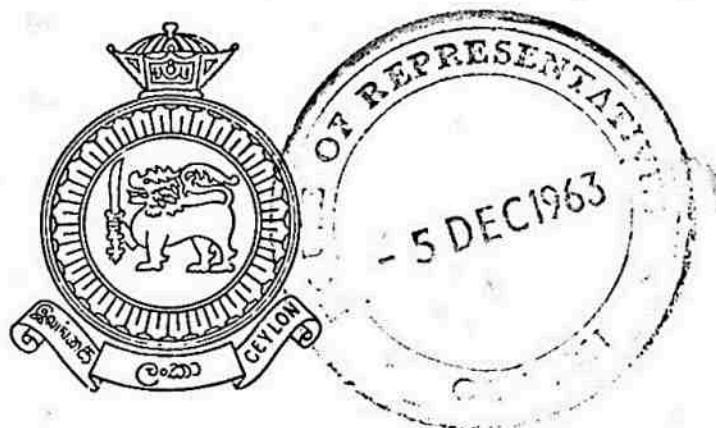


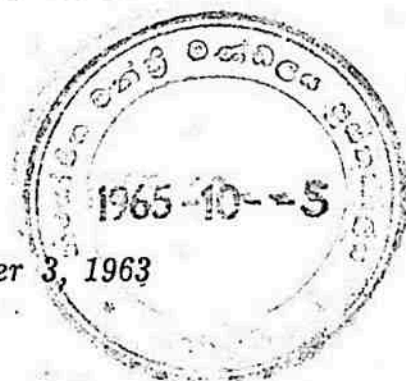
PARLIAMENT OF CEYLON

4th Session 1963-64



Local Authorities Elections (Amendment) Act, No. 9 of 1963

Date of Assent : December 3, 1963



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Local Authorities Elections (Amendment)
Act, No. 9 of 1963

L. D.—O. 9/60.

AN ACT TO AMEND THE LOCAL AUTHORITIES ELECTIONS
ORDINANCE

Chapter 262,
Volume IX,
page 583.

[Date of Assent: 3rd December, 1963]

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. (1) This Act may be cited as the Local Authorities Elections (Amendment) Act, No. 9 of 1963.

Short title
and date of
operation.

(2) The provisions of this Act, other than the provisions of section 5, section 9, and section 18, shall come into operation on the date of the enactment of this Act.

(3) The provisions of section 5, section 9, and section 18, shall come into operation on such date as the Minister may appoint by Order published in the *Gazette*. Different dates may be appointed under this sub-section for the coming into operation of the different provisions specified in this sub-section.

2. Section 4 of the Local Authorities Elections Ordinance, hereafter in this Act referred to as the "principal enactment", is hereby amended by the repeal of sub-section (1) of that section, and the substitution therefor of the following new sub-section:—

Amendment of
section 4 of
Chapter 262.

"(1) (a) The Commissioner of Parliamentary Elections shall be the Commissioner of Elections (Local Bodies) for the purposes of this Ordinance.

(b) There may, for the purposes of this Ordinance, be appointed, whether by name or by office, a fit and proper person or each of two or more such persons to be or to act as an Assistant Commissioner of Elections (Local Bodies).

(c) There may, for the purposes of this Ordinance, be appointed, whether by name or by office, for each district in Ceylon a fit and proper person to

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be or to act as the elections officer and any other such person or each of two or more such persons to be or to act as an assistant elections officer.”.

Amendment of
section 5 of
the principal
enactment.

3. Section 5 of the principal enactment is hereby amended as follows:—

(1) in sub-section (1) of that section, by the substitution, for the expression “this Ordinance—” to the end of that sub-section, of the following:—

“this Ordinance each elections officer shall be subject to the general supervision and control of the Commissioner.”; and

(2) in sub-section (2) of that section, by the substitution, for all the words from “Subject to any” to “subject to the”, of the words “Subject to the”.

Amendment of
section 9 of
the principal
enactment.

4. Section 9 of the principal enactment is hereby amended in sub-section (1) of that section—

(a) by the substitution, in paragraph (b), for the words “twenty-one years”, of the words “eighteen years”; and

(b) by the insertion, immediately after paragraph (d), of the following new paragraph:—

“(dd) is a member of any other local authority; or”.

Amendment of
section 12 of
the principal
enactment.

5. Section 12 of the principal enactment is hereby amended as follows:—

(1) in sub-section (1) of that section, by the substitution, for the words “prepare, in English, and according to the requirements of the area, in Sinhalese or in Tamil or both in Sinhalese and in Tamil,”, of the words “prepare in the language of the majority and, where the language of the majority is not the official language of

Ceylon, in such official language and, where there is a language of the minority, in such language of the minority, ”; and

(2) by the insertion, immediately after sub-section (3) of that section, of the following new sub-section:—

‘ (4) In this section—

“ language of the majority ”, with reference to any ward of an electoral area, means the language (other than the English language) spoken by the majority of the voters of that ward, and

“ language of the minority ”, with reference to any ward of an electoral area, means the language (other than the language of the majority and the English language) spoken by not less than twenty *per centum* of the voters of that ward. ’.

6. The following new sections are hereby inserted immediately after section 27, and shall have effect as section 27A, section 27B, section 27C, section 27D and section 27E, of the principal enactment:—

Insertion of
new sections
27A to 27E in
the principal
enactment.

* Recognized
political
parties for
the purpose
of local
elections.

27A. (1) A political party shall, under and in accordance with the provisions of this Ordinance, be entitled to be treated as a recognized political party for the purpose of local elections.

(2) Every political party which, at the parliamentary general election held in the month of July, 1960, was treated as a recognized political party under the Parliamentary Elections Order in Council for purpose of the provisions of section 29 of that Order relating to the deposit to be made by candidates shall, subject to the other provisions of this Ordinance, be entitled to be treated as a

recognized political party for the purpose of local elections if, but only if, at least two candidates nominated by that party at such general election were elected as Members of Parliament at such general election.

(3) Where a political party is entitled, by virtue of the operation of the provisions of sub-section (2), to be treated as a recognized political party for the purpose of local elections, the approved symbol allotted to the candidates of such party under the Parliamentary Elections Order in Council, at the parliamentary general election held in the month of July, 1960, shall be deemed to be the approved symbol allotted to that party for such purpose until the date on which such party ceases to be so entitled under sub-section (8).

(4) The secretary of any political party, other than a party which is already entitled to be treated as a recognised political party for the purpose of local elections, may, within such period in each year as the Commissioner may specify by notice published in the *Gazette*, make on behalf of that party a written application to the Commissioner that such party be treated as a recognised political party for the purpose of local elections. The application shall also specify which one of the approved symbols such party desires to be allotted to such party.

(5) Upon the receipt of an application duly made under sub-section (4) on behalf of any political party, the Commissioner shall,—

(a) if he is satisfied that such party has been engaged in political activity for a continuous period

of at least five years prior to the date of the making of such application, or that at least two candidates nominated by such party at the last parliamentary general election immediately preceding that date were elected as Members of Parliament, make order—

(i) that such party shall be entitled to be treated as a recognized political party for the purpose of local elections subject, however, to the provisions of this Ordinance, and

(ii) allotting an approved symbol to such party, being the approved symbol specified in the application, or any other approved symbol determined by him in his absolute discretion, but not being the approved symbol of any other political party which is entitled to be so treated;
or.

(b) if he is not so satisfied, make order disallowing the application.

(6) The approved symbol allotted under sub-section (5) to a political party which is entitled to be treated as a recognised political party for the purpose of local elections shall be deemed to be the approved symbol allotted to that party for such purpose until the date on which that party ceases to be so entitled under sub-section (8).

(7) The order of the Commissioner on any application made under sub-section (4) shall be final and conclusive, and shall not be called in question in any court, whether by way of writ or otherwise.

(8) A political party which is entitled to be treated as a recognized political party for the purpose of local elections shall cease to be so entitled if at any parliamentary general election—

(a) not even one official candidate of such party is nominated for election; or

(b) the candidate of such party so nominated or, if more candidates than one of such party are so nominated, all the candidates so nominated, forfeits his deposit, or forfeit their deposits, as the case may be, by virtue of the operation of the provisions of sub-section (3) of section 29 of the Parliamentary Elections Order in Council.

Mode of
reference in
the succeeding
provisions of
this Ordinance
to political
parties which
are entitled
to be treated
as recognized
political
parties for
the purpose
of local
elections.

27B. In the succeeding provisions of this Ordinance, a political party which is entitled to be treated as a recognized political party for the purpose of local elections is referred to as a "recognized party for the purpose of local elections".

Right of
recognized
parties for
purpose of local
elections to
have official
candidates.

27c. (1) Subject to the provisions of this Ordinance, each recognized party for the purpose of local elections may, in the case of any election for any ward of an electoral area, have only one official candidate of that party at such election.

(2) Nothing in the provisions of sub-section (1) shall be deemed or construed to preclude or prohibit a recognized party for the purpose of local elections from having candidates, other than official candidates of that party, at any election which is due to be held in any ward of an electoral area.

(3) In this Ordinance, the expression "official candidate of a recognized party for the purpose of local elections", in relation to any election which is due to

be held in any ward of an electoral area, means a candidate of that party at such election in respect of whom there is, for the time being in force, a valid certificate of official candidature in respect of such election.

Certificate of
official
candidature.

27D. (1) Where an election is due to be held in any ward of an electoral area, the secretary of any recognized party for the purpose of local elections may validly issue, under his hand, to the returning officer for that ward a certificate in respect of only one candidate of that party at such election to the effect that such candidate is the official candidate of that party at such election. A certificate so validly issued is in this Ordinance referred to as a "valid certificate of official candidature".

(2) The secretary of a recognized party for the purpose of local elections may at any time cancel a valid certificate of official candidature issued in respect of any candidate of that party at any election which is due to be held in any ward of an electoral area, and issue another such certificate in its place to any other candidate of that party.

(3) A certificate of official candidature which is not validly issued under subsection (1) shall be invalid and of no effect.

Power of
Commissioner
in case of
rival sections
of a
recognized
party for
the purpose
of local
elections.

27E. (1) Where the Commissioner has reasonable cause to believe that difficulties may arise at any election which is due to be held in any ward of an electoral area by reason of the fact that there are rival sections of a recognized party for the purpose of local elections all of whom claim to be that party, the Commissioner may, in order to remove such difficulties, issue in his absolute discretion a direction to the returning officer for that ward that, in the case of such election, such recognized party is either any one such section or none of such sections. It shall be the duty of

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such returning officer or any other officer, at such election, to act in accordance with that direction.

(2) No suit or other proceeding shall lie against—

(a) the Commissioner by reason of his having issued a direction under sub-section (1); or

(b) a returning officer or any other officer for any act or thing done or omitted to be done in accordance with that direction.

(3) A direction issued by a returning officer under sub-section (1) shall be final and conclusive, and shall not be called in question in any court, whether by way of writ or otherwise.

(4) The preceding provisions of this section, and any direction issued thereunder, shall have effect notwithstanding anything to the contrary in any other provision of this Ordinance. ’.

Amendment of
section 37 of
the principal
enactment.

7. Section 37 of the principal enactment is hereby amended as follows:—

(1) in sub-section (1) of that section, by the substitution, for all the words from “ allot to ” to the end of that sub-section, of the following:—

‘ allot—

(a) to the official candidate, if any, of each recognized party for the purpose of local elections, the approved symbol of that party; and

(b) to any other candidate who has not been allotted the approved symbol of any such party, any approved symbol determined,—

(i) in the first instance, by agreement among the candidates; or

(ii) in the absence of such agreement, by lot cast or drawn in such manner as the returning officer may, in his absolute discretion, determine.

The approved symbol allotted to each candidate shall be printed on the ballot paper opposite such candidate's name.

In this Ordinance "approved symbol" means a symbol approved by the Commissioner for the purposes of this Ordinance by notification published in the *Gazette*;

(2) by the insertion, immediately after sub-section (1) of that section, of the following new sub-sections:—

"(1A) The approved symbol of any recognized party for the purpose of local elections shall not, whether or not any candidate of that party is contesting any election, be allotted under paragraph (b) of sub-section (1) of this section to any other candidate.

(1B) Where a candidate is nominated by means of two nomination papers, he shall, forthwith after the approved symbol is allotted to him under sub-section (1), select one of those nomination papers and notify the returning officer in writing that the name of the proposer and the name of the seconder appearing in the selected nomination paper should be specified as the name of his proposer and the name of his seconder in the notice relating to the election to be published under section 38, and, if such candidate does not so select and so notify, the returning officer shall select one of such nomination papers for the purpose of determining the name of the proposer and the name of the seconder of such candidate to be specified in such notice.

(1C) Where a candidate is nominated, he may, forthwith after the approved symbol is allotted to him under sub-section (1), in writing under his hand indicate which of his names mentioned in the nomination paper he desires should be omitted and which should be specified by initial only; and for the purposes of the election, the names which the candidate desires to omit may be omitted and an initial may be used in place of those names which he desires should be specified by initial."; and

- (3) in sub-section (2) of that section, by the substitution in paragraph (c) of that sub-section, for all the words from "nominated and a statement" to the end of that paragraph, of the following:—

"nominated, a statement of the symbols allotted to each candidate, and a statement of the nomination paper selected under sub-section (1B) by or in respect of each candidate nominated by means of two nomination papers."

Amendment of
section 38 of
the principal
enactment.

8. Section 38 of the principal enactment is hereby amended as follows:—

- (1) by the substitution, for paragraph (b) of that section, of the following new paragraph:—

"(b) the names of the candidates in the order in which they will be printed on the ballot papers, the approved symbol allotted to each candidate, and the name of the proposer and the name of the seconder appearing in the nomination paper of each candidate who is nominated by means of one nomination paper only, and the name of the proposer and the name of the seconder appearing in the nomination paper selected under sub-section (1B) of section 37 by or in respect of each candidate who is nominated by means of two nomination papers;" and

- (2) by the substitution in paragraph (c) of that section, for the expression "distinctive symbols", of the word "symbols".

Insertion of
new section
39A in the
principal
enactment.

9. The following new section is hereby inserted immediately after section 39, and shall have effect as section 39A, of the principal enactment:—

"Notice to
voter
regarding
his number,
polling
station,
time of the
poll, etc."

39A. (1) The returning officer for any ward in which an election is contested shall, if that ward is a ward to which this sub-section applies, send by post to each voter whose name appears in the electoral list for that ward an official poll card specifying—

- (a) the number and name (if any) of the ward,

- (b) the name, address and number of the voter as stated in the electoral list,
- (c) the polling station allotted to the voter, and
- (d) the date and hours of the poll.

(2) An official poll card under sub-section (1) shall be so sent to a voter as to reach him at least five days before the date of poll. Where a post office fails to deliver such an official poll card to the person to whom it is addressed, it shall be retained in such post office until the date of the poll and shall be delivered to the addressee if he calls for it.

(3) Every person who—

- (a) without authority supplies any official poll card to any other person, or
- (b) sells or offers to sell any official poll card to any other person or purchases or offers to purchase any official poll card from any other person,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

(4) The Minister may, from time to time, by Order published in the *Gazette*, declare that, with effect from such date as shall be specified in the Order, the provisions of sub-section (1) shall apply to every ward of any such electoral area or areas as shall be so specified.”.

10. Section 45 of the principal enactment is hereby amended in sub-section (1) of that section, by the substitution in paragraph (b) of that sub-section, for the expression “distinctive symbols”, of the word “symbols”.

Amendment of
section 45 of
the principal
enactment.

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Amendment of
section 47 of
the principal
enactment.

11. Section 47 of the principal enactment is hereby amended as follows:—

(1) by the renumbering of that section as sub-section (1) of section 47;

(2) in renumbered sub-section (1) of that section, by the substitution—

(a) in paragraph (a) of that sub-section, for the expression “section 71,” of the expression “sub-section (1c) of section 37,”; and

(b) in paragraph (b) of that sub-section, for the expression “distinctive symbol”, of the word “symbol”; and

(3) by the insertion, immediately after renumbered sub-section (1) of that section, of the following new sub-section:—

‘(2) On and after such date as may be fixed by the Minister, for the purposes of this section, by Order published in the *Gazette*, sub-section (1) shall have effect subject to the following modification, namely, as though for the expression “in English in the order”, there were substituted the expression “in Sinhala in the order”.’

Amendment of
section 49 of
the principal
enactment.

12. Section 49 of the principal enactment is hereby amended as follows:—

(1) in sub-section (1) of that section, by the substitution, for all the words from “returning officer” to the end of that sub-section, of the following:—

“presiding officer at that station before the opening of, or during, the poll.”; and

(2) in sub-section (3) of that section—

(a) by the renumbering of paragraph (a) of that sub-section as sub-section (3) of that section; and

(b) by the omission of paragraph (b) of that sub-section.

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13. Section 60 of the principal enactment is hereby amended in sub-section (1) of that section, by the substitution,—

Amendment of section 60 of the principal enactment.

- (1) for all the words from “one agent” to “to attend”, of the expression “not more than two agents (hereinafter referred to as “counting agents”) to attend”; and
- (2) for all the words from “to the returning officer”, to “such election.”, of the expression “to the returning officer.”.

14. The following new section is hereby inserted immediately after section 63, and shall have effect as section 63A, of the principal enactment:

Insertion of new section 63A in the principal enactment.

“Special provisions relating to powers, duties or functions under section 62 or section 63.

63A. Any power, duty or function of a returning officer under section 62 or section 63 may be exercised, performed or discharged for and on his behalf by any of his assistants or clerks acting under the supervision and direction of such officer.”.

15. Section 71 of the principal enactment is hereby repealed.

Repeal of section 71 of the principal enactment.

16. Section 81 of the principal enactment is hereby repealed and the following section is substituted therefor:—

Replacement of section 81 of the principal enactment.

“Undue Influence.

81. Every person—

(1) who directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence, or restraint, or inflicts or threatens to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person in order to induce or compel such person to vote or refrain from voting at any election under this Ordinance or on account of such person having voted or refrained from voting at such election, or

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(2) who by abduction, duress, or any fraudulent device or contrivance impedes or prevents the free exercise of the franchise of any voter, or thereby compels, induces, or prevails upon any voter either to give or to refrain from giving his vote at such election, or

(3) who, at any time during the period commencing on the day of nomination at any election and ending on the day following the date of the poll at such election,—

(a) utters at any religious assembly any words for the purpose of influencing the result of such election or inducing any voter to vote or refrain from voting for any candidate at such election, or

(b) for such purpose distributes or displays at any religious assembly any handbill, placard, poster, notice, sign, flag or banner, or

(c) holds or causes to be held a public meeting at a place of worship for the purpose of promoting the election of any candidate at such election,

shall be guilty of the offence of undue influence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees, or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.”.

17. The following new sections are hereby inserted immediately after section 81, and shall have effect as sections 81A, 81B and 81C, of the principal enactment:—

Insertion of
new sections
81A, 81B and
81C in the
principal
enactment.

" Prohibition
of certain
acts on the
date of poll.

81A. (1) No person shall, on any date on which a poll is taken at a polling station, do any of the following acts within a distance of fifty yards of the entrance of that polling station:—

- (a) canvassing for votes;
- (b) soliciting the vote of any voter;
- (c) persuading any voter not to vote for any particular candidate;
- (d) persuading any voter not to vote at the election;
- (e) distributing or exhibiting any handbill, placard, poster or notice relating to the election (other than any official handbill, placard, poster or notice) or any symbol allotted under section 38 to any candidate.

(2) No person shall, on any date on which a poll is taken at any polling station—

- (a) use or operate, within or at the entrance of a polling station or in any public or private place in the neighbourhood thereof, any megaphone or loudspeaker or other apparatus for magnifying or reproducing the human voice; or

- (b) shout or otherwise act in a disorderly manner within or at the entrance of a polling station or in any public or private place in the neighbourhood thereof,

so as to cause annoyance to any person visiting the polling station for the poll or so as to interfere with the work of the officers and other persons on duty at the polling station.

(3) Every person who contravenes any of the provisions of sub-section (1) or sub-section (2) shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred rupees or to imprisonment of either description for a term not exceeding one month or to both such fine and imprisonment.

(4) Any police officer may take such steps, and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (2) and may seize any apparatus used for such contravention.

(5) Every person who attempts to commit an offence specified in this section shall be liable to the punishment prescribed for that offence.

(6) Every offence under this section shall be a cognizable offence within the meaning of the Criminal Procedure Code.

(7) A prosecution for an offence under this section shall not be instituted without the sanction of the Attorney-General.

Provisions
relating to
display of
handbills,
posters, etc.

81B. (1) No person shall, for the purpose of promoting the election of any candidate at any election, display any handbill, placard, poster, notice, sign, flag or banner—

(a) on or across any public road; or

(b) in or on any vehicle used for public transport; or

(c) in or on any vehicle, other than that used for the conveyance of a candidate at such election, on the day on which a poll is taken at such election; or

(d) in or on any premises belonging to or in the possession of the Crown or any local authority, except at a meeting held in such premises for such purpose.

(2) Every person who contravenes any of the provisions of sub-section (1) shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred rupees or to imprisonment of either description for a term not exceeding one month or to both such fine and imprisonment.

(3) Every person who attempts to commit an offence specified in this section shall be liable to the punishment prescribed for that offence.

(4) Every offence under this section shall be a cognizable offence within the meaning of the Criminal Procedure Code.

(5) Any police officer may take such steps, and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1) and may seize and remove any handbill, placard, poster, notice, sign, flag or banner used in such contravention.

Provisions relating to the letting, lending, employing, hiring, borrowing or using of any vehicles, vessels or animals for the purpose of conveying voters to or from the poll.

81c. (1) No person shall let, lend, employ, hire, borrow or use any vehicle, vessel or animal for the purpose of conveying any voter to or from the poll:

Provided that the preceding provisions of this sub-section shall not apply—

(a) to the owner of any vehicle, vessel, or animal who uses it for the purpose of conveying himself or any member of his household to or from the poll; or

(b) to the conveyance of any person to or from the poll in any such vehicle or vessel as is ordinarily used for public transport.

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(2) Every person who contravenes any of the provisions of sub-section (1) shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred rupees or to imprisonment of either description for a term not exceeding one month or to both such fine and imprisonment. ”.

Replacement of
section 85 of
the principal
enactment.

18. Section 85 of the principal enactment is hereby repealed and the following new section is substituted therefor:—

“ Publication
of notices.

85. Save as otherwise expressly provided, every notice required to be published by this Ordinance shall—

(a) be in the Sinhala language together with translations thereof in the Tamil and English languages; and

(b) be exhibited at the office of the local authority of such area, and otherwise published in such manner as the officer responsible for the publication thereof may consider best calculated to give publicity thereto. ”.

Amendment of
section 89 of
the principal
enactment.

19. Section 89 of the principal enactment is hereby amended as follows:—

(1) in the definition of “ Commissioner ”, by the substitution, for the expression “ (Local Bodies) appointed under this Ordinance; ”, of the expression “ (Local Bodies); ”;

(2) by the insertion, immediately after the definition of “ Commissioner ”, of the following new definition:—

“ “Commissioner of Parliamentary Elections ” has the same meaning as the term “ Commissioner ” in the Parliamentary Elections Order in Council; ”;

- (3) by the insertion, immediately after the definition of "local authority", of the following new definition:—

“local elections” means elections of members of a local authority;’;

- (4) by the insertion, immediately after the definition of "Municipality", of the following new definitions:—

“parliamentary general election” means a general election of Members of the House of Representatives;

“Parliamentary Elections Order in Council” means the Ceylon (Parliamentary Elections) Order in Council, 1946;’.

20. The Third Schedule to the principal enactment is hereby amended, by the substitution, for the expression “distinctive symbol”, of the word “symbol”.

Amendment of
the Third
Schedule to
the principal
enactment.