



SESSIONAL PAPER III.—1948

# The Constitution of Ceylon

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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 Section shall prohibit any person from giving a certificate or testimonial to any applicant or candidate for any judicial office.

## PART VII.

### THE PUBLIC SERVICE.

Tenure of  
Office in the  
Public Service.

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

The Public  
Service  
Commission.

58.—(1) There shall be a Public Service Commission which shall consist of three persons, appointed by the Governor-General, one at least of whom shall be a person who has not, at any time during the period of five years immediately preceding, held any public office or judicial office. The Governor-General shall nominate one of the members of the Commission to be the Chairman.

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

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

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

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

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

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

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

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

Cap. 19.

59. There shall be a Secretary to the Public Service Commission who shall be appointed by the Commission.

Secretary to the Public Service Commission.

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

Appointments in the Public Service.

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

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

61. The Public Service Commission may, by Order published in the *Government Gazette*, delegate to any public officer, subject to such conditions as may be specified in the Order, any of the powers vested in the Commission by subsection (1) of Section 60. Any person dissatisfied with any decision made by any public officer under any power delegated as aforesaid may appeal therefrom to the Commission and the decision of the Commission on such appeal shall be final.

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

Interference with Public Service Commission.

63.—(1) Any officer holding office in the public service on the day immediately preceding the day appointed by His Majesty by Order in Council as the appointed day for the purposes of the Ceylon Independence Act, 1947, being an officer—

Retirement on pension of persons holding office at the appointed day.

(a) who, at any time before the seventeenth day of July, 1928, was appointed or selected for appointment to a public office, appointment to which was subject to the approval of a Secretary of State, or who, at any time before that day, had entered into an agreement with the Crown Agents for the Colonies to serve in any public office for a specified period; or

(b) who, on or after the seventeenth day of July, 1928, was appointed or selected for appointment (otherwise than on agreement for a specified period) to a public office, appointment to which was subject to the approval of a Secretary of State; or

(c) who, on or after the seventeenth day of July, 1928, had entered into an agreement with the Crown Agents for the Colonies to serve for a special period in a public office, appointment to which was not subject to the approval of a Secretary of State, and who, on the day appointed as aforesaid, either has been confirmed in a permanent and pensionable office or is a European member of the Ceylon Police Force;

may, if he elects to retire from the public service in accordance with the provisions of subsection (2) of this Section, be granted a pension or gratuity in accordance with and subject to the provisions of Article 88 of the Ceylon (State Council) Order in Council, 1931, and the regulations made thereunder, notwithstanding the revocation of that Order by Section 91 of this Order; and those provisions shall apply accordingly subject to any proclamation made under Section 88 of this Order.

(2) Election to retire for the purposes of subsection (1) of this Section may be exercised:—

- (a) in the case of an officer to whom paragraph (a) of that subsection applies, at any time after this part of this Order comes into operation;
- (b) in the case of an officer to whom either paragraph (b), or paragraph (c) of that subsection applies, at any time within two years after the day appointed as aforesaid.

(3) In this Section the expression "public office" shall, notwithstanding the provisions of Section 3, include a judicial office.

[*Note: The Schedule to the Ceylon Independence Order in Council, 1947, (which amended Section 63 of the principal Order) contains the following provision:—*

In the case of a person retiring before the day appointed by His Majesty by Order in Council as the appointed day for the purposes of the Ceylon Independence Act, 1947, Section 63 shall continue to have effect as if the foregoing amendments had not been made.

*All cases of retirement under Section 63 before February 4, 1948, are therefore governed by Section 63 in its form as set out in Section 6 of the Ceylon (Constitution) (Amendment) Order in Council, 1947, and as reproduced below:—*

**63.—**(1) Any officer holding office in the Public Service on the day immediately preceding the day on which this Part of this Order comes into operation (in this Section referred to as "the material date"), being an officer—

- (a) who, at any time before the seventeenth day of July, 1928, was appointed or selected for appointment to a public office, appointment to which was subject to the approval of a Secretary of State, or who, at any time before that day, had entered into an agreement with the Crown Agents for the Colonies to serve in any public office for a specified period; or
- (b) who, on or after the seventeenth day of July, 1928, but before the ninth day of October, 1945, was appointed or selected for appointment (otherwise than on agreement for a specified period) to a public office, appointment to which was subject to the approval of a Secretary of State; or
- (c) who, on or after the seventeenth day of July, 1928, but before the ninth day of October, 1945, had entered into an agreement with the Crown Agents for the Colonies to serve for a specified period in a public office, appointment to which was not subject to the approval of a Secretary of State, and who, at the material date, either has been confirmed in a permanent and pensionable office or is a European member of the Ceylon Police Force;

may, if he elects to retire from the public service in accordance with the provisions of subsection (2) of this Section, be granted a pension or gratuity in accordance with and subject to the provisions of Article 88 of the Ceylon (State Council) Order in Council, 1931, and the regulations made thereunder, notwithstanding the revocation of that Order by Section 91 of this Order; and those provisions shall apply accordingly subject to any proclamation made under Section 88 of this Order.



(2) Election to retire for the purposes of subsection (1) of this Section may be exercised—

- (a) in the case of an officer to whom paragraph (a) of that subsection applies, at any time after this Part of this Order comes into operation;
- (b) in the case of an officer to whom either paragraph (b), or paragraph (c) of that subsection applies, at any time within two years after the first meeting of the House of Representatives.]

64.—(1) All pensions, gratuities, or other like allowances which have been, or which may be, granted to any persons who have been, and have ceased to be, in the service of the Crown in respect of the Government of the Island at any time before the date on which this Part of this Order comes into operation, or to the widows, children or dependants of such persons, shall be governed by the written law under which they were granted, or, if granted after that date, by the written law in force on that date, or, in either case, by any written law made thereafter which is not less favourable.

Preservation  
of Pensions, &c.

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

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

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

## PART VIII.

### FINANCE.

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

The  
Consolidated  
Fund.

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

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

Withdrawal  
of sums  
from the  
Consolidated  
Fund.

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

(3) Where the Governor-General dissolves Parliament before the Appropriation Bill for the financial year has received the Royal Assent, he may, unless Parliament shall have already made provision, authorise the issue from the Consolidated Fund

and the expenditure of such sums as he may consider necessary for the public services until the expiry of a period of three months from the date on which the new House of Representatives is summoned to meet.

Contingencies  
Fund.

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

(2) The Minister of Finance, if satisfied

(a) that there is need for any such expenditure, and

(b) that no provision for such expenditure exists,

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

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

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

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

The Auditor-  
General.

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

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

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

(a) by his death; or

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

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

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

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

Audit of  
Accounts.

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

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

## PART IX.

## TRANSITIONAL PROVISIONS, REPEALS AND SAVINGS.

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

Regulations for election of Senators.

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

Term of office of first Senators.

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

Number of Members in first House of Representatives.

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

Remuneration of Members of first House of Representatives.

76. (*Revoked*).

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

First register of electors.

78. (*Revoked*).

79. (*Revoked*).

80. (*Revoked*).

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

First Standing Orders of the Senate and House of Representatives.

82.—(1) (*Revoked*.)

(2) The person holding the office of Clerk of the State Council and the persons on the staff of the State Council on the date immediately preceding the date on which Part III. of this Order comes into operation shall, on that date, be transferred to the service of the House of Representatives and shall be deemed to have been appointed respectively as Clerk to the House of

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