Judge to the Caribbean Court of Justice”;

- (c) in subsection (9)—

- (i) by deleting paragraph (a) and substituting therefor the following—

“ (a) if the tribunal recommends to the Governor-General that he should not refer the question of the removal of the Judge from office to the Caribbean Court of Justice; or” ; and

- (ii) by deleting from paragraph (b) the words “the Judicial Committee advises Her Majesty” and substituting the words “the Caribbean Court of Justice advises the Governor-General”.

5. The heading to Part 2 of Chapter VII of the Constitution is amended by deleting the words “Court of Appeal” and substituting therefor the words “Appellate Courts”.

Amendment
of Heading to
Part 2 of
Chapter VII of
the
Constitution.

6. Section 103 of the Constitution is amended by—

- (a) inserting in the marginal note immediately after the words “Court of Appeal” the words “and Caribbean Court of Justice”;

Amendment
of section 103
of the
Constitution.

- (b) deleting subsection (1) and substituting therefor the following—

“ (1) The appellate courts for Jamaica shall be—

- (a) the Court of Appeal; and
- (b) the Caribbean Court of Justice, which shall be the final appellate court for Jamaica and the decisions of which shall not be the subject of any appeal or review,

and each court shall have such jurisdiction and powers as may be conferred upon it by this Constitution or any other law.”;

- (c) renumbering subsections (2) to (5) as subsections (3) to (6) respectively and inserting the following as subsection (2)—

“ (2) Subsections (3), (4), (5) and (6) of this section apply in relation to the Court of Appeal and subsections (7) and (8) of this section apply in relation to the Caribbean Court of Justice.”;

- (d) inserting next after subsection (6) as renumbered the following as subsections (7) and (8)—

“ (7) The Judges of the Caribbean Court of Justice shall be the President of the Court and such number of other Judges as may be prescribed by Parliament.

(8) The Caribbean Court of Justice shall be a superior court of record and shall have all the powers of such a court.”.

Amendment
of section 104
of the
Constitution.

7. Section 104 of the Constitution is amended by—

- (a) inserting in the marginal note immediately after the words “Court of Appeal” the words “ and Caribbean Court of Justice”;

- (b) renumbering subsections (1) to (3) as subsections (2) to (4) respectively and inserting the following as subsection (1)—

“ (1) Subsections (2), (3) and (4) of this section apply in relation to the Court of Appeal for Jamaica and subsections (5), (6) and (7) of this section apply in relation to the Caribbean Court of Justice.”;

- (c) inserting next after subsection (4) as renumbered the following as subsections (5) to (7)—

“ (5) The President of the Court shall be appointed by the qualified majority vote of three-quarters of the Contracting Parties to the Agreement on the recommendation of the Regional Judicial and Legal Services Commission.

(6) A Judge of the Court (other than the President) shall be appointed by the majority vote of all of the members of the Regional Judicial and Legal Services Commission.

(7) The qualifications for appointment as President or other Judge of the Court shall be such as may be prescribed by any law.”.

8. Section 105 of the Constitution is amended by—

Amendment
of section 105
of the
Constitution.

- (a) inserting in the marginal note immediately after the word “Appeal” the words “and Caribbean Court of Justice”;
- (b) renumbering subsections (1) to (3) as subsections (2) to (4) and inserting the following as subsection (1)—

“ (1) Subsections (2), (3) and (4) of this section apply in relation to the Court of Appeal for Jamaica and subsection (5) of this section applies in relation to the Caribbean Court of Justice.”;

- (c) inserting next after subsection (4) as renumbered the following as subsection (5)—

“ (5) If the Office of President or other Judge of the Caribbean Court of Justice is vacant, or if the President or a Judge of the Court, as the case may be, is for any reason unable to perform the functions of that office, then arrangements for the performance of the functions of that office, until some other person has been appointed to and has assumed the functions of that office or, as the case may be, until the office holder has resumed those functions, shall be such as are prescribed by or under any law.”.

Amendment
of section 106
of the
Constitution.

9. Section 106 of the Constitution is amended—

- (a) by inserting in the marginal note immediately after the words “Court of Appeal” the words “ and Caribbean Court of Justice”;
- (b) by deleting subsections (1) and (2) and substituting therefor the following—

“ (1) Subject to the provisions of subsections (4) to (7) (inclusive) of this section—

- (a) a Judge of the Court of Appeal shall hold office until he attains the age of seventy years; so, however, that, he may at any time resign his office;

- (b) the President of the Caribbean Court of Justice shall hold office—

(i) for a term of seven years; or

(ii) until he attains the age of seventy-two years or prior to attaining that age resigns or retires,

whichever is the earlier; and

- (c) a Judge of the Caribbean Court of Justice (other than the President) shall hold office

until he attains the age of seventy-two years or prior to attaining that age resigns or retires.

(2) Judges of the Court of Appeal and of the Caribbean Court of Justice may be permitted to continue in office beyond the attainment of any applicable age or the expiration of any applicable period specified in subsection (1), in the following circumstances—

- (a) notwithstanding that he has attained the age at which he is required by or under the provisions of this section to vacate his office a person holding the office of Judge of the Court of Appeal may, with the permission of the Governor-General, acting in accordance with the advice of the Prime Minister, continue in office for such period after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age;
- (b) the President or other Judge of the Caribbean Court of Justice may, in accordance with such provisions as may be prescribed by law, continue in office as may be necessary for the purpose of enabling him to deliver judgment or to do any other thing in relation to any proceedings commenced by him;”;
- (c) by deleting subsections (4) and (5) and substituting therefor the following—
 - “ (4) A Judge of the Court of Appeal or of the Caribbean Court of Justice, as the case may be,

may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehavior, and—

- (a) in the case of Judge of the Court of Appeal shall not be so removed except in accordance with the provisions of subsection (5) of this section; and
- (b) in the case of the President or other Judge of the Caribbean Court of Justice, shall not be so removed except in accordance with the provisions of the Agreement.

(5) A Judge of the Court of Appeal shall be removed from office by the Governor-General, by instrument under the Broad Seal, if the question of the removal of that Judge from office has been referred by him to the Caribbean Court of Justice, and the Court has advised the Governor-General that the Judge ought to be removed from office for inability as aforesaid or for misbehaviour.”;

- (d) in subsection (6), by deleting the word “request” and all the words following and substituting therefor the words “refer the question of the removal of that Judge to the Caribbean Court of Justice”;

- (e) in subsection (9)—

- (a) by deleting paragraph (a) and substituting therefor the following—

“(a) if the tribunal recommends to the Governor-General that he should not refer the question of the removal of the Judge from office to the Caribbean Court of Justice; or” ; and

- (b) by deleting from paragraph (b) the words “the Judicial Committee advises

Her Majesty” and substituting therefor the words “the Caribbean Court of Justice advises the Governor-General”;

- (f) in subsection (11), by inserting immediately after the words “this section” the words “ (in its application to a Judge of the Court of Appeal)”.

10. Section 107 of the Constitution is amended—

Amendment
of section 107
of the
Constitution.

- (a) by inserting in the marginal note immediately after the words “Court of Appeal” the words “ and Caribbean Court of Justice”;
- (b) by inserting next after subsection (2) the following as subsections (3) and (4)—

“ (3) The Regional Judicial and Legal Services Commission shall, in accordance with the Agreement and with the approval of the Conference of Heads of Government of Member States of the Caribbean Community, determine the terms and conditions and other benefits of the President and other Judges of the Caribbean Court of Justice.

(4) The salaries and allowances payable to the President and the other Judges of the Caribbean Court of Justice and their other terms and conditions of service shall not be altered to their disadvantage during their tenure of office.”.

11. Section 108 of the Constitution is amended by—

Amendment
of section 108
of the
Constitution.

- (a) inserting in the marginal note immediately after the words “Court of Appeal” the words “ , Caribbean Court of Justice”;
- (b) inserting next after the words “ Court of Appeal” the words “or of the Caribbean Court of Justice”;
- (c) inserting immediately before the words “the oath of allegiance” the words “ , in the case of a Judge of the Court of Appeal”;

- (d) deleting the words “ the judicial oath in the forms” and substituting therefor the words “, in the case of the Court of Appeal and the Caribbean Court of Justice, the appropriate judicial oath in the form.”.

Amendment
of Heading to
Part 3 of
Chapter VII of
the Con-
stitution.

12. The Heading to Part 3 of Chapter VII of the Constitution is amended by deleting the words “Her Majesty in Council” and substituting therefor the words “The Caribbean Court of Justice”.

Repeal and
replacement
of section 110
of the
Constitution.

13. Section 110 of the Constitution is repealed and the following substituted therefor—

“Appeals
from Court
of Appeal to
the
Caribbean
Court of
Justice and
abolition of
appeals to
Her Majesty
in Council.

110.—(1) An appeal shall lie from decisions of the Court of Appeal to the Caribbean Court of Justice as of right in the following cases—

- (a) final decisions in any civil proceedings, where—

- (i) the matter in dispute on the appeal to the Caribbean Court of Justice is of the value of not less than the equivalent in Jamaican currency of twenty-five thousand Eastern Caribbean dollars; or
- (ii) the appeal involves directly or indirectly a claim to or question respecting property or a right of the value of not less than the equivalent in Jamaican currency of twenty-five thousand Eastern Caribbean dollars;

- (b) final decisions in proceedings for dissolution or nullity of marriage;

- (c) final decisions in any civil, criminal or other proceedings on questions as to the interpretation of this Constitution;
- (d) final decisions in any proceedings brought pursuant to section 19(1) of this Constitution;
- (e) such other cases as may be prescribed by Parliament.

(2) An appeal shall lie from decisions of the Court of Appeal to the Caribbean Court of Justice with the leave of the Court of Appeal in the following cases—

- (a) decisions in any civil proceedings where, in the opinion of the Court of Appeal, the question involved in the appeal is one that, by reason of its great general or public importance or otherwise, ought to be submitted to the Caribbean Court of Justice; and
- (b) such other cases as may be prescribed by Parliament.

(3) The Caribbean Court of Justice may grant special leave to appeal to that Court from any decision of the Court of Appeal in any civil or criminal matter.

(4) The provisions of this section shall be subject to the provisions of subsection (1) of section 44 of this Constitution.

(5) Nothing in this section shall confer jurisdiction on the Caribbean Court of Justice to hear matters in relation to any decision of the Court of Appeal which, at the date of commencement of the Constitution (Amendment) (Caribbean Court of Justice) Act, 2012, was declared to be final pursuant to any law.

(6) A decision of the Court of Appeal such as is referred to in this section means a decision of that Court on appeal from a court of Jamaica.

(7) The Caribbean Court of Justice shall be the final appellate court for Jamaica and the decisions of the Court shall not be the subject of any appeal or review; accordingly, with effect from the date of commencement of the Constitution (Amendment) (Caribbean Court of Justice) Act, 2012, no appeal shall lie or shall be brought from or in respect of—

- (a) any decision of the Court of Appeal to Her Majesty in Council—
 - (i) as of right; or
 - (ii) by leave of the Court of Appeal;
- (b) any decision of any court to Her Majesty in Council by special leave of Her Majesty in Council.”.

Amendment
of First
Schedule to
Constitution.

14. The First Schedule to the Constitution is amended by—

- (a) inserting next after the heading “Judicial Oath” the sub-heading “*Supreme Court and Court of Appeal*”;
- (b) inserting next after the Oath as it appears the following heading, sub-heading and Oath:

“ Judges of the Caribbean Court of Justice
Judicial Oath for Judges of the Caribbean Court of Justice

Ido hereby swear (or solemnly affirm) that I will faithfully exercise the office of the President/Judge of the Caribbean Court of Justice without fear or favour, affection or ill-will and in accordance with the Code of Judicial Conduct.

(So help me God (to be omitted in affirmation)).”

15.—(1) The provisions of this Act shall not affect any proceedings pending before Her Majesty in Council immediately before the commencement date. Savings and transitional.

(2) Proceedings shall be treated as pending where an appeal to Her Majesty in Council has been instituted before the commencement date or where leave to appeal or special leave to appeal to Her Majesty in Council has been granted or applied for before that date.

(3) Any judgment of Her Majesty in Council which at the commencement date has been given, but has not been satisfied, may be enforced after that date as if it had been a judgment of the Court.

(4) The substitution in sections 100 and 106 of the Constitution of references to “the Governor-General” and “the Caribbean Court of Justice” for references respectively to “Her Majesty” and “the Judicial Committee of Her Majesty’s Privy Council” or “the Judicial Committee” shall not be regarded for the purposes of section 101(1) of the Constitution (in relation to Judges of the Supreme Court) or 107(1) of the Constitution (in relation to Judges of the Court of Appeal), as constituting an alteration in the terms and conditions of service of any such Judge.

(5) In this section “commencement date” means the date specified in a notice under section 1.

Passed in the House of Representatives this 12th day of May, 2015.

MICHAEL A. PEART
Speaker.

MEMORANDUM OF OBJECTS AND REASONS

Consequent on Jamaica's ratification of the Agreement to Establish the Caribbean Court of Justice as the final Court to which appeals from decisions of the Court of Appeal from Jamaica as a Contracting Party to the Agreement will lie, and the enactment of companion legislation to give effect thereto, it is necessary to replace appeals to the Judicial Committee of Her Majesty's Privy Council with appeals to the Caribbean Court of Justice.

This Bill therefore seeks to amend section 110 of the Constitution to repeal the provisions relating to appeals to Her Majesty in Council (namely, the Judicial Committee of the Privy Council) and to replace them with provisions establishing the Caribbean Court of Justice as Jamaica's final court. The Bill also replaces references to Her Majesty's Privy Council with references to the Caribbean Court of Justice in—

- (a) section 94(7) of the Constitution which deems appeals from decisions in criminal proceedings to be a part of the original proceedings; and
- (b) the provisions of the Constitution that confer an advisory role in relation to the question of the removal of any Judge of the Supreme Court or of the Court of Appeal.

Additionally, this Bill makes provision in relation to the appointment, tenure, emoluments and other terms and conditions of service of the President and other Judges of the Caribbean Court of Justice, which provisions seek to enshrine their independence and security of tenure. This Bill also contains transitional provisions to exclude from the application of the provisions of the Bill, any appeals to Her Majesty in Council which were instituted before the date of commencement of the provisions of this Bill, or in respect of which leave or special leave to appeal was granted or application for leave was made before that date.

PORTIA SIMPSON MILLER, O.N.
Prime Minister.

A BILL

ENTITLED

AN ACT to Amend the Constitution of Jamaica to provide for the replacement of appeals to Her Majesty in Council with new provisions for appeals to the Caribbean Court of Justice as Jamaica's final appellate court; and for connected matters.

As passed in the Honourable House of Representatives.

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SECTION 1 OF THE CONSTITUTION WHICH IT IS
PROPOSED TO AMEND

1.—(1) In this Constitution unless it is otherwise provided or the context otherwise requires—

“Act of Parliament” means any law made by Parliament;

“the appointed day” means the sixth day of August, 1962;

“the Broad Seal” means the Broad Seal of Jamaica;

“the Cabinet” means the Cabinet established by section 69 of this Constitution;

“the Clerk” and “the Deputy Clerk” mean respectively the Clerk and the Deputy Clerk of either House, as the context may require;

“the Commonwealth” means Jamaica, any country to which section 9 of this Constitution applies and any dependency of any such country;

... ..

SECTION 94 OF THE CONSTITUTION WHICH IT IS
PROPOSED TO AMEND

94.—(1) There shall be a Director of Public Prosecutions, whose office shall be a public office.

(2) A person shall not be qualified to hold or act in the office of Director of Public Prosecutions unless he is qualified for appointment as a Judge of the Supreme Court.

... ..

(7) For the purposes of this section, any appeal from any determination in any criminal proceedings before any court, or any case stated or question of law reserved for the purposes of any such proceedings, to any other court in Jamaica or to the Judicial Committee of Her Majesty's Privy Council shall be deemed to be part of those proceedings.

... ..

SECTION 100 OF THE CONSTITUTION WHICH IT IS
PROPOSED TO AMEND

100.—(1)

(5) A Judge of the Supreme Court shall be removed from office by the Governor-General by instrument under the Broad Seal if the question of the removal of that Judge from office has, at the request of the Governor-General, made in pursuance of subsection (6) of this section, been referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under section 4 of the Judicial Committee Act, 1833, or any other enactment enabling Her Majesty in that behalf, and the Judicial Committee has advised Her Majesty that the Judge ought to be removed from office for inability as aforesaid or for misbehaviour.

(6) ...

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

(9) Any such suspension may at any time be revoked by the Governor-General, acting in accordance with the advice of the Prime Minister or the Chief Justice (as the case may be), and shall in any case cease to have effect—

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

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

...

SECTIONS 103 and 104 OF THE CONSTITUTION WHICH IT IS PROPOSED TO AMEND

PART 2

Court of Appeal

103.—(1) There shall be a Court of Appeal for Jamaica which shall have such jurisdiction and powers as may be conferred upon it by this Constitution or any other law.

(2) The Judges of the Court of Appeal shall be—

- (a) a President;
- (b) the Chief Justice by virtue of his office as head of the Judiciary but who, however, shall not sit in the Court of Appeal unless there are at least four other Judges sitting and unless he has been invited so to sit by the President of the Court;
- (c) three other Judges; and
- (d) such number, if any, of other Judges as may be prescribed by Parliament.

(3) The President of the Court of Appeal shall be responsible for the arrangement of the work of the Court and shall preside whenever he is sitting in that Court.

(4) No office of Judge of the Court of Appeal shall be abolished while there is a substantive holder thereof,

(5) The Court of Appeal shall be a superior court of record and, save as otherwise provided by Parliament, shall have all the powers of such a court.

104.—(1) The President of the Court of Appeal shall be appointed by the Governor-General by instrument under

SECTION 105 OF THE CONSTITUTION WHICH IT IS PROPOSED TO AMEND

Acting Judges
of the Court of
Appeal.

105.—(1) If the office of President of the Court of Appeal is vacant or if the President of the Court of Appeal is for any reason unable to perform the functions of his office, then, until a person has been appointed to that office and assumed its functions or, as the case may be, until the President of the Court of Appeal has resumed those functions, they shall be performed by such other person, qualified under subsection (3) of section 104 of this Constitution for appointment as a Judge of the Court of Appeal, as the Governor-General, acting to accordance with the advice of the Prime Minister, may appoint for that purpose by instrument under the Broad Seal.

(2) If the office of a Judge of the Court of Appeal (other than the President) is vacant, or if any such Judge is appointed to act as President of the Court of Appeal, or is for any reason unable to perform the functions of his office, the Governor-General, acting on the advice of the Judicial Service Commission, may by instrument under the Broad Seal appoint a person qualified under subsection (3) of section 104 of this Constitution for appointment as a

Judge of the Court of Appeal to act as a Judge of the Court of Appeal, and any person so appointed shall, subject to the provisions of subsection (3) of section 106 of this Constitution, continue to act for the period of his appointment or, if no such period is specified, until his appointment is revoked by the Governor-General acting on the advice of the Judicial Service Commission.

(3) Any person appointed to act as a Judge of the Court of Appeal under the provisions of this section may, notwithstanding that the period of his appointment has expired or his appointment has been revoked, sit as a Judge for the purpose of delivering judgment or doing any other thing in relation to proceedings which were commenced before him while he was so acting.

SECTION 106 OF THE CONSTITUTION WHICH IT IS PROPOSED TO AMEND

106.—(1) Subject to the provisions of subsections (4) to (7) (inclusive) of this section, a Judge of the Courts of Appeal shall hold office until he attains the age of seventy years:

Tenure of
office of
Judges of
Court of
Appeal.

Provided that he may at any time resign his office.

(2) Notwithstanding that he has attained the age at which he is required by or under the provisions section to vacate his office a person holding the office of Judge of the Court of Appeal may, with the permission of the Governor-General, acting in accordance with the advice of the Prime Minister, continue in office for such period after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

(3) Nothing done by a Judge of the Court of Appeal shall be invalid by reason only that he has attained the age at which he is required by this section to vacate his office.

(4) A Judge of the Court of Appeal may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and shall not be so removed except in accordance with the provisions of subsection (5) of this section.

(5) A Judge of the Court of Appeal shall be removed from office by the Governor-General by instrument under the Broad Seal if the question of the removal of that Judge from office has, at the request of the Governor-General made in pursuance of subsection (6) of this section, been referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under

section 4 of the Judicial Committee Act, 1833, or any other enactment enabling Her Majesty in that behalf, and the Judicial Committee has advised Her Majesty that the Judge ought to be removed from office for inability as aforesaid or for misbehaviour.

(6) ...

- (a) that tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to the Governor-General whether he should request that the question of the removal of that Judge should be referred by Her Majesty to the Judicial Committee; and
- (c) if the tribunal so recommends, the Governor-General shall request that the question should be referred accordingly.

SECTION 106 OF THE CONSTITUTION WHICH IT IS PROPOSED TO AMEND

(9) Any such suspension may at any time be revoked by the Governor-General acting in accordance with the advice of the Prime Minister or the President of the Court of Appeal (as the case may be), and shall in any case cease to have effect if—

- (a) the tribunal recommends to the Governor-General that he should not request that the question of the removal, of the Judge from office should be referred by Her Majesty to the Judicial Committee; or
- (b) the Judicial Committee advises Her Majesty that the Judge ought not to be removed from office.

... ..

(11) The provisions of this section and of sections 107 and 108 of this Constitution shall not apply to the Chief Justice.

... ..

SECTION 107 OF THE CONSTITUTION WHICH IT IS PROPOSED TO AMEND

Renumeration
of Judges of
Court of
Appeal.

107.—(1) The Judges of the Court of Appeal shall receive such emoluments and be subject to such other terms and conditions of service as may from time to time be prescribed by or under any law:

Provided that the emoluments and terms and conditions of service of such a Judge, other than allowances that are not taken into account in computing pensions, shall not be altered to his disadvantage during his continuance in office.

(2) The salaries for the time being payable to the Judges of the Court of Appeal under this Constitution shall be charged on and paid out of the Consolidated Fund.

SECTIONS 108 AND 110 OF THE CONSTITUTION WHICH IT IS
PROPOSED TO AMEND

108. A Judge of the Court of Appeal shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and the judicial oath in the forms set out in the First Schedule to this Constitution.

PART 3

Appeals to Her Majesty in Council

110.—(1) An appeal shall lie from decisions of the Court of Appeal to Her Majesty in Council as of right in the following cases—

Oaths to be
taken by
Judges of
Court of
Appeal.

- (a) where the matter in dispute on the appeal to Her Majesty in Council is of the value of one thousand dollars or upwards or where the appeal involves directly or indirectly a claim to or question respecting property or a right of the value of one thousand dollars or upwards, final decisions in any civil proceedings;
- (b) final decisions in proceedings for dissolution or nullity of marriage;
- (c) final decisions in any civil, criminal or other proceedings on questions as to the interpretation of this Constitution; and
- (d) such other cases as may be prescribed by Parliament.

(2) An appeal shall lie from decisions of the Court of Appeal to Her Majesty in Council with the leave of the Court of Appeal in the following cases—

- (a) where in the opinion of the Court of Appeal the question involved in the appeal is one that, by reason of its great general or public importance or otherwise, ought to be submitted to Her Majesty in Council, decisions in any civil proceedings; and

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

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

(4) The provisions of this section shall be subject to the provisions of subsection (1) of section 44 of this Constitution.

(5) A decision Of the Court of Appeal such as is referred to in this section means a decision of that Court on appeal from a Court of Jamaica.

FIRST SCHEDULE OF THE PRINCIPAL ACT WHICH IT IS PROPOSED TO AMEND

FIRST SCHEDULE

Judicial Oath

I, do swear that I will be faithful and bear true allegiance to Jamaica, that I will uphold and defend the Constitution of Jamaica and that I will administer justice to all persons alike in accordance with the laws and usages of Jamaica without fear or favour, affection or ill will. So help me God.

