





























C 4204

"Procedure to be followed under article 101B.

9. (1) When the Committee of Judges and Magistrates reports its findings to the Commission in accordance with article 101B(10)(c) of the Constitution, the Commission shall communicate the report of the Committee of Judges and Magistrates to the judge or magistrate, as the case may be, and shall be given a reasonable opportunity to submit a written statement within such time as may be specified by the Commission.

(2) The Commission shall carry out the necessary investigation and report to the President. If the report of the Commission states that there is no misconduct or that the judge or magistrate has no incapacity, no further action shall be taken in respect of that report.

(3) If the report of the Commission has found that the misconduct has been proven, the Commission shall make a report of its decision to the President advising the removal of the judge or magistrate as the case may be. A copy of this decision shall be given to the judge or magistrate, as the case may be.

(4) The proceedings of the Commission under this article shall be kept *in camera*. The judge or magistrate whose conduct is being investigated shall have the right to be present throughout the trial, to produce evidence in support of the allegations mentioned in the report of the Committee of Judges and Magistrates or defence, and to be assisted by a lawyer or legal procurator.

(5) The decision of the Commission may be appealed by the judge or magistrate, as the case may be, in accordance with article 101C of the Constitution."

Addition of new article to the principal Act.

**13.** In sub-article (3) of article 10 of the principal Act, the words "as is alleged in the relative motion referred to in article 10(1)." shall be substituted by the words "as is alleged in the report of the Committee for Judges and Magistrates referred to in article 10(1)."

Amendment of article 10 of the principal Act.

**14.** Immediately after article 11 of, there shall be added the following new article:

"Procedure to be followed under articles 91 and 91A of the Constitution.

12. (1) Where notice is given in the House of a motion for presenting an address to the President as is referred to in article 91(5) and article 91A(5) of the Constitution, the Speaker shall, without allowing any publicity, keep the motion pending, and shall refer the same for investigation to the Commission.

(2) The motion shall contain definite charges against the holder of the office on the basis of which the investigations are to be held. Together with the motion there shall be filed a statement showing the grounds on which each of such charges is based.

(3) Such charges together with such statement shall be communicated to the holder of the office and the holder of the office shall be given a reasonable opportunity to present a written statement of defence within such time as may be specified by the Commission.

(4) The Commission shall carry out the necessary investigation and make a report thereon to the Speaker. If the report of the Commission contains a finding that there is no misbehaviour or that the holder of the office does not suffer from any inability, then, no further steps shall be taken in the House in relation to the report and the motion pending in the House shall not be proceeded with.

(5) If the report of the Commission contains a finding *prima facie* that the misbehaviour or incapacity has been proved then, the motion referred to in article 97(2) of the Constitution shall, together with the report of the Commission, be taken up for consideration by the House.

(6) If upon consideration by the House, it is satisfied that the misbehaviour or incapacity has been proved and if the motion is adopted by the House in accordance with the provisions of article 91(5) or 91A(5) of the Constitution then the misbehaviour or inability of the holder of the office to perform the functions of office shall be deemed to have been proved and an address praying for the removal of the holder of the office shall be presented to the President by the House in the same session in which the motion has been adopted.

(7) Proceedings by the Commission under this article shall be held *in camera*. The member of the House presenting the motion and the holder of the office whose conduct is being investigated shall have a right to be present during the whole process, to produce witnesses in support of the charges set in the motion or in defence, and to be assisted by any advocate or legal procurator.

(8) The provisions of article 10 shall apply *mutatis mutandis* where it is alleged that the holder of the office is unable to perform the functions of office on the ground of infirmity of body or mind."

C 4206

### **Objects and Reasons**

The objects and reasons of this Bill are to revise the composition of the Committee for Judges and Magistrates, to ensure that the removal of members of the judiciary is made by a body which is not political and to provide for an appeal from decisions of the Commission for the Administration of Justice.





