

THE CONSTITUTION OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI
LANKA

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The Constitution,
1st Amendment,
2nd Amendment.

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:

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 unremitting 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

[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.

Territory of the Republic. 2,7th Amendment. **5.** The territory of the Republic of Sri Lanka shall consist of the twenty- five administrative districts, the names of which are set out in the First Schedule, and its territorial waters.
provided that administrative districts may be subdivided or amalgamated so as to constitute different administrative districts,as parliament may by resolution determine.

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

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

CHAPTER II

BUDDHISM

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).

CHAPTER III

FUNDAMENTAL RIGHTS

Freedom of thought, conscience and religion. **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 from torture. **11.** No Person shall be subjected to torture cruel, inhuman or degrading treatment or punishment

Right to equality. **12.**

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

(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 :

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 :

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.

(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.

(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.

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.

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

(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.

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

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

(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.

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.

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.

(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, **14**
assembly,
association,
occupation,
movement, &c

(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 **15**.
fundamental
rights.

(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)(b) 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 Existing written law and unwritten law to continue in force. Remedy for the infringement of fundamental rights by executive action. 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. 2,13th Amendment. **18.**

- (1) The Official Language of Sri Lanka shall be Sinhala.
- (2) Tamil shall also be an official language.
- (3) English shall be the link language.
- (4) Parliament shall by law provide for the implementation of the provisions of this chapter

National Languages **19.** The National Languages of Sri Lanka shall be Sinhala and Tamil, Use of National Languages in Parliament and local authorities. 2,16th Amendment. **20.**

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

medium of instruction **21.**

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

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.

(1) Singala and Tamil shall be the languages of administration throughout Sri Lanka and Sinhala shall be the language of administration and be used for the maintenance of public records and the transaction of all business by public institutions of all the provinces of Sri Lanka other than the Northern and Eastern provinces where Tamil shall be so used:

Provided that the President may, having regard to the proportion which the Sinhala or Tamil linguistic minority population in any unit comprising a division of an Assistant Government Agent, bears to the total of population of that area, direct that both Sinhala and Tamil or a language other than the language used as the language of administration in the province in which such area may be situate, be used as the language of administration of such area.

(2) in any area where Sinhala is used as the language of administration 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 Tamil or English ;

(b) if the law recognizes his right to inspect or 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 Tamil or English ;

(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 Tamil or English.

(3) In any area where Tamil is used as the language of administration, a person other than an official acting in his official capacity, shall be entitled to exercise the rights and to obtain the services, referred to in sub-paragraphs (a), (b) and (c) of paragraph (2) of this Article, in Sinhala or English.

(4) A Provincial Council or a local authority which conducts its business in Sinhala shall be entitled to receive communications from and to communicate and transact business with, any official in his official capacity, in Sinhala. and a Provincial Council or a local authority which conducts its business in Tamil shall be entitled to receive communications from and to communicate and transact business with, any official in his official capacity, in Tamil :
Provided, however, that a Provincial Council, local

authority, public institution or any official receiving communications from or transacting business with any other Provincial Council, local authority, public institution or an official functioning in an area in which a different language is used as the language of administration shall be entitled to receive communications from and to communicate and transact business in English.

(5) A person shall be entitled to be examined through the medium of either Sinhala or Tamil or a language of his choice at any examination for the admission of persons to the Public Service, Judicial Service, Provincial Public Service, Local Government Service or any public institution, subject to the condition that he may be required to acquire a sufficient knowledge of Tamil or Sinhala. as the case may be. within a reasonable time after admission to such service or public 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 Sinhala or Tamil, as a condition for admission to any such service or public institution where no function of the office or employment for which he is recruited can be discharged otherwise than with a sufficient knowledge of such language.

(6) In this Article -

"official" means the President, any Minister. Deputy Minister. Governor, Chief Minister or Minister of the Board of Ministers of a Province, or any officer of a public institution, local authority or Provincial Council : and

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

Language of **23.**
Legislation. 3,16th
Amendment.

23. (1) All laws and subordinate legislation shall be enacted or made and published in Sinhala and Tamil, together with a translation thereof in English ;

Provided that Parliament shall, at the stage of enactment of any law determine which text shall prevail in the event of any inconsistency between texts ;

Provided further that in respect of all other written laws the text in which such written laws were enacted or adopted or made, shall prevail in the event of any inconsistency between such texts.

(2) All Orders. Proclamations, rules, by-laws, regulations and notifications made or issued under any written law other than by a Provincial Council or a local authority, and the Gazette shall be published in Sinhala and Tamil together with a translation thereof in English.

(3) All Orders, Proclamations, rules, by-laws, regulations and

notifications made or issued under any written law by any Provincial Council or local authority, and all documents including circulars and forms issued or used by such body or any public institution shall be published in the language used in the administration in the respective areas in which they function together with a translation thereof in English.

(4) All laws and subordinate legislation in force immediately prior to the commencement of the Constitution, shall be published in the Gazette in the Sinhala and Tamil languages as expeditiously as possible.

Language of the courts. 4,16th Amendment. **24.**

24. (1) Sinhala and Tamil shall be the languages of the courts throughout Sri Lanka and Sinhala shall be used as the language of the court situated in all the areas of Sri Lanka except those in any area where Tamil is the language of administration. The record and proceedings shall be in the language of the court. In the event of an appeal from any court records shall also be prepared in the language of the court hearing the appeal, if the language of such court is other than the language used by the court from which the appeal is preferred :

Provided that the Minister in charge of the subject of Justice may, with the concurrence of the Cabinet of Ministers direct that (he record of any court shall also be maintained and the proceedings conducted in a language other than the language of the court.

(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 Sinhala or Tamil.

(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 Sinhala or Tamil, 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 such language, 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 English 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 ;

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

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

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

Provision of any law inconsistent with this Chapter deemed to be repealed. 5, 16th Amendment.

25A. In the event of any inconsistency between the provisions of any law and the provisions of this Chapter, the provisions of this Chapter shall prevail.

CHAPTER V CITIZENSHIP

Citizenship of Sri Lanka **26**.

(1) There shall be one status of citizenship known as "the status of a citizen 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 its
- (f) to protect nature and conserve riches.

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

CHAPTER VII THE EXECUTIVE THE PRESIDENT OF THE REPUBLIC

The President **30**.
of the
Republic.

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

The election **31**
and the term of
office of
President

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

(3A)

(a)

23rd (i) Notwithstanding anything to Amendment. the contrary in the preceding

provisions of this Chapter, the President may, at any time after the expiration of four years from the commencement of his first term of office, by Proclamation, declare his intention of appealing to the People for a mandate to hold office, by election, for a further term.

27th,17th Amendment. (ii) Upon the making of a Proclamation under subparagraph (i) the Election Commission shall be required to take a poll for the election of the President.

(b) If, at any time after the date of Proclamation referred to in paragraph (a) and before the close of the poll at the election held in pursuance of such Proclamation, the President in office dies, such Proclamation shall be deemed to have been revoked with effect from the date of such death and the election to be held in pursuance of such Proclamation shall be deemed to be cancelled. The vacancy in the office of President caused by such death shall be filled in accordance with the provisions of Article 40.

(c)

27th,17th Amendment. (i) If, at any time, between the close of the poll at an election held under this paragraph and the declaration of the result of such election, a candidate at such election dies, the Election Commission shall proceed with the count and declare the result of such election, notwithstanding the death of such candidate.

27th,17th Amendment. (ii) If the person entitled to be declared elected as President is dead at the time of the declaration of the result of such election, the Election Commission shall not declare the result of such election but shall take a fresh poll for the election of the President.

(iii) If by reason of the death referred to in sub-paragraph (i) there is a

vacancy in the office of the President, the Prime Minister shall act in the office of President during the period between the occurrence of such vacancy and the assumption of office by the new 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.

(d) The person declared elected as President at an election held under this paragraph shall, if such person

(i) is the President in office, hold office for a term of six years commencing on such date in the year in which that election is held (being a date after such election) or in the succeeding year, as corresponds to the date on which his first term of office commenced, whichever date is earlier; or

(ii) is not the President in office, hold office for a terms of six years commencing on the date on which the result of such election is declared.

(e) A person succeeding to the office of President under the provisions of Article 40 shall not be entitled to exercise the right conferred on a President by sub-paragraph (a) of this paragraph.

(f) For the purposes of this paragraph, the first term or office of the first President referred to in Article 160 shall be deemed to have commenced on February 4, 1978.

(4) Where a poll for the election of a President is taken, the term of office of the person elected as President at such election shall commence on the expiration of the term of office of the President in office:

Provided that notwithstanding anything to the contrary in Article 40

27th,17th (a) if any person declared elected as President at a Amendment.poll for the election of a President dies at any time after his being declared elected as President, and before the date on which his term or office would,

but for his death, have commenced, the Election Commission shall take a fresh poll for the election of a President. If the date fixed for such fresh poll is a date later than such first-mentioned date, the term of office of the person declared elected at such poll shall, notwithstanding the preceding provisions of this Article, be deemed to have commenced on such first-mentioned date. For the purposes only 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;

(b) where the President in office is not a candidate or is not re-elected, at a poll for the election of a President, his term of office shall be deemed to have expired on the date on which the result of such election is declared. The person elected as President at such election shall assume office forthwith, but not later than two weeks from such date:

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 the 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 ;

(c) if by reason of the death referred to in subparagraph (a) there is a vacancy in the office of President, the Prime Minister shall act in the office of President during the period between the occurrence of such vacancy and the assumption of office by the new President and shall appoint one of the other Ministers of the Cabinet to act as 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.

27th,17th Amendment. (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.

Powers and functions of the President.

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-

- (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;

28th Amendment. (cc) to appoint as president's Counsel, attorneys-at-law who have reached eminence in the profession and have maintained high standards of conduct and professional rectitude. Every President's Counsel appointed under this paragraph shall be entitled to all such privileges as were hitherto enjoyed by a Queen's Counsel;

(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 **34.**
pardon

(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.

immunity of **35.**
president
from suit

(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.

2,14 Amendment. (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 130 (a) relating to the election of the President or the validity of a referendum or to proceedings in the Court of Appeal under Article 144 or in the Supreme Court, relating to the election of a Member of Parliament:
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.

Salary and **36.**
pension.

(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.

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

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

Excercise, Performance and **37.**
discharge of the Powers,
duties and functions of the
president by the Prime
Minister

(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.

Vacation of **38.**
office by
President

(1) The office of President shall become vacant-

- (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:

33rd Amendment (d) if the person elected as President wilfully fails to assume office within two weeks 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.

Vacation of office by **40**.
President and
election of
succeeding President.

(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 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 **41.**
staff.

(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 VIIA
The Constitutional Council

2, 17th Amendment **41A**
Constitution of the
Constitutional
Council.

(1) There shall be a Constitution Council (in this Chapter referred to as the "Council") which shall consist of the following members.

- (a) the Prime Minister;
- (b) the Speaker;
- (c) the Leader of the Opposition in Parliament;
- (d) one person appointed by the President;
- (e) five persons appointed by the President, on the nomination of both the Prime Minister and the Leader of the Opposition;
- (f) one person nominated upon agreement by the majority of the Members of Parliament belonging to political parties or independent groups other than the respective political parties or independent groups to which the Prime Minister and the Leader of the Opposition belongs and appointed by the President.

(2) The Speaker shall be the Chairman of the Council.

(3) In nominating the five persons referred to in sub-paragraph (e) of paragraph (1) of this Article, the Prime Minister and the Leader of the Opposition shall consult the leaders of the political parties and independent groups represented in Parliament. Three of such persons shall, in consultation with the Members of Parliament who belong to the respective minority communities, be nominated to represent minority interests.

(4) The persons to be appointed or nominated as the case may be, under sub-paragraphs (d), (e) and (t) of paragraph (1) of this Article, shall be persons of eminence and integrity who have distinguished themselves in public life and who are not members of any political party.

(5) The President shall upon receipt of a written communication of the nominations under sub-paragraph (e) or sub-paragraph (t) of paragraph (1) of this Article, forthwith make the respective appointments.

(6)

- (a) On the dissolution of Parliament, notwithstanding the provisions in paragraph (2) of Article 64 of the Constitution, the Speaker shall continue to hold office as a member of the Council, until a Member of Parliament is elected to be the Speaker under paragraph (1) of the

aforesaid Article;

(b) Notwithstanding the dissolution of Parliament, the Leader of the Opposition shall continue to hold office as a member of the Council, until such time after a General Election following such dissolution, a Member of Parliament is recognized as the Leader of the Opposition in Parliament.

(7) Every member of the Council appointed under sub-paragraph (e) and sub-paragraph (t) of paragraph (1) of this Article, shall hold office for a period of three years from the date of appointment as such member, unless he earlier resigns his office by writing addressed to the President, or is removed from office by the President on both the Prime Minister and the Leader of the Opposition forming an opinion that such member is physically or mentally incapacitated and is unable to function further in office, or is convicted by a court of law for any offence involving moral turpitude or if a resolution for the imposition of civic disability upon him has been passed in terms of Article 81 of the Constitution or is deemed to have vacated his office under paragraph (7) of Article 41 E.

(8) In the event of there being a vacancy among the members appointed under sub-paragraph (e) or sub-paragraph (t) of paragraph (1) of this Article, the President shall, within two weeks of the occurrence of such vacancy and having regard to the provisions of the aforementioned sub-paragraphs, appoint another person to succeed such member. Any person so appointed, shall hold office during the unexpired part of the period of office of the member whom he succeeds.

(9) The member appointed under sub-paragraph (d) of paragraph (1) of this Article shall, unless earlier removed from office by the President, hold office for a period of three years.

(10) A member appointed under sub-paragraph (e) or sub-paragraph (t) of paragraph (1) of this Article, shall not be eligible for re-appointment under those sub-paragraphs.

(11) The appointments made by the President under sub-paragraph (d), sub-paragraph (e) and sub-paragraph (t) of paragraph (1) of this Article, shall be communicated to the Speaker.

Council to
recommend
appointments.

41B

(1) No person shall be appointed by the President as the Chairman or a member of any of the Commissions specified in the Schedule to the Article, except on a recommendation of the Council.

(2) The provisions of paragraph (I) of this Article shall apply in respect of any person appointed to act as the Chairman or a member of any such Commission.

(3) It shall be the duty of the Council to recommend to the President persons for appointment as Chairmen or members of the Commissions specified in the Schedule to this Article, whenever the occasion for such appointment arises, and such recommendations shall reflect, the different ethnic groups.

(4) No person appointed under paragraph (I) of this Article or a person appointed to act as the Chairman or a member of any such Commission, shall be removed except as provided for in the Constitution or in any law, and where no such provision is made, such person shall be removed by the President only with the prior approval of the Council.

Schedule

- (a) The Election Commission.
- (b) The Public Service Commission.
- (c) The National Police Commission.
- (d) The Human Rights Commission of Sri Lanka.
- (e) The Permanent Commission to Investigate Allegations of Bribery or Corruption.
- (f) The Finance Commission.
- (g) The Delimitation Commission.

Council to
approve
appointments.

41C

(1) No person shall be appointed by the President to any of the Offices specified in the Schedule to this Article, unless such appointment has been approved by the Council upon a recommendation made to the Council by the President.

(2) The provisions of paragraph (I) of this Article shall apply in respect of any person appointed to act for a period exceeding fourteen days in any office specified in the Schedule to this Article.

(3) No person appointed to any Office specified in the Schedule to this Article or to act in any such Office, shall be removed from such Office except as provided for in the Constitution or in any law.

(4) In the discharge of its functions relating to the appointment of Judges of the Supreme Court and the President and Judges of the Court of Appeal, the Council may obtain the views of the Chief Justice and the Attorney-General.

Schedule

Part I

- (a) The Chief Justice and the Judges of the Supreme Court.
- (b) The President and the Judges of the Court of Appeal.
- (c) The Members of the Judicial Service Commission other than the Chairman.

Part II

- (a) The Attorney-General.
- (b) The Auditor-General.
- (c) The Inspector-General of Police.
- (d) The Parliamentary Commissioner for Administration (ombudsman).
- (e) The Secretary-General of Parliament.

Secretary and officers of the Council.

41D

- (1) There shall be a Secretary to the Council who shall be appointed by the Council.
- (2) The Council may appoint such officers as it considers necessary for the discharge of its functions, on such terms and conditions as shall be determined by the Council.

Meetings of the Council.

41E

- (1) The Council shall meet as often as may be necessary to discharge the functions assigned to the Council by the provisions of this Chapter or by any other law, and such meetings shall be summoned by the Secretary to the Council on the direction of the Chairman of the Council.
- (2) The Chairman shall preside at all meetings of the Council, and in the absence of the Chairman, the Prime Minister, and in the absence of the Prime Minister, the Leader of the Opposition shall preside at the meetings of the Council. Where the Chairman, the Prime Minister and the Leader of the Opposition are all absent from any such meeting, the members present shall elect a member from among themselves to preside at such meeting.
- (3) The quorum of any meeting of the Council shall be six members.
- (4) The Council shall endeavour to make every recommendation, approval or decision it is required to make by unanimous decision, and in the absence of an unanimous decision, no recommendation, approval or decision made shall be valid, unless supported by not

less than five members of the Council present at such meeting.

(5) The Chairman shall not have an original vote, but in the event of an equality of votes on any question for decision at any meeting of the Council, the Chairman or other members presiding at such meeting, shall have a casting vote,

(6) The procedure in regard to meetings of the Council and the transaction of business at such meetings shall be determined by the Council, including procedures to be followed in regard to the recommendation or approval of persons suitable for any appointment under Article 41 B or Article 41 C.

(7) Any member of the Council appointed under sub-paragraph (e) of paragraph (I) of Article 41 A, who without obtaining prior leave of the Council absents himself from two consecutive meetings of the Council, shall be deemed to have vacated office with effect from the date of the second of such meetings.

Council to perform other duties. **41F** The Council shall perform and discharge such other duties and functions as may be imposed or assigned to the Council by the Constitution, or by any other law.

Expenses to be charged on the Consolidate dated Fund. **41G** The expenses incurred by the Council shall be charged on the Consolidated Fund,

Finality of decisions of the Council. **41H** Subject to the provisions of paragraphs (I), (2), (4) and (5) of Article 126, no court shall have the power or jurisdiction to entertain, hear or decide or call in question on any ground whatsoever, or in any manner whatsoever, any decision of the Council or any approval or recommendation made by the Council, which decision, recommendation or approval shall be final and, conclusive for all purposes.

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.

Minister 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,

Minister who are not a
member of the Cabinet
and their Ministries
subjects and functions **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,

Deputy **46.**
Ministers.

(1) The President may, from time to time, in consultation with the Prime Minister, 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. Tenure of office of the Prime Minister, Ministers and Deputy Ministers. Cabinet of Ministers after dissolution of Parliament.

(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 **47.** The Prime Minister, a Minister of the Cabinet of Ministers, any Prime Minister, other Minister or Deputy Minister shall continue to hold office Minister and Deputy throughout the period during which the Cabinet of Ministers continues Minister 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
Minister 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.

Dissolution of
Cabinet of
Ministers

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 :

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.

Secretary to Cabinet of Ministers. **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.

Secretaries to Ministries. **52.**

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

(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.

(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 exist

(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

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

(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.

(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.

official oath or affirmation. **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.

CHAPTER IX

THE EXECUTIVE

THE PUBLIC SERVICE

4, 17th
Amendment.
Public Service
Commission.

54

(1) There shall be a Public Service Commission (in this Chapter referred to as the "Commission") which shall consist of nine members appointed by the President on the recommendation of the Constitution Council, of whom not less than three members shall be persons who have had over fifteen years experience as a public officer. The President on the recommendation of the Constitutional Council shall appoint one member as its Chairman.

(2) No person shall be appointed as a member of the Commission or continue to hold office as such member if he is or becomes a member of Parliament, a Provincial Council or a local authority.

(3) Every person who immediately before his appointment as a member of the Commission was a public officer in the service of the State or a judicial officer, shall; upon such appointment taking effect cease to hold such office and shall be ineligible for further appointment as a public officer or a

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 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 purpose of any provision relating to the grant of pensions, gratuities and other allowances in respect of such service.

(4) Every member of the Commission shall hold office for a period of three years from the date of his appointment, unless he becomes subject to any disqualification under paragraph (2) of this Article or earlier resigns from his office by writing addressed to the President or is removed from office by the President on the recommendation of the Constitutional Council or is convicted by a court of law of any offence involving moral turpitude or if a resolution for the imposition of civic disability upon him has been passed in terms of Article 81 or is deemed to have vacated his office under paragraph (5) of this Article.

(5) A member of the Commission shall be eligible for reappointment as a member, but shall not be eligible for appointment as a public officer or a judicial officer after the expiry of his term of office as a member. No member shall be eligible to hold office as a member of the Commission for more than two terms.

(6) A member of the Commission who without obtaining prior leave of the Commission absents himself from three consecutive meetings of the Commission, shall be deemed to have vacated office with effect from the date of the third of such meetings, and shall not be eligible thereafter to be reappointed as a member of the Commission.

(7) The President may grant a member leave from the performance of his duties relating to the Commission for a period not exceeding two months and shall for the duration of such period on the recommendation of the Constitutional Council, appoint a person qualified to be a member of the Commission to be a temporary member for the period of such leave.

(8) A member of the Commission shall be paid such emoluments as may be determined by Parliament. The emoluments paid to a member of the Commission shall be charged on the Consolidated Fund and shall not be diminished during the term of office of such member.

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

(10) There shall be a Secretary to the Commission who shall be appointed by the Commission.

(11) The members of the Commission shall be deemed to be public servants, within the meaning and for the purposes of Chapter IX of the Penal Code.

Powers and function **55**
of cabinet of Ministers
and of the
Commission.

(1) The appointment, promotion, transfer, disciplinary control and dismissal of public officers shall be vested in the Commission.

(2) The Commission shall not derogate from the functions and powers of the Provincial Public Service Commissions established by law.

(3) Notwithstanding the provisions of paragraph (1) of this Article, the appointment, promotion, transfer, disciplinary control and dismissal of all Heads of Departments shall vest in the Cabinet of Ministers, who shall exercise such powers after ascertaining the views of the Commission.

(4) Subject to the provisions of the Constitution, the Cabinet of Ministers shall provide for and determine all matters of policy relating to public officers.

(5) The Commission shall be responsible and answerable to Parliament in accordance with the provisions of the Standing Orders of Parliament for the exercise and discharge of its powers and functions, and shall forward to Parliament in each calendar year, a report of its activities for such year.

Committees of **56**
the Commission.

(1) The Commission may delegate to a Committee consisting of three persons (not being members of the Commission) appointed by the Commission, the powers of appointment, promotion, transfer, disciplinary control and dismissal of such categories of public officers as are specified by the Commission.

(2) The Commission shall cause the appointment of any such Committee to be published in the Gazette.

(3) The procedure and quorum for meetings of any such Committee shall be as determined by the Commission by rules made in that behalf. The Commission shall cause such rules to be published in the Gazette.

(4) There shall be a Secretary to each Committee, who shall be appointed by the Commission. Delegation of powers to a public officer.

Delegation of powers to a public officer. **57**

(1) The Commission may delegate to a public officer, subject to such conditions and procedure as may be determined by the Commission, its powers of appointment, promotion, transfer, disciplinary control and dismissal of such category of public officers as are specified by the Commission.

(2) The Commission shall cause any such delegation to be published in the Gazette, including the conditions and procedure determined by the Commission for such purpose,

Right of appeal. **58**

(1) Any public officer aggrieved by an order relating to a promotion, transfer, dismissal or an order on a disciplinary matter made by a Committee or any public officer under Article 56 or Article 57, in respect of the officer so aggrieved, may appeal to the Commission against such order in accordance with such rules made by the Commission from time to time, relating to the procedure to be followed in the making, hearing and determination of an appeal made to the Commission and the period fixed within which an appeal should be heard and concluded.

(2) The Commission shall have the power upon such appeal to alter, vary, rescind or confirm an order against which an appeal is made, or to give directions in relation thereto, or to order such further or other inquiry as to the Commission shall seem fit.

(3) The Commission shall cause to be published in the Gazette the rules made by it under paragraph (1) of this Article.

Administrative Appeals Tribunal. **59**

(1) There shall be an Administrative Appeals Tribunal appointed by the Judicial Service Commission.

(2) The Administrative Appeals Tribunal shall have the power to alter, vary or rescind any order or decision made by the Commission,

(3) The constitution, powers and procedure of such Tribunal, including the time limits for the preferring of appeals, shall be provided for by law.

Commission not to exercise power where there is delegation. **60**

Upon delegation of any of its 'powers to a Committee or a public officer appointed under Article 56 or Article 57 as the case may be, the Commission shall not, while such delegation IS In once, exercise or perform Its functions or unless In regal' to the categories of public officers in respect of which such. delegation is made, subject to the provisions contained in paragraphs (1) and (2) of Article 58.

Procedure at **61**
meetings.

- (1) The quorum for a meeting of the Commission shall be five members,
- (2) All decisions of the Commission shall be made by a majority of votes of the members present at the meeting. In the event of an equality of votes, the member presiding at the meeting shall have a casting vote.
- (3) The Chairman of the Commission shall preside at all meetings of the Commission, and in his absence, a member elected by the members present from amongst themselves, shall preside at such meeting. . Immunity from legal proceedings.

Immunity from
legal
proceedings.

61A Subject to the provisions of paragraphs (1), (2), (3), (4) and (5) of Article 126, no court or tribunal shall have power or jurisdiction to inquire into, or pronounce upon or in any manner call in question any order or decision made by the Commission, a Committee, or any public officer, in pursuance of any power or duty conferred or imposed on such Commission, or delegated to a Committee or public officer, under this Chapter or under any other law.

Savings of rules
and regulations
in force.

61B Until the Commission otherwise provides, all rules, regulations and procedures relating to the public service as are in force on the date of the coming into operation of this Chapter, shall, mutatis mutandis, be deemed to continue in force as rules, regulations and procedures relating to the public service, as if they had been made or provided for under this Chapter.

Interference with
the Commission.

- (1) Every person who, otherwise than in the course of such person's lawful duty, directly or indirectly by himself or by or with any other person, in any manner whatsoever influences or attempts to influence or interferes with any decision of the Commission, or a Committee or a public officer to whom the Commission has delegated any power under this Chapter, or to so influence any member of the Commission or a Committee, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand rupees or to imprisonment for a term not exceeding seven years, or to both such fine and imprisonment.
- (2) Every High Court established under Article 154P of the Constitution shall have jurisdiction to hear and determine any matter referred to in paragraph (1) of this Article.

Oath or affirmation of office. **61D** 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 to the Constitution.

Appointments by the President. **61E** The President shall appoint

(a) the Heads of the Army, the Navy and the Air Force; and

(b) subject to the provisions of Article 41 C, the Attorney General and the Inspector-General of Police.

Interpretation. **61F** For the purposes of this Chapter "public officer" does not include a member of the Army, Navy or Air Force, an officer of the Election Commission appointed by such Commission, a police officer appointed by the National Police Commission or a scheduled public officer appointed by the Judicial Service Commission.

CHAPTER X THE LEGISLATURE PARLIAMENT

Parliament. **62.**
3,14th
Amendment.

(1) There shall be a Parliament which shall consist of two hundred and twenty-five Members elected 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:- solemnly declare and affirm quoting. . . .do swear that I will 'uphold and defend the Constitution of the Democratic Socialist Republic of Sri "Lanka." Speaker, Deputy Speaker and Deputy Chairman of Committees.

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.

Secretary General of **65.**
Parliament. 5,17th
Amendment.

(1) There shall be a Secretary-General of Parliament who shall, subject to the provisions of Article 41C, 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 subject to the provisions of Article 41C, 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.
 - (ii)

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.

Allowances of Members. **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.
- (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.

Power of Parliament to act notwithstanding vacancies. **69.** Parliament shall have power to act notwithstanding any vacancy in its membership, and its proceedings shall be 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.

CHAPTER XI
THE LEGISLATURE
PROCEDURE AND POWERS

Sessions of Parliament. **70.**

(1) The President may, from time to time, by Proclamation summon, prorogue and dissolve 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;

(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 Duties of Attorney-General in regard to published bills. 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.

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 :
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.

Delegation of legislative power. **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.

(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.

Duties of Attorney-General in Regard to published Bills **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. Publication of Bills and passing of Bills and resolutions. Certificate of Speaker. When Bill becomes law.

(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 **78.**
and passing of Bills
and resolutions.

(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.**
4,14th
Amendment.

(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.

Expulsion of
Members and
imposition of civic
disability. **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 Amendment or repeal of the Constitution must be expressed. 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.

Approval of certain Bills at a Referendum. **83.** Notwithstanding anything to the contrary in the provisions of Article 82 -

(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.

Bills inconsistent with the Constitution. **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.

Submission of matters of national importance to People by Referendum.

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.

Parliament to provide for procedure. 27,17th Amendment. **87.**

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

(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

Right to be an elector. **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:

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;

6,17th (j) if the period of his disqualification imposed under Article Amendment 116 or Article 111C, as the case may be, has not elapsed.

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

Disqualification for **91**.
election as a Member
of Parliament

(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,

7,17th Amendment (iva) a member of a Provincial Public Service Commission,

(v) the Commissioner-General of Elections,

(va) a Member of the Elections Commission,

(vb) a Member of the Constitutional Council,

(vc) a Member of the National police Commission,

(vi) the Auditor-General,

2,9th Amendment (vii) a public officer holding any office created prior to November 18, 1970, the initial of the salary scale of which was, on November 18, 1970, not less than Rs. 6,720 per annum or

such other amount per annum 'as would, under any subsequent revision of salary scales, correspond to such initial,

(viii) a public officer holding any office created after to November 18, 1970, the initial of the salary scale of which is, on the date of the creation of that office, not less than the initial of the salary scale applicable, on that date, to an office referred to in item (vii) or such other amount per annum as would, under any subsequent revision of salary scales, correspond to the first-mentioned initial,

7,17th Amendment. (viiiia) an officer of a Provincial Public Service holding any office created after February 01, 1988, the initial of the salary scale of which is, on the date of the creation of that office, not less than such amount as determined by resolution of Parliament, or such other amount per annum as would, under any subsequence revision of such salary scales, correspond to such initial,

(ix) an officer in any public corporation holding any office created prior to November 18, 1970, the initial of the salary scale of which was, on November 18, 1970, not less than Rs, 7 ,200 per annum or such other amount per annum as would, under any subsequent revision of salary scales, correspond to such initial,

(x) an officer in any public corporation holding any office created after November 18, 1970, the initial of the salary scale of which is, on the date of creation of that office, not less than the initial of the salary scale applicable on that date to an office referred to in item

(xi) or such other amount per annum as would, under any subsequent revision of salary scales, correspond to the first-mentioned initial, (xi) a member of the Regular Force of the Army, Navy or Air Force, or

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

(e) The has any such interest in any such contract

made by or on behalf of the State or 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 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

(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.

Delimitation **95.**
Commission

(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.

(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.

Electoral districts. 3,7th Amendment.

96.

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

(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.

Number of members to be returned by the several **98.**

electoral districts and their apportionment among such electoral districts.

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

(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.

3,15th Amendment. (8) The Election Commission, 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.

(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. 7,14 Amendment. 27th,17th Amendment.

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 Election Commission in the Order published in accordance with the provisions of paragraph (8) of Article 98.

(2) Every Elector at an election of Members of Parliament shall in addition to his vote be entitled to indicate his preferences for not more than three candidates nominated by the same recognized political party or independent group.

(3) 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 of such number of candidates as is equivalent to the number of members to be electoral district, increased by three

(4) 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.

(5) The recognized political party and independent group which polls the highest number of votes in any electoral district shall be entitled to have the candidate nominated by it, who has secured the highest number of preferences, declared elected

4,15th Amendment. (6)

(a) Every recognized political party and independent group polling less than one-twentieth 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".

(7) 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".

(8) The number of votes polled by each recognized political party and independent group (other than those parties or groups disqualified under paragraph (6) 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 the returning officer shall declare elected from each such party or group, in accordance with the preferences secured each of the candidates nominated by such party or group (the candidate securing the highest number of preferences being declared elected first, the candidate securing the next highest number of preferences being declared elected next and so on) such number of candidates (excluding the candidate declared elected under paragraph (5) 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. The remainder of the votes, if any, after such division, shall be dealt with, if necessary, under paragraph (9) of this Article.

(9) Where after the declaration of the election of members as provided in paragraph (8) 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 (8) 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 (8), the candidate nominated by the party or group having the highest or next highest number of preferences being declared elected a member and so on

until all the members to be elected are declared elected.

(10)

(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 (7) of this Article the party or group which has polled the highest number of votes shall be entitled to have the candidate nominated by that party or group (excluding the candidate declared elected under paragraph (5) of this Article) who has secured the highest number of preferences 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 candidate nominated by that party or group who has secured the highest member of preferences 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.

(11) Where under paragraph (5) or (3) or (10) 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.

(12) 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.

(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 candidate from the relevant recognized political party or independent group who has secured the next highest number of preferences shall be declared elected to fill such vacancy.

Election of Members of Parliament on the basis of the total number of votes polled at a General Election. 8, 14th Amendment. 27th, 17th Amendment.

99A After the one hundred and ninety six members referred to in Article 98 have been declared elected at a General Election of Members of Parliament, Election Commission shall for forthwith apportion the balance twenty nine seats among the recognized political parties and independent groups contesting such General Election in the same proportion as the proportion which the number of votes polled by each such party or group at such General Election bears to the total number of votes polled at such General Election and for the purposes of such apportionment, the provisions of paragraphs (4), (5), (6) and (7) of Article 98 shall, mutatis mutandis, apply. § 27th, 17th Amendment. Every recognized political party or independent group contesting a General Election shall submit to the Election Commission within the nomination period specified for such election a list of persons qualified to be elected as Members of Parliament, from which it may nominate persons to fill the seats, if any, which such party or group will be entitled to, on such apportionment. The Election Commission shall cause every list submitted to him under this Article to be published forthwith in the Gazette and in one Sinhala, Tamil and English newspaper upon the expiry of the nomination period.

27th, 17th Amendment. 27th, 17th Amendment. Every recognized political party or independent group contesting a General Election shall submit to the Election Commission within the nomination period specified for such election a list of persons qualified to be elected as Members of Parliament, from which it may nominate

persons to fill the seats, if any, which such party or group will be entitled to, on such apportionment. The Election Commission shall cause every list submitted to him under this Article to be published forthwith in the Gazette and in one Sinhala, Tamil and English newspaper upon the expiry of the nomination period.

27th, 17th
Amendment. 27th,
17th Amendment. Where a recognized political party or independent group is entitled to a seat under the apportionment referred to above, the Election Commission shall by a notice, require the secretary of such recognized political party or group leader of such independent group to nominate within one week of such notice, persons qualified to be elected as Members of Parliament (being persons whose names are included in the list submitted to the Election Commission under this Article or in any nomination paper submitted in respect of any electoral district by such party or group at that election) to fill such seats and shall declare elected as Members of Parliament, the persons so nominated.

5th, 15th
Amendment. 27th,
17th Amendment. The Election Commission shall before issuing the aforesaid notice determine whether the number of members belonging to any community, ethnic or otherwise, elected to Parliament under Article 98 is commensurate with its national population ratio and request the secretary of such recognized political party or group leader of such independent group in so nominating persons to be elected as Members of Parliament to ensure as far as practicable that the representation of all communities is commensurate with its national population ratio.

For the purposes of this Article the number of votes polled at a General Election shall be deemed to be the number of votes actually counted and shall not include any votes rejected as void.

Penalty for sitting and voting in Parliament when disqualified **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;

2,6 Amendment (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 or where a recognized political party or independent group has been proscribed under article 157A ; and
(i) 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.

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

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.

Chapter XIVA

Election Commission*

The Election Commission. 9,17th Amendment.

103.

(1) There shall be an Election Commission (in this Chapter referred to as the "Commission") consisting of five members appointed by the President on the recommendation of the

Constitutional Council, from amongst persons who have distinguished themselves in any profession or in the fields of administration or education. The President shall on the recommendation of the Constitutional Council, appoint one member as its Chairman.

(2) The object of the Commission shall be to conduct free and fair elections and Referenda.

(3) No person shall be appointed as a member of the Commission or continue to hold office as such member if he is or becomes a member of Parliament, a Provincial Councilor a local authority, or is or appointed a judicial officer or public officer, or is or enters into the employment of the State in any capacity whatsoever.

(4) The provisions of the Constitution and any other law relating to the removal of judges of the Supreme Court and the Court of Appeal from office shall, mutatis mutandis, apply to the removal of a member of the Commission from office.

(5) A member of the Commission who without obtaining prior leave of the Commission, absents himself from three consecutive meetings of the Commission shall be deemed to have vacated office with effect from the date of the third of such meetings.

(6) A member of the Commission shall hold office for a period of five years from the date of appointment, unless he becomes subject to any disqualification under paragraph (3) of this Article or earlier resigns from office by writing addressed to the President or is removed from office under paragraph (4) of this Article, or is convicted by a court of Jaw of any offence involving moral turpitude, or if a resolution for the imposition of civic disability upon him has been passed in terms of Article 81 or is deemed to have vacated office under paragraph (5) of this Article.

(7) The President may grant a member leave from the predominance of his duties relating to the Commission for a period not exceeding two months and may appoint a person qualified to be a member of the Commission to be a temporary member for the period of such leave. Every such appointment shall be made on the recommendation of the Constitutional Council.

(8) A member of the Commission shall be paid such emoluments as may be determined by Parliament. The emoluments paid to a member of the Commission shall be charged on the Consolidated Fund and shall not be diminished during the term of office of the member,

(9) All members of the Commission shall be deemed to be public servants within the meaning and for the purposes of Chapter IX of the Penal Code.

Meetings of the Commissioner **104.**

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

(2)

(a) The Chairman of the Commission shall preside at all meetings of the Commission and, in the absence of the Chairman from any meeting of the Commission, a member elected by the members present from amongst themselves shall preside at such meeting.

(b) Decisions of the commission shall be by a majority of the members present and voting at the meeting at which the decision is taken and in the event of an equality of votes, the Chairman or the member presiding at the meeting shall have a casting vote,

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

Finality of decisions and immunity from suit.

104A Subject to the jurisdiction conferred on the Supreme Court under paragraph (I) of Article 126, Article 104 Hand Article 130, and on the Court of Appeal by Article 144, and the jurisdiction conferred on any court by any law to hear and determine election petitions or Referendum petitions

(a) no court shall have the power or jurisdiction to entertain or hear or decide or call in question on any ground and in any manner whatsoever, any decision, direction or act of the Commission, made or done or purported to have been made or done under the Constitution or under any law relating to the holding of an election or the conduct of a . Referendum as the case may be, which decisions, directions or acts shall be final and conclusive: and

(b) no suit or prosecution or other proceedings shall lie against any member or officer of the Commission for any act of thing which in good faith is done or purported to be done by him in the performance of his duties or the discharge of his functions under the Constitution or under any law relating to the holding of an election or the conduct of a Referendum as the case may be;

Powers, functions and duties of the Commission. **104B**

(1) The Commission shall exercise, perform and discharge all such powers duties and functions conferred or imposed on or assigned to

(a) the Commission; or

(b) the Commissioner-General of Elections,

by the Constitution, and by the law for the time being relating to the election of the President, the election of Members of Parliament, the election of members of Provincial Councils, the election of members of local authorities and the conduct of Referenda, including but not limited to all the powers, duties and functions relating to the preparation and revision of registers of electors for the purposes of such elections and Referenda and the conduct of such elections and Referenda.

(2) It shall be the duty of the Commission to secure the enforcement of all laws relating to the holding of any such election or the conduct of Referenda, and it shall be the duty of all authorities of the State charged with the enforcement of such laws, to co-operate with the Commission to secure such enforcement.

(3) The Commission shall be responsible and answerable to Parliament in accordance with the provisions of the Standing Orders of Parliament for the exercise, performance and discharge of its powers, duties and functions and shall forward to Parliament for each calendar year a report of its activities for such year.

(4)

(a) , The Commission shall have the power during the period of an election, to prohibit the use of any movable or immovable property belonging to the State or any public corporation

(i) for the purpose of promoting or preventing the election of any candidate or any political party or independent group contesting at such election;

(ii)by any candidate or any political party or any independent group contesting at such election,

by a direction in writing by the Chairman of the Commission or of the Commissioner-General of Elections on the instruction of the Commission.

(b) It shall be the duty of every person or officer in whose custody or under whose control such property is for the time being to comply with and give effect to such direction.

(5)

(a) The Commission shall have the power to issue from time to time, in respect of the holding of any election or the conduct of a Referendum, such guidelines as the Commission may consider appropriate to any broadcasting or telecasting operator or any proprietor or publisher of a newspaper as the case may be, as the Commission may consider necessary to ensure a free and fair election.

(b) It shall be the duty of the Chairman of the Sri Lanka Broadcasting Corporation and the Chairman of the Sri Lanka Rupavahini Corporation, to take all necessary steps to ensure compliance with any guidelines as are issued to them under sub-paragraph (a).

(c) Where the Sri Lanka Broadcasting Corporation and the Sri Lanka Rupavahini Corporation as the case maybe, contravenes any guidelines issued by the Commission under sub-paragraph (a), the Commission may appoint a Competent Authority by name or by office, who shall, with effect from the date of such appointment, take over the management of such Broadcasting Corporation or Rupavahini Corporation as the case maybe, in respect of all political broadcasts or any other broadcast, which in the opinion of the Commission impinge on the election, until the conclusion of the election and the Sri Lanka Broadcasting Corporation and the Sri Lanka Rupavahini Corporation, shall not, during such period, discharge any function connected with or relating to such management which is taken over by the Competent Authority.

(d) Parliament may by law provide for the powers and functions of the Competent Authority appointed under subparagraph (c)

Deployment of police by the Commission. **104C**

(1) Upon the making of an Order for the holding of an election or the making of a Proclamation requiring the conduct of a Referendum, as the case maybe, the Commission shall notify the Inspector-General of Police of the facilities and the number of police officers required by the Commission for the holding or conduct of such election or Referendum, as the case may be.

(2) The Inspector-General of Police shall make available to

the Commission the facilities and police officers specified in any notification made under paragraph (1) of this Article.

(3) The Commission may deploy the police officers and facilities made available to the Commission in such manner as is calculated to promote the conduct of a free and fair election or Referendum, as the case may be.

(4) Every police officer made available to the Commission under paragraph (2) of this Article, shall be responsible to and act under the direction and control of the Commission during the period of an election.

(5) No suit, prosecution or other proceeding, shall lie against any police officer made available to the Commission under this Article for any lawful act or thing in good faith done by such police officer, in pursuance of a direction of the Commission or his functioning under the Commission.

Deployment of **104D** It shall be lawful for the Commission upon the making of an Order for Armed Forces. the holding of an election or the making of a Proclamation requiring the conduct of a Referendum, as the case maybe, to make recommendations to the President regarding the deployment of the armed forces of the Republic for the prevention or control of any actions or incidents which may be prejudicial to the holding or conducting of a free and fair election or Referendum, as the case may be.

Commissioner-General **104E**
of Elections and other
officers of the
Commission.

(1) There shall be a Commissioner-General of Elections who shall, subject to the approval of the Constitutional Council, be appointed by the Commission on such terms and conditions as shall be determined by the Commission.

(2) The Commissioner-General of Elections shall be entitled to be present at meetings of the Commission except where any matter relating to him is being considered by the Commission. He shall have no right to vote at such meetings.

(3) The Commission may appoint such other officers to the Commission on such terms and conditions as may be determined by the Commission.

(4) The salaries of the Commissioner-General of Elections and other officers of the Commission, shall be determined by the Commission and shall be charged on the Consolidated Fund.

(5) The Commissioner-General of Elections shall, subject to the direction and control of the Commission, implement the decisions of the Commission and exercise supervision over the officers of the Commission.

(6) The Commission may delegate to the Commissioner-General of Elections or other officer of the Commission, any power, duty or function of the Commission, and the Commissioner General of Elections or such officer shall exercise, perform and discharge such power, duty or function, subject to the direction and control of the Commission.

(7) The office of the Commissioner-General of Elections shall become vacant

(a) upon his death;

(b) on his resignation in writing addressed to the Commission;

(c) on his attaining the age of sixty five years'

(d) on his removal by the Commission on account of ill health or physical or mental infirmity; or

(e) on his removal by the Commission on the presentation of an address of Parliament in compliance with the provisions of paragraph (8), for such removal on the ground of proved misbehavior or incapacity.

(8)

(a) The address referred to in sub-paragraph (e) of paragraph (7) of this Article shall be required to be supported by a majority of the total number of Members of Parliament (including those not present) and 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 misbehavior or incapacity.

(b) 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 misbehavior or incapacity and the right of the Commissioner-General of Elections to appear and to be heard in person or by representatives.

Returning **104F**
Officers.

(1) The Commission shall from time to time by notice published in the Gazette appoint by name or by office a person to be a Returning

Officer to each electoral district, and may appoint by name or by office one or more persons to assist the Returning Officer in the performance of his duties.

(2) Every Officer appointed under paragraph (1) shall in the performance and discharge of such duties and functions as are assigned to him, be subject to such directions as may be issued by the Commission and shall be responsible and answerable to the Commission therefor.

Public officers. **104G** All public officers performing duties and functions at any election or Referenda shall act in the performance and discharge of such duties and functions under the directions of the Commission, and shall be responsible and answerable to the Commission therefor.

Power of Supreme Court to issue writs. **104H**

(1) The jurisdiction conferred on the Court of Appeal under Article 140 of the Constitution shall, in relation to any matter that may arise in the exercise by the Commission of the powers conferred on it by the Constitution or by any other law, be exercised by the Supreme Court.

(2) Every application invoking the jurisdiction referred to in paragraph (1), shall be made within one month of the date of the commission of the act to which the application relates. The Supreme Court shall hear and finally dispose of the application within two months of the filing of the same.

Interpretation. **104J** In this Chapter "during the period of an election" shall mean the period commencing on the making of a Proclamation or Order for the conduct of a Referendum or for the holding of an election, as the case may be, and ending on the date on which the result of poll taken at such Referendum or election, as the case maybe, is declared.

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.

(1) The sittings of every court, tribunal or other in situation

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.

(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*

Appointment and removal of judges of the Supreme Court and Court of Appeal. 107.
10,17th Amendment.

(1) The Chief Justice, the President of the Court of Appeal and every other judge of the Supreme Court and Court of Appeal shall, subject to the provisions in Article 41C be appointed by the President 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 misbehavior 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 misbehavior 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 misbehavior 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.

Salaries judges of the **108.**
Supreme Court and
Court of Appeal.

(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.

(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.

Acting **109.**
appointments.
11,17th
Amendment.

(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 subject to the provisions of Article 41C, 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.

(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, subject to the provisions of Article 41C, appoint another person to act as a Judge of the Supreme Court or Court of Appeal, as the case may be, during such period.

Performance or **110.**
discharge of other
duties or functions by
Judges.

(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.

(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 to other judicial

(3) No person who has held office as a permanent Judge of the Supreme Court or of the Court of Appeal may appear, plead, 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 control of
Judges of the High
Court.

111.

(1) There shall be a High Court of Sri Lanka, which shall exercise such jurisdiction and powers as Parliament may by law vest or ordain.

2,11th Amendment. (2) The Judges of the High Court* shall (a) on the recommendation of the Judicial Service Commission, be appointed by the President by warrant under his hand and (b) be removable and be subject to the disciplinary control of the President on the recommendation of the Judicial Service Commission.

12,17th Amendment.

(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.

(4) Any Judge of the High Court may resign his office by writing under his hand addressed to the President.

Commissioners of the
High Court, 4, 7th
Amendment. 13, 17th
Amendment.

111A

(1) Where the Minister in charge of the subject of Justice represents to the President that it is expedient that the number of Judges exercising the jurisdiction and powers of the High Court in any judicial zone should be temporarily increased, the President may, on the recommendation of the Judicial Service Commission, by warrant, appoint one or more Commissioners of the High Court to exercise the jurisdiction and powers of the High Court within such judicial zone as is specified in the warrant of appointment of such Commissioner of the High Court.

(2) Every Commissioner of the High Court appointed under paragraph (1) shall hold office for the period specified in his warrant of appointment and shall be removable, and be subject to disciplinary control, by the President, on the recommendation of the Judicial Service Commission.

(3) Every Commissioner of the High Court appointed under paragraph (1) may, during his tenure of office,

exercise, according to law, such jurisdiction and powers as is, or are, vested or ordained in the High Court by Parliament, and shall be invested with all the rights, powers, privileges and immunities (except such rights and privileges as relate to tenure of office) of a Judge 'of the High Court, and for this purpose, a reference to a "Judge of the High Court" in the Constitution or other written law shall, unless the context otherwise requires, be deemed to include a reference to a "Commissioner of the High Court".

Fiscal for the whole island. 14, 17th Amendment.

111B There shall be a Fiscal, who shall be the Fiscal for the whole Island and who shall exercise supervision and control over Deputy Fiscals attached to all Courts of First Instance.

Interference with judiciary an offence. 15, 17th Amendment.

111C

(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 terms 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.

Chapter XVA

Judicial Service Commission*

16, 17th Amendment. **111D**
Constitution of the
Judicial Service
Commission.

- (1) There shall be a Judicial Service Commission (in this Chapter referred to as the "Commission") consisting of the Chief Justice and two other Judges of the Supreme Court appointed by the President, subject to the provisions of Article 41c.
- (2) The Chief Justice shall be the Chairman of the Commission.

Meetings of the **111E**
Commission.

- (1) The quorum for any meeting of the Commission shall be two members of the
- (2) 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 three years from the date of his appointment, but shall be eligible for re-appointment.
- (3) All decisions of the Commission shall be made by a majority of the members present, and in the event of an equality of votes, the Chairman of the meeting shall have a casting vote.
- (4) The 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 such vacancy or any defect in the appointment of a member.
- (5) The President may grant to any member of the Commission leave from his duties and may appoint on the recommendation of the Constitutional Council, a person qualified to be a member of the Commission to be a temporary member for the period of such leave.
- (6) The President may, on the recommendation of the Constitutional Council, for cause assigned, remove from office any member of the Commission.

Allowances of
members of the
Commission.

111F A member of the Commission shall be paid such allowances shall may be determined by Parliament. Such allowances shall be charged on the Consolidated Fund and shall not be reduced during the period of office of a member, and shall be in addition to the salary and other allowances attached to, and received from, the substantive appointment:

Provided that until the amount to be paid as allowances is determined under the provisions of this Article, the members or the Commission shall continue to receive as allowances, such amount as they were receiving on the day immediately preceding the date on which this Chapter comes into operation.

Secretary to the Commission. **111G** There shall be a Secretary to the Commission who shall be appointed by the Commission from among senior judicial officers of the Courts of First Instance.

Powers of the Commission. **111H**

(1) The Judicial Service Commission is hereby vested with the power to (a) transfer judges of the High Court . (b) appoint, promote, transfer, exercise disciplinary control and dismiss judicial officers and scheduled public officers.

(2) The Commission may make (a) rules regarding training of Judges of the High Court, the schemes for recruitment and training, appointment, promotion and transfer of judicial offices and scheduled public officers; (b) provision for such matters as are necessary or expedient for the exercise, performance and discharge of the powers, duties and functions of the Commission.

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

(4) The Commission may by Order published in the Gazette delegate to the Secretary to the Commission the power to make transfers in respect of scheduled public officers, 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.

Judicial officers and scheduled public officers may resign. **111J** Any judicial officer or scheduled public officer may resign his office by writing under his hand addressed to the Chairman of the Commission.

Immunity from legal proceedings. **111K** No suit or proceeding shall lie against the Chairman, member or Secretary or officer or the Commission for any lawful act which in good faith is done in the performance of his duties or functions as such Chairman, member, Secretary or officer of the Commission.

Interference with the Commission an offence. **111L**

(1) Every person who otherwise than in the course of such person's lawful duty, directly or indirectly alone or by or with any other person, in any manner whatsoever, influences or attempts to influence any decision or order made by the

Commission or to so influence any member thereof, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand rupees or to imprisonment for a term not exceeding three years or to both such fine and imprisonment:

Provided however that the giving of a certificate or testimonial to any applicant or candidate for any judicial office or scheduled public office shall not be an offence.

(2) Every High Court established under Article 154P of the Constitution shall have jurisdiction to hear and determine any matter referred to in paragraph (1)

Interpretation. **111M**

(a) In this Chapter

"appointment" includes the appointment to act in any office referred to in this Chapter.

"judicial officer" means any person who holds office as judge, presiding officer, or member of any 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 Judge of the Supreme Court or of the Court of Appeal or of the High Court or a person who performs arbitral functions, or a public officer whose principal duty is not the performance of functions of a judicial nature; and "scheduled public officer" means the Registrar of the Supreme Court, the Registrar of the Court of Appeal, the Registrar, Deputy Registrar or Assistant Registrar of the High Court or any Court of First Instance, the Fiscal, the Deputy Fiscal of the Court of Appeal or High Court and any Court of First Instance, any public officer employed in the Registry of the Supreme Court, Court of Appeal or High Court or any Court of First Instance included in a category specified in the Fifth Schedule or 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.

(b) No court, tribunal or institution shall have jurisdiction to entertain or to determine the question whether or not a person is a judicial officer within the meaning of the Constitution, but such question shall be determined solely by the Commission, whose decision thereon shall be final and conclusive.

(c) No act of such person or proceeding held before such person, prior to such determination as is referred to in subparagraph (b) shall be deemed to be invalid by reason of such determination.

(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 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. Commission.

Secretary to the **113.**
Commission

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

(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.

Appointment to other judicial offices. **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.

(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.

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 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.

Interference with **116**.
judiciary an
offence.

(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.

Immunity of
members of the
commission.

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. General Jurisdiction of Supreme Court. Constitution of Supreme Court. Constitutional Jurisdiction of the Supreme Court.

CHAPTER XVI THE SUPERIOR COURTS

THE SUPREME COURT

General jurisdiction **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 be 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 **119**.
Supreme Court.

- (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.

Constitutional
jurisdiction of the
Supreme Court.
Provided that-

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 :

- (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 the provisions of Article 83 or whether such Bill is required to comply with the provisions of paragraphs (1) and (2) of Article 82.

Ordinary exercise of **121**
constitutional
jurisdiction in respect
of Bills.

(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.

Special exercise of **122.**
constitutional
jurisdiction in respect
of urgent Bills.

(1) 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.

Determination of the **123**,
Supreme Court in
respect of Bills.

(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.

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.

Appellate jurisdiction. **127.**

(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.

(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 **128.**
appeal.

(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 **129.**
jurisdiction.

(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.

Jurisdiction in election petition. 9,14th Amendment. **130.** The Supreme Court shall have the power to hear and determine and make such orders as provided for by law on - privileges

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

(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 or the validity of the referendum shall be by at least five Judges of the Supreme Court of whom, unless he otherwise directs, the Chief Justice shall be one.

Jurisdiction in respect of the breaches of the Parliamentary privileges. **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,

Sittings of the Supreme Court. **132.**

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

(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

(111) 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 **133**.
ad hoc Judges.

(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 **134**
by the Supreme
Court.

(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.

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

Rules of the **136**.
Supreme Court.

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(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-

(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;

3,8th Amendment. (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;

(1) 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

The Court of **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.

Jurisdiction of the **138**.
Court of Appeal.
3,13th Amendment.

(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 the High Court, in the exercise of its appellate or original jurisdiction or 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 High 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.

Powers **139**.
in
appeal.

(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.

Power to issue writs, other than writs of and habeas corpus. **140.** Subject to the provisions of the Constitution, the Court of Appeal shall have full power and authority to inspect 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:

2, 1st Amendment. Provided that Parliament may by law provide that in any such category of cases as may be specified in such law, the jurisdiction 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

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

(iv)

Power to grant injunctions. **143.** The Court of Appeal shall have the power to grant and issue injunctions to prevent any irreparable 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:

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.

Parliamentary elections petitions. **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.

Inspection of records. **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.

Sittings of the Court of Appeal. **146.**

(1) The Court of Appeal shall ordinarily exercise its jurisdiction at Colombo:

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.

6,11th Amendment. (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

(a) judgments and orders of the High Court pronounced at the trial at bar, shall be exercised by at least three Judges of the Court; and

(b) other judgement and orders of the High Court shall be exercised by at least three Judges of the Court;

(ii) 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 the President or one or of such Judges nominated by the President of whom such President may be one;

(iii) its jurisdiction in respect of other matters shall be exercised by single Judge of the Court, unless the President of the Court of Appeal by general or special order otherwise directs ;

(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.

Registry of the Court of Appeal and office of Registrar. **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.

CHAPTER XVII

FINANCE

Control of Parliament over public 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.

Consolidated fund. **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.

withdrawal of sums from 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.

(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.

27th,17th Amendment. (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 Election Commission, consider necessary for such elections.

Contingencies Fund. **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. Special provisions as to Bills affecting public revenue. Auditor-General.

(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.

Special Provisions as to Bills **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

affecting Public revenue. 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.

Auditor-General. **153.**
18,17th
Amendment.

- (1) There shall be an Auditor-General* who shall, subject to the provisions of Article 41C 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, subject to the provisions of Article 41C, appoint a person to act in the place of the Auditor-General.

Duties and functions of Auditor-General. **154.**
27th,17th
Amendment.

- (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 Election Commission , 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

(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, possess 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 XVIIIA

4, 13th **154A**
Amendment.

(1) Subject to the provisions of the Constitution, a Provincial Council shall be established for every Province specified in the Eight Schedule with effect from such date or dates as the President may appoint by Order published in the Gazette. Different dates may be appointed in respect of different Provinces.

(2) Every Provincial Council established under paragraph (1) shall be constituted upon the election of the members of such Council in accordance with the law relating to Provincial Council elections.

(3) Notwithstanding anything in the preceding provisions of this Article, Parliament may by, order under, any law provide for two or three adjoining Provinces to form one administrative unit with one elected Provincial Council, one Governor, one Chief Minister and one Board of Ministers and for the manner of determining whether such Provinces should continue to be administered as one administrative unit or whether each such Province should constitute a separate administrative unit with its own Provincial Council, and a separate Governor, Chief Minister and Board of

Ministers.

Governor. **154B**

(1) There shall be a Governor for each Province for which a Provincial Council has been established in accordance with Article 154A.

(2) The Governor shall be appointed by the President by warrant under his hand, and shall hold office, in accordance with Article 4(b), during the pleasure of the President.

(3) The Governor may, by writing addressed to the President, resign his office.

(4)

(a) The Provincial Council may, subject to sub-paragraph (b), present an address to the President advising the removal of the Governor on the ground that the Governor

(i) has intentionally violated the provisions of the Constitution;

(ii) is guilty of misconduct or corruption involving the abuse of the powers of his office; or

(iii) is guilty of bribery or an offence involving moral turpitude,

if a resolution for the presentation of such address is passed by not less than two-thirds of the whole number of members of the Council (including those not present).

(b) No resolution for the presentation of an address to the President advising the removal of the Governor on the grounds referred to in sub-paragraph (a) shall be entertained by the Chairman of the Provincial Council or discussed at the Council, unless notice of such resolution is signed by not less than one-half of the whole number of members present.

(5) Subject to the preceding provisions of this Article, the Governor shall hold office for a period of five years from the date he assumes office.

(6) Every person appointed as Governor shall assume office upon taking or subscribing, the oath or making or subscribing the affirmation, set out in the Fourth Schedule, before the President.

(7) Upon such assumption of office a Governor 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 Governor shall not hold any other office or place of profit.

(8)

(a) The Governor may, from time to time, summon the

Provincial Council to meet at such time and place as he thinks fit, but two months shall not intervene between the last sitting in one session and the date appointed for the first sitting in the next session.

(b) The Governor may, from time to time, prorogue the Provincial Council.

(c) The Governor may dissolve the Provincial Council.

(d) The Governor shall exercise his powers under this paragraph in accordance with the advice of the Chief Minister, so long as the Board of Ministers commands, in the opinion of the Governor, the support of the majority of the Provincial Council.

(9) Without prejudice to the powers of the President under Article 34 and subject to his directions the Governor of a Province shall have the power to grant a pardon to every person convicted of an offence against a statute made by the Provincial Council of that Province or a law made by Parliament on a matter in respect of which the Provincial Council has power to make statutes and to grant a respite or remission of punishment imposed by Court on any such person: Provided that where the Governor does not agree with the advice of the Board of Ministers in any case and he considers it necessary to do so in the public interest, he may refer that case to the President for orders.

(10)

(a) The Governor may address the Provincial Council and may for that purpose require the attendance of members.

(b) The Governor may also send messages to the Council either with respect to a statute then pending with the Council, or otherwise, and when a message is so sent the Council shall with all convenient dispatch consider any matter required by the message to be taken into consideration.

(11) It shall be the duty of the Chief Minister of every Province

(a) to communicate to the Governor of the Province all decisions of the Board of Ministers relating to the administration of the affairs of the Province and the proposals for legislation;

(b) to furnish such information relating to the administration of the affairs of the Province and proposals for legislation as the Governor may call for ; and

(c) if the Governor so requires, to submit for consideration of the Board of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Board.

(12) Parliament shall by law or resolution make provision for the salary, allowances, age of retirement and pension entitlement of holders of the office of Governor.

Exercise of **154C** Executive power extending to the matters with respect to which a
executive powers Provincial Council has power to make statutes shall be exercised by the
by the Governor. Governor of the Province of which that Provincial Council is established,
either directly or through Ministers of the Board of Ministers, or through
officers subordinate to him, in accordance with Article 154F.

Membership of **154D**
Provincial
Councils.

- (1) A Provincial Council shall consist of such number of members as may be determined by or under law, having regard to the area and population of the Province for which that Provincial Council is established.
- (2)

(a) A Provincial Council may at the commencement of the term of office of its members, decide, by resolution, to grant Members of Parliament elected for electoral districts, the limits of which fall within the Province for which that Provincial Council is established, the right to participate in proceedings of that Council.

(b) So long as a resolution passed under sub-paragraph (a) is in force, a Member of Parliament elected for an electoral district, the limits of which fall within the Province for which that Provincial Council is established, shall have the right, during the term of office of that Council, to speak in, and otherwise take part in, the proceedings of that Provincial Council and to speak in, and otherwise take part in, any committee of the Provincial Council of which he may be named a member but shall be entitled to vote thereat only if the resolution passed under sub-paragraph (a) so provides.

(c) The provisions of this paragraph shall cease to operate on the date of dissolution of the first Parliament.

Term of **154E** A Provincial Council shall, unless sooner dissolved, continue for a period of
office. five years from the date appointed for its first meeting and the expiration of the said
period of five years shall operate as a dissolution of the Council.

Board of **154F**
Ministers.

- (1) There shall be a Board of Ministers with the Chief Minister at the head and not more than four other Ministers to aid and advice of the Governor of a Province in the exercise of his functions. The Governor shall, in the exercise of his functions, Minister at the head

and not more than four other Ministers to aid and advice of the Governor of a Province in the exercise of his functions. The Governor shall, in the exercise of his functions, or any of them in his discretion.

(2) If any question arises whether any matter is or is not a matter as respects which the Governor is by or under this Constitution required to act in his discretion, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question in any Court on the ground that he ought or ought not have acted on his discretion. The exercise of the Governor's discretion shall be on the President's directions.

(3) The question whether any, and if so what, advice was tendered by the Ministers to the Governor shall no be inquired into any Court.

(4) The Governor shall appoint as Chief Minister, the member of the Provincial Council constituted for that Province, who, in his opinion, is best able to command the support of a majority of the members of that Council: his opinion, is best able to command the support of a majority of the members of that Council:

Provided that where more than one-half of the members elected to a Provincial Council are members of one political party, the Governor shall appoint the leader of that political party in the Council, as Chief Minister.

(5) The Governor shall, on the advice of the Chief Minister, appoint from among the members of the Provincial Council constituted for that Province, the other Ministers.

(6) The Board of Ministers shall be collectively responsible and answerable to the Provincial Council.

(7) A person appointed to the office of Chief Minister or member of the Board of Ministers shall not enter upon the duties of his office until he takes and subscribes his oath, or makes and subscribes the affirmation, set out in the Fourth Schedule.

Statutes of
Provincial
Councils. 154.G

(1) Every Provincial Council may, subject to the provisions of the Constitution, make statutes applicable to the Province for which it is established, with respect to any matter set out in List I of the Ninth Schedule (hereinafter referred to as "the Provincial Council List").

(2) No Bill for the amendment or repeal of the provisions of this Chapter or the Ninth Schedule shall become law unless such Bill has been referred by the President, after its publication in the Gazette and before it is placed on the Order Paper of Parliament, to every Provincial Council for the expression of its views thereon, within such period as may be specified in the reference, and

(a) where every such Council agrees to the amendment or repeal, such Bill is passed by a majority of the Members of Parliament present and voting; or

(b) where one or more Councils do not agree to the amendment or repeal such Bill is passed by the special majority required by Article 82.

(3) No Bill in respect of any matter set out in the Provincial Council List shall become law unless such Bill has been referred by the President, after its publication in the Gazette and before it is placed on the Order Paper of Parliament, to every Provincial Council for the expression of its views thereon, within such period as may be specified in the reference and

(a) where every such Council agrees to the passing of the Bill, such Bill is passed by a majority of the Members of Parliament present and voting; or

(b) where one or more Councils do not agree to the passing of the Bill, such Bill is passed by the special majority required by Article 82 :

Provided that where on such reference, some but not all the Provincial Councils agree to the passing of a Bill, such Bill shall become law applicable only to the Provinces for which the Provincial Councils agreeing to the Bill have been established, upon such Bill being passed by a majority of the Members of Parliament present and voting.

(4) Where one or more Provincial Councils request Parliament, by resolution, to make law on any matter set out in the Provincial Council List, Parliament may make law on that matter, applicable only to the Provinces for which those Provincial Councils are established, by a majority of Members of Parliament present and voting.

(5)

(a) Parliament may make laws with respect to any matter set out in List III of the Ninth Schedule (hereinafter referred to as "the Concurrent List") after such consultation with all Provincial Councils as Parliament may consider appropriate in the circumstances of each case.

(b) Every Provincial Council may, subject to the provisions of the Constitution, make statutes applicable to the Province for which it is established, with respect to any matter on the Concurrent List, after such consultation with Parliament as it may consider appropriate in the circumstances of each case.

(6) If any provision of any statute made by a Provincial Council is inconsistent with the provisions of any law made in accordance with the preceding provisions of this Article, the provisions of such law shall prevail and the provisions of such statute shall, to the extent of such inconsistency, be void.

(7) A Provincial Council shall have no power to make statutes on any matter set out in List II of the Ninth Schedule (hereinafter referred to as "the Reserved List").

(8) Where there is a law with respect to any matter on the . provincial Council List in force on the date on which this Chapter comes into force, and a Provincial Council established for a Province subsequently makes a statute on the same matter and which is described in its long title as being inconsistent with that law, then, the provisions of the law shall, with effect from the date on which that statute receives assent and so long only as that statute is in force, remain suspended and be inoperative within that Province.

(9) Where there is a law in respect to a matter on the Concurrent List on the date on which this Chapter comes into force and a Provincial Council established for a Province subsequently makes a statute on the same matter inconsistent with that law, the provisions of that law shall, unless Parliament, by resolution, decides to the contrary, remain suspended and be inoperative within that Province, with effect from the date on which that statute receives assent and so long only as that statute is in force.

(10) Nothing in this Article shall be read or construed as derogating from the powers conferred on Parliament by the Constitution to make laws, in accordance with the Provisions of the Constitution (inclusive of this Chapter), with respect to. any matter, for the whole of Sri Lanka or any part thereof

(11) Notwithstanding anything in paragraph (3) of this Article, Parliament may make laws, otherwise than in accordance with the procedure set out in that paragraph, in respect of any matter set out in the Provincial Council List for implementing any treaty, agreement or convention with any other country or countries or any decisions made at an international conference, association or other body.

Assent. [154H](#)

(1) Every statute made by a Provincial Council shall come into force upon such statute receiving assent as hereinafter provided.

(2) Every statute made by a Provincial Council shall be presented to the Governor for his assent, forthwith upon the making thereof, and the Governor shall either assent to the statute or he may as soon as possible after the statute is presented to him for assent return it to the Provincial Council together with a message requesting the Council to reconsider the statute or any specified provision thereof and in particular, requesting it to consider the desirability of introducing such amendments as may be recommended in the message.

(3) Where a statute is returned to a Provincial Council by the Governor under paragraph (2), the Provincial Council shall reconsider the statute having regard to the Governor's message and may pass such statute with or without amendment and present it to the Governor for his assent.

(4) Upon presentation of a statute to the Governor under paragraph (3), the Governor may assent to the statute or reserve it for reference by the President to the Supreme Court, within one month of the passing of the

statute for the second time, for determination that it is not inconsistent with the provisions of the Constitution. Whereupon such reference, the Supreme Court determines that the statute is consistent with the provisions of the Constitution, the Governor shall, on receipt by him of the Court's determination, assent to the statute. Whereupon such reference, the Supreme Court determines that the statute is inconsistent with the provisions of the Constitution, the Governor shall withhold assent to the statute.

Public **154J**
Security.

(1) Upon the making of a Proclamation under the Public Security Ordinance or the law for the time being in force relating to public security, bringing the provisions of such Ordinance or law into operation on the ground that the maintenance of essential supplies and services is threatened or that the security of Sri Lanka is threatened by war or external aggression or armed rebellion, the President may give directions to any Governor as to the manner in which the executive power exercisable by the Governor is to be exercised. The directions so given shall be in relation to the grounds specified in such Proclamation for the making thereof.

Explanation: A Proclamation under the Public Security Ordinance declaring that the maintenance of essential supplies and services is threatened or that the security of Sri Lanka or any part of the territory thereof is threatened by war, or by external aggression, or by armed rebellion may be made before the actual breakdown of supplies and services, or the actual occurrence of war, or of any such aggression or rebellion if the President is satisfied that there is imminent danger thereof:

Provided that where such Proclamation is in operation only in any part of Sri Lanka, the power of the President to give directions under this Article, shall also extend to any Province other than the Province in which the Proclamation is in operation if, and in so far as it is expedient so to do for ensuring the maintenance of essential supplies and services or the security of Sri Lanka.

(2) A Proclamation under the Public Security Ordinance or the law for the time being relating to public security, shall be conclusive for all purposes and shall not be questioned in any Court, and no Court or Tribunal shall inquire into, or pronounce on, or in any manner call in question, such Proclamation, grounds for the making thereof, or the existence of those grounds or any direction given under this Article.

Failure to
comply with
directions.

154K Where the Governor or any Provincial Council has failed to comply with, or give effect to, any directions given to such Governor or such Council under this Chapter of the Constitution, it shall be lawful for the President to hold that a situation has arisen in which the administration of the Province

cannot be carried on in accordance with the provisions of the Constitution.

Failure of
administrative
machinery.

154L

(1) If the President, on receipt of a report from the Governor of the Province or otherwise, is satisfied that a situation has arisen in which the administration of the Province cannot be carried on in accordance with the provisions of the Constitution, the President may by Proclamation

(a) assume to himself all or any of the functions of the administration of the Province and all or any of the powers vested in, or exercisable by, the Governor or any body or authority in the Province other than the Provincial Council;

(b) declare that the powers of the Provincial Council shall be exercisable by, or under the authority of Parliament;

(c) make such incidental and consequential provisions as appear to the President to be necessary or desirable for giving effect to the objects of the Proclamation:

Provided that nothing in this paragraph shall authorize the President to assume to himself any of the powers vested in, or exercisable, by any Court.

(2) Any such Proclamation may be revoked or varied by a subsequent Proclamation.

(3) Every Proclamation under this Article shall be laid before Parliament and shall, except where it is a Proclamation revoking a previous Proclamation, cease to operate at the expiration of fourteen days unless before the expiration of that period it has been approved by a resolution of Parliament:

Provided that if any such Proclamation (not being a Proclamation revoking a previous Proclamation) is issued at a time when Parliament is dissolved or the dissolution of Parliament takes place during the period of fourteen days referred to this paragraph but no resolution with respect to such Proclamation has been passed by Parliament before the expiration of that . period, the Proclamation shall cease to operate at the expiration of fourteen days from the date on which Parliament first sits after its reconstitution, 'unless before the expiration of the said period of fourteen days a resolution approving the Proclamation has been passed by Parliament.

(4) A Proclamation so approved shall, unless earlier revoked, cease to operate on the expiration of a period of two months from the date of issue of the Proclamation:

Provided that if and so often as a resolution approving the continuance in force of such a Proclamation is passed by

Parliament, the Proclamation shall, unless revoked, continue in force for a further period of two months from the date on which under this paragraph it would otherwise have ceased to operate, but no such Proclamation shall in any case remain in force for more than one year:

Provided further that if the dissolution of Parliament takes place during any such period of two months but no resolution with respect to the continuance in force of such Proclamation has been passed by Parliament during the said period, the Proclamation shall cease to operate at the expiration of fourteen days from the date on which Parliament first sits after its reconstitution unless before the expiration of the said period of fourteen days a Proclamation approving the continuance in force of the Proclamation has been passed by Parliament.

(5) Notwithstanding anything in this Article, the President may within fourteen days of his making a Proclamation under paragraph (I) and for the purpose of satisfying himself with regard to any of the matters referred to in that paragraph, appoint a retired Judge of the Supreme Court to inquire into and report upon such matters within a period of sixty days. A Judge so appointed shall in relation to such inquiry have the powers of a Commissioner appointed under the Commissions of Inquiry Act. Upon receipt of the report of such Judge, the President may revoke the Proclamation made under paragraph (1).

(6) A Proclamation under this Article shall be conclusive for all purposes and shall not be questioned in any Court, and no Court or Tribunal shall inquire into, or pronounce on, or in any manner call in question, such Proclamation or the grounds for making thereof.

Parliament to confer **154M**
powers of the
Provincial Councils to
President.

(1) Where by a Proclamation issued under paragraph (I) of Article 154L, it has been declared that the powers of the Provincial Council shall be exercisable by, or under the authority, of Parliament, it shall be competent

(a) for Parliament to confer on the President the power of the Provincial Council to make statutes and to authorize the President to delegate, subject to such conditions as he may think fit to impose, the power so conferred, on any other authority specified by him in that behalf;

(b) for the President to authorize, when Parliament is not in session, expenditure from the Provincial Fund of the Province pending sanction of such expenditure by Parliament.

(2) A statute made by Parliament or the President or other

authority referred to in sub-paragraph (a) of paragraph (1), during the continuance in force of a Proclamation issued under paragraph (1) of Article 154L, shall continue in force until amended or repealed by the Provincial Council.

Financial **154N**
Instability.

(1) If the President is satisfied that a situation has arisen whereby the financial stability or credit of Sri Lanka or of any part of the territory thereof is threatened, he may by Proclamation make a declaration to that effect.

(2) A Proclamation issued under paragraph (1)

(a) may be revoked or varied by a subsequent Proclamation;

(b) shall be laid before Parliament;

(c) shall cease to operate at the expiration of two months, unless before the expiration of that period it has been approved by a resolution of Parliament:

Provided that if any such Proclamation is issued at a time when Parliament has been dissolved or the dissolution of Parliament takes place during the period of two months referred to in sub-paragraph (c), but no resolution with respect to such Proclamation has been passed by Parliament before the expiration of that period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which Parliament first sits after its reconstitution, unless before the expiration of the said period of thirty days a resolution approving the Proclamation has been passed by Parliament.

(3) During the period any such Proclamation as is mentioned in paragraph (1) is in operation, the President may give directions to any Governor of the Province to observe such canons of financial propriety as may be specified in the directions, and to give such other directions as the President may deem necessary and adequate for the purpose.

(4) Notwithstanding anything in the Constitution any such direction may include

(a) a provision requiring the reduction of salaries and allowances of all or any class of persons serving in connection with the affairs of the Province;

(b) a provision requiring all statutes providing for payments into or out of, a Provincial Fund to be reserved for the consideration of the President after they are passed by the Provincial Council.

High **154P**
Court.

(1) There shall be a High Court for each Province with effect from the date on which this Chapter comes into force. Each such High Court shall be designated as the High Court of the relevant Province.

(2) The Chief Justice shall nominate, from among Judges of the High Court of Sri Lanka, such number of Judges as may be necessary to each such High Court. Every such Judge shall be transferable by the Chief Justice.

(3) Every such High Court shall

(a) exercise according to law, the original criminal jurisdiction of the High Court of Sri Lanka in respect of offences committed within the Province;

(b) notwithstanding anything in Article 138 and subject to any law, exercise, appellate and revisionary jurisdiction in respect of convictions, sentences and orders entered or imposed by Magistrates Courts and Primary Courts within the Province;

(c) exercise such other jurisdiction and powers as Parliament may, by law, provide.

(4) Every such High Court shall have jurisdiction to issue, according to law

(a) orders in the nature of habeas corpus, in respect of persons illegally detained within the Province; and

(b) order in the nature of writs of certiorari, prohibition, procedendo, mandamus and quo warranto against any person exercising, within the Province, any power under

(i) any law; or

(ii) any statutes made by the Provincial Council established for that Province,

in respect of any matter set out in the Provincial Council List.

(5) The Judicial Service Commission may delegate to such High Court, the power to inspect and report on, the administration of any Court of First Instance within the Province.

(6) Subject to the provisions of the Constitution and any law, any person aggrieved by a final order, judgment or sentence of any such Court, in the exercise of its jurisdiction under paragraphs (3)(b) or (3)(c) or (4), may appeal therefrom to the Court of Appeal in accordance with Article 138. Functions, powers, elections and of Provincial Councils.

Functions, powers,
elections &c of
provincial Councils.

154Q Parliament shall by law provide for

(a) the election of members of Provincial Councils and the qualifications for membership of such Councils;

(b) the procedure for transaction of business by every such Council;

(c) the salaries and allowances of members of Provincial Councils; and

(d) any other matter necessary for the purpose of giving effect to the principles of provisions of this Chapter, and for any matters connected with, or incidental to, the provisions of this Chapter.

Finance **154R**
Commission.

- (1) There shall be a Finance Commission consisting of
 - (a) the Governor of the Central Bank of Sri Lanka;
 - (b) the Secretary to the Treasury; and
 - (c) three other members who are appointed by the President on the recommendation of the Constitutional Council, to represent the three major communities each of whom shall be a person who has distinguished himself, or held high office, in the field of finance, law, administration, business or learning;
- (2) Every member of the Commission shall, unless he earlier dies, resigns or is removed from office, hold office for a period of three years.
- (3) The Government shall, on the recommendation of, and in consultation with, the Commission, allocate from the Annual Budget, such funds as are adequate for the purpose of meeting the needs of the Provinces.
- (4) It shall be the duty of the Commission to make recommendations to the President as to
 - (a) the principles on which such funds as are granted annually by the Government for the use of Provinces, should be apportioned between the various Provinces; and
 - (b) any other matter referred to the Commission by the President relating to Provincial finance.
- (5) The Commission shall formulate such principles with the objective of achieving balanced regional development in the country, and shall accordingly take into account
 - (a) the population of each Province;
 - (b) the per capita income of each Province'
 - (c) the need, progressively, to reduce social and economic disparities; and
 - (d) the need, progressively, to reduce the difference between the per capita income of each Province and the highest per capita income among the Provinces.
- (6) The Commission shall determine its own procedure and shall have such powers in the performance of its duties as Parliament may, by law, confer on it.
- (7) The President shall cause every recommendation made by the Finance Commission under this Article to be laid before

Parliament, and shall notify Parliament as to the action taken thereon.

(8) No Court or Tribunal shall inquire into or, pronounce on, or in any manner entertain, determine or rule upon, any question relating to the adequacy of such funds, or any recommendation made, or principle formulated by, the Commission.

Special Provisions
enabling Provincial
Councils not to exercise
powers under this
Chapter.

154S

(1) A Provincial Council may, by resolution, decide not to exercise its powers under Article 154G with respect to any matter of part thereof set out in the Provincial Council List or the Concurrent List of the Ninth Schedule.

(2) Where a resolution has been passed by a Provincial Council under paragraph (1) and the terms of such resolution have been accepted by Parliament, by resolution, the powers of such Provincial Council under Article 154G shall be deemed not to extend to the matter specified in such resolution and Parliament may make law, with respect to that matter, applicable to the Province for which that Provincial Council is established, otherwise than in accordance with the provisions of Article 154G.

Transitional
measures.

154T The President may by Order published in the Gazette, . take such action, or give such directions, not inconsistent with the provisions of the Constitution, as appears to him to be necessary or expedient, for the purposes of giving effect to the provisions of this Chapter, or for the administrative changes necessary therefor, or for the purpose of removing any difficulties.

CHAPTER XVIII PUBLIC SECURITY

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.

(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.

5,13th Amendment. 3A.Nothing in the proceeding provisions of this constitution shall be deemed to prohibit the making of emergency regulations, under the Public Security Ordinance or the law for the time being in force relating to public security, with respect to any matter set out in the Ninth Schedule or having the effect of overriding, amending or suspending the operation of a statute made by the Provincial Council.
(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.

2,10th Amendment. (8) 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.

(9) 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) or (7) 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.

Chapter XVIII

National Police Commission*

20, 17th Amendment **155A**
Constitution of the
National Police
Commission.

(1) There shall be a National Police Commission (in this Chapter referred to as the "Commission") consisting of seven members appointed by the President on the recommendation of the Constitutional Council. The Constitutional Council may, in making its recommendation, consult the Public Service Commission. The President shall on the recommendation of the Constitutional Council appoint one member as the Chairman.

(2) No person shall be appointed as a member of the Commission or continue to hold office as such member if he is or becomes a member of Parliament, a Provincial Councilor or a local authority.

(3) Every person who immediately before his appointment as a member of the Commission, was a public officer in the service of the State or a judicial officer, shall upon such appointment taking effect, cease to hold such office,

and shall be ineligible for further appointment as a public officer or a judicial officer:

Provided that any such person shall, until he ceases to be a member of the Commission, or while continuing to be 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 purpose of any provision relating to the grant of pensions, gratuities and other allowances in respect of such service.

(4) Every member of the Commission shall hold office for a period of three years from the date of his appointment, unless he becomes subject to any disqualification under paragraph (2) of this Article, or earlier resigns from his office by writing addressed to the President or is removed from office by the President on the recommendation of the Constitutional Council or is convicted by a Court of law of any offence involving moral turpitude or if a resolution for the imposition of civic disability upon him has been passed in terms of Article 81 or is deemed to have vacated his office under paragraph (6) of this Article.

(5) A member of the Commission shall be eligible for reappointment as a member, but shall not be eligible for appointment as a public officer or a judicial officer after the expiry of his term of office as a member. No member shall be eligible to hold office as a member of the Commission for more than two terms.

(6) In the event of the Chairman or a member of the Commission absenting himself from three consecutive meetings of the Commission without the prior leave of the Commission, he shall be deemed to have vacated his office from the date of the third of such meetings and shall not be eligible to be reappointed as a member or as Chairman of the Commission.

(7) The Chairman and members of the Commission shall be paid such allowances as are determined by Parliament. Such allowances shall be charged on the Consolidated Fund and shall not be diminished during the term of office of the Chairman or member.

(8) The Chairman and members of the Commission shall be deemed to be public servants within the meaning and for the purposes of Chapter IX of the Penal Code.

Meetings of the **155B** Commission,

- (1) The quorum for a meeting of the Commission shall be four members.
- (2) The Chairman shall preside at all meetings of the

Commission and in his absence a member elected by the members present from amongst the members shall preside at such meeting.

(3) Decisions of the Commission shall be by a majority of members present and voting at the meeting at which the decision is taken, and in the event of an equality of votes the Chairman or the person presiding shall have a casting vote.

(4) The Commission shall have power to act notwithstanding any vacancy in its membership, and any act or proceeding or decision of the Commission shall not be invalid or deemed to be invalid by reason only of such vacancy or any defect in the appointment of the Chairman or member.

Immunity from legal proceedings. **155C** (1) Subject to the jurisdiction conferred on the Supreme Court under paragraph (1) of Article 126, no court or tribunal shall have the power or jurisdiction to inquire into, or pronounce upon or in any manner call in question any order or decision made by the Commission or a Committee, in pursuance of any power or duty, conferred or imposed on such Commission or Committee under this Chapter or under any other law.

Secretary to the Commission. **155D** There shall be a Secretary to the Commission and such other officers appointed by the Commission on such terms and to the conditions as may be determined by the Commission.

Costs and Commission. **155E** The costs and expenses of the Commission shall be a charge on the Consolidated Fund. and Expenses,

Interference with the Commission. **155F**

(1) Every person who, otherwise than in the course of such person's lawful duty, directly or indirectly by himself or by or with any other person in any manner whatsoever influences or attempts to influence or interferes with any decision of the Commission or a Committee, or to so influence any member of the Commission or a Committee, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand rupees or to imprisonment for a term not exceeding seven years, or to both such fine and imprisonment.

(2) A High Court established under Article 154P of the Constitution shall have jurisdiction to hear and determine any matter referred to in paragraph (1).

Powers of the Commission. **155G**

(1)

(a) The appointment, promotion transfer, disciplinary control and dismissal of police officers other than the Inspector-General of Police, shall be vested in the Commission. The Commission shall exercise its powers of promotion, transfer, disciplinary control and dismissal in consultation with the Inspector-General of Police.

(b) The Commission shall not in the exercise of its powers under this Article, derogate from the powers and functions assigned to the Provincial Police Service Commissions as and when such Commissions are established under Chapter XYIIA of the Constitution.

(2) The Commission shall establish procedures to entertain and investigate public complaints and complaints of any aggrieved person made against a police officer or the police service, and provide redress in accordance with the provisions of any law enacted by Parliament for such purpose.

(3) The Commission shall provide for and determine all matters regarding police officers, including the formulation of schemes of recruitment and training and the improvement of the efficiency and independence of the police service, the nature and type of the arms, ammunition and other equipment necessary for the use of the National Division and the Provincial Divisions, codes of conduct, and the standards to be followed in making promotions and transfers, as the Commission may from time to time consider necessary or fit.

(4) The Commission shall exercise all such powers and perform all such functions and duties as are vested in it under Appendix I of List I contained in the Ninth Schedule of the Constitution.

Committees of the Commission, **155H**

(1) The Commission may delegate to a Committee of the Commission (not consisting of members of the Commission) as shall be nominated by the Commission, the powers of appointment, promotion, transfer, disciplinary control and dismissal of such categories of police officers as are specified by the Commission.

(2) The Commission shall cause to be published in the Gazette the appointment of any such Committee.

(3) The procedure and quorum for meetings of such a Committee shall be according to rules made by the Commission. The Commission shall cause such rules to be published in the Gazette.

Delegation of functions by the Commission.

155J

(1) The Commission may, subject to such conditions and procedures as may be prescribed by the Commission, delegate to the Inspector-General of Police or in consultation with the Inspector-General of Police to any Police Officer, its powers of appointment, promotion, transfer, disciplinary control and dismissal of any category of police officer.

(2) The Commission shall cause any such delegation to be published in the Gazette.

Right of appeal.

155K

(1) A police officer aggrieved by any order relating to promotion, transfer or any order on a disciplinary matter or dismissal made by the Inspector-General of Police or a Committee or Police Officer referred to in Article 1551-1 and 1551 in respect of himself, may appeal to the Commission against such order in accordance with rules made by the Commission from time to time regulating the procedure and the period fixed for the making and hearing of an appeal by the Commission.

(2) The Commission shall have the power to alter, vary, rescind or conform such order upon such appeal, or to give directions in relation thereto or to order such further or other inquiry, as to the Commission shall seem fit.

(3) The Commission shall from time to time cause to be published in the Gazette, rules made by it under paragraph (1) of this Article.

(4) Upon any delegation to the Inspector-General of Police or a Committee or Police Officer under Article 155H and 1553 of this Chapter as the case maybe, the Commission shall not, whilst such delegation of its powers is in force, exercise or perform its functions or duties in respect of the categories of Police Officers in respect of which such delegation is made, subject to the right of appeal hereinbefore provided.

Appeals to the Administrative Appeals Tribunal.

155L Any Police Officer aggrieved by any order relating to promotion, transfer, or any order on a disciplinary matter or dismissal made by the Commission, in respect of himself, may appeal therefrom to the Administrative Appeals Tribunal established under Article 59, which shall have the power to alter, vary or rescind any order or decision made by the Commission.

Saving of existing rules and regulations, **155M** Until the Commission otherwise provides, all rules, regulations and procedures relating to the police force as are in force shall continue to be operative and in force.

Commission answerable to Parliament. **155N** The Commission shall be responsible and answerable to Parliament in accordance with the provisions of the Standing Orders of Parliament for the exercise, performance and discharge of its powers, duties and functions, and shall forward to Parliament in each calendar year a report of its activities in such year.

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.

21,17th Amendment. (2) The Parliamentary Commissioner for Administration shall, subject to the provisions of Article 41C, be appointed by the President and shall hold office during good behaviour.

(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 the Administration is unable to perform and discharge the duties and functions of his office, the President shall subject to the Provisions of Article 41C, appoint a person to act in his

place.

CHAPTER XX GENERAL

International
Treaties and
Agreements.

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.

Prohibition against
violation of territorial
integrity of Sri Lanka. 3,
6th Amendment.

157A

(1) No person shall, directly or indirectly, in or outside Sri Lanka, support, espouse, promote, finance, encourage or advocate the establishment of a separate State within the territory of Sri Lanka.

(2) No political party or other association or organization shall have as one of its aims or objects the establishment of a separate State within the territory of Sri Lanka.

(3) Any person who acts in contravention of the provisions of paragraph (1) shall, on conviction by the Court of Appeal, after trial on indictment and according to such procedure as may be prescribed by law,

(a) be subject to civic disability for such period not exceeding seven years as may be determined by such Court ;

(b) forfeit his movable and immovable property other than such property as is determined by an order of such Court as being necessary for the sustenance of such person and his family;

(c) not be entitled to civic rights for such period not exceeding seven years as may be determined by such Court; and

(d) if he is a Member of Parliament or a person in such service or holding such office as is referred to in paragraph (I) of Article 165, cease to be such Member or to be in such service or to

hold such office,

(4) Where any political party or other association or organization has as one of its aims or objects the establishment of a separate State within the territory of Sri Lanka, any person may make an application to the Supreme Court for a declaration that such political party or other association or organization has as one of its aims or objects the establishment of a separate State within the territory of Sri Lanka, The Secretary or other officer of such political party or other association or organization shall be made a respondent to such application,

(5) Where the Supreme Court makes a declaration under paragraph (4) in relation to any political party or other association or organization, in pursuance of an application made to it under that paragraph

(a) that political party or other association or organization shall be deemed, for all purposes to be proscribed and any member of such political party or other association or organization, who is a Member of Parliament shall be deemed to have vacated his seat in Parliament with effect from the date of such declaration, and any nomination paper submitted by such political party or other association or organization shall be deemed for all purposes to be invalid;

(b) any person who holds office or is a member of that political party or other association or organization, after the date of such declaration, shall be guilty of an offence and shall, on conviction, by the Court of Appeal after trial on indictment and according to such procedure as may be prescribed by law

(i) be subject to civic disability for such period not exceeding seven years as may be determined by such, Court ;

(ii) forfeit his movable and immovable property other than such property as is determined by an order of such Court as being necessary for the sustenance of such person and his family;

(iii) not be entitled to civic rights for such period not exceeding seven years as may be determined by such Court ;

(iv) if he is a Member of Parliament or a person in such service or holds such office as is referred to in paragraph (I) of Article 165, cease to be such Member

or to be in such service or hold such office,

(6) The execution of any punishment imposed under paragraph (3) or sub-paragraph (b) of paragraph (5) shall not be stayed or suspended pending the determination of any appeal against such punishment or the conviction in consequence of which such punishment was imposed.

(7) Every officer or person who was or is required by, Article 32 or Article 53, Article 61 or Article 107 or Article 165 or Article 169(12), to take and subscribe or to make and subscribe an oath or affirmation, every member of, or person in the service of, a local authority, Development Council, Pradeshiya Mandalaya, Gramodaya Mandalaya or public corporation and every attorney-at-law shall

(a) if such officer or person is holding office on the date of coming into force of this Article, make and subscribe, or take and subscribe, an oath or affirmation in the form set out in the Seventh Schedule, before such person or body if any, as is referred to in that Article, within one month of the date on which this Article comes into force;

(b) if such person or officer is appointed to such office after the coming into force of this Article, make and subscribe or take and subscribe, an oath or affirmation, in the form set out in the Seventh Schedule, before such person or body, if any, as is referred to in that Article, within one month of his appointment to such office.

The provisions of Article 165 and Article 169(12) shall, mutatis mutandis, apply to, and in relation to, any person or officer who fails to take and subscribe, or make and subscribe, an oath or affirmation as required by this paragraph.

(8)

(a) Every person who is a Member of Parliament on the coming into force of this Article shall not be entitled to sit and vote in Parliament unless he takes and subscribes or makes and subscribes an oath or affirmation in the form set out in the Seventh Schedule.

(b) Every person who is elected or nominated as a Member of Parliament on or after the coming into force of this Article shall not be entitled to sit and vote in Parliament unless he takes and subscribes or makes and subscribes an oath or affirmation in the form set out in the Seventh

Schedule.

(9) No person who has taken and subscribed or made and subscribed an oath or affirmation in the form set out in the Seventh Schedule shall, notwithstanding any provision to the contrary in the Constitution, be required to take and subscribe or make and subscribe any other oath or affirmation required to be taken and subscribed or made and subscribed under the Constitution.

(10) Parliament may, by resolution, determine such other categories of persons or officers to whom the provisions of paragraph (7) shall apply and thereupon, the provisions of such paragraph, shall, mutatis mutandis, apply to, and in relation to, officers or persons of that category.

(11) The jurisdiction of the Court of Appeal in respect of its powers under this Article shall be exercised in the manner provided in sub-paragraph (iv) of the proviso to paragraph (2) of Article 146.

(12) In this Article, "civic rights" means

- (a) the right to obtain a passport ;
- (b) the right to sit for any public examination;
- (c) the right to own any immovable property ;
- (d) the right to engage in any trade or profession which requires a licence, registration or other authorization, by or under any written law;

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

4,3rd

Amendment.

Constitution and shall be deemed for all purposes to have been elected as the President of the Republic, and shall subject to the provisions of Article 31, 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 **161.** Notwithstanding anything to the contrary in any other provision of the Parliament. 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 Judge's 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 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) (ii) 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.

27th,17th Amendment. (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 Election Commission of such vacancy. The Election Commission 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. A nomination made by the Secretary of such political party under this sub-paragraph shall be accompanied by an oath or affirmation, as the case may be, in the form set out in the Seventh Schedule, taken and subscribed or made and subscribed, as the case may be, by the person nominated to fill such vacancy. Upon receipt of such nomination, accompanied by such oath or affirmation, the Commissioner shall declare such person to be the Member for the electoral district in respect of which the vacancy occurred :

2nd,5th Amendment. Provided that where the Secretary of such political party fails to nominate a member of such political party to fill such vacancy under the preceding provisions of this sub-paragraph within thirty days of his being required to do so and in the aforesaid manner

Amendment. or where a Secretary of a political party had been
27th, 17th required, before the coming into force of this proviso,
Amendment. to nominate a member of such political party to fill
any such vacancy under such provisions and such
Secretary fails, within thirty days of the coming into
force of this proviso, to nominate a member of such
political party to fill such vacancy, or where such
political party is deemed to be proscribed under
Article 157 A, then the Election Commission shall
forthwith so inform the President, who shall, within
thirty days of the receipt by him of such information,
by Notice published in the Gazette, order the Election
Commission to hold an election for the electoral
district in respect of which such vacancy has occurred.
The Election Commission shall thereupon hold an
election, in accordance with Part I and Parts IV to VI
(both inclusive) of the Ceylon (Parliamentary
Elections) Order-in-Council, 1946. for such electoral
district as existed immediately preceding the
Constitution and on the basis of such part of the
register, prepared under the Registration of electors
Act, No.44 of 1980, and in operation, as corresponds
to such electoral district. The aforesaid parts of the
Ceylon (Parliamentary Elections) Order-in-Council,
1946, shall, for the purposes of such election and
notwithstanding the repeal of such Order in Council,
be deemed to be in force and shall, mutatis mutandis,
and except as otherwise expressly provided in the
Constitution, apply to such election.

The law applicable to election petitions in relation to
such electoral district shall be the aforesaid parts of such
Order in Council as applied aforesaid and in the event of
such election being declared void and no other person is
determined to have been duly returned or elected, the
election to fill such vacancy shall be held in accordance
with the provision of this proviso;

(iv) where a Member nominated or elected to fill any
such vacancy as is referred to in sub-paragraph (i) or
sub-paragraph (ii), being a Member who has taken and
subscribed or made and subscribed, an oath or
affirmation in the form set out in the Seventh Schedule,
directly or indirectly, in or outside Sri Lanka, supports,
espouses, promotes, finances, encourages or advocates
the establishment of a separate State within the territory
of Sri Lanka, any person may make an application to the
Court of Appeal for a declaration that such member has
directly or indirectly, in or outside Sri Lanka, supported,
espoused, promoted, financed, encouraged or advocated
the establishment of a separate State within the territory
of Sri Lanka.

If the Court of Appeal makes, on such application, a declaration that such Member has directly or indirectly, in or outside Sri Lanka, supported, espoused, promoted, financed, encouraged or advocated the establishment of a separate State within the territory of Sri Lanka, the seat of such Member shall be deemed to be vacant with effect from the date of such declaration and such Member shall be disqualified from sitting and voting in Parliament and from being elected or nominated to Parliament for a period of seven years from the date of such declaration. The vacancy occurring in the membership of Parliament by reason of such declaration shall be filled in the manner provided in paragraph (iii). The jurisdiction of the Court of Appeal in respect of its powers under this sub-paragraph shall be exercised in the manner provided in sub-paragraph (iv) of the proviso to paragraph (2) of Article 146.

2,4th Amendment. (e) unless sooner dissolved, the first Parliament shall continue until August 4, 1989, and no longer, and shall there upon stand dissolved, and the provisions of Article 70 (5) (b) shall, mutatis mutandis, apply.

Application of certain provisions. **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.

(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.

Judge of Supreme court and High court to cease to hold office. **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.

Continuation in office of **164** Subject to the provisions of Article 163 every person who

Judges public officers and others. immediately before the commencement of the Constitution-

- (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,

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. 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.

Rights, duties and obligations of the Republic. **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.

Past operation of laws previous acts, offences and pending action, &c. **168.**

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

(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. Interpretation.

(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.

Provision relating to
Queen's Counsel and
Senior Attorneys-at-Law.
4,8th Amendment.

169A.

(1)Every-

(a) Queen's Counsel appointed prior to the coming after the coming into force of the Constitution; and

(b)Senior attorney-at-law appointed by the President after the coming into force of the Constitution, shall, from the date on which this Article comes into force ,be called and known also as President's Counsel and shall continue to enjoy all such privileges as were hitherto enjoyed by a Queen's Counsel.

(2)Every rule made under Article 136 relating to the appointment of Senior attorneys-at-law shall, from the date on which this Article comes in to force, be deemed to be rescinded.

(3)Every reference in any written law to " Senior Attorney-at-law" shall, from the date on which this Article comes into force, be deemed to include a reference to " President's counsel".

CHAPTER XXII
INTERPRETATION

Interpretation**170.** In the Constitution-

"civic disability" shall have the same meaning as in the Special Presidential Commissions of Inquiry Law, No 7 of 1978 as on the commencement of the Constitution ;

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

"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 ;

22,17th Amendment. "judicial officer" other than in Article 111M, 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.

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 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.

6,13 "written law" means law and subordinate legislation and includes statutes Amendment. made by a Provincial Council, Orders, Proclamation, Rules, Bye-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

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

CHAPTER XXIV

PROMULGATION OF THE CONSTITUTION

Promulgation of the **172**.
Constitution.

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

(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.