

CHAPTER 1

**THE CONSTITUTION OF THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA**

SVASTI

The PEOPLE OF SRI LANKA having, by their Mandate freely expressed and granted on the sixth day of the waxing moon in the month of Adhi Nikim in the year two thousand five hundred and twenty-one of the Buddhist Era (being Thursday the twenty-first day of the month of July in the year one thousand nine hundred and seventy-seven), entrusted to and empowered their Representatives elected on that day to draft, adopt and operate a new Republican Constitution in order to achieve the goals of a DEMOCRATIC SOCIALIST REPUBLIC, and having solemnly resolved by the grant of such Mandate and the confidence reposed in their said Representatives who were elected by an overwhelming majority, to constitute SRI LANKA into a DEMOCRATIC SOCIALIST REPUBLIC, whilst ratifying the immutable republican principles of REPRESENTATIVE DEMOCRACY, and assuring to all peoples FREEDOM, EQUALITY, JUSTICE, FUNDAMENTAL HUMAN RIGHTS and the INDEPENDENCE OF THE JUDICIARY a the intangible heritage that guarantees the dignity and well being of succeeding generations of the People of SRI LANKA. and of all the people of the World, who come to share with those generations the effort of working for the creation and preservation of a JUST AND FREE SOCIETY:

The
Constitution,
1st
Amendment,
2nd
Amendment.

WE, THE FREELY ELECTED REPRESENTATIVES OF THE PEOPLE OF SRI LANKA, in pursuance of such Mandate, humbly acknowledging our obligations to our People and gratefully remembering their heroic and unrelenting struggle to regain and preserve their rights and privileges so that the Dignity and Freedom of the Individual may be assured, Just, Social, Economic and Cultural Order attained, the Unity of the Country restored, and Concord established with other Nations, do hereby adopt and enact

this

CONSTITUTION

as the

SUPREME LAW

of the

DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

[7th September. 1978.]

CHAPTER I

THE PEOPLE, THE STATE AND SOVEREIGNTY

The State.

1. Sri Lanka (Ceylon) is a Free, Sovereign, Independent and Democratic Socialist Republic and shall be known as the Democratic Socialist Republic of Sri Lanka.

Unitary State.

2. The Republic of Sri Lanka is a Unitary State.

Sovereignty of the People.

3. In the Republic of Sri Lanka sovereignty is in the People and is inalienable. Sovereignty includes the powers of government, fundamental rights and the franchise.

Exercise of Sovereignty.

4. The Sovereignty of the People shall be exercised and enjoyed in the following manner :-

- (a) the legislative power of the People shall be exercised by Parliament, consisting of elected representatives of the People and by the People at a Referendum;
- (b) the executive power of the People, including the defence of Sri Lanka, shall be exercised by the President of the Republic elected by the People;
- (c) the judicial power of the People shall be exercised by Parliament through courts, tribunals and institutions created and established, or recognized, by the Constitution, or created and established by law, except in regard to matters relating to the privileges, immunities and powers of Parliament and of its Members wherein the judicial power of the People may be exercised directly by Parliament according to law;
- (d) the fundamental rights which are by the Constitution declared and recognized shall be respected,

secured and advanced by all the organs of government, and shall not be abridged, restricted or denied, save in the manner and to the extent hereinafter provided; and

- (e) the franchise shall be exercisable at the election of the President of the Republic and of the Members of Parliament, and at every Referendum by every citizen who has attained the age of eighteen years, and who, being qualified to be an elector as hereinafter provided, has his name entered in the register of electors.

5. The territory of the Republic of Sri Lanka shall consist of the twenty- four administrative districts, the names of which are set out in the First Schedule, and its territorial waters.

Territory of the Republic.

6. The National Flag of the Republic of Sri Lanka shall be the Lion Flag depicted in the Second Schedule.

The National Flag.

7. The National Anthem of the Republic of Sri Lanka shall be "Sri Lanka Matha ", the words and music of which are set out in the Third Schedule.

The National Anthem.

8. The National Day of the Republic of Sri Lanka shall be the fourth day of February.

The National Day.

CHAPTER II

BUDDHISM

9. The Republic of Sri Lanka shall give to Buddhism the foremost place and accordingly it shall be the duty of the State to protect and foster the Buddha Sasana, while assuring to all religions the rights granted by Articles 10 and 14(1)(e).

Buddhism.

CHAPTER III

FUNDAMENTAL RIGHTS

10. Every person is entitled to freedom of thought, conscience and religion, including the freedom to have or to adopt a religion or belief of his choice.

Freedom of thought, conscience and religion.

Freedom from
torture.

11. No person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

personal liberty except upon and in terms of the order of such judge made in accordance with procedure established by law.

Right to
equality.

12 (1) All persons are equal before the law and are entitled to the equal protection of the law.

(3) Any person charged with an offence shall be entitled to be heard, in person or by an attorney-at-law, at a fair trial by a competent court.

(2) No citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any one of such grounds :

(4) No person shall be punished with death or imprisonment except by order of a competent court, made in accordance with procedure established by law. The arrest, holding in custody, detention or other deprivation of personal liberty of a person, pending investigation or trial, shall not constitute punishment.

Provided that it shall be lawful to require a person to acquire within a reasonable time sufficient knowledge of any language as a qualification for any employment or office in the Public, Judicial or Local Government Service or in the service of any public corporation, where such knowledge is reasonably necessary for the discharge of the duties of such employment or office :

(5) Every person shall be presumed innocent until he is proved guilty :

Provided further that it shall be lawful to require a person to have a sufficient knowledge of any language as a qualification for any such employment or office where no function of that employment or office can be discharged otherwise than with a knowledge of that language.

Provided that the burden of proving particular facts may, by law, be placed on an accused person.

(3) No person shall, on the grounds of race, religion, language, caste, sex or any one of such grounds, be subject to any disability, liability, restriction or condition with regard to access to shops, public restaurants, hotels, places of public entertainment and places of public worship of his own religion.

(6) No person shall be held guilty of an offence on account of any act or omission which did not, at the time of such act or omission, constitute such an offence, and no penalty shall be imposed for any offence more severe than the penalty in force at the time such offence was committed.

(4) Nothing in this article shall prevent special provision being made, by law, subordinate legislation or executive action, for the advancement of women, children or disabled persons.

Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

Freedom from
arbitrary
arrest,
detention and
punishment,
and prohibition
of retroactive
penal
legislation.

13. (1) No person shall be arrested except according to procedure established by law. Any person arrested shall be informed of the reason for his arrest.

It shall not be a contravention of this Article to require the imposition of a minimum penalty for an offence provided that such penalty does not exceed the maximum penalty prescribed for such offence at the time such offence was committed.

(2) Every person held in custody, detained or otherwise deprived of personal liberty shall be brought before the judge of the nearest competent court according to procedure established by law, and shall not be further held in custody, detained or deprived of

(7) The arrest, holding in custody, detention or other deprivation of personal liberty of a person, by reason of a removal order or a deportation order made under the provisions of the Immigrants and Emigrants Act or the Indo-Ceylon Agreement (Implementation) Act, or such other law as may be enacted in substitution therefor, shall not be a contravention of this Article.

Freedom of speech, assembly, association, occupation, movement, &c.

14. (1) Every citizen is entitled to-
- (a) the freedom of speech and expression including publication;
 - (b) the freedom of peaceful assembly;
 - (c) the freedom of association;
 - (d) the freedom to form and join a trade union;
 - (e) the freedom, either by himself or in association with others, and either in public or in private, to manifest his religion or belief in worship, observance, practice and teaching;
 - (f) the freedom by himself or in association with others to enjoy and promote his own culture and to use his own language;
 - (g) the freedom to engage by himself or in association with others in any lawful occupation, profession, trade, business or enterprise;
 - (h) the freedom of movement-and of choosing his residence within Sri Lanka; and
 - (i) the freedom to return to Sri Lanka.

(2) A person who, not being a citizen of any other country, has been permanently and legally resident in Sri Lanka immediately prior to the commencement of the Constitution and continues to be so resident shall be entitled, for a period of ten years from the commencement of the Constitution, to the rights declared and recognized by paragraph (1) of this Article.

Restrictions on fundamental rights.

15. (1) The exercise and operation of the fundamental rights declared and recognized by Articles 13 (5) and 13 (6) shall be subject only to such restrictions as may be prescribed by law in the interests of national security. For the purposes of this paragraph "law" includes regulations made under the law for the time being relating to public security.

(2) The exercise and operation of the fundamental right declared and recognized by Article 14 (1) (a) shall be subject to such restrictions as may be prescribed by law in the interests of racial and religious harmony

or in relation to parliamentary privilege, contempt of court, defamation or incitement to an offence.

(3) The exercise and operation of the fundamental right declared and recognized by Article 14 (1) (6) shall be subject to such restrictions as may be prescribed by law in the interests of racial and religious harmony.

(4) The exercise and operation of the fundamental right declared and recognized by Article 14 (1) (c) shall be subject to such restrictions as may be prescribed by law in the interests of racial and religious harmony or national economy.

(5) The exercise and operation of the fundamental right declared and recognized by Article 14 (1) (g) shall be subject to such restrictions as may be prescribed by law in the interests of national economy or in relation to-

(a) the professional, technical, academic, financial and other qualifications necessary for practising any profession or carrying on any occupation, trade, business or enterprise, and the licensing and disciplinary control of the person entitled to such fundamental right, and

(b) the carrying on by the State, a State agency or a public corporation of any trade, business, industry, service or enterprise whether to the exclusion, complete or partial, of citizens or otherwise.

(6) The exercise and operation of the fundamental right declared and recognized by Article 14 (1) (h) shall be subject to such restrictions as may be prescribed by law in the interests of national economy.

(7) The exercise and operation of all the fundamental rights declared and recognized by Articles 12, 13 (1), 13 (2) and 14 shall be subject to such restrictions as may be prescribed by law in the interests of national security, public order and the protection of public health or morality, or for the purpose of securing due recognition and respect for the rights and freedoms of others, or of meeting the just requirements of the general

welfare of a democratic society. For the purposes of this paragraph " law " includes regulations made under the law for the time being relating to public security.

(8) The exercise and operation of the fundamental rights declared and recognized by Articles 12 (1), 13 and 14 shall, in their application to the members of the Armed Forces, Police Force and other Forces charged with the maintenance of public order, be subject to such restrictions as may be prescribed by law in the interests of the proper discharge of their duties and the maintenance of discipline among them.

Existing written law and unwritten law to continue in force.

16. (1) All existing written law and unwritten law shall be valid and operative notwithstanding any inconsistency with the preceding provisions of this Chapter.

(2) The subjection of any person on the order of a competent court to any form of punishment recognized by any existing written law shall not be a contravention of the provisions of this Chapter.

Remedy for the infringement of fundamental rights by executive action.

17. Every person shall be entitled to apply to the Supreme Court, as provided by Article 126, in respect of the infringement or imminent infringement, by executive or administrative action, of a fundamental right to which such person is entitled under the provisions of this Chapter.

CHAPTER IV

LANGUAGE

Official Language.

18. The Official Language of Sri Lanka shall be Sinhala.

National Languages.

19. The National Languages of Sri Lanka shall be Sinhala and Tamil,

Use of National Languages in Parliament and local authorities.

20. A Member of Parliament or a member of a local authority shall be entitled to perform his duties and discharge his functions in Parliament or in such local authority in either of the National Languages.

21. (1) A person shall be entitled to be educated through the medium of either of the National Languages:

Medium of instruction.

Provided that the provisions of this paragraph shall not apply to an institution of higher education where the medium of instruction is a language other than a National Language.

(2) Where one National Language is a medium of instruction for or in any course, department or faculty of any University directly or indirectly financed by the State, the other National Language shall also be made a medium of instruction for or in such course, department or faculty for students who prior to their admission to such University, were educated through the medium of such other National Language :

Provided that compliance with the preceding provisions of this paragraph shall not be obligatory if such other National Language is the medium of instruction for or in any like course, department or faculty either at any other campus or branch of such University or of any other like University.

(3) In this Article "University" includes any institution of higher education.

22. (1) The Official Language shall be the language of administration throughout Sri Lanka: Language of administration.

Provided that the Tamil Language shall also be used as the language of administration for the maintenance of public records and the transaction of all business by public institutions in the Northern and Eastern Provinces.

(2) A person, other than an official acting in his official capacity, shall be entitled-

(a) to receive communications from, and to communicate and transact business with, any official in his official capacity, in either of the National Languages ;

- (b) if the law recognizes his right to inspect or to obtain copies of or extracts from any official register, record, publication or other document, to obtain a copy of, or an extract from such register, record, publication or other document, or a translation thereof, as the case may be, in either of the National Languages: and

- (c) where a document is executed by any official for the purpose of being issued to him, to obtain such document or a translation thereof, in either of the National Languages.

(3) A local authority in the Northern or Eastern Province which conducts its business in either of the National Languages shall be entitled to receive communications from, and to communicate and transact business with, any official in his official capacity, in such National Language.

(4) All Orders, Proclamations, rules, by-laws, regulations and notifications made or issued under any written law, the Gazette, and all other official documents including circulars and forms issued or used by any public institution or local authority, shall be published in both National Languages.

(5) A person shall be entitled to be examined through the medium of either of the National Languages at any examination for the admission of persons to the Public Service, Judicial Service, Local Government Service, a public corporation or statutory institution, subject to the condition that he may be required to acquire a sufficient knowledge of the Official Language within a reasonable time after admission to any such Service, public corporation or statutory institution where such knowledge is reasonably necessary for the discharge of his duties:

Provided that a person may be required to have a sufficient knowledge of the Official Language as a condition for admission to any such Service, public corporation or statutory institution where no function of the office or employment for which he is recruited can be discharged otherwise than with a sufficient knowledge of the Official Language.

- (6) In this Article-

"official" means the President, any Minister, Deputy Minister, or any officer of a public institution or local authority; and

" public institution " means a department or institution of the Government, a public corporation or statutory institution.

23. (1) All laws and subordinate legislation shall be enacted or made, and published, in both National Languages together with a translation in the English Language. In the event of any inconsistency between any two texts, the text in the Official Language shall prevail.

Language of Legislation.

(2) All laws and subordinate legislation in force immediately prior to the commencement of the Constitution, shall be published in the Gazette in both National Languages as expeditiously as possible.

(3) The law published in Sinhala under the provisions of paragraph (2) of this Article, shall, as from the date of such publication, be deemed to be the law and supersede the corresponding law in English.

24. (1) The Official Language shall be the language of the courts throughout Sri Lanka and accordingly their records and proceedings shall be in the Official Language:

Language of the courts.

Provided that the language of the courts exercising original jurisdiction in the Northern and Eastern Provinces shall also be Tamil and their records and proceedings shall be in the Tamil Language. In the event of an appeal from any such court, records in both National Languages shall be prepared for the use of the court hearing such appeal;

Provided further that-

- (a) the Minister in charge of the subject 01 Justice may, with the concurrence of the Cabinet of Ministers, direct that the record of any such court shall also be maintained and proceedings conducted in the Official Language; and

(b) the record of any particular proceeding in such court shall also be maintained in the Official Language if so required by the judge of such court, or by any party or applicant or any person legally entitled to represent such party or applicant in such proceeding, where such judge, party, applicant or person is not conversant with the Tamil Language.

"judge" includes the President, Chairman, presiding officer and member of any court; and

"record" includes pleadings, judgments, orders and other judicial and ministerial acts.

25. The State shall provide adequate facilities for the use of the languages provided for in this Chapter, Provision for adequate facilities for use of languages provided for in this Chapter.

(2) Any party or applicant or any person legally entitled to represent such party or applicant may initiate proceedings, and submit to court pleadings and other documents, and participate in the proceedings in court, in either of the National Languages.

(3) Any judge, juror, party or applicant or any person legally entitled to represent such party or applicant, who is not conversant with the language used in a court, shall be entitled to interpretation and to translation into the appropriate National Language, provided by the State, to enable him to understand and participate in the proceedings before such court, and shall also be entitled to obtain in either of the National Languages, any such part of the record or a translation thereof, as the case may be, as he may be entitled to obtain according to law.

(4) The Minister in charge of the subject of Justice may, with the concurrence of the Cabinet of Ministers, issue directions permitting the use of a language other than a National Language in or in relation to the records and proceedings in any court for all purposes or for such purposes as may be specified therein. Every judge shall be bound to implement such directions.

(5) In this Article-

"court" means any court or tribunal created and established for the administration of justice including the adjudication and settlement of industrial and other disputes, or any other tribunal or institution exercising judicial or quasi-judicial functions or any tribunal or institution created and established for the conciliation and settlement of disputes;

26. (1) There shall be one status of citizenship known as "the status of a citizen of Sri Lanka". Citizenship of Sri Lanka.

(2) A citizen of Sri Lanka shall for all purposes be described only as a "citizen of Sri Lanka", whether such person became entitled to citizenship by descent or by virtue of registration in accordance with the law relating to citizenship.

(3) No distinction shall be drawn between citizens of Sri Lanka for any purpose by reference to the mode of acquisition of such status, as to whether acquired by descent or by virtue of registration.

(4) No citizen of Sri Lanka shall be deprived of his status of a citizen of Sri Lanka, except under and by virtue of the provisions of sections 19, 20, 21 and 22 of the Citizenship Act:

Provided that the provisions of sections 23 and 24 of that Act shall also be applicable to a person who became entitled to the status of a citizen of Sri Lanka by virtue of registration under the provisions of sections 11, 12 or 13 of that Act.

(5) Every person who immediately prior to the commencement of the Constitution was a citizen of Sri Lanka, whether by descent or by virtue of registration in accordance with any law relating to citizenship, shall be entitled to the status and to the rights of a citizen of Sri Lanka as provided in the preceding provisions of this Article.

(6) The provisions of all existing written laws relating to citizenship and all other existing written laws wherein reference is made to citizenship shall be read subject to the preceding provisions of this Article.

CHAPTER VI

DIRECTIVE PRINCIPLES OF STATE POLICY AND FUNDAMENTAL DUTIES

Directive
Principles
of
State Policy

27. (1) The Directive Principles of State policy herein contained shall guide Parliament, the President and the Cabinet of Ministers in the enactment of laws and the governance of Sri Lanka for the establishment of a just and free society.

(2) The State is pledged to establish in Sri Lanka a democratic socialist society, the objectives of which include-

- (a) the full realization of the fundamental rights and freedoms of all persons ;
- (b) the promotion of the welfare of the People by securing and protecting as effectively as it may, a social order in which justice (social, economic and political) shall guide all the institutions of the national life;
- (c) the realization by all citizens of an adequate standard of living for themselves and their families, including adequate food, clothing and housing, the continuous improvement of living conditions and the full enjoyment of leisure and social and cultural opportunities;
- (d) the rapid development of the whole country by means of public and private economic activity and by laws prescribing such planning and controls as may be expedient for directing and co-ordinating such public and private economic activity towards social objectives and the public weal;
- (e) the equitable distribution among all citizens of the material resources of the community and the social product, so as best to subserve the common good ;

(f) the establishment of a just social order in which the means of production, distribution and exchange are not concentrated and centralised in the State, State agencies or in the hands of a privileged few, but are dispersed among, and owned by, all the People of Sri Lanka;

(g) raising the moral and cultural standards of the People, and ensuring the full development of human personality; and

(h) the complete eradication of illiteracy and the assurance to all persons of the right to universal and equal access to education at all levels.

(3) The State shall safeguard the independence, sovereignty, unity and the territorial integrity of Sri Lanka.

(4) The State shall strengthen and broaden the democratic structure of government and the democratic rights of the People by decentralising the administration and by affording all possible opportunities to the People to participate at every level in national life and in government.

(5) The State shall strengthen national unity by promoting co-operation and mutual confidence among all sections of the People of Sri Lanka, including the racial, religious, linguistic and other groups, and shall take effective steps in the fields of teaching, education and information in order to eliminate discrimination and prejudice.

(6) The State shall ensure equality of opportunity to citizens, so that no citizen shall suffer any disability on the ground of race, religion, language, caste, sex, political opinion or occupation.

(7) The State shall eliminate economic and social privilege and disparity, and the exploitation of man by man or by the State.

(8) The State shall ensure that the operation of the economic system does not result in the concentration of wealth and the means of production to the common detriment.

(9) The State shall ensure social security and welfare.

(10) The State shall assist the development of the cultures and the languages of the People.

(11) The State shall create the necessary economic and social environment to enable people of all religious faiths to make a reality of their religious principles.

(12) The State shall recognize and protect the family as the basic unit of society.

(13) The State shall promote with special care the interests of children and youth, so as to ensure their full development, physical, mental, moral, religious and social, and to protect them from exploitation and discrimination.

(14) The State shall protect, preserve and improve the environment for the benefit of the community.

(15) The State shall promote international peace, security and co-operation, and the establishment of a just and equitable international economic and social order, and shall endeavour to foster respect for international law and treaty obligations in dealings among nations.

Fundamental
duties

28. The exercise and enjoyment of rights and freedoms is inseparable from the performance of duties and obligations, and accordingly it is the duty of every person in Sri Lanka-

- (a) to uphold and defend the Constitution and the law;
- (b) to further the national interest and to foster national unity;
- (c) to work conscientiously in his chosen occupation;
- (d) to preserve and protect public property, and to combat misuse and waste of public property;
- (e) to respect the rights and freedoms of others; and
- (f) to protect nature and conserve its riches.

29. The provisions of this Chapter do not confer or impose legal rights or obligations, and are not enforceable in any court or tribunal. No question of inconsistency with such provisions shall be raised in any court or tribunal

Principles of State Policy and fundamental duties not justiciable.

CHAPTER VII

THE EXECUTIVE

THE PRESIDENT OF THE REPUBLIC

30. (1) There shall be a President of the Republic of Sri Lanka, who is the Head of the State, the Head of the Executive and of the Government, and the Commander-in-Chief of the Armed Forces.

The President of the Republic.

(2) The President of the Republic shall be elected by the People, and shall hold office for a term of six years.

31 (1) Any citizen who is qualified to be elected to the office of President may be nominated as a candidate for such office-

The election and the term of office of President

(a) by a recognized political party, or

(b) if he is or has been an elected member of the legislature, by any other political party or by an elector whose name has been entered in any register of electors.

(2) No person who has been twice elected to the office of President by the People shall be qualified thereafter to be elected to such office by the People.

(3) The poll for the election of the President shall be taken not less than one month and not more than two months before the expiration of the term of office of the President in office.

(4) The term of office of the President shall commence on the fourth day of February next succeeding the date of his election:

Provided that the President in office, notwithstanding anything to the contrary in Article 30, shall continue to exercise, perform and discharge the powers, duties and

functions of the office of President until the assumption of office by the person declared elected as President. If the office of President becomes vacant, by reason of the person declared elected as President failing to assume office, the President in office shall continue to exercise, perform and discharge the powers, duties and functions of the office of President, until the Prime Minister or if the office of Prime Minister be then vacant or if the Prime Minister be unable to act, the Speaker commences to act in the office of President in terms of Article 40.

(5) The election of the President shall be conducted by the Commissioner of Elections who shall fix the date for the nomination of candidates for such election and the date on which the poll shall be taken,

(6) Parliament shall by law make provision for-

- (a) the nomination of candidates for the election of President;
- (b) the register of electors to be used at and the procedure for the election of the President;
- (c) the creation of offences relating to such election and the punishment therefor;
- (d) the grounds and manner of avoiding such election and of determining any disputed election ; and
- (e) all other matters necessary or incidental thereto.

Assumption of office.

32. (1) The person elected or succeeding to the office of President shall assume office upon taking and subscribing the oath or making and subscribing the affirmation, set out in the Fourth Schedule, in Sri Lanka before the Chief Justice or any other Judge of the Supreme Court.

(2) Upon such assumption of office the President shall cease to hold any other office created or recognized by the Constitution and if he is a Member of Parliament, shall vacate his seat in Parliament. The President shall not hold any other office or place of profit whatsoever.

(3) The President shall, by virtue of his office, have the right at any time to attend, address and send messages to Parliament. In the exercise of such right the President shall be entitled to all the privileges, immunities and powers, other than the right to vote, of a Member of Parliament and shall not be liable for any breach of the privileges of Parliament, or of its Members.

33. In addition to the powers and functions expressly conferred on or assigned to him by the Constitution or by any written law whether enacted before or after the commencement of the Constitution, the President shall have the power-

Powers and functions of the President.

- (a) to make the Statement of Government Policy in Parliament at the commencement of each session of Parliament;
- (b) to preside at ceremonial sittings of Parliament;
- (c) to receive and recognize, and to appoint and accredit. Ambassadors, High Commissioners, Plenipotentiaries and other diplomatic agents;
- (d) to keep the Public Seal of the Republic, and to make and execute under the Public Seal, the Acts of Appointment of the Prime Minister and other Ministers of the Cabinet of Ministers, the Chief Justice and other Judges of the Supreme Court, such grants and dispositions of lands and immovable property vested in the Republic as he is by law required or empowered to do, and to use the Public Seal for sealing all things whatsoever that shall pass that Seal;
- (e) to declare war and peace; and
- (f) to do all such acts and things, not being inconsistent with the provisions of the Constitution or written law, as by international law, custom or usage he is required or authorized to do.

Grant of
pardon

34. (1) The President may in the case of any offender convicted of any offence in any court within the Republic of Sri Lanka-

- (a) grant a pardon, either free or subject to lawful conditions;
- (b) grant any respite, either indefinite or for such period as the President may think fit, of the execution of any sentence passed on such offender;
- (c) substitute a less severe form of punishment for any punishment imposed on such offender; or
- (d) remit the whole or any part of any punishment imposed or of any penalty or forfeiture otherwise due to the Republic on account of such offence;

Provided that where any offender shall have been condemned to suffer death by the sentence of any court, the President shall cause a report to be made to him by the Judge who tried the case and shall forward such report to the Attorney-General with instructions that after the Attorney-General has advised thereon, the report shall be sent together with the Attorney-General's advice to the Minister in charge of the subject of Justice, who shall forward the report with his recommendation to the President.

(2) The President may in the case of any person who is or has become subject to any disqualification specified in paragraph (d), (e), (f), (g), or (h) of Article 89 or sub-paragraph (g) of paragraph (1) of Article 91-

- (a) grant a pardon, either free or subject to lawful conditions, or
- (b) reduce the period of such disqualification.

(3) When any offence has been committed for which the offender may be tried within the Republic of Sri Lanka, the President may grant a pardon to any accomplice in such offence who shall give such information as shall lead to the conviction of the principal offender or of any one of such principal offenders, if more than one.

35. (1) While any person holds office as President, no proceedings shall be instituted or continued against him in any court or tribunal in respect of anything done or omitted to be done by him either in his official or private capacity.

(2) Where provision is made by law limiting the time within which proceedings of any description may be brought against any person, the period of time during which such person holds the office of President shall not be taken into account in calculating any period of time prescribed by that law.

(3) The immunity conferred by the provisions of paragraph (1) of this Article shall not apply to any proceedings in any court in relation to the exercise of any power pertaining to any subject or function assigned to the President or remaining in his charge under paragraph (2) of Article 44 or to proceedings in the Supreme Court under paragraph (2) of Article 129 or to proceedings in the Supreme Court under Article 130 (a) relating to the election of the President:

Provided that any such proceedings in relation to the exercise of any power pertaining to any such subject or function shall be instituted against the Attorney-General.

36. (1) Within one month of the commencement of the Constitution, Parliament shall by resolution determine the salary, allowances and pension entitlement of the holders of the office of President. Such pension shall be in addition to any other pension to which such person is entitled by virtue of any prior service.

Salary and
pension.

(2) Upon the assumption of the office of President the holder of such office shall become entitled to the receipt of such salary and allowances and thereafter, of such pension as may be determined by Parliament. Any subsequent amendment, repeal or replacement of this Article, and any subsequent law or any provision thereof inconsistent with this Article shall not have retrospective operation.

(3) The salary, allowances and pension of the President shall be charged on the Consolidated Fund.

(4) Parliament may by resolution increase, but shall not reduce, the salary, allowances or pension entitlement of the holders of the office of President.

Exercise, performance and discharge of powers, duties and functions of the President by the Prime Minister.

37. (1) If the President is of the opinion that by reason of illness, absence from Sri Lanka or any other cause he will be unable to exercise, perform and discharge the powers, duties and functions of his office, he may appoint the Prime Minister to exercise, perform and discharge the powers, duties and functions of the office of President during such period, and may also appoint one of the other Ministers of the Cabinet to act in the office of Prime Minister during such period :

Provided that if the office of Prime Minister be then vacant or the Prime Minister is unable to act, the President may appoint the Speaker to exercise, perform and discharge the powers, duties and functions of the office of President during such period.

(2) If the Chief Justice in consultation with the Speaker is of the opinion that the President is temporarily unable to exercise, perform and discharge the powers, duties and functions of his office and is unable to make an appointment in terms of paragraph (1) of this Article, he shall communicate in writing his opinion to the Speaker and thereupon the Prime Minister shall exercise, perform and discharge the powers, duties and functions of the office of President during such period, and shall appoint one of the Ministers of the Cabinet to act in the office of Prime Minister during such period, notwithstanding the absence of such appointment as is provided for in paragraph (1) of this Article:

Provided that if the office of Prime Minister be then vacant or the Prime Minister is unable to act, the Speaker shall exercise, perform and discharge the powers, duties and functions of the office of President during such period.

(3) The provisions of the Constitution relating to the President (other than the provisions of paragraph (2) of Article 32) shall apply, in so far as they can be applied, to the person so exercising, performing and discharging the powers, duties and functions of the office of President.

(4) In this Article and in Articles 38 (1) (b) and 40 (1), "the Speaker" includes, during any period when Parliament is dissolved, the person who held the office of Speaker immediately before the dissolution of Parliament.

38. (1) The office of President shall become vacant-

Vacation of office by President.

- (a) upon his death ;
- (b) if he resigns his office by a writing under his hand addressed to the Speaker;
- (c) if he ceases to be a citizen of Sri Lanka;
- (d) if the person elected as President wilfully fails to assume office within one month from the date of commencement of his term of office;
- (e) if he is removed from office as provided in the next succeeding paragraph; or
- (f) if the Supreme Court in the exercise of its powers under Article 130 (a) determines that his election as President was void and does not determine that any other person was duly elected as President.

(2) (a) Any Member of Parliament may, by a writing addressed to the Speaker, give notice of a resolution alleging that the President is permanently incapable of discharging the functions of his office by reason of mental or physical infirmity or that the President has been guilty of-

- (i) intentional violation of the Constitution,
- (ii) treason,
- (iii) bribery,
- (iv) misconduct or corruption involving the abuse of the powers of his office, or
- (v) any offence under any law, involving moral turpitude,

and setting out full particulars of the allegation or allegations made and seeking an inquiry and report thereon by the Supreme Court.

(b) No notice of such resolution shall be entertained by the Speaker or placed on the Order Paper of Parliament unless it complies with the provisions of sub-paragraph (a) and-

- (i) such notice of resolution is signed by not less than two-thirds of the whole number of Members of Parliament, or
- (ii) such notice of resolution is signed by not less than one-half of the whole number of Members of Parliament, and the Speaker is satisfied that such allegation or allegations merit inquiry and report by the Supreme Court.

(c) Where such resolution is passed by not less than two-thirds of the whole number of Members (including those not present) voting in its favour, the allegation or allegations contained in such resolution shall be referred by the Speaker to the Supreme Court for inquiry and report.

(d) The Supreme Court shall, after due inquiry at which the President shall have the right to appear and to be heard, in person or by an attorney-at-law, make a report of its determination to Parliament together with the reasons therefor.

(e) Where the Supreme Court reports to Parliament that in its opinion the President is permanently incapable of discharging the functions of his office by reason of mental or physical infirmity or that the President has been guilty of any of the other allegations contained in such resolution, as the case may be, Parliament may by a resolution passed by not less than two-thirds of the whole number of Members (including those not present) voting in its favour remove the President from office.

Determination by the Supreme Court that the President was not duly elected or the election of the President was void.

39. (1) Where the Supreme Court in the exercise of its jurisdiction under Article 130 determines-

- (a) that the election of the President was void and does not determine that any other person was duly elected, then, a poll for the election of the President shall be taken not later than three months from the date of the determination ; or

(b) that any other person was duly elected as President, then, such other person shall assume the office of President within one month of the date of the determination.

For the purposes of Article 38(1) (d), the date of commencement of the term of office of the new President shall be the date of his election or the date of the determination, as the case may be.

(2) Upon the Supreme Court making any such determination as is referred to in paragraph (1) of this Article, the person who was exercising, performing and discharging the powers, duties and functions of the office of President shall forthwith cease to exercise, perform and discharge such powers, duties and functions. During the period intervening between the date of such determination and the assumption of office by the new President, the Prime Minister shall act in the office of President and shall appoint one of the other Ministers of the Cabinet to act in the office of the Prime Minister :

Provided that if the office of Prime Minister be then vacant or the Prime Minister is unable to act, the Speaker shall act in the office of the President.

(3) For the purposes of Article 30 (2) and notwithstanding the provisions of Article 31 (4), the term of office of the new President shall be deemed to have commenced on the date on which the term of office of the person whose election was determined to have been void or undue would, but for such determination, have commenced.

(4) The exercise, performance and discharge by any person of the powers, duties and functions of the office of President shall not be invalid by reason only of the fact that the Supreme Court subsequently determines that the election of such person as President was void or undue.

(5) The provisions of this Article shall apply notwithstanding anything to the contrary in Article 40.

40. (1) (a) If the office of President shall become vacant prior to the expiration of his term of office, Parliament shall elect as President one of its Members who is qualified to be elected to the office of President. Any

Vacation of office by President and election of succeeding President.

person so succeeding to the office of President shall hold office only for the unexpired period of the term of office of the President vacating office-

(b) Such election shall be held as soon as possible after, and in no case later than one month from, the date of occurrence of the vacancy. Such election shall be by secret ballot and by an absolute majority of the votes cast in accordance with such procedure as Parliament may by law provide:

Provided that if such vacancy occurs after the dissolution of Parliament, the President shall be elected by the new Parliament within one month of its first meeting.

(c) During the period between the occurrence of such vacancy and the assumption of office by the new President, the Prime Minister shall act in the office of President and shall appoint one of the other Ministers of the Cabinet to act in the office of Prime Minister:

Provided that if the office of Prime Minister be then vacant or the Prime Minister is unable to act, the Speaker shall act in the office of President.

(2) The provisions of the Constitution relating to the President (other than the provisions of paragraph (2) of Article 32) shall apply, in so far as they can be applied, to an acting President.

(3) Parliament shall by law provide for all matters relating to the procedure for the election of the President by Parliament and all other matters necessary or incidental thereto.

President's
staff.

41. (1) The President shall have the power to appoint such Secretaries, and, in consultation with the Cabinet of Ministers, such other officers and staff as are in his opinion necessary to assist him in the exercise, performance and discharge of the powers, duties and functions of his office, and to determine their terms and conditions of service.

(2) The salaries of such Secretaries, officers and staff shall be charged on the Consolidated Fund.

(3) Such Secretaries, officers and staff shall be deemed to be public officers except that the dismissal and disciplinary control of such Secretaries, officers and staff shall be vested in the President, who may delegate to any such Secretary his powers of dismissal and disciplinary control in respect of any such officers or staff.

(4) Every such Secretary, officer or member of the staff shall cease to hold office upon a new President assuming office.

(5) Where any such Secretary, officer or member of the staff so ceases to hold office, the Cabinet of Ministers may appoint such Secretary, officer or member of the staff to any post in the Public Service :

Provided that any such Secretary, officer or member of the staff who immediately prior to his appointment as Secretary, officer or member of the staff was in the Public or Local Government Service or in the service of a public corporation shall be entitled to revert to such service without loss of seniority upon a new President assuming office.

(6) The proviso to paragraph (5) of this Article shall, *mutatis mutandis*, apply to any person referred to in that proviso upon—

(a) the President terminating the services of such person, otherwise than by dismissal on disciplinary grounds ;
or

(b) the resignation of such person, unless disciplinary proceedings are pending or contemplated against such person on the date of his resignation.

(7) For the purposes of paragraphs (5) and (6) of this Article any person who has continuously held the office of Secretary to the President, Secretary to any Ministry or any office in the President's staff or any one or more of such offices shall be deemed to have continuously held the office which such person last held.

CHAPTER VIII

THE EXECUTIVE

THE CABINET OF MINISTERS

Responsibility
of the
President

42. The President shall be responsible to Parliament for the due exercise, performance and discharge of his powers, duties and functions under the Constitution and any written law, including the law for the time being relating to public security.

Cabinet of
Ministers.

43. (1) There shall be a Cabinet of Ministers charged with the direction and control of the Government of the Republic, which shall be collectively responsible and answerable to Parliament.

(2) The President shall be a member of the Cabinet of Ministers, and shall be the Head of the Cabinet of Ministers ;

Provided that notwithstanding the dissolution of the Cabinet of Ministers under the provisions of the Constitution, the President shall continue in office.

(3) The President shall appoint as Prime Minister the Member of Parliament who in his opinion is most likely to command the confidence of Parliament.

Ministers of
Cabinet and
their subjects
and functions.

44. (1) The President shall, from time to time, in consultation with the Prime Minister, where he considers such consultation to be necessary-

(a) determine the number of Ministers of the Cabinet of Ministers and the Ministries and the assignment of subjects and functions to such Ministers; and

(b) appoint from among the Members of Parliament, Ministers to be in charge of the Ministries so determined.

(2) The President may assign to himself any subject or function and shall remain in charge of any subject or function not assigned to any Minister under the provisions of paragraph (1) of this Article or the provisions of paragraph (1) of Article 45, and may for that purpose determine the number of Ministries to be in his charge, and accordingly, any reference in the Constitution

or any written law to the Minister to whom such subject or function is assigned, shall be read and construed as a reference to the President.

(3) The President may, at any time, change the assignment of subjects and functions and the composition of the Cabinet of Ministers. Such changes shall not affect the continuity of the Cabinet of Ministers, and the continuity of its responsibility to Parliament,

45. (1) The President may, from time to time, in consultation with the Prime Minister where he considers such consultation to be necessary-

(a) appoint from among Members of Parliament, Ministers who shall not be Members of the Cabinet of Ministers; and

(b) determine the assignment of subjects and functions to, and the Ministries, if any, which are to be in charge of, such Ministers.

(2) The President may at any time change any appointment or assignment made under paragraph (1) of this Article.

(3) Every Minister appointed under this Article shall be responsible and answerable to the Cabinet of Ministers and to Parliament.

(4) Any Minister of the Cabinet of Ministers may, by Notification published in the Gazette, delegate to any Minister who is not a member of the Cabinet of Ministers any power or duty pertaining to any subject or function assigned to him, or any power or duty conferred or imposed on him by any written law and it shall be lawful for such other Minister to exercise and perform any power or duty delegated to him under this paragraph, notwithstanding anything to the contrary in the written law by which that power or duty is conferred or imposed,

46. (1) The President may, from time to time, in consultation with the Prime Minister, Deputy Ministers, where he considers such consultation to be necessary, appoint from among the Members of Parliament, Deputy Ministers to assist the Ministers of the Cabinet of Ministers in the performance of their duties.

Ministers who
are not
members of the
Cabinet and
their
Ministries
subjects and
functions.

(2) Any Minister of the Cabinet of Ministers may, by Notification published in the Gazette, delegate to his Deputy Minister any power or duty pertaining to any subject or function assigned to him, or any power or duty conferred or imposed on him by any written law and it shall be lawful for the Deputy Minister to exercise and perform any power or duty delegated to him under this paragraph notwithstanding anything to the contrary in the written law by which that power or duty is conferred or imposed on such Minister.

Tenure of office of the Prime Minister, Ministers and Deputy Ministers.

47. The Prime Minister, a Minister of the Cabinet of Ministers, any other Minister or Deputy Minister shall continue to hold office throughout the period during which the Cabinet of Ministers continues to function under the provisions of the Constitution unless he -

- (a) is removed by a writing under the hand of the President;
- (b) resigns his office by a writing under his hand addressed to the President; or
- (c) ceases to be a Member of Parliament.

Cabinet of Ministers after dissolution of Parliament.

48. (1) The Cabinet of Ministers functioning immediately prior to the dissolution of Parliament shall notwithstanding such dissolution continue to function and shall cease to function upon the conclusion of the General Election, and accordingly, the Prime Minister, Ministers of the Cabinet of Ministers, other Ministers and Deputy Ministers shall continue to function unless they cease to hold office as provided in paragraph (a) or (b) of Article 47.

(2) Notwithstanding the death, removal from the office or resignation of the Prime Minister, during the period intervening between the dissolution of Parliament and the conclusion of the General Election, the Cabinet of Ministers shall continue to function with the other Ministers of the Cabinet as its members until the conclusion of the General Election. The President may appoint one such Minister to exercise, perform and discharge, or may himself exercise, perform and discharge the powers, duties and functions of the Prime Minister. If there is no such other Minister the President shall himself exercise, perform and discharge

the powers, duties and functions of the Cabinet of Ministers until the conclusion of the General Election.

(3) On the death, removal from office or resignation, during the period intervening between the dissolution of Parliament and the conclusion of the General Election, of a Minister of the Cabinet of Ministers or any other Minister, the President may appoint any other Minister to be the Minister in charge of such Ministry or to exercise, perform and discharge the powers, duties and functions of such Minister or may himself take charge of such Ministry or exercise, perform and discharge such powers, duties and functions.

49. (1) On the Prime Minister ceasing to hold office by removal, resignation or otherwise, except during the period intervening between the dissolution of Parliament and the conclusion of the General Election, the Cabinet of Ministers shall, unless the President has in the exercise of his powers under Article 70, dissolved Parliament, stand dissolved and the President shall appoint a Prime Minister, Ministers of the Cabinet of Ministers, other Ministers and Deputy Ministers in terms of Articles 43, 44, 45 and 46 :

Dissolution of Cabinet of Ministers.

Provided that if after the Prime Minister so ceases to hold office Parliament is dissolved, the Cabinet of Ministers shall continue to function with the other Ministers of the Cabinet as its members, until the conclusion of the General Election. The President may appoint one such Minister to exercise, perform and discharge or may himself exercise, perform and discharge the powers, duties and functions of the Prime Minister, and the provisions of Article 48 shall, *mutatis mutandis*, apply.

(2) If Parliament rejects the Statement of Government Policy or the Appropriation Bill or passes a vote of no-confidence in the Government, the Cabinet of Ministers shall stand dissolved, and the President shall, unless he has in the exercise of his powers under Article 70, dissolved Parliament, appoint a Prime Minister, Ministers of the Cabinet of Ministers, other Ministers and Deputy Ministers in terms of Articles 43, 44, 45 and 46.

Acting
Minister and
Acting Deputy
Minister.

50. Whenever a Minister of the Cabinet of Ministers, other Minister or Deputy Minister is unable to discharge the functions of his office, the President may appoint any Member of Parliament to act in place of the said Minister of the Cabinet of Ministers, other Minister or Deputy Minister.

(b) his resignation, unless disciplinary proceedings are pending or contemplated against him on the date of his resignation.

Secretary to
Cabinet of
Minuten.

51. There shall be a Secretary to the Cabinet of Ministers who shall be appointed by the President. The Secretary shall, subject to the direction of the President, have charge of the office of the Cabinet of Ministers, and shall discharge and perform such other functions and duties as may be assigned to him by the President or the Cabinet of Ministers.

(6) For the purposes of paragraphs (4) and (5) of this Article any person who has continuously held the office of Secretary to the President, Secretary to a Ministry or any other office in the President's staff or any one or more of such offices shall be deemed to have continuously held the office which such person last held.

Secretaries to
Ministries.

52. (1) There shall be for each Ministry a Secretary who shall be appointed by the President.

(7) For the purposes of this Article, the Office of the Parliamentary Commissioner for Administration, the Office of the Secretary-General of Parliament, the Department of the Commissioner of Elections, the Department of the Auditor-General and the Office of the Secretary to the Cabinet of Ministers shall be deemed not to be departments of Government.

(2) The Secretary to the Ministry shall, subject to the direction and control of his Minister, exercise supervision over the departments of Government or other institutions in the charge of his Minister.

53. A person appointed to any office referred to in this Chapter shall not enter upon the duties of his office until he takes and subscribes the oath or makes and subscribes the affirmation set out in the Fourth, Schedule.

official oath or
affirmation.

(3) The Secretary to a Ministry shall cease to hold office upon the dissolution of the Cabinet of Ministers under the provisions of the Constitution or upon a determination by the President under Article 44 or Article 45 which results in such Ministry ceasing to exit

(4) Where the Secretary to a Ministry so ceases to hold office, the Cabinet of Ministers may appoint such Secretary to any other post in the Public Service:

Provided that a person who immediately prior to his appointment as Secretary was in the Public or Local Government Service or in the service of any public corporation shall be deemed to have been temporarily released from such service and shall be entitled to revert to such service without loss of seniority upon his so ceasing to hold office as Secretary.

(5) The proviso to paragraph (4) of this Article shall, *mutatis mutandis*, apply to a Secretary to a Ministry upon-

(a) the President terminating his services, otherwise than by dismissal on disciplinary grounds, or

CHAPTER IX

THE EXECUTIVE

THE PUBLIC SERVICE

54. The President shall appoint-oll public officers required by the Constitution or other written law to be appointed by the President, as well as the Attorney-General and the Heads of the Army, the Navy, the Air Force and the Police Force.

Appointments
by the
president.

55. (1) Subject to the provisions of the Constitution, the appointment, transfer, dismissal and disciplinary control of public officers is hereby vested in the Cabinet of Ministers, and all public officers shall hold office at pleasure.

The Public
Service.

(2) The Cabinet of Ministers shall not delegate its powers of appointment, transfer, dismissal and disciplinary control in respect of Heads of Departments.

(3) The Cabinet of Ministers may, from time to time, delegate its powers of appointment, transfer, dismissal and disciplinary control of other public officers to the Public Service Commission :

Provided that the Cabinet of Ministers may, from time to time and notwithstanding any delegation under this Article, delegate to any Minister its power of transfer in respect of such categories of officers as may be specified, and upon such delegation, the Public Service Commission or any Committee thereof shall not exercise such power in respect of such categories of officers.

For the purposes of this proviso, "transfer" means the moving of a public officer from one post to another post in the same service or in the same grade of the same Ministry or Department with no change in salary.

(4) Subject to the provisions of the Constitution, the Cabinet of Ministers shall provide for and determine all matters relating to public officers, including the formulation of schemes of recruitment and codes of conduct for public officers, the principles to be followed in making promotions and transfers, and the procedure for the exercise and the delegation of the powers of appointment, transfer, dismissal and disciplinary control of public officers.

(5) Subject to the jurisdiction conferred on the Supreme Court under paragraph (1) of Article 126 no court or tribunal shall have power or jurisdiction to inquire into, pronounce upon or in any manner call in question, any order or decision of the Cabinet of Ministers, a Minister, the Public Service Commission, a Committee of the Public Service Commission or of a public officer, in regard to any matter concerning the appointment, transfer, dismissal or disciplinary control of a public officer.

(6) For the purposes of this Article and Articles 56 to 59 (both inclusive) "public officer" does not include a member of the Army, Navy or Air Force.

The President shall nominate one of the members of the Commission to be the Chairman.

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

(3) Every person who, immediately before his appointment as a member of the Public Service Commission, was a public officer or a judicial officer shall, when such appointment takes effect, cease to hold such office, and shall be ineligible for further appointment as a public officer or judicial 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 or a judicial officer, as the case may be, be required to retire, be deemed to be a public officer or a judicial officer, and to hold a pensionable office in the service of the State, for the purposes of any provision relating to the grant of pensions, gratuities or other allowances in respect of such service.

(4) Every member of the Public Service Commission shall hold office for a period of five years from the date of his appointment, unless he earlier resigns his office by a writing under his hand addressed to the President, or is removed from office by the President for cause assigned, but shall be eligible for reappointment.

(5) The President 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.

(6) A member of the Public Service Commission shall 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.

(7) There shall be a Secretary to the Public Service Commission who shall be appointed by the Commission.

Public Service Commission.

56. (1) There shall be a Public Service Commission which shall consist of not less than five persons appointed by the President.

(8) The quorum for any meeting of the Commission shall be three members.

(9) The Public Service Commission shall have power to act notwithstanding any vacancy in its membership, and no act or proceeding of the Commission shall be, or be deemed to be, invalid by reason only of any such vacancy or any defect in the appointment of a member.

(10) 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.

Committees of
Public Service
Commission.

57. (1) Whenever the Cabinet of Ministers so directs the Chairman of the Public Service Commission shall appoint a Committee of the Public Service Commission to exercise the powers of the Commission in respect of such categories of public officers as are specified in such direction.

(2) Upon a direction being made under paragraph (1) of this Article, the Chairman of the Public Service Commission shall appoint a Committee consisting of three members of the Public Service Commission. Where such Chairman is a member of the Committee so appointed, he shall be the Chairman of the Committee, and where he is not a member of the Committee so appointed, then such member of that Committee as may be nominated in writing by such Chairman, shall be the Chairman of that Committee.

(3) Upon the appointment of any such Committee, the Public Service Commission shall cease to exercise its powers of appointment, transfer, dismissal and disciplinary control in respect of the categories of public officers specified in the direction for the appointment of such Committee.

(4) There shall be a Secretary to each such Committee who shall be appointed by the Public Service Commission.

(5) The quorum for any meeting of any such Committee shall be two members.

(6) Any such Committee shall have power to act notwithstanding any vacancy in its membership and any act or proceeding of any such Committee shall not be, or be deemed to

be, invalid by reason only of any such vacancy or any defect in the appointment of a member.

58. (1) The Public Service Commission or any Committee thereof may delegate to a public officer, subject to such conditions as may be prescribed by the Cabinet of Ministers, its powers of appointment, transfer, dismissal or disciplinary control of any category of public officers.

Delegation by
Public Service
Commission or
any Committee
thereof.

(2) Any public officer aggrieved by any order of transfer or dismissal, or any other order relating to a disciplinary matter made by a public officer to whom the Public Service Commission or any Committee thereof has delegated its powers under the preceding paragraph shall have a right of appeal to the Public Service Commission or such Committee, as the case may be.

59. The Cabinet of Ministers shall have the power to alter, vary or rescind-

Power of
Cabinet of
Ministers to
alter, vary, or
rescind
appointments,
&c.

(a) any appointment, order of transfer or dismissal or any other order relating to a disciplinary matter made, on appeal or otherwise, by the Public Service Commission or a Committee thereof;

(b) any order of transfer made by a Minister; or

(c) any appointment made by a public officer to whom the Public Service Commission or any Committee thereof has delegated its powers under Article 58 (1).

60. 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 decision of the Public Service Commission, or of any Committee thereof, or of any member of such Commission or of any public officer exercising any powers delegated by such Commission or Committee, shall be guilty of an offence, and shall, on conviction by the High Court after trial without a jury 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 and fine:

Interference
with Public
Service
Commission,
&c., an offence.

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

Official oath or affirmation, 61. A person appointed to any office referred to in this Chapter shall not enter upon the duties of his office until he takes and subscribes the oath or makes and subscribes the affirmation set out in the Fourth Schedule.

CHAPTER X

THE LEGISLATURE

PARLIAMENT

Parliament.

62. (1) There shall be a Parliament which shall consist of one hundred and ninety-six Members elected by the electors of the several electoral districts constituted in accordance with the provisions of the Constitution.

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

Official oath or affirmation.

63. Except for the purpose of electing the Speaker, no Member shall sit or vote in Parliament until he has taken and subscribed the following oath,, or made and subscribed the following affirmation, before Parliament:-

"I, . . . do solemnly declare and affirm
that I will 'uphold and defend the
Constitution of the Democratic Socialist
Republic of Sri Lanka."

Speaker,
Deputy
Speaker and
Deputy
Chairman of
Committees.

64. (1) Parliament 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 shall, unless he earlier resigns his office by a writing under

his hand addressed to the President 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, Parliament shall at its first meeting after the occurrence of the vacancy elect another Member to be the Speaker, the Deputy Speaker or the Deputy Chairman of Committees, as the case may be.

(4) If Parliament, after having been dissolved, is summoned under paragraph (7) of Article 70, each of the Members mentioned in paragraph (2) of this Article shall, notwithstanding anything therein, resume and continue to hold Jus.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 Parliament. If none of them is present, a Member elected by Parliament for the sitting shall preside at that sitting of Parliament.

65.(1) There shall be a Secretary-General of Parliament who shall be appointed by the President and who shall hold office during good behaviour.

(2) The salary of the Secretary-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 members of the staff of the Secretary-General shall be appointed by him with the approval of the Speaker.

(4) The salaries of the members of the staff of the Secretary-General shall be charged on the Consolidated Fund.

(5) The office of the Secretary-General shall become vacant-

- (a) upon his death ;
- (b) on his resignation in writing addressed to the President;
- (c) on his attaining the age of sixty years, unless Parliament otherwise provides by law ;

- (d) on his removal by the President on account of ill-health or physical or mental infirmity; or
 - (e) on his removal by the President upon an address of Parliament.
- (6) Whenever the Secretary-General is unable to discharge the functions of his office, the President may appoint a person to act in the place of the Secretary-General.

Vacation of seats.

66. The seat of a Member shall become vacant-

- (a) upon his death ;
- (b) if, by a writing under his hand addressed to the Secretary-General of Parliament, he resigns his seat;
- (c) upon his assuming the office of President consequent to his election to such office, either by the People or by Parliament;
- (d) if he becomes subject to any disqualification specified in Article 89 or 91;
- (e) if he becomes a member of the Public Service or an employee of a public corporation or, being a member of the Public Service or an employee of a public corporation, does not cease to be a member of such Service or an employee of such corporation, before he sits in Parliament;
- (f) if, without the leave of Parliament first obtained, he absents himself from the sittings of Parliament during a continuous period of three months ;
- (g) if his election as a Member is declared void under the law in force for the time being;
- (h) upon the dissolution of Parliament; or
- (i) upon a resolution for his expulsion being passed in terms of Article 81.

Privileges, immunities and powers of Parliament and Members.

67. The privileges, immunities and powers of Parliament and of its Members may be determined and regulated by Parliament by law, and until so determined and regulated, the provisions of the Parliament (Powers and Privileges) Act,* shall, *mutatis mutandis*, apply.

68. (1) Ministers, Deputy Ministers and Members, including the Speaker, the Deputy Speaker and the Deputy Chairman of Committees, shall be paid such remuneration or allowance as may be provided by Parliament, by law or by resolution, and the receipt thereof shall not disqualify the recipient from sitting or voting in Parliament.

Allowances of Members.

(2) Until Parliament so provides, the remuneration payable to Ministers, Deputy Ministers and Members, including the Speaker, the Deputy Speaker and the Deputy Chairman of Committees, shall be the same as the remuneration paid to Ministers, Deputy Ministers and Members including the Speaker, the Deputy Speaker and the Deputy Chairman of Committees of the National State Assembly immediately prior to the commencement of the Constitution.

69. Parliament shall have power to act notwithstanding any vacancy in its membership, and its proceedings shall be act valid notwithstanding that it is discovered subsequently that a person who was not entitled so to do sat or voted or otherwise took part in the proceedings.

Power of Parliament to act notwithstanding vacancies.

CHAPTER XI

THE LEGISLATURE

PROCEDURE AND POWERS

70. (1) The President may, from time to time, by Proclamation summon, prorogue and dissolve Parliament:

Sessions of Parliament.

Provided that-

- (a) subject to the provisions of sub-paragraph (d), when a General Election has been held consequent upon a dissolution of Parliament by the President, the President shall not thereafter dissolve Parliament until the expiration of a period of one year from the date of such General Election, unless Parliament by resolution requests the President to dissolve Parliament;

* See section 6 of the Revision of the Legislative Enactments Act and the Schedule to that Act.

- (b) the President shall not dissolve Parliament on the rejection of the Statement of Government Policy at the commencement of the first session of Parliament after a General Election;
- (c) subject to the provisions of sub-paragraph (d), the President shall not dissolve Parliament after the Speaker has entertained a resolution complying with the requirements of sub-paragraphs (a) and (b) of paragraph (2) of Article 38, unless-
- (i) such resolution is not passed as required by sub-paragraph (c) of paragraph (2) of Article 38 ;
 - (ii) the Supreme Court determines and reports that the President has not become permanently incapable of discharging the functions of his office or that the President has not been guilty of any of the other allegations contained in such resolution;
 - (iii) the consequent resolution for the removal of the President is not passed as required by sub-paragraph (e) of paragraph (2) of Article 38 ; or
 - (iv) Parliament by resolution requests the President to dissolve Parliament;
- (d) where the President has not dissolved Parliament consequent upon the rejection by Parliament of the Appropriation Bill, the President shall dissolve Parliament if Parliament rejects the next Appropriation Bill.
- (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 two months after the date of the Proclamation :
- Provided that, at any time while Parliament stands prorogued, the President may by Proclamation-
- (i) summon Parliament for an earlier date, not being less than three days from the date of such Proclamation, or
 - (ii) subject to the provisions of this Article, dissolve Parliament.
- (4) All matters which, having been duly brought before Parliament, have not been disposed of at the time of the prorogation of Parliament, may be proceeded with during the next session.
- (5) (a) A Proclamation dissolving Parliament shall fix a date or dates for the election of Members of Parliament, and shall summon the new Parliament to meet on a date not later than three months after the date of such Proclamation.
- (b) Upon the dissolution of Parliament by virtue of the provisions of paragraph (2) of Article 62, the President shall forthwith by Proclamation fix a date or dates for the election of Members of Parliament, and shall summon the new Parliament to meet on a date not later than three months after the date of such Proclamation.
- (c) The date fixed for the first meeting of Parliament by a Proclamation under sub-paragraph (a) or sub-paragraph (b) may be varied by a subsequent Proclamation, provided that the date so fixed by the subsequent Proclamation shall be a date not later than three months after the date of the original Proclamation.
- (6) Where the poll for the election of the President is to be taken on a date which falls between the date of dissolution of Parliament and the date before which Parliament is required by paragraph (5) of this Article to be summoned to meet, Parliament shall, notwithstanding anything in that paragraph, be summoned to meet on a date not later than four months after the date of dissolution of Parliament.
- (7) If at any time after the dissolution of Parliament, the President is satisfied that an emergency has arisen of such a nature that an earlier meeting of Parliament is necessary, he may by Proclamation summon the

Parliament which has been dissolved to meet on a date not less than three days from the date of such Proclamation and such Parliament shall stand dissolved upon the termination of the emergency or the conclusion of the General Election, whichever is earlier.

Provided that Parliament shall not make any law-

- (a) suspending the operation of the Constitution or any part thereof, or
- (b) repealing the Constitution as a whole unless such law also enacts a new Constitution to replace it.

Adjournment. **71.** Parliament may adjourn from time to time as it may determine by resolution or Standing Order, until it is prorogued or dissolved.

Voting. **72.** (1) Save as otherwise provided in the Constitution any question proposed for decision by Parliament shall be decided by the majority of votes of the Members present and voting.

(2) The 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.

Quorum. **73.** If at any time during a meeting of Parliament the attention of the person presiding is drawn to the fact that there are fewer than twenty Members present, the person presiding shall, subject to any Standing Order, adjourn the sitting without question put.

Standing Orders. **74.** (1) Subject to the provisions of the Constitution, Parliament may by resolution or Standing Order provide for-

- (i) the election and retirement of the Speaker, the Deputy Speaker and the Deputy Chairman of Committees, and
- (ii) the regulation of its business, the preservation of order at its sittings and any other matter for which provision is required or authorized to be so made by the Constitution.

(2) Until Parliament otherwise provides by law or by resolution, the Standing Orders of the National State Assembly, operative immediately prior to the commencement of the Constitution, shall, *mutatis mutandis*, be the Standing Orders of Parliament.

Legislative power, **75.** Parliament shall have power to make laws, including laws having retrospective effect and repealing or amending any provision of the Constitution, or adding any provision to the Constitution :

76. (1) Parliament shall not abdicate or in any manner alienate its legislative power, and shall not set up any authority with any legislative power.

Delegation of legislative power

(2) It shall not be a contravention of the provisions of paragraph (1) of this Article for Parliament to make, in any law relating to public security, provision empowering the President to make emergency regulations in accordance with such law.

(3) It shall not be a contravention of the provisions of paragraph (1) of this Article for Parliament to make any law containing any provision empowering any person or body to make subordinate legislation for prescribed purposes, including the power-

- (a) to appoint a date on which any law or any part thereof shall come into effect or cease to have effect;
- (b) to make by order any law or any part thereof applicable to any locality or to any class of persons; and
- (c) to create a legal person, by an order or an act.

In sub-paragraphs (a) and (b) of this paragraph, "law" includes existing law.

(4) Any existing law containing any such provision as aforesaid shall be valid and operative.

77. (1) It shall be the duty of the Attorney-General to examine every Bill for any contravention of the requirements of paragraphs (1) and (2) of Article 82 and for any provision which cannot be validly passed except by the special majority prescribed by the Constitution; and the Attorney-General or any officer assisting the Attorney-General in the performance of his duties under this Article shall be afforded all facilities necessary for the performance of such duties.

Duties of Attorney-General in regard to published bills.

(2) If the Attorney-General is of the opinion that a Bill contravenes any of the requirements of paragraphs (1) and (2). of Article 82 or that any provision in a Bill cannot be validly passed except by the special majority prescribed by the Constitution, he shall communicate such opinion to the President:

Provided that in the case of an amendment proposed to a Bill in Parliament, the Attorney-General shall communicate his opinion to the Speaker at the stage when the Bill is ready to be put to Parliament for its acceptance.

Publication of Bills and passing of Bills and resolutions.

78. (1) Every Bill shall be published in the Gazette at least seven days before it is placed on the Order Paper of Parliament.

(2) The passing of a Bill or a resolution by Parliament shall be in accordance with the Constitution and the Standing Orders of Parliament. Any one or more of the Standing Orders may be suspended by Parliament in the circumstances and in the manner prescribed by the Standing Orders.

Certificate of Speaker.

79. The Speaker shall endorse on every Bill passed by Parliament a certificate in the following form :-

"This Bill (here state the short title of the Bill) has been duly passed by Parliament."

Such certificate may also state the majority by which such Bill was passed :

Provided that where by virtue- of the provisions of Article 82 or Article 83 or Article 84 or Article 123 (2) a special majority is required for the passing of a Bill, the Speaker shall certify such Bill only if such Bill has been passed with such special majority:

Provided further that where by virtue of Article 83, the Bill or any provision thereof requires the approval of the People at a Referendum, such certificate shall further state that the Bill or such provision shall not become law until approved by the People at a Referendum.

When Bill becomes law.

80. (1) Subject to the provisions of paragraph (2) of this Article, a Bill passed by Parliament shall become law when the certificate of the Speaker is endorsed thereon.

(2) Where the Cabinet of Ministers has certified that any Bill or any provision thereof is intended to be submitted for approval by the People at a Referendum or where the Supreme Court has determined that a Bill or any provision thereof requires the approval of the People at a Referendum or where any Bill is submitted to the People by Referendum under paragraph (2) of Article 85, such Bill or such provision shall become law upon being approved by the People at a Referendum in accordance with paragraph (3) of Article 85 only when the President certifies that the Bill or provision thereof has been so approved. The President shall endorse on every Bill so approved a certificate in the following form :-

" This Bill/provision has been duly approved by the People at a Referendum."

Every such certificate shall be final and conclusive, and shall not be called in question in any court.

(3) Where a Bill becomes law upon the certificate of the President or the Speaker, as the case may be, being endorsed thereon, no court or tribunal shall inquire into, pronounce upon or in any manner call in question, the validity of such Act on any ground whatsoever.

81. (1) Where a Special Presidential Commission of Inquiry established under the Special Presidential Commissions of Inquiry Law and consisting of a member or members each of whom is a Judge of the Supreme Court, Court of Appeal, High Court or the District Court recommends that any person should be made subject to civic disability by reason of any act done or omitted to be done by such person before or after the commencement of the Constitution, Parliament may by resolution passed by not less than two-thirds of the whole number of Members (including those not present) voting in its favour-

- (a) impose civic disability on such person for a period not exceeding seven years, and
- (b) expel such person from Parliament, if he is a Member of Parliament.

Where a Special Presidential Commission of Inquiry consists of more than one member, a recommendation made by the majority of

Expulsion
Members a
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such members, in case of any difference of opinion, shall be, and shall be deemed for all purposes to be, the recommendation of such Commission of Inquiry.

(2) No such resolution shall be entertained by the Speaker or placed on the Order Paper of Parliament unless introduced by the Prime Minister with the approval of the Cabinet of Ministers.

(3) The Speaker shall endorse on every resolution passed in accordance with the preceding provisions of this Article a certificate in the following form :-

" This resolution has been duly passed by Parliament in accordance with the provisions of Article 81 of the Constitution."

Every such certificate shall be conclusive for all purposes and shall not be questioned in any court, and no court or tribunal shall inquire into, or pronounce upon or in any manner call in question, the validity of such resolution on any ground whatsoever.

(4) In this Article, " District Court " means a District Court created and established by existing law and includes a court that may be created by Parliament to exercise and perform powers and functions corresponding or substantially similar to the powers and functions exercised and performed by the District Court.

CHAPTER XII

THE LEGISLATURE

AMENDMENT OF THE CONSTITUTION

Amendment or repeal of the Constitution must be expressed.

82. (1) No Bill for the amendment of any provision of the Constitution shall be placed on the Order Paper of Parliament, unless the provision to be repealed, altered or added, and consequential amendments, if any, are expressly specified in the Bill and is described in the long title thereof as being an Act for the amendment of the Constitution.

(2) No Bill for the repeal of the Constitution shall be placed on the Order Paper of Parliament unless the Bill contains provisions replacing the Constitution and is described in the long title thereof as being an Act for the repeal and replacement of the Constitution.

(3) If in the opinion of the Speaker, a Bill does not comply with the requirements of paragraph (1) or paragraph (2) of this Article, he shall direct that such Bill be not proceeded with unless it is amended so as to comply with those requirements.

(4) Notwithstanding anything in the preceding provisions of this Article, it shall be lawful for a Bill which complies with the requirements of paragraph (1) or paragraph (2) of this Article to be amended by Parliament provided that the Bill as so amended shall comply with those requirements.

(5) A Bill for the amendment of any provision of the Constitution or for the repeal and replacement of the Constitution, shall become law if the number of votes cast in favour thereof amounts to not less than two-thirds of the whole number of Members (including those not present) and upon a certificate by the President or the Speaker, as the case may be, being endorsed thereon in accordance with the provisions of Article 80 or 79.

(6) No provision in any law shall, or shall be deemed to, amend, repeal or replace the Constitution or any provision thereof, or be so interpreted or construed, unless enacted in accordance with the requirements of the preceding provisions of this Article.

(7) In this Chapter, "amendment" includes repeal, alteration and addition.

83. Notwithstanding anything to the contrary in the provisions of Article 82 -

Approval of certain Bills at a Referendum.

(a) a Bill for the amendment or for the repeal and replacement of or which is inconsistent with any of the provisions of Articles 1, 2, 3, 6, 7, 8, 9, 10 and 11, or of this Article, and

(b) a Bill for the amendment or for the repeal and replacement of or which is inconsistent with the provisions of paragraph (2) of Article 30 or of paragraph (2) of Article 62 which would extend the term of office of the President or the duration of Parliament, as the case may be, to over six years.

Bills inconsistent with the Constitution.

shall become law if the number of votes cast in favour thereof amounts to not less than two-thirds of the whole number of Members (including those not present), is approved by the People at a Referendum and a certificate is endorsed thereon by the President in accordance with Article 80.

84. (1) A Bill which is not for the amendment of any provision of the Constitution or for the repeal and replacement of the Constitution, but which is inconsistent with any provision of the Constitution may be placed on the Order Paper of Parliament without complying with the requirements of paragraph (1) or paragraph (2) of Article 82.

(2) Where the Cabinet of Ministers has certified that a Bill is intended to be passed by the special majority required by this Article or where the Supreme Court has determined that a Bill requires to be passed by such special majority, such Bill shall become law only if the number of votes cast in favour thereof amounts to not less than two-thirds of the whole number of Members (including those not present) and a certificate by the President or the Speaker, as the case may be, is endorsed thereon in accordance with the provisions of Article 80 or 79.

(3) Such a Bill when enacted into law, shall not, and shall not be deemed to, amend, repeal or replace the Constitution or any provision thereof, and shall not be so interpreted or construed, and may thereafter be repealed by a majority of the votes of the Members present and voting.

CHAPTER XIII

THE REFERENDUM

Submission of Bills to People by Referendum,

85. (1) The President shall submit to the people by Referendum every Bill or any provision in any Bill which the Cabinet of Ministers has certified as being intended to be submitted to the People by Referendum, or which the Supreme Court has determined as requiring the approval of the People at a Referendum if the number of votes cast in favour of such Bill amounts to not less than two-thirds of the whole number of Members (including those not present).

(2) The President may in his discretion submit to the People by Referendum any Bill (not being a Bill for the repeal or amendment of any provision of the Constitution, or for the addition of any provision to the Constitution, or for the repeal and replacement of the Constitution, or which is inconsistent with any provision of the Constitution), which has been rejected by Parliament.

(3) Any Bill or any provision in any Bill submitted to the People by Referendum shall be deemed to be approved by the People if approved by an absolute majority of the valid votes cast at such Referendum ;

Provided that when the total number of valid votes cast does not exceed two-thirds of the whole number of electors entered in the register of electors, such Bill shall be deemed to be approved by the People only if approved by not less than one-third of the whole number of such electors.

86. The President may, subject to the provisions of Article 85, submit to the People by Referendum any matter which in the opinion of the President is of national importance.

Submission of matters of national importance to People by Referendum.

87. (1) Every Referendum shall be conducted by the Commissioner of Elections who shall communicate the result thereof to the President.

Parliament to provide for procedure.

(2) Parliament shall by law provide for all matters relating to the procedure for the submission of Bills and of matters of national importance to the People by Referenda, the register of electors to be used at a Referendum, the creation of offences relating thereto and the punishment therefor, and all other matters necessary or incidental thereto.

CHAPTER XIV

THE FRANCHISE AND ELECTIONS

88. Every person shall, unless disqualified as hereinafter provided, be qualified to be an elector at the election of the President and of the Members of Parliament or to vote at any Referendum:

Right to be an elector.

Provided that no such person shall be entitled to vote unless his name is entered in the appropriate register of electors.

Disqualification to be an elector 89. No person shall be qualified to be an elector at an election of the President, or of the Members of Parliament or to vote at any Referendum, if he is subject to any of the following disqualifications, namely -

- (a) if he is not a citizen of Sri Lanka;
- (b) if he has not attained the age of eighteen years on the qualifying date specified by law under the provisions of Article 101 ;
- (c) if he is under any law in force in Sri Lanka found or declared to be of unsound mind;
- (d) if he is serving or has during the period of seven years immediately preceding completed serving of a sentence of imprisonment (by whatever name called) for a term not less than six months imposed after conviction by any court for an offence punishable with imprisonment for a term not less than two years or is under sentence of death or is serving or has during the period of seven years immediately preceding completed the serving of a sentence of imprisonment for a term not less than six months awarded in lieu of execution of 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;

- (e) if a period of seven years has not elapsed since -
 - (i) the last of the dates, if any, of his being convicted of any offence under section 52 (1) or 53 of the Ceylon (Parliamentary Elections) Order in Council, 1946,* or of such offence under the law for the time being relating to Referenda or to the election of the President or of Members of Parliament as would

correspond to an offence under either of the said two sections;

- (ii) the last of the dates, if any, of his being convicted of a corrupt practice under the Ceylon (Parliamentary Elections) Order in Council, 1946,* or of such offence under the law for the time being relating to Referenda or to the election of the President or of Members of Parliament as would correspond to the said corrupt practice;
- (iii) the last of the dates, if any, being a date after the commencement of the Constitution, of a report made by a Judge finding him guilty of any corrupt practice under the Ceylon (Parliamentary Elections) Order in Council, 1946,* or under any law for the time being relating to Referenda or to the election of the President or of Members of Parliament;
- (iv) the last of the dates, if any, of his being convicted or found guilty of bribery under the provisions of the Bribery Act or of any future law as would correspond to the Bribery Act;

- (f) if a period of five years has not elapsed since -

- (i) the last of the dates, if any, of his being convicted of any offence under the provisions of sections 77 to 82 (both inclusive) of the Local Authorities Elections Ordinance or for such offence under any future law as would correspond to any offence under the said sections; or

* See section 6 of the Revision of the Legislative Enactments Act and the Schedule to that Act.

- (ii) the last of the dates, if any, of his being convicted of an offence under the provisions of sections 2 and 3 of the Public Bodies (Prevention of Corruption) Ordinance or of such offence under any future law as would correspond to the said offence:
- (g) if a period of three years has not elapsed since -
 - (i) the last of the dates, if any, of his being convicted of an illegal practice under the Ceylon (Parliamentary Elections) Order in Council, 1946,* or of such offence under the law for the time being relating to Referenda or to the election of the President or of Members of Parliament as would correspond to the said illegal practice;
 - (ii) the last of the dates, if any, being a date after the commencement of the Constitution, of a report made by a Judge finding him guilty of any illegal practice under the Ceylon (Parliamentary Elections) Order in Council, 1946,* or under any law for the time being relating to Referenda or to the election of the President or of Members of Parliament;
- (h) if a resolution for the imposition of civic disability upon him has been passed in terms of Article 81, and the period of such civic disability specified in such resolution has not expired ;
- (i) if a period of seven years has not elapsed since-
 - (i) the date of his being convicted of any offence under the provisions of sections 188 to 201 (both inclusive) of the Penal Code or for such other offence under any future law as would correspond to any offence under the said sections, or
 - (ii) the date of his being convicted of an offence of contempt against, or in disrespect of, the authority of any Special Presidential Commission of Inquiry consisting of such member or members specified in Article 81 by reason of-
 - (1) the failure of such person, without cause which in the opinion of such Commission is reasonable, to appear before such Commission at the time and place mentioned in any summons which such Commission is empowered by law to issue, or
 - (2) the refusal of such person to be sworn or affirmed, or the refusal or failure of such person, without cause which in the opinion of such Commission is reasonable, to answer any question put to such person touching the matters directed to be inquired into by such Commission, or
 - (3) the refusal or failure of such person, without cause which in the opinion of such Commission is reasonable, to produce and show to such Commission any document or thing which is in the possession or power of such person and

* See section 6 of the Revision of the Legislative Enactments Act and the Schedule to that Act.

which in the opinion of such Commission is necessary for arriving at the truth of the matters to be inquired into by such Commission;

(j) if the period of his disqualification imposed under Article 116 has not elapsed.

Qualification for election as Member of Parliament.

90. Every person who is qualified to be an elector shall be qualified to be elected as a Member of Parliament unless he is disqualified under the provisions of Article 91.

Disqualification for election as a Member of Parliament.

91. (1) No person shall be qualified to be elected as a Member of Parliament or to sit and vote in Parliament-

(a) if he is or becomes subject to any of the disqualifications specified in Article 89;

(b) if he-

(i) stands nominated as a candidate for election for more than one electoral district at a General Election,

(ii) stands nominated as a candidate for election by more than one recognized political party or independent group in respect of any electoral district,

(iii) stands nominated as a candidate for election for an electoral district and before the conclusion of the election for that electoral district he stands nominated as a candidate for election for any other electoral district, or

(iv) being a Member of Parliament, except in the circumstances referred to in Article 70 (7) or Article 155 (4) (i), stands nominated as a candidate for election for any electoral district ,

(c) if he is the President of the Republic ;

(d) if he is-

(i) a judicial officer,

(ii) the Parliamentary Commissioner for Administration,

(iii) the Secretary-General of Parliament or a member of his staff,

(iv) a member of the Public Service Commission,

(v) the Commissioner of Elections,

(vi) the Auditor-General,

(vii) a public officer holding any office the initial of the salary scale of which is not less than Rs. 6,720 per annum,

(viii) an officer in any public corporation holding any office the initial of the salary scale of which is not less than Rs. 7,200 per annum,

(ix) a member of the Regular Force of the Army, Navy or Air Force, or

(x) a police officer or a public officer exercising police functions;

(e) if he has any such interest in any such contract made by or on behalf of the State Or a public corporation as Parliament shall by law prescribe ;

(f) if he is an undischarged bankrupt or insolvent, having been declared bankrupt or insolvent;

(g) if during the preceding seven years he has been adjudged by a competent court or by a Special Presidential Commission of Inquiry to have accepted a bribe, or gratification offered with a view to influencing his judgment as a Member of Parliament or as a member of the legislature prior to the commencement of the Constitution.

(2) For the purposes of sub-paragraph (g) of paragraph (1) of this Article, the acceptance by a Member of Parliament of any allowance or other payment made to him by any trade union or other organization solely for the purpose of his maintenance shall be deemed not to be the acceptance of a bribe or gratification.

Disqualification for election as President.

92. Every person who is qualified to be an elector shall be qualified to be elected to the office of President unless he is subject to any of the following disqualifications-

- (a) if he has not attained the age of thirty years;
- (b) if he is not qualified to be elected as a Member of Parliament under sub-paragraph (d), (e), (f) or (g) of paragraph (1) of Article 91 ;
- (c) if he has been twice elected to the office of President by the People;
- (d) if he has been removed from the office of President under the provisions of sub-paragraph (e) of paragraph (2) of Article 38.

Election to be free, equal secret

93. The voting for the election of the and President of the Republic and of the Members of Parliament and at any Referendum shall be free, equal and by secret ballot.

Election of the President.

94. (1) At the election of the President every voter while casting his vote for any candidate may-

- (a) where there are three candidates for election, specify his second preference; and
- (b) where there are more than three candidates for election, specify his second and third preferences.

(2) The candidate, if any, who receives more than one-half of the valid votes cast shall be declared elected as President.

(3) Where no candidate is declared elected under paragraph (2) of this Article, the candidate or candidates, other than the candidates who received the highest and second highest number of such votes, shall be eliminated from the contest, and-

- (a) the second preference of each voter whose vote had been for a candidate eliminated from the contest, shall, if it is for one or the other of the remaining two candidates, be counted as a vote for such candidate and be added to the votes counted in his favour under paragraph (2), and

- (b) the third preference of each voter referred to in sub-paragraph (a) whose second preference is not counted under that sub-paragraph shall, if it is for one or the other of the remaining two candidates, be counted as a vote for such candidate and be added to the votes counted in his favour under sub-paragraph (a) and paragraph (2).

and the candidate who receives the majority of the votes so counted shall be declared elected as President.

(4) Where an equality is found to exist between the votes received by two or more candidates and the addition of one vote would determine-

- (a) which candidate is to be declared elected under this Article ; or
- (b) which candidate is not to be eliminated under this Article,

then the determination of the candidate to whom such additional vote shall be deemed to have been given for the purpose of such determination shall be made by lot.

95.(1) Within three months of the commencement of the Constitution the President shall for the delimitation of electoral districts, establish a Delimitation Commission consisting of three persons appointed by him who he is satisfied are not actively engaged in politics. The President shall appoint one of such persons to be the Chairman.

Deimitation Commission

(2) If any member of the Delimitation Commission shall die or resign or if the President is satisfied that any such member has become incapable of discharging his functions as such, the President shall, in accordance with the provisions of paragraph (1) of this Article, appoint another person in his place.

96. (1) The Delimitation Commission shall divide Sri Lanka into not less than twenty and not more than twenty-four electoral districts, and shall assign names thereto.

Electoral districts.

(2) Each Province of Sri Lanka may itself constitute an electoral district or may be divided into two or more electoral districts.

(3) Where a Province is divided into a number of electoral districts the Delimitation Commission shall have regard to the existing administrative districts so as to ensure as far as is practicable that each electoral district shall be an administrative district or a combination of two or more administrative districts or two or more electoral districts together constitute an administrative district.

(4) The electoral districts of each Province shall together be entitled to return four members, (independently of the number of members which they are entitled to return by reference to the number of electors whose names appear in the registers of electors of such electoral districts), and the Delimitation Commission shall apportion such entitlement equitably among such electoral districts.

(5) In the event of a difference of opinion among the members of the Delimitation Commission, the opinion of the majority 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. Any dissentient member may state his reasons for such dissent.

(6) The Chairman of the Delimitation Commission shall communicate the decisions of the Commission together with the reasons, if any, stated by a dissentient member to the President.

Proclamation
of names, &c. of
electoral
districts.

97. The President shall by Proclamation publish the names and boundaries of the electoral districts and the number of members, which each such electoral district is entitled to return by virtue of the provisions of paragraph (4) of Article 96 in accordance with the decision of the Delimitation Commission. The electoral districts specified in the Proclamation shall come into operation at the next ensuing General Election of Members of Parliament and shall thereafter be the electoral districts of Sri Lanka for all the purposes of the Constitution and of any law for the time being in force relating to the election of Members of Parliament.

98. (1) The several electoral districts shall together be entitled to return one hundred and ninety-six members.

Number of
members to be
returned by the
several
electoral
districts and
their
apportionment
among such
electoral
districts.

(2) The apportionment of the number of members that each electoral district shall be entitled to return shall, in the case of thirty-six members, be determined in accordance with the provisions of paragraph (4) of Article 96.

(3) The apportionment of the number of members that each electoral district shall be entitled to return out of the balance number of one hundred and sixty members shall be determined in accordance with the succeeding provisions of this Article.

(4) The total number of electors whose names appear in the registers of electors of all the electoral districts shall be divided by one hundred and sixty. The whole number resulting from such division (any fraction not being taken into account) is hereinafter referred to as the "qualifying number *"

(5) The total number of electors whose names appear in the register of electors of each electoral district shall be divided by the qualifying number and each electoral district shall be entitled to return such number of members as is equivalent to the whole number resulting from the division of the total number of such electors in that electoral district by the qualifying number and the balance number of such electors, if any, after such division shall be dealt with, if necessary, in accordance with paragraph (6) of this Article.

(6) Where the total number of members to be returned by all the electoral districts ascertained by reference to the qualifying number in accordance with paragraph (5) of this Article is less than one hundred and sixty members, the apportionment of the entitlement among the electoral districts of the balance number of members shall be by reference to the balance number of such electors and in the case of any electoral district not entitled to return a single member according to the determination made under paragraph (5), the total number of electors whose names appear in the register of electors of such electoral district, the electoral district having the highest of such balance number of such electors or such total number of such electors, being entitled to return one more

member and so on until the total number of members to be returned number one hundred and sixty.

(7) Where in making an apportionment under paragraph (6) of this Article an equality is found to exist between two or more balance number of such electors or two or more total number of such electors or any combination of them and the addition of one such elector would entitle one electoral district to return an additional member, the determination of the electoral district to which one such elector shall be deemed to be added shall be determined by lot.

(8) The Commissioner of Elections, as soon as possible after the certification of the registers of electors for all the electoral districts, shall by Order published in the Gazette certify the number of members which each electoral district is entitled to return by virtue of the Proclamation under Article 97 and this Article and the number of candidates required under Article 99 (2) to be set out in the nomination paper.

(9) For the purposes of this Article " the register of electors " means the register of electors for the time being in operation on the basis of which an election is being held.

Proportional
representation.

99. (1) At any election of Members of Parliament, the total number of members which an electoral district is entitled to return shall be the number specified by the Commissioner of Elections in the Order published in accordance with the provisions of paragraph (8) of Article 98.

(2) Any recognized political party or any group of persons contesting as independent candidates (hereinafter referred to as an " independent group ") may for the purpose of any election of Members of Parliament for any electoral district, submit one nomination paper setting out the names, in order of priority, of such number of candidates as is equivalent to the number of members to be elected for that electoral district, increased by one-third. Where one-third of the number of members to be elected for any electoral district is an integer and fraction the integer immediately higher to that integer and fraction shall be deemed to be the one-third for the purposes of this paragraph.

(3) Each elector whose name appears in the register of electors shall be entitled to only one vote notwithstanding that his name appears in the electoral register in more than one electoral district

(4) The recognized political party or independent group which polls the highest number of votes in any electoral district shall be entitled to have the candidate whose name appears first in the nomination paper of that recognized political party or independent group declared elected.

(5) (a) Every recognized political party and independent group polling less than one-eighth of the total votes polled at any election in any electoral district shall be disqualified from having any candidates of such party or group being elected for that electoral district.

(b) The votes polled by the disqualified parties and independent groups, if any, shall be deducted from the total votes polled at the election in that electoral district and the number of votes resulting from such deduction is hereinafter referred to as the " relevant number of votes ".

(6) The relevant number of votes shall be divided by the number of members to be elected for that electoral district reduced by one. If the number resulting from such division is an integer, that integer, or if that number is an integer and fraction, the integer immediately higher to that integer and fraction is hereinafter referred to as the " resulting number ".

(7) The number of votes polled by each recognized political party and independent group (other than those parties or groups disqualified under paragraph (5) of this Article), beginning with the party or group which polled the highest number of votes, shall then be divided by the resulting number and such number of candidates (excluding the candidate declared elected under paragraph (4) of this Article) as is equivalent to the whole number resulting from the division by the resulting number of the votes polled by such party or group shall be declared elected from each such party or group in the order in which their names appear in the nomination paper. The

remainder of the votes, if any, after such division, shall be dealt with, if necessary, under paragraph (8) of this Article.

(8) Where after the declaration of the election of members as provided in paragraph (7) of this Article there are one or more members yet to be declared elected, such member or number of members shall be declared elected by reference to the remainder of the votes referred to in paragraph (7) to the credit of each party or group after the declaration made under that paragraph and the votes polled by any party or group not having any of its candidates declared elected under paragraph (7), the candidate next in the order of priority in the nomination paper of the party or group having the highest of such votes being declared elected the next member and so on until all the members to be elected are declared elected.

(9) (a) Where the number of votes polled by each recognized political party or independent group is less than the resulting number referred to in paragraph (6) of this Article the party or group which has polled the highest number of votes shall be entitled to have the candidate whose name appears first in the nomination paper of that party or group (excluding the candidate declared elected under paragraph (4) of this Article) declared elected and if there are one or more members yet to be declared elected, the party or group having the next highest number of votes polled shall be entitled to have the member whose name appears first in the nomination paper of that party or group to be declared elected and so on, until all the members to be elected for that electoral district are declared elected under the provisions of this paragraph.

(b) After the determination under paragraph (a) if there are one or more members yet to be declared elected in respect of that electoral district the provisions of that paragraph shall, *mutatis mutandis*, apply to the election of such members.

(10) Where under paragraph (4) or (8) or (9) of this Article an equality is found to exist between the votes polled by two or more recognized political parties or two or more independent groups or any combination of them and the addition of a vote would entitle the candidate of one such party or group to be

elected, the determination of the party or group to which such additional vote shall be deemed to have been given shall be made by lot

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

(12) A recognized political party shall have the right, from time to time after all the members for an electoral district have been declared elected under the preceding provisions of this Article, to change the order of priority of the persons whose names appear in the nomination paper submitted by it and to substitute the names of other persons in place of those who have died or ceased to be members of such party.

(13) (a) Where a Member of Parliament ceases, by resignation, expulsion or otherwise, to be a member of a recognized political party or independent group on whose nomination paper (hereinafter referred to as the "relevant nomination paper") his name appeared at the time of his becoming such Member of Parliament, his seat shall become vacant upon the expiration of a period of one month from the date of his ceasing to be such member:

Provided that in the case of the expulsion of a Member of Parliament his seat shall not become vacant if prior to the expiration of the said period of one month he applies to the Supreme Court by petition in writing, and the Supreme Court upon such application determines that such expulsion was invalid. Such petition shall be inquired into by three Judges of the Supreme Court who shall make their determination within two months of the filing of such petition. Where the Supreme Court determines that the expulsion was valid the vacancy shall occur from the date of such determination.

(b) Where the seat of a Member of Parliament becomes vacant as provided in Article 66 (other than paragraph (g) of that Article) or by virtue of the preceding provisions of this paragraph, the person whose name appears first in order of priority in the relevant nomination paper (excluding the names of any persons who have previously been declared elected) shall be declared elected to fill such vacancy.

Penalty for
sitting and
voting in
Parliament

100. Any person who-

- (a) having been elected a Member of Parliament but not having been at the time of such election qualified to be so elected, shall sit or vote in Parliament; or
- (b) shall sit or vote in Parliament after his seat therein has become vacant or he has become disqualified from sitting or voting therein,

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 to be recovered as a debt due to the Republic by an action instituted by the Attorney-General in the District Court of Colombo.

Parliament
may make
provision in
respect of
elections.

101. (1) Parliament may by law make provision for-

- (a) The registration of electors;
- (b) the prescribing of a qualifying date on which a person should be resident in any electoral district to be entered in the register of electors of that electoral district;
- (c) the prescribing of a qualifying date on which a person should have attained the age of eighteen years to qualify for the purposes of registration as an elector;
- (d) the preparation and revision of registers of electors;
- (e) the procedure for the election of Members of Parliament;
- (f) the creation of offences relating to such elections and the punishment therefor;
- (g) the grounds for avoiding such elections, and where an election has been held void the manner of holding fresh elections;
- (h) the form and manner in which vacancies shall be filled when all the candidates whose names appearing in the nomination paper of a recognized political party or

independent group have been exhausted by election or otherwise ; and

- (1) the manner of determination of disputed elections and such other matters as are necessary or incidental to the election of Members of Parliament:

Provided that no such law shall add to the disqualifications specified in Articles 89 and 91.

(2) Until Parliament by law makes provision for such matters, the Ceylon (Parliamentary Elections) Order in Council, 1946*, as amended from time to time, shall, subject to the provisions of the Constitution, *mutatis mutandis*, apply.

102. When a public officer or an officer of a public corporation is a candidate at any election, he shall be deemed to be on leave from the date on which he stands nominated as a candidate until the conclusion of the election. Such a public officer or an officer of a public corporation shall not during such period exercise, perform or discharge any of the powers, duties or functions of his office.

Public officer
or an officer of
a public
corporation not
to function
during period
of election.

103. (1) There shall be a Commissioner of Elections who shall be appointed by the President and who shall hold office during good behaviour.

Commissioner
of Elections-

(2) The salary of the Commissioner of Elections 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 the Commissioner of Elections shall become vacant-

- (a) upon his death;
- (b) on his resignation in writing addressed to the President;
- (c) on his attaining the age of sixty years;
- (d) on his removal by the President on account of ill health or physical or mental infirmity; or
- (e) on his removal by the President upon an address of Parliament.

* See section 6 of the Revision of the Legislative Enactments Act and the Schedule to that Act.

(4) Whenever the Commissioner of Elections is unable to discharge the functions of his office, the President may appoint a person to act in the place of the Commissioner of Elections.

(5) The President may in exceptional circumstances permit a Commissioner of Elections who has reached the age of sixty years to continue in office for a period not exceeding twelve months.

Powers, duties
and fuctions
of
Commissioner
of Elections

104. The Commissioner of Elections shall exercise, perform or discharge all such powers, duties or functions as may be conferred or imposed on or vested in him by the law for the time being in force relating to elections to the office of President of the Republic and of Members of Parliament, and to Referenda, or by any other written law.

CHAPTER XV

THE JUDICIARY

Establishment
of courts,&c.

105. (1) Subject to the provisions of the Constitution, the institutions for the administration of justice which protect, vindicate and enforce the rights of the People shall be-

- (a) the Supreme Court of the Republic of Sri Lanka,
- (b) the Court of Appeal of the Republic of Sri Lanka,
- (c) the High Court of the Republic of Sri Lanka and such other Courts of First Instance, tribunals or such institutions as Parliament may from time to time ordain and establish.

(2) All courts, tribunals and institutions created and established by existing written law for the administration of justice and for the adjudication and settlement of industrial and other disputes, other than the Supreme Court, shall be deemed to be courts, tribunals and institutions created and established by Parliament. Parliament may replace or abolish, or, amend the powers, duties, jurisdiction and procedure of, such courts, tribunals and institutions.

(3) The Supreme Court of the Republic of Sri Lanka and the Court of Appeal of the Republic of Sri Lanka shall each be a superior court of record and shall have all the powers of such court including the power to punish for contempt of itself, whether committed in the court itself or elsewhere, with imprisonment or fine or both as the court may deem fit. The power of the Court of Appeal shall include the power to punish for contempt of any other court, tribunal or institution referred to in paragraph I (c) of this Article, whether committed in the presence of such court or elsewhere :

Provided that the preceding provisions of this Article shall not prejudice or affect the rights now or hereafter vested by any law in such other court, tribunal or institution to punish for contempt of itself.

(4) Parliament may by law provide for the creation and establishment of courts, tribunals or institutions for the adjudication and settlement of matters relating to the discipline of *bhikkus* or any dispute between *bhikkus* or any other dispute relating to the performance of services in, or in relation to, temples. Such law may, notwithstanding anything to the contrary in this Chapter or Chapter XVI, make provision-

- (a) for the appointment, transfer, dismissal and disciplinary control of the member or members of such courts, tribunals or institutions by the President or by such other person or body of persons as may be provided for in such law ;
- (b) for the exclusion of the jurisdiction of any other institution referred to in paragraph (1) of this Article in relation to such matters and disputes.

In this paragraph the expressions "*bhikku*" and " temple " shall have the same meanings as in the Buddhist Temporalities Ordinance, as at the commencement of the Constitution.

106. (1) The sittings of every court, tibunal or other in stitution established under the Constitution or ordained and established by Parliament shall subject to the provision of the Constitution be held in public, and all persons shall be entitled freely to attend such sittings.

Public sittings.

(2) A judge or presiding officer of any such court, tribunal or other institution may, in his discretion, whenever he considers it desirable-

- (a) in proceedings relating to family relations,
- (b) in proceedings relating to sexual matters,
- (c) in the interests of national security or public safety, or
- (d) in the interests of order and security within the precincts of such court, tribunal or other institution,

exclude therefrom such persons as are not directly interested in the proceedings therein.

INDEPENDENCE OF THE
JUDICIARY

107. (1) The Chief Justice, the President of the Court of Appeal and every other of the Supreme Court and Court of Appeal shall be appointed by the President of the Republic by warrant under his hand.

(2) Every such Judge shall hold office during good behaviour, and shall not be removed except by an order of the President made after an address of Parliament, supported by a majority of the total number of Members of Parliament (including those not present) has been presented to the President for such removal on the ground of proved misbehaviour or incapacity :

Provided that no resolution for the presentation of such an address shall be entertained by the Speaker or placed on the Order Paper of Parliament, unless notice of such resolution is signed by not less than one-third of the total number of Members of Parliament and sets out full particulars of the alleged misbehaviour or incapacity.

(3) Parliament shall by law or by Standing Orders provide for all matters relating to the presentation of such an address, including the procedure for the passing of such resolution, the investigation and proof of the alleged misbehaviour or incapacity and the right of such Judge to appear and to be heard in person or by representative.

(4) Every person appointed to be or to act as Chief Justice, President of the Court of Appeal or a Judge of the Supreme Court or Court of Appeal shall not enter upon the duties of his office until he takes and subscribes or makes and subscribes before the President, the oath or the affirmation set out in the Fourth Schedule.

(5) The age of retirement of Judges of the Supreme Court shall be sixty-five years and of Judges of the Court of Appeal shall be sixty-three years.

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

Salaries of Judges of the Supreme Court and Court of Appeal.

(2) The salary payable to, and the pension entitlement of, a Judge of the Supreme Court and a Judge of the Court of Appeal shall not be reduced, after his appointment.

109. (1) If the Chief Justice or the President of the Court of Appeal is temporarily unable to exercise, perform and discharge the powers, duties and functions of his office, by reason of illness, absence from Sri Lanka or any other cause the President shall appoint another Judge of the Supreme Court, or of the Court of Appeal, as the case may be, to act in the office of Chief Justice, or President of the Court of Appeal, respectively, during such period.

Acting appointments.

(2) If any Judge of the Supreme Court or of the Court of Appeal is temporarily unable to exercise, perform and discharge the powers, duties and functions of his office, by reason of illness, absence from Sri Lanka or any other cause, the President may appoint another person to act as a Judge of the Supreme Court or Court of Appeal, as the case may be, during such period.

110. (1) A Judge of the Supreme Court or Court of Appeal may be required by the President of the Republic to perform or discharge any other appropriate duties or functions under any written law.

Performance or discharge of other duties or functions by Judges.

(2) No Judge of the Supreme Court or Court of Appeal shall perform any other office (whether paid or not) or accept any place of profit or emolument, except as authorized by the Constitution or by written law or with the written consent of the President.

Appointment
removal of Judges
Supreme Court
and Court of
Appeal.

(3) No person who has held office as a permanent Judge of the Supreme Court or of the Court of Appeal may appear, plead, act or practise in any court, tribunal or institution as an attorney-at-law at any time without the written consent of the President.

Appointment,
removal and
disciplinary
Judges of the
High Court.

111. (1) The highest Court of First Instance exercising criminal jurisdiction and created by law shall be called and known as "The High Court of the Republic of Sri Lanka" and shall exercise such jurisdiction and powers as Parliament may by law vest or ordain.

(2) The Judges of the High Court shall be appointed by the President of the Republic by warrant under his hand and be removable and be subject to disciplinary control by the President on the recommendation of the Judicial Service Commission established under this Chapter.

(3) Subject to the provisions of paragraph (2) of this Article, Parliament may by law provide for matters relating to the retirement of the Judges of such High Court.

The Judicial
Service Commission

112. (1) There shall be a Judicial Service Commission (in this Chapter referred to as the "Commission") which shall consist of the Chief Justice who shall be the Chairman, and two Judges of the Supreme Court appointed by the President of the Republic.

(2) The quorum for any meeting of the Commission shall be two members.

(3) The Commission shall have power to act notwithstanding any vacancy in its membership, and no act or proceeding by the Commission shall be, or be deemed to be, invalid by reason only of any such vacancy or any defect in the appointment of a member.

(4) A Judge of the Supreme Court appointed as a member of the Commission shall, unless he earlier resigns his office, or is removed therefrom as hereinafter provided or ceases to be a Judge of the Supreme Court, hold office for a period of five years from the date of his appointment, but shall be eligible for reappointment.

(5) The President may for cause assigned remove from office any member of the Commission appointed by him.

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

(7) A member of the Commission may be paid such salary or allowance as may be determined by Parliament. Any salary or allowance payable to a member shall be charged on the Consolidated Fund and shall not be diminished during his term of office. The salary so payable shall be in addition to the salary or other emoluments attached to, and received from, his substantive appointment.

(8) The Judicial Service Commission may make -

(a) rules regarding schemes for recruitment and procedure for the appointment of judicial officers; and

(b) provision for such matters as are necessary or expedient for the exercise, performance and discharge of the powers, duties and functions of such Commission.

113. (1) There shall be a Secretary to the Commission who shall be appointed by the President in consultation with the Cabinet of Ministers.

Secretary to
the
Commission.

(2) No person holding the office of Secretary of the Commission shall be a Judge of any Court of First Instance, either during or after his tenure of office as Secretary.

114. (1) The appointment, transfer, dismissal and disciplinary, control of judicial officers, and (notwithstanding anything to the contrary in Chapter IX) of scheduled public officers, is vested in the Commission.

Appointment to
other judicial

(2) It shall be competent to the Judicial Service Commission by Order published in the Gazette, to delegate its powers under paragraph (1) of this Article in respect of such class or category of judicial officers or scheduled public officers as may be specified, to a committee of not less than three Judges, each of whom shall be a Judge of the Supreme Court or of the Court of Appeal, and one of whom shall be nominated by the Chief Justice as Chairman.

(3) Any judicial officer or scheduled public officer may resign his office by writing under his hand addressed to the Chairman of the Commission.

(4) The Commission may, by Order published in the Gazette, delegate to the Secretary to the Commission the power to make all transfers, other than transfers involving increase of salary, or to make acting appointments in such cases and subject to such limitations as may be specified in the Order.

(5) The Chairman of the Judicial Service Commission or any Judge of the Supreme Court authorized by the Chairman of the Commission shall have full power and authority to inspect any Court of First Instance or the records, registers or other documents maintained in such court and to hold such inquiry as may be necessary.

(6) In this Article-

" appointment " includes an acting or temporary appointment;

" judicial officer " does not include a Judge of the Supreme Court or of the Court of Appeal or of the High Court;

" scheduled public officer " means the Registrar of the Supreme Court, the Registrar of the Court of Appeal, the Registrar of any Court of First Instance, or any public officer employed in the Registry of the Supreme Court, the Court of Appeal or any Court of First Instance, included in a category specified in the Fifth Schedule or in such other categories as may be specified by Order made by the Minister in charge of the subject of Justice, and approved by Parliament, and published in the Gazette.

offence and shall, on conviction by the High Court after trial without a jury, 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:

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

116. (1) Every judge, presiding officer, public officer or other person entrusted by law with judicial powers or functions or with functions under this Chapter or with similar functions under any law enacted by Parliament shall exercise and perform such powers and functions without being subject to any direction or other interference proceeding from any other person except a superior court, tribunal, institution or other person entitled under law to direct or supervise such judge, presiding officer, public officer or such other person in the exercise or performance of such powers or functions.

(2) Every person who, without legal authority, interferes or attempts to interfere with the exercise or performance of the judicial powers or functions of any judge, presiding officer, public officer or such other person as is referred to in paragraph (1) of this Article, shall be guilty of an offence punishable by the High Court on conviction after trial without a jury with imprisonment of either description for a term which may extend to a period of one year or with fine or with both such imprisonment and fine and may, in addition, be disqualified for a period not exceeding seven years from the date of such conviction from being an elector and from voting at a Referendum or at any election of the President of the Republic or at any election of a Member of Parliament or any local authority or from holding any public office and from being employed as a public officer.

Interference with Judicial Service Commission an offence.

115. 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 decision of the Commission or of any member thereof, shall be guilty of an

117. No suit or proceeding shall lie against any member of the Commission for any act which in good faith is done or is purported to be done by him in the performance of his duties or discharge of his functions under the Constitution.

Interference with judiciary an offence.

Immunity of members of the commission.

CHAPTER XVI

THE SUPERIOR COURTS

THE SUPREME COURT

General
Jurisdiction of
Supreme
Court.

118. The Supreme Court of the Republic of Sri Lanka shall be the highest and final superior Court of record in the Republic and shall subject to the provisions of the Constitution exercise -

- (a) jurisdiction in respect of constitutional matters ;
- (b) jurisdiction for the protection of fundamental rights;
- (c) final appellate jurisdiction ;
- (d) consultative Jurisdiction;
- (e) jurisdiction in election petitions;
- (f) jurisdiction in respect of any breach of the privileges of Parliament; and
- (g) jurisdiction in respect of such other matters which Parliament may by law vest or ordain.

Constitution of
Supreme
Court.

119. (1) The Supreme Court shall consist of the Chief Justice and of not less than six and not more than ten other Judges who shall be appointed as provided in Article 107.

(2) The Supreme Court shall have power to act notwithstanding any vacancy in its membership, and no act or proceeding of the Court shall be, or shall be deemed to be, invalid by reason only of any such vacancy or any defect in the appointment of a Judge.

120. The Supreme Court shall have sole and exclusive jurisdiction to determine any question as to whether any Bill or any provision thereof is inconsistent with the Constitution :

Provided that-

- (a) in the case of a Bill described in its long title as being for the amendment of any provision of the Constitution, or for the repeal and replacement of the Constitution, the only question which the Supreme Court may determine is whether such Bill requires approval by the People at a Referendum by virtue of the provisions of Article 83 ;

(b) where the Cabinet of Ministers certifies that a Bill. which is described in its long title as being for the amendment of any provisions of the Constitution, or for the repeal and replacement of the Constitution, is intended to be passed with the special majority required by Article 83 and submitted to the People by Referendum, the Supreme Court shall have and exercise no jurisdiction in respect of such Bill;

(c) where the Cabinet of Ministers certifies that a Bill which is not described in its long title as being for the amendment of any provision of the Constitution, or for the repeal and replacement of the Constitution, is intended to be passed with the special majority required by Article 84, the only question which the Supreme Court may determine is whether such Bill requires approval by the People at a Referendum by virtue of the provisions of Article 83 or whether such Bill is required to comply with paragraphs (1) and (2) of Article 82; or

(d) where the Cabinet of Ministers certifies that any provision of any Bill which is not described in its long title as being for the amendment of any provision of the Constitution or for the repeal and replacement of the Constitution is intended to be passed with the special majority required by Article 84, the only question which the Supreme Court may determine is whether any other provision of such Bill requires to be passed with the special majority required by Article 84 or whether any provision of such Bill requires the approval by the People at a Referendum by virtue of the provisions of Article 83 or whether such Bill is required to comply with the provisions of paragraphs (1) and (2) of Article 82.

Constitutional
Jurisdiction of
the Supreme
Court.

Ordinary exercise of constitutional jurisdiction in respect of Bills.

121. (1) The jurisdiction of the Supreme Court to ordinarily determine any such question as aforesaid may be invoked by the President by a written reference addressed to the Chief Justice, or by any citizen by a petition in writing addressed to the Supreme Court. Such reference shall be made, or such petition shall be filed, within one week of the Bill being placed on the Order Paper of Parliament, and a copy thereof shall at the same time be delivered to the Speaker. In this paragraph "citizen" includes a body, whether incorporated or unincorporated, if not less than three-fourths of the members of such body are citizens.

(2) Where the jurisdiction of the Supreme Court has been so invoked no proceedings shall be had in Parliament in relation to such Bill until the determination of the Supreme Court has been made, or the expiration of a period of three weeks from the date of such reference or petition, whichever occurs first.

(3) The Supreme Court shall make and communicate its determination to the President and to the Speaker within three weeks of the making of the reference or the filing of the petition, as the case may be.

122. (i) In the case of a Bill which is, in the view of the Cabinet of Ministers, urgent in the national interest, and bears an endorsement to that effect under the hand of the Secretary to the Cabinet-

- (a) the provisions of Article 78 (1) and of Article 121, shall subject to the provisions of paragraph (2) of this Article, have no application ;
- (b) the President shall by a written reference addressed to the Chief Justice, require the special determination of the Supreme Court as to whether the Bill or any provision thereof is inconsistent with the Constitution. A copy of such reference shall at the same time be delivered to the Speaker ;
- (c) the Supreme Court shall make its determination within twenty-four hours (or such longer period not exceeding three days as the President may specify) of the assembling of the Court, and shall communicate its determination only to the President and the Speaker.

(2) The provisions of paragraph (2) of Article 121 shall, *mutatis mutandis*, apply to such Bill.

123. (1) The determination of the Supreme Court shall be accompanied by the reasons therefor, and shall state whether the Bill or any provision thereof is inconsistent with the Constitution and if so, which provision or provisions of the Constitution.

(2) Where the Supreme Court determines that the Bill or any provision thereof is inconsistent with the Constitution, it shall also state-

- (a) whether such Bill is required to comply with the provisions of paragraphs (1) and (2) of Article 82; or
- (b) whether such Bill or any provision thereof may only be passed by the special majority required under the provisions of paragraph (2) of Article 84 ; or
- (c) whether such Bill or any provision thereof requires to be passed by the special majority required under the provisions of paragraph (2) of Article 84 and approved by the People at a Referendum by virtue of the provisions of Article 83,

and may specify the nature of the amendments which would make the Bill or such provision cease to be inconsistent.

(3) In the case of a Bill endorsed as provided in Article 122, if the Supreme Court entertains a doubt whether the Bill or any provision thereof is inconsistent with the Constitution, it shall be deemed to have been determined that the Bill or such provision of the Bill is inconsistent with the Constitution, and the Supreme Court shall comply with the provisions of paragraphs (1) and (2) of this Article.

(4) Where any Bill, or the provision of any Bill, has been determined, or is deemed to have been determined, to be inconsistent with the Constitution, such Bill or such provision shall not be passed except in the manner stated : the determination of the Supreme Court:

Provided that it shall be lawful for such Bill to be passed after such amendment as would make the Bill cease to be inconsistent with the Constitution.

Determination of Supreme Court in respect of Bills.

Special exercise of constitutional jurisdiction in respect of urgent Bills.

Validity of Bills and legislative process not to be questioned.

124. Save as otherwise provided in Articles 120, 121 and 122, no court or tribunal created and established for the administration of justice, or other institution, person or body of persons shall in relation to any Bill, have power or jurisdiction to inquire into, or pronounce upon, the constitutionality of such Bill or its due compliance with the legislative process, on any ground whatsoever.

Constitutional jurisdiction in the interpretation of the Constitution.

125. (1) The Supreme Court shall have sole and exclusive jurisdiction to hear and determine any question relating to the interpretation of the Constitution, and accordingly, whenever any such question arises in the course of any proceedings in any other court or tribunal or other institution empowered by law to administer justice or to exercise judicial or quasi-judicial functions, such question shall forthwith be referred to the Supreme Court for determination. The Supreme Court may direct that further proceedings be stayed pending the determination of such question.

(2) The Supreme Court shall determine such question within two months of the date of reference and make any such consequential order as the Circumstances of the case may require.

Fundamental rights jurisdiction and its exercise.

126. (1) The Supreme Court shall have sole and exclusive jurisdiction to hear and determine any question relating to the infringement or imminent infringement by executive or administrative action of any fundamental right or language right declared and recognized by Chapter III or Chapter IV.

(2) Where any person alleges that any such fundamental right or language right relating to such person has been infringed or is about to be infringed by executive or administrative action, he may himself or by an attorney-at-law on his behalf, within one month thereof, in accordance with such rules of court as may be in force, apply to the Supreme Court by way of petition in writing addressed to such Court praying for relief or redress in respect of such infringement. Such application may be proceeded with only with leave to proceed first had and obtained from the Supreme Court, which leave may be granted or refused, as the case may be, by not less than two Judges.

(3) Where in the course of hearing in the Court of Appeal into an application for orders in the nature of a writ of habeas corpus, *certiorari*, prohibition, *procedendo*, *mandamus* or *quo warranto*, it appears to such Court that there is prima facie evidence of an infringement or imminent infringement of the provisions of Chapter III or Chapter IV by a party to such application, such Court shall forthwith refer such matter for determination by the Supreme Court.

(4) The Supreme Court shall have power to grant such relief or make such directions as it may deem just and equitable in the circumstance in respect of any petition or reference referred to in paragraphs (2) and (3) of this Article or refer the matter back to the Court of Appeal if in its opinion there is no infringement of a fundamental right or language right.

(5) The Supreme Court shall hear and finally dispose of any petition or reference under this Article within two months of the filing of such petition or the making of such reference.

117. (1) The Supreme Court shall, subject to the Constitution, be the final Court of civil and criminal appellate jurisdiction for and within the Republic of Sri Lanka for the correction of all errors in fact or in law which shall be committed by the Court of Appeal or any Court of First Instance, tribunal or other institution and the judgments and orders of the Supreme Court shall in all cases be final and conclusive in all such matters.

Appellate Jurisdiction.

(2) The Supreme Court shall, in the exercise of its jurisdiction, have sole and exclusive cognizance by way of appeal from any order, judgment, decree, or sentence made by the Court of Appeal, where any appeal lies in law to the Supreme Court and it may affirm, reverse or vary any such order, judgment, decree or sentence of the Court of Appeal and may issue such directions to any Court of First Instance or order a new trial or further hearing in any proceedings as the justice of the case may require, and may also call for and admit fresh or additional evidence if the interests of justice so demands and may in such event, direct that such evidence be recorded by the Court of Appeal or any Court of First Instance.

Right of
appeal.

128. (1) An appeal shall lie to the Supreme Court from any final order, judgment, decree or sentence of the Court of Appeal in any matter or proceedings, whether civil or criminal, which involves a substantial question of law, if the Court of Appeal grants leave to appeal to the Supreme Court *ex mero motu* or at the instance of any aggrieved party to such matter or proceedings;

(2) The Supreme Court may, in its discretion, grant special leave to appeal to the Supreme Court from any final or interlocutory order, judgment, decree, or sentence made by the Court of Appeal in any matter or proceedings, whether civil or criminal, where the Court of Appeal has refused to grant leave to appeal to the Supreme Court, or where in the opinion of the Supreme Court, the case or matter is fit for review by the Supreme Court:

Provided that the Supreme Court shall grant leave to appeal in every matter or proceedings in which it is satisfied that the question to be decided is of public or general importance.

(3) Any appeal from an order or judgment of the Court of Appeal, made or given in the exercise of its jurisdiction under Article 139, 140, 141, 142 or 143 to which the President, a Minister, a Deputy Minister or a public officer in his official capacity is a party, shall be heard and determined within two months of the date of filing thereof.

(4) An appeal shall lie directly to the Supreme Court on any matter and in the manner specifically provided for by any other law passed by Parliament.

Consultative
jurisdiction.

129. (1) If at any time it appears to the President of the Republic that a question of law or fact has arisen or is likely to arise which is of such nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer that question to that Court for consideration and the Court may, after such hearing as it thinks fit, within the period specified in such reference or within such time as may be extended by the President, report to the President its opinion thereon.

(2) Where the Speaker refers to the Supreme Court for inquiry and report all or any of the allegation or allegations, as the case may be, contained in any such resolution as is referred to in Article 38 (2) (a), the Supreme Court shall in accordance with Article 38 (2) (d) inquire into such allegation or allegations and shall report its determination to the Speaker within two months of the date of reference.

(3) Such opinion, determination and report shall be expressed after consideration by at least five Judges of the Supreme Court, of whom, unless he otherwise directs, the Chief Justice shall be one.

(4) Every proceeding under paragraph (1) of this Article shall be held in private unless the Court for special reasons otherwise directs.

130. The Supreme Court shall have the power to hear and determine and make such orders as provided for by law on -

Jurisdiction in
election
privileges

(a) any legal proceeding relating to the election of the President;

(b) any appeal from an order or judgment of the Court of Appeal in an election petition case:

Provided that the hearing and determination of a proceeding relating to the election of the President shall be by at least five Judges of the Supreme Court of whom, unless he otherwise directs, the Chief Justice shall be one.

131. The Supreme Court shall have according to law the power to take cognizance of and punish any person for the breach of the privileges of Parliament,

Jurisdiction in
respect of the
breaches of the
Parliamentary privileges.

132. (1) The several jurisdictions of the Supreme Court shall be ordinarily exercised at Colombo unless the Chief Justice otherwise directs.

Sittings of the
Supreme
Court.

(2) The jurisdiction of the Supreme Court may be exercised in different matters at the same time by the several Judges of that Court sitting apart:

Provided that its jurisdiction shall, subject to the provisions of the Constitution, be ordinarily exercised at all times by not less than three Judges of the Court sitting together as the Supreme Court.

- (3) The Chief Justice may -
- (i) of his own motion ; or
 - (ii) at the request of two or more Judges hearing any matter ; or
- (11) on the application of a party to any appeal, proceeding or matter if the question involved is in the opinion of the Chief Justice one of general and public importance,

direct that such appeal, proceeding or matter be heard by a Bench comprising five or more Judges of the Supreme Court.

(4) The judgment of the Supreme Court shall, when it is not an unanimous decision, be the decision of the majority.

Appointment of *ad hoc* Judges. **133.** (1) If at any time there should not be a quorum of the Judges of the Supreme Court available to hold or continue any sittings of the Court, the Chief Justice may with the previous consent of the President request in writing the attendance at the sittings of the Court as an *ad hoc* Judge, for such period as may be necessary, of the President of the Court of Appeal or any Judge of the Court of Appeal.

(2) It shall be the duty of such a Judge who had been so requested, in priority to other duties of his office, to attend the sittings of the Supreme Court at the time and for the period for which his attendance is required, and while so attending he shall have all the jurisdictions, powers and privileges, and shall perform the duties, of a Judge of the Supreme Court.

Right to be heard by the Supreme Court.

134. (1) The Attorney-General shall be noticed and have the right to be heard in all proceedings in the Supreme Court in the exercise of its jurisdiction under Articles 120, 121, 122, 125, 126, 129 (1) and 131.

(2) Any party to any proceedings in the Supreme Court in the exercise of its jurisdiction shall have the right to be heard in such proceedings either in person or by representation by an attorney-at-law.

(3) The Supreme Court may in its discretion grant to any other person or his legal representative such hearing as may appear to the Court to be necessary in the exercise of its jurisdiction under this Chapter.

135. The Registry of the Supreme Court shall be in charge of an officer designated the Registrar of the Supreme Court who shall be subject to the supervision, direction and control of the Chief Justice. Registry of the Supreme Court and office of Registrar.

136. (1) Subject to the provisions of the Constitution and of any law the Chief Justice with any three Judges of the Supreme Court nominated by him, may, from time to time, make rules regulating generally the practice and procedure of the Court including- Rules of the Supreme Court.

(a) rules as to the procedure for hearing appeals and other matters pertaining to appeals including the terms under which appeals to the Supreme Court and the Court of Appeal are to be entertained and provision for the dismissal of such appeals for non-compliance with such rules;

(b) rules as to the proceedings in the Supreme Court and Court of Appeal in the exercise of the several jurisdictions conferred on such Courts by the Constitution or by any law, including the time within which such matters may be instituted or brought before such Courts and the dismissal of such matters for non-compliance with such rules;

(c) rules as to the granting of bail;

(d) rules as to the stay of proceedings ;

(e) rules providing for the summary determination of any appeal or any other matter before such Court by petition or otherwise, which appears to the Court to be frivolous and vexatious or brought for the purpose of delay;

(f) the preparation of copies of records for the purpose of appeal or other proceedings in the Supreme Court and Court of Appeal;

(g) the admission, enrolment, suspension and removal of attorneys-at-law and the appointment of senior attorneys-at-law and the rules of conduct and etiquette for such attorneys-at-law;

(h) the attire of Judges, attorneys-at-law, officers of court and persons attending the courts in Sri Lanka

whether established by the Constitution, or by Parliament or by existing law;

- (i) the manner in which panels of jurors may be prepared, and the mode of summoning, empanelling and challenging of jurors;
- (j) proceedings of Fiscals and other ministerial officers of such courts and the process of such courts and the mode of executing the same ;
- (k) the binding effect of the decisions of the Supreme Court;
- (l) all matters of practice and procedure including the nature and extent of costs that may be awarded, the manner in which such costs may be taxed and the stamping of documents in the Supreme Court, Court of Appeal, High Court and Courts of First Instance not specially provided by or under any law.

(2) Every rule made under this Article shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in such rule.

(3) All rules made under this Article shall as soon as convenient after their publication in the Gazette be brought before Parliament for approval. Any such rule which is not so approved shall be deemed to be rescinded as from the date it was not so approved, but without prejudice to anything previously done thereunder.

(4) The Chief Justice and any three Judges of the Supreme Court nominated by him may amend, alter or revoke any such rules of court and such amendment, alteration or revocation of the rules will operate in the like manner as set out in the preceding paragraph with reference to the making of the rules of court.

THE COURT OF APPEAL

137. The Court of Appeal shall consist of the President of the Court of Appeal and not less than six and not more than eleven other Judges who shall be appointed as provided in Article 107.

138. (1) The Court of Appeal shall have and exercise subject to the provisions of the Constitution or of any law, an appellate jurisdiction for the correction of all errors in fact or in law which shall be committed by any Court of First Instance, tribunal or other institution and sole and exclusive cognizance, by way of appeal, revision and *restitutio in integrum*. of all causes, suits, actions, prosecutions, matters and things of which such Court of First Instance, tribunal or other institution may have taken cognizance ;

Provided that no judgment, decree or order of any court shall be reversed or varied on account of any error, defect or irregularity, which has not prejudiced the substantial rights of the parties or occasioned a failure of justice.

(2) The Court of Appeal shall also have and exercise all such powers and jurisdiction, appellate and original, as Parliament may by law vest or ordain.

139. (1) The Court of Appeal may in the exercise of its jurisdiction, affirm, reverse, correct or modify any order, judgment, decree or sentence according to law or it may give directions to such Court of First Instance, tribunal or other institution or order a new trial or further hearing upon such terms as the Court of Appeal shall think fit.

(2) The Court of Appeal may further receive and admit new evidence additional to, or supplementary of, the evidence already taken in the Court of First Instance touching the matters at issue in any original case, suit, prosecution or action, as the justice of the case may require.

140. Subject to the provisions of the Constitution, the Court of Appeal shall have full power and authority to inspect and examine the records of any Court of First Instance or tribunal or other institution, and grant and issue, according to law, orders in the nature of writs of *certiorari*, prohibition, *procedendo*, *mandamus* and *quo warranto* against the judge of any Court of First Instance or tribunal or other institution or any other person:

Provided that Parliament may by law provide that in any such category of cases as may be specified in such law, the jurisdiction

Jurisdiction of the Court of Appeal.

Powers in appeal.

Power to issue writs, other than writs of habeas corpus.

[§2, 1st Amendment.]

The Court of Appeal.

conferred on the Court of Appeal by the preceding provisions of this Article shall be exercised by the Supreme Court and not by the Court of Appeal,

Power to issue writs of habeas corpus.

141. The Court of Appeal may grant and issue orders in the nature of writs of habeas corpus to bring up before such Court-

- (a) the body of any person to be dealt with according to law; or
- (b) the body of any person illegally or improperly detained in public or private custody,

and to discharge or remand any person so brought up or otherwise deal with such person according to law :

Provided that it shall be lawful for the Court of Appeal to require the body of such person to be brought up before the most convenient Court of First Instance and to direct the judge of such court to inquire into and report upon the acts of the alleged imprisonment or detention and to make such provision for the interim custody of the body produced as to such court shall seem right; and the Court of Appeal shall upon the receipt of such report, make order to discharge or remand the person so alleged to be imprisoned or detained or otherwise deal with such person according to law, and the Court of First Instance shall conform to, and carry into immediate effect, the order so pronounced or made by the Court of Appeal:

Provided further that if provision be made by law for the exercise by any court, of jurisdiction in respect of the custody and control of minor children, then the Court of Appeal, if satisfied that any dispute regarding the custody of any such minor child may more properly be dealt with by such court, direct the parties to make application in that court in respect of the custody of such minor child.

Power to bring up and remove prisoners.

142. The Court of Appeal may direct-

- (i) that a prisoner detained in any prison be brought before a court-martial or any Commissioners acting under the authority of any Commission from the President of the Republic for trial or to be examined relating to any matters pending before any such court-martial or Commissioners respectively; or

- (ii) that a prisoner detained in prison be removed from one custody to another for purposes of trial.

143. The Court of Appeal shall have the power to grant and issue injunctions to prevent any irremediable mischief which might ensue before a party making an application for such injunction could prevent the same by bringing an action in any Court of First Instance:

Power to grant injunctions.

Provided that it shall not be lawful for the Court of Appeal to grant an injunction to prevent a party to any action in any court from appealing to or prosecuting an appeal to the Court of Appeal or to prevent any party to any action in any court from insisting upon any ground of action, defence or appeal, or to prevent any person from suing or prosecuting in any court, except where such person has instituted two separate actions in two different courts for and in respect of the same cause of action, in which case the Court of Appeal shall have the power to intervene by restraining him from prosecuting one or other of such actions as to it may seem fit.

144. The Court of Appeal shall have and exercise jurisdiction to try election petitions in respect of the election to the membership of Parliament in terms of any law for the time being applicable in that behalf.

Parliamentary elections.

145. The Court of Appeal may, *ex mero motu* or on any application made, call for, inspect and examine any record of any Court of First Instance and in the exercise of its revisionary powers may make any order thereon as the interests of justice may require.

Inspection of records.

146. (I) The Court of Appeal shall ordinarily exercise its jurisdiction at Colombo:

Sittings of the Court of Appeal.

Provided however that the Chief Justice may from time to time when he deems it so expedient direct that the Court of Appeal shall hold its sittings and exercise its jurisdiction in any judicial zone or district, specified in the direction.

(2) The jurisdiction of the Court of Appeal may be exercised in different matters at the same time by the several Judges of the Court sitting apart:

Provided that-

- (i) its Jurisdiction in respect of judgments and orders of the High Court shall be exercised by at least three Judges of the Court;
- (ii) its jurisdiction in respect of judgments and orders of all other Courts of First Instance, tribunals and other institutions shall be exercised by at least two Judges of the Court ;
- (iii) its jurisdiction in respect of its powers as contained in Articles 140, 141, 142 and 143 shall be exercised by not less than two Judges of the Court, unless the President of the Court of Appeal by general or special order otherwise directs ;
- (iv) its jurisdiction in respect of its powers under Article 144 shall be exercised by the President of the Court of Appeal or any Judge of that Court nominated by such President or one or more of such Judges nominated by such President, of whom such President may be one.

(3) In the event of any difference of opinion between two Judges constituting the Bench, the decision of the Court shall be suspended until three Judges shall be present to review such matter.

(4) The judgment of the Court of Appeal shall, when it is not an unanimous decision, be the decision of the majority.

149. (1) The funds of the Republic 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 and receipts of the Republic not allocated to specific purposes.

(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.

150. (1) Save as otherwise expressly provided in paragraphs (3) and (4) of this Article, no sum shall be withdrawn from the Consolidated Fund except under the authority of a warrant under the hand of the Minister in charge of the subject of Finance.

Withdrawal of sums from Consolidated Fund.

(2) No such warrant shall be issued unless the sum has by resolution of Parliament 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 President dissolves Parliament before the Appropriation Bill for the financial year has passed into law, he may, unless Parliament shall have already made provision, authorize 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 Parliament is summoned to meet.

(4) Where the President dissolves Parliament and fixes a date or dates for a General Election the President may, unless Parliament has already made provision in that behalf, authorize the issue from the Consolidated Fund and the expenditure of such sums as he may, after consultation with the Commissioner of Elections, consider necessary for such elections.

151. (1) Notwithstanding any of the provisions of Article 149, Parliament may by law create a Contingencies Fund for the purpose of providing for urgent and unforeseen expenditure.

Contingencies Fund.

147. The Registry of the Court of Appeal shall be in charge of an officer designated as the Registrar of the Court of Appeal who shall be subject to the supervision, direction and control of the President of the Court of Appeal,

Registry of the Court of Appeal and office of Registrar.

CHAPTER XVII

FINANCE

148. Parliament shall have full control over public finance. No tax, rate or any other levy shall be imposed by any local authority or any other public authority, except by or under the authority of a law passed by Parliament or of any existing law.

Control of Parliament over public finance.

(2) The Minister in charge of the subject 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 President, authorize 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.

152. No Bill or motion, authorizing the disposal of, or the imposition of charges upon, the Consolidated Fund or other funds of the Republic, or the imposition of any tax or the repeal, augmentation or reduction of any tax for the time being in force shall be introduced in Parliament except by a Minister, and unless such Bill or motion has been approved either by the Cabinet of Ministers or in such manner as the Cabinet of Ministers may authorize.

153. (1) There shall be an Auditor-General who shall be appointed by the President 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 the Auditor-General shall become vacant-

- (a) upon his death ;
- (b) on his resignation in writing addressed to the President;
- (c) on his attaining the age of sixty years ;
- (d) on his removal by the President on account of ill health or physical or mental infirmity; or
- (e) on his removal by the President upon an address of Parliament.

(4) Whenever the Auditor-General is unable to discharge the functions of his office, the President may appoint a person to act in the place of the Auditor-General.

154. (1) The Auditor-General shall audit the accounts of all departments of Government, the Offices of the Cabinet of Ministers, the Judicial Service Commission, the Public Service Commission, the Parliamentary Commissioner for Administration, the Secretary-General of Parliament and the Commissioner of Elections, local authorities, public corporations and business or other undertakings vested in the Government under any written law;

(2) Notwithstanding the provisions of paragraph (1) of this Article, the Minister in charge of any such public corporation or business or other undertaking may, with the concurrence of the Minister in charge of the subject of Finance, and in consultation with the Auditor-General, appoint a qualified auditor or auditors to audit the accounts of such public corporation or business or other undertaking. Where such appointment has been made by the Minister, the Auditor-General may, in writing, inform such auditor or auditors that he proposes to utilize his or their services for the performance and discharge of the Auditor-General's duties and functions in relation to such public corporation, business or other undertaking and thereupon such auditor or auditors shall act under the direction and control of the Auditor-General.

(3) The Auditor-General shall also perform and discharge such duties and functions as may be prescribed by Parliament by law.

(4) (a) The Auditor-General may for the purpose of the performance and discharge of his duties and functions engage the services of a qualified auditor or auditors who shall act under his direction and control.

(b) If the Auditor-General is of opinion that it is necessary to obtain assistance in the examination of any technical, professional or scientific problem relevant to the audit, he may engage the services of-

- (i) a person not being an employee of the department, body or authority the accounts of which are being audited, or

Duties and
functions of
Auditor - Genral.

Special
provsions as to
Bills affecting
public revenue.

Auditor-
General.

- (ii) any technical or professional or scientific institution not being an institution which has any interest in the management of the affairs of such department, body or authority.

and such person or institution shall act under his direction and control.

(5) (a) The Auditor-General or any person authorized by him shall in the performance and discharge of his duties and functions be entitled-

- (i) to have access to all books, records, returns and other documents;
- (ii) to have access to stores and other property; and
- (iii) to be furnished with such information and explanations as may be necessary for the performance of such duties and functions.

(b) Every qualified auditor appointed to audit the accounts of any public corporation, or business or other undertaking, or any person authorized by such auditor shall be entitled to like access, information and explanations in relation to such public corporation, or business or other undertaking.

(6) The Auditor-General shall within ten months after the close of each financial year and as and when he deems it necessary report to Parliament on the performance and discharge of his duties and functions under the Constitution.

(7) Every qualified auditor appointed under the provisions of paragraph (2) of this Article shall submit his report to the Minister and also submit a copy thereof to the Auditor-General.

(8) In this Article, "qualified auditor" means-

- (a) an individual who, being a member of the Institute of Chartered Accountants of Sri Lanka, or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute; or

- (b) a firm of Accountants each of the resident partners of which, being a member of the Institute of Chartered Accountants of Sri Lanka or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute.

CHAPTER XVIII

PUBLIC SECURITY

155. (1) The Public Security Ordinance as amended and in force immediately prior to the commencement of the Constitution shall be deemed to be a law enacted by Parliament. public security.

(2) The power to make emergency regulations under the Public Security Ordinance or the law for the time being in force relating to public security shall include the power to make regulations having the legal effect of over-riding, amending or suspending the operation of the provisions of any law, except the provisions of the Constitution.

(3) The provisions of any law relating to public security, empowering the President to make emergency regulations which have the legal effect of over-riding, amending or suspending the operation of the provisions of any law, shall not come into operation, except upon the making of a Proclamation under such law, bringing such provisions into operation.

(4) Upon the making of such a Proclamation, the occasion thereof shall, subject to the other provisions of this Article, be forthwith communicated to Parliament, and, accordingly-

- (i) if such Proclamation is issued after the dissolution of Parliament such Proclamation shall operate as a summoning of Parliament to meet on the tenth day after such Proclamation, unless the Proclamation appoints an earlier date for the meeting which shall not be less than three days from the date of the Proclamation ; and the Parliament so summoned

shall be kept in session until the expiry or revocation of such or any further Proclamation or until the conclusion of the General Election whichever event occurs earlier and shall thereupon stand dissolved;

- (ii) if Parliament is at the date of the making of such Proclamation, separated by any such adjournment or prorogation as will not expire within ten days, a Proclamation shall be issued for the meeting of Parliament within ten days.

(5) Where the provisions of any law relating to public security have been brought into operation by the making of a Proclamation under such law, such Proclamation shall, subject to the succeeding provisions of this Article, be in operation for a period of one month from the date of the making thereof, but without prejudice to the earlier revocation of such Proclamation or to the making of a further Proclamation at or before the end of that period.

(6) Where such provisions as are referred to in paragraph (3) of this Article, of any law relating to public security, have been brought into operation, by the making of a Proclamation under such law, such Proclamation shall expire after a period of fourteen days from the date on which such provisions shall have come into operation, unless such Proclamation is approved by a resolution of Parliament:

Provided that if-

- (a) Parliament stands dissolved at the date of the making of such Proclamation, or
- (b) Parliament is at such date separated by any such adjournment or prorogation as is referred to in paragraph (4) (ii) of this Article, or
- (c) Parliament does not meet when summoned to meet as provided in paragraphs (4) (i) and (4) (ii) of this Article,

then such Proclamation shall expire at the end of ten days after the date on which Parliament shall next meet and sit, unless approved by a resolution at such meeting of Parliament.

(7) Upon the revocation of a Proclamation referred to in paragraph (6) of this Article within a period of fourteen days from the date on which the provisions of any law relating to public security shall have come into operation or upon the expiry of such a Proclamation in accordance with the provisions of paragraph (6), no Proclamation made within thirty days next ensuing shall come into operation until the making thereof shall have been approved by a resolution of Parliament.

(8) Where such provisions as are referred to in paragraph (6) of this Article, of any law relating to public security, shall have been in operation for a period of ninety consecutive days or a period of ninety days in the aggregate during six consecutive calendar months, no Proclamation bringing such provisions of any law into operation, shall, if made at any time during the succeeding six calendar months, be in operation for more than ten days from the date on which such provisions are brought into operation by such Proclamation, unless such Proclamation is approved by a resolution of Parliament passed by at least two-thirds of the whole number of Members of Parliament (including those not present) voting in favour of such resolution:

Provided that if-

- (a) Parliament stands dissolved at the date of the making of such Proclamation, or
- (b) Parliament is, at such date, separated by any such adjournment or prorogation, as is referred to in paragraph (4) (ii) of this Article, or
- (c) Parliament does not meet when summoned to meet as provided by paragraph 4 (i) of this Article,

then such Proclamation shall expire at the end of ten days after the date on which Parliament shall next meet and sit unless approved by Parliament by a resolution passed by at least two-thirds of the whole number of Members of Parliament (including those not present) voting in favour of such resolution.

(9) Upon the revocation of a Proclamation referred to in paragraph (8) of this Article within a period of ten days from the date on

which the provisions of any law relating to public security shall have come into operation or upon the expiry of such a Proclamation in accordance with the provisions of paragraph (8) of this Article, no Proclamation made within ninety days next ensuing shall come into operation until the making thereof shall have been approved by a resolution of Parliament passed by at least two-thirds of the whole number of Members of Parliament (including those not present) voting in favour of such resolution.

(10) If Parliament does not approve any Proclamation bringing such provisions as are referred to in paragraph (3) of this Article into operation, such Proclamation shall, immediately upon such disapproval, cease to be valid and of any force in law but without prejudice to anything lawfully done thereunder.

(11) If the making of a Proclamation cannot be communicated to and approved by Parliament by reason of the fact that Parliament does not meet when summoned, nothing contained in paragraph (6), (7), (8) or (9) of this Article, shall affect the validity or operation of such Proclamation :

Provided that in such event, Parliament shall again be summoned to meet as early as possible thereafter.

(3) The salary of the Parliamentary Commissioner for Administration shall be determined by Parliament and shall not be diminished during his term of office.

(4) The office of the Parliamentary Commissioner for Administration shall become vacant -

- (a) upon his death;
- (b) on his resignation in writing addressed to the President;
- (c) on his attaining the age fixed by law ;
- (d) on his removal by the President on account of ill health or physical or mental infirmity; or
- (e) on his removal by the President on an address of Parliament.

(5) Whenever the Parliamentary Commissioner for Administration is unable to perform and discharge the duties and functions of his office, the President shall appoint a person to act in his place.

CHAPTER XIX

THE PARLIAMENTARY
COMMISSIONER
FOR ADMINISTRATION

Parliamentary
Commissioner
for
Administration.

156. (1) Parliament shall by law provide for the establishment of the office of the Parliamentary Commissioner for Administration (Ombudsman) charged with the duty of investigating and reporting upon complaints or allegations of the infringement of fundamental rights and other injustices by public officers and officers of public corporations, local authorities and other like institutions, in accordance with and subject to the provisions of such law.

(2) The Parliamentary Commissioner for Administration shall be appointed by the President and shall hold office during good behaviour.

CHAPTER XX

GENERAL

157. Where Parliament by resolution passed by not less than two-thirds of the whole number of Members of Parliament (including those not present) voting in its favour approves as being essential for the development of the national economy, any Treaty or Agreement between the Government of Sri Lanka and the Government of any foreign State for the promotion and protection of the investments in Sri Lanka of such foreign State, its nationals, or of corporations, companies and other associations incorporated or constituted under its laws, such Treaty or Agreement shall have the force of law in Sri Lanka, and otherwise than in the interests of national security no written law shall be enacted or made, and no executive or administrative action shall be taken, in contravention of the provisions of such Treaty or Agreement.

International
Treaties and
Agreements.

Delegation.

158. Where any person is empowered under the provisions of the Constitution to delegate any power, duty or function to any other person, such person delegating such power, duty or function may, notwithstanding such delegation, exercise, perform or discharge such power, duty or function and may at any time revoke such delegation.

In this Article, " person " includes any body of persons or any authority.

Deputy
Speaker to act
for Speaker.

159. Where the Speaker is unable to discharge the functions of his office, the powers, duties and functions conferred or imposed on, or assigned to, the Speaker by any provision of the Constitution, other than by Articles 31 (4), 37, 38 (2) (b), 39 (2) and 40, may be exercised, performed or discharged by the Deputy Speaker.

CHAPTER XXI

TRANSITIONAL PROVISIONS

First President.

160. Notwithstanding anything to the contrary in any other provision of the Constitution, the person holding the office of President immediately before the commencement of the Constitution shall be the first President under the Constitution and shall be deemed for all purposes to have been elected as the President of the Republic, and shall hold office for a period of six years from February 4, 1978.

The President shall, notwithstanding the provisions of Article 32, be deemed to have assumed office immediately upon the commencement of the Constitution and shall be entitled thereupon to exercise, perform and discharge all the powers, duties and functions conferred or imposed on, or assigned to, the President by the Constitution or otherwise. The President shall, as soon as possible thereafter at a sitting of Parliament, take and subscribe the oath or make and subscribe the affirmation set out in the Fourth Schedule.

First
Parliament.

161. Notwithstanding anything to the contrary in any other provision of the Constitution -

(a) the first Parliament shall constitute of one hundred and sixty-eight members, and subject to the

succeeding provisions of this Article, all persons who immediately before the commencement of the Constitution were members of the National State Assembly shall be deemed to have been elected as Members of Parliament;

(b) (i) if the election, as a Member of the National State Assembly, of a person deemed to have been elected to the first Parliament is declared void under the law for the time being in force and no other person is determined to have been duly returned or elected, the seat of such Member shall be vacant, and an election to the electoral district as existing immediately prior to the commencement of the Constitution, shall be held in accordance with the law relating to elections to the National State Assembly in force immediately before the commencement of the Constitution and on the basis of the register of electors applicable to such electoral district which was operative on the day immediately preceding the commencement of the Constitution;

(ii) the law applicable to election petitions in relation to an election held as provided in sub-paragraph (i) shall be the law in force upon the commencement of the Constitution and in the event of such an election being declared void the provisions of sub-paragraph (i) shall, *mutatis mutandis*, apply;

(c) if the election as a Member of the National State Assembly of a person who is deemed to have been elected to the first Parliament is declared void or undue and any other person is determined to have been duly returned or elected such other person shall be deemed to have been duly elected as a Member of the first Parliament; -

(d) (i) where immediately before the commencement of the Constitution there was a vacancy in the membership of the National State Assembly or where a vacancy in the membership of the first Parliament occurs otherwise than under the provisions of paragraph (b) of this Article, such vacancy shall be filled in the manner provided in sub-paragraph (iii) hereof;

[§ 2, 2nd Amendment.] (ii) where during the duration of the first Parliament, a Member ceases, by resignation, expulsion or otherwise, to be a member of the recognized political party to which he belonged upon or after the commencement of the Constitution, the Secretary of such party shall, within two weeks of the date on which such Member so ceased to be a member of such party, communicate, in writing to the Secretary-General of Parliament, the fact and date thereof. The Secretary-General shall, upon receipt of such communication, submit it to the Speaker,

Where a Member ceases to be a member of the recognized political party to which he belonged by reason of being expelled from such party, he shall be entitled to apply, within one month of the date of such expulsion by petition in writing, to the Supreme Court for a determination that such expulsion was invalid. In the event of any such application being made, the Registrar of the Supreme Court shall forthwith inform the Secretary-General of Parliament in writing, of such application. Every such application shall be heard and determined by not less than three Judges of the Supreme Court who shall, within two months of the making of such application, determine whether such expulsion was valid or not,

The Speaker shall, on receiving in the aforesaid manner, a communication alleging that a Member has ceased to be a member of the recognized political party to which such Member belonged, appoint a Select Committee consisting of not less than five Members of Parliament (one of whom shall be nominated as Chairman thereof) to inquire into, and report to Parliament on, the circumstances in which such Member is alleged to have resigned from, or to have been expelled from, or to have otherwise ceased to be a member of, such party, and the reasons therefor:

Provided, however, that where such communication alleges that a Member has ceased to be a member of the recognized political party to which he belonged by reason of his being expelled therefrom, no Select Committee shall be appointed as aforesaid until after the expiration of a period of one month from the date of such alleged expulsion, and in any case where such Member has applied to the Supreme Court for a determination that such expulsion was invalid, unless and until the Supreme Court has determined that such expulsion was valid.

The provisions of the Parliament (Powers and Privileges) Act* shall, *mutatis mutandis*, apply in relation to proceedings before, and to the privileges, immunities and powers of, a Select Committee appointed as aforesaid, and every such Select Committee shall be deemed, for the purposes of that Act, to be duly authorized by an order of Parliament to send for persons, papers and records.

After consideration of the report made by a Select Committee appointed as aforesaid, Parliament may, by resolution passed by not less than eighty-five Members voting in its favour, resolve that the

* See section 6 of the Revision of the Legislative Enactments Act and the Schedule to that Act.

Member to whom such report relates, shall cease to be a Member of Parliament. The Speaker shall endorse on every resolution so passed, a certificate in the following form :-

" This resolution has been passed by the majority required by Article 161 (d) (11) of the Constitution ".

The seat of such Member shall, with effect from the date of such certificate, become vacant.

Every such certificate shall be conclusive for all purposes and shall not be questioned in any court, and no court or tribunal shall inquire into, pronounce upon or in any manner call in question, the validity of the resolution on which such certificate is endorsed, on any ground whatsoever.

(iii) where a vacancy as is referred to in sub-paragraph (i) or (ii) has occurred, the Secretary-General of Parliament shall forthwith inform the Commissioner of Elections of such vacancy. The Commissioner of Elections shall thereupon require the Secretary of the political party to which such Member belonged to nominate a member of such party to fill such vacancy. Upon the receipt of such nomination the Commissioner shall declare such person to be the Member for the electoral district in respect of which the vacancy occurred;

(e) unless sooner dissolved, the first Parliament shall continue for six years from August 4, 1977, and no longer, and the expiry of the aforesaid period of six years shall operate as a dissolution of Parliament, and the provisions of Article 70 (5) (b) shall apply accordingly.

162. (1) The provisions of Article 98, other than paragraphs (8) and (9) thereof, and Article 99 shall not come into operation until the General Election held upon the dissolution of the first Parliament.

Application of certain provisions.

(2) If at the time of such dissolution the notification of electoral districts has not been proclaimed as required by Article 97, the electoral districts for the first General Election to be held upon the dissolution of the first Parliament, and the number of Members which each such district shall be entitled to return by virtue of the provisions of paragraph (4) of Article 96, shall be as set out in the Sixth Schedule and accordingly, registers of electors shall be prepared and certified for each such electoral district, and unless Parliament otherwise provides, such registers shall be prepared on the basis of the register of electors in force immediately before the commencement of the Constitution.

163. All Judges of the Supreme Court and the High Courts established by the Administration of Justice Law, No. 44 of 1973,* holding office on the day immediately before the commencement of the Constitution shall, on the commencement of the Constitution, cease to hold office.

Judge of Supreme Court and High Court to cease to hold office.

164. Subject to the provisions of Article 163 every person who immediately before the commencement of the Constitution-

Continuation in office of Judges, public officers and others.

(a) held office in any court or tribunal deemed, by virtue of the provisions of paragraph (2) of Article 105, to be a court or tribunal created and established by Parliament,

(b) was in the service of the Republic, any local authority or any public corporation,

(c) held office in any local authority or public corporation, or

(d) held any appointment under any existing written law,

shall continue in such service or hold such office or appointment under the same terms and conditions.

• Repealed by Law No. 19 of 1977 and Acts No. 2 of 1978 and 15 of 1979.

Oath or affirmation to be taken or made by public officers and others.

165. (1) Every public officer, judicial officer and every other person as is required by the Constitution to take an oath or make an affirmation on entering upon the duties of his office, every holder of an office required under the existing law to take an official oath or affirmation and every person in the service of every local authority and of every public corporation shall take and subscribe the oath or make and subscribe the affirmation set out in the Fourth Schedule. Any such public officer, judicial officer, person or holder of an office failing to take and subscribe such oath or make and subscribe such affirmation after the commencement of the Constitution on or before such date as may be prescribed by the Prime Minister by Order published in the Gazette shall cease to be in service or hold office.

(2) The Minister in charge of the subject of Public Administration may, in his sole discretion, permit any public officer, judicial officer, person or holder of an office referred to in paragraph (1) of this Article, to take the oath or make the affirmation referred to in that paragraph after the prescribed date if he is satisfied that the failure to take the oath or make the affirmation within the time prescribed was occasioned by illness or some other unavoidable cause. On his taking such oath or making such affirmation, he shall continue in service or hold office as if he had taken such oath or made such affirmation within the time prescribed under paragraph (1) of this Article.

(3) The President may by Proclamation-

- (a) exclude the application of the provisions of paragraph (1) of this Article to any category of public officers,
- (b) prescribe the persons or categories of persons who may administer such oath or affirmation in addition to the persons who are empowered under the existing law to administer oaths or affirmations.

Powers, privileges, immunities and rights of the Republic.

166. Unless Parliament otherwise provides, the Republic of Sri Lanka shall continue to possess and exercise all powers, privileges, immunities and rights whatsoever possessed, exercised or exercisable immediately prior to the commencement of the Constitution.

167. All rights and all duties or obligations, howsoever arising, of the Government of Sri Lanka and subsisting immediately prior to the commencement of the Constitution shall be rights, duties and obligations of the Government of the Republic of Sri Lanka under the Constitution.

Rights, duties and obligations of the Republic.

168. (1) Unless Parliament otherwise provides, all laws, written laws and unwritten laws, in force immediately before the commencement of the Constitution, shall, *mutatis mutandis*, and except as otherwise expressly provided in the Constitution, continue in force.

Past operation of laws, previous acts, offences, and pending actions, &c.

(2) Save as otherwise provided in the Constitution, existing laws, written laws and unwritten laws are not and shall not in any manner be deemed to be provisions of the Constitution.

(3) Wherever the Constitution provides that any law, written law or unwritten law or any provision of the Constitution shall continue in force until or unless Parliament otherwise provides, any law enacted by Parliament so providing may be passed by a majority of the Members present and voting.

(4) Whenever the Constitution provides that any provision of any existing written law shall continue in force until or unless Parliament otherwise provides and the existing written law referred to consists of subordinate legislation, the provision that such existing written law shall continue in force until or unless Parliament otherwise provides shall not in any manner be deemed to derogate from the power of the person or body on whom the power to make and, when made, to amend, vary, rescind or revoke such subordinate legislation is conferred, to exercise the power so conferred until or unless Parliament otherwise provides.

(5) Unless the Constitution otherwise provides, the past operation of any law in force prior to the commencement of the Constitution or anything duly done or suffered or any offence committed or any right, liberty, obligation or penalty acquired or incurred under any law in force prior to the commencement of the Constitution shall not in any manner be affected or be deemed to be affected by the Constitution coming into force.

(6) All actions, prosecutions, proceedings, matters or things, including proceedings of Commissions appointed or established by or under any existing written law, pending or uncompleted on the commencement of the Constitution shall, subject to the provisions of the Constitution and, *mutatis mutandis*, be deemed to continue and may be carried on and completed after the commencement of the Constitution.

Provisions relating to judiciary.

169. Unless Parliament otherwise provides-

- (1) any provisions of the Administration of Justice Law, No. 44 of 1973,* which are inconsistent with the provisions of the Constitution, shall, to the extent of such inconsistency, be deemed to be repealed ;
- (2) the Supreme Court established by the Administration of Justice Law, No. 44 of 1973,* shall, on the commencement of the Constitution, cease to exist, and accordingly the provisions of that Law relating to the establishment of the said Supreme Court, shall be deemed to have been repealed. Unless otherwise provided in the Constitution, every reference in any existing written law to the Supreme Court shall be deemed to be a reference to the Court of Appeal;
- (3) all appellate proceedings including proceedings by way of revision, case stated and *restitutio in integrum* pending in the Supreme Court established under the Administration of Justice Law, No. 44 of 1973,* on the day preceding the commencement of the Constitution, shall stand removed to the Court of Appeal and the Court of Appeal shall have jurisdiction to take cognizance of and to hear and determine the same ; and the judgments and orders of the Supreme Court aforesaid delivered or made before the commencement of the Constitution in appellate proceedings shall have the same force and effect as if they had been delivered or made by the Court of Appeal;

- (4) all original proceedings by way of applications for the issue of high prerogative Writs and applications for any other relief pending in the Supreme Court as well as all applications for injunctions pending in the High Court established under the Administration of Justice Law, No. 44 of 1973,* on the date immediately preceding the commencement of the Constitution shall stand removed to the Court of Appeal and such Court shall have jurisdiction to take cognizance of, hear and determine or to continue and complete the same, and the judgments and orders of the Supreme Court established under the Administration of Justice Law, No. 44 of 1973,* delivered or made before the commencement of the Constitution in original proceedings shall have the same force and effect as if they had been delivered or made by the Court of Appeal:

Provided that any proceedings in relation to any alleged breach of privileges of Parliament pending in the Supreme Court shall stand removed to the Supreme Court created and established by the Constitution ;

- (5) no appeal shall lie from any judgment, order or decree of the Supreme Court established under the Administration of Justice Law, No. 44 of 1973,* to the Supreme Court created and established under the Constitution but such judgment, order or decree, as the case may be, shall be final as between the parties to the action, application or other proceeding in which such judgment, order or decree was made :

Provided that it shall be competent for the Court of Appeal and all officers of such Court to take all such steps as may be necessary, including the entering of decrees if not already entered and taxation and recovery of costs so as to ensure that such judgments, orders and decrees are completely

* Repealed by Law No. 19 of 1977 and Acts Nos. 2 of 1978 and 15 of 1979.

and effectively complied with, as if they had been delivered or made by the Court of Appeal created and established by the Constitution ;

(6) the several High Courts established under Chapter I of the Administration of Justice Law, No. 44 of 1973,* shall be deemed for all purposes to constitute a single court created and established by Parliament called the High Court of the Republic of Sri Lanka having jurisdiction throughout the Republic of Sri Lanka to be exercised in the several zones in accordance with the law for the time being in force. Accordingly, subject to the provisions of the Constitution, and of any existing written law, all provisions relating to High Courts contained in such Law shall, *mutatis mutandis*, apply to the High Court of the Republic of Sri Lanka;

(7) all criminal and admiralty cases, proceedings or matters, other than applications for injunctions, pending in the High Courts established under the Administration of Justice Law, No. 44 of 1973,* on the day preceding the commencement of the Constitution shall stand removed to the said High Court of the Republic of Sri Lanka and such Court shall have jurisdiction to take cognizance of, hear and determine or to continue and complete the same, and the judgments and orders of the aforesaid High Courts delivered or made before the commencement of the Constitution shall have the same force and effect as if they had been delivered or made by the High Court of the Republic of Sri Lanka;

(8) the President of the Court of Appeal shall from time to time as he may deem expedient nominate the Judges of the High Court of the Republic of Sri Lanka to exercise the jurisdiction of the High Court in

such zones as he may determine and the provisions of Chapter II of the Administration of Justice Law, No. 44 of 1973,* shall, *mutatis mutandis*, apply to the hearing and disposal of all proceedings pending in or hereafter instituted in the High Court;

(9) all indictments filed hereafter in the High Court of the Republic of Sri Lanka shall be in the name of the Republic of Sri Lanka and shall be signed by the Attorney-General or any person authorized under section 189 of the Administration of Justice Law, No. 44 of 1973;*

(10) all election petition proceedings relating to the election of any person to the membership of the National State Assembly pending in the High Courts established under the Administration of Justice Law, No. 44 of 1973,* on the day preceding the commencement of the Constitution, shall stand removed to the Court of Appeal and the Court of Appeal shall have the same jurisdiction to take cognizance of, hear and determine or to continue and complete the same, and the judgments and orders of the Supreme Court established by the Administration of Justice Law, No. 44 of 1973,* and of the High Courts aforesaid delivered or made before the commencement of the Constitution in such election petition proceedings shall have the same force and effect as if they had been delivered or made by the Supreme Court and the Court of Appeal established by the Constitution, as the case may be. The President of the Court of Appeal is hereby vested with the power to nominate a Judge of the Court of Appeal to hear and determine any election petition in respect of which the Court of Appeal is vested with jurisdiction by the Constitution ;

* Repealed by Law No. 19 of 1977 and Acts Nos. 2 of 1978 and 15 of 1979.

- (11) all attorneys-at-law admitted and enrolled or deemed to have been admitted and enrolled as attorneys-at-law under the provisions of the Administration of Justice Law, No. 44 of 1973,* shall subject to the provisions of the Constitution be deemed to have been admitted and enrolled as attorneys-at-law of the Supreme Court created and established by the Constitution;
- (12) after the date fixed by the Minister in charge of the subject of Justice, by Order published in the Gazette, no attorney-at-law shall be entitled to represent any party to a proceeding or be given the right of audience in any court, tribunal or other institution until or unless he has taken and subscribed the oath or made and subscribed the affirmation set out in the Fourth Schedule, before a Judge of the Supreme Court, Court of Appeal, High Court or any other judicial officer as defined in Article 114; and it shall be the duty of any such Judge or judicial officer, as the case may be, to forward such oath or affirmation so taken and subscribed or made and subscribed to the Registrar of the Supreme Court who shall cause the same to be entered in the rolls of such Court. Such entry shall be the only proof that such attorney-at-law has taken and subscribed or made and subscribed such oath or affirmation;
- (13) the provisions of the Administration of Justice Law, No. 44 of 1973,* relating to the Attorney-General, the legal profession, State Attorneys and State Counsel, shall be deemed for all purposes to be in operation, and every reference to the Supreme Court in sections 33 to 36 of the Administration of Justice Law, No. 44 of 1973.* and in the rules and regulations relating thereto shall be deemed to be a reference to the Supreme Court established by the Constitution ;
- (14) if any matter or question shall arise with regard to any procedure or practice to be followed in any court in consequence of the coming into operation of the Constitution, not provided for in the Constitution or any written law, the Chief Justice shall have the power to give such directions as he may consider necessary to prevent injustice or as the justice of the case may require and to ensure that the provisions of Chapters XV and XVI of the Constitution are given full and complete effect;
- (15) (i) any reference in section 2 of the Special Presidential Commissions of Inquiry Law to the Supreme Court shall be deemed to be a reference to the Supreme Court established by the Constitution;
- (ii) where any person has been appointed as a member of a Special Presidential Commission of Inquiry established under the Special Presidential Commissions of Inquiry Law, then, such person shall, notwithstanding the provisions of the Constitution, continue to be such member and shall be deemed for the purposes of Article 81 (1) to be a Judge of a Court referred to therein unless he resigns, or refuses or becomes unable to act, or is discharged by the President from the performance of his duties as such member in accordance with the provisions of the Special Presidential Commissions of Inquiry Law ;
- (iii) any such member specified in the Warrant establishing such Special Presidential Commission of Inquiry as Chairman, shall, subject to the provisions of sub-paragraph (ii) of this paragraph, continue to be the Chairman of such Special Presidential Commission of Inquiry;

• Repealed by Law No. 19 of 1977 and Ads Nos. 2 of 1978 and 15 of 1979.

+ 15th October, 1978 - vide Gazette No. 1/2 of 1978.09.07.

- (16) (i) any breach of the privileges of the National State Assembly functioning immediately prior to the commencement of the Constitution shall be deemed to be a breach of the privileges of Parliament, and accordingly Parliament and the Supreme Court shall have the power to take cognizance of and punish any person for such breach of privileges of Parliament;
- (ii) where prior to the commencement of the Constitution, any step required or authorized by the Parliament (Powers and Privileges) Act* has been taken in respect of or in relation to, any act or omission alleged to constitute such a breach of the privileges of Parliament as is referred to in sub-paragraph (i) of this paragraph, such step shall be deemed to have been validly taken, and any further steps as are required or authorized under such Act may be taken in respect of, or in relation to, such alleged breach of the privileges of Parliament, as if the act or omission alleged to constitute such breach of privileges of Parliament had been committed or had occurred after the commencement of the Constitution.
- " conclusion of the General Election " means the time at which Members of Parliament for all the electoral districts in respect of which a poll has been taken on the date or dates specified in the Proclamation made under Article 70 (5) have been declared elected by the respective returning officers, or when on the results declared more than half the total membership of Parliament consists of Members belonging to any single recognized political party or independent group, whichever event occurs earlier;
- " existing law " and " existing written law " mean any law, and written law, respectively, in force immediately before the commencement of the Constitution which under the Constitution continue in force ;
- " judicial officer ", other than in Article 114, means any person who holds office as-
- (a) a Judge of the Supreme Court or a Judge of the Court of Appeal;
- (b) any Judge of the High Court or any judge, presiding officer or member of any other Court of First Instance, tribunal or institution created and established for the administration of justice or for the adjudication of any labour or other dispute but does not include a person who performs arbitral functions or a public officer whose principal duty or duties is or are not the performance of functions of a judicial nature.

CHAPTER XXII

INTERPRETATION

Interpretation.

170. In the Constitution-

" civic disability " shall have the same meaning as in the Special Presidential Commissions of Inquiry Law as on the commencement of the Constitution ;

"commencement of the Constitution" means the date appointed by the Proclamation made under Article 172;

No court or tribunal or institution shall have jurisdiction to determine the question whether a person is a judicial officer within the meaning of the Constitution but such question shall be

*See section 6 of the Revision of the legislative Enactments Act and the Schedule to that Act.
+7th September, 1978-vide Proclamation in Gazette No, 332/11 of 1978.09.01. "Commencement" in this definition is equivalent to "operation".

determined by the Judicial Service Commission whose decision thereon shall be final and conclusive.

No act of such person or proceeding held before such person, prior to such determination, shall be deemed to be invalid by reason of such determination;

" law " means any Act of Parliament and any law enacted by any legislature at any time prior to the commencement of the Constitution and includes an Order in Council;

" local authority " means any Municipal Council, Urban Council, Town Council or Village Council and, includes any Authority created and established by or under any law to exercise, perform and discharge powers, duties and functions corresponding to or similar to the powers, duties and functions exercised, performed and discharged by any such Council;

" public corporation " means any corporation, board or other body which was or is established by or under any written law other than the Companies Ordinance, with funds or capital wholly or partly provided by the Government by way of grant, loan or otherwise;

" public officer " means a person who holds any paid office under the Republic, other than a judicial officer but does not include -

- (a) the President;
- (b) the Speaker;
- (c) a Minister;
- (d) a Member of the Judicial Service Commission;
- (e) a Member of the Public Service Commission ;
- (f) a Deputy Minister;
- (g) a Member of Parliament;
- (h) the Secretary-General of Parliament;

(i) a Member of the President's staff;

(j) a Member of the staff of the Secretary-General of Parliament;

" recognized political party " means unless Parliament otherwise provides, every political party which is treated as a recognized political party under the Ceylon (Parliamentary Elections) Order in Council, 1946;*

" territorial waters " includes the territorial sea and the historic waters of Sri Lanka:

" written law " means any law and subordinate legislation and includes Orders, Proclamations, Rules, By-laws and Regulations made or issued by any body or person having power or authority under any law to make or issue the same.

CHAPTER XXIII

REPEAL

171. The Constitution adopted and enacted on the 22nd day of May, 1972, is hereby repealed. Repeal

CHAPTER XXIV

PROMULGATION OF THE CONSTITUTION

172. (1) The provisions of Chapter I to Chapter XXIII shall come into force on the day appointed by the President by Proclamation.!

Promulgation of the Constitution

(2) Parliament shall meet on the day so appointed and the President may, in such Proclamation, specify the time at which Parliament shall so meet.

*Devo vassathukalena
sassasampattihotu ca
phitu bhavatu loko ca
raja bhavatu dhammiko*

SIDDHIRASTU

*See section 6 of the Revision of the Legislative Enactments Act and the Schedule to that Act.

+7th September, 1978-vide Proclamation in Gazette No. 332/11 of 1978.09.01. The expression "come into force" in this Article is equivalent to "take effect".

FIRST SCHEDULE

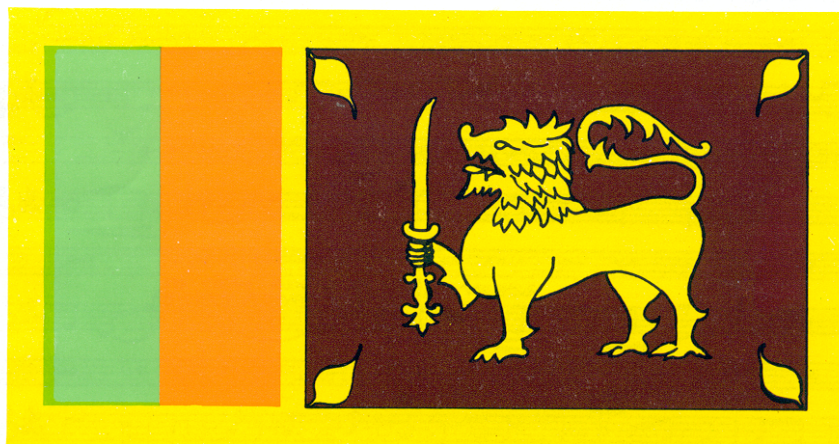
ARTICLE 5

Names of Administrative Districts

1. Colombo
2. Gampaha
3. Kalutara
4. Kandy
5. Matale
6. Nuwara Eliya
7. Galle
8. Matara
9. Hambantota
10. Jaffna
11. Mannar
12. Vavuniya
13. Mullaitivu
14. Batticaloa
15. Ampara
16. Trincomalee
17. Kurunegala
18. Puttalam
19. Anuradhapura
20. Polonnaruwa
21. Badulla
22. Moneragala
23. Ratnapura
24. Kegalle

SECOND SCHEDULE

ARTICLE 6



THE NATIONAL FLAG

CONSTITUTION OF THE REPUBLIC

THIRD SCHEDULE

ARTICLE 7

Words and Music of the National Anthem

LOUIS KERNER
Moderate (♩ = 108)

THE PHILIPPINE
NATIONAL ANTHEM
TO CORN ADLIS
SHORT REHEARSAL
INVERSE

1. For SALUTES AND TOASTS play FIRST-TWELVE BARS ONLY.
(EXCEPT LAST TWO BARS AND FIVE OTHERS) NOTE.
2. FIRST VERSE IS FROM (A) TO (2) 3 1/2 BARS.
3. SECOND VERSE IS FROM (B) TO (C) } TO BE PLAYED / SUNG ONLY
4. THIRD VERSE IS FROM (C) TO (4) } WHEN SPECIALLY REQUIRED.
5. SHORT REFRAIN IS FROM (2) TO (3) AND 4 TO END.
6. BEGINNING TO (2) AND THEN TO CODA (END) IS THE PRESIDENTIAL SALUTE.
7. FIRST TWELVE BARS IS ALSO THE SALUTE TO THE PRIME MINISTER.
8. A ROLL OF DRUMS (ff) FOR FIGHT BEATS MAY PRECEDE THE ANTHEM WHEN PLAYED MORE THAN TWELVE BARS WHEN REQUIRED.

