

PARLIAMENT OF CEYLON

2nd Session 1953-54



Bribery Act, No. 11 of 1954

Date of Assent: February 26, 1954

Printed on the Orders of Government

Printed at the GOVERNMENT PRESS, CEYLON. To be purchased at the GOVT. PUBLICATIONS BUREAU, COLOMBO Annual Subscription (including Bills) Rs. 25, payable in advance to the SUPERINTENDENT, GOVERNMENT PUBLICATIONS BUREAU, POST OFFICE BOX 500, Secretariat, Colombo 1

Price : Re. 1.35

Postage : 35 cents.

L.D.—CF. 17/53.

AN ACT TO PROVIDE FOR THE PREVENTION AND PUNISHMENT OF BRIBERY AND TO MAKE CONSEQUENTIAL PROVISIONS RELATING TO THE OPERATION OF OTHER WRITTEN LAW.

[Date of Assent: February 26, 1954.]

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

1. This Act may be cited as the Bribery Act, No. 11 of 1954, and shall come into operation on such date (hereinafter referred to as the "appointed date") as the Governor-General may appoint by Proclamation published in the *Gazette*.

Short title
and date of
operation.

2. (1) Every provision of this Act which may be in conflict or inconsistent with anything in the Ceylon (Constitution) Order in Council, 1946, shall for all purposes and in all respects be as valid and effectual as though that provision were in an Act for the amendment of that Order in Council enacted by Parliament after compliance with the requirement imposed by the proviso of sub-section (4) of section 29 of that Order in Council.

Effect of
this Act on
operation
of other
written law.

(2) Where the provisions of this Act are in conflict or are inconsistent with any other written law, this Act shall prevail.

PART I.

Investigation of allegations of, and prosecution or arraignment for, bribery.

3. (1) The Attorney-General, or any officer authorised in that behalf by and acting under the control of the Attorney-General, is hereby empowered to direct and conduct the investigation of all allegations of bribery notwithstanding anything in any other written law to the contrary:

Allegations
of bribery
to be investi-
gated by
Attorney-
General or
authorised
officer.

Provided, however, that the Attorney-General shall not, without the consent of the President of the Senate or the Speaker of the House of Representatives, as the case may be, hold an investigation of an allegation of bribery against a Senator or a Member of Parliament:

Provided, further, that the Attorney-General shall not, without the consent of the Judicial Service Commission, hold an investigation of an allegation of bribery against a judicial officer.

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(2) The Attorney-General may also in any case in which he deems it expedient require a Magistrate, upon warrant under section 148 (1) (e) of the Criminal Procedure Code, to hold an inquiry in respect of any allegation of bribery. The provisions of Chapter XVI of that Code shall apply to such inquiry, except that at the conclusion of the inquiry the Magistrate shall, in lieu of discharging or committing for trial the person charged, transmit the record of the inquiry to the Attorney-General.

(3) The Attorney-General may after receipt of the record from the Magistrate require the Magistrate to record such further evidence as the Attorney-General may consider necessary.

(4) The Attorney-General, or any officer authorised by the Attorney-General under sub-section (1), may, in making an investigation under this section, direct in writing any person who appears to be acquainted with any facts relevant to the matters under investigation—

- (a) to appear before the Attorney-General or that officer, as the case may be, and to answer orally on oath or affirmation any questions relevant to such matters;
- (b) to state such facts by means of an affidavit; and
- (c) to produce any such document in his possession or under his control as may be relevant to such matters.

Power to obtain information and assistance.

4. (1) In the course of an investigation of an allegation of bribery against any person or after the commencement of a prosecution or an arraignment of any person for bribery, the Attorney-General may, notwithstanding anything in any other written law to the contrary, by written notice—

- (a) require such person to furnish a sworn statement in writing enumerating all movable or immovable property belonging to or possessed by such person and by the spouse, sons and daughters of such person, and specifying the date on which each of the properties enumerated was acquired whether by way of purchase, gift, bequest, inheritance or otherwise;
- (b) require any other person to furnish a sworn statement in writing enumerating all movable or immovable property belonging to or possessed by such person where the

Attorney-General has reasonable grounds to believe that such information can assist the investigation;

- (c) require the manager of any bank in Ceylon to produce, as specified in the notice, any book or document of the bank containing entries relating to the account of such person or of the spouse or a son or daughter of such person, or to furnish, as so specified, certified copies of such entries;
- (d) require the Commissioner of Income Tax to furnish, as specified in the notice, all information available to such Commissioner relating to the affairs of such person or of the spouse or a son or daughter of such person, and to produce or furnish, as specified in the notice, any document or a certified copy of any document relating to such person, spouse, son or daughter which is in the possession or under the control of such Commissioner; and
- (e) require the person in charge of any department, office or establishment of the Government, or the Mayor, Chairman, Governor or chief executive officer of any local authority or scheduled institution, or of the governing body of any scheduled institution, to produce or furnish, as specified in the notice, any document or a certified copy of any document which is in his possession or under his control.

(2) The Attorney-General shall treat all information obtained by him under sub-section (1) with the strictest secrecy and shall not divulge such information to any person other than a Court, a Commission of Inquiry, a Board of Inquiry, an accused person, any advocate, proctor or other person defending an accused person, or an officer engaged in an investigation under this Act or in any prosecution or arraignment for bribery.

(3) In the course of an investigation of an allegation of bribery the Attorney-General or any officer authorised by the Attorney-General to conduct the investigation may, with such assistance as may be necessary, enter and search any department, office or establishment of the Government.

(4) The Attorney-General, or any officer authorised by the Attorney-General to direct and conduct an

investigation, may apply to any public servant or any other person for assistance in the exercise of his powers or the discharge of his duties under this Act.

What Attorney-General may do when there is *prima facie* case of bribery.

5. If the Attorney-General is satisfied that there is a *prima facie* case of bribery, he may—

- (a) where the offender is not a public servant, indict the offender before the Supreme Court or the District Court as the Attorney-General may determine; and
- (b) where the offender is a public servant, either indict the offender as provided in the preceding paragraph (a) or arraign the offender before a Board of Inquiry after informing the Public Service Commission.

Application of the Criminal Procedure Code. Cap. 16.

6. (1) Such of the provisions of the Criminal Procedure Code as are not excluded by sub-section (2) or are not inconsistent with the provisions of this Act shall apply to proceedings in any Court for bribery.

(2) Section 325 of the Criminal Procedure Code shall not apply to the proceedings referred to in sub-section (1).

Search warrants.

7. In the course of an investigation of an allegation of bribery, the Attorney-General or any officer authorised in that behalf by the Attorney-General may make to such Magistrate in his chambers as the Attorney-General may determine an application for, and such Magistrate may upon such application issue, a search warrant authorising the person or persons specified in that behalf in such application to enter and search, with such assistance as may be required, any place, premises, building or house so specified and to take possession of and remove any book, document or thing relevant to the matters to which such investigation relates ; and the provisions of sections 20, 25, 26, 74, 75 and 76 of the Criminal Procedure Code shall apply to search warrants issued under this section, and, notwithstanding anything to the contrary in that Code, it shall not be necessary to take any book, document or thing seized under a search warrant issued under this section before the Magistrate who issued that warant or any other Magistrate.

8. Anything in the Criminal Procedure Code or any other enactment to the contrary notwithstanding, the Attorney-General may indict a person for bribery without a preliminary inquiry by a Magistrate's Court as provided in Chapter XVI of that Code.

Offenders to
be indicated
without
preliminary
inquiry.
Cap. 16.

9. (1) An indictment prepared in the manner prescribed by section 186 of the Criminal Procedure Code shall be transmitted by the Attorney-General to the Court of trial selected by him. He shall at the same time transmit to the Fiscal of the Province in which the trial will take place a copy or copies of the indictment for service on the accused person or each of the accused persons who will be tried upon the indictment. The Fiscal shall forthwith and at least fourteen days before the day specified for trial serve or cause to be served on the accused person or each of the accused persons the copy or a copy of the indictment received by him from the Attorney-General and shall make return of such service to the Court of trial and to the Attorney-General or any officer appointed by the Attorney-General to represent him.

Service of
indictment
on accused
person, etc.

(2) The Court shall forthwith upon the receipt of the indictment cause to be served on the accused person a notice specifying the date fixed for his trial.

(3) Service on an accused person of any indictment or notice of trial shall be effected in the manner prescribed for the service of summons in sections 45 and 46 of the Criminal Procedure Code and the provisions of section 49 of that Code shall apply accordingly for the purpose of proving such service:

Provided, however, that if service cannot be effected in such manner by the exercise of due diligence, the indictment or notice shall be affixed to some conspicuous part of the house in which the accused person ordinarily resides, and in such case the indictment or notice shall be deemed to have been duly served.

10. (1) Where the Attorney-General indicts before a Court or arraigns before a Board of Inquiry any person for bribery, he shall cause to be furnished to that person—

What
information
to be
furnished
to the
person
charged.

- (a) if an inquiry directed under section 3 has been held by a Magistrate, a copy of the depositions recorded by the Magistrate at the inquiry;
- (b) if, instead of an inquiry by a Magistrate, an investigation has been held by the Attorney-General or by an officer authorised by him, a summary of the facts elicited in the

course thereof and proposed to be relied on at the trial in Court or at the inquiry by the Board; and

(c) in the case of arraignment before the Board, a concise statement of the particulars of the charge and a list of witnesses who are likely to be called to give evidence and a list of documents that may be used at the inquiry.

(2) The Attorney-General shall, if so required by any Court or Board of Inquiry trying or inquiring into a charge of bribery, furnish or cause to be furnished to the Court or Board any statement recorded in the course of the investigation referred to in paragraph (b) of sub-section (1). No such statement shall be made available to the accused person or to any advocate, proctor or other person defending him unless the Court or Board, on application made to it in that behalf and after reference to the statement, is of opinion that in the circumstances of the case the furnishing of the statement is in the interests of justice.

(3) No statement referred to in sub-section (2) shall be used in any proceedings before a Court or Board of Inquiry otherwise than to prove that a witness made a different statement at a different time, or to refresh the memory of the person recording it: Provided, however, that nothing in this sub-section shall be deemed to apply to any statement falling within the provisions of paragraph (1) of section 32 of the Evidence Ordinance or to prevent such statement being used in evidence in a charge under section 180 of the Penal Code.

(4) The restrictions imposed by sub-sections (2) and (3) shall not apply to or in relation to any deposition recorded by a Magistrate in an inquiry directed under section 3.

Cap. 11.

Cap. 15.

**Who may be
prosecutor
before a
Board of
Inquiry.**

11. The case against a public servant who is arraigned before a Board of Inquiry shall be presented to the Board by a Crown Counsel, or by any advocate, proctor or officer authorised in writing by the Attorney-General.

**Manner of
service of
summons on
any person
issued in
proceedings
in Court for
bribery.**

12. In addition to the manner of service of summons on witnesses prescribed by the Criminal Procedure Code, summons on any person issued in proceedings in any Court for bribery may be served in the following manner:—

- (a) by registered letter addressed and despatched by express post to the person to be summoned; or
- (b) in the case of a public servant, by registered letter addressed and despatched by express post to the head of the department, office or establishment in which such public servant is employed; or
- (c) in the case of any person who is employed under any other person, by registered letter addressed and despatched by express post to the employer; or
- (d) through any village headman; or
- (e) in urgent cases by telegram.

13. At the trial of a person indicted before any court for bribery, the court or the prosecutor may, notwithstanding anything to the contrary in any other written law, call any such witness, or use or produce any such document, as is not specified in the indictment.

Calling of
witnesses
and use and
Production
of documents
not specified
in the
indictment.

PART II.

Offences of Bribery.

14. A person—

- (a) who offers any gratification to a judicial officer, or to a member of either the Senate or the House of Representatives, as an inducement or a reward for such officer's or member's doing or forbearing to do any act in his judicial capacity or in his capacity as such member, or
- (b) who, being a judicial officer or a member of either the Senate or the House of Representatives, solicits or accepts any gratification as an inducement or a reward for his doing or forbearing to do any act in his judicial capacity or in his capacity as such member,

Bribery of
judicial
officers,
Senators and
Members of
Parliament.

shall be guilty of an offence punishable with rigorous imprisonment for a term not exceeding seven years or a fine not exceeding five thousand rupees or both.

Acceptance of
gratification
by Senators and
Members of
Parliament for
interviewing
public servants.

15. A member of either the Senate or the House of Representatives who solicits or accepts any gratification as an inducement or a reward for—

- (a) his interviewing a public servant on behalf of any person, or
- (b) his appearing on behalf of any person before a public servant exercising judicial or quasi-judicial functions,

shall be guilty of an offence punishable with rigorous imprisonment for a term not exceeding seven years or a fine not exceeding five thousand rupees or both:

Provided, however, that it shall not be an offence under the preceding provisions of this section for a member of either the Senate or the House of Representatives to appear as an advocate or a proctor before a Court or before a statutory tribunal of which a public servant is not a member.

Bribery of
police officers,
peace officers
and other public
servants.

16. A person—

- (a) who offers any gratification to any police officer, peace officer, or other public servant, employed in any capacity for the prosecution, detection or punishment of offenders, or to an officer of a Court, as an inducement or a reward for such officer's or servant's interfering with the due administration of justice, or procuring or facilitating the commission of any offence, or protecting from detection or punishment the perpetrator of any offence, or abusing his official powers to the injury or detriment of any person, or
- (b) who, being any such officer or servant, solicits or accepts any gratification as an inducement or a reward for such interfering, procuring, facilitating, protecting, or abusing as is referred to in paragraph (a) of this section,

shall be guilty of an offence punishable with rigorous imprisonment for a term not exceeding seven years or a fine not exceeding five thousand rupees or both.

Bribery for
giving
assistance
or using
influence in
regard to
contracts.

17. A person—

- (a) who offers any gratification to a public servant as an inducement or a reward for such public servant's giving assistance or using influence in the promotion of the procuring

of any contract with the Government for the performance of any work, the providing of any service, the doing of anything, or the supplying of any article, material or substance, or in the execution of any such contract, or in the payment of the price or consideration stipulated therein or of any subsidy payable in respect thereof, or

- (b) who, being a public servant, solicits or accepts any gratification as an inducement or a reward for his giving assistance or using influence in the promotion of the procuring of any such contract as is referred to in paragraph (a) of this section, or in the execution of any such contract, or in the payment of the price or consideration stipulated therein or of any subsidy payable in respect thereof,

shall be guilty of an offence punishable with rigorous imprisonment for a term of not more than seven years or a fine not exceeding five thousand rupees or both.

18. A person—

- (a) who, with intent to obtain from the Government a contract for performing any work, providing any service, doing anything, or supplying any article, material or substance, offers any gratification to any person who has made a tender for such contract, as an inducement or a reward for his withdrawing such tender, or
- (b) who solicits or accepts any gratification as an inducement or a reward for his withdrawing a tender made by him for such contract,

Bribery for
procuring
withdrawal
of tenders.

shall be guilty of an offence punishable with rigorous imprisonment for a term of not more than seven years or a fine not exceeding five thousand rupees or both.

19. A person—

- (a) who offers any gratification to a public servant as an inducement or a reward for that public servant's performing or abstaining

Bribery in
respect of
Government
business.

from performing any official act, or expediting, delaying, hindering or preventing the performance of any official act whether by that public servant or by any other public servant, or assisting, favouring, hindering or delaying any person in the transaction of any business with the Government, or

- (b) who, being a public servant, solicits or accepts any gratification as an inducement or a reward for his performing or abstaining from performing any official act or for such expediting, delaying, hindering, preventing, assisting or favouring as is referred to in paragraph (a) of this section,

shall be guilty of an offence punishable with rigorous imprisonment for a term of not more than seven years or a fine not exceeding five thousand rupees or both.

**Bribery in
connexion
with payment
of claims,
appointments,
employment,
grants,
leases, and
other
benefits.**

20. A person—

- (a) who offers any gratification to any person as an inducement or a reward for—
 (i) his procuring from the Government the payment of the whole or a part of any claim, or
 (ii) his procuring or furthering the appointment of the first mentioned person or of any other person to any office, or
 (iii) his preventing the appointment of any other person to any office, or
 (iv) his procuring, or furthering the securing of, any employment for the first mentioned person or for any other person in any department, office or establishment of the Government, or
 (v) his preventing the securing of any employment for any other person in any department, office or establishment of the Government, or
 (vi) his procuring, or furthering the securing of, any grant, lease or other benefit from the Government for the first mentioned person or for any other person, or

- (vii) his preventing the securing of any such grant, lease or benefit for any other person, or .
- (b) who solicits or accepts any gratification as an inducement or a reward for his doing any of the acts specified in sub-paragraphs (i), (ii), (iii), (iv), (v), (vi) and (vii) of paragraph (a) of this section,

shall be guilty of an offence punishable with rigorous imprisonment for a term of not more than seven years or a fine not exceeding five thousand rupees or both.

21. A person—

- (a) who, while having dealings of any kind with the Government through any department, office or establishment of the Government, offers any gratification to any public servant employed in that department, office or establishment, or
- (b) who, within one year before or after his having dealings of any kind with the Government through any department, office or establishment of the Government, offers any gratification to any public servant employed in that department, office or establishment, or
- (c) who, being a public servant, solicits or accepts any gratification the offer of which is an offence under this section,

Bribery of
public
servants by
persons
having
dealings
with the
Government.

shall be guilty of an offence punishable with rigorous imprisonment for a term of not more than seven years or a fine not exceeding five thousand rupees or both:

Provided, however, that such offer of a gratification to a public servant as is referred to in paragraph (b) of this section shall not be an offence under this section if the offerer proves that the gratification was *bona fide* offered for a purpose not connected with and not relating to such dealings as are referred to in that paragraph and that when he offered the gratification he had no hope or expectation of having any such dealings or he did not intend that the gratification should be an inducement or a reward for that public servant's doing or forbearing to do any act connected with or relating to any such dealings.

Bribery of member of local authority, or of scheduled institution, or of governing body of scheduled institution, and bribery of officer or employee of local authority or of such institution.

22. A person—

- (a) who offers any gratification to any member of a local authority, or of a scheduled institution, or of the governing body of a scheduled institution, as an inducement or a reward for—
 - (i) such member's voting or abstaining from voting at any meeting of such local authority, scheduled institution, or governing body or of a committee thereof in favour of or against any measure, resolution or question submitted to such local authority, scheduled institution, governing body, or committee, or
 - (ii) such member's performing, or abstaining from performing, or his aid in procuring, expediting, delaying, hindering or preventing the performance of, any official act, or
 - (iii) such member's aid in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person, or
- (b) who offers any gratification to any officer or employee of any local authority, or of any scheduled institution, as an inducement or a reward for—
 - (i) such officer's or employee's performing or abstaining from performing, or his aid in procuring, expediting, delaying, hindering or preventing the performance of, any official act, or
 - (ii) such officer's or employee's procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person, or
- (c) who, being such member as is referred to in paragraph (a) of this section, solicits or accepts any gratification as an inducement or a reward for any such act, or any such abstaining, as is referred to in subparagraphs (i), (ii) and (iii) of that paragraph, or

- (d) who, being such officer or employee as is referred to in paragraph (b) of this section, solicits or accepts any gratification as an inducement or a reward for any such act, or any such abstaining, as is referred to in sub-paragraphs (i) and (ii) of that paragraph,

shall be guilty of an offence punishable with rigorous imprisonment for a term not exceeding seven years or a fine not exceeding five thousand rupees or both.

23. A person—

- (a) who attempts by any threat, deceit, suppression of the truth or other unlawful means to influence any member of a local authority, or of a scheduled institution, or of the governing body of a scheduled institution in giving or withholding his vote in favour of or against any measure, motion, resolution or question submitted to any meeting, or in not attending any meeting, of such local authority, scheduled institution, or governing body or of any committee thereof, or
- (b) who attempts by any such means as in the last preceding paragraph mentioned to influence any member or any officer or employee of a local authority, or of a scheduled institution, or of the governing body of a scheduled institution to aid in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person, or to perform or abstain from performing, or to aid in procuring, expediting, delaying, hindering or preventing the performance of, any official act,

Use of threats
or fraud to
influence vote
of member of
local authority,
or of scheduled
institution, or
of governing
body of
scheduled
institution.

shall be guilty of an offence punishable with rigorous imprisonment for a term not exceeding seven years or a fine not exceeding five thousand rupees or both.

24. Where in any proceedings against any person for any offence under any section in this Part of this Act, it is proved that he accepted any gratification, having grounds to believe or suspect that the gratification was offered in consideration of his doing or

Acceptor of
gratification
to be guilty
notwithstanding
that purpose
not carried
out, etc.

forbearing to do any act referred to in that section, he shall be guilty of an offence under that section notwithstanding that he did not actually have the power, right or opportunity so to do or forbear or that he accepted the gratification without intending so to do or forbear or that he did not in fact so do or forbear.

Attempt, to commit, and abetment cf, an offence under this Part.

Cap. 15.

When penalty to be imposed in addition to other punishment.

Frivolous, false and groundless complaints to be reported to the Attorney-General.

25. (1) A person who attempts to commit or to cause the commission of an offence under this Part of this Act and in such attempt does any act towards the commission of that offence shall be guilty of an offence and shall be tried in the same manner, and shall upon conviction be liable to the same punishment, as is prescribed by this Act for the first mentioned offence.

(2) A person who abets an offence under this Part of this Act shall be guilty of an offence and shall be tried in the same manner, and shall upon conviction be liable to the same punishment, as is prescribed by this Act for the first mentioned offence. In this subsection the expression "abet" shall have the same meaning as in sections 100 and 101 of the Penal Code.

26. Where a Court convicts any person of an offence committed by the acceptance of any gratification in contravention of any provision of this Part of this Act, then, if that gratification is a sum of money or if the value of that gratification can be assessed, the Court shall, in addition to the Court's imposing on that person any other punishment, order him to pay as a penalty, within such time as may be specified in the order, a sum which is equal to the amount of that gratification or is, in the opinion of the Court, the value of that gratification.

27. (1) Where, at the conclusion of the trial of any person charged with bribery before a court, the presiding Judge, if the court is the Supreme Court, or the District Judge, if the court is the District Court, or where at the conclusion of the inquiry by a Board of Inquiry into a charge of bribery against any person, the Board, is of the opinion that the complainant has wilfully and with intent to harm that person made a false, frivolous, or groundless allegation against him, such presiding Judge or District Judge or the President of such Board, as the case may be, shall certify that opinion under his hand and transmit it together with the record of the proceedings to the Attorney-General.

(2) Where a certificate under sub-section (1) is given in regard to an allegation of bribery made by any person, it shall not be necessary to obtain the sanction of the Attorney-General to institute civil proceedings against that person in respect of that allegation.

28. (1) A fine or a penalty imposed by a Court on any person for bribery may be recovered as if the order imposing the fine or the penalty were a decree entered by that Court in favour of the Crown and against that person.

Recovery of fine
or penalty
imposed by
Court, and
penalty imposed
by a Board
of Inquiry.
for bribery.

(2) Where the amount of a penalty imposed on any person by a Board of Inquiry is not paid by him within the time allowed by the Board, the Attorney-General may apply to such District Court as he may determine for an order, and that District Court shall upon such application make an order, for the payment of that amount by that person, and, if that person fails to pay that amount within the time allowed by the order, that amount may be recovered in like manner as if the order were a decree entered by that District Court in favour of the Crown and against that person.

(3) Where the person liable to pay the fine or penalty referred to in the preceding provisions of this section was a public servant on the date of commission of the offence for which the fine or penalty was imposed, then, notwithstanding anything to the contrary in any other written law, any movable or immovable property acquired after that date by the spouse of, or a son or daughter maintained by, such person shall, in addition to the movable and immovable property of such person, be liable to be seized and sold for the recovery of the amount of such fine or penalty, if the property so acquired—

- (a) was purchased by such spouse, son or daughter, or,
- (b) was purchased in the name of such spouse, son or daughter by the person liable to pay such fine or penalty, or
- (c) was acquired by such spouse, son or daughter by purchase, gift or otherwise from the person who offered the gratification for the acceptance of which the person liable to pay such fine or penalty became so liable, or
- (d) was acquired by testate or intestate succession from the person liable to pay such fine or penalty.

(4) In the proceedings in any court for the recovery of the amount of a fine or penalty referred to in the preceding provisions of this section, it shall not be competent for that court or for anyone to question the competence of the court which imposed the fine or penalty or the competence of the Board of Inquiry which imposed the penalty.

Effect of a court's convicting a person of bribery, or the finding of a Commission of Inquiry or Board of Inquiry that a person is guilty of bribery.

29. Where a person is convicted or found guilty of bribery by a court, Commission of Inquiry, or Board of Inquiry, then, by reason of such conviction or finding,—

- (a) he shall become incapable for a period of seven years from the date of such conviction or finding of being registered as an elector or of voting at any election under the Ceylon (Parliamentary Elections) Order in Council 1946, or for a period of five years under the Local Authorities Elections Ordinance, No. 53 of 1946, or of being elected or appointed as a Senator or Member of Parliament or as a member of a local authority, and, if at that date he has been elected or appointed as a Senator or Member of Parliament or member of a local authority, his election or appointment shall be vacated from that date;
- (b) he shall be disqualified for all time from being employed as a public servant and from being elected or appointed to a scheduled institution or to the governing body of a scheduled institution;
- (c) he shall, if he is a member of a scheduled institution or of the governing body of a scheduled institution, cease to be such member from the date of such conviction or finding; and
- (d) he shall, if he is a public servant, cease to be a public servant from the date of such conviction or finding and, notwithstanding anything to the contrary in any other written law, be deemed to have been dismissed on that date by the authority empowered by law to dismiss him.

Offences under this Part to be cognizable.
Cap. 16.

80. All offences under this Part of this Act shall be cognizable offences for the purpose of the application of the provisions of the Criminal Procedure Code notwithstanding anything contained in the First Schedule of that Code.

31. A District Court may try a person charged with any offence under this Part of this Act and, upon the conviction of that person, impose on him any punishment prescribed for that offence by this Act notwithstanding any limitation of the ordinary jurisdiction of that Court.

Jurisdiction
of District
Court to try
and punish
offences under
this Part.

PART III.

Commissions of Inquiry.

32. (1) The Governor-General may, on the advice of the Prime Minister, appoint, by warrant under the Public Seal of Ceylon, a Commission of Inquiry consisting of one or more members to inquire into and report on any allegations of bribery—

Power to
appoint
Commissions of
Inquiry to
investigate
allegations
of bribery.

- (a) made generally against the Cabinet of Ministers, or the members of either the Senate or the House of Representatives, or the members of any local authority, or the persons appointed by the Governor-General to any office, or the members, directors, or governing body of any scheduled institution, or
- (b) made against any particular person or persons specified in paragraph (a) of this subsection.

(2) A warrant appointing a Commission of Inquiry under this Act shall contain such particulars as are required by sub-section (2) of section 2 of the Commissions of Inquiry Act, No. 17 of 1948, to be set out in a warrant issued under that Act.

33. Upon the appointment of a Commission of Inquiry under this Act, the provisions of the Commissions of Inquiry Act, No. 17 of 1948, other than the provisions of sub-section (1) of section 2 and the provisions of section 15, shall apply in like manner as if such Commission were appointed under that Act.

Application
of provisions
of Commissions
of Inquiry Act,
No. 17 of 1948

34. (1) A Commission of Inquiry shall, in addition to the powers under the Commissions of Inquiry Act, No. 17 of 1948, have—

Powers of
Commissions
of Inquiry.

- (a) the power to cause summons on any person issued in proceedings before the Commission to be served in any manner specified in paragraphs (a), (b), (c), (d) and (e) of section 12;

- (b) the power to issue warrants of arrest in case of disobedience to summons;
- (c) the power to require by written notice the person or each person in respect of whom the Commission is holding an inquiry to furnish a sworn statement in writing enumerating all movable or immovable property belonging to or possessed by such person and by the spouse, sons and daughters of such person, and specifying the date on which each of the properties enumerated was acquired whether by way of purchase, gift, bequest, inheritance or otherwise;
- (d) the power to require by written notice any other person to furnish a sworn statement in writing enumerating all movable or immovable property belonging to or possessed by such person where the Commission has reasonable grounds to believe that such information can assist the inquiry;
- (e) the power, in regard to the person or each person in respect of whom the inquiry is held and in regard to the spouse, sons and daughters of that person, to require by written notice any bank, or any department, office or establishment of the Government, or any local authority or scheduled institution to produce any such books and documents, and to furnish any such certified copies and any such information, as the Attorney-General may require under section 4 to be produced or furnished; and
- (f) such other powers as may be conferred on the Commission by the Governor-General either by the warrant constituting the Commission or by any subsequent warrant.

(2) A warrant of arrest issued by a Commission of Inquiry—

- (a) shall be under the hand of the Chairman of the Commission or, if the Commission consists of a sole Commissioner, under the hand of such Commissioner, and

(b) shall be executed by the Fiscal or any police officer to whom it is directed.

No stamp duty shall be payable for any such warrant of arrest.

(3) A Commission of Inquiry shall treat all information obtained by it under paragraph (d) of subsection (1) with the strictest secrecy and shall not divulge such information to any person other than the Attorney-General, the person in respect of whom the inquiry is held, or any advocate or proctor appearing for that person.

35. Where a person in respect of whom a Commission of Inquiry is holding an inquiry refuses or neglects to attend the inquiry, the Commission may proceed with the inquiry in his absence.

Inquiry despite absence of person affected

36. (1) A Commission of Inquiry may cause the evidence given before it to be taken down in such language as it may deem proper.

Language of evidence.

(2) Where any evidence is given before a Commission of Inquiry in a language which any member of the Commission does not understand, it shall be interpreted into a language understood by that member.

37. (1) Every offence of contempt committed against or in disrespect of the authority of a Commission of Inquiry shall be communicated to the Chief Justice by letter under the hand of the Chairman of the Commission or, where the Commission consists of a sole Commissioner, under the hand of such Commissioner.

Offence of contempt against Commission of Inquiry to be communicated to the Chief Justice.

(2) The Chief Justice shall, upon his receiving from a Commission of Inquiry a communication under sub-section (1), issue a rule *nisi* for contempt of court on the person named in that communication as having committed the offence of contempt against or in disrespect of the authority of that Commission.

(3) A person on whom a rule *nisi* is issued under sub-section (2) shall be liable to be punished unless he shows cause to the satisfaction of the Supreme Court or a Judge thereof.

(4) In any proceedings against any person for the offence of contempt committed against or in disrespect of the authority of a Commission of Inquiry, no member of that Commission shall be liable to be

summoned as a witness by that person, but the Supreme Court may, if that Court considers it necessary to do so, examine a member of that Commission.

Publication
of report of
Commission of
Inquiry.

38. (1) The Governor-General shall order the publication of the report of a Commission of Inquiry if in his opinion the public interest will not suffer by such publication.

(2) Where the Governor-General decides not to publish the report of a Commission of Inquiry on the ground that the public interest will suffer by its publication, he shall, on being requested so to do by a resolution passed by the Senate and by the House of Representatives, order the publication of such report.

Assessment
of value of
gratification
where Commis-
sion of Inquiry
finds person
guilty of
bribery by
having accepted
a gratification.

39. (1) Where a Commission of Inquiry finds that any person is guilty of bribery by having accepted a gratification—

(a) the Commission shall, if that gratification is a sum of money, state that sum, or, if the value of that gratification can be assessed, assess and declare that value, in its report, and

(b) the Attorney-General shall in writing communicate such finding to that person and, if a sum is specified in that report as the amount or the value of that gratification, direct that person to pay that sum to the Attorney-General within such time as may be specified in the direction.

(2) If a person fails to pay the sum directed by the Attorney-General under sub-section (1) to be paid, the Attorney-General may apply to such District Court as he may determine for an order, and that District Court shall upon such application make an order, for the payment of that sum by that person, and, if that person fails to pay that sum within the time allowed by the order, that sum may be recovered in like manner as if the order were a decree entered by that District Court in favour of the Crown and against that person.

(3) If the person liable to pay the sum referred to in sub-section (2) was a public servant on the date of his acceptance of the gratification, the provisions of sub-section (3) of section 28 shall, for the purposes

of the recovery of that sum, apply in like manner as if that sum were a penalty imposed by a Court under section 26.

(4) In the proceedings in a District Court for the recovery of the sum referred to in sub-section (2), it shall not be competent for that Court or for anyone to question the sum declared by the Commission of Inquiry to be the amount, or the value, of the gratification.

PART IV.

Boards of Inquiry.

40. (1) This Part of this Act shall cease to be in operation at the end of eighteen months from the appointed date unless its operation is extended as provided by sub-section (2).

Duration
of this
Part.

(2) The Governor-General may, on the advice of the Prime Minister, by Proclamation published in the *Gazette* extend from time to time the operation of this Part of this Act for such period as he may on like advice determine.

(3) Where this Part of this Act ceases to be in operation, the provisions of sub-section (3) of section 6 of the Interpretation Ordinance shall apply in all respects in like manner as though this Part of this Act had been repealed.

Cap. 2.

41. (1) The Governor-General shall, on the advice of the Prime Minister, constitute four panels, each of not more than twenty members, for the purposes of the constitution of Boards of Inquiry.

Panels from
which Boards
of Inquiry
are to be
constituted.

(2) One panel shall consist of persons who have retired from service under the Crown having held office as Judge of the Supreme Court or District Judge.

(3) The second panel shall consist of retired public servants who at the time of retirement held any office the basic salary of which was not less than Rs. 15,000 per annum and of public servants holding any office the basic salary of which is not less than Rs. 15,000 per annum.

(4) The third panel shall consist of retired public servants who at the time of retirement held any office the basic salary of which was not less than Rs. 12,000 per annum and of public servants holding any office the basic salary of which is not less than Rs. 12,000 per annum.

(5) The fourth panel shall consist of persons of good repute not falling within any of the three preceding categories.

(6) The members of each panel shall be on the panel for a term of three years and shall be eligible for re-appointment.

(7) The Governor-General shall, on the advice of the Prime Minister, fill vacancies in the panels caused by death, resignation, or otherwise.

(8) A person appointed to fill any vacancy shall hold office for the remainder of the term of office of the member in whose place he has been appointed.

Constitution
of Boards of
Inquiry.

42. (1) A Board of Inquiry shall consist of not less than three members selected by the Attorney-General by lot from any one or more of the panels constituted under this Part of this Act. In no case shall a Board of Inquiry consist of an even number of members.

(2) A different Board of Inquiry shall be constituted as herein provided for each inquiry.

(3) Where it appears to the Attorney-General that a member of a panel whose name is drawn is not in Ceylon or is owing to illness or other incapacity incapable of serving, or is for any reason unable to serve, on a Board of Inquiry, the Attorney-General may draw another name instead.

(4) Where the Attorney-General is satisfied that, owing to the relations between a member of a Board of Inquiry and the person arraigned before the Board, it is desirable that another member should be appointed, he may draw another name instead.

President
of a Board
of Inquiry,
and quorum
for a
meeting of
such Board.

43. (1) The members of a Board of Inquiry shall by agreement decide which of them shall officiate as President of the Board, but where a retired judicial officer is a member of the Board, he shall preside. If a Board of Inquiry consists of more than one retired judicial officer, the Board shall by agreement decide which of them shall preside.

(2) If the President is unable to be present at any sitting of a Board of Inquiry, the remaining members of the Board shall by agreement decide which of them shall preside.

(3) At a meeting of a Board of Inquiry the quorum shall be two.

When a Board
of Inquiry
may be replaced
by a new
Board.

44. If the President is from any cause whatsoever unable to participate in the final decision of a Board of Inquiry and there is an equal division of opinion among the remaining members of the Board, the

Attorney-General shall replace the Board with another Board of Inquiry constituted under this Part of this Act; and the new Board shall inquire afresh into the charge which was inquired into by the previous Board and in doing so may use the evidence already recorded by the previous Board or take evidence afresh.

45. The members of every Board of Inquiry shall be paid such subsistence, travelling and other allowances as may be fixed by the Minister of Finance from time to time.

Remuneration
of members of
a Board of
Inquiry.

46. (1) There shall be a Secretary to every Board of Inquiry (hereinafter referred to as "the Secretary") and one or more Assistant Secretaries.

Secretary to
a Board of
Inquiry.

(2) An Assistant Secretary shall assist the Secretary in the performance of his duties and functions and shall have power to perform such of the duties and functions of the Secretary as he may be authorised by the Secretary in writing to perform.

47. (1) A Board of Inquiry shall, in addition to any other power conferred on it by this Act, have the following powers:—

Powers of
Boards of
Inquiry.

- (a) upon the Attorney-General's arraigning a public servant before the Board on a charge of bribery, to inquire into such charge and decide whether or not such public servant is guilty of bribery;
- (b) to procure and receive all such written or oral evidence, and to examine all such persons as witnesses, as the Board may think it necessary or desirable to procure or examine;
- (c) to require the written or oral evidence of any witness to be given on oath or affirmation, such oath or affirmation to be that which could be required of the witness if he were giving evidence in a Court, and to administer or cause to be administered by an officer authorised in that behalf by the Board an oath or affirmation to every such witness;
- (d) to summon any person residing in Ceylon to any meeting of the Board to give any evidence or produce any document or other thing in his possession, and to examine him as a witness or require him to produce any document or other thing in his possession;

Cap. 11.

- (e) to issue warrants of arrest in case of disobedience to summons;
- (f) notwithstanding any of the provisions of the Evidence Ordinance, to admit any written or oral evidence which may be inadmissible in civil or criminal proceedings in a Court;
- (g) in regard to a public servant arraigned before the Board and in regard to the spouse, sons and daughters of that public servant, to require by written notice any bank, or any department, office or establishment of the Government, or any local authority or scheduled institution to produce any such books and documents, and to furnish any such certified copies and any such information, as the Attorney-General may require under section 4 to be produced or furnished;
- (h) to require by written notice a public servant arraigned before the Board to furnish a sworn statement in writing enumerating all movable and immovable property belonging to or possessed by such public servant and by the spouse, sons and daughters of such public servant, and specifying the date on which each of the properties enumerated was acquired whether by way of purchase, gift, bequest, inheritance or otherwise;
- (i) to require by written notice any other person to furnish a sworn statement in writing enumerating all movable or immovable property belonging to or possessed by such person where the Board has reasonable grounds to believe that such information can assist the inquiry into a charge of bribery against a public servant.

(2) A Board of Inquiry shall treat all information obtained by it under paragraph (g) of sub-section (1) with the strictest secrecy and shall not divulge such information to any person other than the Attorney-General, the prosecutor, the accused person, and any advocate, proctor or other person defending the accused person.

**Board of
Inquiry to
proceed to
scenes of
offence.**

48. (1) A Board of Inquiry selected for inquiring into a charge of bribery shall on a date fixed by the Secretary proceed with the necessary staff to the place where the offence is alleged to have been committed or, if that is not practicable, to the most convenient place nearest it and hold the inquiry.

(2) It shall be the duty of the Board of Inquiry to make a thorough inquiry without regard to legal forms and solemnities.

(3) At any stage of the proceedings the Board of Inquiry may *ex mero motu* examine any witness or document whether or not called or produced by the prosecutor or by the accused person.

(4) The Board of Inquiry may, at the request of the prosecutor or the accused person or *ex mero motu*, examine any matter, thing or place which it may deem necessary to examine.

(5) The Board of Inquiry shall not be bound to complete the inquiry at the place at which the Board commences it. The Board may in the course of the inquiry, if it is convenient or necessary to do so, proceed to any other place or places and continue and conclude the inquiry.

49. A Board of Inquiry shall ordinarily conduct its proceedings *in camera*, but may conduct any proceedings in public if, having regard to the circumstances of any case, it is in the public interest so to do. The Board may at any time exclude any person from its proceedings.

Proceedings
ordinarily
to be *in
camera*.

50. (1) A Board of Inquiry shall take down in writing the evidence of each witness or cause such evidence to be recorded by a clerk or stenographer acting under its direction. Where the evidence is recorded in shorthand, the President of the Board shall sign the transcript.

Evidence
how
recorded.

(2) The President of a Board of Inquiry shall read over to each witness the record of his evidence and make any necessary corrections in such record.

(3) A Board of Inquiry shall, according to the circumstances of the case, determine the language in which the proceedings shall be conducted.

(4) Where proceedings are conducted in a language other than English, the record shall, at the discretion of the Board of Inquiry, be in English or in the language in which the proceedings are conducted.

(5) The evidence of a witness may be taken down at the discretion of the Board of Inquiry either in the language in which the witness makes his deposition or in English.

(6) Where any member of a Board of Inquiry does not understand the language in which a witness makes his deposition, the Board shall cause the evidence to be interpreted by a qualified interpreter into a language which the member understands.

Duty to
answer
questions.

Regulation
of procedure.

Proof of
documents.

Admission
of evidence
by consent.

Notice of
inquiry.

Calling of
witnesses
and use and
production
of documents
not mentioned
in list
furnished
to accused
person.

Application
to Secretary
for summons.

How process
is to be
issued.

51. In proceedings before a Board of Inquiry a witness shall not be entitled to refuse to answer any question relevant to the matter under inquiry on the ground that the answer may directly or indirectly criminate or tend to criminate him or expose or tend to expose him to a penalty or forfeiture of any kind.

52. Subject to the provisions of this Act, a Board of Inquiry may regulate its own procedure.

53. It shall not be necessary to prove the execution of any document produced before a Board of Inquiry except where the Board has reason to doubt its genuineness.

54. A Board of Inquiry may permit the admission of evidence by consent of the prosecutor and the accused person without proof thereof.

55. (1) The Secretary shall give the accused person at least seven days' notice of the date, time and place of the inquiry.

(2) The notice to the accused person shall be sent by registered letter despatched by express post.

56. A Board of Inquiry or the prosecutor shall not be precluded from calling at the inquiry witnesses whose names are not in the list furnished by or on behalf of the Attorney-General to the accused person or from using or producing any document not included in such list.

57. If either the prosecution or the accused person is unable to secure without summons the attendance of any person as a witness or for the purpose of producing any document or thing, application for summons to compel attendance shall be made in writing to the Secretary. Such application shall give the full name and address of each person to be summoned and state concisely the purpose for which his attendance is required.

58. Every summons or warrant of arrest issued in proceedings before a Board of Inquiry shall be—

(a) under the hand of the President of the Board or, in the case of his absence or incapacity, under the hand of any of the other members of the Board, or

(b) under the hand of the Secretary.

59. No stamp duty shall be payable for any process issued in proceedings before a Board of Inquiry.

No stamp duty for process.

Service of summons.

Cap. 16.

60. Summons on a person issued in proceedings before a Board of Inquiry may be served in the manner of service of summons prescribed by the Criminal Procedure Code or in any manner specified in paragraphs (a), (b), (c), (d) and (e) of section 12 of this Act.

61. Every warrant of arrest issued in proceedings before a Board of Inquiry shall, unless otherwise directed by the Board, be executed by the Fiscal or any police officer to whom it is directed.

Execution of warrants of arrest.

62. (1) A Board of Inquiry shall not postpone the inquiry on the ground of absence of the complainant except where the inquiry cannot proceed without his presence.

Postponement of inquiry.

(2) A Board of Inquiry shall not postpone the inquiry on the application of an accused person unless—

(a) he is so ill as to be unable to attend the inquiry and he is not represented by an advocate or a proctor or by an authorised person, or

(b) a material witness on whom he has obtained summons has failed to attend and it is not possible to secure his attendance in time for the inquiry to proceed without postponement.

(3) A Board of Inquiry shall not postpone the inquiry on the ground of illness of a necessary party or a material witness unless the Board is satisfied on the testimony on oath or affidavit of a qualified medical practitioner that the necessary party or material witness is so ill as to be unable to attend the inquiry.

63. A Board of Inquiry may *ex mero motu* adjourn the inquiry in order to examine any witness or document it deems necessary to examine or on any other reasonable ground.

Adjournment of Inquiry.

64. Where the accused person neglects or refuses to attend the inquiry, the Board of Inquiry shall hold the inquiry in his absence.

Ex parte inquiry.

65. In proceedings before a Board of Inquiry the accused person shall be entitled to defend himself in person or by an advocate or a proctor or by a friend.

Accused person's right of defence.

**Decisions of
Boards of
Inquiry.**

66. (1) A Board of Inquiry shall decide whether or not the accused person is guilty of the charge of bribery made against him, and shall as soon as possible after the conclusion of the inquiry announce the decision.

(2) In the case of a division of opinion among the members of a Board of Inquiry, the opinion of the majority of them shall prevail and such opinion shall be announced as the decision of the Board.

(3) The Secretary shall by registered letter despatched by post communicate the decision of a Board of Inquiry to—

- (a) the Governor-General, if the accused person is an officer appointed by him;
- (b) the Public Service Commission, if the accused person is a public servant not appointed by the Governor-General;
- (c) the Local Government Service Commission, if the accused person is an officer appointed by that Commission; or
- (d) the person or body that appointed the accused person, if the accused person does not belong to any of the categories of accused persons specified in paragraphs (a), (b), and (c) of this sub-section.

**Punishment
for public
servant found
by Board of
Inquiry to
be guilty
of bribery.**

67. Where a Board of Inquiry decides that the accused person is guilty of bribery—

- (a) the Board shall, if the bribery is the acceptance of a gratification and if that gratification is a sum of money or if the value of that gratification can be assessed, order him to pay as a penalty, within such time as may be specified in the order, a sum which is equal to the amount of the gratification or is, in the opinion of the Board, the value of that gratification, and
- (b) he shall, in addition to his liability to pay such penalty, be subject or liable to all such disqualifications, disabilities, incapacities and other punishments as by reason of that decision of the Board he is subject or liable to under section 29.

**Contempts
of Boards
of Inquiry.**

68. (1) Every Board of Inquiry is hereby empowered to enforce its authority and obedience to its orders by punishing as for contempt any disregard of

or disobedience to its authority committed in the presence of the Board itself or in the course of any proceeding before the Board. For the purpose of this section every Board of Inquiry shall have all the powers conferred on a Court by section 57 of the Courts Ordinance and Chapter LXV of the Civil Procedure Code.

Cap. 6.
Cap. 86.

(2) Full power and authority to take cognizance of and to try in a summary manner every other offence of contempt committed against or in disrespect of the authority of a Board of Inquiry is hereby vested in the Supreme Court in like manner as if the Board were a Court within the meaning of section 47 of the Courts Ordinance.

69. No civil or criminal proceedings shall be instituted against any member of a Board of Inquiry in respect of any act *bona fide* done or omitted to be done by him as such member.

Protection
of members
of Boards
of Inquiry.

PART V.

Offences other than bribery.

70. A person who—

- (a) wilfully neglects or omits to carry out any direction given to him under sub-section (4) of section 3 by the Attorney-General or by any officer empowered by that section to direct and conduct an investigation, or
- (b) gives a false answer when questioned under that sub-section, or
- (c) makes a false statement in an affidavit submitted by him in compliance with a direction under that sub-section,

Wilful neglect
to carry out
direction of,
or obstruction
of,
investigating
officer, etc.

shall be guilty of an offence and shall, upon summary trial and conviction by a Magistrate, be liable to a fine of not less than one hundred rupees and not more than five hundred rupees.

71. Notwithstanding the provisions of any other written law or any oath of secrecy to the contrary, every person to whom a notice is sent by the Attorney-General under sub-section (1) of section 4 or by a Commission of Inquiry under sub-section (1) of section 34 or by a Board of Inquiry under sub-section (1) of section 47 shall comply with the provisions of that notice within such time as may be specified therein, and, if he wilfully neglects or omits to do so, he shall be guilty of

Failure to
furnish
information.

an offence and shall, upon summary trial and conviction by a Magistrate, be liable to a fine of not less than one hundred rupees and not more than five hundred rupees.

Failure to assist investigating officer, and obstruction or resistance of search.

72. A person—

- (a) who, when requested under sub-section (4) of section 4 to render to the Attorney-General, or to any officer empowered by section 3 to direct and conduct an investigation, any assistance in the exercise of his powers or the discharge of his duties under this Act, wilfully neglects or omits to render that assistance, or
- (b) who obstructs or resists the Attorney-General, or any officer authorised by the Attorney-General, in the exercise of the powers of entry and search under sub-section (3) of section 4, or
- (c) who obstructs or resists the execution of a search warrant issued under section 7;

shall be guilty of an offence and shall, upon summary trial and conviction by a Magistrate, be liable to a fine not exceeding five hundred rupees and, upon a second or subsequent conviction of an offence under this section, shall, in addition to such fine, be liable to rigorous imprisonment for a term not exceeding one year.

Interference with witnesses.

73. A person who—

- (a) interferes with any witness summoned in any proceedings for bribery in or before a Court, Commission of Inquiry, or Board of Inquiry, or
- (b) induces any such witness to refrain from giving evidence, or
- (c) threatens any such witness with injury to his body, mind or reputation in order to deter him from giving evidence, or
- (d) injures any such witness in body, mind or reputation in order to deter him from giving evidence, or
- (e) compels any such witness not to give evidence,

shall be guilty of an offence and shall, upon summary trial and conviction by a Magistrate, be liable to rigorous imprisonment for a term not exceeding twelve months and to a fine.

74. (1) A person who directly or indirectly influences any member of either a Commission of Inquiry or a Board of Inquiry, or any officer appointed under this Act, in the performance of his duty shall be guilty of an offence and shall, upon summary trial and conviction by a Magistrate, be liable to a fine of not less than two hundred rupees and not more than five hundred rupees.

Influencing,
threatening or
injuring member
of Commission
of Inquiry or
of Board of
Inquiry or
officer
appointed under
this Act.

(2) A person who directly or indirectly by words written or spoken or by any act threatens any member of either a Commission of Inquiry or a Board of Inquiry, or any officer appointed under this Act, with any injury to his body, mind or reputation in order to deter him from the performance of his duty shall be guilty of an offence and shall, upon summary trial and conviction by a Magistrate, be liable to a fine of not less than two hundred rupees and not more than five hundred rupees and, upon a second or subsequent conviction of an offence under this sub-section, shall, in addition to such fine, be liable to imprisonment for a term not exceeding one year.

(3) A person who causes injury to the body, mind or reputation of a member of either a Commission of Inquiry or a Board of Inquiry, or of any officer appointed under this Act, in order to deter him from the performance of his duty shall, upon summary trial and conviction by a Magistrate, be liable to rigorous imprisonment for a term not exceeding twelve months and to a fine.

75. (1) A person who refuses or wilfully neglects or omits to carry out an order of either a Commission of Inquiry or a Board of Inquiry or wilfully obstructs such Commission or Board shall be guilty of an offence and shall, upon summary trial and conviction by a Magistrate, be liable to rigorous imprisonment for a term not exceeding six months or to a fine of not less than one hundred rupees and not more than five hundred rupees:

Disobeying
Commission of
Inquiry or
Board of
Inquiry.

(2) A prosecution for an offence under sub-section (1) may be instituted in such Magistrate's Court as may be determined by the Attorney-General.

76. If any person upon whom a summons issued by a Board of Inquiry is served—

(a) fails, without such cause as in the opinion of the Board is reasonable, to appear at the time and place mentioned in the summons; or

Failure to
obey summons,
to give
evidence,
answer
questions,
etc.

- (b) refuses to take the oath or make the affirmation or, having taken the oath or made the affirmation, refuses or fails, without such cause as in the opinion of the Board is reasonable, to answer any question put to him relating to the matters under inquiry; or
- (c) refuses or fails, without such cause as in the opinion of the Board is reasonable, to produce any document or other thing which is in his possession or under his control and which, in the opinion of the Board, is necessary for arriving at the truth of the matters under inquiry,

he shall be guilty of an offence and shall, upon summary trial and conviction by a Magistrate, be liable to rigorous imprisonment for a term not exceeding six months or to a fine or to both.

Publication of proceedings held *in camera*, decision of Board of Inquiry, and report of Commission of Inquiry.

77. (1) Where the public and the press have been excluded from any proceedings of either a Commission of Inquiry or a Board of Inquiry, no person shall print or publish those proceedings or any part thereof except with the permission of the Commission or Board, given in writing under the hand of the Chairman of the Commission or President of the Board or, if the Commission consists of a sole Commissioner, under the hand of such Commissioner.

(2) Where the decision of a Board of Inquiry is announced *in camera*, no person shall print or publish such decision or any part or what purports to be a part or an excerpt of such decision except with the permission of the Board given in writing by its President.

(3) No person shall, before the publication of the report of a Commission of Inquiry under the order of the Governor-General, print or publish any part of such report or what purports to be a part or an excerpt of such report.

(4) A person who contravenes the provisions of any of the preceding sub-sections of this section shall be guilty of an offence and shall, upon summary trial and conviction by a Magistrate, be liable to a fine of not less than two hundred rupees and not more than five hundred rupees and, upon a second or subsequent conviction of an offence under this sub-section, shall, in addition to such fine, be liable to rigorous imprisonment for a term not exceeding one year.

PART VI.

General.

78. (1) No prosecution for an offence under this Act shall be instituted in any Court except by, or with the written sanction of, the Attorney-General.

(2) The proceedings in a District Court for bribery shall be taken up before any other business of that Court unless special circumstances of urgency in such other business render it impossible to do so.

(3) Upon application made in that behalf by the Attorney-General or any officer authorised by him, the whole or any part of the proceedings in any Court for bribery may be held *in camera*.

(4) Subject to the other provisions of this Act, no civil or criminal proceedings in respect of any allegation of bribery made to the Attorney-General or to any public servant in his official capacity shall be instituted in any Court against the person who made the allegation except with the written sanction of the Attorney-General.

(5) Subject to the other provisions of this Act, no civil or criminal proceedings shall, except with the written sanction of the Attorney-General, be instituted in any Court against a person in respect of any written or oral evidence given by him in any proceedings for bribery.

(6) Nothing contained in the report of a Commission of Inquiry published under the order of the Governor-General or in a decision of a Board of Inquiry shall be made the ground of an action for defamation, and no Court shall entertain an action for defamation based on anything contained in any such report or decision.

79. (1) In any proceedings for bribery in any Court, Commission of Inquiry, or Board of Inquiry, the giver of a gratification shall be a competent witness against the person accused of taking the gratification and shall not be regarded as an accomplice, and the decision or finding of the Court, Commission or Board shall not be illegal merely because it proceeds upon the uncorroborated testimony of such giver.

(2) In any proceedings against any person under this Act, the spouse of that person shall be a competent witness.

Prosecution
for offences
under this
Act, and suits
and proceedings
in respect of
allegations
of bribery or
statements in
evidence,
reports, and
decisions.

Person giving
gratification
not to be
treated as
accomplice.

Bail from person about to leave Ceylon after commencement of investigation or proceedings.

Tender of conditional pardon.

Cap. 16.

Presumption as to receipt of letter or telegram.

Delegation of Attorney-General's powers and functions under this Act.

Amendment of section 147 of the Criminal Procedure Code.

80. (1) If any person, in the course of an investigation of an allegation of bribery against him or in the course of any proceedings against him for bribery, is preparing or about to leave Ceylon, the Attorney-General or any officer authorised in that behalf by the Attorney-General may apply to any Magistrate for an order requiring such person to furnish bail in such sum as the Magistrate may deem reasonable.

(2) If a person ordered to furnish bail under subsection (1) fails to do so, he shall be remanded to the custody of the Fiscal till such bail is furnished or till such time as the Attorney-General may determine.

81. (1) At any time before the conclusion of the trial of a person charged with bribery or of the inquiry into a charge of bribery, the Attorney-General may, with the view of obtaining at the trial or inquiry the evidence of any person supposed to have been directly or indirectly concerned in or privy to the offence, tender, or by writing under his hand authorise any Magistrate named by him to tender, a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relating to the offence and to every other person concerned whether as principal or as abettor in the commission thereof.

(2) The Magistrate shall record in the manner prescribed by the Criminal Procedure Code the evidence on oath of every person accepting a pardon under subsection (1) and transmit the record to the Attorney-General.

82. Where any summons, notice, direction, decision or other matter is sent or communicated to any person by registered letter or telegram, then, upon the production of the receipt issued by the post office for such letter or telegram, it shall be presumed that such letter or telegram was received by the addressee, unless such letter or telegram is returned undelivered.

83. The Attorney-General may by writing under his hand delegate to the Solicitor-General any of his powers and functions under this Act except the power to sanction civil or criminal proceedings.

84. Section 147 of the Criminal Procedure Code is hereby amended by the insertion, immediately after paragraph (a) of that section, of the following paragraph:—

“(aa) of any offence punishable under sections 158, 159, 160, 161, 210, 211 and 212 of the Penal Code except with the previous sanction of the Attorney-General;”.

85. The Governor-General may, on the advice of the Prime Minister, amend the Schedule to this Act by Proclamation published in the *Gazette*.

Amendment
of the
Schedule.

86. Notwithstanding anything to the contrary in the Income Tax Ordinance, the Commissioner of Income Tax shall report to the Attorney-General for investigation any case where he suspects from information available to him that any person is guilty of bribery.

Commissioner
of Income
Tax to report
to Attorney-
General
cases of
suspected
bribery.

PART VII.

Interpretation.

87. For the purposes of this Act, property which is held by or in the name of a person in trust for or for the benefit of any other person shall be deemed to be indirectly owned by such other person.

Indirect
ownership of
property.

88. Every reference in this Act to the Government shall be construed as including a reference to a local authority and to every scheduled institution.

How to construe
reference to
Government.

89. For the purposes of this Act a person offers a gratification if he or any other person acting with his knowledge or consent directly or indirectly gives, affords or holds out, or agrees, undertakes or promises to give, afford or hold out, any gratification to or for the benefit of or in trust for any other person.

When a person
offers a
gratification.

90. For the purposes of this Act—

When a person
solicits or
accepts a
gratification.

(a) a person solicits a gratification if he, or any other person acting with his knowledge or consent, directly or indirectly demands, invites, asks for, or indicates willingness to receive, any gratification, whether for the first mentioned person or for any other person, and

(b) a person accepts a gratification if he, or any other person acting with his knowledge or consent, directly or indirectly takes, receives or obtains, or agrees to take, receive or obtain any gratification, whether for the first mentioned person or for any other person.

91. In this Act, unless the context otherwise requires—

Meaning of
expressions.

“Board of Inquiry” means a Board of Inquiry constituted under this Act;

“ bribery ” means the offer, solicitation or acceptance of any gratification in contravention of any provision of Part II of this Act, or any other act in contravention of any such provision;

“ Commission of Inquiry ” means a Commission of Inquiry appointed under this Act;

“ gratification ” includes—

- (a) money or any gift, loan, fee, reward, commission, valuable security or other property or interest in property of any description, whether movable or immovable,
- (b) any office, employment or contract,
- (c) any payment, release, discharge or liquidation of any loan, obligation or other liability whatsoever, whether in whole or in part,
- (d) any other service, favour or advantage of any description whatsoever, including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary or penal nature, whether or not already instituted, and including the exercise or the forbearance from the exercise of any right or any official power or duty, and
- (e) any offer, undertaking or promise of any gratification within the meaning of the preceding paragraphs (a), (b), (c) and (d);

“ local authority ” means any Municipal Council, Urban Council, Town Council, Village Committee, Board of Health, or Board of Improvement, and includes—

- (a) a committee of any such Council or of a Village Committee, and
- (b) a committee appointed by an Urban Council under section 41 of the Urban Councils Ordinance, No. 61

of 1939, or by a Town Council under section 43 of the Town Councils Ordinance, No. 3 of 1946;

“ public servant ” includes every officer, servant or employee of the Crown, or of any local authority, or of any scheduled institution, every juror, and every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court or by any other competent public authority ;

“ scheduled institution ” means any such board, institution, corporation or other body as is for the time being specified in the Schedule to this Act.

SCHEDULE.

Agricultural and Industrial Credit Corporation of Ceylon established under the Agricultural and Industrial Credit Corporation Ordinance, No. 19 of 1943.

Air Ceylon Limited established under the Air Ceylon (Incorporation) Act, No. 7 of 1951.

Bank of Ceylon established under the Bank of Ceylon Ordinance, No. 53 of 1938.

Boards of Appeal constituted under the Rubber Control Ordinance, No. 63 of 1938.

Board of Indigenous Medicine constituted under the Indigenous Medicine Ordinance, No. 17 of 1941.

Board of Review constituted under the Income Tax Ordinance.

Board of Review constituted under the Land Acquisition Act, No. 9 of 1950.

Board of Review constituted under the Rent Restriction Act, No. 29 of 1948.

Central Bank of Ceylon established under the Monetary Law Act, No. 58 of 1949.

Ceylon Savings Bank regulated by the Ceylon Savings Bank Ordinance.

Colombo Special Areas Development Board established under the Special Areas (Colombo) Development Ordinance, No. 40 of 1947.

Commissioners of the Loan Board appointed under the Loan Board Ordinance.

Compensation Boards established under the Antiquities Ordinance, No. 9 of 1940.

Co-operative Societies registered under the Co-operative Societies Ordinance.

Debt Conciliation Board of Ceylon established under the Debt Conciliation Ordinance, No. 39 of 1941.

- Gal Oya Development Board established under the Gal Oya Development Board Act, No. 51 of 1949.
- Housing Loans Board established under the Housing Loans Act, No. 26 of 1949.
- Industrial Products Regulation Board established under the Industrial Products Act, No. 18 of 1949.
- Local Government Service Commission established under the Local Government Service Ordinance, No. 43 of 1945.
- Registered Community Centres.
- Registered Rural Development Societies.
- Rent Control Boards constituted under the Rent Restriction Act, No. 29 of 1948.
- The Board of the Tea Research Institute of Ceylon established under the Tea Research Ordinance.
- The Board of Trustees of the Lady Lochore Loan Fund constituted under the Lady Lochore Loan Fund (Board of Trustees) Act, No. 38 of 1951.
- The Ceylon Coconut Board established under the Coconut Products Ordinance.
- The Ceylon State Mortgage Bank established under the Ceylon State Mortgage Bank Ordinance.
- The Ceylon Tea Propaganda Board established under the Tea Propaganda Ordinance.
- The Coconut Research Board established under the Coconut Research Ordinance.
- The Co-operative Wholesale Establishment established under the Co-operative Wholesale Establishment Act, No. 47 of 1949.
- The Local Loans and Development Commissioners appointed under the Local Loans and Development Ordinance.
- The Monetary Board of the Central Bank constituted under the Monetary Law Act, No. 58 of 1949.
- The Rubber Research Board established under the Rubber Research Ordinance.
- The Tea Research Institute of Ceylon established under the Tea Research Ordinance.
- Transport Appeals Tribunal constituted under the Motor Traffic Act, No. 14 of 1951.
- Wages Boards established under the Wages Boards Ordinance, No. 27 of 1941.