



THE
CEYLON GOVERNMENT
GAZETTE

EXTRAORDINARY.

No. 7,843 — WEDNESDAY, APRIL 15, 1931.

Published by Authority.

PART I.—GENERAL.

(Separate paging is given to each Part in order that it may be filed separately.)

PRINTED AT THE CEYLON GOVERNMENT PRESS, COLOMBO.

597—J. N. 7302-3,332 (4/31)

Price 25 cents.

THE CEYLON (STATE COUNCIL ELECTIONS) ORDER IN COUNCIL, 1931. C 40/30
Notification.

THE following Order of His Majesty in Council is published for general information.

By His Excellency's command,

Colonial Secretary's Office,
Colombo, April 15, 1931.

B. H. BOURDILLON,
Colonial Secretary.

At the Court at Buckingham Palace, the 20th day of March, 1931.

Present:

THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS by the Ceylon Constitution (Register of Electors) Order in Council, 1930, provision was made for the delimitation of electoral districts and for the preparation of a register of persons entitled to elect members to serve in the State Council to be constituted in lieu of the Legislative Council;

AND WHEREAS it is expedient that upon the completion of the proceedings authorized or required by the said Order in Council, the said Order should cease to have effect and that further provision in regard to the matters dealt with therein should be contained in this Order, together with provision for the election of members to serve in the said State Council;

AND WHEREAS His Majesty has power, by and with the advice of His Privy Council, to pass laws in and for the Island;

NOW, THEREFORE, it is hereby ordered by His Majesty, by and with the advice of His Privy Council, as follows:—

PART I.

PRELIMINARY.

1.—(1) This Order may be cited as the Ceylon (State Council Elections) Order in Council, 1931. It shall be published in the *Government Gazette* and shall come into operation upon the date of such publication.

(2) Nothing in this Order shall extend to the Maldivé Islands.

2. As soon as may be after the certification of the registers of electors under the Ceylon Constitution (Register of Electors) Order in Council, 1930, the Governor shall by notification in the *Government Gazette* declare the proceedings authorized or required by that Order to be complete and thereupon that Order shall, subject to the provisions of this Order, cease to have effect, but without prejudice to the validity of anything lawfully done thereunder or to the determination of any appeal from the decision of any registering officer which may then be pending.

3.—(1) In this Order, unless the context otherwise requires:—

“British subject” means any person who is a British subject under the provisions of the British Nationality and Status of Aliens Acts, 1914-1922, any person who has been naturalized under any enactment of a British Possession, and any person who is a British protected person, as hereinafter defined.

“British protected person” means any person who is a native of the territories of any Native Prince or Chief under the suzerainty of His Majesty exercised through the Governor-General of India or through any Governor or other officer subordinate to the Governor-General of India and is resident in Ceylon.

“Candidate” means any person who is nominated as a candidate at an election or is declared by himself to be or acts as a candidate for election to any vacant seat in the State Council.

“Member” means a member of the State Council.

“Person” or “persons” includes both sexes.

“Register” or “register of voters” means the register of voters for any particular electoral district.

“The Council” means the State Council to be constituted in lieu of the Legislative Council.

“The Secretary of State” means one of His Majesty's Principal Secretaries of State.

(2) Until the Governor shall, with the approval of the Secretary of State, appoint a person to be the Legal Secretary, all the provisions of this Order which apply to the Legal Secretary shall apply to the Attorney-General.

(3) In the construction of this Order the provisions of the Interpretation Ordinance, 1901, shall, subject to the express provisions of this Order, and notwithstanding any provision to the contrary in such Ordinance, apply as if this Order were an Ordinance of the Legislative Council of the Island, or of the State Council.

4.—(1) It shall be lawful for the Governor, by and with the advice of the Council, to make provision by law for any of the matters for which provision is made in Part IV., V., or VI. of this Order; provided that the Governor shall not assent to any such law, or to any repeal or amendment of any such law, unless he shall have previously obtained His Majesty's instructions through the Secretary of State.

Short title, commencement, and application.

Expiration of Ceylon Constitution (Register of Electors) Order-in-Council, 1930.

Interpretation.

Enactment of laws making provision for matters dealt with in Part IV., V., or VI., of this Order.

(2) The Secretary of State may declare that any of the provisions of Part IV., V., or VI. of this Order shall cease to have effect as from the date of the commencement of any such law.

PART II.

ELECTORAL DISTRICTS.

Electoral districts. One member for each.

5.—(1) The electoral districts defined by the Governor in accordance with the provisions of the Ceylon Constitution (Register of Electors) Order-in-Council, 1930, shall, until revised in accordance with this Article, be the electoral districts for the purpose of the election of members of the Council.

(2) Upon the expiration of a period of three years from the date of the definition of electoral districts as aforesaid, and upon the expiration of each succeeding period of ten years, the Governor shall appoint a Commission to submit recommendations as to the revision of the boundaries of electoral districts and may, by Proclamation published in the *Government Gazette*, effect any readjustment of such boundaries which may seem expedient to him.

(3) One member only shall be elected for each electoral district.

PART III.

QUALIFICATION OF VOTERS.

Circumstances disqualifying for registration.

6.—(1) No person shall be qualified to have his name entered or retained in any register of voters in any year if such person—

- (a) is not a British subject; or
- (b) was less than 21 years of age on the first day of August in that year; or
- (c) has not for a continuous period of six months in the eighteen months immediately prior to the first day of August in that year resided in the electoral district to which the register relates; or
- (d) is serving a sentence of penal servitude or imprisonment imposed by any Court in any part of His Majesty's dominions or in any country under His Majesty's protection or in respect of which a mandate is being exercised by His Majesty or by the Government of any part of His Majesty's dominions, for an offence punishable with hard labour or rigorous imprisonment for a term exceeding twelve months; or is under sentence of death imposed by any such Court, or is serving any term of imprisonment awarded in lieu of execution of such sentence; or
- (e) has been adjudged by a competent Court to be of unsound mind; or
- (f) is incapable of being registered as a voter by reason of his conviction of a corrupt or illegal practice, or by reason of the report of an election judge, in accordance with this Order.

(2) For the purposes of this Article continuity of residence in an electoral district shall not be deemed to be interrupted by reason only of absence in the performance of any duty accruing from or incidental to any office, service, or employment held or undertaken by any person otherwise qualified to have his name entered on any register.

General qualification of voters. Domicile.

7. Any person not otherwise disqualified shall be qualified to have his name entered in a register of voters if he is domiciled in Ceylon or if he is qualified in accordance with Article 8 or Article 9 of this Order; provided that, except in the case of persons possessing Ceylon domicile of origin, domicile shall not be deemed to have been acquired for the purpose of qualifying for registration as a voter by any person who has not resided in Ceylon for a total period of or exceeding five years.

Special qualification by literacy and property.

8.—(1) Any person not otherwise disqualified shall be qualified to have his name entered in a register of voters in any year if he—

- (a) is able to read and write English, Sinhalese, or Tamil, and
- (b) has or holds one of the following qualifications, viz. :

- (i.) The possession or enjoyment of a clear annual income of not less than Rs. 600, during a continuous period of six months immediately prior to the first day of August in that year;
- (ii.) The ownership of immovable property otherwise than as lessee or usufructuary mortgagee, situate within the electoral district to which the register relates, during a continuous period of six months immediately prior to the first day of August in that year, the value of which, after allowing for any mortgage debts thereon, is not less than Rs. 1,500;

(iii.) The occupation as owner or tenant during a continuous period of six months immediately prior to the first day of August in that year, of any house, warehouse, counting house, shop or other building (hereinafter referred to as qualifying property), situate within the electoral district to which the register relates, of the annual value of not less than—

(a) Rs. 400 if situated within the limits of any Municipal, Local Board, or Sanitary Board town, or of any Urban District Council, or of the Board of Improvement of Nuwara Eliya;

(b) Rs. 200 if situated elsewhere;

provided that the qualifying property need not be throughout the period of qualification the same property if the annual value is in no case less than Rs. 400 or Rs. 200 as the case may be, and if such property is in all cases situate within such electoral district as aforesaid.

(2) For the purposes of this Article the terms "house, warehouse, counting house, shop or other building" include any part of a building when that part is separately occupied for the purposes of any trade, business or profession; and any such part may, for the purposes of describing the qualification, be described as office, chambers, studio, or by any like term applicable to the case.

(3) Where an occupier is entitled to the sole and exclusive use of any part of a building, that part shall not be deemed to be occupied otherwise than separately by reason only that the occupier is entitled to the joint use of some other part.

(4) For the purposes of this Article continuity of the occupation of a house shall not be deemed to be interrupted by reason only of permission being given for the occupation of the house as a furnished house by some other person on a monthly tenancy or on a tenancy at will, or on a lease for a period not exceeding five months in the whole, or by reason only of notice to quit being served and possession being demanded by the landlord of the house.

(5) In the case of qualifying property possessed or occupied jointly by two or more persons, each such person, not being a usufructuary mortgagee, shall be qualified to have his name entered on the register of voters, provided that the number of persons does not exceed the number obtained by dividing the annual value of such property, expressed in rupees, by four hundred if it is situated within the limits of any Municipal, Local Board, or Sanitary Board town, or of any Urban District Council, or of the Board of Improvement of Nuwara Eliya, and by two hundred if situated elsewhere.

9.—(1) Any person not otherwise disqualified shall be qualified to have his name entered in a register of voters if he is in possession of a certificate of permanent settlement granted to him in accordance with this Article by the Government Agent or the Assistant Government Agent of the district in which he resides or by any other officer of the Government authorized in writing by the Government Agent or Assistant Government Agent aforesaid in accordance with the general or special directions of the Governor.

(2) A certificate of permanent settlement shall be in the form A in the First Schedule to this Order, or in such other form as the Governor may prescribe, and shall be issued to any person who satisfies the officer authorized to issue the same that he has been continuously resident in Ceylon for a period of not less than five years, exclusive of temporary absences not exceeding a total of eight months during such period, and who makes and subscribes before such officer a declaration, which shall be exempt from stamp duty, in the form B in the said Schedule, or in such other form as the Governor may prescribe, stating that he is permanently settled in Ceylon or is residing in the Island with intent to settle therein; provided that during such time as any holder of a certificate of permanent settlement may be registered as a voter by reason of the possession of such certificate he shall not be entitled to claim any rights, privileges, or exemptions which under the law of Ceylon are not common to all British subjects resident in the Island.

(3) Any person to whom such a certificate of permanent settlement has been refused may appeal to the Governor whose decision shall be final.

(4) A certificate of permanent settlement shall be cancelled and the name of the person to whom it relates shall, if registered in any register of voters by reason of his possession of such certificate, be removed from such register if at any time it is proved to the satisfaction of the registering or revising officer for the electoral district in which such person resides, or of any other person duly authorized by the Governor in that behalf, that the certificate was obtained fraudulently or by statements which were untrue or that at any time since the granting of the certificate the person to whom it relates has been absent from Ceylon for a continuous period exceeding twelve months.

Special qualification by certificate of permanent settlement.

(5) If any person shall wilfully make a false statement or declaration for the purpose of obtaining a certificate of permanent settlement, or for the purpose of enabling any such certificate to be obtained, he shall on conviction by a Police Magistrate be liable to a fine not exceeding one hundred rupees; provided that an officer authorized to grant a certificate of permanent settlement may require that the application of any person shall be supported by evidence on oath or affirmation and may administer an oath or affirmation for this purpose and any person who in giving such evidence knowingly swears or affirms anything material to the application which is false or incorrect shall be guilty of the offence of giving false evidence and shall be liable to the penalty provided therefor in the Ceylon Penal Code.

RESTRICTION ON PLURAL VOTING.

Restriction on plural voting.

10.—(1) A person shall be entitled to have his name entered on any register for which he is qualified if he shall have made application for registration in accordance with this Order, but he shall not vote at a general election in more than one electoral district.

(2) If any person at a general election votes in more than one electoral district, or asks for a ballot paper for the purpose of so voting, he shall be guilty of an illegal practice, which shall entail the consequences specified in Article 69.

PART IV.

REGISTRATION OF VOTERS AND REVISION OF REGISTERS.

Confirmation of registers prepared under Order in Council of 1930 and annual revision of registers.

11. The registers of voters prepared and certified in accordance with the Ceylon Constitution (Register of Electors) Order in Council, 1930, with such amendments, if any, as shall have been or shall be made therein by direction of a revising officer in accordance with that Order, shall be the registers of persons entitled to vote for the election of members of the Council until such registers shall have been revised in accordance with this Order. Such registers shall be revised annually in the manner hereinafter prescribed, provided that if any register is not revised in due time, the register in operation immediately before the time at which such revision should have been completed shall continue in operation until the completion of the revision of the same.

Appointment of registering and revising officers.

12.—(1) The Governor shall appoint registering and revising officers for each electoral district and may from time to time appoint one or more persons to assist any registering officer or revising officer in the performance of his duties. A person so appointed to assist any such officer as aforesaid shall have all the powers and may perform all the duties of the officer whom he is appointed to assist, and any reference in this Order to a registering officer or revising officer shall include an assistant registering officer or an assistant revising officer, as the case may be, unless the context otherwise requires.

(2) Persons appointed to be registering officers or revising officers, and persons appointed to assist such officers, under the Ceylon Constitution (Register of Electors) Order in Council, 1930, shall be deemed to have been appointed under this Article.

(3) An appointment made or deemed to have been made by the Governor under this Article may be revoked by him at any time.

Notice of revision of registers.

13. On or before the first day of August in each year, the Governor shall cause a notification to be published in the *Government Gazette*, and in one or more newspapers circulating in the Island, calling upon every person qualified to be registered and not already registered in any register of voters and desirous of having his name inserted in any such register, or being registered in respect of a qualification which has ceased to have effect and being desirous of having his name entered on the register in respect of some other qualification, to forward his application to the registering officer of the electoral district in which the applicant resides so as to reach the registering officer on or before the fifteenth day of September next following.

Application for registration.

14.—(1) Every application shall be in such form as the Governor may prescribe, and shall give an address within the Island at which an acknowledgment of the receipt of the application may be delivered in the ordinary course of post, and shall be signed by the applicant in the presence of a person who is able to read and write English, Sinhalese, or Tamil, and is not less than twenty-one years of age. Such person shall sign the application as a witness to the signature of the applicant or of the applicant's mark where the applicant is unable to sign his name. An application for registration as a voter shall not be liable to stamp duty.

(2) The registering officer shall without delay cause an acknowledgment of every application received by him within the period prescribed by Article 13 to be sent by ordinary letter post to the address given by the applicant in his application.

(3) Not more than one form of application for registration at any one revision of a register may be forwarded to the registering officer in respect of the same person, provided that if, in the case of any application, the acknowledgment required by the preceding clause of this Article shall not have been delivered at the address given in the application within a reasonable time after the application shall have been forwarded to the registering officer, another form of application may be forwarded in respect of that applicant.

(4) Nothing in this Article shall be deemed to extend the period for application prescribed by Article 13.

15.—(1) Each registering officer shall on or before the fifteenth day of October in each year revise the register of voters of his electoral district.

Period for revision of registers and duties of registering officers.

(2) In revising the register, the registering officer shall insert therein the name of every person from whom he shall have received within the time prescribed by Article 13 an application made in accordance with the requirements of Article 14 and who appears to the registering officer to be entitled to have his name inserted in the register, and shall expunge from the register the name of any person who is dead or has become disqualified or no longer resides in the electoral district. The registering officer may also correct any mistake or supply any omission which appears to have been made in the register, provided that he shall not insert therein the name of any person from whom an application made in accordance with the requirements of Article 14 shall not have been received by him within the time prescribed by Article 13.

(3) A registering officer who rejects the application of any person to have his name entered on the register of voters, or expunges the name of any person from the register on the ground of disqualification or non-residence, shall give such person written notice of the fact.

(4) For the purpose of satisfying himself as to the qualification of any applicant for registration, or in order to determine whether the name of any person should be retained on the register or expunged therefrom, a registering officer may make such inquiries as he may deem necessary either by himself or through any officer appointed by him.

16. On the completion of a revised register, the registering officer shall give notice in the *Government Gazette*, and in one or more newspapers circulating in the electoral district, that the revised register is completed, and that the register, or a copy thereof, is open for inspection at all reasonable hours of the day at the Kachcheri or other office of the registering officer of the electoral district to which the register relates, or at such other place in the district as shall be specified in the notice.

Notice of completion of registers.

17.—(1) Every person who is qualified and has made application in accordance with this Order to have his name entered in a register of voters and whose name has been omitted from such register, or whose name has been expunged from a register, and who claims to have it inserted therein (in this Order called "the claimant"), may apply to the registering officer to have his name inserted therein.

Hearing of claims and objections by registering officer.

(2) Every person whose name appears in the register for any electoral district, who objects to the name of any other person or his own name appearing therein (in this Order called "the objector"), may apply to the registering officer to have such name expunged from the register.

(3) Every such claim or objection shall be made in writing and shall reach the registering officer within two weeks from the date of the publication in the *Government Gazette* of notice that the revised register has been completed, and shall be either in the form A or in the form B in the Second Schedule to this Order, as the case may require, or in such other form as the Governor may prescribe.

(4) The registering officer shall hold a public inquiry into all claims and objections which have been duly made, giving not less than twelve clear days' written notice of the date on which the inquiry will commence to each claimant and objector and to each person in regard to whom objection has been made, and shall affix such notice in a conspicuous place in the Kachcheri or other office of the registering officer.

(5) The registering officer shall insert in the register the name of every claimant who shall have complied with the provisions of this Order and whose claim shall have been proved to the registering officer's satisfaction.

(6) The registering officer shall retain in the register the name of every person in regard to whom objection has been made, unless the objector appears by himself, or by some person duly authorized by him in writing in this behalf, in support of the objection and gives *prima facie* proof of the ground of objection. For the purposes of this provision, *prima facie* proof shall be deemed to be given by an objector if it is shown to the satisfaction of the registering officer by evidence, repute, or otherwise, that there is reasonable ground for believing that the objection is well-founded, and that by reason of the absence from the inquiry of the person to whom the objection relates, or for some other reason, the objector is prevented from discovering or proving the truth respecting the objection.

(7) Where the objector so appears and gives such proof as aforesaid, the registering officer shall require proof of the qualification of the person to whom the objection relates, and if within such reasonable time as the registering officer fixes in this behalf such person's qualification is not proved to the registering officer's satisfaction, he shall expunge such person's name from the register.

(8) The claimant must appear in person in support of his claim. It shall be in the discretion of the registering officer whether to require or not to require the attendance of a person in regard to whom objection has been made.

(9) If an objection is made and fails, and, in the opinion of the registering officer, or of the revising officer at the hearing of an appeal under the next succeeding Article, the objection was frivolous and was made without reasonable cause, the registering officer or revising officer may, if he thinks fit, order the objector to pay to the person to whom the objection relates such sum not exceeding fifty rupees as the registering officer or revising officer considers reasonable compensation for any loss of time incurred by such person in consequence of the objection. Any sum so awarded shall be recoverable as though the order of the registering officer or revising officer were a decree of court.

Appeals to revising officer.

18.—(1) If any claimant, or any person to whom an objection relates, or any objector is dissatisfied with the decision of the registering officer, he may, within ten days from the date thereof, appeal to the revising officer.

(2) Every such appeal shall be in writing, and shall state shortly the grounds of appeal. The revising officer shall hear such appeals in open court or office, giving notice of the dates of the hearing of the appeal to the parties concerned. It shall be in his discretion whether to hear or not to hear any evidence. His determination of the appeal shall be final and conclusive.

(3) When the revising officer has determined any appeal which has been lodged with respect to any register, he shall forward to the registering officer a statement under his hand of the name or names which he has decided shall be inserted in or expunged from the register, and the registering officer shall amend the register accordingly.

Notices by registering and revising officers and adjournments.

19.—(1) Subject to the provisions of Article 14, all notices required to be given by a registering officer or a revising officer shall be sufficiently given if sent by registered letter to the address, if any, given in the claim or objection, or, in default of such address, to the address given in the register of voters.

(2) A registering or revising officer may from time to time adjourn any proceedings before him under this section to any convenient time and place.

Certification of revised registers.

20. The registering officer shall certify the register revised in accordance with this Order as soon as conveniently may be after the claims and objections have been adjudicated upon; provided that the registering officer may certify the register in accordance with this Article during the pendency of any appeal under Article 18 of this Order, and shall thereafter insert in or expunge from such certified register the name of any person in accordance with the decision of the revising officer on the determination of such appeal.

Notice of certification of register and commencement and period of operation.

21.—(1) On the certification of a register under the last preceding Article the registering officer shall give notice in the *Government Gazette* and in one or more newspapers circulating in the electoral district that the register has been certified, and that such register, or a copy thereof, is open for inspection at all reasonable hours of the day at the *Kachcheri* or other office of the registering officer of the electoral district to which the register relates, or at such other place in the district as shall be specified in the notice.

(2) The revised register shall come into operation upon the date of the publication of the notice aforesaid and, subject to such alterations, if any, as shall subsequently be made therein in accordance with Article 20, such register shall continue in operation until superseded by the next revision of the same.

Penalty for false statements and wrongful claims.

22. If any person shall wilfully make a false statement or declaration in any application for registration or in any attestation of any such application or in any claim or objection or at any inquiry held in connection therewith, or in any appeal, or shall knowingly forward to a registering officer a second or subsequent application for registration in breach of the provisions of Article 14, he shall, on conviction by a Police Magistrate, be liable to a fine not exceeding one hundred rupees.

Provided that a registering officer or revising officer may, on the consideration or hearing of any application, claim, objection, or appeal, require that the evidence tendered by any person shall be given on oath or affirmation and may administer such oath or affirmation for this purpose; and any person, who in the course of any such consideration or hearing, knowingly swears or affirms anything material to the validity of such claim or objection which is false or incorrect, shall be guilty of the offence of giving false evidence, and shall be liable to the punishment provided therefor in the Ceylon Penal Code.

PART V.

ELECTIONS.

General Provisions.

When first and subsequent general elections and by-elections shall be held.

23.—(1) Within two months after the date when the Legislative Council constituted under the Ceylon (Legislative Council) Order in Council, 1923, and any Order in Council amending that Order shall have been dissolved after the commencement of this Order, the Governor shall by Proclamation in the *Government Gazette* order that a general election shall be held for the purpose of electing members of the State Council.

(2) Within two months after every dissolution of the State Council, the Governor shall by Proclamation in the *Government Gazette* order that a general election of elected members of the Council shall be held.

(3) Whenever it is shown to the satisfaction of the Governor that the seat of an elected member has become vacant, the Governor shall within one month, by notice in the *Government Gazette*, order that an election shall be held to fill the vacancy.

(4) Every such Proclamation or notice as aforesaid shall specify the date, not being less than fourteen days or more than one month after the publication of the Proclamation or notice, when candidates for election are to be nominated, and the place or places of nomination.

24.—(1) The Governor shall from time to time by notice in the *Government Gazette* appoint a fit and proper person to be the returning officer of each electoral district, and may at any time revoke any such appointment.

Returning officers.

(2) If any returning officer shall, by sickness or other cause, be prevented or disabled from performing any of his duties under this Order, and there shall not be time for another person to be appointed by the Governor, the returning officer may appoint a deputy to act for him. Every such appointment shall as soon as possible be reported to the Governor and may be confirmed or disallowed by the Governor, but without prejudice to the validity of anything already done by such deputy.

25.—(1) Any person eligible for election to the Council may be nominated as a candidate for election.

Nomination papers.

(2) (a) Each candidate shall be nominated by means of one or more separate nomination papers each signed by two persons, whose names are on the register of voters for the electoral district for which the candidate seeks election, as proposer and seconder respectively.

(b) The written consent of the candidate must be annexed to, or endorsed on, the nomination paper.

(3) The signature of the proposer and seconder shall be attested by a Justice of the Peace or by a notary public.

(4) Every nomination paper shall, save as provided in this Article, be in the form in the Third Schedule hereto, or in such other form as the Governor may prescribe.

(5) The returning officer shall, at any time between the date of the Proclamation or notice published under Article 23 and one o'clock in the afternoon of the day of nomination, supply a form of nomination paper to any registered voter requiring the same; but nothing in this Order shall render obligatory the use of a nomination paper supplied by the returning officer, so, however, that the paper used be substantially in the form prescribed by, or in accordance with, this Order.

26.—(1) A candidate or someone on his behalf shall deposit, or cause to be deposited, with the returning officer, between the date of the Proclamation or notice published under Article 23 and one o'clock in the afternoon of the day of nomination, the sum of one thousand rupees, and, if he fails to do so, he shall be deemed to have withdrawn from his candidature under Article 30. The returning officer shall forthwith pay the said sum to the Financial Secretary, or to such other person as the Financial Secretary shall direct, in order that it may be dealt with in accordance with the provisions of this Order.

Deposits by candidates.

(2) If a candidate is not nominated as a candidate for election, or if, after the deposit is made, the candidate withdraws from the candidature under Article 30, the deposit shall be returned to the person by whom the deposit was made; and, if the candidate dies after the deposit is made, and before the poll is commenced, the deposit, if made by him, shall be returned to his legal personal representative, or if not made by him shall be returned to the person by whom the deposit was made.

(3) If a candidate who has made the required deposit is not elected, and the number of votes polled by him does not exceed one-eighth of the total number of votes polled, the amount deposited shall be forfeited to His Majesty, but in any other case that amount shall be returned to the candidate, where the candidate is elected, as soon as he has taken the oath or made affirmation as a member, and, where the candidate is not elected, as soon as practicable after the result of the election is declared.

(4) Notwithstanding anything contained in this Article, where a candidate is nominated, at a general election, in more than one electoral district, he shall in no case recover his deposit more than once, and in such case the deposits shall be forfeited to His Majesty, except, if the candidate has for any electoral district obtained the required number of votes, such one deposit as the Governor directs and such deposit shall be returned to the candidate.

(5) For the purposes of this Article the number of votes polled shall be deemed to be the number of votes counted other than rejected votes.

27.—(1) The returning officer shall on the day appointed for the nomination of candidates (in this Order called "nomination day") attend at the place where the nomination of candidates is to take place (in this Order called the "place of nomination") from 12 noon until 1 P.M. to receive nomination papers.

Proceedings on nomination day.

(2) Every nomination paper must be delivered to the returning officer together with a true copy thereof on the day and at the place and between the hours aforesaid by the candidate or by his proposer or seconder, and, if not so delivered, shall be rejected.

(3) The returning officer shall forthwith cause a copy of the nomination paper to be posted in a conspicuous position outside the place of nomination.

(4) The returning officer shall permit the candidates and their proposers and seconders and one other person, if any, appointed by each candidate in writing to be present on the day and at the place of nomination between 12 noon and 1.30 P.M., and there and then to examine the nomination papers of candidates which have been received for that electoral district.

Objections to nomination papers.

28.—(1) Objection may be made to a nomination paper on all or any of the following grounds but on no other ground, viz. :—

- (a) that the description of the candidate is insufficient to identify the candidate;
- (b) that the nomination paper does not comply with or was not delivered in accordance with the provisions of this Order;
- (c) that it is apparent from the contents of the nomination paper that the candidate is not capable of being elected a member of the Council; and
- (d) that the provisions of Article 26 of this Order, which relates to deposits, have not been observed.

(2) No objection to a nomination paper shall be allowed unless it is made to the returning officer between the hours of 12 noon and 1.30 P.M. on the nomination day.

(3) Every objection shall be in writing signed by the objector and shall specify the ground of objection. The returning officer may himself lodge an objection.

(4) The returning officer shall with the least possible delay decide on the validity of every objection and inform the candidate concerned of his decision, and, if the objection is allowed, of the grounds of his decision. His decision if disallowing the objection shall be final; but if allowing the objection shall be subject to reversal on an election petition.

Who may be present at nominations.

29. No person, other than the returning officer, the candidates and their respective proposers and seconders and one other person, if any, selected by each candidate shall, except with the consent of and for the purpose of assisting the returning officer, be entitled to be present at the proceedings specified in the two preceding Articles.

Withdrawal of candidature.

30.—(1) A candidate may before one o'clock on the nomination day, but not afterwards, withdraw his candidature by giving a notice to that effect signed by him to the returning officer.

(2) The returning officer shall forthwith cause notice of such withdrawal to be posted in a conspicuous position outside the place of nomination.

Uncontested Elections.

Uncontested election.

31. If at 1 P.M. on nomination day in any electoral district and after deciding any objections which have been or may be lodged, not more than one candidate stands nominated for that district, the returning officer shall forthwith declare the nominated candidate to be elected and report the result to the Legal Secretary, who shall cause a notification thereof to be published in the *Government Gazette*.

Contested Elections.

Contested election.

32.—(1) If at the hour aforesaid and after deciding any objections which have been or may be lodged, more than one candidate stands nominated for the electoral district, the returning officer shall forthwith adjourn the election to enable a poll to be taken in accordance with the provisions of this Order and shall allot to each candidate a colour by which the ballot box for the reception of ballot papers in favour of such candidate shall be distinguished at the poll.

(2) Immediately after such adjournment the returning officer shall report to the Legal Secretary that the election is contested and shall send him copies of the nomination papers and a statement of the colour allotted to each candidate, and the Legal Secretary shall notify the Governor of the facts so reported to him.

(3) Upon the receipt of such notification, the Governor shall cause to be published in the *Government Gazette*, and also in such newspapers as the Governor shall think fit, a notice specifying—

- (a) the electoral district in which the election is contested;
- (b) the date on which the poll will be taken, such date being not less than four or more than eight weeks after the date of publication of the notice in the *Government Gazette*;

- (c) the names of the candidates as described in their respective nomination papers and the colour allotted to each, and the names of their proposers and seconders;
- (d) the situations of the polling stations and the areas of residence or the numbers of the voters on the register of voters allotted to each polling station and the particular polling stations, if any, allotted to such female voters as the notice shall specify.

(4) If after an election has been reported as contested, one of the candidates nominated shall die before the poll has commenced, the Governor shall, upon being satisfied of the fact of such death, countermand the notice for the poll, and shall appoint in manner prescribed by Article 23 of this Order a fresh date for the election. In such case, all proceedings with reference to the election shall be commenced afresh, provided that no fresh nomination shall be necessary in the case of a candidate who stood nominated at the time of the countermand of the poll.

33.—(1) Subject to the general or special directions of the Governor, each returning officer shall appoint, and may revoke the appointment of one or more persons, hereinafter called presiding officers, to preside at each polling station in his electoral district. If more than one presiding officer is appointed for any polling station, the returning officer may appoint one of the presiding officers to be the senior presiding officer who shall exercise general supervision over the other presiding officers, and over all arrangements for the conduct of the poll in that station. Each presiding officer shall be supplied with a copy of that part of the register of voters containing the names of voters on such register assigned to his polling station.

Presiding Officers.

(2) If any presiding officer shall, by sickness or other cause, be prevented from acting at any election, and there shall not be time for another person to be appointed by the returning officer, the presiding officer may appoint a deputy to act for him. Every such appointment shall as soon as possible be reported to the returning officer and may be confirmed or disallowed by the returning officer, but without prejudice to the validity of anything already done by such deputy.

(3) The returning officer may, if he thinks fit, preside at any polling station, and the provisions of this Order relating to a presiding officer shall apply to such returning officer with the necessary modifications as to things to be done by the returning officer in regard to the presiding officer, or by the presiding officer in regard to the returning officer.

34.—(1) It shall be the duty of the returning officer to provide at each polling station reasonable facilities for the voters allotted to such station to enable them to vote in accordance with the provisions of this Order, and he shall determine, or may authorize the presiding officer to determine, in what manner such facilities shall be distributed among the voters entitled to vote at such station.

Duty of returning officer to provide facilities at polling stations.

(2) An election shall not be questioned by reason of non-compliance with this Article or any informality relative to polling stations.

35. The register of voters in operation in accordance with this Order at the time of any election of a member to represent the electoral district to which the register relates shall be conclusive evidence for the purpose of determining whether a person is or is not entitled to vote at such election, and the right of voting of any person whose name is for the time being contained in such register shall not be prejudiced by any appeal pending before a revising officer in respect of the inclusion of such person's name in the register, and any vote given by any such person during the pendency of any such appeal shall be as good as though no such appeal were pending and shall not be affected by the subsequent decision of the appeal, provided that if any person, who by reason of his conviction of a corrupt practice or an illegal practice or by reason of the report of an election judge in accordance with the provisions of this Order, is incapable of voting at the election, shall vote at the election, he shall on summary conviction by a Police Magistrate be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for any period not exceeding six months; and provided further that nothing in this Article shall affect the liability of any person to any penalty for an infringement of the provisions of Article 10 relating to plural voting.

Registers of voters to be conclusive evidence of right to vote.

36.—(1) No person shall be admitted to vote at any polling station except the one allotted to him; provided that where a voter for any electoral district is employed as a presiding officer, police officer, or in any other official capacity at a polling station, and it is inconvenient for him to vote at the polling station in such district which has been allotted to him, the returning officer may authorize the voter, by a certificate under his hand, to vote at any other polling station in the district, and that polling station shall, for the purposes of this Article, be deemed to be the polling station allotted to such voter.

Admittance to polling station.

(2) Such certificate shall be given under the hand of the returning officer, and shall state the name of the voter, his number, and description on the register of voters, and the fact that he is so employed as aforesaid.

(3) Unless the Governor, by notification in the *Government Gazette*, appoint any other hour, the poll in any electoral district shall open at eight o'clock in the forenoon of the day appointed by the Governor under Article 32 and shall close at five o'clock in the afternoon of that day.

(4) The presiding officer shall keep order in his station, and shall regulate the number of voters to be admitted at a time, and shall exclude all other persons, except the candidates, the polling agent or agents of each candidate, the police officers on duty, and other persons officially employed at the polling station.

Provided that the Governor may by notice published in the *Government Gazette*, order that in the case of any polling station reserved exclusively for the use of female voters, no male polling agents shall be admitted to the station during the hours of polling.

(5) If any person misconducts himself in the polling station, or fails to obey the lawful orders of the presiding officer, he may immediately, by order of the presiding officer, be removed from the polling station by any police officer in or near that station, or by any other person authorized in writing by the presiding officer or by the returning officer to remove him; and the person so removed shall not, unless with the permission of the presiding officer, again be allowed to enter the polling station during the day.

Any person so removed as aforesaid, if charged with the commission in such station of any offence, may be kept in custody until he can be brought before a Police Magistrate.

Provided that the powers conferred by this Article shall not be exercised so as to prevent any voter who is otherwise entitled to vote at any polling station from having an opportunity of voting at such station.

37.—(1) At each polling station there shall be such number of compartments for the reception of ballot boxes as the returning officer shall consider sufficient for the voters allotted to such station. In each compartment there shall be one ballot box for each candidate for election and each compartment shall be so constructed, and the ballot boxes shall be so placed therein, that a voter can insert his ballot paper in any of the boxes in such compartment without being observed by any other person.

(2) Each candidate's box shall be clearly marked with his name in English, Sinhalese, and Tamil, and shall be coloured with the colour allotted to the candidate by the returning officer in accordance with Article 32.

(3) Outside each polling station there shall be affixed in a conspicuous place by the presiding officer before the commencement of the poll a notice showing the name of each candidate in English, Sinhalese, and Tamil, and the colour with which his ballot box is coloured.

(4) Every ballot box shall be so constructed that the ballot papers can be introduced therein, but cannot be withdrawn therefrom unless the box is unlocked.

(5) The presiding officer, immediately before the commencement of the poll, shall show each ballot box, for use at his polling station, empty to such persons, if any, as may be present in the polling station, so that they may see that it is empty, and shall then lock it up and place his seal upon it in such a manner that it cannot be opened without breaking the seal, and shall place it in one of the compartments for the receipt of ballot boxes, in accordance with sub-clause (1) of this Article.

38.—(1) A ballot paper shall be in such form as the Governor may prescribe. Each ballot paper shall have a number printed on the back, and shall have attached a counterfoil with the same number printed on the face.

(2) The ballot paper shall be delivered to the voter by the presiding officer or a person acting under his authority. Immediately before the ballot paper is delivered to the voter it shall be marked on both sides with the official mark either stamped or perforated; and the number, name and description of the voter, as stated in the copy of the register of voters, shall be called out, and the number of such elector shall be marked on the counterfoil, and a mark shall be placed in the register against the number of the elector to denote that he has received a ballot paper, but without showing the particular ballot paper which he has received.

39.—(1) The voter on receiving a ballot paper shall forthwith proceed to such one of the compartments containing ballot boxes as may be indicated by the presiding officer or by any person acting under such officer's authority, and shall insert his ballot paper in the box allotted to the candidate whom he prefers. He shall vote without undue delay and shall quit the polling station as soon as he has put his ballot paper into a ballot box.

(2) The presiding officer, or any person authorized by the presiding officer, on the application of a voter who, in his opinion, is incapacitated by blindness or other physical cause from voting in the manner prescribed by this Order, may give, or may direct any other person to give, such assistance to the voter as he may require to enable him to vote in accordance with this Order.

(3) The presiding officer, or any person authorized by the presiding officer, may if he thinks fit, on the application of any voter, explain to the voter the method of voting in accordance with this Order, but in so doing he shall carefully abstain from any action which might be construed by the voter as advice or a direction to vote for any particular candidate.

(4) The presiding officer may at any time while a poll is proceeding enter any compartment where ballot boxes have been placed and may take such steps as may be necessary to ensure that the boxes remain ready for the reception of ballot papers in accordance with the provisions of this Order, and that no voter delays unduly in any such compartment and that not more than one voter is in any such compartment at a time.

Ballot Boxes.

Ballot papers.

Manner of voting.

40.—(1) The presiding officer at any polling station may in his discretion require any voter before he is given a ballot paper to make and subscribe all or any of the following declarations (which shall be exempt from stamp duty), viz:—

Voter may be required to make declarations.

First.—“ I (*name in full*), of (*address*), hereby declare that I am the same person whose name appears as A. B. on the register of voters now in force for this electoral district.”

Declared before me this _____ day of _____ 19 _____
(Signature or mark of voter).

(Signature of Presiding Officer).

Second.—“ I (*name in full*), of (*address*), hereby declare that I have not already voted either here or elsewhere at this election for the election of a member for this electoral district.”

Declared before me this _____ day of _____ 19 _____
(Signature or mark of voter).

(Signature of Presiding Officer).

and

Third.—When the election is a general election—“ I (*name in full*), of (*address*), hereby declare that I have not already voted at this general election in any other electoral district.”

Declared before me this _____ day of _____ 19 _____
(Signature or mark of voter).

(Signature of Presiding Officer).

(2) If any person refuses to make any such declaration, the presiding officer may refuse to give him a ballot paper.

(3) If any person wilfully makes a false statement in any such declaration, he shall be guilty of a summary offence and shall be liable on conviction by a Police Magistrate to a fine not exceeding five hundred rupees or to imprisonment of either description for any term not exceeding six months.

41. A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used as a ballot paper may, on delivering to the presiding officer the ballot paper so inadvertently dealt with, and proving the fact of the inadvertence to the satisfaction of the presiding officer, obtain another ballot paper in the place of the ballot paper so delivered up (in this Order called a “spoilt ballot paper”), and the spoilt ballot paper shall be immediately cancelled.

Spoilt ballot papers.

42. If a person representing himself to be a particular voter named on the register applies for a ballot paper after another person has voted as such voter, the applicant shall, on making and subscribing a declaration (which shall be exempt from stamp duty) in the form hereinafter provided, be entitled to receive a ballot paper and to vote in the same manner as any other voter, but the ballot paper (in this Order called a “tendered ballot paper”) shall be of a colour different from the other ballot papers, and, before being placed in a ballot box, shall be endorsed by the presiding officer with the name of the voter and his number in the register of voters, and the name of the voter and his number in the register shall be entered on a list in this Order called the “tendered votes list.” Tendered ballot papers shall be dealt with in the manner hereinafter provided.

Tendered Votes.

FORM OF DECLARATION.

I, A. B., of _____ in the electoral district of _____ solemnly and sincerely declare that I am the same person whose name appears as A. B., No. _____ in the register of voters for the said electoral district.

(Signature or mark), A. B.

Witness: C. D.,
Presiding Officer.

43. No ballot paper shall be delivered to a voter after the hour fixed for closing the poll. But if at the hour aforesaid there is in the polling station any voter to whom a ballot paper has been delivered, such voter shall be allowed to record his vote.

Closing of poll.

44.—(1) The presiding officer of each polling station, as soon as practicable after the close of the poll, shall, in the presence of the candidates or their polling agents, if desirous of being present, make up into separate packets, sealed with his own seal and the seals of the candidates or their agents if they desire to affix their seals—

Procedure on closing of poll.

- (a) The unused and spoilt ballot papers placed together;
- (b) The marked copies of the register of voters and the counterfoils of the ballot papers; and
- (c) The tendered votes list.

(2) The ballot boxes unopened shall be secured by the presiding officer and sealed with his seal and with the seals of the candidates or their agents, if they desire to affix their seals, in such manner that the boxes cannot be opened and nothing can be inserted therein without breaking the seals.

(3) The presiding officer shall despatch each such packet and the ballot boxes in safe custody to the returning officer.

Counting votes.

45.—(1) Each candidate may appoint an agent to attend the counting of the votes, provided that written notice of the name and address of the agent so appointed shall be given by the candidate to the returning officer.

(2) The returning officer shall make arrangements for counting the votes in the presence of each candidate or of his agent as soon as practicable after he has received all the ballot boxes relating to any electoral district, and for that purpose shall give notice in writing to each candidate, or, if the candidate has appointed an agent, to such agent, of the time and place at which he will begin to count the votes.

(3) The returning officer, his assistants and clerks, and the candidates and their agents but no other person, except with the sanction of the returning officer, may be present at the counting of the votes.

(4) The votes shall be counted in accordance with the following provisions. All the ballot boxes allotted to a particular candidate shall be placed together and separated from those allotted to any other candidate and, subject to the provisions of this Article in regard to tendered votes, the counting of all the ballot papers contained in the boxes allotted to the same candidate shall be completed before the counting of the ballot papers contained in the boxes allotted to any other candidate is commenced. The order, as between the candidates, in which the counting of votes shall proceed shall be the alphabetical order of the candidates' names. The returning officer or a person authorized by him shall, in the presence of the candidates or their agents, open each ballot box, and, taking out the papers therein, shall stamp each paper with the name of the candidate to whom the box in which the paper was contained was allotted and shall, subject to the provisions of this Article in regard to tendered votes, count and record the number thereof, and shall seal in a separate packet all the ballot papers in support of each candidate. The returning officer or other person, while counting and recording the number of ballot papers and counting the votes shall keep the ballot papers with their face upwards, and shall take all proper precautions for preventing any person from seeing the numbers printed on the back of such papers.

(5) The returning officer shall endorse "rejected" on any ballot paper which he may reject as invalid.

(6) The returning officer shall not count the tendered ballot papers but shall place them in separate packets according to the candidate whom they support and shall mark each ballot paper and each packet with the name of such candidate and shall seal the packet and retain it, unless it is required for the purposes of an election petition.

(7) When the counting of the votes has been completed, the returning officer shall forthwith declare the candidate to whom the greatest number of votes is given to be elected; provided that upon the application of any candidate or his agent a recount shall be made before the returning officer makes the declaration.

(8) When an equality of votes is found to exist between any candidates, and the addition of a vote would entitle any of the candidates to be declared elected, the determination of the candidate to whom such one additional vote shall be deemed to have been given shall be made by lot in the presence of the returning officer in such manner as he shall determine.

(9) Upon the completion of the counting, and after the result has been declared by him, the returning officer shall seal up the ballot papers and all other documents relating to the election and shall, subject to the provisions of the next succeeding sub-clause, retain the same for a period of six months and thereafter shall cause them to be destroyed, unless otherwise directed by order of the Governor.

(10) A judge of the Supreme Court may make an order that any ballot paper or other document relating to an election be inspected, copied, or produced at such time and place and subject to such conditions as the judge shall deem expedient, but shall not make such an order unless he is satisfied that such inspection, copy, or production is required for the purpose of instituting or maintaining a prosecution or an election petition in connection with the election.

Save as aforesaid, no person shall be allowed to inspect any such ballot paper or document after it has been sealed up in pursuance of sub-clause (9).

Votes to be rejected.

46.—(1) The returning officer shall reject as invalid the following ballot papers only, viz. :—

Any ballot paper—

(a) which is not stamped or perforated with the official mark; or

(b) on which anything, except the number printed on its back, is written or marked by which the voter can be identified.

(2) Before rejecting a ballot paper, the returning officer shall show it to each candidate or his polling agent and hear his views thereon, taking all proper precautions to prevent any person from seeing the number printed on the back of the paper.

(3) The decision of the returning officer whether or not any ballot paper shall be rejected under this Article shall be final and shall not be questioned on an election petition.

47. The returning officer shall without delay report the result of the election to the Legal Secretary, who shall cause the name of the member elected to be published in the *Government Gazette*.

Publication of result in
Gazette.

48. No election shall be invalid by reason of any failure to comply with the provisions contained in this Order relating to elections if it appears that the election was conducted in accordance with the principles laid down in such provisions, and that such failure did not affect the result of the election.

Non-compliance with provisions
of Order.

49.—(1) Every person who—

- (a) forges or fraudulently defaces or fraudulently destroys any nomination paper or delivers to the returning officer any nomination paper knowing the same to be forged; or
- (b) forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper; or
- (c) without due authority supplies any ballot paper to any person; or
- (d) fraudulently puts into any ballot box anything other than the ballot paper which he is authorized by law to put in; or
- (e) fraudulently takes out of the polling station any ballot paper; or
- (f) without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election;

Offences in respect of
nomination papers, &c.

shall be guilty of a summary offence, and be liable on conviction by a Police Magistrate to a fine not exceeding five hundred rupees or to imprisonment of either description for any term not exceeding six months.

(2) Every person who aids or abets or attempts to commit an offence specified in this Article shall be liable to the punishment provided for the offence.

(3) In any prosecution for an offence in relation to the nomination papers, ballot boxes, ballot papers, and marking instruments at an election, the property in such papers, boxes, and instruments may be stated to be in the returning officer at such election as well as the property in the counterfoils.

50.—(1) Every officer, clerk, candidate, and agent authorized to attend at a polling station, or at the counting of the votes, shall, before so attending, make a statutory declaration of secrecy in the form given in the Fourth Schedule to this Order or to the like effect. Such declaration shall be made by the returning officer and by a presiding officer in the presence of a Justice of the Peace and when made by any other person shall be made in the presence of the returning officer or of a Justice of the Peace or of a presiding officer.

Maintenance of secrecy at
elections.

(2) Every officer, clerk, candidate, and agent in attendance at a polling station shall maintain, and aid in maintaining, the secrecy of the voting in such station, and shall not communicate, except for some purpose authorized by law, before the poll is closed, to any person any information as to the name or number on the register of voters of any elector who has or has not applied for a ballot paper or voted at that station, or as to the official mark.

(3) No such officer, clerk, candidate, or agent, and no person whatsoever shall attempt to obtain in the polling station information as to the candidate for whom any voter in such station is about to vote or has voted, or communicate at any time to any person any information obtained in a polling station as to the candidate for whom any voter in such station is about to vote or has voted, or as to the number on the back of the ballot paper given to any voter at such station.

(4) Every officer, clerk, candidate, and agent in attendance at the counting of the votes shall maintain, and aid in maintaining, the secrecy of the voting, and shall not attempt to ascertain at such counting the number on the back of any ballot paper, or communicate any information obtained at such counting as to the candidate for whom any vote is given by any particular ballot paper.

(5) No person, except a presiding officer acting for a purpose authorized by this Order, or a person authorized by the presiding officer and acting for such purpose as aforesaid, shall communicate or attempt to communicate with any voter after such voter shall have received a ballot paper and before he shall have placed the same in a ballot box.

(6) Every person who acts in contravention of the provisions of this Article shall be guilty of a summary offence, and shall be liable on conviction by a Police Magistrate, to a fine not exceeding five hundred rupees, or to imprisonment of either description for any term not exceeding six months.

CORRUPT PRACTICES.

- Personation.** 51. Any person who at an election held under this Order applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead or of a fictitious person, or, who having voted once at any such election, applies at the same election for a ballot paper in his own name, shall be guilty of the offence of personation, which shall be a cognizable offence within the meaning of the Criminal Procedure Code, 1898.
- Treating.** 52.—(1) Any person who corruptly by himself or by any other person, either before, during, or after an election, directly or indirectly, gives or provides, or pays wholly or in part the expense of giving or providing any meat, drink, entertainment, or provision to or for any person, for the purpose of corruptly influencing that person or any other person to give or refrain from giving his vote at the election, or on account of such person or any other person having voted or refrained from voting, or being about to vote or refrain from voting at such election, shall be guilty of the offence of treating.
- (2) Every voter who corruptly accepts or takes any such meat, drink, entertainment, or provision shall also be guilty of the offence of treating.
- Undue influence.** 53. Every person who directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence, or restraint, or inflicts or threatens to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election, or who by abduction, duress, or any fraudulent device or contrivance impedes or prevents the free exercise of the franchise of any voter, or thereby compels, induces, or prevails upon any voter either to give or refrain from giving his vote at any election, shall be guilty of the offence of undue influence.
- Bribery.** 54. The following persons shall be deemed guilty of the offence of bribery:—
- (a) Every person who directly or indirectly by himself or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers, promises, or promises to procure, or to endeavour to procure, any money or valuable consideration to or for any voter, or to or for any person on behalf of any voter or to or for any other person, in order to induce any voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of such voter having voted or refrained from voting at any election under this Order;
 - (b) Every person who, directly or indirectly, by himself or by any other person on his behalf, gives or procures, or agrees to give or procure, or offers, promises, or promises to procure or to endeavour to procure any office, place, or employment to or for any voter or to or for any person on behalf of any voter, or to or for any other person in order to induce such voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of any voter having voted or refrained from voting at any election under this Order;
 - (c) Every person who, directly or indirectly, by himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement, or agreement as aforesaid to or for any person in order to induce such person to procure or endeavour to procure the return of any person as a member of the Council, or the vote of any voter at any election under this Order;
 - (d) Every person who upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement procures or engages, promises or endeavours to procure, the return of any person as a member of the Council, or the vote of any voter at an election under this Order;
 - (e) Every person who advances or pays or causes to be paid any money to or to the use of any other person, with the intent that such money or any part thereof shall be expended in bribery at any election under this Order or who shall knowingly pay or cause to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any such election;
 - (f) Every voter who, before or during any election under this Order, directly or indirectly, by himself or by any other person on his behalf, receives, agrees, or contracts for any money, gift, loan, or valuable consideration, office, place or employment, for himself or for any other person, for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any such election;

- (g) Every person who, after any election under this Order, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or to refrain from voting at any such election.

55.—(1) Any person who commits the offence of personation, treating, undue influence, or bribery, or aids, abets, counsels, or procures the commission of the offence of personation, and any candidate or election agent who knowingly makes the declaration as to election expenses required by Article 67 falsely shall be guilty of a corrupt practice, and shall be liable on conviction by a District Court in the discretion of the court to a fine not exceeding five hundred rupees or to imprisonment of either description for any period not exceeding six months or to both such fine and imprisonment and shall by conviction become incapable for a period of seven years from the date of his conviction of being registered as a voter, or voting at any election under this Order, or of being elected a member, and if at that date he has been elected a member, his election shall be vacated from the date of such conviction.

Punishment and incapacities for corrupt practice.

(2) A prosecution for a corrupt practice shall not be instituted without the sanction of the Attorney-General.

ELECTION AGENT, ELECTION EXPENSES, AND ILLEGAL PRACTICES.

56.—(1) On or before the day of nomination at an election a person shall be named in writing by or on behalf of each candidate as his agent for such election and such person is in this Order referred to as the election agent.

Nomination of election agent.

(2) A candidate may name himself as election agent, and thereupon shall, so far as circumstances admit, be subject to the provisions of this Order, both as a candidate and as an election agent, and any reference in this Order to an election agent shall be construed to refer to the candidate acting in his capacity of election agent.

(3) On or before the day of nomination the name and address of the election agent of each candidate shall be declared in writing by the candidate or some other person on his behalf to the returning officer, and the returning officer shall forthwith, by affixing a notice in a conspicuous place outside his office, give public notification of the name and address of every election agent so declared.

(4) One election agent only shall be appointed for each candidate, but the appointment, whether the election agent appointed be the candidate himself or not, may be revoked and in the event of such revocation or of his death, whether such event is before, during, or after the election, then forthwith another election agent shall be appointed, and his name and address declared in writing to the returning officer, who shall forthwith give public notice of the same in the manner aforesaid.

57. No person shall be appointed election agent who has within seven years previous to such appointment been found guilty of any corrupt practice under this Order.

Person guilty of corrupt practice not to be appointed election agent.

58.—(1) The election agent of a candidate shall appoint every polling agent, clerk, and messenger employed for payment on behalf of the candidate at an election, and hire every committee-room hired on behalf of the candidate, and shall before the opening of the poll inform the presiding officer at each polling station in writing of the name of the polling agent or agents appointed to act at that polling station.

Making of contracts through election agent.

(2) A contract whereby any expenses are incurred on account of or in respect of the conduct or management of an election shall not be enforceable against a candidate at such election, unless made by the candidate himself or by his election agent; provided that inability under this Article to enforce such contract against the candidate shall not relieve the candidate from the consequences of any corrupt or illegal practice committed by his agent.

Payment of expenses through election agent.

59.—(1) Except as permitted by or in pursuance of this Order, no payment and no advance or deposit shall be made by a candidate at an election, or by any agent on behalf of the candidate, or by any other person at any time, whether before, during, or after such election, in respect of any expenses incurred on account of or in respect of the conduct or management of such election, otherwise than by or through the election agent of the candidate; and all money provided by any person other than the candidate for any expenses incurred on account of or in respect of the conduct or management of the election, whether as gift, loan, advance, or deposit, shall be paid to the candidate or his election agent and not otherwise; provided that this Article shall not be deemed to apply to any payment by the returning officer or to any sum disbursed by any person out of his own money for any small expense legally incurred by himself, if such sum is not repaid to him.

(2) A person who makes any payment, advance, or deposit in contravention of this Article or pays in contravention of this Article any money so provided as aforesaid, shall be guilty of an illegal practice.

Period for sending in claims and making payments for election expenses.

60.—(1) Every payment made by an election agent in respect of any expenses incurred on account of or in respect of the conduct or management of an election shall, except where less than twenty rupees, be vouched for by a bill stating the particulars and by a receipt.

(2) Every claim against a candidate at an election or his election agent in respect of any expenses incurred on account of or in respect of the conduct or management of such election, which is not sent in to the election agent within the time limited by this Order, shall be barred and shall not be paid; and subject to such exception as may be allowed in pursuance of this Order, an election agent who pays a claim in contravention of this Article shall be guilty of an illegal practice.

(3) Except as by this Order permitted, the time limited by this Order for sending in claims shall be fourteen days after the day on which the candidate returned is declared elected.

(4) All expenses incurred by or on behalf of a candidate at an election, which are incurred on account of or in respect of the conduct or management of such election, shall be paid within the time limited by this Order and not otherwise; and, subject to such exception as may be allowed in pursuance of this Order, an election agent who makes a payment in contravention of this provision shall be guilty of an illegal practice.

(5) Except as by this Order permitted, the time limited by this Order for the payment of such expenses as aforesaid shall be twenty-eight days after the day on which the candidate returned is declared elected.

(6) Where it has been proved to the satisfaction of the election court by a candidate that any payment made by an election agent in contravention of this Article was made without the sanction or connivance of such candidate, the election of such candidate shall not be void, nor shall he be subject to any incapacity under this Order by reason only of such payment having been made in contravention of this Article.

(7) If the election agent in the case of any claim sent in to him within the time limited by this Order disputes it, or refuses or fails to pay it within the said period of twenty-eight days, such claim shall be deemed to be a disputed claim.

(8) The claimant may, if he thinks fit, bring an action for a disputed claim in any competent court; and any sum paid by the candidate or his agent in pursuance of the judgment or order of such court shall be deemed to be paid within the time limited by this Order, and to be an exception from the provisions of this Order, requiring claims to be paid by the election agent.

(9) On cause shown to the satisfaction of a judge of the Supreme Court, such judge on application by the claimant or by the candidate or his election agent may by order give leave for the payment by a candidate or his election agent of a disputed claim, or of a claim for any such expenses as aforesaid, although sent in after the time in this Article mentioned for sending in claims, or although the same was sent in to the candidate and not to the election agent.

(10) Any sum specified in the order of leave may be paid by the candidate or his election agent, and when paid in pursuance of such leave shall be deemed to be paid within the time limited by this Order.

Remuneration of election agent.

61. So far as circumstances admit, this Order shall apply to a claim for his remuneration by an election agent and to the payment thereof in like manner as if he were any other creditor, and if any difference arises respecting the amount of such claim, the claim shall be a disputed claim within the meaning of this Order, and be dealt with accordingly.

Personal expenses of candidate and petty expenses.

62.—(1) The candidate at an election may pay any personal expenses incurred by him on account of or in connection with or incidental to such election to an amount not exceeding two thousand rupees, but any further personal expenses so incurred by him shall be paid by his election agent.

(2) The candidate shall send to the election agent within the time limited by this Order for sending in claims a written statement of the amount of personal expenses paid as aforesaid by such candidate.

(3) The personal expenses of a candidate include his reasonable travelling expenses, and the reasonable expenses of his living at hotels or elsewhere for the purposes of the election.

(4) Any person may, if so authorized in writing by the election agent of the candidate, pay any necessary expense for stationery, postage, telegrams, and other petty expenses to a total amount not exceeding that named in the authority, but any excess above the total amount so named shall be paid by the election agent.

(5) A statement of the particulars of payments made by any person so authorized shall be sent to the election agent within the time limited by this Order for the sending in of claims, and shall be vouched for by a bill containing the receipt of that person.

Expenses in excess of maximum to be illegal practice.

63.—(1) Subject to such exception as may be allowed in pursuance of this Order, no sum shall be paid and no expense shall be incurred by a candidate at an election or his election agent, whether before, during, or after an election, on account of or in respect of the conduct or management of such election, in excess of seven thousand five hundred rupees or of an amount equal to thirty cents for each voter on the register, whichever amount shall be the larger.

Provided that there shall not be included in such amount any expenditure incurred by the candidate for his personal expenses, nor the fee, if any, paid to the election agent not exceeding one thousand rupees.

(2) Any candidate or election agent who knowingly acts in contravention of this Article shall be guilty of an illegal practice.

64.—(1) No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at any election, be made—

(a) On account of the conveyance of voters to or from the poll, whether for the hiring of vehicles or animals of transport of any kind whatsoever, or for railway fares, or otherwise; or

(b) To or with a voter on account of the use of any house, land, building, or premises for the exhibition of any address, bill, or notice, or on account of the exhibition of any address, bill, or notice.

(2) Subject to such exception as may be allowed in pursuance of this Order, if any payment or contract for payment is knowingly made in contravention of this Article either before, during, or after an election, the person making such payment or contract shall be guilty of an illegal practice, and any person receiving such payment or being a party to any such contract, knowing the same to be in contravention of this Article, shall also be guilty of an illegal practice.

(3) Provided that where it is the ordinary business of a voter as an advertising agent to exhibit for payment bills and advertisements, a payment to or contract with such voter, if made in the ordinary course of business, shall not be deemed to be an illegal practice within the meaning of this Article.

(4) Provided further that where voters are unable at an election to reach their polling stations from their place of residence without crossing the sea or a branch or arm thereof or a river, this Article shall not prevent the provision of means for conveying such voters by sea to their polling stations, or to enable them to cross the river in order to reach their polling stations, and the amount of payment for such means of conveyance may be in addition to the maximum amount of expenses allowed by this Order.

65.—(1) No person shall, for the purpose of promoting or procuring the election of a candidate at any election, be engaged or employed for payment or promise of payment for any purpose or in any capacity whatever, except for the purposes or in the capacities following:—

(a) One election agent and no more;

(b) One polling agent for each polling station for every two thousand voters allotted to such station. If the total number of voters allotted to any polling station is less than 2,000, it shall be reckoned as 2,000. Any excess less than 2,000 left over after dividing the total number of voters allotted to any polling station by 2,000 shall be reckoned as 2,000.

(c) A reasonable number of clerks and messengers, having regard to the area of the electoral district and the number of electors on the register of electors for such district.

(2) Subject to such exception as may be allowed in pursuance of this Order, if any person is engaged or employed in contravention of this Article, either before, during, or after an election, the person engaging or employing him shall be guilty of an illegal practice.

66. The provisions of this Order prohibiting certain payments and contracts for payments, and the payment of any sum, and the incurring of expenses in excess of a certain maximum, shall not affect the right of any creditor, who, when the contract was made or the expense was incurred, was ignorant of the same being in contravention of this Order.

67.—(1) Within thirty-one days after the date of the publication of the result of an election in the *Government Gazette*, the election agent of every candidate at that election shall transmit to the returning officer a return of the election expenses of such person, containing the particulars specified in the Fifth Schedule to this Order, signed both by the candidate and by his election agent.

(2) Every such return shall contain a statement of all payments made by the candidate or by his election agent, or by any persons on behalf of the candidate, or in his interests, for expenses incurred on account of, or in respect of, the conduct and management of the election, and a further statement of all unpaid claims in respect of such expenses, of which he or his election agent is aware.

(3) The return shall be accompanied by declarations by the candidate and his election agent, which shall be in the form contained in the Fifth Schedule to this Order and shall be made on oath or affirmation before a justice of the peace.

(4) If any candidate or election agent acts in contravention of the requirements of this Article, he shall, subject to the provisions of Article 55, be guilty of an illegal practice.

68. When any return of election expenses and the declaration made in respect thereof have been lodged with the returning officer, the returning officer shall, as soon as may be, cause a notice of the date on which the return and declarations in question have been lodged, and of the time and place at which they can be inspected, to be fixed in some conspicuous place in his office and to be published in the *Government Gazette*, and any person shall, on payment of a

Certain expenditure to be illegal practice.

Certain employment to be illegal.

Saving for creditors.

Return and declaration respecting election expenses.

Publication of deposit of return, &c.

Punishment on conviction for illegal practice.

fee of one rupee, be entitled to inspect any such return or declaration and, on payment of thirty-six cents for every folio of one hundred and twenty words, to obtain a copy or copies or of any part thereof.

69.—(1) Any person committing an illegal practice shall on conviction by a District Court be liable to a fine not exceeding three hundred rupees and shall by conviction become incapable during a period of three years from the date of conviction of being registered as a voter or voting at any election and of being elected a member, and if at that date he has been elected a member, his election shall be vacated from the date of such conviction.

(2) A prosecution for an illegal practice shall not be instituted without the sanction of the Attorney-General.

EXCUSE FOR CORRUPT OR ILLEGAL PRACTICE.

Report exonerating candidate in certain cases of corrupt and illegal practice by agents.

70. Where, upon the trial of an election petition respecting an election under this Order, the election judge reports that a candidate at such election has been guilty by his agents of the offence of treating and undue influence, and illegal practice, or of any of such offences, in reference to such election, and the election judge further reports, after giving the Attorney-General an opportunity of being heard, that the candidate has proved to the court—

- (a) That no corrupt or illegal practice was committed at such election by the candidate or his election agent and the offences mentioned in the said report were committed contrary to the orders and without the sanction or connivance of such candidate or his election agent; and
- (b) That such candidate and his election agent took all reasonable means for preventing the commission of corrupt and illegal practices at such election; and
- (c) That the offences mentioned in the said report were of a trivial, unimportant, and limited character; and
- (d) That in all other respects the election was free from any corrupt or illegal practice on the part of such candidate and of his agents;

then the election of such candidate shall not, by reason of the offences mentioned in such report, be void, nor shall the candidate be subject to any incapacity under this Order.

Power of election court to except innocent act from being illegal practice, &c.

71. Where, on application made, it is shown to an election judge or to a judge of the Supreme Court by such evidence as seems to the judge sufficient:—

- (a) That any act or omission of a candidate at any election, or of his election agent or of any other agent or person, would, by reason of being the payment of a sum or the incurring of expense in excess of any maximum amount allowed by this Order, or of being a payment, engagement, employment, or contract in contravention of this Order, or of otherwise being in contravention of any of the provisions of this Order, be but for this Article an illegal practice; and
- (b) That any such act or omission arose from inadvertence or from accidental miscalculations or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith;

and under the circumstances it seems to the judge, after giving the Attorney-General an opportunity of being heard, to be just that the candidate and the said election and other agent and person, or any of them, should not be subject to any of the consequences under this Order of the said act or omission, the judge may make an order allowing such act or omission to be an exception from the provisions of this Order which would otherwise make the same an illegal practice, payment, employment, or hiring, and thereupon such candidate, agent, or person shall not be subject to any of the consequences under this Order of the said act or omission.

Authorized excuse for non-compliance with provisions as to return and declaration respecting election expenses.

72.—(1) Where the return and declarations respecting election expenses of a candidate at an election have not been transmitted as required by this Order, or being transmitted contain some error or false statement, then—

- (a) If the candidate applies to an election judge or a judge of the Supreme Court and shows that the failure to transmit such return and declarations, or any of them, or any part thereof, or any error or false statement therein, has arisen by reason of his illness, or of the absence, death, illness, or misconduct of his election agent or of any clerk or officer of such agent, or by reason of inadvertence or of any reasonable cause, of a like nature, and not by reason of any want of good faith on the part of the applicant; or
- (b) If the election agent of the candidate applies to an election judge or a judge of the Supreme Court and shows that the failure to transmit the return and declarations which he was required to transmit, or any part thereof, or any error or false statement therein, arose by reason of his illness or of the death or illness

of any prior election agent of the candidate, or of the absence, death, illness, or misconduct of any clerk, or officer of an election agent of the candidate, or by reason of inadvertence or of any reasonable cause of a like nature, and not by reason of any want of good faith on the part of the applicant;

the judge may, after such notice of the application, and on production of such evidence of the grounds stated in the application, and of the good faith of the application, and otherwise, as to the judge seems fit, and after giving the Attorney-General an opportunity of being heard, make such order for allowing an authorized excuse for the failure to transmit such return and declaration, or for an error or false statement in such return and declaration, as to the judge seems just.

(2) Where it appears to the judge that any person being or having been election agent has refused or failed to make such return or supply such particulars as will enable the candidate and his election agent, respectively, to comply with the provisions of this Order as to the return and declaration respecting election expenses, the judge before making an order allowing the excuse as in this Article mentioned shall order such person to attend before the judge, and shall, unless he attends and shows cause to the contrary, order him to make the return and declaration, or to deliver a statement of the particulars required to be contained in the return, as to the judge seems just, and to make or deliver the same within such time and to such person and in such manner as the judge may direct, or may order him to be examined with respect to such particulars, and in default of compliance with any such order, such person shall be guilty of an illegal practice.

(3) The order may make the allowance conditional upon the making of the return and declaration in a modified form or within an extended time, and upon the compliance with such other terms as to the judge seems best calculated for carrying into effect the objects of this Order; and an order allowing an authorized excuse shall relieve the applicant for the order from any liability or consequences under this Order in respect of the matter excused by the order; and where it is proved by the candidate to the judge that any act or omission of the election agent in relation to the return and declaration respecting election expenses was without the sanction or connivance of the candidate, and that the candidate took all reasonable means for preventing such act or omission, the judge shall relieve the candidate from the consequences of such act or omission on the part of his election agent.

(4) The date of the order, or if conditions and terms are to be complied with, the date at which the applicant fully complies with them, is referred to in this Order as the date of the allowance of the excuse.

GROUND FOR AVOIDING ELECTIONS.

73. The election of a candidate as a member is avoided by his conviction for any corrupt or illegal practice.

Avoidance by conviction of candidate.

74. The election of a candidate as a member shall be declared to be void on an election petition on any of the following grounds which may be proved to the satisfaction of the election judge, viz. :—

Avoidance of election on election petition.

- (a) That by reason of general bribery, general treating, or general intimidation, or other misconduct, or other circumstances, whether similar to those before enumerated or not, the majority of electors were or may have been prevented from electing the candidate whom they preferred;
- (b) Non-compliance with the provisions of this Order relating to elections if it appears that the election was not conducted in accordance with the principles laid down in such provisions and that such non-compliance affected the result of the election;
- (c) That a corrupt practice or illegal practice was committed in connection with the election by the candidate or with his knowledge or consent or by any agent of the candidate;
- (d) That the candidate personally engaged a person as his election agent, or as a canvasser or agent knowing that such person had within seven years previous to such engagement been found guilty of a corrupt practice by a District Court or by the report of an election judge;
- (e) That the candidate was at the time of his election a person disqualified for election as a member.

PART VI.

ELECTION PETITIONS.

75.—(1) Every election petition shall be tried by the Chief Justice or by a judge of the Supreme Court nominated by the Chief Justice for the purpose.

(2) The Chief Justice or the judge so nominated is, in this Order, referred to as the election judge.

(3) For the purpose of summoning or compelling the attendance of witnesses at the trial of an election petition, the election judge shall have the same power, jurisdiction, and authority as are possessed and exercised by the judge of a District Court in the trial of a civil action and witnesses shall be sworn in the same manner, as near as circumstances will admit, as in the trial of such an action, and shall be subject to the same penalties for the giving of false evidence.

Appointment and powers of election judge.

(4) The election judge shall be attended on the trial of an election petition in the same manner as if he were a judge of the Supreme Court sitting at assizes.

(5) Unless otherwise ordered by the Chief Justice, all interlocutory matters in connection with an election petition may be dealt with and decided by any judge of the Supreme Court.

Who may present petition.

76. An election petition may be presented to the Supreme Court by any one or more of the following persons, viz. :—

- (a) Some person who voted or had a right to vote at the election, to which the petition relates;
- (b) Some person claiming to have had a right to be returned or elected at such election;
- (c) Some person alleging himself to have been a candidate at such election.

Relief which may be claimed.

77. All or any of the following relief to which the petitioner may be entitled may be claimed in an election petition, viz. :—

- (a) A declaration that the election is void;
- (b) A declaration that the return of the person elected was undue;
- (c) A declaration that any candidate was duly elected and ought to have been returned;
- (d) Where the seat is claimed for an unsuccessful candidate on the ground that he had a majority of lawful votes, a scrutiny.

Certificate of judge as to validity of election.

78. At the conclusion of the trial of an election petition the election judge shall determine whether the member whose return or election is complained of, or any other and what person, was duly returned or elected, or whether the election was void; and shall certify such determination to the Governor. Upon such certificate being given, such determination shall be final; and the return shall be confirmed or altered, or the Governor shall by notice under Article 28 appoint another date for the election of a member for the electoral district concerned; as the case may require, in accordance with such certificate.

Report of judge as to corrupt or illegal practice.

79.—(1) At the conclusion of the trial of an election petition the election judge shall also report in writing to the Governor—

- (a) Whether any corrupt or illegal practice has or has not been proved to have been committed by or with the knowledge and consent of any candidate at the election, or by his agent; and the nature of such corrupt or illegal practice; and
- (b) the names and descriptions of all persons, if any, who have been proved at the trial to have been guilty of any corrupt or illegal practice.

(2) Before any person is reported by an election judge under this Article, the election judge shall give such person an opportunity of being heard and of giving and calling evidence to show why he should not be reported.

(3) When an election judge reports that a corrupt or illegal practice has been committed by any person, that person shall be subject to the same incapacities as if at the date of the said report he had been convicted of that practice, and a person shall be subject to the same incapacities if he was a candidate at the election, and the election judge reports that such corrupt or illegal practice was committed with his knowledge and consent or by his agent.

(4) The Governor shall cause a copy of such report to be published in the *Government Gazette*, and it shall be the duty of every registering officer forthwith to peruse the report and forthwith to delete from the register of voters assigned to him the name of any person appearing from the report to be incapable of voting at an election.

Time for presentation.

80.—(1) Every election petition shall be presented within twenty-one days of the date of publication of the result of the election in the *Government Gazette*.

(2) Provided that—

- (a) An election petition questioning the return or election upon the ground of a corrupt practice and specifically alleging a payment of money or other act to have been made or done since the date aforesaid by the member whose election is questioned or by an agent of the member or with the privity of the member or his election agent in pursuance or in furtherance of such corrupt practice may, so far as respects such corrupt practice, be presented at any time within twenty-eight days after the date of such payment or act;
- (b) An election petition questioning the return or the election upon an allegation of an illegal practice may, so far as respects such illegal practice, be presented within the time following, that is to say :—

- (i.) At any time before the expiration of fourteen days after the day of the publication in the *Government Gazette* of the notice required by Article 68 as to the election expenses of the member whose election is questioned;

(ii.) If the election petition specifically alleges a payment of money or other act to have been made or done since the said day by the member whose election is questioned or by an agent of the member or with the privity of the member or of his election agent in pursuance or in furtherance of the illegal practice alleged in the petition, the petition may be presented at any time within twenty-eight days after the date of such payment or other act.

(3) An election petition presented in due time may, for the purpose of questioning the return or election upon an allegation of a corrupt or illegal practice, be amended with the leave of a judge of the Supreme Court within the time within which an election petition questioning the return or election upon that ground may be presented.

(4) For the purposes of this Article, where there is an authorized excuse for failing to make and transmit the return and declarations respecting election expenses, the date of the allowance of the excuse, or if there was a failure in two or more particulars and the excuse was allowed at different times, the date of the allowance of the last excuse shall be substituted for the date of the publication in the *Government Gazette* of the notice mentioned in paragraph (b) of sub-clause (2) of this Article.

81. No voter who has voted at any election shall, in any proceeding to question the election, be required to state for whom he has voted.

82.—(1) On a scrutiny at the trial of an election petition the following votes only shall be struck off, viz.:—

- (a) The vote of any person whose name was not on the register of voters assigned to the polling station at which the vote was recorded or who has not been authorized to vote at such station under Article 36;
- (b) the vote of any person whose vote was procured by bribery, treating, or undue influence;
- (c) the vote of any person who committed or procured the commission of personation at the election;
- (d) where the election was a general election, the vote of any person proved to have voted at such general election in more than one electoral district;
- (e) the vote of any person, who, by reason of a conviction of a corrupt or illegal practice or by reason of the report of an election judge, was incapable of voting at the election;
- (f) votes given for a disqualified candidate by a voter knowing that the candidate was disqualified or the facts causing the disqualification, or after sufficient public notice of the disqualification, or when the disqualification or the facts causing it were notorious.

(2) The vote of a registered voter shall not, except in the case specified in sub-clause (1) (e) of this Article, be struck off at a scrutiny by reason only of the voter not having been or not being qualified to have his name entered on the register of voters.

(3) On a scrutiny, any tendered vote proved to be a valid vote shall, on the application of any party to the petition, be added to the poll.

83.—(1) Subject to the provisions of this Article, the procedure and practice on election petitions shall be regulated by the rules contained in the Sixth Schedule to this Order.

(2) The Governor may from time to time make rules, to be published in the *Government Gazette*, amending, rescinding, or supplementing such rules.

(3) All such rules shall, as soon as conveniently may be, be laid before the Council, and may, at any of the next following three meetings, be rescinded by resolution of the Council, but without prejudice to anything already done thereunder, and if not so rescinded shall be deemed to be valid.

(4) If any matter of procedure or practice on an election petition shall arise which is not provided for by this Order or by such rules, the procedure or practice followed in England on the same matter shall, so far as it is not inconsistent with this Order or any such rules and is suitable for application to the Island, be followed and shall have effect.

84. On an election petition the decision of a returning officer whether or not a ballot paper shall be rejected under Article 46 shall not be questioned.

PART VII. GENERAL.

85. If any difficulty arises in first giving effect to any of the provisions of this Order, the Governor, as occasion may require, may, by Order published in the *Government Gazette*, do anything which appears to him necessary for the purpose of removing the difficulty. The Governor may, by Proclamation in the *Gazette*, within six months from the date of this Order, and provided that His Majesty's approval be previously signified to him through the Secretary of State, vary, annul, or add to any of the provisions of this Order to carry out the purposes of the same.

86. His Majesty hereby reserves to Himself, His Heirs, and Successors, power, with the advice of His or Their Privy Council, to revoke, alter, or amend this Order as to Him or Them shall seem fit.

Prohibition of disclosure of vote.

Votes to be struck off at a scrutiny.

Procedure and practice on election petitions.

Rejection of ballot paper by returning officer to be final.

Power of Governor to make orders to meet difficulties arising under Order.

Power to revoke and amend Order.

M. P. A. HANKEY.

FIRST SCHEDULE.

(Article 9.)

FORM "A."

Certificate of Permanent Settlement.

Government Agent

I, _____, Assistant Government Agent of _____ hereby certify that _____ of _____ is permanently settled in Ceylon or is residing in Ceylon with intent to settle therein.

Signed: _____,
Government Agent.
Assistant Government Agent.

Dated at _____ this _____ day of _____, 193 .

FORM "B."

Form of declaration by Applicant for Certificate of Permanent Settlement.

I, _____, hereby solemnly and sincerely declare that I have been continuously resident in Ceylon for a period of not less than five years exclusive of temporary absences not exceeding eight months in all during such period of five years and that I am permanently settled in Ceylon or am residing in Ceylon with intent to settle therein.

Signed: _____,

Before me _____
Government Agent or
Assistant Government Agent.
(Attesting Officer.)

This _____ day of _____, 193 .

SECOND SCHEDULE.

(Article 17.)

FORM "A"

Form of claim by Person whose Name has been omitted or expunged from the Register.

To the Registering Officer of _____ Electoral District.

I, (Give name, Christian or ge or other names in full; surname or ge name first)..... who possess the residential qualification at (state exact address or addresses of residence in the electoral district AND ALL the following particulars which are applicable).....

in the { Tulana or Wasama or Vidane's division } in the division of

the { Korala or Udayar or Vidane Arachchi } of in the

Chief Headman's division of or in the Ward in the town of

..... in the above-named electoral district, hereby declare that I made due application to the Registering Officer at (State name of Kachcheri or other office of Registering Officer) to have my name entered in the register of voters for the above-named electoral district, and I hereby claim to have my name, which has been omitted, (or expunged,) inserted in the aforesaid register for the registration area of on the following grounds (State grounds of claim):.....

My address for notice is

Dated the day of 19...

(Signature or mark of Claimant.)

Signed or marked by the above-named claimant in my presence this day of 19... at

(Signature of witness.)

(Address of witness.)

FORM "B."

Form of Objection.

To the Registering Officer of the Electoral District.

I, (Give name, Christian or ge or other names in full; surname or ge name first)..... of (Give full postal address) hereby declare that I am registered as a voter in the above-named Electoral District, and object to the name/names of the person/persons mentioned and described below being retained on the register of voters for the above-named Electoral District. The grounds of my objection are specified below.

My address for notice is

Registration area and number of persons objected to.	Name of person objected to.	Place of abode as described in the register.	Ground of objection.

(Signature or mark of objector.)

Dated the day of 19...

Signed or marked by the above-named objector in my presence this day of 19... at

(Signature of witness.)

(Address of witness.)

THIRD SCHEDULE.

(Article 25.)

Form of Nomination Paper.

Nomination Paper for the electoral district.

1. Name of candidate in full

2. Address

3. Occupation

4. Name of proposer in full

5. Name of seconder in full

Signature of proposer

Signed by the above-named (proposer) in my presence
 this day of 19.....

A.B. (a Justice of the Peace or a Notary Public).

Signature of seconder

Signed by the above named (seconder)
 in my presence this day of 19.....

C.D. (a Justice of the Peace or a Notary Public).

FOURTH SCHEDULE.

(Article 50.)

Form of Declaration of Secrecy.

I solemnly promise and declare that I will not at this election for the electoral district do anything forbidden by Article 50 of the Ceylon (State Council Elections) Order in Council, 1931, which has been read to me.

.....

Signature of person taking the declaration. Signature of declarant.
 Date

NOTE.—The Article must be read to the declarant by the person taking the declaration.

FIFTH SCHEDULE.

(Article 67.)

RETURN OF ELECTION EXPENSES.

1. Under the head of receipts there shall be shown the name and description of every person (including the candidate), club, society, or association from whom any money, security, or equivalent of money was received in respect of expenses incurred on account of, or in connection with, or incidental to the election, and the amount received from each person, club, society, or association separately.
2. Under the head of expenditure there shall be shown—
 - (a) The personal expenses of the candidate incurred or paid by him or his election agent.
 - (b) The name, and the rate, and total amount of the pay of each person employed as an agent (including the election agent), clerk, or messenger.
 - (c) The travelling expenses and any other expenses incurred by the candidate or his election agent on account of agents (including the election agent), clerks, or messengers.
 - (d) The travelling expenses of persons, whether in receipt of salary or not, incurred in connection with the candidature and whether paid or incurred by the candidate, his election agent, or the person so travelling.
 - (e) The cost, whether paid or incurred, of—
 - (i.) Printing.
 - (ii.) Advertising.
 - (iii.) Stationery.
 - (iv.) Postage.
 - (v.) Telegrams.
 - (vi.) Rooms hired either for public meetings or as committee-rooms.
 - (f) Any other miscellaneous expenses, whether paid or incurred.

Note.—(1) All expenses incurred in connection with the candidature, whether paid by the candidate, his election agent, or any other person, or remaining unpaid on the date of the return, are to be set out.

(2) For all items of twenty rupees and over, unless from the nature of the case (e.g., travel by rail or postage) a receipt is not obtainable, vouchers have to be attached.

(3) All sums paid but for which no receipt is attached are to be set out in detail with dates of payments.

(4) All sums unpaid are to be set out in a separate list.

FORM OF DECLARATION BY AN ELECTION AGENT.

I,, being appointed election agent for, a candidate for election in the Electoral District, do hereby solemnly affirm (or swear) that the above return of election expenses is true to the best of my knowledge and belief, and that, except the expenses therein set forth, no expenses of any nature whatsoever have to my knowledge or belief been incurred in or for the purposes of candidature.

Solemnly affirmed (or sworn to) before me.

.....
 Election Agent.

.....
 Justice of the Peace.

FORM OF DECLARATION BY CANDIDATE.

I,, being a candidate for election in the Electoral District, do hereby solemnly affirm (or swear) that the above return of election expenses is true to the best of my knowledge and belief, and that, except the expenses therein set forth, no expenses of any nature whatsoever have to my knowledge or belief been incurred in, or for the purposes of, my candidature.

Solemnly affirmed (or sworn to) before me.

.....
 Candidate.

.....
 Justice of the Peace.

SIXTH SCHEDULE.

(Article 83.)

- Citation. 1. These rules may be cited as the Election (State Council) Petition Rules, 1931.
- Interpretation. 2. In these rules, unless the context otherwise requires:—
 "The Order" means the Ceylon (State Council Elections) Order in Council, 1931.
 "Judge" means the Election Judge.
 "Registrar" means the Registrar of the Supreme Court.
- Manner of presentation of petition. 3.—(1) The presentation of an election petition shall be made by delivering it at the office of the Registrar, and the Registrar or the officer of his department to whom the petition is delivered, shall, if required, give a receipt in the following form:—
 Received on the day of 19....., at the Registry of the Supreme Court, a petition touching the election of A. B., member for, purporting to be signed by (insert the names of petitioners).
 C. D.,
 Registrar.
 (or as the case may be).
- Contents and form of election petition. (2) With the petition two copies thereof shall also be left.
 4.—(1) An election petition shall contain the following statements:—
 (a) It shall state the right of the petitioner to petition within Article 76 of the Order.
 (b) It shall state the holding and result of the election, and shall briefly state the facts and grounds relied on to sustain the prayer.
 (2) The petition shall be divided into paragraphs, each of which, as nearly as may be, shall be confined to a distinct portion of the subject, and every paragraph shall be numbered consecutively, and no costs shall be allowed for drawing or copying any petition not substantially in compliance with this rule, unless otherwise ordered by the Court or a Judge.
 (3) The petition shall conclude with a prayer as, for instance, that some specified person should be declared duly returned or elected, or that the election should be declared void, or as the case may be, and shall be signed by all the petitioners.
 (4) The following form, or one to the like effect, shall be sufficient:—
- IN THE SUPREME COURT OF CEYLON.
- The Ceylon (State Council Elections) Order in Council, 1931.
- Election for (state the electoral district) holden on the day of 19.....
- The petition of A., of (or of A., of, and B., of, as the case may be), whose names are subscribed.
- (1) Your petitioner A. is a person who voted (or had a right to vote, as the case may be) at the above election (or claims to have had a right to be returned at the above election, or was a candidate at the above election); and your petitioner B. (here state in like manner the right of each petitioner).
- (2) And your petitioners state that the election was holden on the day of 19....., when A. B., C. D., and E. F. were candidates, and the Returning Officer has returned A. B. as being duly elected.
- (3) And your petitioners say that (here state the facts and grounds on which the petitioners rely).
- Wherefore your petitioners pray that it might be determined that the said A. B. was not duly elected or returned, and that the election was void (or that the said E. F. was duly elected and ought to have been returned, or as the case may be).
- (Signed) A.
 B.
- Evidence not to be stated in petition. 5. Evidence need not be stated in the petition, but the Judge may, upon application in writing Particulars. by a respondent, order such particulars as may be necessary to prevent surprise and unnecessary expense, and to ensure a fair and effectual trial upon such terms as to costs and otherwise as may be ordered.
- Where more than one petition are presented in relation to same election. 6. Where more petitions than one are presented relating to the same election or return, all such petitions shall be dealt with as one petition, so far as the inquiry into the same is concerned.
- List of votes objected to where seat claimed by unsuccessful candidate. 7. When a petitioner claims the seat for an unsuccessful candidate, alleging that he had a majority of lawful votes, the party complaining of or defending the election or return shall, six days before the day appointed for trial, deliver to the Registrar, and also at the address, if any, given by the petitioners and respondent, as the case may be, a list of the votes intended to be objected to, and of the heads of objection to each such vote, and the Registrar shall allow inspection and office copies of such lists to all parties concerned; and no evidence shall be given against the validity of any vote, nor upon any head of objection not specified in the list, except by leave of the Judge, upon such terms as to amendment of the list, postponement of the inquiry, and payment of costs, as may be ordered.
- List of objections in recriminatory case. 8. The respondent in a petition complaining of an undue return and claiming the seat for some person may lead evidence to prove that the election of such person was undue, and in such case such respondent shall, six days before the day appointed for trial, deliver to the Registrar, and also at the address, if any, given by the petitioner, a list of the objections to the election upon which he intends to rely; and the Registrar shall allow inspection and office copies of such lists to all parties concerned; and no evidence shall be given by a respondent of any objection to the election not specified in the list, except by leave of the Judge, upon such terms as to amendments of the list, postponement of the inquiry, and payments of costs, as may be ordered.
- Appointment of agent by petitioner. 9. With the petition the petitioner or petitioners shall leave at the office of the Registrar a writing, signed by him or them, giving the name of some person entitled to practise as a proctor of the Supreme Court whom he or they authorize to act as his or their agent or stating that he or they act for himself or themselves, as the case may be, and in either case giving an address within the city of Colombo at which notices may be left; and if no such writing be left or address given, then notice of objection to the recognizance in respect of security for costs as hereinafter provided and all other notices may be given by leaving the same at the office of the Registrar.
- Appointment of agent by respondent. 10. Any person returned as a member may at any time, after he is returned, send or leave at the office of the Registrar a writing, signed by him on his behalf, appointing a person entitled to practise as a proctor of the Supreme Court to act as his agent in case there should be a petition against him, or stating that he intends to act for himself, and in either case giving an address within the city of Colombo at which notices addressed to him may be left, and if no such writing be left or address given, all notices and proceedings may be given or served by leaving the same at the office of the Registrar.

11. The Registrar shall cause to be kept a book at his office in which shall be entered all addresses and the names of agents given under either of the two last preceding rules, which book shall be open to inspection by any person during office hours.

Registrar to keep books with addresses and names of agents.

12.—(1) At the time of the presentation of the petition, or within three days afterwards, security for the payment of all costs, charges, and expenses that may become payable by the petitioner shall be given on behalf of the petitioner.

Security by petitioner for costs, &c., of election petition.

(2) The security shall be to an amount of not less than five thousand rupees. If the number of charges in any petition shall exceed three, additional security to an amount of two thousand rupees shall be given in respect of each charge in excess of the first three and shall be given either by recognizance in the form in rule 16 set forth, with two sureties, or by a deposit of money, or partly in one way and partly in the other.

(3) If security as in this rule provided is not given by the petitioner, no further proceedings shall be had on the petition, and the respondent may apply to the Judge for an order directing the dismissal of the petition and for the payment of the respondent's costs.

Security by deposit of money.

13.—(1) The deposit of money by way of security for payment of costs, charges, and expenses payable by the petitioner shall be made by payment to the Financial Secretary which shall be vested in and drawn upon from time to time by the Chief Justice for the purposes for which security is required by these rules. A receipt shall be given by the Financial Secretary for the same, which shall forthwith be left at the office of the Registrar by the petitioner.

(2) The Registrar shall file such receipt and keep a book open to the inspection of all parties concerned, in which shall be entered from time to time the amount and the petition to which it is applicable.

Return of money so deposited.

14.—(1) Money so deposited shall, if and when the same is no longer needed for securing payment of such costs, charges and expenses, be returned or otherwise disposed of as justice may require by order of the Chief Justice.

(2) Such order may be made after such notice of intention to apply and proof that all just claims have been satisfied or otherwise sufficiently provided for as the Chief Justice may require.

(3) Such order may direct payment either to the party in whose name the same is deposited or to any person entitled to receive the same.

15. A recognizance as security for costs may be acknowledged before the Registrar or before a Justice of the Peace.

Acknowledgment of recognizance.

There may be one recognizance acknowledged by both the sureties, or separate recognizances each acknowledged by one surety, as may be convenient.

16. The recognizance shall contain the name and usual place of abode of each surety, with such sufficient description as shall enable him to be found or ascertained, and may be as follows:—

Form of recognizance.

Be it remembered that on the day of, in the year of our Lord One Thousand Nine Hundred and, before me came of and of and acknowledged themselves jointly and severally to owe to Our Sovereign Lord the King the sum of Rupees to be levied of their property, movable and immovable, to the use of our said Lord the King, His Heirs and Successors.

The condition of this recognizance is that if the said or any of them shall well and truly pay all costs, charges, and expenses in respect of the Election Petition signed by the said relating to the electoral district, which shall become payable by the said under the Election (State Council) Petition Rules, 1931, to any person or persons, then this recognizance to be void, otherwise to stand in full force.

(Signed)

Taken and acknowledged by the above-named on the day of, 19....., at, before me.

.....
Justice of the Peace.

17. As soon as the recognizance or recognizances shall have been acknowledged the same shall forthwith be left at the office of the Registrar by or on behalf of the petitioner in like manner as before prescribed for the leaving of a petition.

Deposit of recognizance at Registrar's office.

18. Notice of the presentation of a petition, and of the nature of the proposed security, accompanied by a copy of the petition, shall, within ten days of the presentation of the petition, be served by the petitioner on the respondent. Such service may be effected either by delivering the notice and copy aforesaid to the agent of the respondent or by posting the same in a registered letter to the address given under rule 10 at such time that, in the ordinary course of post, the letter would be delivered within the time above mentioned, or, if no agent has been appointed, nor such address given, by a notice published in the *Government Gazette* stating that such petition has been presented, and that a copy of the same may be obtained by the respondent on application at the office of the Registrar.

Notice of petition, nature of security, and copy of petition to be served on respondent.

19. It shall be lawful for the respondent, where the security is given wholly or partially by recognizance, within five days from the date of service of the notice of the petition and of the nature of the security, to object in writing to any such recognizance, on the ground that the sureties, or either of them, are insufficient, or that a surety is dead, or that he cannot be found or ascertained from the want of a sufficient description in the recognizance, or that a person named in the recognizance has not duly acknowledged the same.

Objection by respondent to a recognizance.

20. Any objection made to the security shall be heard and decided by the Judge; and such hearing or decision may be either on affidavit or personal examination of witnesses, as the Judge may think fit.

Hearing of objection.

21. If an objection to the security is allowed, it shall be lawful for the petitioner within five days to remove such objection by a deposit in the manner provided in rule 13 of such sum of money as may be deemed by the Judge to make the security sufficient.

Removal of objection by deposit of money.

22. If on objection made the security is decided to be insufficient, and such objection is not removed in manner in rule 21 mentioned, no further proceeding shall be had on the petition; and the respondent may apply to a Judge for an order directing the dismissal of the petition, and for the payment of the respondent's costs.

Where objection not removed.

23. The costs of hearing and deciding the objections made to the security given shall be paid as ordered by the Judge, and in default of such order shall form part of the general costs of the petition.

Costs of hearing objections.

24. On the expiration of the time limited for making petitions or, after objection made, on the sufficiency of the security being established, the petition shall be deemed to be at issue.

When petition to be deemed at issue.

25. The Registrar shall make out the election petition list. In it he shall insert the name of the agents of the petitioners and respondent, and the addresses to which notices may be sent, if any. The list may be inspected at the office of the Registrar at any time during office hours, and shall be affixed for that purpose upon a notice board appropriated to proceedings under the Order, and headed "The Ceylon (State Council Elections) Order in Council, 1931."

List of petitions.

- Time and place of trial of election petition. 26. The time and place of the trial of each election petition shall be fixed by the Judge, and not less than fourteen days' notice thereof shall be given to the petitioner and respondent by letter directed to the address left by such petitioner or respondent with the Registrar; or, if no such address has been left, by notice in the *Government Gazette*.
- Postponement of trial. 27. The Judge may from time to time, by order made on the application of a party to the petition, postpone the beginning of the trial to such day as he may name; and such order, when made, shall forthwith be published by the Registrar in the *Government Gazette*.
- Adjournment and continuation of trial. 28. No formal adjournment of the Court for the trial of an election petition shall be necessary, but the trial is to be deemed adjourned, and may be continued from day to day until the inquiry is concluded; and in the event of the Judge who begins the trial being disabled by illness or otherwise, it may be recommended and concluded by another Judge.
- Withdrawal of election petition. 29.—(1) An election petition shall not be withdrawn without the leave of the Judge; and such leave may be given upon such terms as to the payment of costs and otherwise as the Judge may think fit.
(2) Before leave for the withdrawal of an election petition is granted, there shall be produced affidavits as required by this rule by all the parties to the petition and their proctors, and by the election agents of all the said parties who were candidates at the election, but a Judge of the Supreme Court may on cause shown dispense with the affidavit of any particular person if it seems to the Judge on special grounds to be just so to do.
(3) Each affidavit shall state that, to the best of the deponent's knowledge and belief, no agreement or terms of any kind whatsoever has or have been made, and no undertaking has been entered into in relation to the withdrawal of the petition; but if any lawful agreement has been made with respect to the withdrawal of the petition, the affidavit shall set forth that agreement, and shall make the foregoing statement subject to what appears from the affidavit.
(4) The affidavits of the applicant and his proctor shall further state the ground on which the petition is sought to be withdrawn.
- Form of application to withdraw petition. 30.—(1) An application for leave to withdraw a petition shall be in writing signed by the petitioner or petitioners or his or their agent or agents. It shall state the ground on which the application is supported.
(2) The following form shall be sufficient:—
"The Ceylon (State Council Elections) Order in Council, 1931."
Electoral district of petition of (state name of petitioner)
presented day of, 19
The petitioner applies to withdraw his petition upon the following ground (here state the ground), and prays that a day may be appointed for hearing his application.
Dated this.....day of....., 19.....
(Signed)
- Copy of application to be given to respondent. (3) The application for leave to withdraw shall be left at the office of the Registrar.
31. A copy of such application shall be given by the petitioner to the respondent, and a notice in the following terms signed by the petitioner shall be published forthwith in the *Government Gazette* by the petitioner at his own expense:—
"The Ceylon (State Council Elections) Order in Council, 1931."
In the election petition for in which is petitioner and respondent,
Notice is hereby given that the above petitioner did on the day of lodge at the office of the Registrar of the Supreme Court an application for leave to withdraw the petition, of which application the following is a copy:—
(Set it out).
And take notice that under "The Election (State Council) Petition Rules, 1931," any person who might have been a petitioner in respect of the said election may, within five days after the date of publication of this notice, give notice in writing to the Registrar of the Supreme Court of his intention on the hearing of the application to be substituted as a petitioner.
(Signed)
- Application to be substituted as petitioner, on withdrawal. 32. Any person who might have been a petitioner in respect of the election to which the petition relates may, within five days after such notice is published by the petitioner, give notice in writing, signed by him or on his behalf, to the Registrar, of his intention to apply at the hearing to be substituted for the petitioner, but the want of such notice shall not defeat such application, if in fact made at the hearing.
- Time and place of hearing of application. 33. The time and place of hearing the application shall be fixed by the Judge but shall not be less than a week after the application for leave to withdraw has been left at the office of the Registrar as hereinbefore provided, and notice of the time and place appointed for the hearing shall be given to such person or persons, if any, as shall have given notice to the Registrar of an intention to apply to be substituted as petitioners, and otherwise in such manner and such time as the Judge directs.
- Substitution of another petitioner. 34.—(1) On the hearing of the application for withdrawal any person who might have been a petitioner in respect of the election to which the petition relates, may apply to the Judge to be substituted as a petitioner for the petitioner so desirous of withdrawing the petition.
(2) The Judge may, if he thinks fit, substitute as a petitioner any such applicant as aforesaid; and may further, if the proposed withdrawal is in the opinion of the Judge induced by any corrupt bargain or consideration, by order direct that the security given on behalf of the original petitioner shall remain as security for any costs that may be incurred by the substituted petitioner, and that to the extent of the sum named in such security the original petitioner shall be liable to pay the costs of the substituted petitioner.
(3) If no such order is made with respect to the security given on behalf of the original petitioner, security to the same amount as would be required in the case of a new petition, and subject to the like conditions, shall be given on behalf of the substituted petitioner before he proceeds with his petition, and within three days after the order of substitution.
(4) Subject as aforesaid a substituted petitioner shall stand in the same position as nearly as may be, and be subject to the same liabilities as the original petitioner.
(5) If a petition is withdrawn, the petitioner shall be liable to pay the costs of the respondent.
(6) Where there are more petitioners than one, no application to withdraw a petition shall be made except with the consent of all the petitioners.
- Abatement of petition by death. 35.—(1) An election petition shall be abated by the death of a sole petitioner or of the survivor of several petitioners.
(2) The abatement of a petition shall not affect the liability of the petitioner or of any other person to the payment of costs previously incurred.
- Application to be substituted as petitioner, on abatement. 36.—(1) Notice of abatement of a petition, by death of the petitioner or surviving petitioner, shall be given by the party or person interested in the same manner as notice of an application to withdraw a petition, and the time within which application may be made to a Judge to be substituted as a petitioner shall be one calendar month, or such further time as upon consideration of any special circumstances the Judge may allow.

(2) Any person who might have been a petitioner in respect of the election to which the petition relates may apply to the Judge to be substituted as a petitioner.

(3) The Judge may, if he thinks fit, substitute as a petitioner any such applicant who is desirous of being substituted and on whose behalf security to the same amount is given as is required in the case of a new petitioner.

37.—(1) If before the trial of an election petition a respondent dies or resigns, or gives notice in writing to the Court that he does not intend to oppose the petition, the petition shall not be abated but shall continue whether or not any person applies to be admitted as respondent as hereinafter provided.

(2) Notice of the fact that a respondent has died, or resigned, or that he has given notice in writing that he does not intend to oppose the petition, shall be published in the *Government Gazette* by the Registrar.

(3) Any person who might have been a petitioner in respect of the election to which the petition relates may apply to the Judge to be admitted as a respondent to oppose the petition within ten days after such notice has been published in the *Government Gazette* or such further time as the Judge may allow.

(4) The manner and time of the respondent's giving notice to the Court that he does not intend to oppose the petition, shall be by leaving notice thereof in writing at the office of the Registrar, signed by the respondent not less than six days before the day appointed for trial, exclusive of the day of leaving such notice.

38. A respondent who has given notice of his intention not to oppose a petition shall not be allowed to appear or act as a party against such petition in any proceedings thereon.

39. After receiving the petitioner's application for leave to withdraw, or notice of the respondent's intention not to oppose, or of the abatement of the petition by death, or of the happening of any of the events mentioned in rule 37, if such notice be received after notice of trial shall have been given, and before the trial has commenced, the Registrar shall forthwith countermand the notice of trial. The countermand shall be given in the same manner, as near as may be, as the notice of trial.

40. All costs of and incidental to the presentation of a petition and to the proceedings consequent thereon shall be defrayed by the parties to the petition in such manner and in such proportions as the Judge may determine, regard being had to the disallowance of any costs which may, in the opinion of the Judge, have been caused by vexatious conduct, unfounded allegations, or unfounded objections, on the part either of the petitioner or the respondent and regard being had to the discouragement of any needless expense by throwing the burden of defraying the same on the parties by whom it has been caused, whether such parties are or are not on the whole successful.

41.—(1) Costs shall be taxed by the Registrar upon the order by which the costs are payable in the same manner as costs are taxed in a District Court, but subject to such express directions, either general or specific, as the Judge may give; and costs when taxed may be recovered in the same manner as the costs of an action at law.

(2) In case there be money in the hands of the Financial Secretary available for the purpose, the Chief Justice may direct taxed costs to be paid out of such money to the extent of such money.

(3) The office fees payable for inspection, office copies and other proceedings under these rules shall be such as may be prescribed by the Chief Justice.

42. Any person who is on the roll of proctors of the Supreme Court may act as agent for any party to an election petition.

43. An agent shall, immediately upon his appointment as such, leave written notice thereof at the office of the Registrar.

44. Service of notices and proceedings upon such agents shall be sufficient for all purposes.

On death, resignation, or notice not to oppose of respondent, the petition to continue.

Respondent not opposing petition not to appear as party.

Countermanding notice of trial where petition abated. &c.

Costs.

Taxation and recovery of costs.

Proctor may act as agent under these rules.

Notice of appointment of agent.

Service of notices on agents.

THE CEYLON (STATE COUNCIL) ORDER IN COUNCIL, 1931.

C 40/30

Notification.

THE following Order of His Majesty in Council is published for general information.

By His Excellency's command,

Colonial Secretary's Office,
Colombo, April 15, 1931.

B. H. BOURDILLON,
Colonial Secretary.

At the Court at Buckingham Palace, the 20th day of March, 1931.

Present:

THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS by the Ceylon (Legislative Council) Order in Council, 1923, His Majesty, by and with the advice of His Privy Council, was pleased to make provision for the constitution of a Legislative Council for the Island of Ceylon, with the Territories and Dependencies thereof:

AND WHEREAS the said Order in Council was amended by the Ceylon (Legislative Council) Amendment Order in Council, 1924, and by the Ceylon (Legislative Council) Amendment Order in Council, 1928, and by the Ceylon (Legislative Council) Amendment Order in Council, 1929, and by the Ceylon (Legislative Council) Amendment Order in Council, 1930 (all the said Orders in Council being hereinafter referred to as the Orders in Council of 1923 to 1930):

AND WHEREAS in each of the said Orders in Council His Majesty reserved to Himself, His Heirs, and Successors, power, with the advice of His or Their Privy Council, to revoke, alter, or amend the same as to Him or Them should seem fit:

AND WHEREAS a Legislative Council has been duly constituted in accordance with the provisions of the Orders in Council of 1923 to 1930:

AND WHEREAS it is expedient to revoke the said Orders in Council and to make provision for the constitution of a State Council for the Island in lieu of the said Legislative Council, and for the exercise of executive functions by the members thereof:

AND WHEREAS His Majesty has power, by and with the advice of His Privy Council, to pass laws in and for the Island:

NOW, THEREFORE, it is hereby ordered by His Majesty, by and with the advice of His Privy Council, as follows:—

PRELIMINARY.

1. This Order may be cited as the Ceylon (State Council) Order in Council, 1931. It shall be published in the *Government Gazette*, and shall come into operation upon a date to be declared by the Governor by Proclamation in the *Government Gazette*.

2. Nothing in this Order shall extend to the Maldives Islands.

3. The Orders in Council of 1923 to 1930 are hereby revoked, but such revocation shall not prejudice anything lawfully done thereunder, or affect or prevent a prosecution for an offence committed before the commencement of this Order, and notwithstanding such revocation, the Legislative Council now subsisting constituted under the said Orders in Council shall, until it is dissolved, continue to exist and to possess and exercise all the privileges, powers, and functions conferred upon it by those Orders, and the Governor shall dissolve the said Council at such time, not later than six months after this Order shall come into operation, as he shall think fit.

4. (1) In this Order, unless the context otherwise requires:—

“British subject” means any person who is a British subject under the provisions of the British Nationality and Status of Aliens Acts, 1914-1922, any person who has been naturalized under any enactment of a British Possession, and any person who is a British protected person, as hereinafter defined.

“British protected person” means any person who is a native of the territories of any Native Prince or Chief under the suzerainty of His Majesty exercised through the Governor-General of India or through any Governor or other officer subordinate to the Governor-General of India and is resident in Ceylon.

“Member” means a member of the State Council.

“Person” or “Persons” includes both sexes.

“Persons holding public office under the Crown in the Island” and cognate expressions shall not include—

(a) Persons who are not in the permanent employment of the Crown in the Island, but shall include persons serving the Crown in the Island for a term of years;

(b) The Speaker, Deputy Speaker, Deputy Chairman of Committees, and Ministers;

Short title, publication, and commencement.

Exclusion of Maldives Islands from operation of Order.

Revocation of certain Orders in Council and continuation of the Legislative Council until it is dissolved and provision for dissolution thereof.

Interpretation.

- (c) Any officer or soldier of a Defence Force formed under the Defence Force Ordinance, 1910, or under any Ordinance amending or repealing that Ordinance;
- (d) Persons in the employment of Municipal Councils, District Councils, the Board of Improvement of Nuwara Eliya, Local Boards, Sanitary Boards, and Boards of Health, Village Committees, and Provincial and District Committees constituted under any law of the Island relating to local government, education, or the management of roads, canals, or rivers.
- (e) Crown Proctors;
- (f) Crown Advocates not being Crown Counsel.

“Register” or “register of voters” means the register of voters for any particular electoral district.

“The Council” means the State Council constituted under this Order.

“The Secretary of State” means one of His Majesty’s Principal Secretaries of State.

(2) In the construction of this Order any reference to the head of any Government department shall be taken to refer to the officer designated by the Governor by notice in the *Government Gazette* to be the head of that department and in connection with the administration of any subject or the exercise of any function with which Government Agents are concerned all the provisions of this Order which apply to heads of departments shall apply to Government Agents.

(3) In the construction of this Order the provisions of the Interpretation Ordinance, 1901, shall, subject to the express provisions of this Order, and notwithstanding any provision to the contrary in such Ordinance, apply as if this Order were an Ordinance of the Legislative Council of the Island, or of the State Council as hereby constituted.

CONSTITUTION OF THE STATE COUNCIL.

Constitution of State Council.

5. Upon the dissolution of the Legislative Council at present subsisting and constituted under the Orders in Council of 1923 to 1930 there shall be substituted in place thereof a State Council constituted as hereinafter provided.

Three Secretaries to the Government.

6. There shall be three Secretaries to the Government of the Island, namely, a Chief Secretary, a Legal Secretary, and a Financial Secretary, who shall be appointed by the Governor with the approval of the Secretary of State; provided that until the Governor shall appoint a person to be Legal Secretary all the provisions of this Order which refer to the office of Legal Secretary, or to the person for the time being lawfully exercising the functions of that office, shall be deemed to apply to the office of Attorney-General, or to the person for the time being lawfully exercising the functions of that office, as the case may require.

Composition of the State Council.

7. The Council shall consist of the following persons:—

- (a) The three persons for the time being lawfully exercising the functions of the respective offices of Chief Secretary, Legal Secretary, and Financial Secretary. Such persons shall be styled Officers of State and shall be to all intents and purposes members of the Council having all the rights and privileges of membership save that they shall not vote upon any question before the Council. All references in this Order to the Chief Secretary, Legal Secretary, or Financial Secretary shall include the persons for the time being lawfully exercising the functions of those offices respectively.
- (b) Fifty persons who shall be elected in accordance with the law for the time being in force relating to the election of members of the Council. Such persons are herein referred to as elected members.
- (c) Not more than eight persons, who shall be appointed in the manner hereinafter provided and are herein referred to as nominated members.

QUALIFICATION FOR MEMBERSHIP OF THE COUNCIL.

General qualification for membership of the Council.

8. Every person not disqualified under the next succeeding Article shall be qualified for election or appointment as a member if he is qualified to be registered as a voter in any electoral district and is actually so registered in any such district; provided that a person shall not be disqualified for election or appointment as a member by reason only of the fact that he is not actually registered as a voter if he shall have been prevented from being so registered solely by delay in the revision of a register after the date by which the same should have been revised in accordance with the law for the time being in force, or by absence from the Island during the whole of the last preceding period within which application for registration as a voter might have been made in accordance with such law.

Disqualification for membership of the Council.

9. No person shall be capable of being elected or appointed as a member or of sitting or voting in the Council as an elected or nominated member who—

- (a) is not a British subject; or
- (b) is unable to speak, read, and write the English language; or
- (c) holds any public office under the Crown in the Island; or

- (d) directly or indirectly, himself or by any other person whatsoever in trust for him or for his use or benefit or on his account, holds or enjoys, in the whole or in part, any contract or agreement or commission made or entered into with or accepted from any person for or on account of the public service; provided that nothing herein contained shall extend to any pension or gratuity granted from the public revenue or other funds of the Island in respect of past public service, nor to any contract, agreement or commission entered into or accepted by any incorporated trading company in its corporate capacity, nor to any company consisting of more than ten persons, when such contract, agreement or commission shall be made, entered into or accepted for the general benefit of such incorporation or company; or
- (e) is an uncertificated or undischarged bankrupt or insolvent; or
- (f) is serving a sentence of penal servitude or imprisonment imposed by any Court in any part of His Majesty's dominions or in any country under His Majesty's protection or in respect of which a mandate is being exercised by the Government of any part of His Majesty's dominions, for an offence punishable with hard labour or rigorous imprisonment for a term exceeding twelve months; or is under sentence of death imposed by any such Court, or is serving any term of imprisonment awarded in lieu of execution of such sentence; or
- (g) has been adjudged by a competent Court to be of unsound mind; or
- (h) is incapable of being registered as a voter or of being elected as a member by reason of his conviction of a corrupt or illegal practice or by reason of the report of an election judge in accordance with the law for the time being in force relating to the election of members of the Council; or
- (i) would have been incapable of being elected as a member of the Legislative Council established under the Orders in Council of 1923 to 1930, by reason of his conviction for a corrupt or illegal practice under those Orders, if those Orders had not been revoked.

10. Except for the purpose of electing the Speaker of the Council, no member of the Council shall sit or vote therein until he shall have taken and subscribed before the Council the oath of allegiance in the form given in this Article, or shall have made and subscribed before the Council an affirmation in the corresponding form.

Oath of allegiance to be taken by members.

Form of Oath.

I, A. B., do swear that I will be faithful and bear true allegiance to His Majesty King George V., His Heirs and Successors according to Law. So help me God.

11. (1) A person shall be liable to a penalty of five hundred rupees for every day on which he shall sit or vote in the Council knowing or having reasonable grounds for knowing that he is disqualified by this Order for so sitting or voting or that his seat has become vacant.

Penalty for unqualified persons sitting or voting in the Council.

(2) The penalty imposed by this Article shall be recoverable in the District Court of Colombo by any person who shall sue for the same; provided that no person shall bring an action for the recovery of any such penalty without first obtaining leave from the District Judge of the Court, who shall have full discretion to grant or refuse such leave and whose decision in the exercise of such discretion shall be final.

NOMINATED MEMBERS.

12. The nominated members of the Council shall be appointed by the Governor by an Instrument under the Public Seal of the Island in pursuance of His Majesty's Instructions through the Secretary of State or provisionally subject to the conditions hereinafter prescribed.

Manner of appointment of Nominated Members.

13. A nominated member whose seat shall have become vacant may be reappointed by the Governor in manner aforesaid.

Reappointment of Nominated Members.

14. (1) When there shall be a vacancy in the number of seats in the Council allotted for nominated members, any person appointed to be a nominated member to fill such vacancy shall, unless appointed in pursuance of Instructions from His Majesty communicated to the Governor through the Secretary of State, be appointed provisionally.

Appointment of Nominated Members on occurrence of a vacancy.

(2) Every provisional appointment shall without delay be reported to His Majesty through the Secretary of State and may be disallowed or confirmed by His Majesty through the Secretary of State.

(3) Every person so provisionally appointed shall be to all intents and purposes a member of the Council unless and until his appointment shall be disallowed and notice of such disallowance shall be published in the *Government Gazette*, and if his appointment shall be confirmed by His Majesty notice of such confirmation shall be published in the *Government Gazette* and thereupon the appointment of such member shall cease to be provisional and shall thenceforth be in all respects as though it had been made in pursuance of Instructions from His Majesty.

VACATION OF SEATS IN THE COUNCIL.

Vacation of seats in the Council.

15. The seat in the Council of an elected or nominated member shall become vacant—

- (a) upon his death; or
- (b) if by writing under his hand addressed to the Governor he shall resign his seat in the Council; or
- (c) if he shall become incapable of sitting or voting as a member by reason of any of the provisions of Article 9; or
- (d) if he shall become the citizen or subject of any foreign State or Power or shall make any declaration or acknowledgment of allegiance to any foreign State or Power; or
- (e) if his election shall be vacated or made void by reason of the commission of any corrupt or illegal practice or by reason of the declaration, certificate or report of an election judge; or
- (f) if, without the leave of the Council first obtained, he shall be absent from the sittings of the Council for a continuous period of three months; or
- (g) if, in the case of a person provisionally appointed to be a nominated member, his appointment shall be disallowed by His Majesty and notice of such disallowance shall be published in the *Government Gazette*; or
- (h) upon the dissolution of the Council.

Precedence among members.

PRECEDENCE AMONG MEMBERS.

16. (1) Subject to the provisions of clause (5) of this Article, the Officers of State shall take precedence of the other members, and shall rank among themselves in the order in which their offices are hereinbefore mentioned.

(2) The Speaker of the Council shall take precedence next after the Officers of State.

(3) Members who are Ministers shall take precedence next after the Speaker and among themselves the first in order of precedence shall be the Minister elected by the Board of Ministers to be the Vice-Chairman thereof and the other Ministers shall rank after him in the order of the date of their appointment as Ministers, and two or more Ministers appointed on the same day shall rank in the alphabetical order of their names, provided that a Minister re-appointed as a Minister, whether to the same office or to another, shall, except in regard to the Vice-Chairman of the Board of Ministers, take precedence according to the date from which he shall have held office as a Minister without an interruption of more than one month.

(4) The Deputy Speaker shall rank next after the Ministers, and the Deputy Chairman of Committees shall rank next after the Deputy Speaker.

(5) At any meeting of the Council the Speaker, when presiding, or in his absence the Deputy Speaker or other presiding member, shall have precedence over all other members of the Council.

POWERS AND PROCEDURE OF THE STATE COUNCIL.

General.

Sessions of the Council.

17. (1) The Council shall meet in session at such time, not being later than one month after the completion of every general election, as the Governor shall appoint by Proclamation in the *Government Gazette*.

(2) The Council shall remain in session from the time when it shall meet after every general election until it shall be dissolved, provided that the Council may adjourn from time to time in accordance with the Standing Orders of the Council; and provided, further, that the Governor may at any time summon a meeting of the Council by Proclamation in the *Government Gazette*.

Dissolution of the Council.

18. The Governor may at any time by Proclamation in the *Government Gazette* dissolve the Council.

Duration of Council.

19. The Governor shall dissolve the Council at the expiration of four years from the completion of the last preceding general election if it shall not sooner have been dissolved.

Governor's right of addressing the Council.

20. The Governor shall have the right of addressing the Council and may for that purpose require the attendance of its members.

Decision of questions by a majority of votes.

21. Subject to the provisions of Articles 22, 26, 46, and 80, all questions proposed for decision in the Council shall be determined by a majority of the votes given on such questions, provided that the Speaker or other presiding member shall not vote unless the votes of the other members shall be equally divided; in such case he shall give the casting vote.

Governor's powers in matters of paramount importance and matters essential to give effect to the provisions of this Order.

22. (1) If the Governor shall consider that it is of paramount importance to the public interest, or essential to give effect to any of the provisions of this Order, that any Bill, motion, resolution, or vote which the Council is empowered to pass, in the exercise of either its legislative or its executive functions, should have effect, then in such case, notwithstanding any of the provisions of this Order or of any Standing Orders made under this Order:—

- (a) it shall be lawful for any Officer of State, acting by the authority and under the instructions of the Governor, to propose any such Bill, motion, resolution, or vote to the Council and the same shall have priority over all other business of the Council;

(b) the Governor may declare that any such Bill, or any part of any such Bill or any such motion, resolution, or vote is of paramount importance or is essential to give effect to the provisions of this Order, and thereupon such Bill, part of a Bill, motion, resolution, or vote shall have effect as if it had been passed by the Council. Such declaration may be made by the Governor by message addressed to the Speaker or by an Officer of State, acting by the authority and on the instructions of the Governor, either before or after the votes of the members have been taken.

(2) Any Bill which shall have effect, in whole or in part, by reason of a declaration made by the Governor in accordance with this Article, shall be expressed to be enacted by the Governor and, upon being signed by the Governor, shall be of the same force and effect as though it had been passed by the Council and had received the Governor's assent and shall be subject to disallowance by His Majesty in like manner; and all the provisions of this Order which relate to Bills passed by the Council, or to the assent of the Governor to such Bills, shall apply to Bills enacted by the Governor in accordance with this Article, or to the signing of such Bills by him, as the case may require.

23. (1) The Governor shall forthwith report to the Secretary of State every case in which he shall make any such declaration as is mentioned in the preceding Article, and the reasons therefor.

(2) If any member objects to any such declaration, he may, within seven days of the making thereof, submit to the Governor a statement in writing of his reasons for so objecting, and a copy of such statement shall be appended to the report of the Governor required by this Article.

(3) Any such declaration, other than a declaration relating to a Bill or to any part of a Bill, may be revoked by the Secretary of State and the Governor shall notify such revocation to the Council and from the date of such notification any motion, resolution, or vote which shall have had effect by reason of the declaration revoked shall cease to have effect, but without prejudice to anything lawfully done thereunder.

24. The Council shall not be disqualified for the transaction of business by reason of any vacancy or vacancies among the Officers of State or among the nominated or elected members.

25. No business, except that of adjournment, shall be transacted unless there shall be present at least twenty members, exclusive of the Officers of State, in addition to the Speaker or other presiding member.

26. (1) Subject to the provisions of this Order, Standing Orders may be made for the regulation of the business and procedure of the Council, the preservation of order at meetings of the Council, prescribing the terms and conditions upon which any remuneration or allowance payable to members by reason of their membership of the Council may be paid, and for all other purposes authorized or required by this Order.

(2) The first Standing Orders of the Council shall be made by the Governor, with the approval of the Secretary of State, but may be amended, rescinded, or supplemented by the Council; provided that no amendment or rescission of, and no addition to the Standing Orders shall have effect unless the same shall be passed by a two-thirds majority of all the members of the Council excluding the Officers of State and the Speaker or other presiding member.

27. (1) The Governor shall appoint a person to be the Clerk of the Council and such other persons to perform such duties as officers of the Council as he shall think fit, and may at any time revoke any such appointment.

(2) The power conferred upon the Governor by this Article shall include a power to appoint a person to perform temporarily the duties of the Clerk or of any other officer of the Council whenever in the Governor's opinion circumstances shall so require, and to revoke any such temporary appointment at any time.

(3) In the exercise of the powers conferred upon him by this Article the Governor shall consult the Speaker, or the member presiding in the Council for the time being in the place of the Speaker; provided that, prior to the first election of a Speaker under this Order, or in the interval between a dissolution of the Council and the next subsequent election of a Speaker, the Governor may make any such appointment as aforesaid provisionally and may thereafter confirm or revoke the same after consultation with the Speaker; provided, also, that the Governor may, subject to such conditions as he shall prescribe, delegate to the Speaker, or other presiding member, all or any of the powers conferred upon him by this Article.

28. Before the commencement of every meeting of the Council, a statement of all business to be brought before the Council at that meeting shall be communicated by the Clerk of the Council to each member and to the Governor, and the Clerk shall also transmit to the Governor a copy of every document, other than petitions, presented to the Council.

29. Minutes shall be regularly kept of all the proceedings of the Council and copies of the said minutes shall be transmitted by the Clerk of the Council to the Governor as soon as possible after each meeting of the Council and the Governor shall transmit a copy of the said minutes to the Secretary of State.

Report by Governor of declarations made under Article 22 and power of Secretary of State to revoke such declarations.

Transaction of business by the Council notwithstanding vacancies.

Quorum.

Standing Orders.

The Clerk and other officers of the Council.

Notification of the business of the Council at each meeting to the members and to the Governor.

Minutes and their transmission to the Governor and to the Secretary of State.

Election of Speaker, Deputy Speaker, and Deputy Chairman of Committees by the Council.

30. (1) At the first meeting of the Council after the commencement of this Order and thereafter at the first meeting after every general election, and before proceeding to the despatch of any other business, the Council shall elect a member to be the Speaker.

(2) As soon as may be after the election of Executive Committees and of Ministers in accordance with the provisions of Articles 34 and 35, the Council shall elect two members to be, respectively, the Deputy Speaker and Chairman of Committees (herein called the Deputy Speaker) and the Deputy Chairman of Committees.

(3) Each person elected to be the Speaker, Deputy Speaker, or Deputy Chairman of Committees shall hold office until the next dissolution of the Council, unless he shall sooner resign such office or cease, from any cause whatsoever, to be a member of the Council.

(4) In the case of a vacancy in any of such offices, another Speaker or Deputy Speaker, or Deputy Chairman of Committees, as the case may be, shall be elected by the Council at the beginning of the next meeting after the occurrence of the vacancy.

(5) The Speaker, or in his absence, the Deputy Speaker, and in the absence of both Speaker and Deputy Speaker, the Deputy Chairman of Committees shall preside at the meetings of the Council. In the absence of the Speaker, the Deputy Speaker, and the Deputy Chairman of Committees, some member elected by the Council shall preside.

(6) There shall be paid to the Speaker, the Deputy Speaker, and the Deputy Chairman of Committees such salary as may be determined by the Council with the approval of the Governor.

Standing Committees for the consideration of legislative measures.

31. (1) As soon as may be after the election of Executive Committees and Ministers after each general election in accordance with the provisions of Articles 34 and 35, the Council shall be divided by the Speaker into two Standing Committees, which shall be called, respectively, Standing Committee A and Standing Committee B, for the consideration of such legislative measures as the Council shall not decide to refer, in the first instance, either to a Committee of the whole Council or to a Select Committee of the Council.

(2) The said Standing Committees shall remain in office until the next succeeding dissolution of the Council after they shall have been formed.

(3) Subject to the provisions of this Article, the composition of the said Standing Committees, and the procedure at meetings of the same, shall be as may be determined by the Standing Orders of the Council, provided that every member of the Council, except the Speaker and the Officers of State, shall be a member of one of such Committees.

(4) The Deputy Speaker, or in his absence, such member of the Committee as the Committee shall elect, shall preside over Standing Committee A, and the Deputy Chairman of Committees, or in his absence, such member of the Committee as the Committee shall elect, shall preside over Standing Committee B.

(5) The Officers of State shall have the right to attend any meeting of either of the aforesaid Standing Committees and to address the Committee upon any question before the Committee but shall not vote.

(6) Any member of the Council in charge of any Bill referred to either of the aforesaid Standing Committees, if not a member of that Committee, shall nevertheless have the right to attend any meeting at which such Bill shall be under discussion and to address the Committee upon the Bill and, unless he is an Officer of State, to vote as a member of the Committee upon any question arising in connection with such Bill.

(7) The Standing Orders of the Council may provide for the addition to either of the said Standing Committees of any member or members of the other Standing Committee whenever in the opinion of the Council any such addition shall be expedient in order to assist the consideration of any question referred to either of the said Committees.

EXECUTIVE FUNCTIONS OF THE COUNCIL.

Executive functions of the Council.

32. (1) Subject to the provisions of this Order, the State Council shall be charged with the administration of the subjects and functions of Government specified in the seven groups given in the First Schedule to this Order or in any amendment of that Schedule or which shall be deemed to be included in any of those groups in accordance with this Article.

(2) The Council may, by resolution, amend the First Schedule and may declare that any subjects or functions not expressly mentioned in that Schedule shall be deemed to be included in any of the groups specified therein, provided that no subject or function included in the Second Schedule to this Order shall be included in the First Schedule, and provided, further, that the division into seven groups of such subjects and functions as may be included in the First Schedule shall be preserved: but no such resolution or declaration shall have effect until it has been approved by the Governor.

(3) Until the first election of Executive Committees and the first appointment of Ministers, after the commencement of this Order shall be complete, the Governor may exercise the power given to the Council by the preceding clause of this Article to declare that any subjects or functions not expressly mentioned in the First Schedule shall be deemed to be included in any of the groups specified therein.

(4) If any doubt shall arise as to which group in the First Schedule includes any subject or function not expressly mentioned in that Schedule, or in any declaration by the Governor or by the Council in accordance with this Article, the decision of the Council shall, subject to approval by the Governor, be final.

(5) Until the first election of Executive Committees and the first appointment of Ministers after the commencement of this Order shall be complete, the executive functions hereby committed to the Council shall be vested in the Governor.

33. (1) Each of the Officers of State shall, subject to the provisions of this Order, and to the directions of the Governor, have charge of the subjects and shall exercise the functions allotted to him in the Second Schedule to this Order or in any amendment of that Schedule or which shall be deemed to be included in the group allotted to him in accordance with this Article.

(2) The Governor may, with the approval of the Secretary of State, amend the Second Schedule, and may, in his own discretion, declare that any subject or function not expressly mentioned in the Second Schedule shall be deemed to be included in any of the groups specified therein, provided that no subject or function included in the First Schedule to this Order shall be included in the Second Schedule.

(3) If any doubt shall arise as to whether any subject or function is included in the First Schedule or in the Second Schedule, the decision of the Secretary of State shall be final.

Functions of the Officers of State.

EXECUTIVE COMMITTEES AND MINISTERS.

34. (1) At the first meeting of the Council after the commencement of this Order and thereafter at the first meeting after every general election, the Council shall elect by secret ballot from among its members seven Executive Committees each of which shall be charged, until the next following dissolution of the Council, with the administration, subject to the provisions of this Order, of such one of the seven groups of subjects and functions specified in the First Schedule hereto as the Council when electing the Committee shall determine.

(2) The Council shall proceed to the election of the aforesaid Committees as soon as may be after the election of a Speaker as provided by Article 30, and before proceeding to the despatch of any other business. Each Committee shall contain as nearly as possible an equal number of members and every member of the Council, except the Speaker and the Officers of State, shall be elected to one of such Committees, and no member of the Council shall be elected to more than one, provided that a member of a Committee elected to be the Deputy Speaker or Deputy Chairman of Committees or to fill any vacancy in the office of Speaker or Deputy Speaker or Deputy Chairman of Committees in accordance with Article 30, shall, upon such election, cease to be a member of such Committee.

(3) Subject to the provisions of this Article procedure for the election of Executive Committees and for the filling of subsequent vacancies in any such Committee and for the transfer of members from one Committee to another shall be as prescribed by the Standing Orders of the Council.

Election of Executive Committees.

35. (1) As soon as may be after the election of Executive Committees in accordance with Article 34, and before the Council proceeds to any other business, each Executive Committee shall elect a Chairman by secret ballot from among its members, and whenever the office of Chairman of an Executive Committee shall become vacant, the Committee shall, in like manner, elect a member thereof to be the Chairman of the Committee.

(2) The member elected by the Committee to be the Chairman thereof shall be appointed by the Governor to be the Minister for that group of subjects and functions which the Committee of which he is the Chairman was elected to administer; provided that the Governor may, in his discretion, decline to appoint as a Minister any member of a Committee so elected as aforesaid, and, in such case, the election of such member as the Chairman of the Committee shall be void and the Committee shall elect another member to be the Chairman thereof.

(3) If at any time any Minister shall be prevented temporarily by absence from the Island, or by illness or other sufficient cause, from exercising the functions of his office, the Committee of which that Minister is the Chairman may, with the approval of the Governor, elect another member of the Committee to act as the Chairman of the Committee until the Minister shall resume the exercise of the functions of his office. A member so elected shall be appointed by the Governor to act in place of the Minister until such time as aforesaid; provided that the Governor may, in his discretion, decline to appoint the member so elected and the Committee shall thereupon elect another member to act for the Minister. All the provisions of this Order which apply to a Minister shall apply to any member appointed to act for a Minister during the period of such appointment.

(4) Subject to the provisions of this Article, the procedure for election of the Chairman and Acting Chairmen of Executive Committees shall be as prescribed by the Standing Orders of the Council.

(5) There shall be paid to each Minister such salary as may be determined by the Council with the approval of the Governor.

Election of Chairmen of Executive Committees, and appointment and payment of Ministers.

Oath or affirmation by Ministers.

36. Every member appointed to be a Minister shall before entering on the duties of his office take and subscribe before the Governor an oath in the following form, or shall make and subscribe before the Governor an affirmation in the corresponding form.

Form of Oath.

I, A. B., do swear that I will well and truly serve His Majesty King George V. in the office of Minister for ———— So help me God.

Termination of Minister's appointment upon an address from the Council.

37. Upon an address presented to him by the Council praying for the termination of the appointment of any member as a Minister the Governor may at any time terminate such member's appointment and such member shall thereupon cease to be the Chairman of the Executive Committee of which he is a member.

Ministers shall not hold directorships of companies during their term of office.

38. (1) No member shall be eligible for appointment as a Minister who is a director of any company having any direct or indirect pecuniary interest in any contract with the Government of the Island.

(2) If any Minister shall become a director of any such company as aforesaid during his term of office as a Minister, his appointment as a Minister shall thereupon become void and he shall cease to be the Chairman of the Executive Committee of which he is a member.

Procedure for the transaction of business with and by Government departments.

39. (1) Each Executive Committee shall exercise general control over the Departments of Government concerned with subjects or functions in the Committee's charge; and the exercise of such control, and the transaction of business relating to any such subjects or functions shall be regulated by such procedure as the Governor shall prescribe, provided that the procedure prescribed by the Governor may from time to time be amended or varied by the Council with the approval of the Governor.

(2) The transaction of business concerning any subjects or functions in the charge of an Officer of State shall be regulated by such procedure as the Governor shall prescribe.

Secretaries to Ministers and Clerks to Executive Committees.

40. (1) The Governor shall appoint some person to be the Secretary to each Minister and may at any time revoke any such appointment. A person appointed to be the Secretary to a Minister shall also be the Clerk to the Executive Committee of which that Minister is the Chairman.

(2) The power conferred upon the Governor by this Article shall include a power to appoint a person to perform temporarily the duties of the Secretary to a Minister and Clerk to an Executive Committee whenever, in the Governor's opinion, circumstances shall so require and to revoke any such temporary appointment at any time.

(3) In the exercise of the powers conferred upon him by this Article the Governor shall consult the Minister concerned, provided that the Governor may, subject to such conditions as he shall prescribe, delegate to any Minister the power to make and to revoke any temporary appointment authorized by this Article.

Meeting of Executive Committees, quorum, and procedure.

41. (1) Executive Committees shall meet whenever summoned by the Clerk either by direction of the Chairman or at the request of any three members of the Committee.

(2) In the absence of the Chairman, such member of the Committee as the Committee may elect shall preside at the meetings of the Committee.

(3) No business shall be transacted unless there shall be present at least three members in addition to the Chairman or presiding member and the Clerk.

(4) All questions proposed in an Executive Committee shall be decided by a majority of the votes of the members of the Committee there present and voting. The Chairman or presiding member shall have an original vote on all such questions, and also a casting vote if the votes shall be equally divided.

(5) A statement of all matters for discussion at any meeting of a Committee shall be forwarded by the Clerk to each member and to the Governor and to the Chief Secretary before the meeting is held. The Clerk shall also forward to the Governor and to the Chief Secretary copies of any document to be laid before the Committee if copies are available.

(6) The Clerk shall keep minutes of the proceedings of the Committee and shall forward a copy of the minutes to the Governor and to the Chief Secretary as soon as may be after each meeting.

(7) An Executive Committee shall not be disqualified for the transaction of business by reason of any vacancy or vacancies among the members thereof.

(8) Subject to the provisions of this Article, the procedure at the meetings of any Executive Committee shall be such as the Standing Orders of the Council may prescribe.

Governor's access to official documents.

42. The Governor may require any Minister to furnish him with reports upon and any official documents relating to any matters falling under the control of the Executive Committee of which that Minister is the Chairman.

Right of Chief Secretary or his deputy to attend any Executive Committee.

43. The Chief Secretary, or his deputy, shall be entitled to attend any meeting of any Executive Committee and to address the Committee upon any subject but may not vote.

44. (1) When the affairs of any Government department which is concerned with subjects or functions in the charge of an Executive Committee shall be under discussion at any meeting of the Committee, the head of such department shall be entitled to attend the meeting and to be heard by the Committee upon the affairs of his department which are under discussion, and it shall be the duty of the Clerk to the Committee to give notice to the head of any such department of the time and place at which the affairs of that department will be discussed by the Committee.

(2) A Minister, or his Committee, may at any time require the head of a department concerned with subjects or functions in the charge of the Committee to attend, or to cause any other officer or officers of that department to attend, any meeting of the Committee when the affairs of that department are under discussion.

45. (1) When the decision of an Executive Committee requires that any direction shall be given to any Government department concerned with subjects or functions in the Committee's charge, every such direction shall be conveyed to the head of such department by the Minister, or in writing by the Clerk to the Committee by direction of the Minister, but, save as provided by this Article and by Article 48, no such direction shall be given until the approval of such decision by the Council and the ratification of the same by the Governor shall have been received by the Minister in accordance with the provisions hereinafter contained.

(2) When, in the opinion of an Executive Committee, any decision of the Committee shall not be of sufficient importance to require the approval of the Council or the ratification of the Governor before the issue of directions to carry the decision into effect, or when the decision shall, in the opinion of the Committee, require action to be taken too urgently to enable such prior approval or ratification to be obtained, the directions of the Committee may be conveyed to the head of the department concerned and action may be taken in accordance therewith without such prior approval or ratification. In every such case, the Committee shall without delay report to the Council the decision of the Committee and the directions issued thereon and the reasons why such directions were issued without such prior approval and ratification as aforesaid, and the Council shall report the same to the Governor.

(3) The Governor or the Council may require that in the case of such decisions, or classes of decisions, by Executive Committees as may be specified by the Governor or by the Council, as the case may be, no directions shall be issued by an Executive Committee to carry such decisions into effect without such prior approval and ratification as aforesaid.

(4) The Council may, with the approval of the Governor, by resolution authorize any Executive Committee to issue directions, without such prior approval by the Council and ratification by the Governor as aforesaid, for the purpose of giving effect to such decisions or classes of decisions as the resolution may specify. Whenever a Committee shall issue directions in pursuance of such authority as aforesaid, the Committee shall without delay report to the Council the decision of the Committee and the directions issued thereon, and the Council shall report the same to the Governor.

46. (1) Every decision of an Executive Committee which shall require the approval of the Council shall be embodied in a report which shall include the recommendations of the Committee and shall be presented to the Council for consideration.

(2) The Council may accept or reject any such report or may refer it back to the Committee for further consideration. If passed by the Council, the report, or such part thereof as shall have been passed, shall be submitted to the Governor by the Council for ratification.

(3) The Governor may either ratify or decline to ratify any report so submitted to him as aforesaid, or may refer the same, or any part thereof, back to the Council for further consideration, or he may refer the same or any part thereof to the Secretary of State, or he may declare that the report involves an important question of principle, and may require that, before he shall give his decision thereon, the report shall be resubmitted to the Council and shall be passed by a two-thirds majority of all the members of the Council excluding the Officers of State and the Speaker or other presiding member.

(4) The decision of the Governor, or of the Secretary of State, upon any such report shall be communicated by the Governor to the Council, and by the Council to the Executive Committee concerned, and if the report or any part thereof shall have been ratified by the Governor or approved by the Secretary of State, the Committee shall transmit the report, or such part thereof as shall have been so ratified or approved as aforesaid, to the head of each department concerned with the subjects or functions to which the report relates and it shall be the duty of the head of each of such departments to give effect to the report or to such part thereof as shall have been so ratified or approved as aforesaid.

(5) If the Governor shall decline to ratify any report so submitted to him as aforesaid, or any part thereof, he shall without delay report his decision and his reasons therefor to the Secretary of State, who may confirm or vary such decision. If the decision of the Governor shall be varied by the Secretary of State, the

Attendance of heads of departments and other departmental officers at meetings of Executive Committees.

Issue of directions by Executive Committees to Government departments.

Presentation of reports of Executive Committees to the Council and powers of the Council and of the Governor in regard to such reports.

Governor shall report the Secretary of State's decision to the Council, and the Council shall communicate the same to the Executive Committee concerned and such Committee shall thereupon direct that effect be given thereto.

Manner of presentation of reports of Executive Committees to the Council and of their submission to the Governor and of communication between the Council and Executive Committees.

47. (1) Every report required by this Order to be made by an Executive Committee to the Council shall be presented to the Council by the Chairman of the Committee, or, in the absence of the Chairman, by such member of the Committee as the Committee may appoint.

(2) Every report required by this Order to be submitted by the Council to the Governor shall be submitted to him by the Speaker, or other presiding member, and the Governor's decision upon any such report shall be given by him by message to the Speaker, or other presiding member, for communication to the Council.

(3) The Council shall communicate with Executive Committees in such manner as the Standing Orders of the Council shall provide.

Exercise of powers conferred upon the Governor or upon a Minister or Executive Committee by delegation or by law.

48. (1) Nothing contained in Articles 45 or 46 shall apply to the exercise of any power conferred upon any Minister or Executive Committee by delegation from the Governor under Article 94 or Article 95 or otherwise by any written law, and directions may be issued to Government departments in the exercise of any such power without the prior approval of the Council and ratification by the Governor to which Articles 45 and 46 refer; provided that the Governor may require that any power so delegated by him shall not be exercised without the prior approval of the Council or ratification by him, or without both such prior approval and ratification, or that decisions of Executive Committees in the exercise of any such power, or for the purpose of advising a Minister in the exercise of any such power, shall be reported to the Council.

(2) Decisions of Executive Committees made for the purpose of advising the Governor upon the exercise of any power vested in him shall not be deemed to be decisions which must be reported to the Council unless the Governor shall so require.

GOVERNOR'S EMERGENCY POWERS.

Emergency powers of the Governor.

49. (1) Notwithstanding anything contained in this Order, whenever the Governor shall consider that a state of emergency has arisen or is imminent, whether from the danger of enemy action or of civil disorder, or from any grave cause, he may by Proclamation assume control of any Government department and issue such orders to that department as he may see fit, provided that, in every such case, he shall make a full report immediately to the Secretary of State; and provided, further, that if the Governor with the advice and consent of the Council shall make provision by law to the satisfaction of the Secretary of State for the exercise by the Governor of such emergency powers, the Secretary of State may declare that this clause of this Article shall cease to have effect and on the publication of such declaration in the *Government Gazette* this clause of this Article shall cease to have effect accordingly.

(2) The Governor shall not assent to any Bill repealing or amending any such law as aforesaid unless he shall have previously obtained His Majesty's instructions through the Secretary of State.

THE BOARD OF MINISTERS AND FINANCIAL PROVISIONS.

Board of Ministers.

50. (1) There shall be a Board of Ministers which shall be composed of the Officers of State and the Ministers.

(2) The Officers of State shall not be entitled to vote upon any question submitted to the Board, but shall have the rights and privileges of membership of the Board in all other respects.

(3) The Chief Secretary shall be the Chairman of the Board and there shall be a Vice-Chairman who shall be elected by the Board from among the Ministers.

(4) If at any time the Vice-Chairman of the Board of Ministers shall be prevented by absence from the Island, or by illness or other sufficient cause, from exercising the functions of his office, the Board may elect another Minister to act as Vice-Chairman until the Vice-Chairman shall resume the exercise of the functions of his office, and all the provisions of this Order which apply to the Vice-Chairman of the Board of Ministers shall apply to the Minister so elected during the period for which he shall act as Vice-Chairman of the Board.

(5) The Chief Secretary shall preside over the Board of Ministers, and in his absence, the Vice-Chairman of the Board shall preside.

Vice-Chairman to represent the Board of Ministers in Council.

51. The Vice-Chairman of the Board of Ministers shall be the representative of the Board in the Council and shall be styled the Leader of the State Council.

Secretary to the Board of Ministers.

52. The Governor shall appoint some fit person to be Secretary to the Board of Ministers, and may at any time revoke any such appointment. The Governor may also appoint a person to perform temporarily the duties of the Secretary to the Board whenever, in his opinion, circumstances shall so require, and may at any time revoke any such temporary appointment.

Meeting of the Board of Ministers, quorum, and procedure.

53. (1) The Board of Ministers shall not proceed to the despatch of business unless duly summoned by the Chief Secretary who may from time to time, and shall whenever the Vice-Chairman so requests, convene a meeting of the Board.

(2) No business shall be transacted unless there shall be present at least three members, exclusive of the Officers of State.

(3) All questions proposed to the Board of Ministers shall be decided by a majority of the Ministers there present and voting and, save as provided by Article 71, no member of the Board shall have more than one vote.

(4) A statement of all matters for discussion at any meeting of the Board shall be forwarded by the Secretary to each member and to the Governor before the meeting is held. The Secretary shall also forward to the Governor a copy of any document to be laid before the Board if a copy is available.

(5) The Secretary shall keep minutes of the proceedings of the Board and shall forward a copy of the minutes to the Governor as soon as may be after each meeting.

(6) The Board shall not be disqualified for the transaction of business by reason of any vacancy or vacancies among the members thereof.

(7) Subject to the provisions of this Article, the procedure at meetings of the Board shall be such as the Board shall prescribe.

54. In the discharge of any function or duty imposed by this Order upon the Board of Ministers, the Board may require the head of any Government department to attend, or to cause any other officer of his department to attend, any meeting of the Board and to give such assistance to the Board as the Board may require.

55. Subject to the provisions of Article 22, the Board of Ministers shall determine the order in which any business, whether executive or legislative, to be brought before the Council, by the Board of Ministers, or by any Executive Committee or Officer of State, shall be despatched, and may prescribe the procedure by which the settlement of questions affecting more than one Executive Committee shall be arranged.

56. (1) It shall be the duty of the Board of Ministers to prepare, in consultation with the Financial Secretary, the Annual Estimates of Revenue and Expenditure for the Island and all Supplementary Estimates of Expenditure.

(2) The Annual Estimates of Expenditure shall state under distinct heads every item which is expected to come in course of payment during the year to which the Estimates relate and, in addition to items of expenditure which shall require the approval of the Council, shall include in a separate column items of expenditure already authorized by law. Each head of expenditure shall be divided into such sub-heads as the Board of Ministers shall decide.

(3) The Annual Estimates of Revenue and Expenditure and all Supplementary Estimates of Expenditure, when approved by the Board of Ministers, shall be laid before the Council for the information of members.

57. (1) Subject to the provisions of Article 22, no Bill, motion, resolution, or vote for the disposal of, or the imposition of charges upon, any part of the public revenue or other funds of the Island, or for the authorization of any prior disposal of any part of such revenue or funds, or for the imposition or augmentation of any tax, or for the repeal or reduction of any tax for the time being in force, shall be introduced in the Council by any member except a Minister or an Officer of State, nor unless such Bill, motion, resolution, or vote shall have received the prior approval of the Board of Ministers.

(2) Every Bill, motion, resolution or vote introduced in the Council for any of the purposes mentioned in the preceding clause of this Article shall be accompanied by a report from the Board of Ministers explaining the financial implications thereof and including the observations of the Financial Secretary thereon.

(3) In this Article the expression "tax" does not include any tax raised by local authorities or bodies for local purposes.

58. (1) Each Minister and each Officer of State shall, not later than the month of April in each year, submit to the Board of Ministers, through the Financial Secretary, the estimates of expenditure proposed by the Minister's Executive Committee, or by the Officer of State, as the case may be, for the ensuing financial year in connection with the subjects or functions under the control of such Committee or Officer of State; provided that no such estimate shall be submitted to the Board of Ministers until the Executive Committee or Officer of State by whom the same shall be proposed shall have consulted the Financial Secretary and shall have considered his report.

(2) If any Minister or Officer of State shall fail to comply with the provisions of the preceding clause of this Article, the Governor may cause to be prepared, with such assistance as he may require from the Board of Ministers and from the heads of any Government departments, an estimate of expenditure for the ensuing financial year in connection with the subjects or functions under the control of such Executive Committee or Officer of State, and may forward the same, certified under his hand, to the Board of Ministers and the Board shall deal with an estimate so received from the Governor in all respects as though it had been received from a Minister or Officer of State in accordance with this Article.

59. (1) The annual estimates of expenditure for the Island, to the extent to which such expenditure shall not previously have been authorized by any law in force in the Island, shall be embodied in a Bill, in this Order called the Annual Appropriation Bill, which shall be submitted annually to the Council in or about the month of June or as soon thereafter as circumstances will permit.

(2) In every Annual Appropriation Bill the expenditure proposed shall be allocated to specific purposes under distinct heads corresponding to the heads mentioned in the Annual Estimates in accordance with Article 56.

Right of Board of Ministers to require attendance of heads of departments and other Government Officers.

Right of Board of Ministers to determine order of Government business in the Council and procedure for determination of questions affecting more than one Executive Committee.

Responsibility of Board of Ministers for preparation of Annual Estimates and Supplementary Estimates.

Responsibility of Board of Ministers for financial measures.

Submission of Annual Estimates of Expenditure by Ministers to the Board of Ministers through the Financial Secretary.

The Annual Appropriation Bill.

(3) The authority for expenditure which the passage into law of any such Bill shall convey shall lapse at the end of the financial year to which the Bill relates.

Supplementary Appropriation Bills.

60. All disbursements of the public revenue or other funds of the Island in any financial year which shall not have been authorized by the passage into law of the Annual Appropriation Bill for that year or otherwise by any law in force in the Island shall be specified in a Bill, in this Order called the Supplementary Appropriation Bill, which shall be submitted to the Council as soon as may be after the close of the financial year in which such disbursements were made.

Authority for expenditure under this Order or under laws other than the Annual Appropriation Law.

61. Whenever any payment of public money shall be, or shall have been, authorized by this Order or by any other law in force in the Island other than the Annual Appropriation Law, it shall be lawful for the Financial Secretary, with the authority of the Governor, to make any such payment, and to accept a charge upon his accounts in respect of any such payment.

Authority for expenditure under the Annual Appropriation Law.

62. Subject to the provisions of Article 66, the Financial Secretary shall not make any payment of public money or accept any charge on his accounts in any financial year in respect of services for which provision has been made in the Annual Appropriation Law for that year, unless he shall be authorized to do so by—

- (a) a General Warrant, signed by the Governor, in accordance with the provisions of Article 63;
- (b) a Requisition, approved by the Governor, in accordance with the provisions of Article 64.

General Warrant.

63. As soon as may be after the enactment of the Annual Appropriation Law for any year, the Financial Secretary shall prepare a complete schedule of the personal emoluments and other public services provided for in the Estimates and in the Annual Appropriation Law for that year over which the Board of Ministers does not desire to retain a special control and of the provision authorized by that law in respect of the same. Such schedule shall be annexed to the General Warrant which, when signed by the Governor, shall authorize payments by the Financial Secretary monthly, or at such periods as may be necessary during the year, in respect of the services therein enumerated.

Requisition.

64. Whenever in the opinion of an Executive Committee or of an Officer of State, after prior consultation with the Financial Secretary, it shall be necessary to incur expenditure on a service for which provision shall have been made in the Annual Appropriation Law, but the expenditure on which shall not have been authorized by the General Warrant, the Minister or Officer of State, as the case may be, shall forward to the Board of Ministers, through the Financial Secretary, a Requisition stating the whole extent and estimated cost of the service required and the reasons therefor, and no such expenditure shall be incurred until the Requisition shall have been approved by the Board of Ministers and by the Governor.

Authority for expenditure not authorized by the Annual Appropriation Law or otherwise by any law. Special Warrant.

65. (1) Whenever in the opinion of an Executive Committee or of an Officer of State, after prior consultation with the Financial Secretary, it shall be necessary to incur expenditure for which provision shall not have been made in the Annual Appropriation Law or by this Order or by any other law in force in the Island, the Minister or Officer of State, as the case may be, shall forward to the Board of Ministers, through the Financial Secretary, a statement showing the whole extent and estimated cost of the service required and the reasons therefor.

(2) If the Board of Ministers shall approve any such expenditure as aforesaid, the Board shall include the same in a Supplementary Estimate and shall submit the same for the approval of the Council and no such expenditure shall be incurred unless the said Estimate of the Board shall have been approved by the Council and ratified by the Governor nor until the same shall be authorized by Special Warrant approved by the Board and signed by the Governor.

(3) Whenever the Board of Ministers shall propose any expenditure for the approval of the Council in accordance with this Article, the Board shall present to the Council a report explaining the nature and extent of the expenditure and the reasons therefor and including the observations of the Financial Secretary thereon.

Power of Governor to authorise expenditure approved by the Council.

66. Notwithstanding anything contained in Articles 62 and 65, if the Board of Ministers shall decline to include in the General Warrant, or to approve a Requisition or Special Warrant for, any expenditure which shall be provided for in the Estimates and in the Annual Appropriation Law for any year, or which shall be approved by a vote passed by the Council or having effect as though it had been so passed, the Governor may, by Warrant under his hand, authorize the Financial Secretary to make any payment, or to accept any charge upon his accounts, in respect of any such expenditure.

Provision for urgent expenditure in anticipation of the approval of the Council.

67. (1) Notwithstanding anything contained in Article 65, if the Board of Ministers shall consider that any expenditure to which that Article refers shall be required too urgently to enable the provisions of that Article to be observed before such expenditure is incurred, the Board may submit to the Governor a Special Warrant to authorize such expenditure, in anticipation of the approval

of the Council, on the personal responsibility of every Minister who shall have approved the same, and such warrant, when signed by the Governor, shall authorize the Financial Secretary to make any payment or to accept any charge on his accounts in accordance therewith.

(2) A report of any expenditure incurred under the authority of a Special Warrant issued under this Article, including the observations of the Financial Secretary thereon, shall be submitted by the Board of Ministers for the approval of the Council at the earliest opportunity.

68. Any Annual or Supplementary Appropriation Bill and any Bill, motion, resolution, or vote to which Article 57 refers may be referred by the Council to the Board of Ministers for further consideration, provided that the Council shall not so refer any such Bill, motion, resolution, or vote for further consideration more than once, and provided further that if the Council shall not have passed, with or without amendment, any Annual Appropriation Bill within three months after the first reading of the Bill shall have been moved, the Council shall be deemed to have rejected the Bill.

69. (1) If the Council, with or without reference to the Board of Ministers for further consideration, shall reject the whole of any Annual Appropriation Bill, the Governor shall dissolve the Council.

(2) The Governor shall also dissolve the Council if, in his opinion, by reason of the decision of the Council upon any Bill, motion, resolution, or vote, to which Article 57 refers, or upon any motion expressly directed to test the confidence of the Council in the Board of Ministers, it shall be apparent that the Board no longer retains the confidence of the Council.

70. If at any time the Council shall be dissolved before financial provision shall have been made for the essential public services of the Island sufficient for the period which must elapse before such provision can be made by a new Council, it shall be lawful for the Governor by warrant under his hand to authorize the Financial Secretary to make such disbursements from the public revenue and other funds of the Island as shall be sufficient for such services during such period but no longer.

71. Notwithstanding anything contained in this Order, upon a dissolution of the Council and until the next succeeding election of Executive Committees and appointment of Ministers in accordance with this Order, the following provisions shall have effect:—

- (a) The executive functions committed to the Council by Article 32 shall be vested in the Board of Ministers as constituted immediately prior to the dissolution of the Council and that Board shall continue to be styled the Board of Ministers and to have and to exercise, as nearly as may be, all the powers and functions which it had and exercised immediately prior to the dissolution of the Council.
- (b) All the powers and functions conferred by this Order, or by any other law, upon any Executive Committee, except the election of a Chairman of the Committee, shall be vested in the person who, immediately prior to the dissolution of the Council, was the Chairman of that Executive Committee, and such person shall continue to be styled Minister and to have and exercise, during the period aforesaid, all the powers and functions which, immediately prior to the dissolution of the Council, he had and exercised as a Minister.
- (c) All the provisions of this Order which relate to reports from Executive Committees to the Council shall relate, as nearly as may be, to reports from Ministers to the Board of Ministers and all the provisions of this Order which relate to reports from the Council to the Governor shall relate, as nearly as may be, to reports from the Board of Ministers to the Governor.
- (d) If any Minister shall be prevented by illness or by absence from the Island, or other sufficient cause, from exercising the functions of his office, the Governor may appoint a person to exercise temporarily the powers and functions of that Minister from among the Board of Ministers, excluding the Officers of State, or from among the persons who, immediately prior to the dissolution of the Council, constituted the Executive Committee of which that Minister was the Chairman. If the person so appointed shall be already a Member of the Board of Ministers he shall be entitled to a vote, at meetings of the Board, by reason of such appointment, in addition to the vote to which he is entitled by reason of his prior membership of the Board.

LEGISLATIVE FUNCTIONS OF THE COUNCIL.

72. It shall be lawful for the Governor, with the advice and consent of the Council, to make laws for the peace, order, and good government of the Island: provided nevertheless and it is hereby reserved to His Majesty, His Heirs and

Reference by the Council of financial measures to Board of Ministers for further consideration. Period for consideration of Annual Appropriation Bill.

Dissolution of Council upon rejection of Annual Appropriation Bill or upon certain decisions in the Council indicating loss of confidence in the Board of Ministers.

Power of Governor to make financial provision for essential public services in the event of dissolution without such provision.

Exercise of executive functions during the period following a dissolution of the Council.

Power to make laws.

Successors, with the advice of His or Their Privy Council, to make from time to time all such laws as may appear necessary for the peace, order, and good government of the Island as fully and effectually as if this Order had not been made.

Privileges of Council.

73. A law may be enacted in accordance with this Order defining the privileges, immunities, and powers to be held, enjoyed, and exercised by the Council and the members thereof; provided that no such privileges, immunities, or powers shall exceed those for the time being held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Northern Ireland or the members thereof.

Assent to laws and commencement.

74. No law made by the Governor, with the advice and consent of the Council, shall take effect until the Governor shall have assented thereto in the name and on behalf of His Majesty and shall have signed the same in token of such assent, provided that if the Governor shall, in accordance with this Order, reserve any Bill passed by the Council for the signification of His Majesty's pleasure thereon, such Bill shall become law and take effect so soon as His Majesty shall have given his assent thereto, either by Order in Council or through the Secretary of State, and the Governor shall have signified such assent by Proclamation published in the *Government Gazette*.

Disallowance of laws.

75. When the Governor assents to a law, he shall by the first convenient opportunity, transmit an authentic copy of the law, in duplicate, to the Secretary of State, and it shall be lawful for His Majesty, at any time within two years after such copy shall have been received by the Secretary of State, to notify to the Governor his disallowance of such law through the Secretary of State, and every law so disallowed shall become null and void from and after the day on which the Governor shall signify such disallowance by Proclamation in the *Government Gazette*.

Declaration of Governor's decision upon Bills presented for assent.

76. When a Bill passed by the Council is presented to the Governor for his assent he shall, according to his discretion, but subject to the provisions of this Order, and of any Instructions addressed to him under His Majesty's Sign Manual and Signet or through the Secretary of State, declare that he assents thereto, or refuses his assent to the same, or that he reserves the same for the signification of His Majesty's pleasure.

Bills reserved for signification of His Majesty's pleasure.

77. The Governor may reserve any Bill passed by the Council for the signification of His Majesty's pleasure thereon, and he shall so reserve any such Bill by which any provision of this Order, or of any other Order of His Majesty in Council, is repealed or varied, or which is in any way repugnant to, or inconsistent with any of the provisions of this Order, or of any such other Order, except where by this Order, or by any such other Order, power is expressly given to the Council to make provision by law. When the Governor so reserves any Bill he shall by the first convenient opportunity transmit an authentic copy in duplicate to the Secretary of State.

Postponement of operation of Bill.

78. In assenting to any Bill the Governor may by order declare that the law shall be withheld from operation for a period not exceeding six months, and in such case, notwithstanding the provisions of Article 74, such law shall not take effect until the expiration of the period for which the same shall have been withheld from operation by the Governor.

Return of Bill to Council for further consideration.

79. The Governor may return to the Council for further consideration any Bill presented to him for his assent, or for the ascertainment of His Majesty's pleasure thereon, and may transmit therewith any amendments to the Bill which he may recommend.

Bills involving important question of principle.

80. When the Governor is of opinion that any Bill introduced or about to be introduced into the Council involves an important question of principle he may at any time before the votes of members upon the third reading of the Bill have been taken, communicate such opinion to the Council by message to the Speaker, and may require that the Bill shall not be presented to him for his assent unless at any reading subsequent to that requirement it shall have been passed by a two-thirds majority of all the members of the Council excluding the Officers of State and the Speaker or other presiding member.

Variation of Governor's decision upon Bills.

81. (1) If the Governor shall exercise in respect of any Bill any of the powers conferred upon him by Articles 78 and 80, he shall forthwith report his decision to the Secretary of State and it shall be lawful for the Secretary of State to cancel or vary the Governor's decision in regard to the same.

(2) The Governor shall communicate the directions of the Secretary of State to the Council and thereupon such directions shall take effect.

Collection of Ordinances to be published every year.

82. As soon as possible after the commencement of each year the Governor shall cause a complete collection of all Ordinances enacted during the preceding year to be published for general information.

AUDIT OF PUBLIC ACCOUNTS.

Appointment of Auditor-General.

83. There shall be an Auditor-General who shall be appointed by the Governor and shall hold office during good behaviour, provided that he shall be removed from office by the Governor upon an address praying for his removal.

presented to the Governor by the Council, provided also that he may be required by the Governor to retire from the public service on the ground of age or infirmity, whether of mind or body, in the like circumstances and subject to the same conditions as any other public officer in receipt of similar pensionable emoluments.

84. The Auditor-General shall be responsible for the audit and inspection of all public accounts of the Government. He shall see that in all matters relating to finance and accounts this Order and the laws of the Island and all lawful directions of the Governor, or of the Council with the approval of the Governor, are strictly observed and shall bring to the notice of the Governor and of the Council any failure in their observance. The Auditor-General and his deputies are at all times entitled to have access to all books, records, or returns relating to accounts, and all accounting officers shall give them every facility for inspecting such documents.

85. As soon as possible after the close of each financial year the Auditor-General shall prepare a report on the revenue and expenditure of the year, and in such report he shall deal with the collection of revenue, the state of the arrears, the manner in which the accounts of the Island are kept, the sufficiency of existing checks against fraud, the nature and extent of the audit applied, and any special questions arising out of the accounts. He shall furnish this report to the Governor and to the Speaker for communication to the Council.

THE PUBLIC SERVICE.

86. (1) The appointment, promotion, transfer, dismissal, and disciplinary control of public officers shall be vested in the Governor, subject to any Instructions given under His Majesty's Sign Manual and Signet or through the Secretary of State and, in so far as concerns the Auditor-General, to the provisions of Article 83.

(2) The Governor may, subject to such Instructions and provisions as aforesaid, and with the approval of the Secretary of State, delegate to such public officers having authority in or over Government departments as he shall think fit, subject to such conditions as he may prescribe, the appointment, promotion, transfer, dismissal, and disciplinary control of officers who are not in receipt of annual pensionable emoluments exceeding such sum as may be specified in such Instructions.

87. (1) No Bill, motion, resolution or vote affecting any officer in the public service at the date of the commencement of this Order and involving any alteration in his salary, allowances, or conditions of service, or in the law, regulations or practice governing the grant of leave or passages, or the payment of pensions or gratuities, applicable to any such officer or his dependents or personal representatives at the date aforesaid shall be introduced into the Council without the sanction of the Governor; and no Bill, motion, resolution, vote or other proposal involving any such alteration as aforesaid which, in the opinion of the Governor, shall be to the prejudice of any such officer shall take effect until it shall have been approved by the Secretary of State.

(2) No Bill, motion, resolution, vote, or other proposal affecting any officer appointed after the commencement of this Order to any public office, appointment to which is subject to the approval of the Secretary of State, and involving any alteration which, in the opinion of the Governor, is to the prejudice of such officer, in the salary, allowances, or conditions of service, or in the law, regulations, or practice governing the grant of leave or passages or the payment of pensions or gratuities, for the time being enjoyed by or applicable to any such officer or his dependents or personal representatives, shall take effect until it shall have been approved by the Secretary of State.

(3) All pensions and gratuities which have been granted to officers who have retired from the public service before the date of the commencement of this Order or to the dependants of officers who have died before that date shall be governed by the law and regulations under which they were granted.

(4) Any Bill, motion, resolution, or vote the enactment or passage of which shall be necessary in order to preserve any rights or privileges which by this Article, may not be varied without the approval of the Secretary of State shall, to the extent required by the decision of the Secretary of State upon any such proposal, be deemed to be essential to give effect to the provisions of this Order within the meaning of Article 22.

88. (1) The Governor may, with the approval of the Secretary of State, make special regulations regarding the grant of pensions and gratuities on retirement to the following classes of public officers holding office at the date of the commencement of this Order, namely:—

- (a) persons appointed, or selected for appointment, to any public office, appointment to which is subject to the approval of the Secretary of State, prior to the seventeenth day of July, 1928.
- (b) persons appointed to any such office after the seventeenth day of July, 1928, but prior to the twelfth day of December, 1929.

Duties of Auditor-General.

Annual Report by Auditor-General.

Appointment, promotion, transfer, dismissal, and disciplinary control of public officers vested in Governor with power of delegation.

Preservation of conditions of service of public officers.

Regulations regarding the retirement on pension of persons holding public office at the commencement of this Order.

Subject to the provisions of the following clauses of this Article, such regulations shall provide that any person included in the first class mentioned above may retire at any time after the commencement of this Order and that any person included in the second class may retire at any time within five years after the commencement of this Order and on such retirement, in the case of an officer included in either of the two classes aforesaid, may be granted a pension or gratuity not less than that which he might have been granted in accordance with the Minute on Pensions in force at the date of the commencement of this Order if at the date of his retirement he had been compelled to retire by reason of the abolition of his office.

(2) Before any public officer shall retire in the exercise of a right given by the regulations aforesaid he shall give to the Governor such notice of his intention to retire as the regulations shall prescribe.

(3) Save with the permission of the Governor, a public officer may not retire in the exercise of any right given by the regulations aforesaid if proceedings for his dismissal are being taken or are about to be taken, nor unless, if so required by the Governor, he shall satisfy the Governor that he is not incapacitated by infirmity either of mind or body for the discharge of his duties.

(4) Pensions at the rate provided by the regulations aforesaid shall be granted only in cases of faithful and meritorious service and shall be subject to reduction, or may be refused, in the same circumstances and to the same extent as a pension which may be granted under the Minute on Pensions aforesaid.

Public Services Commission.

89. (1) There shall be a Public Services Commission to advise the Governor in the exercise of the powers conferred upon him by Article 86. The Chief Secretary shall be the Chairman and such other persons in the public service as the Governor shall appoint shall be members. In the absence of the Chief Secretary such other person as the Governor shall appoint shall act as Chairman of the Commission.

(2) The Governor may at any time revoke any appointment made by him under this Article.

Duties of Public Services Commission.

(3) The Governor may by regulation subject to the approval of the Secretary of State prescribe the duties of and the procedure to be followed by the Commission in the exercise of their duties and the number which shall form a quorum.

Power of Public Services Commission to require attendance of officers and production of documents.

90. The Public Services Commission may require any public officer to attend and to give evidence before it touching any matter which it shall have under consideration and may require the production of any official documents relating to any such matter.

Salaries of Governor, Officer Administering the Government and Officers of State.

91. (1) The Governor shall receive a salary of £8,000 a year, provided that during any period for which the Governor is absent from the Island and the Government shall be administered by another officer in his stead (herein called the Officer Administering the Government) a part of the annual salary aforesaid, at the rate of £2,000 a year, shall be paid to that officer.

(2) From and after the date of the first meeting of the Council after this Order shall come into operation the Chief Secretary shall receive a salary of £3,000 a year and the Legal Secretary and the Financial Secretary shall each receive a salary of £2,400 a year.

(3) The salaries and payments provided by this Article shall be charged upon the public revenue and other funds of the Island.

(4) In the assessment of any income tax which may be payable under any written law no account shall be taken of the salaries or payments provided by this Article for the Governor, or for the Officer Administering the Government, or of the annual value of any official residences assigned to either of them.

CONTINUATION OR TRANSFER OF POWERS VESTED IN CERTAIN AUTHORITIES BY LOCAL LAW.

Disposal of powers vested in the Governor.

92. All powers, authorities, and functions which are or shall be vested in the Governor by any written law in force on the date when the first election of Executive Committees and the first appointment of Ministers in accordance with this Order shall be complete shall, so far as the same shall continue in existence and be capable of being exercised after the said date, remain vested in the Governor.

Disposal of powers vested in the Governor in Council.

93. On and after the date when the first election of Executive Committees and the first appointment of Ministers in accordance with this Order shall be complete, all powers, authorities and functions which at the said date shall be vested by any written law in the Governor in Executive Council, howsoever the association of the said Council with the Governor may be described in any such law, shall, so far as the same shall continue in existence and be capable of being exercised after the said date, be vested in the Governor.

Delegation by the Governor of powers referred to in Articles 91 and 92.

94. The Governor may, by order published in the *Government Gazette* delegate to any Officer of State or to any Executive Committee or to the head of any Government department, subject to such conditions or limitations as he may prescribe, the exercise of any power, authority, or function to which Articles 92 and 93 refer.

95. The Governor may, by order published in the *Government Gazette*, direct that any power, authority, or function which shall be vested in the Colonial Secretary, the Controller of Revenue, or any other public officer, by any written law in force on the date when the first election of Executive Committees and the first appointment of Ministers in accordance with this Order shall be complete, shall, so far as the same shall continue in existence and be capable of being exercised after that date, be vested, subject to such conditions or limitations as the Governor may prescribe, in any Officer of State, or in any Minister or Executive Committee, or in any public officer specified by the Governor in such order.

96. Nothing contained in any of the four immediately preceding Articles, or in any order issued thereunder, shall affect the passing by the Council of any law relating to the vesting or the exercise of any of the powers to which those Articles refer.

GENERAL.

97. (1) If any difficulty arises as to the first establishment of the Council after the commencement of this Order, or otherwise in first giving effect to the provisions of this Order, the Governor, as occasion may require, may, by order published in the *Government Gazette*, do anything which appears to him necessary for the purpose of removing the difficulty.

(2) The Governor may, by Proclamation in the *Government Gazette*, within six months after the commencement of this Order, and provided that His Majesty's approval be previously signified to him through the Secretary of State, vary annul or add to any of the provisions of this Order in order to carry out the purposes of the same.

98. His Majesty hereby reserves to Himself, His Heirs, and Successors, power, with the advice of His or Their Privy Council, to revoke, alter, or amend this Order as to Him or Them shall seem fit.

M. P. A. HANKEY.

Disposal of powers vested in Colonial Secretary, Controller of Revenue and other public officers.

Reservation of Council's power to legislate regarding powers referred to in Articles 91 to 94.

Power of Governor to make orders to meet difficulties arising under Order.

Power to amend by Proclamation.

Power to revoke and amend Order.

FIRST SCHEDULE.

(Article 32.)

I. HOME AFFAIRS.

Police.
Prisons.
Excise and Local Option.
Functions of the Government Analyst.
Religious Associations and Temporalities.
Subjects of internal administration not otherwise allotted.

II. AGRICULTURE AND LANDS.

Lands.
Forests.
Irrigation.
Agriculture.
Veterinary Services.
Surveys and Meteorology.
Co-operative Societies.

III. LOCAL ADMINISTRATION.

Local Government.
Mines and Salt.
Fisheries.
Acquisition of land for public purposes.

IV. HEALTH.

Medical Services.
Sanitary Services.
Housing.

V. LABOUR, INDUSTRY, AND COMMERCE.

Labour.
Industrial welfare.
Commerce.
Functions of the Registrar-General.
Poor Relief.

VI. EDUCATION.

Education.
Museums.
Archæology.

VII. COMMUNICATIONS AND WORKS.

Public Works.
Railways.
Electrical Undertakings.
Posts and Telegraphs.
Ports and Harbours.

SECOND SCHEDULE

(Article 33)

I. CHIEF SECRETARY:

External Affairs
Defence.
The Public Services

II. LEGAL SECRETARY:

The Administration of Justice
Drafting of Legislation
Legal Advice to Government
Criminal prosecutions and civil proceedings on behalf of the Crown.
Elections to the State Council.
Functions of the Public Trustee.

III. FINANCIAL SECRETARY:

Finance.
Supply.
Stores and Printing
Establishments
Customs.
Estate Duty and Stamps.
Valuation on behalf of Government

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In the Name of His Majesty GEORGE THE FIFTH, by the Grace of GOD of Great Britain, Ireland and the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India.

PROCLAMATION.

By His Excellency Sir GRAEME THOMSON, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Knight Commander of the Most Honourable Order of the Bath, Governor and Commander-in-Chief in and over the Island of Ceylon and its Dependencies.

GRAEME THOMSON.

WHEREAS by Article 1 of the Ceylon (State Council) Order in Council, 1931, it is provided that the aforesaid Order in Council shall come into operation upon a date to be declared by the Governor by Proclamation in the *Government Gazette* :

Now know Ye that We, the Governor, do hereby proclaim and declare that the said Ceylon (State Council) Order in Council, 1931, shall come into operation on the Fifteenth day of April, 1931.

Given at Nuwara Eliya, in the said Island of Ceylon, this Fifteenth day of April, in the year of our Lord One thousand Nine hundred and Thirty-one.

By His Excellency's command,

B. H. BOURDILLON,
Colonial Secretary.

GOD SAVE THE KING.