



CEYLON GOVERNMENT GAZETTE

EXTRAORDINARY

No. 9,554 — FRIDAY, MAY 17, 1946.

Published by Authority.

PART I.—GENERAL.

GOVERNMENT NOTIFICATIONS.

THE Ceylon (Constitution) Order in Council, 1946, is hereby published as required by subsection (1) of Section 2 thereof.

By His Excellency's command,

C. H. HARTWELL,
Acting Secretary to the Governor.

Colombo, May 17, 1946.

At the Court at Buckingham Palace, the Fifteenth
day of May, 1946.

Present :

THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS by the Orders in Council set out in the First Schedule to this Order provision is made for the constitution of a State Council for the Island of Ceylon :

AND WHEREAS in the years 1944 and 1945 a Commission was appointed by His Majesty's Government under the chairmanship of the Right Honourable Herwald, Baron Soulbury, O.B.E., M.C., to visit the Island of Ceylon in order to examine and discuss proposals for constitutional reform, and the said Commission duly visited the Island and made a report to His Majesty's Government :

AND WHEREAS a Statement of Policy on Constitutional Reform in Ceylon was presented to Parliament by His Majesty's Government in the month of October, 1945 :

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AND WHEREAS paragraph 10 of the said Statement of Policy contained the following decision :

“ His Majesty’s Government are in sympathy with the desire of the people of Ceylon to advance towards Dominion status and they are anxious to co-operate with them to that end. With this in mind, His Majesty’s Government have reached the conclusion that a Constitution on the general lines proposed by the Soulbury Commission (which also conforms in broad outline, save as regards the Second Chamber, with the Constitutional scheme put forward by the Ceylon Ministers themselves) will provide a workable basis for constitutional progress in Ceylon.

“ Experience of the working of Parliamentary institutions in the British Commonwealth has shown that advance to Dominion status has been effected by modification of existing constitutions and by the establishment of conventions which have grown up in actual practice.

“ Legislation such as the Statute of Westminster has been the recognition of constitutional advances already achieved rather than the instrument by which they were secured. It is therefore the hope of His Majesty’s Government that the new constitution will be accepted by the people of Ceylon with a determination so to work it that in a comparatively short space of time such Dominion status will be evolved. The actual length of time occupied by this evolutionary process must depend upon the experience gained under the new constitution by the people of Ceylon ” :

AND WHEREAS, having regard to the matters aforesaid, it is expedient to revoke the said Orders in Council and to make other provision in lieu thereof:

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

PART I.

PRELIMINARY.

Short title
and
application.

1.—(1) This Order may be cited as the Ceylon (Constitution) Order in Council, 1946.

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

Dates of
operation.

2.—(1) This Order shall be published in the *Government Gazette*.

(2) Parts I., IV. and IX. of this Order shall come into operation on the date on which this Order is published in the *Government Gazette*,

(3) Part III. of this Order shall come into operation on such date as the Governor may appoint by Proclamation, being a date not earlier than nine months from the date on which this Order is published in the *Government Gazette*.

(4) Parts II., V., VI. and VII. of this Order shall come into operation on such date or dates as the Governor may appoint by Proclamation, being a date or dates not later than the date on which the names of Members elected to the first House of Representatives are first published in the *Government Gazette*.

(5) Part VIII. of this Order shall come into operation on the first day of October next following the date of the first meeting of the House of Representatives.

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

Interpretation.

“adjourn” with its grammatical variations and cognate expressions means terminate a sitting of the Senate or the House of Representatives, as the case may be ;

“British subject” means any person who is a British subject according to the law for the time being of the United Kingdom, any person who has been naturalised under any enactment of any of His Majesty’s dominions, and any person who is a citizen or subject of any of the Indian States as defined for the purposes of the Government of India Act, 1935 ;

“dissolve” with its grammatical variations and cognate expressions means terminate the continuance of a Parliament ;

“elector” means a person entitled to vote at an election of a Member ;

“the existing Orders in Council” means the Orders in Council set out in the First Schedule to this Order ;

“general election” means the first general election of Members after the date on which this Part of this Order comes into operation or a general election of Members after a dissolution ;

“Governor” means the Governor and Commander-in-Chief of the Island and includes the Officer for the time being Administering the Government and, to the extent to which a Deputy for the Governor is authorised to act, that Deputy ;

“Island” means the Island of Ceylon and the dependencies thereof ;

“judicial office” means any paid judicial office ;

“Legislative Council” means the Legislative Council which was constituted by the Ceylon (Legislative Council) Order in Council, 1923 ;

“Member” or “Member of Parliament” means a Member of the House of Representatives ;

“Parliament” means the Parliament of the Island ;

“President” means the President, for the time being, of the Senate and includes the Deputy President or other Senator who may for the time being be acting as President ;

“Proclamation” means a Proclamation by the Governor published in the *Government Gazette* ;

“prorogue” with its grammatical variations and cognate expressions means bring a session of Parliament to an end ;

“public office” means any office the holder of which is a public officer ;

“public officer” means any person who holds a paid office, other than a judicial office, as a servant of the Crown in respect of the Government of the Island, but does not include—

- (a) the Governor or any member of the Governor’s office or of his personal staff,
- (b) the President, the Speaker, or an officer of the Senate or the House of Representatives,
- (c) the Clerk to the Senate, the Clerk to the House of Representatives or a member of the staff of the Clerk to the Senate or the Clerk to the House of Representatives,
- (d) a Minister or Parliamentary Secretary,

- (e) a Senator or a Member of Parliament by reason only of the fact that he receives any remuneration or allowance as a Senator or Member,
- (f) a member of the Judicial Service Commission,
- (g) a member of the Public Service Commission,
- (h) the Auditor-General,
- (i) a member of the Ceylon Defence Force or of the Ceylon Naval Volunteer Force or of any other naval, military, or air force that may be raised under the provisions of any Act of Parliament, by reason only of his membership of any such force,
- (j) a Crown Advocate other than a Crown Counsel,
- (k) a Crown Proctor ;

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

“ Senator ” means a person who is for the time being a Member of the Senate ;

“ Session ” means the meetings of Parliament commencing when Parliament first meets after being constituted under this Order, or after its prorogation or dissolution at any time, and terminating when Parliament is prorogued or is dissolved without having been prorogued ;

“ sitting ” means a period during which the Senate or the House of Representatives, as the case may be, is sitting continuously without adjournment, and includes any period during which the Senate or the House of Representatives is in Committee ;

“ Speaker ” means the Speaker for the time being of the House of Representatives and includes the Deputy Speaker or other Member who may for the time being be acting as Speaker ;

“ State Council ” means the State Council constituted by the Ceylon (State Council) Order in Council, 1931 ;

“ United Kingdom ” means the United Kingdom of Great Britain and Northern Ireland.

(2) Any reference in this Order to an Order in Council shall be construed as a reference to that Order as amended by any subsequent Order.

(3) Any reference to the holder of a particular judicial or public office shall be deemed to include a reference to a person acting in that office.

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(4) In the interpretation of this Order, the provisions of the Interpretation Ordinance other than the definition of “ the Government ” shall, subject to the express provisions of this Order, and notwithstanding any provision to the contrary in that Ordinance, apply as it applies for the interpretation of an Ordinance of the State Council.

PART II.

THE GOVERNOR.

4.—(1) In the matter of summoning, proroguing and dissolving Parliament, and the appointment and dismissal of Ministers, the Governor shall, except as otherwise provided by this Order, act in accordance with the constitutional conventions applicable to the exercise of a similar function in the United Kingdom by His Majesty :

Exercise of Governor’s functions.

Provided that no action or omission on the part of the Governor shall be called in question in any court of law or otherwise on the ground that the foregoing provisions of this subsection have not been complied with.

(2) Where, by or under this Order, the Governor is directed to exercise a function on the recommendation of a person or authority, he shall not exercise that function except on such a recommendation, but may accept the recommendation or refer it back to that person or authority for further consideration :

Provided that after one such reference he shall accept such recommendation.

(3) Where, by or under this Order, the Governor is directed to act in his discretion, he shall refer the matter to the Prime Minister for advice but shall not be bound to accept such advice and may decide that matter in his discretion.

5.—(1) The Governor shall receive a salary of £8,000 a year."

(2) During any period in which the Office of Governor is vacant, or the Governor is absent from the Island, or is from any cause prevented from, or incapable of, acting in the duties of his Office, the Officer Administering the Government shall receive a salary calculated at the rate of £6,000 a year and shall not be entitled to receive during that period any salary in respect of any other office.

Salaries of Governor and Officer Administering the Government.

(3) The salary of the Governor or of the Officer Administering the Government shall be charged on the Consolidated Fund and shall not be altered during his continuance in office.

(4) In the assessment of any income tax which may be payable under any written law, no account shall be taken of the salaries provided by this Section for the Governor and for the Officer Administering the Government or of the annual value of any official residence occupied by either of them as such.

6. The salaries of any member of the Governor's office and of his personal staff shall be determined by Parliament and shall be charged on the Consolidated Fund.

Salaries of Governor's staff.

PART III.

THE LEGISLATURE.

General.

7. There shall be a Parliament of the Island which shall consist of His Majesty, represented by the Governor, and two Chambers to be known respectively as the Senate and the House of Representatives.

Parliament.

8.—(1) The Senate shall consist of thirty Senators of whom fifteen (hereinafter referred to as "elected Senators") shall be elected by the House of Representatives and fifteen (hereinafter referred to as "appointed Senators") shall be appointed by the Governor acting in his discretion.

The Senate.

(2) The Senate shall be a permanent body and the term of office of a Senator shall not be affected, and the seat of a Senator shall not become vacant, by reason of a dissolution of Parliament.

(3) One third of the Senators shall retire every second year.

(4) Subject to the provisions of Section 73 of this Order, the term of office of a Senator shall be six years from the date of his election or appointment :

Provided that—

- (a) a person who is elected or appointed a Senator to fill a casual vacancy shall be deemed to be elected or appointed to serve only for the remainder of his predecessor's term of office.
- (b) a person who is elected or appointed to fill a vacancy caused by the termination of a Senator's period of office by effluxion of time shall, for the purposes of this Section, be deemed to have been elected or appointed on such termination.

(5) A separate election shall be held for the filling of each casual vacancy among the elected Senators.

(6) A retiring Senator shall, if otherwise qualified, be eligible for re-election or re-appointment from time to time.

(7) In this Section, the expression "casual vacancy" means a vacancy occurring otherwise than by the termination of a Senator's period of office by effluxion of time.

Election of
Senators.

9.—(1) After the first election under Section 17 of this Order of the Speaker, the Deputy Speaker and Chairman of Committees, and the Deputy Chairman of Committees, the House of Representatives shall, before proceeding to any other business, elect fifteen Senators; and thereafter, as soon as may be after the occurrence of a vacancy among the elected Senators, the House of Representatives shall elect a person to fill such vacancy.

(2) The election of Senators shall, whenever such election is contested, be according to the principle of proportional representation, each voter having one transferable vote.

(3) As soon as may be after the election of a Senator, the Clerk to the House of Representatives shall communicate to the Governor and to the Clerk to the Senate the name of the person elected.

Appointment
of Senators.

10.—(1) As soon as may be after the first election of Senators under Section 9 of this Order, the Governor shall appoint fifteen Senators, and thereafter, whenever there is a vacancy among the appointed Senators, the Governor shall appoint a person to fill the vacancy:

Provided that, if there is at the same time a vacancy among the elected Senators, the Governor may defer filling the vacancy among the appointed Senators until the vacancy among the elected Senators has been filled.

(2) Whenever a person is appointed a Senator under this Section, the Governor shall cause to be sent to the Clerk to the Senate a certificate signed by the Governor setting out the name of the person appointed and the date of appointment. Such certificate shall be conclusive for all purposes and shall not be questioned in any court of law.

(3) In the exercise of his functions under this Section the Governor shall endeavour to appoint persons who, in his judgment, have rendered distinguished public service or are persons of eminence in professional, commercial, industrial or agricultural life, including education, law, medicine, science, engineering and banking. For the purpose of making any appointment under this Section the Governor may consult persons or bodies who he is satisfied are representative of any profession or occupation.

The House of
Representatives.

11.—(1) Subject to the provisions of Section 74 of this Order, the House of Representatives shall consist of the Members elected by the electors of the several electoral districts constituted in accordance

with the provisions of this Order, and the Members, if any, appointed by the Governor under subsection (2) of this Section.

(2) Where after any general election it appears to the Governor that any important interest in the Island is not represented or is inadequately represented, he may appoint to the House of Representatives such number of Members, not exceeding six, as he may think fit.

(3) When the seat of a Member appointed under this Section falls vacant the Governor may appoint a person to fill the vacancy.

(4) In the exercise of his functions under this Section the Governor shall act in his discretion.

(5) Unless Parliament is sooner dissolved, every House of Representatives shall continue for five years from the date appointed for its first meeting and no longer; and the expiry of the said period of five years shall operate as a dissolution of Parliament.

12. Subject to the provisions of this Order, a person who is qualified to be an elector shall be qualified to be elected or appointed to either Chamber.

Qualification for Membership of Senate or House of Representatives.

13.—(1) A Senator shall be disqualified for being elected or appointed or for sitting or voting as a Member of the House of Representatives.

Disqualification for Membership of Senate or House of Representatives.

(2) A person shall be disqualified for being elected or appointed as a Senator or for sitting or voting in the Senate if he has not attained the age of thirty-five years.

(3) A person shall be disqualified for being elected or appointed as a Senator or a Member of the House of Representatives or for sitting or voting in the Senate or in the House of Representatives—

- (a) if he is not a British subject or is by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to a foreign Power or State ; or
- (b) if he is a public officer or a judicial officer or the Auditor-General ; or
- (c) if he, directly or indirectly, by himself or by any person on his behalf or for his use or benefit, holds, or enjoys any right or benefit under any contract made by or on behalf of the Crown in respect of the Government of the Island for the furnishing or providing of money to be remitted abroad or of goods or services to be used or employed in the service of the Crown in the Island ;
- (d) if he has received, or is a member of any incorporated or unincorporated body of less than twenty-five persons which has received, during the period of twelve months immediately preceding, from the public funds of the Island, any grant of such a nature that the award or amount thereof is within the discretion of the Crown or of a public officer ; or
- (e) if he is an undischarged bankrupt or insolvent, having been declared a bankrupt or insolvent under any law in force in any part of His Majesty's dominions or in any territory under His Majesty's protection or in any territory in which His Majesty has from time to time jurisdiction ;

(f) if he is serving or has, during the period of seven years immediately preceding, completed the serving of a sentence of imprisonment (by whatever name called) for a term of three months or longer imposed by any court in any part of His Majesty's dominions or in any territory under His Majesty's protection or in any territory in which His Majesty has from time to time jurisdiction, for an offence punishable with imprisonment for a term exceeding twelve months, or is under sentence of death imposed by any such court, or is serving, or has during the period of seven years immediately preceding, completed the serving of a sentence of imprisonment for a term of three months or longer awarded in lieu of execution of any such sentence :

Provided that, if any person disqualified under this paragraph is granted a free pardon, such disqualification shall cease from the date on which the pardon is granted ;
or

- (g) if he is, under any law in force in the Island, found or declared to be of unsound mind ; or
- (h) if by reason of his conviction for 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 Senators or Members of Parliament, he is incapable of being registered as an elector or of being elected or appointed as a Senator or Member, as the case may be ; or
- (i) if by reason of his conviction for a corrupt or illegal practice, he would have been incapable of being elected as a member of the Legislative Council or of the State Council if the laws relating to the election of Members to those bodies had remained in operation ; or
- (j) if by reason of his expulsion or resignation from the State Council before the date upon which this Part of this Order comes into operation he would have been incapable of being elected or appointed a Member of the State Council if the Ceylon (State Council) Order in Council, 1931, as amended by the Ceylon (State Council) Amendment Order in Council, 1943, had remained in force ; or
- (k) if during the preceding seven years he has been adjudged by a competent court or by a Commission appointed with the approval of the Senate or the House of Representatives or by a Committee thereof to have accepted a bribe or gratification offered with a view to influencing his judgment as a Senator or as a Member of Parliament.

(4) The provisions of paragraphs (c) and (d) of subsection (3) of this Section shall not apply to—

- (i) any contract or subscription to a loan to be issued to the public on advertised terms ;
- (ii) any pension, gratuity, or other benefit payable from the public revenues or other funds of the Island ;
- (iii) any grant to any municipal council, urban council or other public authority established by or under any written law ;
or
- (iv) any grant to a body whose purposes are mainly religious, educational or otherwise charitable or any salary or allowance payable from the public revenues or other funds of the Island to any person, not being a public officer, employed by or under any such body.

(5) For the purposes of paragraph (k) of subsection (3) of this Section, the acceptance by a Senator or Member of Parliament of any allowance or other payment made to him by any trade union or other organisation solely for the purposes of his maintenance shall not be deemed to be the acceptance of a bribe or gratification.

14.—(1) Any person who—

(a) having been appointed or elected a Member of the Senate or House of Representatives, but not having been, at the time of such appointment or election, qualified to be so appointed or elected, shall sit or vote in the Senate or House of Representatives, or

(b) shall sit or vote in the Senate or House of Representatives after his seat therein has become vacant or he has become disqualified from sitting or voting therein,

Penalty for sitting or voting in Senate or House of Representatives when disqualified.

knowing, or having reasonable grounds for knowing, that he was so disqualified, or that his seat has become vacant, as the case may be, shall be liable to a penalty of five hundred rupees for every day upon which he so sits or votes.

(2) The penalty imposed by this Section shall be recoverable by action in the District Court of Colombo instituted by any person who may sue for it :

Provided that no such action, having been instituted, shall proceed further unless the leave of the District Judge of the Court is obtained.

(3) Where, after the institution of any action in pursuance of the provisions of this Section, no steps in pursuit of the action are taken by the person instituting the action for any period of three months the action shall be dismissed with costs.

15.—(1) The Governor may, from time to time, by Proclamation summon, prorogue, or dissolve Parliament.

Sessions of Parliament.

(2) Parliament shall be summoned to meet once at least in every year.

(3) A Proclamation proroguing Parliament shall fix a date for the next session, not being more than four months after the date of the Proclamation :

Provided that, at any time while Parliament stands prorogued,

(a) the Governor may by Proclamation summon Parliament for an earlier date (not being less than three days from the date of such Proclamation) ;

(b) the Governor may dissolve Parliament.

(4) A Proclamation dissolving Parliament shall fix a date or dates for the general election of Members of Parliament, and shall summon a new Parliament to meet on a date not later than four months after the date of the Proclamation.

(5) If there arises, after the dissolution of Parliament, an emergency of such a nature that, in the opinion of the Prime Minister, an earlier meeting of Parliament is necessary, the Governor may by Proclamation summon the Parliament which has been dissolved for a date not less than three days from the date of such Proclamation, and such Parliament may be kept in session until the meeting of the new Parliament.

President
and Deputy
President of
Senate.

16.—(1) The Senate shall at its first meeting elect two Senators to be respectively the President and the Deputy President and Chairman of Committees (hereinafter referred to as the "Deputy President") thereof.

(2) A Senator holding office as the President or the Deputy President of the Senate shall, unless he earlier resigns his office; vacate his office if he ceases to be a Senator.

(3) Whenever the office of President or Deputy President of the Senate becomes vacant, the Senate shall, at its first meeting after the occurrence of the vacancy, elect another Senator to be the President or the Deputy President, as the case may be.

(4) The President, or in his absence the Deputy President, or in their absence a Senator elected by the Senate for the sitting, shall preside at sittings of the Senate.

Speaker,
Deputy
Speaker
and Deputy
Chairman of
Committees
of the
House of
Representatives.

17.—(1) The House of Representatives shall, at its first meeting after a general election, elect three Members to be respectively the Speaker, the Deputy Speaker and Chairman of Committees (hereinafter referred to as the "Deputy Speaker") and the Deputy Chairman of Committees thereof.

(2) A Member holding office as the Speaker or the Deputy Speaker or the Deputy Chairman of Committees of the House of Representatives shall, unless he earlier resigns his office or ceases to be a Member, vacate his office on the dissolution of Parliament.

(3) Whenever the office of Speaker, Deputy Speaker or Deputy Chairman of Committees becomes vacant otherwise than as a result of a dissolution of Parliament, the House of Representatives shall at its first meeting after the occurrence of the vacancy elect another Member to be the Speaker, Deputy Speaker or Deputy Chairman of Committees as the case may be.

(4) If Parliament, after having been dissolved, is summoned under subsection (5) of Section 15, each of the Members mentioned in subsection (2) of this Section shall, notwithstanding anything in that subsection, resume and continue to hold his office while that Parliament is kept in session.

(5) The Speaker, or in his absence the Deputy Speaker, or in their absence the Deputy Chairman of Committees, shall preside at sittings of the House of Representatives. If none of them is present, a Member elected by the House of Representatives for the sitting shall preside at sittings of the House.

Voting.

18. Save as otherwise provided in subsection (4) of Section 29, any question proposed for decision by either Chamber shall be determined by a majority of votes of the Senators or Members, as the case may be, present and voting. The President or Speaker or other person presiding shall not vote in the first instance but shall have and exercise a casting vote in the event of an equality of votes.

Power of
either
Chamber to
act notwith-
standing
vacancies.

19. Each Chamber shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings therein shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do sat or voted or otherwise took part in the proceedings.

Quorum.

20. If at any time during a meeting of either Chamber the attention of the person presiding is drawn to the fact that there are, in the case of a meeting of the Senate, fewer than six Senators

present, or, in the case of a meeting of the House of Representatives, fewer than twenty Members present, the person presiding shall, subject to any Standing Order of the Chamber, adjourn the sitting without question put.

21. Subject to the provisions of this Order, each Chamber may, by resolution or Standing Order, provide for Standing Orders.

- (i) the election and retirement of the President and Deputy President, in the case of the Senate ;
- (ii) the election and retirement of the Speaker, the Deputy Speaker and the Deputy Chairman of Committees, in the case of the House of Representatives ;
- (iii) the regulation of its business, the preservation of order at its sittings and any other matter for which provision is required or authorised to be so made by this Order.

22.—(1) Each Chamber may adjourn from time to time as it may determine by resolution or Standing Order until Parliament is prorogued or dissolved. Adjournment.

(2) During the adjournment of either Chamber for a period exceeding one month the President, or Speaker, as the case may be, shall, if requested by the Prime Minister, convene, in such manner as may be prescribed by the Standing Orders of that Chamber, a meeting of the Senate or the House of Representatives for the transaction of any urgent business of public importance.

23.—(1) The seat of a Senator shall become vacant—

- (a) upon his death ; or
- (b) if, by writing under his hand, addressed to the Clerk to the Senate, he resigns his seat ; or
- (c) if he becomes subject to any of the disqualifications mentioned in Section 13 of this Order ; or
- (d) if, without the leave of the Senate first obtained, he absents himself from the sittings of the Senate during a continuous period of three months ; or
- (e) upon the termination of his term of office.

Vacation of
Seats in the
Senate.

(2) As soon as may be after the seat of an elected Senator becomes vacant, the Clerk to the Senate shall inform the Clerk to the House of Representatives of the vacancy.

(3) As soon as may be after the seat of an appointed Senator becomes vacant, the Clerk to the Senate shall inform the Governor of the vacancy.

24.—(1) The seat of a Member of Parliament shall become vacant—

- (a) upon his death ; or
- (b) if, by writing under his hand addressed to the Clerk to the House of Representatives, he resigns his seat ; or
- (c) if he is elected or appointed a Member of the Senate ; or
- (d) if he becomes subject to any of the disqualifications mentioned in Section 13 of this Order ; or
- (e) if, without the leave of the House of Representatives first obtained, he absents himself from the sittings of the House during a continuous period of three months ; or
- (f) upon the dissolution of Parliament.

Vacation of
Seats in the
House of
Representatives.

(2) Whenever the seat of a Member of Parliament falls vacant under this Section except upon a dissolution of Parliament, the Clerk to the House of Representatives shall inform the Governor who shall (except in the case of a Member appointed under the provisions of subsection (2) of Section 11 of this Order), within one month, by notice in the *Government Gazette*, order the holding of an election to fill the vacancy.

Oath of
Allegiance.

25. Except for the purpose of electing the President or the Speaker, no Senator or Member of Parliament shall sit or vote in the Senate or the House of Representatives until he has taken and subscribed before the Senate or the House of Representatives, as the case may be, the oath of allegiance in accordance with the provisions of the Promissory Oaths Ordinance or shall have made the appropriate affirmation in lieu thereof as provided in the said Ordinance.

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Allowances
to Senators
and Members
of Parliament.

26. If provision is made by law for the payment to Senators or Members of Parliament of any remuneration or allowance in their capacity as Senators or Members of Parliament, the receipt by any Senator or Member of Parliament of such remuneration or allowance shall not disqualify him from sitting or voting in the Senate or the House of Representatives, as the case may be.

Privileges
of Senate and
House of
Representatives.

27.—(1) The privileges, immunities and powers of the Senate and the House of Representatives and of Senators and Members of Parliament may be determined and regulated by Act of Parliament, but no such privileges, immunities or powers shall exceed those for the time being held or enjoyed by the Commons, House of Parliament of the United Kingdom or of its Members.

(2) Until Parliament otherwise provides, the privileges of the Senate and the House of Representatives and of Senators and Members of Parliament shall be the same as the privileges of the State Council and of its Members at the date on which it is last dissolved.

Staff of
Parliament.

28.—(1) There shall be a Clerk to the Senate who shall be appointed by the Governor on the recommendation of the President.

(2) There shall be a Clerk to the House of Representatives who shall be appointed by the Governor on the recommendation of the Speaker.

(3) The members of the staff of the Clerk to the Senate shall be appointed by him in consultation with the President.

(4) The members of the staff of the Clerk to the House of Representatives shall be appointed by him in consultation with the Speaker.

(5) The Clerk to the Senate, the Clerk to the House of Representatives and the members of their staffs shall, while they hold their offices as such, be disqualified for being elected or appointed as a Senator or as a Member of Parliament or for sitting or voting in the Senate or the House of Representatives.

(6) The Clerk to the Senate and the Clerk to the House of Representatives shall not be removable except by the Governor on an address of the Senate, or of the House of Representatives, as the case may be :

Provided that, unless Parliament otherwise provides, the age for their retirement shall be sixty years.

LEGISLATIVE POWERS AND PROCEDURE.

29.—(1) Subject to the provisions of this Order, Parliament shall have power to make laws for the peace, order and good government of the Island.

Power of Parliament to make laws.

(2) No such law shall—

- (a) prohibit or restrict the free exercise of any religion ; or
- (b) make persons of any community or religion liable to disabilities or restrictions to which persons of other communities or religions are not made liable ; or
- (c) confer on persons of any community or religion any privilege or advantage which is not conferred on persons of other communities or religions ; or
- (d) alter the constitution of any religious body except with the consent of the governing authority of that body :

Provided that, in any case where a religious body is incorporated by law, no such alteration shall be made except at the request of the governing authority of that body.

(3) Any law made in contravention of subsection (2) of this Section shall, to the extent of such contravention, be void.

(4) In the exercise of its powers under this Section Parliament may—

- (a) amend or suspend the operation of any of the provisions of any Order in Council in force in the Island on the date of the first meeting of the House of Representatives, other than an Order made under the provisions of an Act of Parliament of the United Kingdom ; or amend or suspend the operation of any of the provisions of this Order :

Provided that no Bill for the amendment or suspension of any of the provisions of this Order shall be presented for the Royal Assent unless it has endorsed on it a certificate under the hand of the Speaker that the number of votes cast in favour thereof in the House of Representatives amounted to not less than two-thirds of the whole number of Members of the House (including those not present) ; every certificate of the Speaker under this subsection shall be conclusive for all purposes and shall not be questioned in any court of law.

30.—(1) His Majesty, His Heirs and Successors, with the advice of His or Their Privy Council, may from time to time make such laws as may appear to Him or Them to be necessary—

Power of His Majesty in Council to legislate for the Island.

- (a) for the defence of any part of His Majesty's dominions (including the Island) or any territory under His Majesty's protection or any territory in which His Majesty has from time to time jurisdiction, or for securing and maintaining public safety and order and supplies and services in case of public emergency ; or
- (b) for regulating the relations between the Island and any foreign country or any part of His Majesty's dominions or any territory as aforesaid.

(2) Any law made in pursuance of the provisions of subsection (1) of this Section may provide for the making of rules, regulations, orders and other instruments for any of the purposes for which

such laws are authorised by this Section to be made, and may contain such incidental and supplementary provisions as appear to His Majesty in Council to be necessary or expedient for the purposes of the law.

(3) No law made in pursuance of the provisions of subsection (1) of this Section shall impose any charge on the revenues or funds of the Island or regulate the importation of goods into or the exportation of goods from the Island, except to give effect to any agreement to which the Government of the Island is a party.

(4) His Majesty hereby reserves to Himself, His Heirs and Successors power, with the advice of His or Their Privy Council, to revoke, add to, suspend or amend this Order, or any part thereof, as to Him or Them shall seem fit.

Introduction
of Bills.

31.—(1) A Bill, other than a Money Bill, may be introduced in either Chamber. A Money Bill shall not be introduced in the Senate.

(2) In this Section and in Sections 33 and 34 of this Order, "Money Bill" means a Public Bill which contains only provisions dealing with all or any of the following subjects, that is to say, the imposition, repeal, remission, alteration or regulation of taxation; the imposition for the payment of debt, expenses of administration or other financial purposes, of charges on the Consolidated Fund or on any other public funds or on moneys provided by Parliament, or the variation or repeal of any such charges; the grant of money to the Crown or to any authority or person, or the variation or revocation of any such grant; the appropriation, receipt, custody, investment, issue, or audit of accounts of public money; the raising or guarantee of any loan or the repayment thereof, or the establishment, alteration, administration or abolition of any sinking fund provided in connection with any such loan; or any subordinate matter incidental to any of the aforesaid subjects.

In this subsection the expressions "taxation", "debt", "public fund", "public money" and "loan" do not include any taxation imposed, debt incurred, fund or money provided or loan raised, by any local authority.

Passing of
Bills.

32.—(1) A Bill shall not be deemed to have been passed by both Chambers, unless it has been agreed to by both Chambers, either without amendment or with such amendments only as are agreed to by both Chambers.

(2) A Bill which has been passed by the Senate with any amendment which is subsequently rejected by the House of Representatives shall be deemed not to have been passed by the Senate.

Restriction
of powers of
Senate as to
Money Bills.

33.—(1) If a Money Bill, having been passed by the House of Representatives and sent to the Senate at least one month before the end of the session, is not passed by the Senate within one month after it is so sent, the Bill may, notwithstanding that it has not been passed by the Senate, be presented to the Governor with or without any amendments which have been made by the Senate and agreed to by the House of Representatives, and shall take effect as an Act of Parliament on the Royal Assent thereto being signified.

(2) There shall be endorsed on every Money Bill when it is sent to the Senate and when it is presented to the Governor for Royal Assent a certificate under the hand of the Speaker that it is a Money Bill. Before giving his certificate the Speaker shall consult the Attorney-General or the Solicitor-General.

34.—(1) If a Bill, other than a Money Bill, is passed by the House of Representatives in two successive sessions, whether of the same Parliament or not, and,

- (a) having been sent to the Senate in the first of those sessions at least one month before the end of that session, is not passed by the Senate in that session, and,
- (b) having been sent to the Senate in the second of those sessions, is not passed by the Senate within one month after it has been so sent, or within six months after the commencement of that session, whichever is the later.

Restriction of powers of Senate as to Bills other than Money Bills.

the Bill may, notwithstanding that it has not been passed by the Senate, be presented to the Governor and shall take effect as an Act of Parliament on the Royal Assent thereto being signified.

(2) There shall be endorsed on every Bill, when it is presented to the Governor for the Royal Assent in pursuance of the provisions of subsection (1) of this Section, a certificate under the hand of the Speaker that the provisions of subsection (1) have been complied with and that the Bill presented for the Royal Assent is identical with the Bill sent to the Senate in the first of the two sessions in which it was passed by the House of Representatives. Before giving his certificate the Speaker shall consult the Attorney-General or the Solicitor-General.

(3) For the purposes of subsection (2) of this Section, a Bill presented for the Royal Assent shall be deemed to be the same Bill as a former Bill sent to the Senate in the preceding session, if, when it is sent to the Senate, it is identical with the former Bill or contains only such alterations as are certified by the Speaker to be necessary owing to the time which has elapsed since the date of the former Bill, or to represent any amendments which have been made by the Senate in the former Bill in the preceding sessions; and any amendments which are certified by the Speaker to have been made by the Senate in the second session and agreed to by the House of Representatives shall be inserted in the Bill as presented to the Governor in pursuance of this Section:

Provided that the House of Representatives may, if they think fit, on the passage of such a Bill through the House in the second session, suggest any further amendments without inserting the amendments in the Bill, and any such suggested amendments shall be considered by the Senate, and, if agreed to, shall be treated as amendments made by the Senate and agreed to by the House of Representatives; but the exercise of this power by the House of Representatives shall not affect the operation of this Section in the event of the rejection of the Bill by the Senate.

35. Every certificate of the Speaker under Section 33 or Section 34 of this Order shall be conclusive for all purposes and shall not be questioned in any court of law.

Certificate of Speaker.

36.—(1) No Bill shall become an Act of Parliament until His Majesty has given His consent thereto.

Assent to Bills.

(2) When a Bill has been passed by both Chambers or by the House of Representatives alone in accordance with the provisions of this Order, it shall be presented to the Governor, who may assent in His Majesty's name, or refuse such assent, or reserve the Bill for the signification of His Majesty's pleasure:

Provided that the Governor shall not reserve for the signification of His Majesty's pleasure any Bill which does not fall within one of the categories of Bills specified in subsection (1) of Section 37 of this Order.

(3) Every Bill presented to the Governor under this Section shall be accompanied by a certificate under the hand of the Attorney-General to the effect that in his opinion the Governor's assent may or may not be properly given thereto.

Reservation
of Bills.

37.—(1) Subject to the provisions of subsection (2) of this Section, the Governor shall reserve for the signification of His Majesty's pleasure any Bill which in his opinion—

- (a) relates to the provision, construction, maintenance, security, staffing, manning and use of such defences, equipment, establishments and communications as may be necessary for the naval, military or air security of any part of His Majesty's dominions (including the Island) or any territory under His Majesty's protection or any territory in which His Majesty has from time to time jurisdiction ;
- (b) is repugnant to or inconsistent with any provision of any Order in Council relating to or affecting—
 - (i) the defence of any part of His Majesty's dominions (including the Island) or any territory under His Majesty's protection or any territory in which His Majesty has from time to time jurisdiction ; or
 - (ii) the relations between the Island and any foreign country or any other part of His Majesty's dominions or any territory as aforesaid
 or any provision of any instrument made under any such Order in Council ;
- (c) affects the relations between the Island and any foreign country or any other part of His Majesty's dominions or any territory under His Majesty's protection or any territory in which His Majesty has from time to time jurisdiction ;
- (d) affects the currency of the Island or relates to the issue of bank notes ;
- (e) is of an extraordinary nature and importance whereby the Royal Prerogative, or the rights or property of British subjects not residing in the Island, or the trade or transport or communications of any part of His Majesty's dominions or any territory under His Majesty's protection or any territory in which His Majesty has from time to time jurisdiction may be prejudiced ;
- (f) contains any provision which has evoked serious opposition by any racial or religious community and which is likely to involve oppression or serious injustice to any such community ;
- (g) amends or suspends the operation of any of the provisions of this Order or is otherwise repugnant to or inconsistent with any such provisions.

(2) Nothing in subsection (1) of this Section shall be deemed to require the Governor to reserve for His Majesty's assent any Bill to which the Governor has been authorised by His Majesty to assent or any Bill which in the opinion of the Governor falls within any of the following classes, that is to say—

- (a) any Bill relating solely to and conforming with any trade agreement concluded with the approval of a Secretary of State between the Government of the Island and the

Government of any part of His Majesty's dominions or of any territory under His Majesty's protection or of any territory in which His Majesty has from time to time jurisdiction ;

- (b) any Bill relating solely to the prohibition or restriction of immigration into the Island, and not containing any provision, relating to the re-entry into the Island of persons normally resident in the Island at the date of the passing of such Bill, which in the opinion of the Governor is unfair or unreasonable ;
- (c) any Bill relating solely to the franchise or to the law of elections ;
- (d) any Bill relating solely to the prohibition or restriction of the importation of, or the imposition of import duties upon, any class of goods, and not containing any provision whereby goods from different countries are subject to differential treatment ;
- (e) any Bill relating solely to the establishment of shipping services or the regulation of shipping, and not containing any provision whereby the shipping of any part of His Majesty's dominions or of any territory under His Majesty's protection or of any territory in which His Majesty has from time to time jurisdiction, may be subjected to differential treatment.

(3) A Bill reserved for His Majesty's assent shall not take effect as an Act of Parliament unless and until His Majesty has given His assent thereto, and the Governor has signified such assent by Proclamation.

38.—(1) In every Bill presented to the Governor, other than a Bill presented under Section 33 or Section 34 of this Order, the words of enactment shall be as follows, that is to say :—

Enacting words.

“ Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows :—”

(2) In every Bill presented to the Governor under Section 33 or Section 34 of this Order, the words of enactment shall be as follows, that is to say :—

“ Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the House of Representatives of Ceylon in this present Parliament assembled, in accordance with the provisions of Section 33 (or Section 34 as the case may be) of the Ceylon (Constitution) Order in Council, 1946, and by the authority of the same, as follows :— ”

(3) Any alteration in a Bill necessary to give effect to subsection (2) of this Section shall not be deemed to be an amendment of the Bill.

39.—(1) Any law which has been assented to by the Governor, and which appears to His Majesty's Government in the United Kingdom—

Laws relating to Ceylon Government stocks.

- (a) to alter, to the injury of the stock-holder, any of the provisions relating to any Ceylon Government stock specified in the Second Schedule to this Order ; or
- (b) to involve a departure from the original contract in respect of any of the said stock

may be disallowed by His Majesty through a Secretary of State.

(2) The provisions of subsection (1) of this Section shall also apply in relation to any Ceylon Government stock issued after the date upon which this Part of this Order comes into operation which, at the request of the Government of the Island, has been included in the list kept by the Treasury of the United Kingdom, in conformity with the provisions of Section 2 of the Colonial Stock Act, 1900, of securities in which a trustee may invest.

(3) Wherever any such law has been disallowed by His Majesty, the Governor shall cause notice of such disallowance to be published in the *Government Gazette*.

(4) Every law so disallowed shall cease to have effect as soon as notice of such disallowance shall be published as aforesaid; and thereupon any enactment repealed or amended by or in pursuance of the law disallowed shall have effect as if such law had not been made. Subject as aforesaid the provisions of Section 6 of the Interpretation Ordinance shall apply.

Cap. 2.

PART IV.

DELIMITATION OF ELECTORAL DISTRICTS.

Establishment
of Delimitation
Commissions.

40.—(1) Within one year after the completion of every general census of the Island following the general census of 1946, the Governor shall establish a Delimitation Commission.

(2) Every Delimitation Commission established under this Section shall consist of three persons appointed by the Governor who shall endeavour to select persons who are not actively engaged in politics. The Governor shall appoint one of such persons to be the Chairman.

(3) If any member of a Delimitation Commission shall die, or resign, or shall become, in the opinion of the Governor, incapable of discharging his functions as such, the Governor shall, in accordance with the provisions of subsection (2) of this Section, appoint another person in his place.

(4) In making appointments under this Section the Governor shall act in his discretion.

Duties of
Delimitation
Commissions.

41.—(1) Every Delimitation Commission established under Section 40 of this Order shall divide each Province of the Island into a number of electoral districts ascertained as provided in subsection (2) of this Section and shall assign names thereto.

(2) The total number of persons who, according to the last preceding general census, were for the time being resident in the Province shall be ascertained to the nearest 75,000. In respect of each 75,000 of this number the Delimitation Commission shall allot one electoral district to the Province and shall add a further number of electoral districts (based on the number of square miles in the Province at the rate of one additional electoral district for each 1,000 square miles of area calculated to the nearest 1,000) as follows:—

Western Province	..	..	..	1
Central Province	..	..	..	2
Southern Province	..	..	..	2
Northern Province	..	..	..	4
Eastern Province	..	..	..	4
North-Western Province	..	..	..	3
North-Central Province	..	..	..	4
Province of Uva	..	..	..	3
Province of Sabaragamuwa	..	..	..	2

(3) Subject to the provisions of subsections (4) and (5) of this Section, each electoral district of a Province shall have as nearly as may be an equal number of persons :

Provided that, in dividing a Province into electoral districts, every Delimitation Commission shall have regard to the transport facilities of the Province, its physical features and the community or diversity of interest of its inhabitants.

(4) Where it appears to the Delimitation Commission that there is in any area of a Province a substantial concentration of persons united by a community of interest, whether racial, religious or otherwise, but differing in one or more of these respects from the majority of the inhabitants of that area, the Commission may make such division of the Province into electoral districts as may be necessary to render possible the representation of that interest. In making such division the Commission shall have due regard to the desirability of reducing to the minimum the disproportion in the number of persons resident in the several electoral districts of the Province.

(5) Notwithstanding anything in subsection (1) of this Section, the Delimitation Commission shall have power to create in any Province one or more electoral districts returning two or more members :

Provided that in any such case the number of electoral districts for that Province, as ascertained in accordance with the provisions of subsection (2) of this Section, shall be reduced so that the total number of Members to be returned for that Province shall not exceed the total number of electoral districts so ascertained.

42. In the event of a difference of opinion among the members of any Delimitation Commission, the opinion of the majority of the members thereof shall prevail and shall be deemed to be the decision of the Commission. Where each member of the Commission is of a different opinion the opinion of the Chairman shall be deemed to be the decision of the Commission.

Decisions of
Delimitation
Commissions.

43. The Chairman of every Delimitation Commission shall communicate the decisions of the Commission to the Governor who shall by Proclamation publish the names and boundaries of the electoral districts as decided by the Commission, and the number of members to be returned by each such district ; and the districts specified in the Proclamation for the time being in force shall be the electoral districts of the Island for all the purposes of this Order and of any law for the time being in force relating to the election of Members of the House of Representatives.

Notification
of Electoral
Districts.

44. Any re-division of the Provinces of the Island into electoral districts, effected by any Delimitation Commission established under Section 40 of this Order, and any alteration consequent upon such re-division in the total number of the Members of the House of Representatives shall, in respect of the election of Members thereof, come into operation at the next general election held after such re-division and not earlier.

Re-division
of electoral
districts.

PART V.

THE EXECUTIVE.

45. The executive power of the Island shall continue vested in His Majesty and shall be exercised, on behalf of His Majesty, by the Governor acting in accordance with the provisions of this Order.

Executive
Power of
Ceylon.

Cabinet of
Ministers.

46.—(1) There shall be a Cabinet of Ministers who shall be charged with the general direction and control of the government of the Island and who shall be collectively responsible to Parliament.

(2) Of the Ministers, one who shall be the head of the Cabinet, shall be styled the "Prime Minister"; of the other Ministers one shall be styled the "Minister of Justice" and another shall be styled the "Minister of Finance".

(3) The Prime Minister shall be appointed by the Governor. The other Ministers shall be appointed by the Governor acting on the recommendation of the Prime Minister.

(4) The Prime Minister shall be in charge of the Ministry of Defence and External Affairs and shall administer the matters relating to that Ministry in addition to such other matters as he may determine to retain in his charge. Each Minister, other than the Prime Minister, shall be charged with the administration of such subjects and functions as may be assigned to him by the Prime Minister.

Parliamentary
Secretaries.

47. The Governor, acting on the recommendation of the Prime Minister, may appoint Parliamentary Secretaries to assist the Ministers in the exercise of their Parliamentary and departmental duties:

Provided that the number of Parliamentary Secretaries shall not at any time exceed the number of Ministers.

Ministers and
Parliamentary
Secretaries in
Senate.

48. Not less than two Ministers, one of whom shall be the Minister of Justice, shall be Members of the Senate. If Parliamentary Secretaries are appointed in pursuance of the provisions of Section 47 of this Order, not more than two of them shall be Members of the Senate.

Other
provisions as
to Ministers
and
Parliamentary
Secretaries.

49.—(1) Every Minister and every Parliamentary Secretary shall hold office during the Governor's pleasure:

Provided that any Minister or Parliamentary Secretary may at any time resign his office by writing under his hand addressed to the Governor.

(2) A Minister or Parliamentary Secretary who for any period of four consecutive months is not a member of either Chamber shall, at the expiration of that period, cease to be a Minister or Parliamentary Secretary, as the case may be.

(3) Whenever a Minister or Parliamentary Secretary is, from any cause whatever, unable to perform any of the functions of his office, the Governor, acting on the recommendation of the Prime Minister, may appoint a person, whether or not he has already been appointed a Minister or Parliamentary Secretary, to act in the place of the said Minister or Parliamentary Secretary, as the case may be, either generally or in the performance of any particular function. For the purposes of this Order, a person so appointed shall be deemed to be a Minister or a Parliamentary Secretary, as the case may be, as long as his appointment shall subsist.

(4) A person appointed to be or to act as a Minister or Parliamentary Secretary shall, before entering on the duties of his office, take and subscribe before the Governor the official oath in accordance with the provisions of the Promissory Oaths Ordinance or shall make the appropriate affirmation in lieu thereof as provided in the said Ordinance.

50. There shall be a Secretary to the Cabinet who shall be appointed by the Governor acting on the recommendation of the Prime Minister. The Secretary to the Cabinet shall have charge of the Cabinet Office and shall, in accordance with such instructions as may be given to him by the Prime Minister, summon meetings of the Cabinet, arrange the business for, and keep the minutes of such meetings, and convey the decisions of the Cabinet to the appropriate person or authority.

Secretary
to the
Cabinet.

51.—(1) There shall be for each Ministry a Permanent Secretary who shall be appointed by the Governor acting on the recommendation of the Public Service Commission :

Permanent
Secretaries to
Ministries.

Provided that the Governor shall communicate such recommendation to the Prime Minister and shall inform the Public Service Commission of any objection made thereto by the Prime Minister, and shall not act upon that recommendation until the Public Service Commission has considered such objection and reaffirmed or varied its recommendation.

(2) Each Permanent Secretary shall, subject to the general direction and control of his Minister, exercise supervision over the department or departments of Government in the charge of his Minister.

(3) For the purpose of this Section the department of the Auditor-General, the office of the Clerk to the Senate, the office of the Clerk to the House of Representatives and the Cabinet Office shall be deemed not to be departments of Government.

PART VI.

THE JUDICATURE.

52.—(1) The Chief Justice and Puisne Judges of the Supreme Court and Commissioners of Assize shall be appointed by the Governor acting in his discretion.

Judges of the
Supreme
Court.

(2) Every Judge of the Supreme Court shall hold office during good behaviour and shall not be removable except by the Governor on an address of the Senate and the House of Representatives.

(3) The age for the retirement of Judges of the Supreme Court shall be sixty-two years :

Provided that the Governor may in his discretion permit a Judge of the Supreme Court who has reached the age of sixty-two years to continue in office for a period not exceeding twelve months.

(4) The salaries of the Judges of the Supreme Court shall be determined by Parliament and shall be charged on the Consolidated Fund.

(5) Every Judge of the Supreme Court appointed before the date on which this Part of this Order comes into operation and in office on that date shall continue in office as if he had been appointed under this Part of this Order.

(6) The salary payable to any such Judge shall not be diminished during his term of office.

53.—(1) There shall be a Judicial Service Commission which shall consist of the Chief Justice, who shall be the Chairman, a Judge of the Supreme Court, and one other person who shall be, or shall have been, a Judge of the Supreme Court. The members of the Commission, other than the Chairman, shall be appointed by the Governor acting in his discretion.

The Judicial
Service
Commission.

(2) No person shall be appointed as, or shall remain, a member of the Judicial Service Commission, if he is a Senator or a Member of Parliament.

(3) Subject to the provisions of subsection (5) of this Section, every member of the Judicial Service Commission, other than the Chairman, shall, unless he earlier resigns his office, or is removed therefrom as hereinafter provided, or being a Judge of the Supreme Court ceases so to be, hold office for a period of five years from the date of his appointment, and shall be eligible for re-appointment.

(4) The Governor acting in his discretion may for cause assigned remove any member of the Judicial Service Commission from his office.

(5) The Governor acting in his discretion may grant leave from his duties to any member of the Judicial Service Commission, and may appoint a person qualified to be a member of the Judicial Service Commission to be a temporary member for the period of such leave.

(6) Where a person is appointed to be a member of the Judicial Service Commission, he may be paid such salary or allowance as may be determined by Parliament. Any salary or allowance payable to such person shall be charged on the Consolidated Fund and shall not be diminished during his term of office.

(7) The Governor acting on the recommendation of the Judicial Service Commission may make regulations in regard to the exercise by the Commission of any of their functions.

54. There shall be a Secretary to the Judicial Service Commission who shall be appointed by the Governor acting on the recommendation of the Commission.

Secretary
to Judicial
Service
Commission.

55.—(1) The appointment, transfer, dismissal and disciplinary control of judicial officers is hereby vested in the Governor acting on the recommendation of the Judicial Service Commission.

Appointment
to other
judicial office.

(2) Any judicial officer may resign his office by writing under his hand addressed to the Governor.

(3) Every judicial officer appointed before the date on which this Part of this Order comes into operation and in office on that date shall continue in office as if he had been appointed under this Part of this Order.

(4) The Governor acting on the recommendation of the Judicial Service Commission may, by Order published in the *Government Gazette*, delegate to the Judicial Service Commission or to the Secretary thereto the power to authorise all transfers other than transfers involving increase of salary.

(5) In this Section "appointment" includes an acting or temporary appointment and "judicial officer" means the holder of any judicial office but does not include a Judge of the Supreme Court or a Commissioner of Assize.

56. Every person who, otherwise than in the course of his duty, directly or indirectly, by himself or by any other person, in any manner whatsoever, influences or attempts to influence any recommendation or decision of the Judicial Service Commission or of any member thereof shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment for a term not exceeding one year or to both such fine and such imprisonment:

Interference
with
Judicial
Service
Commission.

Provided that nothing in this Section shall prohibit any person from giving a certificate or testimonial to any applicant or candidate for any judicial office.

PART VII.

THE PUBLIC SERVICE.

57. Save as otherwise provided in this Order, every person holding office under the Crown in respect of the Government of the Island shall hold office during His Majesty's pleasure.

Tenure of Office in the Public Service.

58.—(1) There shall be a Public Service Commission which shall consist of three persons, appointed by the Governor acting in his discretion, one and only one of whom shall be immediately before appointment, or shall have been, a public officer. The Governor acting in his discretion shall nominate one of the members of the Commission to be the Chairman.

The Public Service Commission.

(2) No person shall be appointed as, or shall remain, a member of the Public Service Commission, if he is a Senator or a Member of Parliament.

(3) Every person who, immediately before his appointment as a member of the Public Service Commission, is a public officer shall, when such appointment takes effect, cease to hold any paid office previously held by him as a servant of the Crown in respect of the Government of the Island, and shall accordingly cease to be a public officer for the purposes of this Order; and he shall be ineligible for further appointment as a public officer:

Provided that any such person shall, until he ceases to be a member of the Public Service Commission or, while continuing to be such a member, attains the age at which he would, if he were a public officer, be required to retire, be deemed to hold a pensionable office in the service of the Crown in respect of the Government of the Island for the purposes of any written law relating to the grant of pensions, gratuities or other allowances in respect of such service.

(4) Subject to the provisions of subsection (6) of this Section, every person who is appointed to be a member of the Public Service Commission shall, unless he earlier resigns his office or is removed therefrom, hold office for a period of five years from the date of his appointment and shall be eligible for re-appointment.

(5) The Governor acting in his discretion may for cause assigned remove any member of the Public Service Commission from his office.

(6) The Governor acting in his discretion may grant leave from his duties to any member of the Public Service Commission, and may appoint a person qualified to be a member of the Public Service Commission to be a temporary member for the period of such leave.

(7) A member of the Public Service Commission may be paid such salary as may be determined by Parliament. The salary payable to any such member shall be charged on the Consolidated Fund and shall not be diminished during his term of office.

(8) For the purposes of Chapter IX. of the Penal Code, a member of the Public Service Commission shall be deemed to be a public servant.

Cap. 15.

59. There shall be a Secretary to the Public Service Commission who shall be appointed by the Governor acting on the recommendation of the Commission.

Secretary to the Public Service Commission.

Appointments
in the Public
Service.

60.—(1) The appointment, transfer, dismissal and disciplinary control of public officers is hereby vested in the Governor acting on the recommendation of the Public Service Commission :

Provided that appointments and transfers to the office of Attorney-General shall be made by the Governor acting in his discretion.

(2) In subsection (1) of this Section the expression “ transfer ” means a transfer involving an increase of salary.

Regulations.

61.—(1) The Governor, acting on the recommendation of the Public Service Commission, may make regulations for all or any of the following matters :—

- (a) the exercise by the Commission of any of their functions ;
- (b) the delegation to the Commission, or to any public officer acting with or without the recommendation of the Commission, subject to such conditions as may be prescribed by the regulations, of any of the powers vested in the Governor by subsection (1) of Section 60 of this Order.

(2) In the exercise of his powers under subsection (1) of this Section the Governor shall not delegate to any public officer the power to appoint to any public office which carries an initial salary of more than three thousand two hundred rupees.

Interference
with Public
Service
Commission.

62. The provisions of Section 56 of this Order shall apply in relation to the Public Service Commission as though the reference therein to the Judicial Service Commission were a reference to the Public Service Commission and the reference to judicial office were a reference to public office.

Retirement
on pension
of persons
holding
office at the
commencement
of this Order.

63.—(1) Any officer in the public service (not being an officer appointed on agreement for a specified period) who is holding office on the day immediately preceding the date on which this Part of this Order comes into operation and who was appointed or selected for appointment prior to the ninth day of October, 1945, to any office, appointment to which was subject to the approval of a Secretary of State, may, subject to the provisions of subsection (2) of this Section, retire from the public service, and on such retirement may be granted a pension or gratuity in accordance with and subject to the provisions of Article 88 of the Ceylon (State Council) Order in Council, 1931, and the regulations made thereunder, notwithstanding the revocation of that Order by Section 91 of this Order ; and those provisions shall apply accordingly subject to any Proclamation made under Section 88 of this Order.

(2) The right given by subsection (1) of this Section to an officer in the public service to retire may be exercised—

- (a) in the case of an officer appointed or selected for appointment prior to the seventeenth day of July, 1928, at any time after this Part of this Order comes into operation ;
- (b) in the case of an officer appointed or selected for appointment on or after the seventeenth day of July, 1928, but prior to the ninth day of October, 1945, at any time within two years after the date of the first meeting of the House of Representatives.

Preservation
of Pensions, &c.

64.—(1) All pensions, gratuities, or other like allowances which have been, or which may be, granted to any persons who have been, and have ceased to be, in the service of the Crown in respect of the Government of the Island at any time before the date on which this Part of this Order comes into operation, or to the widows,

children or dependants of such persons, shall be governed by the written law under which they were granted, or, if granted after that date, by the written law in force on that date, or, in either case, by any written law made thereafter which is not less favourable.

(2) Subject to the provisions of Section 63 of this Order all pensions, gratuities and other like allowances which may be granted to persons who, on the date on which this Part of this Order comes into operation, are in the service of the Crown in respect of the Government of the Island, or to the widows, children or dependants of such persons, shall be governed by the written law in force on that date or by any written law made thereafter which is not less favourable.

65. All pensions and gratuities granted in accordance with the provisions of this Order shall be charged on the Consolidated Fund.

Pensions, &c.,
charged on the
Consolidated
Fund.

PART VIII.

FINANCE.

66.—(1) The funds of the Island not allocated by law to specific purposes shall form one Consolidated Fund into which shall be paid the produce of all taxes, imposts, rates and duties and all other revenues of the Island not allocated to specific purposes.

The
Consolidated
Fund.

(2) The interest on the public debt, sinking fund payments, the costs, charges and expenses incidental to the collection, management and receipt of the Consolidated Fund and such other expenditure as Parliament may determine shall be charged on the Consolidated Fund.

67.—(1) Save as otherwise expressly provided in subsection (3) of this Section, no sum shall be withdrawn from the Consolidated Fund except under the authority of a warrant under the hand of the Governor addressed to the Ministry of Finance.

Withdrawal
of sums
from the
Consolidated
Fund.

(2) No such warrant shall be issued unless the sum has by resolution of the House of Representatives or by any law been granted for specified public services for the financial year during which the withdrawal is to take place or is otherwise lawfully charged on the Consolidated Fund.

(3) Where the Governor dissolves Parliament before the Appropriation Bill for the financial year has received the Royal Assent, he may, unless Parliament shall have already made provision, authorise the issue from the Consolidated Fund and the expenditure of such sums as he may consider necessary for the public services until the expiry of a period of three months from the date on which the new House of Representatives is summoned to meet.

68.—(1) Notwithstanding any of the provisions of Section 66 of this Order, Parliament may by law create a Contingencies Fund for the purpose of providing for urgent and unforeseen expenditure.

Contingencies
Fund.

(2) The Minister of Finance, if satisfied

- (a) that there is need for any such expenditure, and
- (b) that no provision for such expenditure exists,

may, with the consent of the Prime Minister, authorise provision to be made therefor by an advance from the Contingencies Fund.

(3) As soon as possible after every such advance, a Supplementary Estimate shall be presented to Parliament for the purpose of replacing the amount so advanced.

Special provisions as to Bills, &c., affecting public revenues.

69. No Bill or motion, authorising the disposal of, or the imposition of charges upon, the Consolidated Fund or other funds of the Island, or the imposition or of any tax or, the repeal, augmentation or reduction of any tax for the time being in force shall be introduced in the House of Representatives except by a Minister, nor unless such Bill or motion has been approved either by the Cabinet or in such manner as the Cabinet may authorise.

The Auditor-General.

70.—(1) There shall be an Auditor-General who shall be appointed by the Governor acting in his discretion and who shall hold office during good behaviour.

(2) The salary of the Auditor-General shall be determined by Parliament, shall be charged on the Consolidated Fund and shall not be diminished during his term of office.

(3) The office of Auditor-General shall become vacant—

(a) by his death ; or

(b) by his attaining the age of fifty-five years or such higher age as the Governor in his discretion may determine ; or

(c) by his resignation in writing addressed to the Governor ; or

(d) by his removal by the Governor on account of ill health, or physical or mental infirmity in the like circumstances and subject to the same conditions as a public officer in receipt of similar pensionable emoluments ; or

(e) by his removal by the Governor upon an address from the Senate and the House of Representatives praying for his removal.

Audit of Accounts.

71.—(1) The accounts of all departments of Government, including the offices of the Cabinet, the Clerk to the Senate, the Clerk to the House of Representatives, the Judicial Service Commission and the Public Service Commission shall be audited by the Auditor-General who, with his deputies, shall at all times be entitled to have access to all books, records, or returns relating to such accounts.

(2) The Auditor-General shall report annually to the House of Representatives on the exercise of his functions under this Order.

PART IX.

TRANSITIONAL PROVISIONS, REPEALS AND SAVINGS.

Regulations for election of Senators.

72. The Governor shall, before the first election of Senators in accordance with the provisions of Section 9 of this Order, make regulations prescribing the method of voting and of transferring and counting votes in any election of Senators ; and such regulations shall have effect as if enacted in this Order until Parliament shall otherwise provide.

Term of office of first Senators.

73. For the purpose of securing that one-third of the Senators shall retire every second year, at the first meeting of the Senate under this Order, the Senate shall by lot divide the Senators into three classes, each class consisting of five elected Senators and five appointed Senators ; and the term of office of the Senators of the first class shall terminate at the expiry of a period of two years, the term of office of the Senators of the second class shall terminate at the expiry of a period of four years, and the term of office of the Senators of the third class shall terminate at the expiry of a period of six years, from the date of election or appointment, as the case may

be. For the purposes of this Section, appointed Senators shall be deemed to have been appointed on the day on which elected Senators are elected.

74. Notwithstanding anything in Section 11 of this Order, the first House of Representatives shall consist of one hundred and one Members, ninety-five of whom shall be elected in accordance with the law in force relating to the election of Members of Parliament, and six of whom shall be appointed by the Governor acting in his discretion.

Number of Members in first House of Representatives.

75. Until Parliament otherwise provides, the remuneration and allowances payable to Members of the first House of Representatives, including the Speaker, the Deputy Speaker and the Deputy Chairman of Committees, shall be the same as the remuneration and allowances paid to the Members of the State Council and the aforesaid officers thereof.

Remuneration of Members of first House of Representatives.

76.—(1) As soon as may be after this Part of this Order comes into operation, the Governor shall establish a Delimitation Commission. The Governor shall fix a period within which the decisions of the Commission shall be reported to him :

Establishment and duties of first Delimitation Commission.

Provided that the Governor may, at the request of the Chairman of the Commission, extend such period as he may think fit.

(2) Notwithstanding anything in subsection (2) of Section 41 of this Order, the number of electoral districts into which each Province of the Island shall be divided by the first Delimitation Commission shall be as follows :—

Western Province	20
Central Province	15
Southern Province	12
Eastern Province	7
Northern Province	9
North-Western Province	10
North-Central Province	5
Province of Uva	7
Province of Sabaragamuwa	10

(3) Notwithstanding anything in subsection (2) of this Section, the first Delimitation Commission shall have power to create in any Province one or more electoral districts returning two or more Members :

Provided that in any such case the number of electoral districts for that Province specified in subsection (2) of this Section shall be reduced so that the total number of Members to be returned for that Province shall not exceed the total number of electoral districts so specified.

(4) Save as provided by this Section, the provisions of Part IV. of this Order shall apply to the first Delimitation Commission.

77. As soon as may be after the publication of the first Proclamation under Section 43 of this Order, a register of electors shall be prepared for each electoral district in accordance with the law then in force relating to the election of Members of Parliament.

First register of electors.

78. If the State Council is dissolved under the provisions of the Ceylon (State Council) Order in Council, 1931, at any time after the publication of the first Proclamation under Section 43 of this Order, the Governor shall not be obliged, notwithstanding anything in sub-clause (2) of Article 23 of the Ceylon (State Council Elections) Order in Council, 1931, to order a general election to be held for the purpose of electing Members of the State Council. The fact that a general election for the purpose aforesaid is not ordered by the

Power to discontinue election to State Council.

Governor shall not affect the continuance in operation of those provisions of the existing Orders in Council which would have applied between the dissolution of the State Council and the next succeeding election of Executive Committees if a general election had been ordered.

Power to dissolve State Council.

79. If the State Council is not dissolved under the provisions of the Ceylon (State Council) Order in Council, 1931, before the expiration of a period of nine months from the date on which this Order is published in the *Government Gazette*, the Governor shall, as soon as conveniently may be thereafter, dissolve the State Council.

First general election of Members of Parliament.

80. As soon as conveniently may be after the date on which Part III. of this Order comes into operation and after the completion of the registers of electors referred to in Section 77 of this Order, the Governor shall by Proclamation order that a general election shall be held for the purpose of electing Members to constitute the first House of Representatives under this Order.

First Standing Orders of the Senate and House of Representatives.

81. The first Standing Orders of the Senate and of the House of Representatives shall be made by the Governor. Any Standing Order made by the Governor may be amended or revoked by the Chamber for which that Order is made.

First Clerks of Senate and House of Representatives and Parliamentary staff.

82.—(1) The first Clerk to the Senate shall be appointed provisionally by the Governor and shall hold office until an appointment is made under Section 28 of this Order.

(2) The person holding the office of Clerk of the State Council and the persons on the staff of the State Council on the date immediately preceding the date on which Part III. of this Order comes into operation shall, on that date, be transferred to the service of the House of Representatives and shall be deemed to have been appointed respectively as Clerk to the House of Representatives and as members of his staff under Section 28 of this Order. The persons referred to in this subsection shall, until Parliament otherwise provides, hold their appointments on as nearly as may be the same terms and conditions as those on which they were employed under the State Council.

First Permanent Secretaries.

83. The appointment of the first Permanent Secretaries shall be made by the Governor on the recommendation of the Prime Minister. Every such appointment shall be provisional until an appointment is made under Section 51 of this Order.

Retirement of Officers of State.

84.—(1) Each of the persons holding the respective offices of Chief Secretary, Legal Secretary and Financial Secretary shall cease to hold that office when all the subjects and functions assigned to him under the existing Orders in Council have been assumed by a Minister or other authority under this Order.

(2) Until the Chief Secretary, the Legal Secretary and the Financial Secretary cease to hold office as provided in subsection (1) of this Section, they shall be paid the salaries specified in the Ceylon (State Council) Order in Council, 1931.

(3) If any person ceasing to hold office under the provisions of this Section, having held such office on the ninth day of October, 1945, is not transferred to any public service outside the Island and is granted a pension or gratuity in respect of service under the Government of the Island, his case shall be treated in the computation of such pension or gratuity as one of abolition of office.

85.—(1) Articles 56 to 67, Article 70 and Articles 83 to 85 of the Ceylon (State Council) Order in Council, 1931, shall continue in force until the first day of October next following the date of the first meeting of the House of Representatives under this Order, subject to the following modifications, namely, that from the date of the first meeting of the House of Representatives—

Finance.

- (a) the functions of the State Council shall be exercised by the House of Representatives ;
- (b) the functions of the Board of Ministers shall be exercised by the Cabinet ;
- (c) the functions of the Financial Secretary shall be exercised by the Minister of Finance ;
- (d) any function of any other Officer of State or of an Executive Committee shall be exercised by the Minister to whom the function is assigned in accordance with the provisions of this Order.

(2) Where by any Section of this Order any payment is charged on the Consolidated Fund, that payment shall, until the date on which Part VIII. of this Order comes into operation, be charged on the revenue and other funds of the Island.

86. Notwithstanding the provisions of Section 30 of this Order, His Majesty, His Heirs and Successors, with the advice of His or Their Privy Council, may, at any time between the date on which Part III. of this Order comes into operation and the date of the first meeting of the House of Representatives, make such laws as may appear to him or Them to be necessary for the peace, order and good government of the Island.

Provision for interim legislation by His Majesty in Council.

87.—(1) The Governor may, at any time before the first meeting of the House of Representatives under this Order, make such regulations as appear to him to be necessary or expedient, in consequence of the provisions of this Order, for modifying, adding to or adapting the provisions of any general order, financial regulation, public service regulation or other administrative regulation or order, or otherwise for bringing the provisions of any such administrative regulation or order into accord with the provisions of this Order or for giving effect thereto.

Modification of existing administrative orders.

(2) Every regulation made under subsection (1) of this Section shall have effect until it is amended, revoked or replaced by the appropriate Minister or authority under this Order.

88.—(1) The Governor may by Proclamation at any time before the first meeting of the House of Representatives under this Order make such provision as appears to him necessary or expedient, in consequence of the provisions of this Order, for modifying, adding to or adapting the provisions of any written law which refer in whatever terms to the Governor, the State Council, the Board of Ministers, the Officers of State, a Minister, an Executive Committee or a public officer, or otherwise for bringing the provisions of any written law into accord with the provisions of this Order or for giving effect thereto.

Modification of existing laws.

(2) Every Proclamation under subsection (1) of this Section shall have the force of law and may be amended, added to or revoked by further Proclamation within the period specified in that subsection.

Construction of written law.

89. Subject to the provisions of any Proclamation made under Section 88 of this Order—

- (a) every reference in any written law in force on the date of the first meeting of the House of Representatives under this Order to the Legislative Council or to the State Council shall, on and after that date and until Parliament otherwise provides, be read and construed as a reference to the House of Representatives ;
- (b) every reference in any written law aforesaid to an Officer of State, a Minister or an Executive Committee shall, on and after the date of the first meeting of the House of Representatives under this Order and until Parliament otherwise provides, be read and construed as a reference to the Minister or other authority to whom the particular power, authority or function is assigned under this Order.

Power of Parliament to legislate on matters referred to in ss. 88 and 89 of this Order.

90. Nothing contained in Sections 88 and 89 of this Order shall affect the passing by Parliament of any law relating to the vesting or the exercise of any of the powers, authorities or functions to which those Sections refer.

Revocation.

91. The existing Orders in Council shall be revoked on the date on which Part III. of this Order comes into operation :

Provided that the preceding provisions of this Section shall not prejudice or affect—

- (a) anything lawfully done under any of the Orders aforesaid or the continuance of any legal proceeding begun before the date aforesaid ;
- (b) the continued operation of any law in force in the Island immediately before the date aforesaid ;
- (c) the continued operation, until the date on which Part II. of this Order comes into operation, of those provisions of the existing Orders in Council which relate to the Governor or the Officer Administering the Government ;
- (d) the continued operation, until Ministers or other authorities have assumed charge of the functions assigned to them under this Order, of those provisions of the existing Orders in Council which relate to the executive functions of the Governor, the Board of Ministers, the Officers of State and the Ministers ;
- (e) the continued operation, until the first day of October next following the date of the first meeting of the House of Representatives under this Order, of those provisions of the Ceylon (State Council) Order in Council, 1931, specified in Section 85 of this Order ;
- (f) the continuance, until a Public Service Commission and a Judicial Service Commission respectively are established under this Order, of the Public Services Commission and the Judicial Appointments Board as constituted at the date aforesaid, or the exercise by them of their respective functions.

E. C. E. LEADBITTER.

FIRST SCHEDULE.

The Ceylon (State Council) Order in Council, 1931.
The Ceylon (State Council) Amendment Order in Council, 1934.
The Ceylon (State Council) Amendment Order in Council, 1935.
The Ceylon (State Council) Amendment Order in Council, 1937.
The Ceylon (State Council) Amendment Order in Council, 1939.
The Ceylon (State Council) Amendment Order in Council, 1943.
The Ceylon (State Council—Extension of Duration) Order in Council, 1944.

SECOND SCHEDULE.

Ceylon Government 5 per cent. Inscribed Stock (1960–70).
Ceylon Government $4\frac{1}{2}$ per cent. Inscribed Stock (1965).
Ceylon Government $3\frac{1}{2}$ per cent. Inscribed Stock (1954–59).
Ceylon Government $3\frac{1}{4}$ per cent. Inscribed Stock (1959).
Ceylon Government 3 per cent. Inscribed Stock (1959–64).

THE Ceylon (Electoral Registers) (Special Provisions) Order in Council, 1946, is hereby published as required by Section 2 thereof.

By His Excellency's command,

Colombo, May 17, 1946.

C. H. HARTWELL,
Acting Secretary to the Governor.

At the Court at Buckingham Palace, the Fifteenth day of May, 1946.

Present :

THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS by the Ceylon (Constitution) Order in Council, 1946, provision is made for the constitution and powers of a Senate and a House of Representatives for Ceylon :

AND WHEREAS, for the purposes of such provision, it is expedient to make certain modifications in the Ceylon (State Council Elections) Order in Council, 1931 :

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

- | | |
|---|--|
| 1.—(1) This Order may be cited as the Ceylon (Electoral Registers) (Special Provisions) Order in Council, 1946. | Short title and application. |
| (2) Nothing in this Order shall extend to the Maldivé Islands. | |
| 2. This Order shall be published in the <i>Government Gazette</i> and shall come into operation on the date of such publication. | Date of operation. |
| 3. Until other provision is made, the Ceylon (State Council Elections) Order in Council, 1931, shall have effect subject, with respect to the provisions mentioned in Column 1 of the Schedule to this Order, to the modifications and exceptions set out in Column 2 of that Schedule. | Modification of Ceylon (State Council Elections) Order in Council, 1931. |
| 4. His Majesty hereby reserves to Himself, His Heirs and Successors power, with the advice of His or Their Privy Council, to revoke, add to or amend this Order as to Him or Them may seem fit. | Power to revoke or amend Order. |

E. C. E. LEADBITTER.

SCHEDULE.

Column 1.	Column 2.
Articles 6 (1) and 8 (1)	For the words " first day of August ", wherever those words occur collectively, there shall be substituted the words " twenty-second day of May ".
Article 13 ..	For the words " first day of August " there shall be substituted the words " twenty-second day of May "; and for the words " fifteenth day of September " there shall be substituted the words " thirtieth day of June ".
Article 15 (1) ..	For the words " first day of October " there shall be substituted the words " fifteenth day of July ".
Articles 16, 17, 18, 19, 20 and 21	Shall not apply.