

DRAFT PROPOSALS — I

(30.8.86 TO 19.12.86)

1. Draft Framework of Terms of Accord and Understanding of 30.8.85, including Conditions of Implementation and further discussions the Sri Lankan Delegation had with Senior Officials of the Ministry of External Affairs of India from 10th September to 13th September 1985.

2. Proposals sent to the Government of India by the Government of Sri Lanka based on discussions with the Indian Delegation led by Hon. P. Chidambaram, Minister of State—4th May, 1986.

3. Proposals sent to the Indian Government in September 1986.

(i) Amendments to the Constitution — (4th September 1986)

(ii) The Provincial Councils Act — (4th September 1986)

(iii) Introduction (23rd September 1986)

(iv) List II-Reserved List (23rd September 1986)

(v) List I-Provincial Council List (23rd September 1986)

Appendix I-Note on Devolution of Power in respect of Law & Order (23rd September 1986)

Appendix II-Note on Land and Land Settlement (23rd September 1986)

Appendix III-Note on Education (23rd September 1986)

(vi) List III-Concurrent List (23rd September 1986)

4. Working Paper on Bangalore Discussions — 18th November 1986.

5. Observations on the Working Paper on Bangalore Discussions, including a Schedule of offences to be investigated by the National Police Division — 26th November 1986.

6. Proposals that emerged on December 19, 1986.

DRAFT FRAMEWORK OF TERMS OF ACCORD AND UNDERSTANDING

SYSTEM OF GOVERNMENT

The principal Agencies, apart from the Central Government, for the exercise of the powers of government within the framework of the Constitution as amended will be:

(a) the Provincial Council in each province,

(b) the District Council in each administrative district, and

(c) the Pradesheeya Sabha with representation at the village level in each A.G.A. Division.

2. The existing provincial boundaries will constitute the limits of the area of authority of the Provincial Council, without prejudice to the power of Parliament to alter them.

3. The existing district boundaries will constitute the limits of the area of authority of the District Council, without prejudice to the power of Parliament to alter them.

4. There shall be an Authority for the Port of Trincomalee and its environs for the purpose of its administration and economic development. The area of such authority shall be excluded from the area of authority of any Provincial Councils or District Council established. (The area of authority to be discussed).

ESTABLISHMENT OF PROVINCIAL COUNCILS

5. A Bill for the amendment of the Constitution to enable the creation of Provincial Councils and the devolution of powers on them shall be enacted by Parliament by 2/3rd majority. Thereafter, Parliament will pass an Act, directly conferring on the Provincial Councils the requisite legislative powers. Such power shall not be revoked or altered in any manner except by an act of Parliament passed by a two-thirds majority after consultation with the Provincial Council or Councils concerned.

6. The process and procedures for the amendment of the Constitution and the enactment of the Act of Parliament will be commenced by the Government of Sri Lanka within 30 days of the Agreement.

7. The constitutional amendment contemplated in para 5 shall be of such a nature as would not require its approval at a referendum.

DEVOLUTION OF POWERS

8. The powers to be devolved on a Provincial Council will be specified in the Act referred to in para 5 above.

The more important powers to be devolved on a Provincial Council are specified in the Annexure I hereto.

LEGISLATIVE POWERS

9. Subject to the provisions of the Constitution as amended in regard

to the exercise of legislative powers, Provincial Councils will have powers to enact laws on subjects specified in the Act of Parliament, which will be operative within the Province.

EXECUTIVE POWERS

10. The President shall appoint as a Chief Executive of a Provincial Council one of the members who in the President's opinion is most likely to command the confidence of the council. The Chief Executive will be entitled to choose the Executive Committee from among the members of the Provincial Council.

10. (a) The members of the Executive Committee will be appointed by the President on the recommendation of the Chief Executive and executive powers will be delegated to the Chief Executive and other Members of the Executive Committee.

10. (b) The powers that may be delegated to the Chief Executive (and members of the Executive Committee) will be specified in the Act referred to in para 5 above. Such executive powers shall include all areas of legislative powers delegated to the Provincial Council.

10. (c) The Chief Executive and members of the Executive Committee need not be members of Parliament. If they are not members of Parliament, they will not be accountable in or to Parliament. However, in that event, they will be responsible to the President in respect of matters for which the President would be responsible to Parliament, and to the Provincial Council in respect of all other matters.

FINANCIAL POWERS

11. The Provincial Councils shall have the power to levy taxes, cess or fees and to mobilise resources through loans, the proceeds of which will be credited to a Consolidated Fund set up for that particular Council to which will also be credited grants, allocations or subventions from the Republic. Financial resources will be apportioned to the Provinces on the recommendations of a representative Finance Commission appointed from time to time by the President.

11. (a) In respect of loans or grants, any foreign loans or grants would require the sanction of the Government of Sri Lanka in accordance with national policy.

11. (b) The nature of taxes to be levied by the Provincial Councils will be defined by Parliament by law.

ELECTIONS

12. Elections will be held in respect of each Province on the proportional representation system on the basis of Administrative Districts for the constitution of a Provincial Council. The number of members to be elected to each Provincial Council will be determined according to the population and area of each district within that Province.

MEMBERSHIP OF PROVINCIAL COUNCIL

13. The members of the Provincial Council shall be the members elected from the Province as set out in para 12 above. Every member of Parliament elected from the Province shall be entitled to be an ex-officio member of the Provincial Council if he so elects within a specified period. No vacancy shall be deemed to have been created if an MP ceases to be a member of the Provincial Council by reason of his failure to elect.

The number of ex-officio members shall not exceed the number of elected members of the Council.

14. Where the President is satisfied that the affairs of any Provincial Council are not being carried on in accordance with the provisions of the Constitution or of any other law, he may take such measures or pass such orders as he may deem fit to ensure that they are so carried on, including an order for the dissolution of the Council and for taking such consequential measures as he may deem necessary. Every such order dissolving a Council shall be operative for a period of six months at a time but not exceeding one year in all provided however that Parliament approves of such action within two months of making of the order of dissolution.

15. Parliament shall by law provide that a Provincial Council be established in any Province, if more than half the number of Development Councils, constituted under Act No.35 of 1980 within that Province by a resolution passed by a simple majority decide to constitute themselves a Provincial Council, at meetings held immediately after the date of coming into force of the said amendment to the Constitution and the said Act of Parliament.

15. (a) If the majority of such Development Councils do not determine to function as part of a Provincial Council, a Provincial Council shall not be constituted for or function in respect of that Province.

15. (b) in such event, the existing District Development Councils shall be deemed to be District Councils established under the Act of Parliament referred to in para 5 and shall continue to function in respect of each of the Districts in the Province, having the powers, duties and functions set out in the Development Councils Act No.35 of 1980, as amended from time to time.

15. (c) Provided that, where in any Province more than half the number of Development Councils in that Province have ceased to exist or are not functioning on the date of this Agreement, a Provincial Council shall be deemed to be established on the coming into force of the said amendment to the Constitution and the said Act of Parliament.

16. (a) Where a Provincial Council has been constituted and is functioning the members elected in respect of more than one half the number of Districts within that Province together with any ex-officio members thereof, sitting separately by virtue of their election from that District, may by a simple majority decide that such district shall cease to be part of that Provincial Council and withdraw therefrom.

16. (b) For the purposes of this paragraph the members of a Development Council constituted under Act No. 35 of 1980 shall be deemed to be members elected under this law.

16. (c) In that event, a Development Council shall be deemed to be constituted under the Development Councils Act No. 35 of 1980 for each such District and will function as such Councils.

17. OTHER SUBJECTS (FOR DISCUSSIONS)

17. (1) *Minorities Commission* - This would be envisaged as an institutional mechanism safeguarding the rights and interests of linguistic and other minorities as equal citizens of Sri Lanka.

17. (2) *National Policy on Employment* - The policies of the Government of Sri Lanka in regard to employment would be non-discriminatory.

17. (3) *Tamil Office or Ministry* - There already exists a Ministry for Hindu Religious Affairs. The scope, functions and nature of such a Tamil Office can be examined if specifically desired.

17. (4) *Minorities representation in Armed Forces* - Recruitment to the Armed forces to be carried out so as to ensure that the Armed Forces reflect the ethnic ratio as far as possible within a specified time frame.

18. PERSONS OF RECENT INDIAN ORIGIN IN SRI LANKA

Of the total of 600,000 persons of Indian origin to whom, under the provisions of the Indo-Sri Lanka Agreements of 1964 and 1974, the Indian Government agreed to grant citizenship there were only 505,000 (approx.) applicants for Indian citizenship leaving a balance of 95,000 (approx.) unaccounted for who would, therefore, continue to be 'Stateless'.

The Sri Lanka Government proposes to grant citizenship to this 95,000 when all persons of Indian origin who have applied for Indian citizenship have been granted such citizenship and are repatriated.

Initialed by

R. Mathai - Deputy Secretary
Ministry of External Affairs
New Delhi
30-8-85

E.F.Dias Abeyesinghe - Secretary
of the Sri Lanka Delegation
30-8-85
8.50 p.m.

New Delhi.

ANNEXE 1

The Provincial Councils shall exercise powers and shall have responsibility for subjects including:

(i) internal law and order to the extent defined in the Paper I appended.

(ii) land settlement within the Province to the extent defined in the Paper II appended.

(iii) Agriculture and industry to the extent set out in the appended papers III and IV.

(iv) Education and Culture. A brief statement on Education is appended at V, and on Culture at VI.

The aforesaid list of subjects and functions is not exhaustive, and additional subjects will be finalised later.

For the removal of doubts the subjects and functions that would be exclusively reserved for Parliament are specified in Annexe 2.

There would be provision for establishment of a Provincial or District Service and for secondment of public officers from the Central Government Public Service.

PAPER I

INTERNAL LAW AND ORDER

1. HEAD OF POLICE

1.1 All members of the Police Force serving in all Police Stations within the area of a Provincial Council will function under the direction and control of a DIG, SSP or SP depending on the area and population of the Province.

1.2 Such officer, hereinafter referred to as the Head of Police will be nominated by the I.G.P. in consultation with the Chief Executive and will be an officer who is conversant with the language spoken by the majority of the residents of such Province. In the case of a difference of opinion between the Chief Executive and the IGP the matter will be referred to the President whose decision will be final.

2. CADRES

2.1 The Chief Executive of any Provincial Council shall be consulted prior to any changes being made in the cadre of the number of members of the Police Force serving within such Province.

2.2 The Chief Executive of any Provincial Council shall be consulted prior to any changes being made in the existing cadre of the members of the Police Force serving in any Police Station within such Province and the opening and closing of Police Stations within such Province.

3. RECRUITMENT OF POLICE CONSTABLES AND SUB-INSPECTORS

3.1 Where there are vacancies for posts of Police Constables in the Country, a percentage of such vacancies shall be allotted to each Provincial Council Area as well as to the Centre. The selection of Police Constables from among applicants from any Provincial Council Area for the vacancies allotted to such Provincial Council Area shall be done locally.

3.1.1 The preliminary interview of applicants for the posts of Police Constables from any Provincial Council Area shall be conducted by a Board of 3 persons presided over by a nominee of the Chief Executive, the other two members of which shall be a nominee of the Head of the Police and another nominee of the Chief Executive.

3.1.2 The final interview shall be conducted by a Board of 3 persons presided over by a nominee of the Minister of Defence and two other members of whom one shall be a nominee of the Head of Police of the Province and the other a nominee of the Chief Executive.

3.1.3 The candidates selected by the final Board shall be screened by the NIB and appointed as trainee Police Constables if the report of the NIB is satisfactory.

3.1.4 The training of all trainee Police Constables shall be conducted by the Police at the Police Training School at Katukurunda.

3.2 Where there are vacancies for posts of Sub-Inspectors in the Country, a percentage of such vacancies shall be allotted to each Provincial Council Area as well as to the Centre.

3.2.1 The preliminary interview of applicants for the posts of Sub-Inspectors from any Provincial Council Area shall be conducted by a Board of 3 persons presided over by a nominee of the Chief Executive. The other two members of such Board shall be a nominee of the Head of Police and another nominee of the Chief Executive.

4. PROMOTIONS

4.1 Preliminary interviews for the promotion of Police Constables to the rank of Police Sergeant and for the promotion of Police Sgts to the rank of Sub-Inspectors in respect of all Police Constables and Police Sgts serving in any Police Station in any Provincial Council Area who are candidates for such promotion shall be conducted by a Board of 3 persons presided over by the Head of Police of the Province and including a nominee of the Chief Executive of such Provincial Council and a nominee of the IGP.

5. TRANSFERS

5.1 All members of the Police Force will be transferable to any Police Station in any part of the Island as well as to any specialised branch of the Police Force such as the C. I. D. etc. The Inspector-General of Police will decide on all transfers from any Provincial Council Area to another Provincial Council Area and all transfers from a Provincial Council Area to a specialised branch of the Police Force and vice versa. All routine transfers within the area of any Provincial Council will be made by the Head of Police of such Province after consultation with the Chief Executive thereof.

5.2 Every endeavour will be made to ensure that the majority of the members of the Police Force serving in Police Stations within any Provincial Council Area will be conversant with the language spoken by the majority of residents of such Area.

ALTERNATIVE SUGGESTED BY INDIA: SRI LANKAN SIDE WILL REVERT

(5.2 It will be ensured that at least 80 per cent of members of the Police Force serving in Police Stations within any Provincial Council area, will be those recruited within the Provincial Council Areas in accordance with para 3 above.)

6. DISCIPLINARY INQUIRIES

6.1 Where any complaint is made by a member of the public against any member of the Police Force serving in any Police Station within any Provincial Council area and the facts pertaining to such complaint warrant an inquiry by a panel, a nominee of the Chief Executive of such Province shall be a member of every such panel.

7. PRESERVATION OF ORDER AND THE PREVENTION, DETECTION AND INVESTIGATION OF CRIME

7.1 The Head of Police of any Province, while continuing to be under the overall control and direction of the IGP, will be answerable to the Chief Executive in respect of all matters pertaining to the preservation of public order within the Province, the prevention, detection and investigation of all offences which are solely of relevance to the Province, and subject to the powers of the Attorney-General in terms of the Code of Criminal Procedure Act, the institution of all prosecutions in all Magistrates Courts and Primary Courts within such Province in respect of all such offences triable by them.

7.2 The provisions of para 7.1 above shall be subject to the following qualifications:-

7.2.1 Where there is launched in any Provincial Council Area any extra legal agitation or campaign challenging the authority of the Government, which causes or raises a reasonable apprehension of a break-down of law and order, the Head of Police will be responsible to the IGP for the preservation of law and order within such Province.

7.2.2 Where there is a break-down or an imminent break-down of law and order within any Provincial Council Area the Head of Police of such Province will be responsible to the IGP for the restoration or preservation of law and order within such Province and the IGP shall also be entitled to deploy the Special Task Force for the restoration or preservation of law and order within such Province.

7.2.3. The IGP shall be entitled to direct after consultation with the Chief Executive that any offence

committed within any Provincial Council Area shall be investigated by the CID where he is of opinion that an investigation of such offence by the CID is necessary in the national interest or by reason of the complexity of the case.

PAPER II

POLICY ON LAND USE AND LAND DEVELOPMENT

1. NATIONAL POLICY

1.1 The formulation and implementation of a national policy relating to land development for the whole Island will be a subject and function reserved by the Central Government.

1.2. It is proposed to establish a Land Use Commission which will consider representations from the Provincial/District authorities, to formulate and implement national policy.

2. MINOR LAND DEVELOPMENT PROJECTS

2.1. Land use and land development in respect of minor projects within a Province/District shall be, subject to national policy, within the ambit of the powers devolved on the Provincial/District Council.

2.2. In the selection of allottees for lands in such settlement schemes, priority will be given to the land needs of the locality in which the settlement scheme is situated and thereafter the claim of applicants for lands from the P/D in which the settlement scheme is situated may be considered.

3. NATIONAL LAND DEVELOPMENT PROJECTS

3.1 Major national settlement schemes would be based on national ethnic proportions. However, in the implementation of such schemes, the selection of allottees would be done in a manner equitable to all communities having regard also to the following criteria:

(a) Priority will be given to the claims for land of persons displaced from their lands or settlements by the said scheme.

(b) In the instance where land in a national or major settlement scheme is not distributed to cover the national ethnic ratio of any particular community, the quota not filled may be allotted to persons of that community from another contemporaneous national or major

settlement scheme, or if there is no such contemporaneous national or major settlement scheme, in such a scheme within a time-frame to be agreed upon.

(c) The land needs of the District within which the land pertaining to the said scheme is situated.

4. Mahaweli development scheme to be discussed later with the Mahaweli Authority.

PAPER III

DEVOLUTION OF POWERS IN THE FIELD OF AGRICULTURE

1. NATIONAL POLICY

The formulation and implementation of national policy relating to the agricultural development of the whole Island will be a subject and function reserved by the Central Government.

This will include the determination of floor prices, subsidies, insurance premia and indemnities, the enduring of inter District/Provincial co-ordination and achievement of national targets, the administration of the departmental farms, agricultural research, plant quarantine and the import and export of planting material.

2. The following powers shall be generally exercised by the Provincial Councils:

(1) The preparation and execution of a district agricultural plan ensuring co-ordination between different agencies in the Province/District, organisation of supplies and services and marketing of produce.

(2) Extension activities including nutritional programme.

(3) The exercise of most of the powers set out in the Agrarian Services Act including the supervision of Agrarian Services Committees, the issue of agro-identity cards and the preparation of Agricultural Lands Registers.

(4) The rehabilitation and maintenance of small-scale irrigation works.

(5) The implementation of the extension programme for minor crops, the regulation of private nurseries and the establishment of agro-linked industries.

PAPER IV

INDUSTRY

1. The formulation and implementation of a national policy of

industrial development would be a matter for the Central Government.

2. Subject to this, Provincial Councils would have the power to establish and promote industries within their own areas of authority.

3. The Central Government would in the interests of uniformity, planned development and proper utilisation of national resources have the right to impose requirements as the registration of industries, submission of information and data, wage and pricing policies, environmental standards, quality etc. Ministry appraisal of proposals for new industrial development would continue as at present, where investment involves loans.

4. It is not contemplated that existing State owned industries would be transferred to the Provincial Councils,

PAPER V

EDUCATION

1. EDUCATION AND CULTURAL MATTERS

(In the scheme of devolution envisaged, substantial powers relating to cultural matters and education upto secondary level will be devolved on the Provincial Council. The powers will also include the right of the Provincial authorities to establish and manage private universities without State funds).

Detailed proposals on the extent of devolution of powers relating to education are being worked out and they may be discussed further.

NATIONAL EDUCATION POLICY

This will be non-discriminatory.

CULTURE

The promotion and conduct of cultural activities would be assigned to Provincial Councils. The Central Government will exercise supervisory control over the funds if any provided by it. The Provincial Councils will assist the Pradesheeya Sabhas in co-ordinating cultural activities within their respective areas.

The powers of the Provincial Councils would include the development of the arts, drama, music, dance, literature and assisting the observance of festivals.

ANNEXE 2

1. SUBJECT AND FUNCTIONS THAT SHOULD BE EXCLUSIVELY RESERVED BY THE GOVERNMENT

1.1 National Policy on all subjects and functions

- 1.2 Defence
- 1.3 Internal Security
- 1.4 Law and Order and Prevention and Detection of Crime, subject to the extent that some of these powers will be devolved on Provincial Councils and District Councils.
- 1.5 Foreign Affairs
- 1.6 Posts and Telecommunications
- 1.7 Justice in so far as it relates to the Judiciary and the Court's structure
- 1.8 Finance in relation to National Revenue, Monetary Policy and External Resources
- 1.9 Foreign Trade
- 1.10 Ports and Harbours
- 1.11 Aviation and Air Ports
- 1.12 National Transport
- 1.13 Rivers and Waterways
- 1.14 Minerals and Mines
- 1.15 Broadcasting
- 1.16 Television
- 1.17 Immigration and Emigration and Citizenship
- 1.18 Customs
- 1.19 Elections - Presidential, Parliamentary, intermediate and grass-root units
- 1.20 Shipping and Navigation
- 1.21 Territorial Waters and Economic Zones
- 1.22 Census and Statistics
- 1.23 Professional Occupations and Training
- 1.24 All subjects and functions not otherwise specifically assigned
- 1.25 Inter Province/District Trade and Commerce
- 1.26 State Lands and Foreshore subject to the extent that certain of these powers will be devolved on Provincial Councils/District Councils
- 1.27 National Archives

CONDITIONS OF IMPLEMENTATION

The full implementation of this Agreement will be conditional upon compliance with the following:

1. All persons engaged in the current dispute with the Government of Sri Lanka do accept, and

acknowledge the validity of, the Constitution of the Democratic Socialist Republic of Sri Lanka and in particular the provisions dealing with the Official Language, the National Languages, the National Flag and the National Anthem, and will abandon the demand for the creation of a separate State of Eelam.

2. All militant groups and persons engaged in acts of violence, unlawful or illegal acts will desist from such action, abjure violence in the future and disband their cadres and groups engaged in acts of violence, close down training camps in Sri Lanka and abroad and will generally help in the process of restoration of peace and normalcy.

3. All persons in unauthorised possession of arms, ammunition and other military equipment will surrender such material within a period of one month to the authorities specified by the Sri Lankan Government.

4. As part of the process of normalisation, the security operations in the affected areas will be progressively reduced and the emergency lifted.

5. As soon as action under paragraphs 2 and 3 is completed, the Government of Sri Lanka will ensure that -

(a) prosecutions against persons in cases under investigation and those pending before any Court for offences in connection with ethnic disturbances during the period from July 1983 to August 1985 will be withdrawn.

(b) persons convicted for such offences will be granted pardon and released, and

(c) new prosecutions will not be launched in respect of any such offence.

6. All persons engaged in the current dispute will not obstruct the creation of the requisit conditions for the due and orderly conduct of the civil administration and law enforcement in the affected areas.

7. All persons engaged in the current dispute will not obstruct the creation of conditions necessary for the return and resettlement in their original places of abode of all refugees, whether in Sri Lanka or abroad, and their rehabilitation.

8. With the coming into force of this Agreement, the Government of Sri Lanka will proceed to take steps

as are necessary to eliminate all forms of terrorism and militant action in Sri Lanka.

9. The Government will set-up appropriate machinery for ensuring due compliance with the conditions set out in the paragraphs 2 and 3 above.

Initialed. R. M. 30.8.
E. F. 30-8-85

TEXT OF MEA STATEMENT GIVEN OVER THE PHONE AT 4.45 P.M.

A three-member delegation from Sri Lanka and the Sri Lanka High Commissioner, had intensive discussions with Senior Officials of the Ministry of External Affairs from September 10th to 13th. They also called on the Foreign Secretary.

The Sri Lanka delegation gave some amplification of certain issues which figured in the paper drawn up earlier during Dr. H.W. Jayewardene's visit to New Delhi. They also provided some facts and figures about how some of the proposals contained in the paper would work in practice. It will be recalled that the paper drawn up during Dr. H.W. Jayewardene's visit is to serve as a basis for further negotiations towards a mutually agreed accord by the parties concerned.

13th Sept. 1985.

In the course of discussions before and after the initialling of the draft Accord, certain questions arose, and the Government of Sri Lanka wishes to make the following clarifications, particularly in regard to clause 12, to prevent any misunderstanding:

CLAUSE 12

(a) The following principles will be applied in determining the number of members to be elected:

1. One member for every 1,000 square kilometres, and
2. One member for every 40,000 inhabitants.

(b) In Provinces in which all the Development Councils are at present functioning elections will not be held on the basis of clause 12.

The existing Development Councils in a Province will decide in terms of clause 15, whether to constitute themselves into a Provincial Council. If they do, then the elected members of the Provincial Council will be the elected members of the Development Councils,

if they do not, then the existing Development Councils will continue. In either case there will be no immediate election.

On the expiry of the current term of office, a fresh election will be held. In the case of those Provinces where Development Councils are continuing to function by virtue of the decision mentioned above, election will be to the Development Councils. It is only in the case of those Development Councils where a decision is taken in terms of clause 15 to constitute a Provincial Council that a fresh election will be on the basis of clause 12.

(c) Clause 12 will thus operate immediately only in respect of those Provinces in which all or some of the Development Councils are at present not functioning. Since in those instances a prior decision by all Development Councils is not possible, provision is made for a subsequent majority decision to opt out of the Provincial Council.

(d) It must also be emphasised that the "Administrative Districts" referred to in clause 12 are the existing Districts. The Administrative Districts are at present the areas of authority of the Development Councils under Act No. 35 of 1980, as well as Kilinochchi. There is no intention of redefining these Districts.

(e) Thus an election under clause 12 will result in the election of members, to represent each constituency (namely the administrative district) and these members will constitute and function as

(i) the elected members of the Provincial Council,

(ii) the elected members of the District Councils,

depending on which of these institutions function in the Province in accordance with decisions taken under the other clauses of the Accord.

CLAUSE 13

It is intended to give an opportunity to a member of Parliament who has made an election under this clause, subsequently to reverse such election. Thus a Member of Parliament who elects to be an ex officio member, may subsequently decide not to be a member. Similarly, a Member of Parliament who elects not to be an ex officio member, may subsequently decide to be a member.

(To be continued)

DRAFT PROPOSALS — 2

The first part of the Draft Proposals appeared in the SATURDAY REVIEW of 18th April.

(Continued from last issue)

ADDENDUM, TO CLARIFY CERTAIN ASPECTS OF THE DRAFT ACCORD

Clause 15

1. Substitute "constituted" for "established."

2. In para. 15 (b) substitute "35" for "33".

3. If a Provincial Council is constituted as provided in clause 15, the existing Development Councils shall cease to function in such Province, unless such Provincial Council resolves to delegate powers and functions to such Development Councils. A Provincial Council shall not delegate any legislative "powers to such Development Councils. Certain other restrictions on delegation may be necessary (e.g. in respect of internal law and order).

4. Notwithstanding the constitution of a Provincial Council, it will be necessary for the Government to continue to maintain the existing administrative structure in each administrative District (for the purpose of the exercise, performance and discharge of powers, duties and functions by the Government at District level) Provincial Councils themselves will probably need similar district level administrative structures.

Clause 16

1. Where the majority of the Districts in a Province decide not to be part of a Provincial Council, no Provincial Council shall be constituted for such Province; for each of the Districts in the Province, a Development Council shall be deemed to have been constituted under Act No. 35 of 1980 as amended from time to time, and having powers, duties and functions thereunder.

2. Where the majority of the Districts in a Province do not so decide. Development Councils shall not function in such Province, unless the Provincial Council resolves to delegate powers and functions to such Development Councils. A Provincial Council shall not delegate any legislative powers to such Development Councils. Certain other restrictions on delegation may be necessary

(e.g. in respect of internal law and order).

3. Notwithstanding the constitution of a Provincial Council, it will be necessary for the Government to continue to maintain the existing administrative structure in each administrative District (for the purpose of the exercise, performance and discharge of powers, duties and functions by the Government at District level). Provincial Councils themselves will probably need similar district level administrative structures.

4. As an alternative to the procedure set out in clause 16, the question of a decision by the electors of a district by referendum may be discussed (in lieu of a decision by the elected members).

Number of elected members of Provincial Councils on the basis of

- one member per 1000 square kilometres, and
- one member per 40,000 inhabitants

<i>Area (sq. km.)</i>	<i>Population</i>	<i>Elected members</i>	<i>MP</i>	<i>Total</i>	
Jaffna	1140	738,788	1 + 18	10	29
Kilinochchi	931	91,764	1 + 2	1	4
Mullaitivu	1966	77,189	2 + 2	1	5
Mannar	2002	106,235	2 + 3	1	6
Vavuniya	2645	95,428	3 + 2	1	6
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		9	27	14	50
Batticaloa	2464	330,333	2 + 8	4	14
Amparai	4539	388,970	5 + 10	5	20
Trinco	2860	273,998	3 + 7	3	13
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		10	25	12	47

It is recommended that there be no "bonus" seats for the party securing the highest number of votes in a constituency i.e. district) because there is no office (such as Chairman) to which the first person on the list will be elected.

Further, it is recommended that the cut off point be reduced to 5%.

MAHAWELI DEVELOPMENT SCHEME

1. The Accelerated Mahaweli Development Programme covers the development of Systems A,B,C,D,G & H. The development of Systems I, J,K,L & M are not yet contemplated and would be taken up only after the Accelerated Mahaweli Programme is completed.

2. The present position with regard to available extents of new ir-

rigable land in the Mahaweli Development Programme is given in Annex I. These extents would be reduced by 10%—15% when the actual demarcation of allotments is made.

3. At present, settlements in System H have been completed and settlements in Systems B, C & G are under way — vide Annex II. Out of a total of 85,388 settlements in Systems H,B,C & G, the settlement of 39,622 allotments within these systems have been completed up to 30th June 1985. The ethnic composition of settlers, so far, in Systems H,C,B and G are as follows:—

	Sinhala	Tamil	Muslims
System B	5790	323	137
System C	9508	14	91
System H	22156	27	822
System G	754	—	—

Column III in Annex II gives the number of persons settled in the respective system who were displaced by the settlement scheme. The new settlements are those referred to in Columns IV and V of Annex II.

The settlement of the balance 45,766 allotments have to be completed.

4. System B comprises of 37,483 allotments of which 18,792 allotments fall within the Polonnaruwa District of the North Central Province and 18,691 allotments fall within the Batticaloa District in the Eastern Province. Of these allotments, 22,927 allotments fall on the Left Bank area of the Maduru Oya and comprises of the entirety of the allotments fall within the Batticaloa District. The balance 14,506 allotments fall within the Right Bank area of the Maduru Oya within the Batticaloa District—vide Annex III.

5. The entitlement of the Tamil — speaking people based on the national ethnic ratio in System B could be given mainly from the Right Bank.

6. The entitlement of the Tamil speaking people based on the national ethnic ratio from Systems H, C & G, could be phased out from Systems A, B and other systems to be developed within a given time frame. The number of allotments based on the national ethnic ratio from Systems H,C & G, due to the Tamil-speaking people from the new settlements already completed in those systems, would be approximately 4,467 allotments.

7. On the basis of 2 1/2 acre per allotment, System A would provide approximately 14,300 allotments of which approximately 3575 allotments would go to the Tamil-speaking people on the basis of the national ethnic ratio.

However, a proposal has now been made to introduce plantation agriculture, such as Coconut cultivation in certain areas of System A in which event it is likely that the allotments would be larger in extent. Consequently, the number of allotments in System A would be reduced. No policy decision has been taken by the Sri Lanka Government on this matter as yet.

8. The settlements in Systems D, I,J,K,L&M, could be considered when each of these projects are taken up for development. It would be some time before development work on these projects would commence.

9. It would be possible for the Mahaweli Authority to permit the Provincial Councils or the District Councils, as the case may be, to select allottees for settlement in any of the projects of the Mahaweli Development Programme. However, this selection would have to be done according to the criteria for selection laid down by the Mahaweli Authority which would also require to be provided with data in respect of all such selections done by the Provincial or District Councils.

10. The Mahaweli Authority further would have the right to decide on the area of selection. By "Area of Selection" is meant those areas throughout the Island from which selection of allottees would be made.

The number of allottees to be selected from each of these areas of selection would be determined by the Mahaweli Authority according to the landless or land requirements of the people of that area, but the selection itself could be done by

the Provincial or District Councils as referred to in the preceding paragraph. The number of allottees to be selected from throughout the Island would, however, conform to the national ethnic ratio of the different communities.

Annex 1

MAHAWELI DEVELOPMENT PROGRAMME - EXTENT OF NEW IRRIGABLE LAND UNDER THE PROJECTS

Irrigation System	New Irrigable Ex-tent per UNDP / FAO Plan (1969 '000) Acres	Per Revision by Nedeco Study (September '79)			President Position with Revisions Feasibility Studies and Development, Environment Policy Changes. The Balance is Based on Nedeco Figures
		'000 Acres	'000 ha	'000 Acres	
A	100.0	75.36	30.5	35.75	Feasibility Study Vol. 1 June '81
B	118.1	118.11	47.8	92.48	Implementation Plan & Feasibility Study
C	73.6	52.88	21.4	47.02	Implementation Plan & Feasibility Study
D 1	47.2	27.92	11.3	27.92	NEDECO
D 2		9.14	3.7	9.14	NEDECO
E	10.0	-	-	-	Dropped (Wasgomuwa Park)
F	8.2	8.15	3.3	8.15	Likely to be revised
G	6.4	6.42	2.6	6.43	Implementation Plan
H	56.9	-	-	56.9	Implementation Plan (Project complete)
I	87.8	87.7	35.5	87.72	NEDECO
J	24.8	49.17	19.9	49.17	NEDECO
K	19.4	19.52	7.9	19.59	NEDECO
L	76.5	76.35	30.9	76.35	NEDECO
M	24.9	24.96	10.1	24.86	NEDECO
	653.8		541.52		

Based on ;

Sheet No. 1

Annex II

NEW SETTLEMENTS MADE SINCE THE START OF THE ACCELERATED MAHAWELI DEVELOPMENT SCHEME UPTO 30TH JUNE, 1985 - 2 1/2 ACRE IRRIGABLE LOTS AND 1/2 ACRE HOMESTEADS

System	Total No. of Allotments	Settlers selected from within the Project Area - i.e. Resettlers	Displaced families from the construction sites outside the Project Area	Settlers brought from outside the Project Area excluding (IV)	Total settled excluding the allotments in the settlement schemes which were in existence before the Mahaweli Programme and which fall within the Systems
(I)	(II)	(III)	(IV)	(V)	(VI)
H	Settlement completed	17,231 (75.1%)	1,709 (7.5.1%)	4,065 (17.5.1%)	23,005

B	LB - 22,977	2,067	1,389	2,794	6,250
	RB - 14,506	(33.1%)	(23.1%)	(44.1%)	
C	22,000	1,702	5,586	2,325	9,613
		(18.1%)	(58.1%)	(24.1%)	
G	2,900	754	-	-	754
		(100.1%)			
					39,622

Explanatory Note: (1) Column III. - These selectees were living in the Project Areas before the inauguration of the Accelerated Mahaweli Development Scheme. They were residing in and cultivating private lands / State lands. Majority of them were Purana Villagers.

(2) Column IV. - These are the displaced families from the construction sites and lands submerged as a result of the Victoria/Kotmale/Randenigala reservoirs and Transbasin Canal.

(3) Column V. - These are settlers who were selected from outside the Project Areas through the normal procedure by the Government Agents.

Annex III

SYSTEM B - DISTRIBUTION OF ALLOTMENTS ACCORDING TO DISTRICTS - 2 1/2 ACRE IRRIGABLE LAND AND 1/2 ACRE HOMESTEAD

Polonnaruwa District
18,792Batticaloa District
18,691

Details below

Left Bank Total No. of allotments - 22,977

18,792 in Polonnaruwa District
4,185 in Batticaloa District

Total 22,977

Right Bank Total No. of allotments - 14,506

14,506 in Batticaloa District

Total Left Bank 22,977
Total Right Bank 14,506

37,483

PROPOSALS SENT TO THE GOVERNMENT OF INDIA BY THE GOVERNMENT OF SRI LANKA BASED ON DISCUSSIONS WITH THE INDIAN DELEGATION LED BY HON. P. CHIDAMBARAM, MINISTER OF STATE

09th July, 1986

CONTENTS

1. Preamble
2. Note on Provincial Councils
3. Note on Law and Order (vide Note on Devolution of Power in respect of Law and Order-25.06.86 appearing in His Excellency the President's Statement to the Political Parties' Conference on Wednesday, 25th June, 1986-reproduced again)

4. Note on Land Settlements.

Political Parties' Conference
Secretariat,B. M. I. C. H.,
Buddhaloka Mawata,
Colombo 7.
9th July, 1986.

PREAMBLE

The Sri Lanka Government has made certain proposals and states that the said proposals may be examined within the framework of the undermentioned principles to which the Sri Lanka Government subscribes:

(i) maintenance of the unity integrity and sovereignty of Sri Lanka;

(ii) the maintenance of the unitary character of the Sri Lanka Constitution;

(iii) the principle of devolution of powers upon the Provincial Councils within the framework of the Constitution of Sri Lanka as proposed to be amended.

2. With reference to the Northern and Eastern provinces, in order to allay the apprehensions of any community, the Sri Lanka Government is prepared to consider the following alternative suggestions :

(i) Suitable institutional arrangements to provide for the Provincial Councils in the Island especially in the Northern Province and the Eastern Province to consult with each other and act in co-ordination on matters of interest and concern;

(ii) Suitable legal and institutional arrangements to ensure that the ethnic groups in each Province participate in the Government of the Province;

(iii) Establishment of units to give to the ethnic groups a large measure of local self-government under the control of the Provincial Government such as;

- (a) community-oriented AGA Divisions;
- (b) Pradesheya Sabbas in the AGA Divisions;
- (c) Any other unit of local self-Government.

3. A detailed Note containing observations on the proposals of the Sri Lanka Government on the framework is appended as Annexure I. The Sri Lanka Government believes that further negotiations are possible to arrive at final agreement.

4. A separate Note is annexed (Annexure II) on law and order and the scope of the powers devolved thereunder.

5. A separate Note is annexed (Annexure III) on land settlement and the scope of the powers devolved thereunder.

04.05.86.

Annexure I

NOTE ON PROVINCIAL COUNCILS

1. A Provincial Council shall be established in each Province, Law-making and Executive (including Financial) powers shall be devolved upon the Provincial Councils by suitable constitutional amendments, without resort to a referendum. After further discussion, subjects broadly corresponding to the proposals contained in Annex I to the Draft Framework of Accord and Understanding of 30.8.85 and the entries in List II and List III of the Seventh Schedule of the Indian Constitution shall be devolved upon the Provincial Councils. This will, however, be subject to the accompanying Notes relating to (LAW AND ORDER: AND (ii) land settlement.

2. In the Northern Province and in the Eastern Province, the Provincial Councils shall be deemed to

be constituted immediately after the constitutional amendments come into force. Elections to the said Provincial Councils shall be held immediately thereafter on the basis of proportional representation.

3. In regard to the other Provinces, the existing District Councils in a Province may, at any time, opt to constitute a Provincial Council. Where a Provincial Council is constituted in any other Province, the said Provincial Council may exercise legislative powers in respect of any or all subjects devolved upon the Provincial Councils. The Provincial Council may also resolve to request Parliament to exercise legislative powers on its behalf in respect of any devolved subject.

4. There shall be a High Court in each Province. The Supreme Court of Sri Lanka will exercise Appellate and Constitutional jurisdiction.

5. The leader of the party which commands a majority in the Provincial Council shall be appointed as the Chief Minister. The other Ministers of the Council of Ministers shall be appointed on the advice of the Chief Minister.

6. The Sri Lankan side has no objection to the proposal to appoint a Governor in each Province. However, this question may be further examined.

7. Any amendment to the Constitutional provisions or any other laws providing for devolution of legislative and executive (including financial) powers shall require a 2/3rd majority as provided in the present Constitution. Any further safeguards, for example a further requirement of a referendum, may also be discussed.

8. On the establishment of a Provincial Council, it may, by a resolution, decide to grant right of audience in the Provincial Council, but without a right to vote, to the Members of Parliament elected from the Province. Such resolution shall be in force for the duration of the term of the Provincial Council.

9. A Bill passed by the Provincial Council shall become law on certification by the Chairman of the Council. If the President is of opinion that the constitutional validity of the Bill has to be decided by the Supreme Court, he may, before the Bill comes into operation, refer the same to the Supreme Court for a decision thereon. Such reference shall be made within a specified period. This may be further discussed.

10. The circumstances under which the President may dissolve a Provincial Council or remove the Pro-

vincial Government, and the conditions and limitations under which such powers may be exercised, shall be further discussed and suitable provision made.

11. Elections to the Provincial Council shall be on the basis of proportional representation. The number of members to be elected shall be determined having regard to the population and the area of each District in the Provincial Council. The scheme of proportional representation may be discussed on the basis of the clarifications appended to the August 1985 document.

12. Disputes relating to elections to the Provincial Council shall be decided by Courts on election petitions filed before them, in the same manner as is provided now in the case of elections to Parliament.

13. The Sri Lanka side desires that the concept, powers and functions of Pradesheya Sabhas as units of local government under a Provincial Council may be further examined and discussed.

14. The Sri Lanka side also desires that the powers and functions of other units of local government, either in existence now or which maybe created in the future, may also be further examined and discussed.

15. The above represents the cardinal features of the proposed structure of government in each province. They will be supplemented by suitable consequential and incidental provisions.

04.05.86

NOTE ON LAW AND ORDER

NOTE ON DEVOLUTION OF POWER IN RESPECT OF LAW AND ORDER - 25-06-1986)

1. The subject devolved shall be described as follows: Public order within the province but not including-

- (a) national defence,
 - (b) national security, and
 - (c) The use of any armed forces or any other forces under the control of the Government of Sri Lanka in aid of the civil power.
2. The Sri Lanka Police Force which shall function under the overall direction and control of the I. G. P. shall consist of -

- (i) the National Division (including Special Units).
- (ii) a Provincial Division for each Province.

2.1. The National Division shall consist of the I. G. P., D. I. G.s, S. S. Ps, A. S. Ps and other ranks recruited at the National level.

2.2. The National Division shall consist of the D. I. G., S. S. Ps, S. Ps and A. S. Ps, all seconded from the National Division and Provincial Division and Provincial Asst. Superintendents of Police, Chief Inspectors, Inspectors, Sub-Inspectors, Sergeants and Constables recruited in the Province. Members of the Provincial Division shall be eligible for promotion to the National Division.

3. Recruitment to the National Division and promotions of Police Officers in the Provincial Divisions to the National Division shall be made by a National Police Commission composed of three members, namely-

- (a) the I.G.P.
- (b) a nominee of the President, and
- (c) a nominee of the Chief Justice

3.1. The Commission shall also be responsible for promotions, transfers and disciplinary control of members of the National Division other than the I.G.P. subject to paragraph 4.1 below.

3.2. It shall hear and determine appeals from officers seconded to Provincial Divisions against whom disciplinary action has been taken by Provincial Police Commissions.

3.3. It shall set standards for recruitment and promotion of Police Officers of all Divisions and such standards shall be uniform for all Provincial Divisions.

4. Recruitment to each Provincial Division shall be made by a Provincial Police Commission composed of three members, viz.

- (a) the D.I.G. of the Province,
- (b) a nominee of the President, and
- (c) a nominee of the Chief Minister of the Province.

4.1. A Provincial Police Commission shall be responsible for transfers, promotions and disciplinary control over officers in the Provincial Division; for promotion of officers of the National Division seconded to the Provincial Division up to the rank of S.S.P.; and for transfer and disciplinary control over officers seconded to the Provincial Division except the D.I.G.

Provided that any such officer against whom disciplinary action has been taken by a Provincial Police Commission shall have the right of appeal to the National Police Commission whose decision on such appeal shall be final.

5. The National Police Commission or a Provincial Police Commission shall be entitled to delegate such of its powers as may be prescribed to such other person or authority as may be prescribed.

6. The I.G.P. shall appoint a D.I.G. for each province with the concurrence of the Chief Minister of the Province. However, where there is no agreement between the Inspector-General of Police and the Chief Minister the matter will be referred to the President who after due consultations with the Chief Minister shall make the appointment.

7.1. The cadres of police Officers of all ranks of the National Division shall be fixed by the Government of Sri Lanka. The cadre of Officers and other ranks of each Provincial Division shall be fixed by the Provincial Administration with the approval of the President having regard to:

- (i) area of the Province;
- (ii) population of the Province; and
- (iii) such other criteria, as may be agreed to or prescribed.

These principles shall be uniformly applied to all Provincial Divisions.

7.2. The cadres of the Provincial Divisions shall be fixed on ascertained principles such as population, area, number of Police Stations involved and other relevant considerations. These principles shall be applied to all Provincial Divisions without distinction.

7.3. The salary scales and perquisites of office enjoyed by the various ranks in the National and Provincial Divisions shall be determined by Government of Sri Lanka after consultation with the Chief Ministers of the Provinces. The salary scales and perquisites of office as enjoyed by Members of the Provincial Divisions shall apply uniformly to all Provincial Divisions.

8. The nature, type and quantity of fire-arms and ammunition and other equipment for the National Division shall be determined by the National Police Commission. The nature, type and quantity of fire-arms and ammunition and other equipment for all Provincial Divisions shall be determined by the National Police Commission after consultation with the Provincial Police Commission and uniform standards and principles shall be applied for all Provincial Divisions.

9. Recruitment to the National Division shall be made at the ranks of P.C., S.I. and A.S.P. Recruitment to the Provincial Division shall be made at the ranks of P.C., S.I.

(and P.A.S.P. rank referred to in para 2.2 above)

9.1. Recruitment to the National Division shall be made by the National Police Commission and recruitment to the Provincial Division shall be made by the Provincial Police Commission having regard to the standards of recruitment and other criteria prescribed in this behalf. Provided also that a recruit shall, on appointment set out his preferences as to the Division in which he wishes to serve and that he shall, if possible be posted to the Division of choice with the consent of the Division concerned.

9.2. The Government of Sri Lanka shall be responsible for the training of all recruits to and of members of all Divisions of the Sri Lanka Police Force.

The Provincial Administration may with the consent of the President provide for additional training for the members of the Provincial Division.

10. Members of the National Division and the Provincial Divisions shall wear the same uniform and insignia of rank, provided that uniforms of the members of each Division shall bear a distinctive shoulder flash indicating the Division to which he belongs.

10.1. There shall be one uniformed police force in each Province comprising of the members of the Provincial Division and the officers seconded thereto. Members of the National Division shall ordinarily be in plain cloths provided that they may wear uniforms when performing any duties in respect of the maintenance or restoration of public order as set out in paragraphs 12.1, 12.2, 12.3 and 12.4. Provided also that the I.G.P. and such other Officers as may be specified shall ordinarily be attired in uniforms.

11. All Police Officers serving in units of the National Division and Provincial Division in any Province shall function under the direction and control of the D.I.G. of such Province.

11.1 The D.I.G. of the Province shall be responsible to and under the control of the Chief Minister thereof in respect of the maintenance of public order in the Province.

11.2 The provisions of para 11.1 above are subject to the qualifications that:-

- (i) Upon the declaration of any emergency the President may assume such powers and responsibilities of the Chief Executive and the Provincial Administration in respect of public order within the Province as he may by regulation provide.

(ii) Where the President is of the opinion that the security of or public order in a Province is threatened by grave internal disturbance, he may without the declaration of an emergency but in consultation with Chief Minister of such Province, by order deploy in aid of the civil power any unit of the National Division or the Armed Forces in the Province for the purpose of restoring public order.

Provided that every such order shall cease to be in force as soon as the President is satisfied that public order has been restored or on the expiry of sixty days from the date of the order, whichever is earlier.

12.1. The Provincial Division shall be responsible for the preservation of public order within the Province and the prevention, detection and investigation of all offences (except the offences specified in the Schedule) and subject to the powers of the Attorney-General in terms of the Code of Criminal Procedure Act, the institution of prosecutions in the relevant Courts in respect of such offences.

The National Division of the Sri Lanka Police Force shall be responsible for the prevention, detection and investigation of all offences specified in the Schedule and subject to the powers of the Attorney-General in terms of the Code of Criminal Procedure Act, for the institution of prosecutions in the relevant Courts in respect of such offences.

12.2 Where the Provincial Administration seeks the assistance of the National Division to preserve public order within a Province, the I.G.P. shall deploy such personnel of the National Division as are necessary for the purpose, and place them under the control of the D.I.G. of the Province.

12.3 Where a State of Emergency is declared the I.G.P. may deploy such units of the National Division as he deems necessary in any Province for the restoration and maintenance of public order within such Province.

12.4 Any offence which may ordinarily be investigated by a Provincial Division may be investigated by the C.I.D. or any other unit of the National Division-

- (a) Where the Chief Minister requests that such investigation be undertaken by the C.I.D. or any other unit of the National Division.
- (b) Where the Attorney-General / I.G.P. is of opinion that an investigation of such offence by the C.I.D. or any other unit

of the National Division is necessary in the public interest and directs, after consultation with the Chief Minister, that such offence be investigated by the C.I.D. or any other unit of the National Division.

12.5 in a case falling under (a) or (b) of para 12.4 the prosecution of the offence shall be under the supervision and control of a Director of prosecutions to be appointed in this behalf.

13. The National Division shall perform all the functions vested in the Provincial Division in any Province until a Provincial Division is established in such Province.

14. All gazetted officers of the National Division and Provincial Divisions shall be required to attain the prescribed standard in Sinhala and Tamil. All Officers of the rank of A.S.P. and above shall also be required to attain the prescribed standard of English.

Every recruit to the Sri Lanka Police Force shall have proficiency in his mother tongue. For the first promotion he shall acquire proficiency in a language other than his mother tongue. For the next promotion he shall acquire a knowledge of the third language. The three languages recognised for this purpose are Sinhala, Tamil and English.

Annexure III

NOTE ON LAND SETTLEMENTS

The Subject matter of Devolution

Land, that is to say, rights in or over land, land tenures, transfer and alienation of land and land improvement shall be a devolved subject, except as provided hereinafter.

1.1 Lands which are vested in the State (State lands), will be alienated, used and disposed of in the following manner.

1.2 Lands which are required for the purpose of the Government of Sri Lanka, in respect of subjects not devolved on the Provincial Council, may be utilised without any restriction by the Government of Sri Lanka.

1.3 Insofar as any such lands are required for the purpose of the Provincial Council, in respect of subjects devolved on the Provincial Council, the Provincial Council shall formulate schemes for the use of such land in accordance with any applicable national policy. If for the purpose of such scheme it becomes necessary for such land to be alienated or otherwise disposed of to any citizen or any other body, such alienation or disposition shall be made by the President on the advice of the Provincial Council.

(To be continued)

DRAFT PROPOSALS — 3

(Continued from last issue)

1.4 The National Land Commission shall also have power to formulate policy regarding the use of State land.

2.1 Inter-Provincial irrigation and land development projects, such as the Mahaweli Development Project, shall be the responsibility of the Government of Sri Lanka.

2.2 Principles and criteria in regard to the size of holdings of agricultural and homestead land arising out of Inter-Provincial irrigation schemes shall be determined by the Government of Sri Lanka in consultation with the Provincial Governments.

2.3 Principles and criteria in regard to selection of allottees for settlement of land arising out of Inter-Provincial schemes shall be determined by the Government of Sri Lanka, but the actual application of these principles, the selection of allottees and all other incidental matters shall be within the powers of the Provincial Government.

2.4 The Government of Sri Lanka shall establish a National Land Commission for formulating a national policy regarding land use in areas covered by Inter-Provincial irrigation schemes. Such national policy will be based on technical aspects (and not on political or communal aspects). It will lay down general norms in regard to the use of land having regard to soil; climate, rainfall, soil erosion, forest cover, environmental factors, economic viability etc. The Provincial Council shall, in the exercise of its power derived under (1) above, give due regard to the national policy in regard to land use as formulated by the National Land Commission.

04-05-86.

Therefore, the entitlements on the basis of national ethnic ratios of Sri Lankan Tamils, Muslims and Indian Tamils to the new allotments would be:

Sri Lankan Tamils	..	12,787
Muslims	..	7,509
Indian Tamils	..	5,683
Total		25,979

This number of allotments will be made available accordingly in the Trincomalee and Batticaloa Districts to the Tamil-speaking people. However, it is noted that up to date the following allotments have been alienated to Tamil-speaking families and these numbers have to be reduced from the above entitlements.

System	Tamil	Muslim	Total
"A" ..	47 ..	822 ..	869
"B" ..	14 ..	91 ..	105
"C" ..	821 ..	568 ..	1389
Total ..	882	1,481	2,363

1. The notional entitlement of allotments of the "Tamil speaking people" in the Accelerated Mahaweli Programme has been

estimated at...	25,979	allotments consisting of
Sri Lankan Tamils	12,787	allotments
Muslims	7,509	allotments
Indian Tamils	5,683	allotments

2. The entitlement of allotments of the "Tamil speaking people" in Trincomalee and Batticaloa Districts, distributed according to the ethnic population of the Districts would be approximately as follows: (Subject to availability and further discussions in the event of changes in available land)

	Trincomalee	Batticaloa	Total
Allotments	12,700 (approx.)	18,690 (approx.)	31,390
Sri Lankan Tamils	6,960+19	10,440+30	17,400+49
Muslims	3,220+10	4,830+15	8,050+25
Indian Tamils	180+2	270+3	450+5
	10,391	15,558	25,979

3. Such a distribution would result in Sri Lankan Tamils receiving about 4,700 allotments more than they are entitled to, and Muslims receiving about 500 additional allotments. Indian Tamils would receive about 500 allotments less. The distribution then has to be adjusted to give the Indian Tamil community its due share, and this would result in their ethnic proportion in these two Districts being very significantly increased.

4. The balance allotments comprising of approximately 2,308 allotments in Trincomalee District and approximately 3,103 allotments in

the Batticaloa District will be allotted to the Sinhalese.

5. It is therefore necessary to specify that —

"In making settlements in Systems A, B and D in the Trincomalee and Batticaloa Districts, the Government will do so in a way which will not affect the ethnic proportions of those Districts". Subject to paragraph 3 above.

04 - 05 - 86

AMENDMENTS TO THE CONSTITUTION

Article 138 to be amended in paragraph (1) as follows:-

(a) by the substitution, for the words "committed by any Court of First Instance" of the words "committed by the High Court, in the exercise of its appellate or original jurisdiction or by any Court of First Instance"; and

(b) for the words "of which such Court of First Instance", of the

154A. (1) Subject to the provisions of the Constitution, a Provincial Council is hereby established for every Province specified in the Eighth Schedule with effect from the date on which this Chapter comes into force.

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

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

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

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

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

(i) has internationally violated the provisions of the constitution;

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

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

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

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

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

words "of which such High Court, Court of First Instance".

PART XVIA

The provisions of this Chapter shall be subject to Articles 1, 2, 3, 6, 7, 8, 9, 10, 11, 30(2), 62(2) and 83 and shall not affect or derogate from, or be read or construed as affecting or derogating from any such Article, but save as aforesaid, nothing contained in this Chapter or any law in force on the date on which this Chapter comes into force shall be interpreted to derogate from the provisions of this Chapter.

MAHAWELI PROJECT

The total number of new allotments estimated to be available in Systems A to H under the Accelerated Mahaweli Programme is as follows:

System "A"	..	14,300
System "B"	..	37,483
System "C"	..	22,000
System "D"	..	14,800
System "E"	..	Nil
System "F"	..	Nil
System "G"	..	2,900
System "H"	..	10,000 (national)
		101,483

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

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

(8) (a) The Governor may from time to time summon the Provincial Council to meet at such time and place as he thinks fit but two months shall not intervene between the last sitting in one session and the date appointed for the first sitting in the next session.

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

(c) The Governor shall ordinarily exercise his powers under this paragraph in accordance with the advice of the Chief Minister, unless he is satisfied, after consultation with opinion in the Provincial Council, that to act in accordance with such advice would not be in the interests of the province.

(9) Without prejudice to the powers of the President under Article 34, the Governor of a province shall have the power to grant a pardon to any person convicted of an offence against a statute made by the Provincial Council established for that province and to grant a respite or remission of punishment imposed by Court on any such person.

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

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

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

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

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

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

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

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

154D. (1) A Provincial Council shall consist of such number of members as may be determined by law, having regard to the area and population of the province for which that Provincial Council is established.

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

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

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

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

154F (1) There shall be a Board of Ministers with the Chief Minister at the head to aid and advise the Governor of a Province in the exercise of his functions. The Governor shall, in the exercise of his functions, act in accordance with such advice, except in so far as he is by or un-

der this Constitution required to exercise his functions or any of them in his discretion.

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

(3) The question whether any, and if so what advice was tendered by the Ministers to the Governor shall not be inquired into in any Court.

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

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

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

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

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

154G (1) Every Provincial Council may, subject to the provisions of the Constitution, make statutes applicable to the province for which it is established with respect to any matter set out in List of the Ninth Schedule. (hereinafter referred to as "the Provincial Councils List").

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

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

(b) where one or more Councils do not agree to the amendment or repeal, such Bill is passed by the special majority required by Article 82 and approved by the people at a Referendum.

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

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

(b) Where one or more Councils do not agree to the passing of the Bill, such Bill is passed by the special majority required by Article 82 and approved by the people at a Referendum.

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

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

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

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

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

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

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

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

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

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

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

(2) Every statute made by a Provincial Council shall be presented to the Governor for his assent, forthwith upon the making thereof

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

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

(4) Upon presentation of a Bill to the Governor under paragraph (3), the Governor may assent to the Bill or reserve it for reference by the President to the Supreme Court, within one month of the passing of the Bill for the second time, for a determination that it is not inconsistent with the provisions of the Constitution. Where upon such reference, the Supreme Court determines that the Bill is consistent with the provisions of the Constitution, the Governor shall, on receipt by him of the Courts determination, assent to the bill. Whereupon such reference the Supreme Court determines that the Bill is inconsistent with the provisions of the Constitution, the Governor shall withhold assent to the Bill.

154I (1) Upon the making of a Proclamation under the Public Security Ordinance or the law for the time being in force relating to public security, bringing the provisions of such Ordinance or law into operation on the ground that the maintenance of essential supplies and services is threatened or that the security of Sri Lanka is threatened by war or external aggression or armed rebellion, the President may give directions to any Governor as to the manner in which the executive power exercisable by the Governor is to be exercised. The directions so given shall be in relation to the grounds specified in such Proclamation for the making thereof:

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

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

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

154J. Where the Governor for any Provincial Council has failed to comply with, or give effect to, any directions given to such Governor or such Council under this Chapter of the Constitution, it shall be lawful for the President to hold that a situation has arisen in which the administration of the province cannot be carried on in accordance with the provisions of this Constitution.

154K. (1) If the President, on receipt of a report from the Governor of a Province or otherwise, is satisfied that a situation has arisen in which the administration of the Province cannot be carried on in accordance with the Provisions of this Constitution, the President may by Proclamation—

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

(d) declare that the powers of the Provincial Council shall be exercisable by or under the authority of Parliament.

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

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

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

(3) Every Proclamation under this article shall be laid before Parliament and shall except where it is a Proclamation revoking a previous

Proclamation, cease to operate at the expiration of fourteen days unless before the expiration of that period it has been approved by a resolution of Parliament.

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

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

Provided that if and so often as a resolution approving the continuance in force of such a Proclamation is passed by Parliament, the Proclamation shall, unless revoked, continue in force for a further period of two months from the date on which under this paragraph it would otherwise have ceased to operate, but no such Proclamation shall in any case remain in force for more than one year:

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

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

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

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

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

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

(2) A statute made by Parliament or the President or other authority referred to in sub-paragraph (a) of paragraph (1), during the continuance in force of a proclamation issued under paragraph (1) of Article 154K, shall continue in force until amended or repealed by the Provincial Council.

PROVISIONS AS TO FINANCIAL EMERGENCY.

154N (1) If the President is satisfied that a situation has arisen whereby the financial stability or credit of Sri Lanka or of any part of the territory thereof is threatened he may by proclamation make a declaration to that effect.

(2) A Proclamation issued under paragraph (1)—

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

(b) shall be laid before Parliament;

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

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

stitution, unless before the expiration of the said period of thirty days a resolution approving the Proclamation has been passed by Parliament.

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

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

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

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

154O. (1) There shall be a High Court for each province with effect from the date on which this Chapter comes into force. Each such High Court shall be designated as the High Court of the relevant province.

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

(3) Every such High Court shall—

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

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

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

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

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

(b) orders in the nature of writs of certiorari, prohibition, procedendo, mandamus and quo warranto against

any person exercising, within the province, any powers under—

- (i) any law or
- (ii) any statute made by the Provincial Council established for that province, in respect of any matter set out in List I of the Ninth Schedule.

(5) The judicial Service Commission may delegate to any such High Court, the power to inspect and report on, the administration of any Court of first instance within the province.

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

FUNCTIONS, POWERS, ELECTION ETC. OF PROVINCIAL COUNCILS.

154P. Parliament shall by law provide for—

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

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

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

(d) any other matter necessary for the purpose of giving effect to the principles or provisions of this Chapter.

154Q. (1) There shall be a Finance Commission consisting of—

(a) the Governor of the Central Bank;

(b) the Secretary to the Treasury; and

(c) three other members to represent the three major communities and each of whom shall be a person who has distinguished himself, or held high office, in the financial, legal, administrative, business or academic fields.

2) Every member of the Commission shall, unless he earlier dies, resigns or is removed from Office hold office for a period of five years.

(3) It shall be the duty of the Commission to make representations to the President as to—

(a) the principles on which such funds as are granted annually by the Government for the use of Provincial Funds should be apportioned between the various provinces; and

(b) any other matter referred to the Commission by the President relating to Provincial finance.

(4) The Commission shall determine its own procedure and shall have such powers in the performance of its duties as Parliament may, by law, confer on it.

(5) The President shall cause every recommendation made by the Finance Commission under this Article to be laid before Parliament.

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

Article 170 of the Constitution is hereby amended by the substitution in the definition of "written law", for the words "and include orders" of the words "and include statute made by a Provincial Council, Orders".

PROPOSED PROVISION

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

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

1. This Act may be cited as the Provincial Councils Act, No. of 1986.

PART 1

NAME AND MEMBERSHIP OF PROVINCIAL COUNCIL.

2. Where a Provincial Council is established for a province by virtue of Article 154A of the Constitution, the President shall, by Order published in the Gazette, assign a name to such Council and specify the number of members such Provincial Council shall consist of. In specifying such number, the President shall have regard to the area and population of the province for which that Provincial Council is constituted.

(To be continued)

DRAFT PROPOSALS - 4

(Continued from last issue)

QUALIFICATION FOR MEMBERSHIP OF PROVINCIAL COUNCIL

3. No person shall be qualified to be elected as a member of a Provincial Council or to sit and vote as a member of such Council:-

(a) if such person is subject to any of the disqualifications specified in paragraphs (a), (c), (d), (e), (f), and (g) of Article 91 (1) of the Constitution;

(b) if such person is under any law, disqualified from voting at an election of members to a local authority;

(c) if he is a Member of Parliament;

(d) if he is a member of any other Provincial Council or stands nominated as a candidate for election for more than one Provincial Council;

(e) if he stands nominated as a candidate for election to a Provincial Council, by more than one recognized political party or independent group.

OATH OR AFFIRMATION BY MEMBERS

4. No member of a Provincial Council shall sit or vote as such member until he has taken or subscribed the oath, or made or subscribed the affirmation, set out in the Fourth Schedule to the Constitution.

VACATION OF SEATS

5. (i) If a member of a Provincial Council-

(a) becomes subject to any disqualification mentioned in section 3; or

(b) resigns his seat by writing under his hand addressed to the Chairman,

his seat in the Provincial Council shall thereupon become vacant.

(2) If for a period of ninety days a member of the Provincial Council is without permission of the Council absent from all meetings thereof, the Council may declare his seat vacant.

Provided that in computing the said period of ninety days no account shall be taken of any period during which the Council is pro-

gued for more than four consecutive days.

PENALTY FOR SITTING AND VOTING BEFORE MAKING OATH OR WHEN DISQUALIFIED

6. If a person sits or votes as a member of a Provincial Council before he has complied with the requirements of section 4 or when he knows that he is not qualified or that he is disqualified, for membership thereof, he shall be liable in respect of each day on which he sits or votes to a penalty of one hundred rupees to be recovered as a debt due to the State.

PART II

CHAIRMAN AND DEPUTY CHAIRMAN

7.(1) Every Provincial Council shall, as soon as may be, choose two members of the Council to be respectively Chairman and Deputy Chairman thereof and, so often as the office of Chairman or Deputy Chairman becomes vacant, the Council shall choose another member to be Chairman or Deputy Chairman, as the case may be.

(2) A member holding office as Chairman or Deputy Chairman of a Provincial Council-

(d) shall vacate his office if he ceases to be a member of the Council;

(b) may at any time by writing under his hand addressed, if such member is the Chairman to the Deputy Chairman, and if such member is the Deputy Chairman, to the Chairman, resign his office;

(c) may be removed from his office by a resolution of the Council passed by a majority of the whole number of members of the Council (including those not present).

Provided that whenever the Council is dissolved, the Chairman shall not vacate his office until immediately before the first meeting of the Council after the dissolution.

(3) While the office of Chairman is vacant, the duties of the office shall be performed by the Deputy Chairman or, if the office of Deputy Chairman is also vacant,

by such member of the Council as may be determined by the rules of procedure of the Council.

(4) During the absence of the Chairman from any sitting of the Council, the Deputy Chairman, or, if he is also absent, such person as may be determined by the rules of procedure of the Council, or, if, no such person is present, such other person as may be determined by the Council shall act as Chairman.

(5) There shall be paid to the Chairman and the Deputy Chairman of the Provincial Council such salaries and allowances as may be fixed by the Provincial Council, by statute and, until provision in that behalf is so made such salaries and allowances as the Governor may, with the approval of the President, by order, determine.

CHAIRMAN AND DEPUTY CHAIRMAN NOT TO PRESIDE WHILE RESOLUTION FOR HIS REMOVAL UNDER DISCUSSION.

8. (1) At any sitting of the Provincial Council, while any resolution for the removal of the Chairman from his office is under consideration, the Chairman, or while any resolution for the removal of the Deputy Chairman from his office is under consideration, the Deputy Chairman, shall not, though he is present, preside and the provisions of sub-section (4) of section 7 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Chairman or, as the case may be, the Deputy Chairman is absent.

(2) The Chairman shall have the right to speak in, and otherwise to take part in the proceedings of, the Provincial Council while any resolution for his removal from office is under consideration in the Council and shall, notwithstanding anything in section 10 be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

POWERS AND PRIVILEGES OF MEMBERS OF PROVINCIAL COUNCILS.

9. (1) Subject to the provisions of this Act and to the rules and standing orders regulating the procedure of a Provincial Council,

there shall be freedom of speech in every Provincial Council.

(2) No member of the Provincial Council shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Council or any Committee thereof and no person shall be liable in respect of the publication by, or under, the authority of such Council, of any report, paper, votes or proceedings.

(3) The provisions of subsections 1) and (2) shall apply in relation to persons who by virtue of this Act have the right to speak in, and otherwise to take part in the proceedings of, a Provincial Council or any committee thereof as they apply in relation to members of that Council.

VOTING IN COUNCIL

10. (1) Save as otherwise provided in this Act, all questions at any sitting of the Provincial Council shall be determined by a majority of votes of the members present and voting other than the Chairman or person acting as such.

(2) The Chairman or person acting as such shall not vote in the first instance but shall have and exercise a casting vote in the case of an equality of votes.

(3) A Provincial Council shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in any such Council shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do, sat or voted or otherwise took part in the proceedings.

(4) The quorum to constitute a meeting of a Provincial Council shall be one-third of the total number of members of the Council. Where one-third of the number of members is an integer and fraction, the integer immediately higher to that integer and fraction shall be deemed to be the one-third the number of members for the purpose of this section.

(5) If at any time during a meeting of a Provincial Council there is no quorum, it shall be the duty of the Chairman, or person acting as such, either to adjourn the Council or to suspend the meeting until there is a quorum.

RULES OF PROCEDURE

11. A Provincial Council may make rules for regulating, subject to the provisions of this Act, its procedure and the conduct of its business;

Provided that the Provincial Council shall, after consultation with the Chairman of such Council and with the approval of the President, make rules—

- (a) for securing the timely completion of financial business;
- (b) for regulating the procedure of and the conduct of business in, the Provincial Council in relation to any financial matter or to any Statute for the appropriation of moneys out of the Provincial Fund of Province;
- (c) for prohibiting the discussion of, or the asking of questions on, any matter which affects the discharge of the functions of the Governor in so far as he is required by this Act to act in his discretion.

COURT NOT TO INQUIRE INTO PROCEEDINGS OF PROVINCIAL COUNCIL.

12. (1) The validity of any proceedings in a Provincial Council shall not be called in question on the ground of an alleged irregularity of procedure.

(2) No officer or member of a Provincial Council in whom powers are vested by or under this Act for regulating procedure or the conduct of business, or for maintaining order in such Council shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

EXEMPTION OF STATE PROPERTY FROM TAXATION.

13. The property of the State shall save in so far as Parliament may by law otherwise provide, be exempt from all taxes imposed by or under any Statute made by a Provincial Council.

LAPSING OF BILLS

14. (1) A statute pending in a Provincial Council shall not lapse by reason of the prorogation of such Council.

(2) A statute pending in a Provincial Council shall lapse on a dissolution of the Council.

CONDUCT OF BUSINESS

15. (1) The Governor shall make rules for the more convenient transaction, of the administration of the Province, and for the allocation

among the Ministers of the said business in so far as it is not business with respect to which the Governor is by, or under, the Constitution required to act in his discretion.

(2) Save as otherwise provided in this Act, all executive action of the Governor, whether taken on the advice of his Ministers or otherwise, shall be expressed to be taken in the name of the President.

(3) Orders and other instruments made and executed in the name of the President, shall be authenticated in such manner as may be specified in rules to be made by the Governor, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the President.

CONTRACTS AND SUITS

16. (1) All contracts entered into in the exercise of the executive power of the Governor of the province, shall be entered into, and performed, in the name of the Provincial Council constituted for that province, as if such Provincial Council were a body corporate.

(2) All actions in relation to the exercise of such executive power shall be brought by, or against such Provincial Council, as if such Provincial Council were a body corporate.

SECRETARIAT

17. (1) A Provincial Council shall have its own Secretarial staff.

(2) A Provincial Council may, by statute, regulate the recruitment, and conditions of service, of persons appointed to its secretarial staff.

LANGUAGE TO BE USED IN COUNCIL.

18. (1) A member of the Provincial Council shall be entitled to perform his duties and discharge his functions in either of the National languages.

(2) Statutes shall be made by a Provincial Council in both National languages, together with a translation in the English language.

RESTRICTION ON DISCUSSION IN PROVINCIAL COUNCIL.

19. Subject to paragraph (4) of Article 154B of the Constitution, no discussion shall take place in a Provincial Council with respect to the conduct of the President or the Governor or a Judicial Officer or a Member of Parliament.

POWER OF PRESIDENT TO REMOVE DIFFICULTIES.

20. If any difficulty arises in giving effect to the provisions of

this Act, and, in particular in relation to the constitution of a Provincial Council for a province, the President may, by Order take such action not inconsistent with the provisions of this Act, as appears to him to be necessary, or expedient, for the purpose of removing such difficulty.

INTRODUCTION

The Reserved List (List II), the Provincial List (List I) and the Concurrent List (List III) are forwarded herewith.

In the Note on Provincial Councils sent to the Government of India after discussion with the Indian Delegation led by Hon.P.Chidambaram, Minister of State, it was indicated that—

“after further discussion, subjects broadly corresponding to the proposals contained in Annex I to the Draft Framework of Accord and Understanding of 30.08.85 and the entries in List II and List III of the Seventh Schedule of the Indian Constitution shall be devolved upon the Provincial Councils.”

In Annex I to the Draft Framework of Accord and Understanding initialled on 30.08.85, while specifying some of the more important powers and functions to be exercised by Provincial Councils, it was clearly stated that—

“for the removal of doubts, the subjects and functions that would be exclusively reserved for Parliament are specified in Annex II.”

The subjects and functions specified in the Reserved List (List II) now forwarded, are identical to Annex II of the Draft Framework of Accord and Understanding, except for certain minor changes (vide. Defence and National Security; Maritime Zones, including historical waters, territorial waters, exclusive economic zone and continental shelf and Internal waters, Archaeological activities and sites and antiquities declared by or under any law made by Parliament to be of national importance). For drafting reason certain terminological changes have been made (vide. law and Order and prevention and detection of crime except to the extent specified in item I of List I; Elections, including Presidential, Parliamentary, Provincial Councils and local authorities; Inter-province Trade and Commerce; State Lands and Foreshore, except to the extent specified in item 26 of List I).

The Provincial List (List I) and the Concurrent List (List III) contain the proposals of the Government of Sri Lanka after discussion with the TULF. Specification of subjects in

the Provincial List (List I) and the Concurrent List (List III) is more detailed than in Annex I and broadly corresponds to List II and List III of the Seventh Schedule of the Indian Constitution.

We have with us a Paper on the Administrative Structure consequent to devolution which can be made available, We believe however, that this matter should be discussed after the Lists are determined.

Provision relating to Finance can be determined only after the Lists are finalized.

September 23, 1986.

23.09.87

LIST II
(Reserved List)
Article 154G (7)

NATIONAL POLICY ON ALL SUBJECTS AND FUNCTIONS

Defence and National Security; Internal Security; Law and order and prevention and detection of crime except to the extent specified in item I of list I.

This would include—

- (a) Defence of Sri Lanka and every part thereof including preparation for defence and all such acts as may be conducive in times of war to its prosecution and after its termination to effective demobilisation;
- (b) Naval, military and air forces; any other armed forces of the Government of Sri Lanka;
- (c) Deployment of any armed force of the Government of Sri Lanka or any other force subject to the control of the Government of Sri Lanka or any contingent or unit thereof in any Province in aid of the civil power; powers, jurisdiction, privileges and liabilities of the members of such forces while on such deployment;
- (d) Delimitation of cantonment areas, local self-government in such areas, the constitution and powers within such areas of cantonment authorities and the regulation of house accommodation (including the control of rents) in such areas;
- (e) Naval, military and air force works;
- (f) Arms firearms, ammunition and explosives;
- (g) Atomic energy and mineral resources necessary for its production;
- (h) Industries declared by Parliament by law to be necessary for the purpose of defence or for the prosecution of war.

- (i) Criminal Investigation Department;
- (j) Preventive detention for reasons connected with Defence, Foreign Affairs, or the security of Sri Lanka; persons subjected to such detention; and
- (k) Extension of the powers and jurisdiction of members of a police force belonging to any Province to any area outside that Province, but not so as to enable the police of one Province to exercise powers and jurisdiction in any area outside that Province without the consent of the Provincial Council in which such area is situated; extension of the powers and jurisdiction of members of a police force belonging to any Province to railway areas outside that Province.

Foreign Affairs

This would include—

- (a) Foreign affairs; all matters which bring the Government of Sri Lanka into relation with any foreign country;
- (b) Diplomatic, consular and trade representation;
- (c) United Nations Organization;
- (d) Participation in international conferences, associations and other bodies and implementing of decisions made thereat;
- (e) Entering into treaties and agreements with foreign countries and implementing treaties, agreements and conventions with foreign countries;
- (f) War and peace; and
- (g) Foreign jurisdiction.

Posts and Telecommunications; Broadcasting; Television

This would include—

- (a) Posts and telegraphs; telephones; wireless, broadcasting and other like forms of Communications; and
- (b) Sanctioning of cinematograph films for exhibition.

Justice in so far as it relates to the judiciary and the courts structure

This would include—

- (a) Constitution, organisation, jurisdiction and powers of the Supreme Court (including contempt of such Court), and the fees taken therein; persons entitled to practise before the Supreme Court, Court of Appeal and other Courts;
- (b) Constitution, organisation, jurisdiction and powers of the Court of Appeal, and the fees taken therein; and

- (c) jurisdiction and powers of all courts, except the Supreme Court and the Court of Appeal.

Finance in relation to national revenue, monetary policy and external resources; customs

This would include—

- (a) Public debt of the Government of Sri Lanka;
- (b) Currency, coinage and legal tender; foreign exchange;
- (c) Foreign loans;
- (d) Central Bank;
- (e) National Savings Bank;
- (f) Lotteries organised by the Government of Sri Lanka or a Provincial Council;
- (g) Banking;
- (h) Bills of exchange, cheques, promissory notes and other like instruments;
- (i) insurance;
- (j) Stock exchanges and futures markets;
- (k) Audit of the accounts of the Government of Sri Lanka and of the Provinces;
- (l) Taxes on income other than agricultural income;
- (m) Duties of customs including export duties;
- (n) Duties of excise on tobacco and other goods manufactured or produced in Sri Lanka;
- (o) Taxes on the capital value of the assets, exclusive of agricultural land, of individuals and companies; taxes on the capital of companies;
- (p) Duties in respect of succession to property other than agricultural land;
- (q) Terminal taxes on goods or passengers carried by railway, sea or air; taxes on railway fares and freights;
- (r) Taxes other than stamp duties on transactions in stock exchanges and futures markets;
- (s) Rates of stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts;
- (t) Taxes on the sale or purchase of newspapers and on advertisements published therein;
- (u) Taxes on the sale or purchase of goods other than newspapers where such sale or purchase takes place in the course of inter-province trade or commerce;

- (v) Taxes on the consignment of goods (whether the consignment is to the person making it or to any other person), where such consignment takes place in the course of inter-province trade or commerce;

- (w) Corporation tax;

- (x) Estate duty in respect of property other than agricultural land.

Foreign Trade; Inter-Province Trade and Commerce

This would include—

- (a) Trade and commerce with foreign countries; import and export across customs frontiers; definition of customs frontiers; and
- (b) Inter-province trade and commerce.

Ports and Harbours

This would include—

- (a) Ports declared by or under law made by Parliament or existing law to be major ports, including their delimitation, and the constitution and powers of port authorities therein; and
- (b) Port quarantine, including hospitals connected therewith; seamen's and marine hospitals.

Aviation and Airports

This would include—

- Airways; aircraft and air navigation; provision of aerodromes; regulation and organisation of air traffic and of aerodromes; provision for aeronautical education and training and regulation of such education and training provided by provinces and other agencies.

National Transport

This would include -

- (a) Railways;
- (b) Highways declared by or under law made by Parliament to be national highways; and
- (c) Carriage of passengers and goods by railway, sea or air, or by national waterways in mechanically propelled vessels.

Rivers and Waterways; Shipping and Navigation; Maritime Zones Including Historical Waters, Territorial Waters, Exclusive Economic Zone and Continental Shelf and Internal Waters; State Lands and Foreshore, Except to the Extent Specified in Item 26 of List I.

This would include -

- (a) Piracies and crimes committed on the high seas or in the air; of-

fences against the law of nations committed on land or the high seas or in the air;

- (b) Shipping and navigation on inland waterways, declared by Parliament by law to be national waterways, as regards mechanically propelled vessels; the rule of the road on such waterways;

- (c) Maritime shipping and navigation, including shipping and navigation on tidal waters; provision of education and training for the mercantile marine and regulation of such education and training provided by Provinces and other agencies;

- (d) Lighthouses, including lightships, beacons and other provision for the safety of shipping and aircraft;

- (e) Regulation and development of inter-province rivers and river valleys to the extent to which such regulation and development under the control of the Government of Sri Lanka is declared by Parliament by law to be expedient in the public interest;

- (f) Fishing and fisheries beyond territorial waters; and

- (g) Property of the Government of Sri Lanka and the revenue therefrom, but as regards property situated in a province subject to statutes made by the province save in so far as Parliament by law otherwise provides.

Minerals and Mines

This would include -

- (a) Regulation and development of oilfields and mineral oil resources; petroleum and petroleum products; other liquids and substances declared by Parliament by law to be dangerously inflammable; and
- (b) Regulation of mines and mineral development to the extent to which such regulation and development under the control of the Government of Sri Lanka is declared by Parliament by law to be expedient in the public interest.

Immigration and Emigration and Citizenship

This would include -

- (a) Citizenship, naturalization and aliens;
- (b) Extradition; and
- (c) Admission into, and emigration and expulsion from Sri Lanka; passports and visas.

Elections, Including Presidential, Parliamentary, Provincial Councils and Local Authorities

This would include -

- Elections to Parliament, Provincial Councils, Local Authorities and to

the Office of President; the Department of Elections.

Census and Statistics

This would include -

- (a) Census; and
- (b) Inquiries, surveys and statistics for the purpose of any of the matters in this List.

Professional Occupations and Training

This would include -

- (a) Institutions, such as Universities, declared by Parliament by law to be institutions of national importance.
- (b) Institutions for scientific or technical education by the Government of Sri Lanka wholly or in part and declared by Parliament by law to be institutions of national importance.
- (c) Provincial agencies and institutions for-
 - (i) professional, vocational or technical training, including the training of Police officers; or
 - (ii) the promotion of special studies or research; or
 - (iii) scientific or technical assistance in the investigation or detection of crime; and
- (d) Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions.

National Archives: Archaeological Activities and Sites and Antiquities Declared by or Under Any Law Made By Parliament To Be of National Importance

This would include-

Ancient and historical monuments and records, and archaeological sites and remains declared by or under law made by Parliament to be of national importance.

All Subjects and Functions not Specified in List I or List III including-

- (a) Pilgrimages to places outside Sri Lanka;
- (b) Incorporation, regulation and winding up of trading corporations, including banking, insurance and financial corporations but not including co-operative societies;
- (c) Incorporation, regulation and winding up of corporations, whether trading or not, with objects not confined to one province, but not including universities;
- (d) Patents, inventions and designs copyright trade marks and merchandise marks;
- (e) Establishment of standards of weight and measure;

(f) Establishment of standards of quality for goods to be exported out of Sri Lanka or transported from one province to another;

(g) Industries, the control of which by the Government of Sri Lanka is declared by Parliament by law to be expedient in the public interest;

(h) Regulation of labour and safety in mines;

(i) Manufacture, supply and distribution of salt by agencies of the Government of Sri Lanka: regulation and control of manufacture, supply and distribution of salt by other agencies;

(j) Cultivation, manufacture, and sale for export of opium;

(k) Industrial disputes concerning employees of the Government of Sri Lanka;

(l) Institution such as Museums and War Memorials financed by the Government of Sri Lanka wholly or in part and declared by Parliament by law to be institutions of national importance;

(m) The Survey of Sri Lanka, the Geological, Botanical, Zoological and Anthropological Surveys of Sri Lanka Meteorological organizations;

(n) National Public Services: National Public Service Commission;

(o) Pensions, that is to say, pensions payable by the Government of Sri Lanka or out of the Consolidated Fund;

(p) Salaries and allowances of Members of Parliament, and the Speaker and Deputy Speaker of Parliament;

(q) Powers, privileges and immunities of Parliament and of the members and the Committees of Parliament: enforcement of attendance of persons for giving evidence or producing documents before committees of Parliament or commissions appointed by Parliament;

(r) Emoluments, allowances, privileges and rights in respect of leave of absence, of the President and Governors: salaries and allowances of the Ministers of the Government of Sri Lanka: the salaries, allowances and rights in respect of leave of absence and other conditions of service of the Auditor-General;

(s) Inter-Province migration, inter-province quarantine;

(t) Offences against laws with respect to any of the matters in this List; and

(u) Fees in respect of any of the matters in this List, but not including fees taken in any Court.

23.09.86

NINTH SCHEDULE

List I

PROVINCIAL COUNCIL LIST (Article 154 G (1))

1. Police and Public order.—Public order and the exercise of Police powers, to the extent set out in Appendix (I), within the Province, but not including National Defence, National Security and the use of any armed forces or any other forces under the control of the Government of Sri Lanka in aid of the civil power.

2. Planning - Implementation of provincial economic plans.

3 & 4. Education and Educational Services—Education to the extent set out in Appendix III.

6. Local Government. -

6:1 Local authorities for the purpose of local government and village administration, such as Municipal Councils, Urban Councils and Pradesheeya Sabhas, except that, the constitution, form and structure of local authorities shall be determined by law;

6.2 Supervision of the administration of local authorities established by law, including the power of dissolution (subject to such quasi-judicial inquiries into the grounds for dissolution, and legal remedies in respect thereof, as may be provided by law, and subject to provisions relating to audit as may be provided by law);

6.3 Local authorities will have the powers vested in them under existing law. Municipal Councils and Urban Councils will have the powers vested in them under the Municipal Councils Ordinance and the Urban Councils Ordinance. Pradesheeya Sabhas will have the powers vested in Urban Councils, Town Councils and Village Councils under existing law. It will be open to a Provincial Council to confer additional powers on local authorities,

6:4 Gramodaya Mandalayas will have the powers vested in Gramodaya Mandalayas under existing law. It will be open to a Provincial Council to confer additional powers on Gramodaya Mandalayas.

7. Provincial Housing and Construction—

7:1 Implementing co-ordinating, supervising and monitoring Provincial housing development programmes and projects (other than National Housing Development Authority projects), including aided self-help housing projects, housing loans and the provision of building materials;

7:2 The implementation of the Protection of Tenants Act and the Rent Act within a province;

7:3 Construction activity in respect of subjects in this List.

9. Roads, bridges and ferries within the Province, other than—

(a) national highways;

(b) bridges and ferries on national highways.

10. Social Services and Rehabilitation—

10:1 Probation and Child Care Services,

10:2 The Rehabilitation of Destitute Persons and Families;

10:3 Rehabilitation and Welfare of Physically, Mentally and Socially handicapped persons.

10. Relief of the disabled and unemployable.

12 Regulation of road passenger carriage services and the carriage of goods by motor vehicle within the province and the provision of intra-provincial road transport services.

13 & 14. Agriculture and Agrarian Services—

:1 Agriculture, including agricultural extension, promotion and education for provincial purposes and agricultural services (other than in inter-provincial irrigation and land settlement schemes, state land and plantation agriculture);

:2 Rehabilitation and maintenance of minor irrigation works;

:3 Agricultural research, save and except institutions designated as national agricultural research institutions.

15. Rural Development—

16. Health—

16:1 The establishment and maintenance of public hospitals, rural hospitals, maternity homes, dispensaries (other than teaching hospitals and hospitals established for special purposes);

16:2 Public health services, health education, nutrition family health, maternity child care, food and food sanitation, environmental health;

16.3 Formulation and implementation of Health Development Plan, and of the Annual Health Plan for the Province;

16:4 The Provision of facilities for all institutions referred to in 1 above within the Province, excluding the procurement of drugs;

(To be continued)

DRAFT PROPOSALS — 5

(Continued from last issue)

16:5 Awarding of Scholarships for Post-Graduate Education within Sri Lanka to personnel attached to the Institutions specified in 1 above.

17. Indigenous Medicine—Ayurveda, Siddha and Unani—

17:1 Establishment of Ayurvedic Dispensaries and Hospitals, Grants to such Dispensaries and Hospitals;

17:2 Establishment and maintenance of Herbaria.

18. 18:1 Resthouses maintained by local authorities; and

18:2 Circuit Bungalows presently administered by Government Departments whose functions are exclusively specified in this List.

22. Pawn Brokers—Pawn Brokers other than Pawn Brokers business carried on by Banks.

23. Markets, Fairs.

24. Food supply and distribution within the Province.

25. Co-operatives—

25:1 Co-operative undertakings and the organization, registration, supervision and audit of co-operative societies within the Province;

25:2 Co-operative development within the Province including Co-operative education and propaganda;

25:3 Provincial Co-operative Employees Commission;

25:4 Matters connected with Employment, promotion, retirement and other connected matters of employees of Co-operative Societies within the Province.

26. Land—Land, that is to say, rights in or over land, land tenure, transfer and alienation of land, land use, land settlement and land improvement, to the extent set out in Appendix (II):

29. Irrigation—Planning, designing, implementation, supervision and maintenance of all irrigation works, other than irrigation schemes relating to rivers running through more than one province.

33. Animal Husbandry—Preservation, protection and improvement of stock and prevention of animal diseases within the province.

39, 40 & 47 Subject to the formulation and implementation of National

Policy in regard to development and planning, the power to promote establish and engage in agricultural, industrial, commercial and trading enterprises and other income-generating projects within the province without prejudice to the power of the Central Government and Public Corporations to have such enterprises and projects.

(This would include the promotion of scientific and industrial research within the province and the preparation coordination and the implementation of industrial development plans for the province)

42. Reformatories, Borstal institutions and other institutions of a like nature and persons detained therein, arrangements with other provinces for the use of such institutions.

43. Possession, transport, purchase and sale of intoxicating liquors.

44. Burials and burial grounds, cremations and cremation grounds, other than those declared by or under law made by Parliament to be national memorial cemeteries.

45. 45:1 Libraries, Museums and other similar institutions controlled or financed by a Provincial Council;

45:2 Ancient and historical monuments and records other than those declared by or under law made by Parliament to be national importance.

46. The regulation of mines and mineral development, to the extent permitted by or under any law made by Parliament, within the province.

48. Incorporation, regulation and judicial winding up of Corporations with objects confined to the province, excluding trading corporations, banking, insurance and financial corporations.

49. Regulation of unincorporated trading, literary, scientific, religious and other societies and associations.

11, 31 & 50 (1) Theatres and dramatic performances, music, cinemas, entertainments and amusements, excluding the sanctioning of cinematograph films for exhibition and public performances.

(2) Encouragement and development of sports associations).

51. Betting and gambling, other than the imposition of licensee fees and taxes.

53, 54 & 55. To be considered later once the structure of the Public and Provincial Service is determined.

56. Provincial debt.

57. Offences against statutes with respect to any of the matters specified in this List.

59. Fees in respect of any of the matters in this List excluding fees taken in any Court.

65. Development, conservation and management of sites and facilities in the Province for the generation and promotion of electrical energy (other than hydro-electric power and generated to feed the national grid), power.

69 & 70. The borrowing of money and direct taxation within the Province in order to raise revenue for provincial purposes, to the extent permitted by or under any law made by Parliament.

(A) Protection of the environment within the Province, to the extent permitted by under any law made by Parliament.

Note.—Numbering of the above items is in accordance with the numbering in the TULF List.

APPENDIX I (23.09.86)

NOTE ON DEVOLUTION OF POWER IN RESPECT OF LAW AND ORDER

I. The subject devolved shall be described as follows:—

Public Order and the exercise of Police powers as set out in this Schedule within the Province, but not including—

(a) national defence;

(b) national security; and

(c) the use of any armed forces or any other forces under the control of the Government of Sri Lanka in aid of the civil power;

2. The I.G.P. shall be the head of the Sri Lanka Police Force. The Sri Lanka Police shall be divided into—

(a) the National Division (including Special Units); and

(b) a Provincial Division for each Province.

2.1. The National Division shall consist of the I.G.P. D.I.G.G., S.S.P.P., A.S.P.P. and other ranks recruited at the national level.

2.2 A Provincial Division shall consist of the D.I.G., S.S.P.P., S.P.P. and A.S.P.P., all seconded from the National Division and Provincial Assistant Superintendents of Police, Chief Inspectors, Inspectors, Sub-Inspectors, Sergeants and Constables recruited in the Province. Members of the Provincial Division shall be eligible for promotion to the National Division.

3. Recruitment to the National Division and Promotions of Police Officers in the Provincial Divisions to the National Division shall be made by a National Police Commission composed of three members, namely—

(a) the I.G.P.;

(b) a person nominated by the public Service Commission in consultation with the President; and

(c) a nominee of the Chief Justice.

3.1. The National Police Commission shall, before promoting any Police Officer serving in any Provincial Division to the National Division, call for a Confidential Report on such Officer from the relevant Provincial Police Commission and take the matters specified in such report into consideration in deciding whether to promote such Officer or not.

3.2. The Commission shall also be responsible for promotions, transfers, and disciplinary control of members of the National Division other than the I.G.P. subject to paragraph 4.1 below.

3.3 It shall hear and determine appeals from officers seconded to Provincial Divisions against whom disciplinary action has been taken by Provincial Police Commissions.

3.4. It shall set standards for recruitment and promotion of Police Officers of all Divisions and such standards shall be uniform for all Provincial Divisions.

4. Recruitment to each Provincial Division shall be made by a Provincial Police Commission composed of three members, namely—

(a) the D.I.G. of the Province;

(b) a person nominated by the Public Service Commission in consultation with the President; and

(c) a nominee of the Chief Minister of the Province.

4.1 A Provincial Police Commission shall be responsible for transfers, promotions and disciplinary control over officers in the Provincial Division; for Promotion of Officers of the National Division seconded to the Provincial Division up to the rank of the S.S.P.; and for transfer and disciplinary control over officers seconded to the Provincial Division, except the D.I.G.

Provided that any officer of the National Division seconded to any Provincial Division against whom disciplinary action has been taken by a Provincial Police Commission, shall have the right to appeal to the National Police Commission, whose decision on such appeal shall be final.

5. The National Police Commission or a Provincial Police Commission shall be entitled to delegate such of its powers as may be prescribed to such other person or authority as may be prescribed.

6. The I.G.P. shall appoint a D.I.G. for each province with the concurrence of the Chief Minister of the Province. However, where there is no agreement between the Inspector-General of Police and the Chief Minister, the matter will be referred to the President, who, after due consultations with the Chief Minister, shall make the appointment.

7. The cadres of Police Officers of all ranks of the National Division shall be fixed by the Government of Sri Lanka. The cadre of Officers and other ranks of each Provincial Division shall be fixed by the Provincial Administration with the approval of the President, having regard to—

(a) the area of the Province;

(b) population of the Province; and

(c) such other criteria, as may be agreed to or prescribed.

These principles shall be uniformly applied to all Provincial Divisions.

7.1 The cadres of the Provincial Divisions shall be fixed on ascertained principles such as population, area, number of Police Stations involved and other relevant considerations. These principles shall be applied to all Provincial Divisions without distinction.

7.2 The salary scales and perquisites of office enjoyed by the various ranks in the National and Provincial Divisions shall be determined by the Government of Sri

Lanka after consultation with the Chief Ministers of the Provinces. The salary scales and perquisites of office as enjoyed by Members of the Provincial Divisions shall apply uniformly to all Provincial Divisions.

8. The nature, type and quantity of fire-arms and ammunition and other equipment for the National Division shall be determined by the National Police Commission. The nature, type and quantity of fire-arms and ammunition and other equipment for all Provincial Divisions shall be determined by the National Police Commission after consultation with the Provincial Police Commission and uniform standards and principles shall be applied for all Provincial Divisions.

9. Recruitment to the National Division shall be made at the ranks of P.C., S.I., and A.S.P. Recruitment to the Provincial Division shall be made at the ranks of P.C., S.I. and P.A.S.P. (rank referred to in para 2.2 above).

9.1 Recruitment to the National Division shall be made by the National Police Commission and recruitment to the Provincial Division shall be made by the Provincial Police Commission having regard to the standards of recruitment and other criteria prescribed in this behalf. Provided also that a recruit may, on appointment, set out his preferences as to the Division in which he wishes to serve and that he shall if possible, be posted to the Division of his choice, with the consent of the Division concerned.

9.2 The Government of Sri Lanka shall be responsible for the training of all recruits to and of members of all Divisions of the Sri Lanka Police Force.

The President may, where he considers it necessary, provide for alternative training for members of any Provincial Division.

10. Members of the National Division and the Provincial Divisions shall wear the same uniforms and insignia of rank, provided that uniforms of the members of each Division shall bear a distinctive shoulder flash, indicating the Division to which he belongs.

10.1 There shall be one uniformed police force in each Province, comprising of the members of the Provincial Division and the officers seconded thereto. Members of the National Division shall ordinarily be in plain clothes provided that they may wear uniforms when performing any duties in respect of the maintenance or restoration of public order as set out in paragraphs 12.2, 12.3 and 12.4. Provided also that the I.G.P. and such other Of-

ficers as may be specified shall ordinarily be attired in uniforms.

11. All Police Officers serving in units of the National Division and Provincial Divisions in any Province shall function under the direction and control of the D.I.G. of such Province.

11.1 The D.I.G. of the Province shall be responsible to and under the control of the Chief Minister thereof in respect of the maintenance of public order in the Province and the exercise of police powers in the Province as set out in this Schedule.

11.2 The provisions of paragraph 11.1 above are subject to the qualifications that—

(a) Upon the declaration of an emergency in the province, the President may assume such powers and responsibilities of the Chief Minister and the Provincial Administration in respect of public order within the Province as he may, by regulation, provide; and

(b) Where the President is of the opinion that the security of or public order in a Province is threatened by grave internal disturbance, he may, without the declaration of an emergency, but in consultation with the Chief Minister of such Province, and subject to the provisions of the Public Security Ordinance, by order deploy in aid of the civil power, any unit of the National Division, in the Province for the purpose of restoring public order.

Provided that every such order shall cease to be in force as soon as the President is satisfied that public order has been restored or on the expiry of thirty days from the date of the order, whichever is earlier.

12.1 The Provincial Division shall be responsible for the preservation of public order within the Province and the prevention, detention and investigation of all offences (except the offences specified in the Schedule) and subject to the powers of the Attorney-General in terms of the Code of Criminal Procedure Act, the institution of prosecutions in the relevant Courts in respect of such offences.

The National Division of the Sri Lanka Police Force shall be responsible for the prevention, detection and investigation of all offences specified in the Schedule and subject to the powers of the Attorney-General in terms of the Code of Criminal Procedure Act, for the institution of prosecutions in the relevant Courts in respect of such offences.

12.2 Where the Chief Minister seeks the assistance of the National Division to preserve public order

within a Province, the I.G.P. shall deploy such personnel of the National Division as are necessary for the purpose, and place them under the control of the D.I.G. of the Province.

12.3 Where a State of Emergency is declared in the Province, the I.G.P. may deploy such units of the National Division as he deems necessary in any Province for the restoration and maintenance of public order within such Province.

12.4 Any offence which may ordinarily be investigated by a Provincial Division may be investigated by the C.I.D. or any other unit of the National Division—

(a) where the Chief Minister requests, that such investigation be undertaken by the C.I.D. or any other unit of National Division; and

(b) where the I.G.P. is of opinion that an investigation of such offence by the C.I.D. or any other unit of the National Division is necessary, in the public interest, and directs, after consultation with the Chief Minister, and the approval of the Attorney-General, that such offence be investigated by the C.I.D. or any other unit of the National Division.

13. The National Division shall perform all the functions vested in a Provincial Division, in any Province for a period of one year or until a Provincial Division is established in such Province, whichever is earlier.

14. All gazetted officers of the National Division and Provincial Divisions shall be required to attain the prescribed standard in Sinhala and Tamil. All Officers of the rank of A.S.P. and above shall also be required to attain the prescribed standard of English.

Every recruit to the Sri Lanka Police Force shall have proficiency in his mother tongue. For the first promotion he shall acquire proficiency in a language other than his mother tongue. For the next promotion he shall acquire a knowledge of the third language. The three languages recognized for this purpose are Sinhala, Tamil and English.

August 31, 1986.

APPENDIX II (23.09.86)

LAND AND LAND SETTLEMENT

The subject of land, that is to say, rights in or over land, land tenure, transfer and alienation of land, land use, settlement and land improvement will devolve on Provincial Councils which devolution will be subject to the following proposals:—

1. Lands which are vested in the State (State Land)

1.2 Lands required for the purposes of the Government of Sri Lanka in respect of subjects not devolved on the Provincial Councils may be utilized in accordance with National Land-use Policy, without any restriction by the Government of Sri Lanka. The Government of Sri Lanka would consult the relevant Provincial Council with regard to the utilization of such land in respect of such subjects.

1.3 The Provincial Councils shall administer, control and utilize State land within its Province for the purposes of the subjects devolved on them. Such land shall be utilized for such purposes in accordance with National Land-use Policy.

1.4 The alienation or disposition of such lands under such schemes to any citizen or to any organisation will be made by the Governor of that Province on the advice of the Provincial Council, in accordance with statutes of that Provincial Council and such other laws under which the Provincial Councils shall be entitled to act.

2. Inter-Provincial Irrigation and Land Development Projects.

2.1 Such projects would comprise irrigation and land development schemes —

(a) within the Province initiated by the State and which utilize water from rivers flowing through more than one Province; a Provincial Council however, may also initiate irrigation and land development schemes within its Province utilizing water from such rivers;

(b) within the Province which utilize water through diversions from water systems from outside the Province; and

(c) all schemes where the command area falls within two or more Provinces such as the Mahaweli Development Project.

2.2 These Projects will be the responsibility of the Government of Sri Lanka.

2.3 The Principle and criteria regarding the size of holdings of agricultural and homestead lands arising out of these projects will be determined by the Government of Sri Lanka in consultation with the Provincial Councils.

2.4 The selection of allottees for such lands will be determined by the Government of Sri Lanka having regard to settler selection criteria including degree of landlessness, income level, size of family and agricultural background of the applicants. The actual application of these principles, selection of allottees and other incidental matters con-

nected thereto will be within the powers of the Provincial Councils.

2.5 The distribution of allotments of such land in such projects will be on the basis of national ethnic ratios. In the distribution of allotments according to such ratios, priority will be given to persons who are displaced by the project landless of the District in which the project is situated and thereafter the landless of the Province.

2.6 Where the members of any community do not, or are unable to, take their entitlements of allotments from any such project, they would be entitled to receive an equivalent number of allotments in another Inter-Provincial Irrigation or Land Development Scheme. This unused quota should be utilized within a given time-frame.

2.7 The distribution of allotments in such projects on the basis of the aforesaid principles would be done as far as possible so as not to disturb very significantly the demographic pattern of the Province and in accordance with the principle of ensuring community cohesiveness in human settlements.

2.8 The administration and management of such projects will be done by the Government of Sri Lanka.

3. National Land Commission

3.1 The Government of Sri Lanka shall establish a National Land Commission which would be responsible for the formulation of national policy with regard to use of State Land. This Commission will include representatives of all Provincial Councils in the Island.

3.2 The National Land Commission will have a Technical Secretariat representing all the relevant disciplines required to evaluate the physical as well as the socio-economic factors that are relevant to natural resources management.

3.3 National policy on land use will be based on technical aspects (not on political or communal aspects), and the Commission will lay down general norms in regard to the use of land, having regard to soil, climate, rainfall, soil erosion, forest cover, environmental factors, economic viability etc.

3.4 In the exercise of the powers devolved on them, the powers shall be exercised by the Provincial Councils having due regard to the national policy formulated by the National Land Commission, 5.9.86

APPENDIX III

EDUCATION

The manner in which devolution will be implemented in the area of Education has been spelt out in

the Annexure to the Report of the Committee 1- Committee on General Devolution. Accordingly, the following powers and functions will go to the Provincial Authority.

(1) Provision of facilities for all State Schools other than specified schools. (Specified Schools will be National Schools, Special Schools for Service personnel and schools for specified development schemes)

(2) Supervision of the management of-

(a) all Pre-schools; and

(b) all Government schools other than specified schools indicated above.

(In order to ensure standards the Ministry of Education too will need to retain the right to inspect and supervise the management of schools)

(3) The transfer and disciplinary control of all educational personnel, i.e. teachers, Principal and Education Officers. Officers belonging to a National Service but serving the Provincial Authority on secondment will have the right of appeal to the P.S.C. Officers belonging to the Provincial Service will have a right to appeal to the P.S.C. against dismissal.

(4) Recruitment into the Teaching Service of those with diplomas and degrees from Colleges of Education and Universities recognised as teaching qualifications.

(5) Until adequate numbers of these categories are available recruitment into the Teaching Service of others will be on the results of recruitment examinations conducted by the P.S.C. On the results of these examinations interviews and selection will be conducted together with the Provincial Authorities.

(6) Appointment of Principals of all schools other than those in 1A, B, C categories. (Criteria will be laid down by the Minister of Education/E.S.C.)

(7) Appointment of Principals of 1A, B, C schools will be by the Ministry in concurrence with the Provincial Authority.

(8) Training of teachers and other educational personnel will come within the purview of the National Institute of Education. Provincial Authorities will indicate their needs to the N. I. E.

(9) Appointment of Provincial Boards of Education which will have advisory functions, will be the responsibility of the Minister of Education. However, this will be done in concurrence with the Chief Minister of the Provincial Authority.

(10) Provincial Authorities will establish School Boards conforming to the specifications laid down by the Minister of Education.

(11) Provincial Authorities will supervise the working of School Boards.

(12) Preparation of plans (educational development plan and annual implementation plan) will be the responsibility of Provincial Authority.

(13) Implementation of the Annual Education Development Plan.

(14) Appraisal of the performance of Principals, Teachers and Education Officers.

(15) Conducting of In-service training programmes for which prior approval of the N. I. E. has been obtained.

(16) Conducting of local examinations approved by the Commissioner General of Examinations.

(17) Implementation of Non-formal Education programmes

(18) Registration and supervision of Pre-schools.

(19) Obtaining the approval of the N. I. E. for local variations in the Primary curriculum and selected subjects in the Secondary curriculum.

(20) Construction and maintenance of educational buildings, libraries and playgrounds.

(21) Procuring and distribution of teaching aids, visual aids and audio visual materials, furniture and other equipment.

(22) Procuring and distribution of science equipment other than certain specified items indicated by the Ministry.

(23) Production and distribution of school textbooks after approval by the Ministry.

(24) Organization and development of school libraries in accordance with guidelines given by the National Library Services Board.

23.09.86

LIST III

(Concurrent List)

(Article 154G (5))

1. Planning-

1.1 Formulation and appraisal of plan implementation strategies at the provincial level;

1.2 Progress control;

1.3 Monitoring progress of public and private sector investment programmes;

1.4. The evaluation of the performance of institutions and enterprises engaged in economic activities;

1:5 The presentation of relevant data in the achievement of plan targets;

1:6 The dissemination of information concerning achievement of plan targets;

1.7 Publicity of implementation programmes;

1:8 Manpower planning and employment Data Bank;

1:9 Nutritional planning and programmes.

3. and 4. Education and Educational Services—Education, except to the extent specified in items 3 and 4 of List 1.

5. Higher Education—

5:1 The establishment and maintenance of new Universities;

5:2 To establish degree awarding institutions under the Universities Amendment Act No. 7 of 1985, and other institutions for tertiary, technical and post-school education and training.

7. National Housing and Construction—The promotion of integrated planning and implementation of economic, social and physical development of urban development areas.

8. Acquisition and Requisitioning of Property.

10. Social Services and Rehabilitation—

10:1 Relief, rehabilitation and resettlement of displaced persons;

10:2 Relief of distress due to floods, droughts, epidemics or other exceptional causes and rehabilitation and resettlement of those affected;

10:3 Restoration reconstruction and rehabilitation of towns, villages, public institutions and properties, industries, business places, places of worship and other properties destroyed or damaged grant of compensation or relief to persons or institutions who have sustained loss or damage and the reorganization of civil life.

13. and 14. Agriculture and Agrarian Services—

13:1 Establishment and promotion of agro-linked industries, the establishment and maintenance of farms and supervision of private nurseries;

13:2 Soil conservation;

13:3 Plant pests

16. Health—

16:1 Schools for training of Auxiliary Medical Personnel;

16:2 The supervision of private medical care, control of nursing

oomes and of diagnostic facilities within a province;

16:3 Population control and family planning;

16:4 Constitution of Provincial Medical Boards.

19. Registration of births, marriages and deaths.

20. Renaming of Towns and villages.

22. Private lotteries within the Province.

23. Festival and Exhibitions.

24. Rationing of food and maintenance of food stocks.

25. Co-operatives. Co-operative Banks.

28. Surveys.—For the purpose of any of the matters enumerated in the Provincial or Concurrent List.

29. Irrigation.—

29:1 Water storage and management, drainage and embankments flood protection, planning of water resources;

29:2 Services provided for inter-provincial land and irrigation schemes, such as those relating to rural development, health, education, vocational and technical training. Co-operatives and other facilities.

30. Social Forestry and protection of wild animals and birds.

32. Fisheries—Other than fishing beyond territorial waters.

33. Animal Husbandry—

33:1 Production, processing, distribution and sale of livestock and livestock products;

33:2 Veterinary training services and research inclusive of the provision of science laboratories and science equipment;

33:3 Animal breeding, care and health;

33:4 The establishment of pastures.

34. Employment—

34:1 Employment planning at Provincial level;

34:2 Special Employment programmes relating to the Province;

34:3 Promotion of youth employment activities relating to the Province;

34:4 Technical Manpower Development Programmes in relation to the province,

36. Tourism.—Development and control of the Tourists Industry in the Province.

39, 40 and 47—Trade and commerce in, and the production, supply and distribution of—

(a) the products of any industry where the control of such industry by the Central Government is declared by Parliament by law to be expedient in the public interest, and imported goods of the same kind as such products; and

(b) foodstuffs and cattle fodder.

45. Newspapers, books and periodicals and printing presses.

57. Offences against statutes with respect to any matters specified in this List.

59. Fees in respect of any of the matters in this List, excluding fees taken in any Court.

60. Charities and charitable institutions, charitable and religious endowments and religious institutions.

61. Price control.

62. Inquiries and statistics for the purpose of any of the matters in this List or in the Provincial List.

63. Adulteration of foodstuffs and other goods.

64. Drugs and Poisons.

65. Extension of electrification within the Province and the promotion and regulation of the use of electricity within the province.

(A) Protection of the environment

(B) Archaeological sites and remains, other than those declared by or under any law made by Parliament to be of national importance.

(C) Prevention of the extension from one Province to another of infectious or contagious diseases or pests affecting human beings, animals or plants.

(D) Pilgrimages.

Note—Numbering of the above items is in accordance with the numbering in TULF List.

WORKING PAPER ON BANGALORE DISCUSSIONS

Preamble

In September 1986 the Government of Sri Lanka handed over to the Government of India a set of proposals to be transmitted to the Tamil side. These proposals may be referred to. Some reservations and modifications have been suggested by the Tamil side in respect of these proposals which have been communicated to the Sri Lankan side today.

Taking these suggestions into account, further discussions between President Jayewardene and Prime Minister Rajiv Gandhi were held on 17.11.1986 at Bangalore. They were followed by discussions at the Ministerial level. On the basis of these discussions, the following formulations have emerged which shall be read as improvements/modifications to the aforesaid set of proposals:

1. As regards the Governor in a province, the Sri Lankan side has agreed that the Governor shall have the same powers as the Governor of a State in India. However, it was pointed out to the Sri Lankan side that some modifications would be required so that the ambiguities and difficulties experienced in working the Indian provisions should not be carried into the Sri Lankan Constitution and care should be taken to avoid these ambiguities and difficulties even at this stage. It was, therefore, proposed to the Sri Lankan side that the provision regarding the Governor may be drafted keeping in mind the following aspects:

(a) There shall be a Board of Ministers with the Chief Minister at the head to aid and advise the Governor of a Province in the exercise of his functions.

(b) The Governor shall, in the exercise of his functions, act in accordance with such advice, except in so far as he is by the Constitution required to exercise his functions or any of them in his discretion.

(c) Suitable Provisions shall be made in the Constitution limiting the Governor's discretionary powers to:

(i) The appointment of a Chief Minister;

(ii) Reporting to the President on the failure of the constitutional machinery requiring imposition of President's Rule.

1.1 In all other matters touching upon the Office of the Governor reference may be made to the formulations contained in the Sri Lankan paper given after two rounds of discussions with TULF.

2. Three Provincial Councils shall be constituted in the territory now comprising the "Eastern Province". One of the three provinces shall be constituted having regard to the territory now comprising the District of Batticaloa.

2.1 The President shall, within two weeks of the signing of this accord, constitute a Demarcation Committee to advise the President on the constitution of the aforesaid three Provinces. The Demarcation Committee shall submit its report within two weeks thereof.

(To be continued)