

The People's Constitutional Proposals for Malaya

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70th Anniversary Edition

Essays by

Syed Husin Ali
Ariffin Omar
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Publisher's Note

Seventy years after its first publication, SIRD is proud to republish the PUTERA-AMCJA's *People's Constitutional Proposals for Malaya*. In the year of the 60th Anniversary of Merdeka it remains important to remember that *sepuluh tahun sebelum Merdeka*, to borrow the title of Fahmi Reza's documentary, there was another struggle for independence underway, a struggle not premised upon elite conciliation and compromise with the British colonial power but one based upon the principles of popular democratic action and multi-ethnic solidarity which sought to produce a fully free, independent and sovereign Malaya.

The British, as all colonial powers do, believed that the ideals of democratic self-governance and multi-ethnic nationalism were unrealistic and premature for an 'underdeveloped' plural society such as Malaya. And yet the Proposals continue to stand as an eloquent and thoughtful refutation of British pretensions of paternalism and benevolent rule, exposing behind this facade the attempt to prolong colonial rule far beyond its expiry date.

The PUTERA-AMCJA was by no means without its problems. The PUTERA-AMCJA was home to a broad spectrum of political parties and ideologies, and as Mustapha Hussain's account of the drafting of the Proposals shows, tensions between parties of the Malay Left and non-Malay parties existed. Yet in spite of this, through co-operation such parties produced not only a coherent set of proposals but also a series of hartals which brought Malaya to a standstill.

With the British rejection of the People's Proposals and then the implementation of their own Federation of Malaya proposal in 1948, and later the declaration of emergency, the space for political action grew smaller and smaller. With a crackdown on the parties of the

Malay Left and the **banning** of the **API**, the **PUTERA-AMCJA** was dissolved and its members dispersed. **Some** withdrew from politics; others took the struggle for independence into **UMNO**, whilst others entered the jungle, taking up arms **against** the **British coloniser**. The **MIC** and those Chinese **businessmen** allied to **Tan Cheng Lock** would go on to form, with **UMNO**, the **Alliance Party**.

Yet in spite of this the **Proposals** remain **with** us today as both a reminder that the **independence** attained by **Tunku Abdul Rahman** was not the only game **in town** and as **source** of ideas for **how** a multi-ethnic country **might be organized** to **benefit not only a small elite** of politicians and **businessmen** **but** all of those **who live** within its borders. We hope **then** that the **republishing** of the **Proposals** contributes both to the **growing** interest in the **history** of **Malayan independence** as well as the attempt to **think of an alternative future** for **Malaysia** beyond the legacy of **colonialism** and elite **politics**.

August 2017
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Section I

Essays

The Relevance of the People's Constitutional Proposals Today

SYED HUSIN ALI¹

In the aftermath of the failure of the Malayan Union project, the British colonial government set up a Working Committee to draft a new Constitutional Proposal for Malaya. The Committee was made up of six representatives from the Malayan Union administration, four representatives of the Malay Sultans and two representatives of the United Malays National Organisation (UMNO). The Committee invited the public – organisations and individuals – to submit their views.

On the initiative of Partai Kebangsaan Melayu Malaya (Malay Nationalist Party, PKMM or MNP), several political organisations, workers' unions and civic organisations as well as individuals held a series of discussions on the proposed new constitution for setting up a Federation. On 22 December 1946, two days before the Constitutional Proposal was announced, a coalition called All Malaya Council for Joint Action (AMCJA) was formed. Membership of AMCJA comprised political parties, worker's unions, women's associations and youth associations from various ethnic groups. Among the most

¹ For the first half of this essay, I have extracted much from my book *Syed Husin Ali: Memoirs of a Political Struggle*, Petaling Jaya: Strategic Information and Research Development Centre, 2012, pp. 205-209.

important organisations were the **PKMM**, the **Malayan Democratic Union (MDU)**, **Malayan Indian Congress**, **Malayan New Democratic Youth League**, **Malayan Women's Federation**, **Malayan People's Ex-Service Comrades Association** and the **Malayan Federation of Trade Unions**. The AMCJA leader was **Tan Cheng Lock**.

The AMCJA adopted six principles which were as follows:

1. A united Malaya, including Singapore.
2. A Legislative Council for the whole of Malaya.
3. Equal rights for all who regard Malaya as their homeland and focus of their loyalty.
4. The Sultans as constitutional monarchs, receiving advice from *rakyat* through democratic institutions and not from the British 'Advisors'.
5. Matters of Islam and Malay customs to be under the control of the Malay people.
6. Special focus on the advancement and the upliftment of the Malays.

In the first two months of 1947, **PKMM** with its Youth Wing, **Angkatan Pemuda Insaf (The Conscious Youth Organisation, API)** had campaigned all over the country opposing the Working Committee for Constitutional Proposal of Malaya that was set up by the British, and its recommendations. They explained that the formation and proposals of the committee were not democratic and against the interests of the people. The committee was dominated by representatives of the British administration and the Sultans, with the **UMNO** representatives forming a minority, and no other political parties or organisation being represented at all.

Later the **PKMM** withdrew from the AMCJA. On 22 February 1947 it initiated the formation of **Pusat Tenaga Rakyat (Centre for People's Force, PUTERA)**. Besides **PKMM** and **API**, other members were **Angkatan Wanita Sedar (Aware Women Organisation, AWAS)**, **Barisan Tani (Peasant Front)** and 80 other smaller organisations. The leader of this coalition was **Dr Burhanuddin Al-Helmy**.

PUTERA was based on ten principles. Six were similar to the AMCJA principles. The other four were as follows:

1. Malay Language is the official language of the country.
2. Matters of foreign relations and defence are the joint responsibilities of Malayan and British Governments.
3. The concept 'Melayu' to be used for citizenship and national status for Malaya.
4. The national flag to incorporate traditional Malay colours.

Not long afterwards, in March 1947, the **PUTERA-AMCJA** coalition was formed. Its membership consisted of groups from different ethnic and political backgrounds from the whole country. Only **UMNO** and the **Communist Party of Malaya (CPM)** were not members.

PUTERA-AMCJA campaigned to explain their principles and to oppose the Malayan Union and the Constitutional Proposals of the Special Committee setup by the British Government. In April 1947, **PUTERA-AMCJA** formed its own committee to draft its own proposals. The proposals were adopted by the Congress held from 4th to 7th July 1947 and 10th August of the same year, and later known as the **People's Constitutional Manifesto**. The constitutional manifesto reflected the principles of **PUTERA-AMCJA**, which were as follows:

1. A united Malaya including Singapore.
2. Federal and state legislatures formed through popular election.
3. Citizenship that provides equal rights to all who regard Malaya as their homeland and the object of their undivided loyalty.
4. The Malay rulers possess genuine sovereignty and are responsible to the *rakyat* through councils popularly elected.
5. Malay customs and Islam to be controlled by the Malay *rakyat* through certain institutions. → PKMM's influence?
6. Special positions for political, economic and educational advancement of the Malays.
7. Malay as the official language.

8. National flag and song.
9. *Melayu* (Malay) as the definition of any citizenship or nationality to be proposed.
10. External affairs and defence to be the joint responsibility of the Malayan and British governments.

Yet what is the relevance of PUTERA-AMCJA and these principles in the present time and situation?

Coalition Politics

Let us first examine the relevance of the PUTERA-AMCJA. As indicated earlier, the coalition was made up of various political parties, non-governmental organisations and individuals from different ideological or political orientations and ethnic backgrounds. It was established to oppose the Working Committee set up by the British and its constitutional proposals after the failure of the Malayan Union project and indeed, it even went further, it fought for Malayan Independence. This coalition was the first of its kind to be set up in Malaya. Its concept later became a kind of model for many other political coalitions, such as the Alliance, the Socialist Front (Fron Sosialis Rakyat Malaya, SF), the Gagasan Rakyat (People's Might, GR), the Barisan Alternatif (Alternative Front, BA) and the Pakatan Rakyat (People's Coalition, PR). The Alliance was made up of UMNO, the MCA and MIC, and set up to fight for *Merdeka* (Independence). After the end of the two-year emergency, following the 1969 ethnic conflict known as the May 13 Incident, the Alliance was expanded by incorporating ten former opposition parties into a bigger coalition known as the Barisan Nasional (National Front, BN). Unlike the PUTERA-AMCJA which was leftist in orientation and never managed to attain power, the Alliance (later BN) was politically rightist and has remained in power through winning a continuous majority in elections since 1956.

The Socialist Front was made up of three parties, namely Parti Rakyat Malaysia (Malaysian People's Party, PRM), the Labour Party (Parti Buruh) and, joining much later, the National Convention Party (NCP), led by former Minister for Agriculture and Co-operatives Aziz Ishak; it was socialistic in ideology. This left-wing coalition was formed in 1956 and lasted for about 20 years. The Gagasan was formed after a split within UMNO saw a splinter group, led by Tengku Razaleigh, form a new party named Semangat 46 which formed an alliance with the DAP, PAS and PRM, parties from different political and ethnic backgrounds. This coalition did not last long and Tengku Razaleigh together with most of his followers later re-joined UMNO. The BA, made up of keADILan (National Justice Party), PAS, DAP and PRM, consisted of parties with different political and ethnic backgrounds, and lasted only one general election, mainly caused by differences between the DAP and PAS.

As for PR, it was made up of PAS, the DAP and Parti Keadilan Rakyat (People's Justice Party, formed after the merger of keADILan and PRM). It was established following the 2008 elections, when the three parties captured five states – Kedah, Kelantan, Penang, Perak, and Selangor – and broke UMNO-BN's two-thirds majority in the Malaysian Parliament. In 2015 PAS left the coalition following bickering with other coalition members, particularly the DAP. At around the same time there was a split in PAS, after its annual conference (*muktamar*), which led to the formation of Amanah, made up of a splinter group of PAS members. Amanah later joined the Pakatan, replacing PAS. Pakatan Rakyat was re-named Pakatan Harapan (Coalition of Hope, PH). More recently, in the aftermath of the 1MDB scandal a splinter group of UMNO members, led by former Prime Minister Mahathir Mohamad and former Deputy Prime Minister Muhyiddin Yassin, formed a new political party, Parti Pribumi Bersatu Malaysia (Malaysian United Indigenous Party, PPBM) or Bersatu which has also joined PH.

We notice then that since PUTERA-AMCJA there have been a series of coalitions formed, mainly with the aim of opposing the

UMNO-BN Government. Yet whereas PUTERA-AMCJA was made up of political and non-political organisations, all of the coalitions formed in its aftermath were confined only to political parties. It can be argued that the coalitions which have come after the PUTERA-AMCJA may be said to be, in one way other, following not only the spirit of their politics, but also the concept of multi-racial coalition-building initiated by PUTERA-AMCJA which seems to have been relevant for a long time and is still relevant now. Yet perhaps what we must also learn from the PUTERA-AMCJA is the need for inclusive coalition building, if both the existing Government and Opposition coalitions also include NGOs as well as individuals and don't only confine themselves to the membership of political parties, Malaysia's coalitions can become more representative and effective.

Lessons for Today

Turning now to the principles in the constitutional proposals of PUTERA-AMCJA, there are three items that seem to be the most relevant today. Firstly, the most attractive and the most controversial is that related to citizenship. It appears to me to be also the most relevant to the present day situation. The Proposals stated that:

There shall be established a citizenship of Malaya. This citizenship shall be a nationality, to be termed 'Melayu', and shall carry with it the duty of allegiance to the Federation of Malaya. Note: The term Melayu shall have no religious implications whatever.²

This quote is connected with points number 9 and 3 in the list of principles above. The note that *Melayu* does not bring any religious connotation is both interesting and important because in Article 160 of the Federation Constitution that was adopted later, a Malay is defined as,

² See below p 51.

a person who professes the religion of Islam, habitually speaks the Malay language and conforms to Malay culture.

Clearly, Malay by definition here refers to both an ethnic and religious entity.

At present, in everyday and official use, there is always confusion between the concept of nationality, which is also often associated with race or ethnicity – whether an individual is Malay, Chinese, Indian and so forth – and the concept of citizenship, which is referred to as Malaysian. Both of these terms, nationality and citizenship, are considered different and separate. But in the PUTERA-AMCJA context, *Melayu* refers commonly to both nationality and citizenship. This was a radical concept. When it was proposed, there was fear that it would be opposed especially by non-Malays. But as I learned in a conversation with Lim Kean Chye, who was a founder member of the Malayan Democratic Union (MDU) and involved with PUTERA-AMCJA, it was readily accepted by everybody including, to his surprise, Tan Cheng Lock.

Perhaps it might be relevant now to suggest to the government and public at large the viability of proposing the adoption of the category of *Melayu* as both a definition of citizenship and nationality of the Malaysian people today. In the first instance, it would remove the confusion that emerges when referring to nationality and citizenship with different and separate terms as mentioned above. Second, by using *Melayu* to refer to all different racial groups in the whole of Malaysia, we may be able to contribute towards facilitating the process of building national identity and integration, because it can slowly remove separate racial identities and racial consciousness between the different ethnic groups. Finally, the common *Melayu* citizenship can make it easier to provide 'equal rights to all', irrespective of an individual's racial background, as stated in point 3 of the above PUTERA-AMCJA principles, so long as the citizens 'regard [Malaysia] as their homeland and the object of their undivided loyalty'.

Secondly, is the principle mentioned as point number 6, namely: 'Special provisions for the political, economic and educational advancement of the Malays'. Of course, to a certain extent this has been provided for in Article 153 of the Constitution of Malaysia, which grants the Yang di-Pertuan Agong the responsibility to safeguard 'the special position of the Malays and natives of any of the States of Sabah and Sarawak'. The special position of Malays and *Bumiputera* gives them favourable quotas for entry into the civil service, and for government scholarships and licenses. But this is quite different from the special provisions for the advancement of the Malays envisaged by the PUTERA-AMCJA. Their special provisions were to be for the advancement of all Malays yet without discriminating against disadvantaged non-Malays. Thus whereas the special position clause in the Constitution has been used mainly for the benefit of privileged Malays at the expense of disadvantaged Malays and non-Malays, special provisions as envisaged by the PUTERA-AMCJA were not to be a zero-sum game, they were to benefit a group that was, in the aftermath of the divide-and-rule policies of the British, in particular need, but it was to be the task of the state to ensure the welfare and prosperity of all other communities.

Finally, is the principle mentioned in point number 5, namely: 'Malay customs and Islam to be controlled by the Malay *rakyat* through certain institutions'. At present, in accordance with the Malaysian Constitution, matters relating to Islam and Malay customs are under the responsibility of the rulers, the Sultans. These are the only powers left to them after absolute political, economic and military power was removed during the period of British colonialism. Under the sole jurisdiction of the Sultans, there is such an institution as the Islamic Religious Council (Majlis Agama Islam) for each state, who report to their respective Sultan. Quite differently, the PUTERA-AMCJA proposal required that it should be controlled by the *rakyat* through certain institutions. This is just the personal view of the author but perhaps it is relevant to consider examining the Constitution on this matter, with a view of changing it. The

People's Proposals sought to argue against the idea that the colonial peoples were 'not ready to face the complexities and difficulties of modern government'³ and believed in the ability of the people of Malaya to govern themselves. With the continuous politicking and manipulation of religion in Malaysian politics, perhaps it is time to put our trust in the *rakyat* in a similar way.

* * *

By way of conclusion, it should be stated that PUTERA-AMCJA tried to submit its constitutional manifesto to the Working Committee for the Constitutional Proposals of Malaya, but it was never accepted. In response the coalition had to hold rallies all over the country to explain its own constitutional manifesto directly to the people. Yet it was, once again, completely ignored by the Working Committee that was set up by the colonial government. The same struggles are faced today by parties of the opposition. Nevertheless, this coalition and some of the principles of its own constitutional proposals have remained relevant up to this day. Clearly, they were ahead of their time.

³ See below p 89.

The People's Constitution of Malaya: A Missed Opportunity for the Emergence of a Genuine Nation-State

ARIFFIN OMAR

With the ending of the Second World War, there was a clear and imperative need for the British to do away with the pre-war cumbersome political arrangement of having the Federated Malay States of Perak, Selangor Pahang and Negeri Sembilan and the Unfederated Malay states of Johor, Kedah, Perlis, Kelantan and Trengganu and the Straits Settlements of Penang, Malacca and Singapore.

During the war years a ready-made political arrangement totally conceived in England known as the Malayan Union was to be set up in which the Federated and Unfederated Malay states with the inclusion of the Settlements of Penang and Malacca was to be introduced. Singapore was not included in the Malayan Union and would remain a British colony. The lack of consultation and the imperial arrogance of the British in implementing the Malayan Union through coercion and political chicanery perpetrated upon the Malay Sultans and the Malays through the MacMichael Agreements doomed the Union to failure in the wake of unrelenting opposition from the Malays.

Despite Malay misgivings, the Malayan Union was inaugurated on 1 April 1946. Malay opposition to the Malayan Union was premised on the fact that they would lose their special rights and privileges. Their sultans would be reduced to insignificant figureheads and would no longer be able to represent their interests.

Even more unacceptable was that the non-Malays (Chinese and Indians) would be given citizenship under very liberal terms and the Malays who saw themselves as rightful owners of the Malay states would be reduced to a mere community among other communities and they resented being subsumed into a Malayan nationality which they detested and have rejected since before the war. Even more frightful was the possibility that they will lose their Malay identity altogether and the Malay characteristics of the Malay states would cease to exist.¹

In the light of Malay rebuff as well as the general political indifference of the non-Malays to the Malayan Union, the British opened negotiations with the Malay sultans and the United Malays National Organisation (UMNO) which was set up in May 1946 to oppose the Malayan Union. The negotiations conducted between the British, the Malay sultans and UMNO led to the establishment of the Persekutuan Tanah Melayu in which there would be a very strong centralised government which served British interests but at the same time safeguarded the influence and position of the Malay elite in UMNO as well as the positions and wealth of the sultans. The citizenship of the Federation would be very restrictive and only a limited number of non-Malays would qualify for citizenship. Malay rights and privileges would be safeguarded and guaranteed. Citizenship in this Federation, known legally as the Persekutuan Tanah Melayu, would not lead to a nationality.

The Persekutuan Tanah Melayu was in reality a colonial state that was highly centralized but which masqueraded as a federation

to disguise this fact. This state was headed by a British High Commissioner with executive powers. The Persekutuan Tanah Melayu had an Executive Council composed of seven officials and seven unofficial members. The Legislative Council comprised the High Commissioner who was Council President, 14 official and 50 unofficial members, who represented the Straits Settlements (excluding Singapore), business groups and all races. In addition there were nine State Council *Yang di-Pertua* (heads of state), Chief Ministers and two representatives from the Straits Settlements who were unofficial members. Finally there was the Conference of Rulers who would 'advise' the High Commissioner on immigration issues.

Even worse, there would be no elected legislature. Instead there would be a Federal Council whose members would be appointed by the British.

Progressive Malays and non-Malays who saw through the political charade of the British, UMNO and the Malay sultans opposed the Persekutuan Tanah Melayu on the grounds that it was a meaningless entity that will promote division among the various ethnic communities now residing in Malaya. Those opposed to the Persekutuan Tanah Melayu saw it as colonialism in a new form in which British political, economic and strategic interests will be maintained with the active connivance of the Malay elite.

Progressive Malays from the Parti Kebangsaan Melayu Malaya led by Burhanuddin Al-Helmy and Ishak Haji Muhammad, the Angkatan Pemuda Insaf led by Ahmad Boestamam and the Angkatan Pemuda Wanita Sedar banded together to form the Pusat Tenaga Rakyat to oppose the federation. Other Malay organizations like the Barisan Tani Se-Malaya (Batas) Gerakan Angkatan Muda (Geram), Lembaga Persatuan Melayu Johor were also active members. Thus despite British and UMNO claims that there was little support for the Pusat Tenaga Rakyat, the involvement of significant Malay organisations showed that there was opposition to the British plans for their version of a federation for the Malay states.

¹ See Allen, James de V., *The Malayan Union*, New Haven: Yale University, 1967.

At the same time there was vigorous opposition also from the non-Malays, especially the Chinese whose leaders set up the All-Malaya Council for Joint Action (AMCJA) on 22 December 1946 in Kuala Lumpur. Tan Cheng Lock was the Chairman with John Eber, a Eurasian as the secretary.² The organisations that were involved in forming the AMCJA were the Malayan Democratic Union (MDU), Malayan Indian Congress (MIC), Pan-Malayan Federation of Trade Unions (PMFTU), 12 State Women's Federation in Malaya, Malayan New Democratic Youth League (MNDYL), and the Malayan People's Anti-Japanese Ex-Services Comrades' Association. The Malayan Communist Party was not involved.

The non-Malays were upset that in the discussions on replacing the Malayan Union with the Federation, they were totally excluded in the Constitutional Proposals for Malaya. For the non-Malays, the Federation Agreement was tantamount to a surrender to Malay interests and the rejection of an all Malayan nationalism that should be the basis for a new nation-state. Since both groups opposed the Persekutuan Tanah Melayu, they agreed to cooperate with each other to form the PUTERA-AMCJA coalition.

Ironically both organizations had aims that were contradictory. During the time of its inception in October 1945, the Parti Kebangsaan Melayu Malaya wanted union with Indonesia in a greater unity known as *Melayu Raya*. The PKMM saw this as a union of the various Malay races. This union would strengthen the Malays in the peninsula and check the influence of the non-Malays who were seen as a threat to Malay economic, political and social interests. However the Indonesians were not keen on the idea of *Melayu Raya* as they saw the various ethnic groups as entities separate from the Malays. Instead, the Indonesians were advocating an *Indonesia Raya* which would include all of the former Dutch East Indies, the

² Mohamed Noordin Sopiee, *From Malayan Union to Singapore Separation: Political Unification in the Malayan Region, 1945-1965*, Kuala Lumpur: University of Malaya Press, 1974, p. 39.

Malay Peninsula, Timor and Papua. At the same time the Indonesian nationalists were doing their utmost to promote an all embracing Indonesian nationalism and identity and they did not look with favour upon the suggestion by the PKMM to establish a *Melayu Raya* which would be a serious impediment to Indonesian nationalism.³

The non-Malays who formed the All Malaya Council for Joint Action opposed the federation because they saw it as a political arrangement that pandered to Malay demands. The non-Malays questioned the basis of the special rights and position of the Malays which was a blatant act of discrimination against the non-Malays who should be treated equally. Furthermore the Federation was perceived as undemocratic and anti-national. The strong centralised government advocated in the federation would compromise the individuality and integrity of the various states. Even more galling was the issue of citizenship without nationality and it was felt that this was emphasised in order to deny legitimacy to a Malayan nationality that could unite the various ethnic groups but, which was opposed strongly by UMNO. Indeed the very fact that the Federation was legally known as the Persekutuan Tanah Melayu gives credence to this argument.

Thus for these two organisations to come together and oppose the Persekutuan Tanah Melayu meant that both organisations would have to make compromises. That they were able to achieve this was revealed in their cooperation and success in producing the People's Constitutional Proposals. Between the months of May and August 1947 and on 10 August 1947, the PUTERA-AMCJA representatives met and drafted what is known as the People's Constitutional Proposals, as a counter to the Federation of Malaya proposals. It was radically different from what the British, the Sultans and UMNO had agreed to in their protracted negotiations with each other.

³ Ariffin Omar, *Bangsa Melayu: Malay Concepts of Democracy and Community, 1945-1950*, Petaling Jaya: Strategic Information and Research Development Centre, 2015, pp. 110-111.

This People's Constitution had several noteworthy proposals of which one was a single nationality for all citizens regardless of their ethnic origins. It also stressed that citizens had to forego other nationalities and sever all other political connections and pledge total loyalty and allegiance to the new nation. Fundamental liberties and equality before the law for all citizens were guaranteed. Even more significant was that Singapore was also included in the proposed new nation-state.

One of the most remarkable achievements of the People's Constitution was the suggestion that the nationality of the new state was to be known as *Melayu*. The acceptance of *Melayu* as the nationality made it clear that the new nation would have links with its historical past.⁴ Even more important was that this *Melayu* nationality would be purged of its ethnic and religious connotations. Thus the definition of *Melayu* that was upheld in the Constitution of the Persekutuan Tanah Melayu (an individual who spoke Malay, practiced the religion of Islam and followed Malay custom) would be cast aside as the term would no longer be exclusively applied to just the Malays. This would mean that Chinese and Indians who were non-Malays and non-Muslims would be categorised as having *Melayu* nationality even if they were not fluent in Malay and did not observe Malay customs. Since everyone was categorised as *Melayu* all would be treated equally and there would be no special privileges or positions that could be used to discriminate against the non-Malays.

The fact that the non-Malays in the AMCJA accepted this proposal was indeed a big concession as they had always seen themselves as Malayan and had campaigned for a Malayan nationality. The ability of the PUTERA-AMCJA coalition to agree to this came as a shock to the conservative Malays, the British and perhaps even the sultans. This proposal caused serious unease among UMNO leaders and its members who rightly felt threatened by this novel proposal and took

⁴ See below p 59-68.

action to discredit these constitutional proposals. Dato' Onn bin Jaafar poured scorn on this proposal.

At the same time it was also accepted by the non-Malays in the AMCJA that Malay would be the official language while the Malays in PUTERA accepted that other languages might also be used for those not yet proficient in Malay. Much to the chagrin of the British, who were in no hurry to grant political participation in government, the People's Constitution wanted sovereignty to be vested in the people and it demanded a fully-elected federal legislative assembly. The Prime Minister would be elected by the assembly. The People's Constitution also proposed that the British High Commissioner should not have any veto powers and he would merely represent the British government and give his assent to bills passed by the elected assembly.

Given the fact that the proposed new Malayan state after the war had become a cosmopolitan society, the People's Constitution proposed that there should be a Council of Races in which each race would have two members representing the interests of that particular race. Thus 'Malays, Chinese, Indians, Eurasians, Ceylonese, Aborigines, Arabs, Europeans, Jews and others' (Section 26(1)) would get fair representation. It was envisaged that this Council of Races would vet every bill passed by the assembly to scrutinise whether it was discriminatory or not. If there were elements of discrimination, the bill would be returned to the assembly. The Council of Races would also recommend or formulate any measure which it considers important for the progress or protection of any section of the people. Thus the Malays and other groups like the *orang asli*, being classified as backward in the social, economic and educational sectors would have their interests protected. Ordinary citizens could also petition the Council on issues within its purview.

At state level, each state would have an elected state assembly with full legislative and executive authority. Malay states would have a *Menteri Besar* while the states of Penang, Malacca and Singapore would each have a Prime Minister. From the above, we can see that the People's Constitution drafted by the PUTERA-AMCJA was based

on People's sovereignty when compared to the Federation of Malaya Agreement.

The agreements between the PUTERA-AMCJA proposals would involve several important issues that showed the vital differences between the People's Constitution and the Federation of Malaya agreement. The People's Constitution called for:

1. a united Malaya including Singapore;
2. responsible government through elected central and state and settlement legislatures.
3. equal political rights for all who make Malaya their permanent home and the object of their undivided loyalty;
4. the status of the sultans to be that of genuine constitutional rulers subject to democratic state councils;
5. special measures to be introduced into the new constitution for the advancement and uplift of the Malay people; and
6. matters pertaining to the religion and customs of the Malay people to be under the control of the Malays.⁵

The People's Constitution was publicly proclaimed on 21 September 1947 to an estimated crowd of 20,000 at Farrer Park in Singapore. With this public launching the PUTERA-AMCJA started on its campaign to explain to Malaysians the principles of the proposed constitution. During the public gatherings, illustrious speakers like Tan Cheng Lock, Ishak Haji Muhammad, John Thivy, Philip Hoalim Sr., Dr. Burhanuddin Al-Helmy, Gerald de Cruz, Ahmad Boestamam, K. Ganapathy and Shamsiah Fakeh explained the differences between the struggle of PUTERA-AMCJA against the British, the feudal monarchies and UMNO and appealed for public support. These gatherings were well attended according to Malayan security service reports and posed great concern to the British and UMNO.

⁵ *Malaya Tribune*, 27 March 1947.

The People's Constitution that was drafted did in many ways reflect the changes that were taking place in Southeast Asia after World War Two where democracy, people's sovereignty and ultimate independence from colonial rule was the trend. So why did the People's Constitutional proposals fail to gain acceptance among the people? It did not gain traction among the people because the levers of power were held by powerful interests that did not want any radical changes to take place. These interests had overwhelming military force, a monopoly of political power and almost total control of the media as well as an effective propaganda campaign. However, if the PUTERA-AMCJA coalition could muster wide public support it could challenge effectively the power and influence of the British, the sultans and UMNO. Thus as a way to demonstrate that the PUTERA-AMCJA was a force to be reckoned with, the coalition launched a hartal in Malaya and Singapore on 20 October 1947. Thus the hartal was successfully launched and it had a powerful impact. Even though its effects varied from state to state in Malaya, Singapore was crippled by it. This show of force alarmed the British, the sultans and UMNO considerably. It was possible that in a free and fair competition between the Federation of Malaya proposals and that of the People's Constitutional Proposals sponsored by the PUTERA-AMCJA coalition, the People's Constitution might gain traction.

However, British imperial and economic interests were totally opposed to the People's Constitution because power would be taken away from them. The Malay sultans and more so the Malay elite opposed it because it threatened their interests. The sultans would be relegated to meaningless figureheads while the Malay political elite would lose their positions, wealth and comfortable interests. Chinese businesses that were linked to British interests were not in favour of a constitution that they suspected had strong left-wing inclinations or even pro-communist sympathies. Also the inclusion of Singapore as part of the envisaged new nation was not amenable to British security concerns. Singapore was vital to British economic interests and must remain under British control for economic as well as strategic and

military reasons. It cannot be denied that the PUTERA-AMCJA coalition did not have a good propaganda machine, adequate funds or even adequate press support to convince the various ethnic groups of the democratic principles upheld within the proposed constitution.

Even more sinister was the attack launched by UMNO leaders against the progressive Malays. Dato' Onn bin Jaafar the founder of UMNO used racist insinuations to ridicule the People's Constitution. The British, knowing what a threat the People's Constitution could pose to their interests, acted against the various organizations that were involved in drafting the constitution.

It is noted that the attacks against the sponsors of the People's Constitutional Proposals adopted a two-prong strategy to discredit the constitution. The British used the Sedition Act to arrest and put on trial Ahmad Boestamam on charges of committing sedition.⁶ He was convicted of sedition in April 1947 and not long after Edward Gent, Governor of the Malayan Union proscribed API in 1947 despite strong protests. It is also noted that the Malayan security service urged the Malayan Union government to give its support to UMNO against the Malay radicals and the 'communists'.⁷

British actions against the Malay left hindered attempts to educate the Malays about the positive aspects of the People's Constitutional proposals. The PKMM made a cogent point when it stated that Malay opposition to the federation proposals was construed as a threat to law and order by the Malayan Union government.⁸

The second prong of attack was by UMNO under Dato' Onn bin Jaafar who parodied the People's Constitution in a speech by insinuating that the PUTERA-AMCJA had used the People's Constitution to destroy the identity of the Malays by stating that 'in the past, every person wanted to become *Melayu (masuk Melayu)*, but

⁶ *Malaya Tribune*, 5 June 1947.

⁷ MSS/PIJ No.20/47.

⁸ *Malaya Tribune*, 18 August, 1947.

now we are asked to enrol or be enrolled as *Melayu*.⁹

By 1948, with the declaration of the Emergency in June 1948 as a result of the communist insurrection, left leaning Malay leaders who were not necessarily communists were arrested and detained. They include Ahmad Boestamam, Ishak Haji Muhammad, Katijah Sidek and Burhanuddin Al-Helmy. With the removal of these leaders the left-wing Malay support of the People's Constitution was decimated.

Non-Malay organisations within the AMCJA were also affected by British political actions. Many of these organizations were banned and with the arrests of many hundreds of members of the PUTERA-AMCJA coalition, the struggle to establish a truly democratic and multi-ethnic cosmopolitan nation-state with the inclusion of Singapore came to a tragic end.

Conclusion

The failure of the PUTERA-AMCJA People's Constitution to gain traction among Malaysians had far reaching consequences which can be discerned till today. With the inauguration of the Persekutuan Tanah Melayu on 1 February 1948, Malay political supremacy was firmly entrenched. The hope of a truly multi-ethnic nation-state with a single focus of loyalty to a nation-state faded. With no nationality attached to the new 'state' there was no source of unity. British colonial interests were safeguarded while the Malay traditional elite was strengthened beyond any challenge in the foreseeable future.

The exclusion of Singapore at that point in time was tragic as its inclusion could have provided the necessary political, economic and social changes that could have changed the course of history in Malaya. It could have challenged the post-colonial compact between the British and traditional Malay elites and formed the basis for a genuine popular democracy and a *Melayu* national identity.

⁹ *Utusan Melayu*, 4 September, 1947.

It is a grim irony that when suggestions were made to include Singapore in Malaya via the creation of Malaysia, the inclusion of Singapore with its majority Chinese population had to be off-set by the inclusion of Sabah (North Borneo) and Sarawak in order ensure some degree of ethnic balance and assuage Malay fears. Yet since 1947, at the time when the People's Constitution was first unveiled in Singapore, until 1963 when Malaysia came into existence, ethnic polarisation as well as hostility had become so firmly entrenched in the Malaysian political system that Singapore had to secede from Malaysia in 1965, yet the territories of Sabah and Sarawak which were brought in to balance Singapore's Chinese population still remain as a tragic reminder of the historical failure to produce a nation of equals. The secession of Singapore in 1965 boded ill for the future of Malaysia which has continued to be mired in racism and ethnic discrimination. The only recourse to ultimately prevent the disintegration of Malaysia through regional separatism or ethnic strife is a serious effort to restore equality for all its citizens and instil in its cosmopolitan population the need to work towards ethnic harmony, justice and equality for all Malaysians regardless of their ethnic and religious background.

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Lessons from 1947

JEYAKUMAR DEVARAJ

The *People's Constitutional Proposals for Malaya* gives us a window to look into the collective minds of the leaders of the PUTERA-AMCJA Coalition as they grappled with the issues of ending colonial rule and the setting up of a new nation-state made up of diverse populations. Their world-view was markedly different from the world-view of our current political leaders. Take the issue of sovereignty for example:

The word 'sovereign' as applied to a state has the clear meaning that the state is not subject in the exercise of its jurisdiction to the interference or control of any alien government. Any requirement that a ruler should 'undertake to accept the advice' of an alien government is clearly a thin disguise for the fact that such advice amounts to full control, and is therefore incompatible with sovereignty.¹

They write in the opening passages of the Constitutional Proposals.

... the naked fact that the imperialist power will prolong its control for as long as it considers that it is in its general interest to do so ...²

¹ See below p 52.

² See below p 92.

As they note in the discussion regarding the forming of a fully-elected Federal Legislative Assembly.

Sovereignty is no longer a pressing issue for Malaysian politicians, and 'imperialism' certainly isn't part of their vocabulary! Our current politicians whether from the Barisan Nasional or the Pakatan Harapan, are falling over each other to attract foreign direct investments (FDI) - investors who generally pay our workers about 12 per cent of the wages that they would pay workers in their home countries and 'transfer price' their fabulous profits to tax havens so as to avoid paying taxes in their home countries. Yet, our government offers them tax free status for their grossly under-declared profits. Our Minister of International Trade scours the world seeking to sign economic agreements that among other things will give large foreign corporations the right to sue our government in special, privately set up, international tribunals - the ISDS provision. Our Finance Minister lowers corporate taxes to attract even more FDI!

Has global capitalism become more benign over the past 70 years? Is 'imperialism' just a quaint concept that is no longer applicable to the current global economy? Or have our current crop of politicians completely lost the plot?

Another major difference in the approach of the PUTERA-AMCJA leadership was their handling of ethnicity. They proposed in Section 26 of their Constitutional Proposals that a 'Council of Races' be set up to scrutinize every bill passed to make sure that that Bill has no provisions that are discriminatory on racial and religious grounds (Section 26(5)). This Council was envisaged to have near veto powers. However this does not mean that they endorsed 'meritocracy' and the leaving social advancement to market forces! Section 21 of their Constitutional Proposals says:

It shall be regarded as a fundamental duty of citizens, through their elected institutions, to direct special attention to the advancement of any section of the people who are in a condition needing such

advancement be it economic, social, educational or cultural.³

As Section 26 did not exclude discriminating on the basis of socio-economic criteria - this means that they accepted affirmative action based on such criteria. For most of us who have lived through 60 years of ethnic profiling and quotas, an approach that rigorously avoids affirmative action based on ethnicity, but implements it according to socio-economic criteria is quite difficult to conceptualise. Would it have resulted in the neglect of the rural poor and the Malay community? Or would it have led to the development of a more united and harmonious nation?

Linked to this was also the way in which the Constitutional Proposals envisaged the rights and duties of the citizen. Not only did they promote affirmative action but they also promoted a whole series of other socio-economic rights which placed the welfare of individuals and workers at the heart of the constitution. Thus Section 12 advocated for a minimum wage for all wage and salary earners, Section 13 advocated for a right to maintenance in old age or in the case of sickness or loss of capacity to work. Section 14 called for a right to leisure, Section 15 provided a right to education, Section 16 provided a right to annual leave for every worker and for maternity leave with full pay. Perhaps most importantly Section 17 provided for a right to strike which in a country which has rigidly curtailed this right remains particularly important. Some of these have been partially achieved in Malaysia today, others such as a right to leisure and right to strike are opposed to the contemporary neoliberal economic order, based as it is on the increased exploitation of labour for the benefit of capital. In placing the rights of labour at the heart of the constitution would the Constitutional Proposals have therefore entailed a fairer and more just society, and a different model of economic development?

³ See below p 86.

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³ See below p 86.

This book is more than a historical footnote pertaining to our nation's struggle for Independence. For many of the problems that we now are facing as a nation are similar to those in 1947, but the solutions proposed then were markedly different. This book therefore challenges us to re-examine the ways we are handling current problems such as our relation to the global economy, inequalities in society, independence of the judiciary and building a harmonious nation. There are quite a few valuable lessons that we can learn from our forefathers!

Four

The Constitutional Struggle of the Left against British Colonial Rule

FAHMI REZA¹

On 20 October 1947, the whole of Malaya and Singapore bore witness to the first political action that involved the unification of people of all races – the Malaya-wide hartal.

The hartal, a general strike and total economic stoppage that was effectively used in the Indian struggle for independence was used for the first time in Malaya by the left-wing coalition, PUTERA-AMCJA as a weapon against British colonialism in Malaya.

PUTERA-AMCJA

By 1947 PUTERA-AMCJA succeeded in bringing together all the political parties in Malaya with the exception of the United Malays National Organisation (UMNO) and the Communist Party of Malaya (CPM), in a people's popular front to protest the Federation Constitution that was formulated by the British Colonial Government

¹ This essay is based on Fahmi Reza, 'First All-Race Political Action and the People's Constitution' *The Sun*, 1 August 2007.

to replace the Malayan Union.

They protested the Federation Constitution which they felt was undemocratic since it was formulated in secret consultations between the Colonial Government and the Malay aristocracy, and sidelined the opinions and wishes of the Malayan people who wished, and continue to wish, for democracy and the right to self-governance.

They criticized the act of the Colonial Government in only consulting one party as part of the 'divide and rule' tactic to disrupt the unity of the people.

PUTERA-AMCJA then presented their protests through mass demonstrations throughout Malaya. At each gathering that was attended by thousands from all races, PUTERA-AMCJA leaders such as Tan Cheng Lock, Ishak Haji Muhammad, John Thivy, Philip Hoalim Sr., Dr. Burhanuddin Helmy, Gerald de Cruz, Ahmad Boestamam, K. Ganapathy and Shamsiah Fakeh presented their arguments, explaining the importance of people from all races to stand together to fight the Federation Constitution and to support the struggles of PUTERA-AMCJA.

PUTERA-AMCJA also held mass meetings throughout Malaya to gain approval for resolutions to protest the Federation Constitution. Hundreds of telegrams and protest letters were sent to the British Colonial Government. But none of this was given any heed by the British.

The People's Constitution

PUTERA-AMCJA realized they must create a stronger and more progressive program to win the support of the masses. From May 1947, PUTERA-AMCJA began to draft a new alternative constitution that will challenge the Federation Constitution. On 10 August 1947, the People's Constitution was completed, taking into consideration the opinions and aspirations of the different factions within the PUTERA-AMCJA pact.

The Straits Times had dubbed the People's Constitution as 'the first political attempt to put Malayan party politics on a plane higher than that of rival racial interests, and also as the first attempt to build a political bridge between the domiciled non-Malay communities and the Malay race.'²

The People's Constitution is a comprehensive document that covered provisions for a democratic system of government, towards establishing a new nationality and an independent nation-state.

On 21 September 1947, the People's Constitution was presented for the first time to more than 20,000 people who had gathered at Farrer Park, Singapore. From this began a national campaign by PUTERA-AMCJA to clarify the contents of the People's Constitution to the Malayan people.

Meetings, mass gatherings, and demonstrations were held in various places to get the support of the people. The People's Constitution was published in four languages and disseminated throughout the states in Malaya.

Copies of the People's Constitution were also sent to the Malayan Union Government, the Prime Minister of Great Britain and the Colonial Office in London. Yet once more, the British refused to pay attention to PUTERA-AMCJA, refused to hold discussions, and refused completely any suggestions contained in the People's Constitution.

Malaya-Wide Hartal

On 6 October 1947, PUTERA-AMCJA had released a 'Hartal Manifesto' that called upon all those who regard Malaya as their real home, to observe 20 October 1947 as a Day of Protest against the Revised Constitutional Proposals, by staging a Malaya-wide hartal on that day.

² *The Straits Times*, 23 September 1947

October 20 has been selected as the Day of Protest because it is on that day that the British Parliament is scheduled to begin its Autumn session, during which it is reported that a debate on the constitutional issue in Malaya will take place.

On October 20, therefore, between the hours of six a.m. and midnight, all those who regard Malaya as their real home and who support the People's Constitution issued by PUTERA-AMCJA, are asked not to carry out their usual occupations, but to remain indoors throughout the day and night.

You are asked for one day to cease work in order to demonstrate to government that you reject the Revised Constitutional Proposals, and in order to carry our struggle for acceptance of the People's Constitution one step further.

October 20 is the day on which the people of Malaya will be called upon to stage the greatest political demonstration that this country has ever seen.³

From 7 October 1947 begins the propaganda campaigns of PUTERA-AMCJA to ensure the success of the Malaya-wide hartal, to prove to the British Colonial Government that the masses are behind this hartal.

'Hartal Instructions' that gave full instructions on how the hartal should be observed and '12 Hartal Slogans' that pinpointed the reasons for the hartal were sent to the media, all the parties within PUTERA-AMCJA, and to the 30 PUTERA-AMCJA centers throughout Malaya to be translated and disseminated to the people so that they fully understood the primary aim of this political act.

'Hartal Committees' were set up in each state to align and plan activities for the hartal. 'Propaganda Corps' were established to tour

³ See below p 117-119.

the towns, districts and kampungs to put up posters and banners, as well as give out leaflets explaining the hartal and the People's Constitution to the masses.

Thus, on 20 October 1947, beginning from 6 a.m., the whole of Malaya underwent the hartal. Merchants shut their shops, labourers stopped going to the mines, factories, ship yards, and rubber plantations, farmers did not work their lands, fishermen stayed ashore, housewives did not go to the markets, and the youth stayed away from amusement parks. Only Colonial Government offices, European stores and several other shops were operating as usual.

It was estimated that the British Colonial Government suffered four million pounds from the nation-wide strike that day.

According to the PUTERA-AMCJA, the hartal was also 'a unique method of political education. It brought the constitutional issue into every home in the country, and confronted every man, woman and child with this issue. Even in the Government English schools, children in the fourth and fifth standards questioned their teachers about the hartal, asked about its nature and why the Government was opposed to it.'

Even though the hartal was a complete success in its execution, it failed to change British constitutional policy in Malaya. The British Colonial Government rejected the People's Constitution and stayed committed to their agreement with the Malay aristocracy and defended their Federation Constitution.

On 1 February 1948, the Federation of Malaya was inaugurated to replace the Malayan Union.

In order to crush PUTERA-AMCJA's continued protest against the new Federation of Malaya, the British Colonial Government declared a State of Emergency throughout Malaya in June 1948. Thousands of PUTERA-AMCJA's leaders and members were arrested. Most were locked up in detention camps for several years while others were banished. Most of the organisations affiliated to PUTERA-AMCJA were banned or dissolved. This was the turning point and marked the beginning of the end of the constitutional independence struggle for the left in Malaya.

INTRODUCTION

Constitutional and Political Developments from September 1945 to September 1947

Section II

The People's Constitutional Proposals for Malaya

Introduction

Constitutional and Political Developments from September 1945 to September 1947

The constitutional proposals and their exposition, which follow in Part Two, have been drawn up by the Pusat Tenaga Ra'ayat and the All-Malaya Council of Joint Action. It is necessary at the outset to review the political developments in Malaya during the period since the liberation of the country from the Japanese.

It was clear, when the war was over, that the pre-war system of administration had to be drastically reformed, and that the cumbersome three-fold structure and Settlements, Federated Malay States and Unfederated Malay States should be replaced by a unified system of administration under a strong, central government.

This constitutional scheme was outlined by the Secretary of State for the Colonies in Parliament on October 10, 1945, and was later embodied in the White Paper 'Malayan Union and Singapore' (Command 6724) presented to Parliament in January, 1946.

Sir Harold MacMichael came to Malaya to take what His Majesty's Government considered was the first step necessary to implement the policy of unifying Malaya (excluding Singapore) under a strong central government - namely, to obtain the formal agreement of

Their Highnesses the Malay Rulers to the transfer of full power and jurisdiction, in each of the Malay States, to His Majesty.

The Straits Settlements (Repeal) Act 1946, followed by the Malayan Union Order in Council, 1946, completed the steps necessary to bring the new constitutional scheme into effect.

His Majesty's Government failed, however, to consult the people of the country on the proposed reforms, and the constitutional difficulties that have ensued up to the present day are the result of this failure.

Malay Opposition

The realisation of the implication of the MacMichael Agreements and the Malayan Union Order in Council, 1946, led to mounting opposition on the part of the Malays, whose privileged classes inevitably took grave exception to what they considered was an attempt by His Majesty's Government to take advantage of the unsettled circumstances of that time in order to deprive Their Highnesses the Malay Rulers of their sovereign prerogatives.

The opposition was led by representatives of the Malay aristocracy, whose privileged position was immediately threatened by the MacMichael Agreements.

The progressive Malay political parties participated in the campaign of opposition, mainly on the ground that the Malayan Union scheme had been undemocratically imposed, provided for an undemocratic constitution, and, by separating Singapore from the mainland, dismembered Malaya.

The Malays also had the support, both in Malaya and in the United Kingdom, of former members of the Malayan Civil Service who realised that this elimination of the political influence of the Malay aristocracy would deprive the Imperial Government of their most useful allies in perpetuating the essentially colonial status of Malaya.

Formation of UMNO

As a result of the widespread protest of the Malays, the United Malays National Organisation was formed at Johore Bahru in May, 1946. Its chief strength lay in the Malay Nationalist Party and the Angkatan Pemuda Insaf, which were the only two political parties organised on a Malaya-wide basis among the associations affiliated to the UMNO.

Both these organisation soon withdrew, however, from the UMNO, because of its undemocratic structure (the Malay Nationalist Party, for example, though the most numerically powerful of the affiliated organisations had a voting strength no greater than that of the small local associations with a fraction of the membership of the Malay Nationalist Party); because of the dictatorial methods of the aristocratic leaders of the UMNO; and, more importantly, because they felt that the policy of the UMNO, formulated in this undemocratic and dictatorial manner, was contrary to the true interests of the Malay people.

The result of this withdrawal was that the UMNO became, and still remains, solely the organisation of the Malay aristocracy.

Formation of Constitutional Working Committee

This withdrawal, however, seemed to give the UMNO added favour in the eyes of the Malayan Union Government since, soon afterwards, in July 1946, it was announced that a Working Committee had been set up, composed of representatives of the Malayan Union Government, of Their Highnesses the Malay Rulers, and of UMNO to draw up new Constitutional Proposals for Malaya.

In other words, the Malayan Union Government had accepted UMNO as representative of the Malay people, although this was manifestly untrue in view of the withdrawal of the Malay Nationalist Party and the Angkatan Pemuda Insaf from UMNO.

For five months, this Working Committee worked in secret behind a heavy curtain of silence, eventually its proposals were published on December 24, 1946.

Birth of 'Putera' and All-Malaya Council of Joint Action

In the meanwhile, however, discussion and exchanges of opinion had been taking place between the representatives of various political parties, trade unions, youth organisations, women's associations. The Malay Nationalist Party, which from the very beginning, had advocated a united and democratic Malaya, in opposition to the Malayan Union scheme, took the initiative in these discussions, and two days before the Proposals were published, the All-Malaya Council of Joint Action was formed, with Mr. Tan Cheng Lock as its Chairman. Two months later, the Pusat Tenaga Ra'ayat or 'Putera' was established after a period of unprecedented political activity on the part of the Malay masses.

The All-Malaya Council of Joint Action, which was inaugurated on December 22, 1946, in Kuala Lumpur, is a federation of political parties, trade unions, women's associations and youth organisations, comprising members of all races and classes on the basis of six principles:

1. A United Malaya, inclusive of Singapore.
2. A fully-elected central legislature for the whole of Malaya.
3. Equal political rights for all who regard Malaya as their real home and as the object of their loyalty.
4. The Malay Sultans to assume the position of full sovereign and constitutional rulers, accepting the advice, not of a British 'adviser' but of the people through democratic institutions.
5. Matters of the Muslim religion and Malay custom to be under the sole control of the Malays.
6. Special attention to be paid to the advancement of the Malays.

The third principle — equal political rights for all those who regards Malaya as their real home and as the object of their loyalty is the principle enunciated by the then Under-Secretary of State for the Colonies (Mr. A. Creech Jones, now the Secretary of State for the Colonies). The AMCJA consider this principle of cardinal importance in any new constitution for the people of Malaya.

The main organisations in the All-Malaya Council of Joint Action are the Malayan Democratic Union, which is Secretary to the AMCJA, the Malayan Indian Congress, the Malayan New Democratic Youth League, the 12 Women's Federations in Malaya, the Malayan People's Anti-Japanese Ex-Service Comrades Association, and the 300,000-strong Pan-Malayan Federation of Trade Unions. The total membership of the associations affiliated to the AMCJA is approximately 400,000.

Since its inception, the AMCJA has been led by one of the most distinguished public figures Malaya has produced — Mr Tan Cheng Lock, CBE.

Before, during and after its inauguration, the AMCJA has had the benefit of the advice, guidance, assistance and support of the most progressive of the Malay political parties — the Malay Nationalist Party. The six principles of the AMCJA were drawn up in full consultation with the leaders of the Malay Nationalist Party.

During the first two months of 1947, the Malay Nationalist Party, assisted by the strongest of the Malay youth organisations, the Angkatan Pemuda Insaf (now declared illegal by the autocratic and unjust decision of the Governor of the Malayan Union) carried out a Malaya-wide campaign against the Constitutional Proposals framed by the Constitutional Working Committee (consisting of the representatives of the Malayan Union Government, of Their Highnesses the Malay Rulers and of the United Malays National Organisation).

The leaders of the Malay Nationalist Party and the Angkatan Pemuda Insaf travelled throughout the country explaining to the Malay people why these Constitutional Proposals were undemocratic

and against their true interests.

The fruit of this campaign was the birth, on February 22, 1947, of the Pusat Tenaga Ra'ayat (People's United Front) or Putera, consisting of the Malay Nationalist party, the Angkatan Pemuda Insaf, the Peasant Union, the Angkatan Wanita Sedara (Awakened Women's Union) and 80 other smaller associations. The total membership of the Putera is approximately 150,000.

The Putera was formed on the basis of ten principles, the first six being identical with those of the AMCJA, while the remaining four were: that Malay should be the official language of the country; that Foreign Affairs and Defence of the country should be the joint responsibility of the government of Malaya and His Majesty's Government; that the term *Melayu* should be the title of any citizenship or national status in Malaya; and that the national flag of the country should incorporate the Malay national colours.

Together, the Putera and the AMCJA have a total membership, through their affiliated organisations, of about 600,000. Together they include all the Malays-wide political bodies with the exception of the aristocratic and conservative United Malays National Organisation, and of the Malayan Communist Party which, though it is not, and has not been a member of either these two organisations, and has taken no part in their activities, has declared its support of their principles. This means that all the most politically conscious elements of the people of the country give their support to these organisations on the constitutional issue.

Malaya-Wide Protest

Since the formation of the Putera and the AMCJA these organisation have sponsored mass demonstrations of protest against the Constitutional Proposals of the Working Committee, and in support of the principles of the Putera and the AMCJA, throughout the length and breadth of the country. Such demonstrations have been held at Singapore, Kuala Lumpur, Penang, Malacca, Ipoh, Taiping, Johore

Bahru, Kota Bahru and Kuantan, and in a large number of smaller towns all over the country. Every meeting in the major towns was attended by several thousands of all races and classes.

These mass meetings have been unique in that they demonstrated, for the first time in Malaya, united political action on the part of all races and classes of the people. They have also been unique by reason of their size and number, showing very clearly the solid support given to the Putera and the AMCJA by the people.

Both organisations announced that they could not accept the Proposals drawn up the Working Committee, in view of the undemocratic manner in which these Proposals had been drawn up in secret consultation only with members of the Malay aristocracy; and in view of the failure of the Working Committee Proposals to embody those provisions which we consider essential to any stable constitution for Malaya.

In Part Two of this booklet, we have analysed the Constitutional Proposals of the Working Committee. It is sufficient to say here that they will perpetuate Malaya as a real colony with all legislative and executive power in the hands of His Majesty's Government through the Secretary of State for the Colonies and the High Commissioner; and that they propose an empty and dangerous type of citizenship which would prevent the stable development of national unity and democracy in Malaya.

Pledges of 'Full Consultation'

The Secretary of State for the Colonies, His Excellency the Governor-General, and His Excellency the Governor of the Malayan Union, gave frequent assurances that no final decision would be taken on the Proposals of the Working Committee until all sections of the people had been fully consulted. Although these pledges were widely phrased, it is clear that the only proper interpretation of these pledges is that only the representatives of those who regard Malaya as their real home and as the object of their loyalty would be consulted. This

interpretation was also accepted by the Working Committee.

Reference to Page 10 Paragraph 27 of their Report shows that the Working Committee accepted that 'before final conclusions are reached there will be consultations with representatives' of 'those and only ... those who regard Malaya as their real home and as the object of their loyalty.'

In our opinion, the clear implication of these pledges was that the consultation referred to would be consultations with the Malayan Union Government.

The 'Consultative Committee'

The method chosen to implement these pledges was to set up a Consultative Committee headed by a Government official (the Director of Education, Mr H.R. Cheeseman) whose members had no shadow of a claim to represent those who regarded Malaya as their real home and as the object of their loyalty.

The terms of reference of the Consultative Committee limited its functions to that of a collecting agency for the views of 'interested individuals communities and groups in Malaya on the Constitutional Proposals which have been published as a result of consultation between the Government and Malay representatives.' (see page 7 paragraph 2 of the Report of the Constitutional Committee.)

There was, in fact, to be no 'consultation or discussion', with the Malayan Union Government the 'interested' parties (who presented their views to the Consultative Committee and who were not required to, and in most cases did not, regard Malaya as their real home and as the object of their loyalty) being limited to the presentation of criticism or support for the Proposals of the Working Committee as they stood.

In this way, no opportunity for direct contact for the purposes of discussion with the representatives of the Malayan Union Government, was afforded to 'the representatives of those and only those, who regard Malaya as their real home and as the object of their loyalty'.

'Interested individual communities and groups' is a very different matter from 'representatives of those and only those, who regard Malaya as their real home and as the object at their loyalty'.

There was therefore no possibility of the presentation of alternative proposals. A more important objection, however (the objection which weighed primarily with the All-Malaya Council of Joint Action in deciding not to present their views to the Consultative Committee), was the fact that the method adopted encouraged the presentation of the views of individuals and groups who represented primarily sectional and communal interests. Thus, every individual and group that presented views to the Consultative Committee was responsible, either to himself alone, or to some association representing a particular section or community. The Consultative Committee provided a temptation which, in the absence or responsibility to the people as a whole, could not be otherwise than irresistible, to press the claims of a particular community or sectional interest, as against the claims of other communities and sections. The procedure of the Consultative committee, therefore, deliberately fostered inter-communal and inter-sectional hostility and jealousy.

If the names and views of the various individuals and groups who submitted views to the Consultative Committee are examined, it will be seen that the above analysis of the effect of the Consultative Committee procedure is correct.

The Putera and AMCJA, decided not to submit themselves to the Consultative Committee because: (i) they realised the dangers referred to above, (ii) they felt that the pledges of 'full and free consultation' had not been fulfilled by this procedure, (iii) since the AMCJA and Putera were composed of and supported by all the political parties, the Pan-Malayan Federation of Trade Unions and other groups which adhered to the principle laid down by the Under-Secretary of State for the Colonies, the Putera and AMCJA were therefore the only proper representatives of those who regarded Malaya as their real home and as the object of their loyalty, and (iv) because they rejected all the major provisions of the Proposals of the

Working Committee which, they felt, although paying lip-service to the fundamental principles that a Federation should be formed on the basis of a partnership between His Majesty and Their Highnesses the Malay Rulers as sovereign constitutional monarchs, and that citizenship should be extended only to those who regarded Malaya as their real home and as the object of their loyalty, did not put these cardinal principles into practice in their Proposal.

In our view, the activities of the Consultative Committee were an elaborate farce, meant to delude the people into believing that the promise of 'full and free consultation' with the representatives of those and only those who regard Malaya as their real home and the object of their loyalty had been fulfilled.

Putera and AMCJA Proposals

During all this time, demonstrations in support of the principles of the Putera and the AMCJA and rejecting the proposals of the Working Committee, showed very clearly that the people of Malaya, as opposed to 'influential' and privileged groups, gave their whole-hearted approval to the stand taken by these organisations to be the 'representatives of those who regard Malaya as their real home and as the object of their loyalty'.

In April of this year, these two organisations appointed a committee to draw up their positive Constitutional Proposals. These Proposals were not drawn up in any secret conclaves, but are the result of constant reference to the various associations affiliated to the two organisations, and have received in their final state, the unanimous acceptance of all these associations in the full conference called on July 4 to 7 inclusive and on August 10.

His Majesty's Government has now, by the publication of its White Paper, entitled 'Summary of Revised Constitutional Proposals adopted by His Majesty's Government', indicated that the contents of that White Paper are the final decision of His Majesty's Government.

This decision, however is not the final decision of the people of Malaya, who fully realise that this White Paper incorporates all of the Working Committees' Proposal, except a few minor provisions. The undemocratic decision of His Majesty's Government must not be allowed to prevail over the will of the people of Malaya, who will continue to oppose this Constitution firmly and unceasingly until a Constitution which meets with their approval is provided for Malaya.

Only the people of Malaya have the right of final decision, and no Constitution imposed by autocratic method will be accepted by them.

Constitutional Proposals and Exposition

TERRITORY

Section 1 There shall be established a Federation, to be called the Federation of Malaya, or Persekutuan Tanah Melayu, consisting of the nine Malay States of Perak, Selangor, Negeri Sembilan, Pahang, Johore, Kedah, Kelantan, Terengganu and Perlis and of Singapore, Penang and Malacca.

The name Federation of Malaya, or Persekutuan Tanah Melayu suggested by the Working Committee has been adopted by us.

We adhere in principle to the policy advocated by the Working Committee, that a Federation should be formed on the basis of a partnership between His Majesty and Their Highnesses the Malay Rulers, as sovereign constitutional monarchs (see Report of the Working Committee, paragraphs 14, 22 and 27).

The Proposals of the Working Committee, however, do not, in our opinion, succeed in putting this policy into practice.

- (i) The sovereignty of the Malay Rulers is shorn of all reality by the requirement that they must accept the 'Advice' of His Majesty's

Government through the High Commissioner and the British Advisers, in the exercise of their entire legislative and executive authority, with the exception of matters of Muslim religion and Malay custom (See Section 4, Model State Agreements, and Section 8, Draft Federation Agreement).

The word 'sovereign' as applied to a state has the clear meaning that the state is not subject in the exercise of its jurisdiction to the interference or control of any alien government. Any requirement that a ruler should 'undertake to accept the advice' of an alien government is clearly a thin disguise for the fact that such 'advice' amounts to full control, and is therefore incompatible with sovereignty.

Whether such 'advice' is given frequently or not, whether it is accepted willingly or not, is beside the point, which is that the ruler must accept that 'advice', whether he likes it or not.

The ordinary meaning of the word 'advice' carries with it the necessary implication that the advice given may be rejected, at the discretion of the person advised. An 'undertaking to accept advice' is therefore a contradiction in terms.

The 'undertaking to accept advice' which was contained in the former treaties with their Highnesses the Malay Rulers, and is now repeated in the Model State Agreements of the Working Committee is legal fiction designed to conceal as far as possible the fact that British rule in Malaya, whether in the Colony of Singapore, or in the Settlements of Penang and Malacca, or in the Malay States, is absolute and unfettered.

The Proposals of the Working Committee preserve the unfettered power of His Majesty's Government in Malaya, under the cloak of the same legal fictions as may have deceived past

generations, but which are now no longer able to conceal from the people of Malaya the naked fact that Malaya is, from Perlis to Singapore, a British colony.

- (ii) This failure to place the reality of sovereignty in the hands of the Malay Rulers made it impossible for the Working Committee to place them in the position of constitutional monarchs.

In our view, and this is today the generally accepted view, a constitutional monarch is a sovereign ruler who delegates his legislative and executive authority to the elected representatives of his people. This, for instance, is clearly the meaning of the term 'constitutional monarch' as it is applied to His Majesty.

The requirement, therefore, that Their Highnesses should undertake to 'accept advice' precludes them from being either sovereign or constitutional, since, once the sovereign powers have been transferred by such an undertaking to an alien power they cannot be delegated to the elected representatives of the people.

That full legislative and executive power is vested, under the Working Committee's Proposals, in His Majesty's Government through the High Commissioner and the British Advisers, is made very clear by a reference to the Draft Federation Agreement (Sections 8, 17, 55, 57, 58, 91, 105 and 106), and to the Model State Agreements (Section 4). The effect of these provisions is as follows:

(a) **In the Federation:**

Full executive authority is, of course, entirely in the hands of the High Commissioner under Section 17 of the Draft Federation Agreement.

Full legislative authority also rests entirely in his hands:

- (i) He can veto any legislation passed by the Federal

Legislative Assembly, by withholding his assent under Section 57. Section 57(3) shows very clearly that it was intended that this power to withhold assent should be a real veto power.

That Malaya is to be, in practice, a Crown colony, is confirmed by the words of this sub-Section: 'When a Bill is presented to the High Commissioner for his assent, he shall ... subject to ... any instructions addressed to him ... through a Secretary of State, declare that he assents or refuses to assent thereto ...'

It would be almost impossible to state more clearly that Malaya is, under this proposed Constitution, to be ruled from Whitehall as a colony. The only effect of the Working Committee's Proposals is to drape a few more valueless and transparent pretences over the nakedness of colonial domination - pretences which are, however, no longer able to achieve their purpose of concealing this fact from the people of Malaya.

- (ii) On the other hand, the High Commissioner can impose any legislation His Majesty's Government wishes, under Section 105, if he 'considers that it is expedient in the interest of ... good government.' The words 'good government' are obviously all-embracing.

With these two powers - of veto on the one hand, and of imposition on the other, it will be seen that the Federal Legislative Assembly will be legislative only in name, and will, in fact, be as powerless as the 'Advisory Councils' which now exist.

(b) In the Malay States:

Section 4 of the State Agreement, read in conjunction with Sections 91, 105, and 106(2) of the Federation Agreement, place exactly the same powers of veto and imposition of legislation into the hands of the British Advisers in the

Malay States as are held by the High Commissioner in the Federation.

(c) In the Settlements:

Since the Straits Settlements (Repeal) Act 1946 did not in any way alter the status of Penang and Malacca as Crown Colonies, there is, of course, no question but that full legislative and executive authority remains in the hands of His Majesty's Government through the High Commissioner and the Resident Commissioners.

That full legislative and executive authority is to be vested in the High Commissioner is also expressly stated in paragraph 20, page eight of the Report of the Working Committee '... authority in the internal affairs of the Federation, whether legislative, executive, or administrative, will be delegated to the High Commissioner by the joint action of His Majesty and Your Highnesses.'

This is merely a tactful way of saying that Their Highnesses delegate authority to the British Government, and the effect, therefore, is to make no real alteration in the Malayan Union policy of perpetuating the colonial status of Malaya.

In our Proposals, however, we have sought to place Their Highnesses in the position of a truly sovereign and truly constitutional monarch.

- (iii) The full implementation of the Federal policy would also necessitate the assumption by His Majesty of the position of constitutional monarch, as we have defined it, in relation to the people of such territories formerly included in the Colony of the Straits Settlements as are to be brought into the Federation.

The fact that the Straits Settlements (Repeal) Act 1946 did not affect the position of Penang and Malacca as colonies, easily escaped attention in the Working Committee's Proposals,

since the whole of Malaya was to be brought, in fact, if not in legalistic theory, under the direct administration of His Majesty's Government as a colony.

The definition of constitutional monarch given above would not, however, include His Majesty in relation to the people of a colony, since His Majesty's jurisdiction over such people is delegated, not to the elected representatives of such people but to the elected representatives of the people of Great Britain and Northern Ireland assembled in Parliament.

The full implementation, therefore, of the policy of creating a Federation based on the partnership of His Majesty and Their Highnesses as sovereign constitutional monarchs would involve the following four essentials:

- i. The vesting in Their Highnesses of all the rights, prerogatives and powers appropriate to the Ruler of a sovereign state.
- ii. The delegation by Their Highnesses of full legislative and executive powers to the elected representatives of their people.
- iii. The delegation by His Majesty of full legislative and executive powers over such territories formerly included in the Colony of the Straits Settlements as are to be included in the Federation, to the elected representatives of the people of such territories.
- iv. The further delegation, by the elected representatives of the people of the various States and Settlements, of such powers as would be necessary to ensure a strong central government, to the Federal Government.

We have incorporated these four essentials in our Proposals.

Very strong constitutional bonds will be established by the association of His Majesty in a Federation of this type. Such an association of the sovereignty of the British Crown with that of Their Highnesses the Malay Rulers would mean that

the sovereignty of the Federation of Malaya incorporated the sovereignty of the British Crown, and would thus establish a closer association of the federation with the British Crown than exists in the case of the Dominions, whose sovereignty is more loosely associated with that of the British Crown.

* * *

Singapore should, we suggest, be included in the Federation, in the absence of any adequate reasons for its exclusion.

His Majesty's Government has contented itself with the bare statement that it is not its policy to include Singapore in the Federation at the present time, but has given no substantial reason to justify, this policy.

His Majesty's Government has clearly stated, however, that it is its policy to include Singapore in the Federation at some future time. No adequate explanation, however, has been given of the circumstances which militate against immediate inclusion.

There appears to be a tendency on the part of His Majesty's Government to treat the inclusion of Singapore in the Federation as some novel and unforeseen proposal, never previously considered or suggested, and which, though admitted to have some possible advantages, is a step that requires a period or interval for deep deliberation and careful consideration before any further action is taken.

This tendency completely overlooks, in our view, the long and close historical association of Singapore with the mainland. This historical unity has forged a sense of unity which, before the war, over-rode and today still over-rides, the merely, technical and legalistic differences of status. This sense of unity reached a new level of consciousness during the three-and-a-half years of Japanese fascist occupation.

The present strength of this sense of unity can be shown for example, by the fact that the political parties of Malaya and the Pan-

Malayan Federation of Trade Unions are organized on a Malaya-wide basis which includes Singapore.

It has been suggested that it is for the 'democratic' legislatures of Singapore and the Federation to agree on the inclusion of Singapore. This, in our view, is a suggestion made only to delay the settlement of this question, since no account whatever was taken of the wishes of the people, either in the inclusion of Penang and Malacca into the Federation or in the exclusion of Singapore; moreover, the proposed legislatures referred to are not democratic.

The separation of Singapore from the mainland has, therefore, led to a deep and growing resentment among the peoples of Malaya at this arbitrary and autocratic action on the part of His Majesty's Government. The overwhelming weight of opinion, both in Singapore and on the mainland, has been, and still is demanding the inclusion of Singapore.

The demand has gathered added force from the experience of the past one-and-a-half years, since the restoration of civil government, during which time it has been convincingly demonstrated that the separation of Singapore from the rest of Malaya is uneconomic, and results in great administrative difficulties and anomalies.

This arbitrary decision, running counter to the whole historical development of Malaya and to the present vital need of the people for a constitutional focus in the form of a genuine citizenship based on allegiance cannot lead to the impression that imperial interests continue to override the interests and welfare of the people of Malaya.

CITIZENSHIP

Section 2 There shall be established a citizenship of Malaya. This citizenship shall be a nationality, to be termed 'Melayu', and shall carry with it the duty of allegiance to the Federation of Malaya.

Note: The term Melayu shall have no religious implications whatever.

It is necessary, at the outset, that certain terms should be carefully analysed and defined.

'Citizenship' is the status of those who owe permanent allegiance to a state by reason of birth, naturalisation, or (in the case of women) marriage.

'Nationality' is, in its political sense, synonymous with citizenship.

The essential attribute of both citizenship and nationality is the duty of allegiance to the state. For instance, Sweet's *Dictionary of English Law* defines nationality as 'that quality or character which arises from the fact of a person's belonging to a nation or state. It determines the political status of the individual, especially with reference to allegiance.'

Again, the nationality laws of the United States of America define 'nationals' in general as those owing permanent allegiance to a state. This general definition is followed by their definition of 'American nationals' as being of two classes: (i) citizens and (ii) those who, though not citizens, owe permanent allegiance to the United States.

This example serves to show that, although it is possible for any particular state to distinguish arbitrarily between citizenship and nationality, by using these two words to distinguish between full nationals and nationals of an inferior status, yet, even when this is done, the common basis of permanent allegiance remains.

That citizenship and nationality are generally accepted as being synonymous, and that both these terms connote permanent allegiance, was shown in the course of the trial of William Joyce. The Attorney-General, Sir Hartley Shawcross, for example, in his opening address, used 'citizens' and 'British subjects' interchangeably, and it was clearly accepted throughout the trial that the very basis of British nationality was allegiance to the Crown.

'Allegiance' is the general duty which embraces all the duties which the citizen owes to the state: it includes for example, the duty to abide by the constitution, to obey the laws, to defend the country, etc.

A divided allegiance is, in our opinion, a contradiction in terms, and acquisition of citizenship under our Proposals therefore means the renunciation of all other allegiances.

It is to be noted, however, that this renunciation will not mean, in the case of British subjects, a transfer of allegiance from the Crown: the allegiance of such persons would, on acquiring *Melayu* citizenship, be transferred to His Majesty and Their Highnesses the Malay Rulers jointly.

The allegiance which is the common factor of both citizenship and nationality is owed by the citizen in return for the protection which the state affords. The ancient definition of allegiance for instance, by Blackstone, which still holds good, is 'the tie or ligament which binds the subject to the King in return for that protection which the King affords the subject'.

Such 'protection' must today be widely interpreted to cover the general administrative function of promoting the welfare of the people, as well as military and police protection.

'Loyalty' is, in its constitutional sense, the sentiment of devotion to a state on the part of those who give their willing allegiance to that state, and who regard the territory of that state as their real home.

Loyalty cannot be adequately defined without reference to allegiance. The ordinary usage of words confirms that a man cannot be said to be 'loyal' to an alien country, a country to which he does not belong, to which he does not owe allegiance. He may live there, he

may like living there (for various personal reasons), he may therefore live there for a long time, but that does not mean that he will be 'loyal' to that country. His real loyalty would perhaps only be crucially tested if the state in which he resides goes to war with his own state. The Government of his country of residence will doubt, and rightly doubt, his loyalty to it, since he does not owe allegiance to it, though he could have transferred his allegiance to it by naturalisation if his real loyalty had been to the Government of his country of residence. In the absence of such a transfer of allegiance by naturalisation, that Government will rightly doubt any transfer of loyalty.

That loyalty connotes duties is seen in the ordinary course of human relationships. Loyalty between friends connotes the mutual acknowledgement of certain duties (and rights), and it is significant, as we shall show later in our explanation of Section 3 of our Proposals, that these duties become especially important when one of the friends is in trouble.

These duties between friends are the basis of mutual trust, and are the counterpart of the duty of allegiance which is connoted by the word 'loyalty' used in its constitutional sense.

This sentiment of loyalty results from the recognition by the citizens that the state affords him protection and promotes his welfare. It is generally accepted today, however, that the state cannot protect its citizens effectively nor effectively promote their welfare, without their co-operation, and that this co-operation cannot be elicited without the recognition of certain political rights, and, in particular, without obtaining the consent of the people to the laws by placing the administration of government into the hands of the people, through their elected representatives.

This question of the necessity for co-operation on the part of citizens if the government is to be effectively administered is treated in greater detail in our explanation of the provisions of Section 23.

The political rights which must be recognised if the co-operation and consent of citizens is to be obtained must, however, be commensurate with the duties which the state demands of its citizens.

Rights without duties is anarchy; duties without rights is slavery. There must be rights and duties in equal measure.

Rights and duties, moreover, are not separate and distinct. The rights of the individual citizen imply corresponding duties on the part of all other citizens (that is to say, of the state), and vice versa.

Only on such a democratic give-and-take basis can the citizen feel loyalty to the state; only thus can citizenship be associated with loyalty.

It was, we suggest, for these reasons that Mr Creech Jones, at that time Under-Secretary of State for the Colonies, in dealing with the question of citizenship for Malaya, laid down the principle which, in our opinion, is of the most central and vital importance, that 'political rights ... should be extended to those who make Malaya their real home and the object of their loyalty'.

This principle expresses the inseparable character of political right, loyalty, and the country which is the real home.

We stand most firmly and completely by this principle, and seek to give to it, in our Proposals, the real and valid expression which we feel was not given to it by the Proposals of the Working Committee.

This we have done:

- (i) by incorporating the demand for allegiance into the definition of citizenship (Section 2);
- (ii) by providing for a period of time during which potential citizens would have full opportunity to consider all the implications of citizenship, namely:
 - (a) that it confers a full national status and therefore excludes the retention of any other nationality;
 - (b) that this national status is to be termed 'Melayu';
 - (c) that it connotes full allegiance, and therefore the renunciation of all other allegiance;
 - (d) that this allegiance connotes duties, in particular the duty to defend the country in the event of attack by any other country (Sections 19 to 21 inclusive).

- (iii) by defining the political rights which are complementary to the duties connoted by allegiance and without which loyalty can have no meaning (Sections 6 to 18 inclusive).

In our opinion, the fundamental problem which faces the framers of a constitution which will form a solid basis for the sound and stable progress of Malaya towards a democratic self-government in the interests of the indigenous and domiciled population, is the raising of the sense of mutual dependence and unity among the people of Malaya to the level of a national consciousness based on loyalty.

In view of the fact that Malaya's population consists of various races, and that a large proportion of this population have, at present, alien allegiances, we regard it as a condition precedent to such a development of national consciousness that allegiance be demanded of all those who are to become citizens.

This demand for allegiance is the first and essential step that must be taken to bind the people together into a national unity.

We visualise that His Majesty's Government will have no difficulty in accepting this view, since the requirement of the allegiance of citizens was embodied in the original constitutional scheme for Malaya, as enunciated by the Secretary of State for the Colonies in paragraph 10 of a whitepaper entitled: *Statement of Policy on Future Constitution*, presented to Parliament in January 1946, as follows: 'Those acquiring ... citizenship otherwise than by birth will be required to affirm allegiance ...'

Only if such a demand for allegiance is made can the sentiment of loyalty be properly developed. Loyalty must have an object, and the only proper object of loyalty is a state which extends its protection to its citizens by safe-guarding peace and order, and by promoting their welfare.

As we have shown, this protection can only be given, and this welfare can only be effectively promoted, by eliciting the co-operation and consent of the citizens by the acknowledgement of political rights. Such an acknowledgement of rights must be accompanied

by an acknowledgement on the part of citizens of those civic duties which together comprise the general duty of allegiance.

Loyalty cannot, therefore, be separated from allegiance. Without allegiance there cannot be loyalty - there can **only** be, at best, a vague and unfocussed sentiment of attachment to the country because, for instance, of its climate, or because the individual concerned has become wealthy there, or hopes to become wealthy there, or for some other reason empty of implications of regard for the general welfare and unity of the people. This sentiment of attachment would be associated with an alien allegiance, the existence and consciousness of which would preclude the development of loyalty to Malaya.

The Malay delegates at our Conference drew attention to the very real fear among the Malays that, as a result of British imperial policy, they might be submerged in their own country by aliens who owed no allegiance to the country, and who felt no sense of loyalty, duty or obligation towards its indigenous and domiciled people.

They therefore emphasised that citizenship must be equated with nationality and connote full allegiance. This was a view with which the Conference unanimously agreed.

The Working Committee professed to be guided by the central principle that 'political rights ... should be extended to those who regard Malaya as their real home and as the object of their loyalty.'

Paragraph 81 on page 23 of the Working Committee's Report states:

Before proceeding to the detailed consideration of the various categories of persons who should be included as citizens, the Committee wished to have clearly before it the meaning of 'citizenship' and its implications. It was explained that it was not a nationality, neither could it develop into a nationality. It would not affect or impair in any respect whatever the status of British subjects in the Settlements, or the status of subjects of the Rulers in the Malay States.

The Working Committee did not add, after the last sentence quoted, '... or the status of the remainder of the population as aliens owing permanent allegiance to countries outside Malaya'.

Our Conference was readily able to understand the reason for the Working Committee's failure to add these words (which we do not think it will be disputed are a correct interpretation of the Working Committee's provisions on citizenship), as such an addition would have made very clear the empty, futile, and dangerous character of this mockery of citizenship.

It will be observed that the 'explanation' of citizenship accepted by the Working Committee is in direct opposition to the definition we have given. Whereas we have defined citizenship as being, in its generally accepted sense, synonymous with nationality, the Working Committee accepted that it was not a nationality, and that it would not ever develop into a nationality.

Those who offered this 'explanation' to the Working Committee were very well aware that the basis of the definition of nationality, in British law as in the law of other countries, is allegiance. This, we suggest, is such an inherent feature of the meaning of the word 'nationality' that it could not have been absent from the minds of those who 'explained' to the Working Committee the meaning of citizenship.

Paragraph 89 of the Working Committee's Report, on page 25, states 'Keeping in mind again the principle that citizenship is not a nationality, we concluded that oaths of allegiance would be out of place'.

If paragraphs 81 and 89 of the Report are read together, it becomes very clear that the Working Committee did in fact associate nationality with allegiance, and that they did not desire their so called 'citizenship' to connote allegiance, nor, in fact, ever to connote allegiance.

Paragraph 89 of the Reports reveals the real reason for the Working Committee's definition of citizenship as not a nationality, It was a circumlocution, the real meaning of which was that citizenship was not to connote allegiance.

By concocting a form of citizenship which is expressly divorced from allegiance, the Working Committee has, in our opinion, made it impossible to develop loyalty, and therefore national consciousness and racial unity. By their 'explanation', the Working Committee threw into the wastepaper basket the concept of allegiance to Malaya, and with it went loyalty, national unity, and the whole future of Malaya as a stable and racially peaceful democracy.

Paragraph 81 of the Report also stated that their type of 'citizenship ... could be a qualification for electoral rights, for membership of Councils and for employment in Government service, and it could confer other privileges and impose obligations ...' but '... it was not possible at present to lay down precisely what these privileges and obligations would be'.

This admission by the Working Committee further confirms that the type of 'citizenship' evolved by them does not connote loyalty, since, if it did, they would have been compelled, by their acceptance of the Under Secretary of State's principle, to extend political rights to citizens.

We suggest that it was not by chance, however, that the Working Committee accepted this negative definition of citizenship, which, as we have shown reveals that they did not intend their citizenship to connote allegiance.

They did not desire this allegiance, because they felt (in our view, correctly) that if allegiance was demanded by the constitution, a real and valid loyalty to Malaya would inevitably result.

They feared the development of such a loyalty because, as the Under Secretary of State had clearly indicated to them, such a loyalty would carry with it a legitimate claim for the extension of political rights.

Such an extension of political rights would, however, have been inconsistent with the autocratic structure which they envisaged, in which all power would be concentrated in the hands of a High Commissioner only responsible to His Majesty's Government.

They envisaged such a structure because the members of the Working Committee were all concerned, directly or indirectly, to perpetuate the imperial control of Malaya. They consisted on the one hand of representatives of the Malayan Union Government, responsible to the imperial government, most of whom were bureaucrats steeped in the reactionary traditions of colonial administration; and, on the other hand, of representatives of the Malay aristocracy and its political organisation, the United Malays National Organisation, the maintenance of whose privileged position depended on the perpetuation of imperial control.

If the Federation should come into being on this basis, with citizenship arbitrarily divorced from allegiance, and therefore from loyalty, and as long as this anomalous 'citizenship', continued to exist, the Federation would be prevented from developing into a sovereign democratic state and would continue to exist as a real colony, subject to the dictates of an alien government.

The struggle for a genuine citizenship, demanding allegiance and engendering loyalty, and for democratic self-government, are therefore inseparable. They are two sides of the same coin.

The whole future well-being of Malaya would, in our opinion, be very gravely endangered, to say the least, by the introduction of the type of citizenship proposed by the Working Committee.

There will be no allegiance, because allegiance is expressly divorced from citizenship; there will be no loyalty and no national unity, because there is no allegiance; there will be no political rights and no civic duties, because there will be no loyalty; there will be racial disharmony and class strife, because there will be no national unity; there will be no national unity, because there is no democracy.

Moreover, the Working Committee's citizenship would deliberately foster and encourage in 'citizens' of non-Malay races the retention of their feelings of attachment and allegiance to countries outside Malaya, and their indifference to the welfare of the indigenous and domiciled population. A citizenship which would make it possible for the consul of a foreign state to sit in the Federal

Legislature as a 'citizen', is nothing but a tragic farce.

Such 'citizens' of Chinese race, for instance, would, in the event of a war in which the Federation was involved against China, be interned as Chinese nationals. If this were not done, it would be the real national duty of such citizens to do everything in their power to sabotage Malaya's war effort.

These facts reveal the dangerous and futile nature of this 'citizenship' and expose it as a fraud on the indigenous and domiciled people of Malaya.

No illusion could be more detrimental to the future of Malaya than to suppose that 'citizens', encouraged in this way to retain their allegiance to countries outside Malaya, could be gradually persuaded to substitute for such alien allegiance, a genuine allegiance to Malaya on which stable political progress could be based. These few words of the Working Committee would always be there to bar the path to the development of loyalty to Malaya - 'Citizenship is not a nationality, neither it develop into a nationality ... keeping this in mind ... allegiance would be out of place'.

We therefore consider it to be a matter of the most vital importance that this mockery of citizenship should not be introduced. It would be a gross betrayal of the Labour Government's pledge to advance Malaya towards self-government. Self-government would be absolutely precluded by the deliberate rejection of allegiance. Loyalty would be still-born, and without loyalty, there could be no political rights.

It is absolutely essential and imperative that citizenship should connote allegiance.

The Working Committee themselves have admitted that their citizenship could never develop into a nationality. Out of their own mouths, therefore, their citizenship is condemned, since there can be no reason for the creation of a citizenship other than that it should be the expression of, and calculated to foster the development of, national consciousness and unity.

Section 3 The following shall obtain *Melayu* citizenship by operation of law, i.e. automatically:

(1) All persons born in Malaya,

Provided that this sub-section shall not come into operation until six months from the date of the commencement of the operation of this Constitution, during which period any person born in Malaya may, having attained, or on attaining to the age of 18, make a sworn declaration before a magistrate that:

- (a) he does not desire to accept *Melayu* citizenship, and he shall not thereafter acquire such citizenship by virtue of the commencement of the operation of this sub-section, or that,
- (b) he does desire to accept such citizenship, and he shall thereupon become a *Melayu* citizen,

And provided that any person born in Malaya whose father was not at the time of his birth a *Melayu* citizen, may, within one year of attaining to the age of 18, make a sworn declaration before a magistrate that he does not desire to retain *Melayu* citizenship and shall thereupon cease to be a *Melayu* citizen,

And provided that, if any person who acquires citizenship by virtue of the operation of this sub-section, and who shall not have been in Malaya for the whole of the above-named period of six months, does not, within six months after his return, make a statutory declaration to the effect that he desires to retain his *Melayu* citizenship, and deliver such declaration to the Minister for Home Affairs, he shall cease to be a *Melayu* citizen,

And provided that any person under the age of 17 years and six months at the date of the commencement of the operation of this Constitution shall automatically acquire *Melayu* citizenship on such date.

(2) **Any person born outside Malaya whose father was at the time of his birth, a *Melayu* citizen, and:**

- (a) whose father was born in Malaya, or
- (b) whose father had become a *Melayu* citizen by naturalisation, or
- (c) who was registered as a *Melayu* citizen at the office of the Minister for Home Affairs within one year of his birth by delivery to such office of a declaration signed by the father and attested by two responsible persons setting out the place and date of birth, place and date of marriage, the name and sex of the child, and declaring that the father wishes his child to be registered as a *Melayu* citizen.

(3) **Any woman whose husband is a *Melayu* citizen.**

Sub-section 1

We have provided in general terms that all persons born in Malaya shall become citizens. This follows the generally accepted practice of nationality laws.

Such nationality laws have, however, grown up in other countries over a long period, whereas this Constitution introduces for the first time provision for the creation of a national status for Malaya based on allegiance.

In view of the special circumstances of Malaya, and in order that the legitimate claim of the Federal Government for allegiance shall not be open to question, we have provided that all who acquire citizenship automatically under this Constitution, should have the opportunity to refuse this citizenship, if they so desire.

This we have provided for by suspending the operation of this sub-section for a period of six months.

This period would provide an opportunity for reflection and consideration of all the implications of citizenship, namely:

- (a) that it confers a full national status, and therefore excludes the retention of any other nationality;
- (b) that this national status is to be termed 'Melayu',
- (c) that it connotes full allegiance, and therefore the renunciation of all other allegiances;
- (d) that this allegiance connotes duties, in particular the duty to defend the country in the event of attack by any other country.

We feel that we should make special reference to our proposal that citizens should be termed 'Melayu'. The Malay delegates at our first Conference emphasized that the term 'Malayan' to designate citizens was completely unacceptable to the Malays. They felt that the term 'Malayan' had always been used in contradistinction to the word 'Malay' to denote the non-indigenous inhabitants of the country, and that the Malays had therefore become accustomed to regarding themselves as excluded from the category of 'Malayans'. The use of the term 'Malayan' to designate the common citizenship would therefore involve the abandonment by the Malays, as the indigenous people of the country, of their proper title, and the acceptance by them of a title which, in its accepted sense, included many who did not regard Malaya as their real home and as the object of their loyalty.

Our Conference realised moreover that, just as the Malays had become accustomed to the distinction between 'Malays' and 'Malayans', so also had many non-Malays who nevertheless regarded Malaya as their real home, and that therefore such people might find some difficulty in accepting the designation 'Melayu'.

Our Conference felt that, since the new common citizenship would require a name, it was inevitable, as between the Malays and the non-Malays, that one of these two groups would have to accept a designation to which it was unaccustomed, and which it might therefore find a preliminary difficulty in accepting.

Our Conference unanimously agreed that it was only just and proper that the new common citizenship should be designated by the historic name of the indigenous people, and that the acceptance of the

new designation should therefore fall on these of the non-indigenous people who, regarding Malaya as their home and as the object of their loyalty, accepted citizenship, leaving intact to the indigenous people their historic name.

Our Conference unanimously accepted the term 'Melayu' in preference to the term 'Malay' in view of the fact that the historic name of the indigenous people is 'Melayu' and not 'Malay' which is merely the anglicised version of the term 'Melayu'.

At the end of the given period those who, as a result of such reflection and consideration, come to the conclusion that they are not prepared to accept this citizenship, are given ample time and simple facilities to declare that they do not wish to accept this citizenship.

Those who, at the end of the six-month period, have not made use of the facilities to reject citizenship will therefore not be able to complain that they have had citizenship thrust upon them, and the allegiance which any national government must require of its citizens may then, with full justice, be demanded of them.

We have also thought it proper that those who wish to affirm their loyalty to Malaya by a positive act of acceptance, may do so in the same simple manner.

It should be noted that the age of majority adopted by us is 18 years. This is in conformity with the practice of modern democratic constitutions.

In order to make perfectly clear the provisions of this sub-section, we offer the following examples of the courses open to those born in Malaya:

1. 'A' is over the age of 18 at the date of the commencement of the operation of the Constitution (this date is referred to below as 'the date of the Constitution'). 'A' can, during the six-month period following, make a declaration either accepting or rejecting citizenship, if he does nothing, he will, at the end of that period, automatically become a citizen, but will always be able to make a declaration of alienage under Section 5 (2) (d).

2. 'B' is over the age of 17-and-a-half but under the age of 18 at the date of the Constitution. 'B' can make a declaration either accepting or rejecting citizenship. If he does nothing, he will, at the end of that period, divest himself of citizenship by making a declaration under the second Proviso before his 19th birthday.

At any time after that, however, he can divest himself of citizenship by making a declaration of alienage under Section 5 (2) (d).

3. 'C' is under the age of 17-and-a-half on the date of the Constitution. He becomes a citizen automatically at once, since he would in any case be unable to perform any valid act of acceptance or rejection before the expiry of the 6-month period. He can however renounce his citizenship between his 18th and 19th birthdays under the second Proviso, and can also, at any time after that, make a declaration of alienage under Section 5 (2) (d).

4. 'D' is outside Malaya on the date of the Constitution. If he does not return before the end of the 6-month period, or, having returned within that period, does not make a declaration of rejection in time to avoid automatic acquisition of citizenship, he will lose citizenship automatically unless he expressly confirms his citizenship within 6-months after his return.

If 'D' is over the age of 18-and-a-half when he returns, he will have 6 months in which to confirm citizenship. If he is under the age of 18-and-a-half when he returns, he may, at any time after his 18th birthday, and before his 19th, confirm his citizenship.

He will, in any case, however, be able, at any time, to make a declaration of alienage under Section 5 (2) (d) after his 18th birthday.

5. 'E' is born after the date of the Constitution. If his father had become, before his birth, a *Melayu* citizen, he would, of course, have no rights of renunciation under this Constitution.

If his father was not, at the time of his birth, a *Melayu* citizen, he would have the right of renunciation under the second

Proviso between his 18th and 19th birthdays, and would also be able to make a declaration of alienage after his 18th birthday under Section 5 (2) (d).

The Working Committee professed to be guided by the principle that 'citizenship' should only be extended to those who 'regard Malaya as their real home and as the object of their loyalty'. (Working Committee Report, para. 80, page 23).

They stressed (in our view, correctly) that this principle should be strictly interpreted.

They felt that this principle required qualifications for citizenship which would satisfy two conditions, namely, that those who acquired citizenship should regard Malaya:

- a. as their real home, and
- b. as the object of their loyalty.

The qualifications for citizenship which the Working Committee thereupon proceeded to draw up, do not, however, in our opinions, serve to test either of these two conditions.

Long and continuous residence is the essential feature of their qualifications. Such residence does not, in our opinion, provide any proper test that Malaya is regarded as the real home.

Such residence is the result of an opinion formed by the individual that residence in Malaya is, in general, to his best advantage. This opinion is, in every ordinary case, based almost entirely on economic considerations.

The essential feature, therefore of this motive for long residence is that it is a self-regarding motive, pure and simple, and connotes no regard for, or interest in, the welfare of the people as a whole whatever.

It is, moreover, a motive which ceases to have the effect of providing a reason for continued residence as soon as the economic attractions, on balance, cease.

Such residence is in no way inconsistent with a sentiment of attachment to some other country as the 'real home', and with the feeling therefore, that Malaya is merely, at best, a 'second home'.

The vast majority of Europeans, for instance, resident in Malaya, even for 15 years and longer, do not regard Malaya as their real home, but only as their place of residence during their working years, or until they have amassed a sufficient fortune to retire and 'go home'.

The condition of long residence does no more than ensure that the citizens in question have, during that time, on the whole preferred to live in Malaya than elsewhere.

Such a preference is, however, a very different matter from regarding Malaya as a 'real home'.

The validity of this objection to the long-residence qualification as a test of whether Malaya is made the real home has been admitted, by implication, by Sir Edward Gent, Governor of the Malayan Union, in answer to the statement of Colonel H.S. Lee in the Malayan Union Advisory Council on the 25th August, 1947 that he failed to see what sane objection there could be to a person deciding to retire from Malaya, after spending the best years of their lives here, to spend the evening of their lives elsewhere, Sir Edward Gent replied 'Neither can I see any sane objection to his doing so, but such a decision does not support the view that their real homes were in Malaya'.

We entirely concur with Sir Edward's view on this point, but would point out that the long residence qualification of the Working Committee does not serve to test this aspect of future intentions, but only that of past preference.

To regard a country as a real home implies a considerable sentiment of attachment, involving a recognition of the essential identity of interest of the individual with the rest of the population, a consequent regards for the welfare of the people as a whole, which is synonymous with the sentiment of loyalty, a consequent acknowledgement of the duties to the people as a whole (that is, to the government) which comprises the general duty of allegiance, and lastly, an '*animus manendi*' a desire to remain permanently in the

country. This '*animus manendi*' is not the mere intention to remain in the country until economic circumstances permit departure to some other country in which the individual would actually prefer to live, but means the intention to reside until death. This latter intention may be defeated, as, for instance, ill-health necessitating a departure to Switzerland, but that would not affect the real intention of the individual to reside, *if possible*, in Malaya. and is to be distinguished from the type of intention referred to by Colonel H. S. Lee, which implies residence in Malaya only until, *if possible*, arrangements can be made to depart from Malaya.

The country in which a man would prefer to lay his bones, and which he is prepared to die to defend, is his real home.

Long residence has, however, in itself, no implications as to future intentions. Substantially, long residence proves long residence and nothing else which has any relevance in the present context.

The economic attractions which have motivated the long residence may cease at any time, relative to other countries, and the reactions to such a cessation of those, who although resident for many years in this country during its economic attractiveness, and although their fathers and grandfather may have resided here for the same economic reasons, have not made Malaya their real home, will soon be made apparent by their speedy departure. The emigration of Chinese from Dutch territory on the introduction of income tax in those territories is an example of the reaction of persons who, though they themselves, and even their fathers and grandfather, may have resided in any given territory for years, are really only residing there for purely economic reasons, and have no loyalty whatsoever to these countries.

The long residence qualification could be stretched from 15 years to 50 years without altering its ineffectiveness to test whether the country is made the real home or not. The residence qualifications required by the naturalisation laws of sovereign states is in quite a different category, since it precedes the performance of a positive act — the taking of an oath of allegiance.

The man who lives in Malaya for 60 years, and feels throughout that time that he would live elsewhere, if only he could afford it, and whose last wish it is, on his death-bed, that his remains should be removed from Malaya, to be buried elsewhere, can hardly be said to make Malaya his 'real home'.

Yet such persons would, by the Working Committee's proposals, be accepted with open arms as persons who had proved that Malaya was their 'real home and the object of their loyalty'.

In our opinion, the Working Committee were incorrect in dividing the Under-Secretary of State's principle into two separate parts.

It was not by chance, however, that they did so, since they were forced to do so by their 'explanation' of the meaning of citizenship.

By divorcing citizenship, in effect, from loyalty, it is obvious that there could be no question of even attempting to test loyalty.

In order, however, to lull the justifiable suspicions of the Malays, who very naturally would regard the creation of a citizenship divorced from loyalty with great alarm, the Working Committee were forced to go through the motions of testing something, so that the people of Malaya, and particularly the Malays, might be hoodwinked into believing that they were satisfying the requirements of the Under-Secretary of State's principle.

This principle cannot, however, be dissected in this way. The key words in the principle — 'real home' and 'loyalty' are not separate and distinct, but are inseparably bound together in meaning.

As we have shown under Section 2 of our Proposals, loyalty cannot be adequately defined in its constitutional sense without reference to the fact that the object of that loyalty is the country which is regarded as the real home.

In other words, there is one, and only one, test of whether Malaya is regarded as the real home, and that is the test of whether Malaya is regarded as the object of loyalty. And there can be one, and only one, test of loyalty — the free and willing acceptance of an allegiance connoting full national status and connoting the duty to defend the country against all other countries, if necessary.

That is the acid test — to say in effect, to the potential citizen of, for example, Chinese race: 'Are you prepared, if called upon to do so, to fight in the defence of Malaya against China?'

That, we claim, is the test provided by our Proposals.

The Working Committee by concocting a so-called 'Citizenship' that is without meaning or substance, precluded themselves from providing qualifications with any meaning or substance.

The necessity to formulate the real test which is implicit in the Under-Secretary's principle, in terms of an allegiance, the essential feature of which is the duty to defend the country in time of war, is the result of the fact that loyalty has its greatest significance in time of war.

Just as the duties which arise out of a relationship of loyalty between friends become especially significant when one of those friends is in trouble, so the implications of allegiance and loyalty become especially significant in time of war.

The duty to fight, and, if necessary, die in the defence of the country will only be willingly undertaken if the country is regarded as the real home, and as the object of loyalty.

Our Proposals, we feel, meet the requirements of the Under-Secretary's principle in the only proper manner by demanding allegiance, and accepting into citizenship only those who have, expressly or by clear implication, shown their willingness to give this allegiance. Only such persons can be said, we feel, to regard Malaya as their real home and as the object of their loyalty, since it is, in our opinion, inevitable that those who are, in this way, faced with the free choice between one allegiance and another, between one nationality and another, will choose that allegiance and that nationality which derives from the country which they regard as their real home and as the object of their loyalty.

Sub-section 2

This sub-section follows closely the principle of the British Nationality and Status of Aliens Act 1914.

This principle is based on the desirability of excluding from the automatic acquisition of citizenship, the second and subsequent generations born outside the country.

In this way, only those born in Malaya, or who have proclaimed their loyalty by a positive act of naturalisation, can pass on citizenship to their offspring born outside Malaya, without the performance of a positive act which serves to reaffirm loyalty to Malaya on the part of the father.

Sub-section 3

This subsection is merely the formal expression of the commonly accepted principle that a woman follows the nationality of her husband.

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- Section 4**
- (1) Citizenship may be acquired by the granting of a certificate of naturalisation.
 - (2) A certificate of naturalisation may be granted by the Minister for Home Affairs on his being satisfied that that applicant:
 - (i) has resided in Malaysia for eight out of the ten years preceding the application,

Provided that any period or periods of absence from Malaya, for the purpose of education or otherwise, consistent with essential continuity of residence in Malaya, may be included in computing any such periods of residence;

And provided that this qualification shall not be required of any woman who was a *Melayu* citizen prior to her marriage to an alien, and whose husband has died, or whose marriage has been dissolved.

- (ii) is over the age of 18 years at the times of the application;
 - (iii) is of good character;
 - (iv) has made a sworn declaration that he intends, if his application is granted, to reside permanently in Malaya; and
 - (iv) has passed a simple, oral test in the Malay language.
- (3) A certificate of naturalisation shall not take effect until the applicant has taken the following Oath of Allegiance, or such translation of such Oath of Allegiance as may be authorised by the Minister for Home Affairs as correct and appropriate having regard to differences of religious belief:
- 'I , of, do solemnly (swear) declare that I will bear true allegiance to the Federation of Malaya. (So help me God).'
- (4) When an alien obtains a certificate of naturalisation, the Minister for Home Affairs may, on the application of that alien, include in the certificate the name of any child of that alien born before the date of the certificate, and being under the age of 18, and that child shall there upon become a *Melayu* citizen.
- Provided that any such child may, within one year of attaining to the age of 18, make a declaration of alienage, and shall thereupon cease to be a *Melayu* citizen.
- (5) The Minister for Home Affairs may grant or refuse an application for a certificate of naturalisation at his absolute discretion.

Provided that any person whose application for a certificate of naturalisation has been refused may petition the Federal Legislative Assembly to review the decision of the Minister.

The provisions of this Section follow the normal practice of nationality law, and are largely based on the British Nationality and Status of Aliens Act 1914.

It will be observed that we have provided the applicant for naturalisation must pass a simple oral test in the Malay language only, whereas the Working Committee provision permitted the alternative of the English language.

Since Malay is the language of the indigenous people, and is, moreover, the 'lingua franca' of the domiciled people, and will become so to an ever-increasing extent, we have thought it both proper and desirable to confine this test to the Malay language.

It will also be observed that, unlike the Working Committee, we have incorporated a full Oath of Allegiance into our Proposals this, of course, is the natural corollary of our definition of citizenship as a nationality connoting allegiance.

Our provisions diverge from English practice only in that we have provided for the reference of applications for naturalisation refused by the Minister to the Federal Legislative Assembly.

This we have done because we have considered it desirable that the exercise of the Minister's powers in this important respect should be subject to the immediate control of the democratic Federal Legislative Assembly. Bitter experience of the arbitrary exercise of such powers by officials not subject to democratic control have led to the provision of this safeguard in our Proposals.

Section 5

- (1) (a) If, in the opinion of the Minister for Home Affairs, it is desirable that any certificate of naturalisation granted by

him should be revoked, the Minister shall refer the case to the Federal Court for enquiry, and shall make a report in writing setting out the reasons why he considers that such certificate should be revoked, and shall cause to be served on the person whose certificate is to be enquired into a copy of such report.

- (b) The Federal Court, on receipt of the aforesaid report, shall issue a summons to the person whose certificate is to be enquired into, to appear before the High Court on the hearing of the enquiry, and after reading the report of the Minister, and after hearing the evidence, if any, of the person whose certificate is being enquired into, shall recommend to the Minister that the certificate should or should not be revoked, as the case may be, and the Minister shall, in accordance with such recommendation, either revoke the certificate or not, as the case may be.

(2) Any *Melayu* citizen shall cease to be a *Melayu* citizen who:

- (a) remains out of Malaya for more than two consecutive years without making a formal declaration in writing attested by two witnesses to the effect that he desires to retain his *Melayu* citizenship, and delivering such declaration to the Minister for Home Affairs within such period of two years,

Provided that any period of absence from Malaya for the purpose of education or otherwise consistent with essential continuity of residence in Malaya, shall not be deemed to constitute absence from Malaya for the purpose of this sub-section,

- or (b) when in any foreign state and not under a disability obtains a certificate of naturalisation as a citizen of such state, or by any other voluntary means becomes naturalised in that state, or does any act inconsistent with the retention of

Melayu citizenship,

- or (c) being female, marries or is married to an alien,

Provided that any *Melayu* citizen whose husband ceases during the continuance of the marriage to be a *Melayu* citizen, may, within six months from the date of loss of *Melayu* citizenship by such husband, make a declaration that she desires to retain her *Melayu* citizenship, and shall thereupon be deemed to be a *Melayu* citizen,

- or (d) makes a declaration of alienage.

Any *Melayu* citizen of the age of 18 and above, and not under a disability, may make a declaration of alienage:

- (i) who at his birth or at any other time, became under the law of any foreign state, the subject of that state also, and is still such subject;
- (ii) who has been naturalised as a *Melayu* citizen;
- (iii) whose parent or parents obtained while such person was under the age of 18 years, a certificate of naturalisation in which that person's name was included,

Provided that no *Melayu* citizen may make a declaration of alienage for the purpose of evading military service;

- or (e) is a person under the age of 18 years, whose father or widowed mother ceases to be a *Melayu* citizen,

Provided that this shall not apply when the widowed mother loses her citizenship by reason of her marriage to an alien,

And provided that any child who has so ceased to be a *Melayu* citizen may, within one year of attaining to the age of 18 years, make a declaration that he wishes to resume *Melayu* nationality, and shall thereupon resume, *Melayu* nationality,

- or (f) being a *Melayu* citizen by virtue of the operation of Section 3 (2) (c), does not, within one year of attaining to the age of 18

years, make a declaration of retention of *Melayu* citizenship, duly registered.

Sub-section 1

We have thought it desirable, that certificates of naturalisation should only be revoked after public judicial enquiry, the Minister merely taking formal action on the recommendation of the Federal Court.

The principles on which the Federal Court would act in the case of such reference by the Minister, and such details as the method of service of the Minister's report, appearance by Counsel, and other matters of procedure, we have left to later legislation.

Sub-section 2(a)

This provision follows American practice, and is, in our opinion, a very desirable and necessary provision having regard to the special problems arising from Malaya's racial composition.

The remaining provisions follow English practice, and are based on the British Nationality and Status of Aliens Act 1914.

RIGHTS AND DUTIES

A. Rights

Section 6 All citizens of Malaya enjoy equal, fundamental rights and opportunities in the political, economic, educational and cultural spheres, regardless of race, creed, colour or sex.

Section 7 All citizens of Malaya are equal before the law.

Section 8 Women enjoy equal rights with men under the constitution in every respect.

Section 9 Citizens of Malaya are guaranteed freedom of person which shall include:

Freedom of speech,
Freedom of publication,
Freedom of assembly and meeting,
Freedom of religion and conscience,
Freedom of movement.

Section 10 Citizens of Malaya shall not suffer arrest or detention or search of their homes and correspondence except under due process of the law. They are also guaranteed a speedy and fair trial in the event of arrest.

Section 11 The rights of property of citizens of Malaya are guaranteed and shall not be endangered without due process of law.

Section 12 A minimum wage level shall be fixed for all wage and salary earners, whether manual, clerical, professional or otherwise.

Section 13 Citizens of Malaya have the right to maintenance in old age and also in the case of sickness or loss of capacity to work.

Section 14 Citizens of Malaya have the right to leisure.

Section 15 Citizens of Malaya have the right to education.

Section 16 Every worker has the right to at least two weeks vacation leave with full pay every year; and women workers to two months maternity leave with full pay.

Section 17 The right to strike is guaranteed by this constitution.

Section 18 It is a right, guaranteed by the constitution for any citizen to petition the Council of Races drawing the attention of the Council to the need for any measure which he feels is necessary for the advancement or protection of any section of the people.

B. Duties

Section 19 It is the duty of every citizen of Malaya to defend the country. Treason to the country will be punishable with all the severity of the law.

Section 20 It is the duty of every citizen to abide by the constitution and observe the laws.

Section 21 It shall be regarded as a fundamental duty of citizens, through their elected institution, to direct special attention to the advancement of any section of the people who are, or who may be found to be, in a condition needing such advancement, be it economic, social, educational or cultural.

The Under-Secretary of State's principle states: 'Political rights ... should be extended to those who regard Malaya as their real home and the object of their loyalty.' Having taken adequate steps to ensure that those who become citizens under our Proposals do so regard Malaya, we have accordingly extended to them those political rights which are today generally accepted as necessary.

Since, however, political rights cannot exist without civic duties, we have laid down those civic duties which are vital for a democratic society.

ALIENS

Section 22 Aliens are guaranteed just and humane treatment, safety of person and property, and freedom of action, within the limits of the law.

FEDERAL GOVERNMENT

Section 23 There shall be a strong central Federal Government to which the states and Singapore, Penang and Malacca will delegate legislative authority on the subjects enumerated in Schedule A.

The Schedule referred to is identical with that drawn up by the Working Committee, with the exception of certain amendments made with a view to strengthening the central government. These amendments are listed in Schedule B.

Section 24 Federal Legislative Assembly

- 1) There shall be a Federal Legislative Assembly (hereinafter called the Assembly), composed of representatives of the people directly elected by *Melayu* citizens of the age of 18 and above and not subject to legal incapacity, by secret vote.

- 2) Each state and Singapore, Penang and Malacca shall be a constituency for the purposes of elections to the Assembly.
- 3) There shall be one representative in the Assembly for every 45,000 *Melayu* citizens.
- 4) Each state and Singapore, Penang and Malacca shall be entitled to return such number of representatives to the Assembly as shall be equal, to the nearest integer, to the total number of *Melayu* citizens within such State, or Singapore, Penang or Malacca, divided by forty-five thousand.
- 5) Candidates for seats in the Assembly shall be *Melayu* citizens of the age of 23 or over.
- 6) The life of the Assembly shall be three years.
- 7) There shall be no communal electorates, candidatures, representatives or allocation of seats whatever,

Provided that for the first three Assemblies only, not less than 55 per cent of the seats in the Assembly shall be held by *Melayu* citizens of Malay race, to be effected by the following procedure:

- a. if, after the holding of the elections to the Assembly, it is found that less than 55 per cent of the representatives are of Malay race, then such number of seats shall be added to the number of seats in the Assembly as would, if filled by representatives of the Malay race, bring the number of representatives of the Malay race up to 55 per cent of the total number of representatives.
 - b. such seats shall thereupon be filled by those candidates of Malay race who polled the largest number of votes among those candidates of Malay race not returned at the elections.
 - c. this proviso shall not, under any circumstances whatever, be subject to any amendment.
- 8) Amendments to the Constitution shall be effected by a two-thirds majority of all members of the Assembly.
 - 9) Representatives shall receive, during the life of the Assembly, an emolument of \$600 per month, exclusive of traveling

expenses, such sums to be chargeable on the funds of the Federal Government.

- 10) The sessions of the Assembly shall be opened by the High Commissioner.

We have provided for a fully-elected Federal Legislative Assembly.

The Report of the Working Committee states, on page 17, paragraph 59: 'The Committee were unanimous that the introduction of any form of elections on a wide franchise would be premature, and could not be regarded as feasible in the early stages of the new Federation.'

No reasons were given for this decision, but we suggest that, if the Working Committee had put forward a reason, it would have been that the right to government through elected representatives (or self-government), is a right which may only be claimed by a colonial people when they have reached a certain educational standard.

Although this right is universally accepted in principle, and is frequently invoked even by imperialist governments when it is to their interest to do so, this reason is advanced, even by professedly progressive elements in imperialist countries, because it is said that the general right to self-government should be qualified in the case of colonial peoples who, it is claimed, are not ready to face the complexities and difficulties of modern government.

It is claimed that modern government can only be effectively administered by experts with highly-specialised training and experience, and that a colonial people should not be allowed, in their own interest, to govern themselves until they can produce an adequate number of such experts, and until the masses of such colonial people have reached the requisite educational standard.

For instance, in a pamphlet entitled *Labour's Colonial Policy*, published by the Fabian Society, the present Secretary of State for the Colonies, the Rt Hon. Mr Arthur Creech Jones, says, on page 11:

'It is a truism, which is particularly applicable to colonial societies that good health and education are pre-requisites to the practice of democratic government.'

We are opposed to the whole of this line of argument for the following reasons:

- (1) Before we examine any reason that may be put forward in support of this qualification of the right to self-government, it is necessary to enquire whether or not those who make this qualification benefit from the colonial system which it seeks to justify.

If they do not, if they are totally disinterested in the sense that their own interests are in no way involved, only then is there the assurance that any reasons that may be put forward by them, are put forward in good faith and can, therefore, be judged on their merits. We never find, however, that this qualification is put forward by disinterested, and therefore unprejudiced persons.

If, however, such a qualification is advocated by those who benefit from the colonial system, it will be necessary to scrutinise any reason which they may put forward with grave suspicion, because it would be virtually certain that the 'reasons' put forward by them would be rationalisations, and not the real reasons.

We feel, therefore, that since this qualification is always put forward either by the spokesmen of imperial governments in relation to the people of their colonies, or by those who are dependent, in one way or another, upon the preservation of the colonial system, their reasons for making this qualification must be treated with great suspicion, because such persons have a vested interest in the continued control of the colonies, and the application of the principle of self-government would mean the cessation of that control.

The Working Committee consisted of six representatives of the Malayan Union Government (which is responsible only

to the Imperial Government), most of whom were bureaucrats steeped in the reactionary traditions of colonial administration, and of six representatives of the Malay aristocracy and its political organisation (United Malays National Organisation), the maintenance of whose privileged position depended on the continued control of the Imperial Government over Malaya.

The real reason for the Working Committee's decision ('... that the introduction of any form of elections on a wide franchise would be premature, and could not be regarded as feasible in the early stages of the new Federation') was therefore (we feel), that government through the elected representatives of the people would be inconsistent with the autocratic structure which they wished to erect in order to preserve their privileged position, and the imperial control on which that position depended.

- (2) This line of argument requires that a certain educational standard should be reached by the people of a colony before they can be allowed to exercise their right to self-government.

We have two criticisms to make of this standpoint:

- (a) The Imperial Government reserves to itself the right arbitrarily to decide when the requisite educational standard has been reached, and by doing so, usurps the right which belongs only to the people to decide for themselves if and when they are ready to accept the responsibility of self-government.

Should it be felt, for instance, by the people of a colony that they are not yet ready to accept any one or more of the various responsibilities of government, it will be for them alone to delegate their powers over such functions to any alien government of their choice.

- (b) The history of the movement for independence in colonial territories proves that the question of whether any particular educational standard has been reached, does not in practice

arise. The recent political development in India is a case in point. The British Cabinet did not, we feel sure, base its decision to grant Indian independence on India's standards of literacy or education. If educational standards were really the touchstone for readiness for self-government, then it may justifiably be contended that Malaya is just as ready for self-government as India is, since the percentage of literacy in India and Malaya today is approximately the same.

If good health is also to be used as a criterion, as the Rt Hon. Mr Arthur Creech Jones has maintained to be a truism, then we feel that there can be little doubt that Malaya's health is vastly superior to that of India.

This reveals that the argument that the readiness of a colonial people for self-government is to be judged by reference to their educational standards - is only a cloak to hide the naked fact that the imperialist power will prolong its control for as long as it considers that it is in its general interest to do so, such educational levels being in fact totally irrelevant when it comes to the point.

It has been shown that unified political pressure alone will win for a colonial people the freedom to exercise their right to self-government.

There is, however, the saying, that 'it is never too late to mend'. The people of Great Britain should realise that the love of freedom is not confined to themselves alone, but is also held by their subject peoples. They should therefore see to it that their democratically-elected governments understand the wisdom of securing the lasting friendship of their colonial peoples by permitting them to exercise their basic right to self-government, and the folly of waiting until mounting political hostility has destroyed the foundations of this goodwill.

- (3) This line of argument ignores the fact that the co-operation of the people is essential to good government. No matter how expert the personnel of the government may be, no matter how highly skilled or profound in technical knowledge, if that government does not elicit the co-operation of the people, it will never be able to promote the welfare of the people. This welfare cannot be promoted effectively except by the people themselves through their elected representatives, who are responsible to them and to them alone. Only on such a basis of responsibility can the people feel confident that it is their welfare, and not the alien interest, that is being promoted.

A government of alien 'experts' can never understand the real needs of the people. It is characteristic of such 'experts' to have dogmatic opinions as to what the people ought to need, and to tend, at the same time, to be indifferent to what the masses of the people do in fact need. Such an attitude on their part is inevitable, because they are not of the people and not responsible to the people.

This is vividly illustrated by conditions in Malaya today: the two governments of Malaya, staffed by such alien 'experts', are continually complaining that they are not receiving the co-operation of the people, and place the blame for all the deficiencies and blunders of their administration on this lack of co-operation. They ignore the fact, however, that the co-operation of the people is unobtainable by a government that is separate from, and not responsible to, the people. If the people of Britain, for example, were ruled by such an alien government, we would be surprised if the people of Britain gave it their co-operation.

It is therefore very clear that what is far more important than that the government should be composed of 'experts' is that the government should be composed of the representatives of the people, elected by the people, and responsible to the people - in other words, experts in their knowledge of the needs of the people.

It is true that, under modern conditions, governments do need, in certain departments, highly-skilled executives. Such executives can, however, always be recruited from other parts of the world and employed as advisers until such time as the people are able to provide their own technical experts. Such expert advisers would then take their proper place as the servants of the people in place at their present position as the masters of the people.

It will be noticed that we have not provided for any reserve or veto powers to be placed in the hands of the High Commissioner. This is because we have realised that there is no half-way house between colonial and self-government status. The experience of other colonial territories, where the representatives of His Majesty's Government retains reserve or veto power over such matters as finance, defence and foreign affairs proves that control of such matters of vital significance by His Majesty's Government renders the control of the local legislatures over other matters valueless and empty.

We also think that it is most necessary to emphasise that if elections were introduced on the basis of the citizenship proposed by the Working Committee, they would be a gross betrayal of the indigenous and domiciled people of Malaya. We have already shown that the citizenship suggested by the Working Committee, not being a nationality, does not demand loyalty from the so-called citizen.

This 'citizenship' will, as we have also shown, bring in as Federal citizens many who will not owe loyalty to Malaya, but who will retain their real allegiance to their countries of origin. Yet, if elections are introduced on this basis, such 'citizens' may become members of the Federal Legislature and Executive.

In our discussion on citizenship, we referred to the situation that could arise if, for example, there were a state of war between the Federation and China. In the event of such a war, there might very well be members both of the Legislature and Executive

whose real loyalty, as nationals of China, would be with China, and whose real national duty it would therefore be (if they were not interned as enemy nationals) to do everything in their power to sabotage the war effort of the people of Malaya from within the government.

It may be felt that this is an extreme case, but the point is not whether the example is an extreme case or not: it is that the example reveals the rottenness of the Working Committee's form of citizenship as a foundation on which to build the political future of Malaya, and its development in the interests of the welfare of its indigenous and domiciled people. Any superstructure built on such foundations is doomed to speedy collapse, and those who would suffer most in such a collapse would be the Malay people - the indigenous population, and also the domiciled people of Malaya who regard Malaya as the object of their loyalty.

A form of citizenship which would make it necessary, in certain circumstances, to intern as enemy aliens a substantial proportion of the elected representatives of the people, or else allow them to continue to take part in the administration when their real national duty would be to work for the defeat of Malaya, is, in our opinion, a disgrace to those who framed it, an insult to those who owe loyalty to the country, a lasting shame to the people of Great Britain, whose government permitted it to be introduced, and a laughing-stock to the rest of the world.

Section 25 Federal Executive Council

- (1) There shall be a Federal Executive Council composed of members elected by, and responsible to the Assembly, from among its own members.

- (2) The Prime Minister shall be elected by the Assembly.
- (3) The Prime Minister shall allocate the following departments among the members of the Council:

Defence, Foreign Affairs, Finance, Home Affairs, Justice, Education, Labour, Public Works, Agriculture, Fisheries, Transport, Health, and such other departments as may from time to time be created by the Assembly.

- (4) The Prime Minister shall be President of the Council.
- (5) Members of the Council shall receive such emoluments as may from time to time be fixed by legislation, but such legislation shall not become effective during the life of the Assembly by which it was passed.

We have adopted the principle of an executive responsible to the legislature, as being superior in our opinion, to the principle of separation of powers. The Council is to be entirely elected by the Assembly, instead of being selected by the Prime Minister, as in English practice.

Section 26 Council of Races

- (1) There shall be a Council of Races (hereafter in this Section called 'the Council') consisting of two members of each of the following communities: Malay, Chinese, Indian, Eurasian, Ceylonese, Aborigine, Arab, European, Jews and others.
- (2) (a) Members of the Council shall be *Melayu* citizens over the age of 23, elected by the Assembly
(b) No member of the Assembly shall be a Member of the Council.
- (3) The life of the Council shall be three years.

- (4) No amendment of the Constitution, or other legislature, shall have the effect of abolishing the Council until after nine years from the date of this Constitution.
- (5) The Council shall have the following powers and duties:
 - (a) Every Bill passed by the Assembly shall be sent to the Council, which shall thereupon consider whether or not such Bill is discriminatory.
 - (b) A discriminatory Bill is any Bill which, either as a whole, or in any particular provision, is discriminatory on racial or religious grounds.
 - (c) If the Council shall decide unanimously that any Bill is not discriminatory such a Bill shall thereupon, after formal assent has been given, become law.
 - (d) If the Council shall decide by a majority that such Bill is not discriminatory such Bill shall be returned to the Assembly together with a full and complete statement, drawn up and signed by each and every objecting member, showing clearly the provision or provisions to which objection was taken, and if such Bill on being reconsidered by the Assembly, is again passed by the Assembly, it shall, after formal assent has been given, thereupon become law.
 - (e) (i) If the Council shall decide unanimously, or by a majority, that such Bill is discriminatory, such Bill shall be returned to the Assembly, together with the statements of objecting members as in (d) above.
(ii) If such Bill, after reconsideration by the Assembly, is again passed by the Assembly, it shall be returned to the Council together with a full record of the proceeding of the Assembly on such reconsideration.
(iii) If the Council, after reconsidering such Bill, again decides that such Bill is discriminatory, it shall be returned to the Assembly together with such further statements as any objecting member may wish to make.
(iv) If such Bill, after further reconsideration by the

Assembly, is again passed by the Assembly, it shall be returned to the Council, together with a full record of the proceedings on such further reconsideration.

- (v) If the Council, after further reconsideration of such Bill, again decides that such Bill is discriminatory, such Bill shall not become law during the life of the Assembly, but if such Bill shall be introduced in the next Assembly, and shall be passed by such next Assembly, it shall, after formal assent has been given, thereupon become law.
- (f) If at any time after the Council has decided whether or not any Bill is discriminatory under (d) or (e) above, and before such Bill becomes law, any amendment is passed in such Bill by the Assembly, such amendment shall be treated for the purposes of this sub-section, as if it were a provision in a Bill appearing for the first time before the Council, and the Council shall accordingly have three opportunities of recording its decision that such amended provision is discriminatory before such provision becomes law.
- (g) If the Council shall decide, under (e)(i) or (e)(iii) above, that any Bill is discriminatory, but due to the termination of the life of the Assembly such Bill is not brought before the Council again for the second or third time, such Bill, if brought before the new Council by the next elected Assembly, and if it is again decided to be discriminatory, shall be referred to the Assembly for consideration, and if it is, after such consideration, passed, shall, after formal assent has been given, thereupon become law.
- (6) (a) If at any time the Council shall decide by a majority, but not unanimously, that any Bill is discriminatory, and a resolution is carried by a two-thirds majority of the Assembly that such decision is unjustifiable, on the ground that the reasons put forward by the Council for its

decision are unsatisfactory and inadequate, the matter shall thereupon be laid before the Federal Court.

- (b) If the Federal Court, after an examination of the minutes of the proceeding of the Assembly and of the Council, and after hearing any members of the Council or of the Assembly or of both the Council and the Assembly as it shall think fit, is satisfied beyond reasonable doubt that the Bill is not discriminatory, such Bill shall, after formal assent has been given, thereupon become law.
- (7) The Council may recommend to the Assembly any measure which it decides by a majority or unanimously is necessary for the advancement or protection of any section of the people,
 Provided that, in the case of any such measure being introduced into the Council and being defeated, the proposer of such measure may demand that the minutes of the discussion in the Council, together with a statement as to the desirability of the measure proposed, drawn up and signed by the proposer, shall be tabled before the Assembly.
- (8) All motions in the Council shall be proposed by a member of one community and seconded by a member of another community.
- (9) A quorum of the Council shall be two-thirds of the members.
- (10) Each member shall have one vote.
- (11) The Council shall elect a Chairman from among its own members,

Our Conference faced the fact that this Constitution is the first step that has yet been taken to construct, out of Malaya's cosmopolitan peoples, a stable democratic nation, united on the basis of allegiance to Malaya.

We realised, therefore that there would be a transitional period in which it would be necessary to provide some means by which the Federal Legislative Assembly would be reminded of the necessity to refrain from discriminatory legislation.

We have therefore created this institution called the 'Council of Races', which has the power, in cases where legislation that is discriminatory on racial or religious grounds is passed by the Assembly, to delay such legislation. The purpose of this delay is to provide an opportunity for the Council of Races to place before the Assembly all its reasons for deciding that the proposed legislation is discriminatory.

The delay will be effected by requiring that all legislation should be referred to the Council of Races for its scrutiny, and should it decide that any Bill is discriminatory in any particular, such Bill shall be sent back to the Assembly for reconsideration before becoming law.

In order to ensure, moreover, that the Assembly shall pay serious attention to the decision of the Council of Races, this procedure for reconsideration is required to be carried out three times.

In the case of continuing objections by the Council of Races, provision is made for the obtaining of a 'second opinion'; where a Bill meets with the unyielding opposition of the Council of Races, it cannot become law until passed by the next elected Assembly.

The Assembly will, therefore, have good reason, if it desires legislation to be speedily brought into force, to remove from the proposed legislation any features which have been shown to be discriminatory in nature.

However, in order to protect the legislation against the possibility of ill-advised opposition on the part of the Council of Races, provision is made for the decision of the Council to be referred to the Federal Court.

If the Federal Court is satisfied after proper inquiry that the Bill is beyond reasonable doubt not discriminatory, the Bill becomes law without further delay.

The procedure set out in this Section ensures, we feel, that any legislation finally placed on the Statute Book in the face of objections raised by the Council of Races, will have been passed by the Assembly for very necessary and vital reasons, after the fullest consideration of the arguments against such legislation. We have given the Council of Races a second function: to recommend to the Assembly any measure

which it considers necessary for the advancement or protection of any section of the people.

This we have done in order to provide a means by which the Assembly may be constantly reminded that it is 'inter alia' the instrument through which the fundamental duty of all citizens, as provided for in Section 21, namely, 'through their elected institutions to direct special attention to the advancement of any section of the people who are, or may be found to be, in a condition needing such advancement, be it economic, social educational or cultural' is collectively carried out.

The recommendations of the Council of Races to the Assembly will be assisted by the provision of Section 18 that all citizens shall have the right to petition the Council of Races, drawing the attention of the Council to the need for any measure which they feel is necessary for the advancement of, or protection of any section of the people.

In this way, every citizen has the right to have his suggestions and complaints considered by an impartial body which has direct access to the Assembly.

Section 27 Conference of Rulers

- (1) There shall be a Conference of Rulers consisting of the High Commissioner as the representative of His Majesty the King, and Their Highnesses the Malay Rulers.
 - (2) Copies of all Bills, on introduction into the Assembly, shall be placed before the Conference of Rulers for their consideration.
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The Conference of Rulers symbolises the Federation of Malaya based on the partnership of His Majesty with Their Highnesses the Malay Rulers as sovereign constitutional monarchs.

Section 28 Federal Court

- (1) There shall be Federal Court and such inferior courts as many hereafter be created by legislation, whose constitution and procedure shall be such as may hereafter be provided for by legislation.
- (2) The jurisdiction of the Federal Court shall extend to all cases in law and equity arising under this Constitution, or under such laws as may hereafter be enacted by legislation, and to controversies between the various states and territories comprised in the Federation.
- (3) The Federal Executive Council shall nominate the Chief Justice and the Judges of the Federal Court, and the Conference of Rulers shall thereupon appoint such Judges.
- (4) The Judges of the Federal Court and all inferior Courts shall hold office during good behaviour, and shall only be removable from office on a motion to petition the Conference of Rulers for such removal before the Federal Legislative Assembly, carried by a majority of two-thirds of the members present and voting; such motion to be preceded by an enquiry conducted by a judicial committee of not less than five and not more than ten members of the Federal Legislative Assembly and presided over by the Chief Justice, whose recommendation shall be laid before the Federal Legislative Assembly, together with a full and complete record of the proceeding of the enquiry.
- (5) The Judges of inferior courts shall be appointed by the Minister for Home Affairs.

It will be observed that the appointment and removal of Judges is provided for in accordance with the principle that the 'fountain of justice' is the sovereign head of the State.

MUSLIM RELIGION AND MALAY CUSTOM

Section 29 All matters pertaining to the Muslim religion and Custom of the Malays shall be outside the control and jurisdiction of any of the institutions created by sections 23 to 27 inclusive, and sections 31 and 32, of this Constitution, or any other institutions which may hereafter be created by legislation, other than such institutions as may be created by, or at the instance of, the Malays, for such purpose, and shall be the sole concern of the Malays,

Provided that any legislation found necessary by the Malays for the enforcement of such matters of Muslim religion and Malay Custom as are the proper subject or legislation, may be recommended to the Assembly by such institutions as may hereafter be set up by the Malays to regulate their religion and custom.

The Working Committee's Proposals, permitted the Councils of State in the various Malay States to legislate on matters of Muslim religion and Malay custom, although such bodies contained non-Muslims. Although Their Highnesses under those Proposals retained veto and reserve powers over matters of Muslim religion and Malay custom 'inter alia', and although they were not subject in the exercise of those particular powers only to the 'advice' of the British Adviser, yet our Conference unanimously felt that it was highly undesirable that

non-Muslims should take any part whatsoever, even in an advisory capacity, in matters of Muslim religion and Malay custom.

However, it was pointed out to our Conference by the Malay delegates that there might be certain matters, particularly of custom, which might require legislative sanction for their enforcement, and we have therefore made provision for the giving of such sanction, which is, however, to be given if, and only if it is expressly sought by such institutions as the Malays may themselves have set up for the regulation of their religious and customary affairs.

HIGH COMMISSIONER

Section 30 His Majesty, as sovereign constitutional monarch of Singapore, Penang, and Malacca, will appoint a High Commissioner as His Representative.

ASSENT TO BILLS

Section 31 All Bills passed by the Assembly shall receive formal assent, by the affixing thereon of the Seal of the High Commissioner as the Representative of His Majesty, and of the Rulers' Seal, which shall be affixed thereon in the presence of a Standing Committee of two of Their Highnesses the Malay Rulers elected by Their Highnesses, who shall sign as witnesses to the sealing of such Bills.

GOVERNMENT OF TERRITORIES OF THE FEDERATION

- Section 32** (1) There shall be established Legislative Assemblies in each State, and in Penang, Malacca, and Singapore.
- (2) Such Assemblies shall exercise within their respective territories, full legislative and executive authority, subject only to the provision of Section 23 of this Constitution.
- (3) The members of such Assemblies shall be *Melayu* citizens of the age of 23 and above.
- (4) Such Assemblies shall consist of the representatives of the people of such territories directly elected by the *Melayu* citizens resident within such territories of the age of 18 and above, by secret vote.
- (5) There shall be no communal electorates, candidates, representatives or allocation of seats whatever,

Provided that, for the life of the first three Assemblies, the proportion of representatives of Malay race to other representatives shall not be less than the proportion of *Melayu* citizens of Malay race resident in such territory, to the total number of *Melayu* citizens resident therein, to be effected by the same procedure, 'mutatis mutandis' as is provided in the proviso to Section 23 (6).

- Section 33** (1) There shall be established an Executive Council in each state, and in Penang, Malacca and Singapore.
- (2) Such Council shall be responsible to and elected by their respective Legislative Assemblies from among their own members.
- (3) The Menteri Besar of each State, and the Prime Minister of Penang, of Malacca and of Singapore shall be elected by their respective Legislative Assemblies.

- (4) The Menteri Besar of each State, and the Prime Minister of Penang, of Malacca and of Singapore shall appoint from among the members of the Executive Council in their respective territories such officers as may from time to time be found necessary.
- (5) The Menteri Besar of each State, and the Prime Minister of Penang, of Malacca and of Singapore shall be the President of the Executive Councils in their respective territories.

Sections 32 and 33 provide institutions in the territories of the Federation which are a reflection of the democratic machinery at the centre.

LANGUAGE

Section 34 The language to be used in the various institutions set up by Section 23 to 26 inclusive, and Section 32 and 33 shall be Malay.

Provided that any member of any such institution may address such bodies in any other language, if he so desires.

The Malay delegates at our Conference indicated that, in their view, the official language should be Malay, and this was a view with which our Conference unanimously agreed.

The Malay delegates, however, realized that the full introduction of the Malay language as the language of the various Councils was at the moment impracticable, and would be for some time to come.

They disagreed strongly, however, with the Working Committee's Proposal that only Malay or English should be used, since this would necessarily bar a great number of citizens from standing as candidates. They agreed that *Melayu* citizens should not, as loyal citizens giving allegiance to the Federation, be penalised in the exercise of their democratic rights by their inability to speak Malay, particularly as that inability was caused through no fault of their own, but was the result of an imperial policy which has discouraged the development of the indigenous peoples, but has instead seen preference always being given to the English language. In the absence of a proper policy of teaching Malay in all schools, it could not be expected that all who regard Malaya as their real home should be familiar with the Malay language.

We have, therefore, given formal expression to our view that Malay should be the official language, but have made it possible for those *Melayu* citizens, who are not sufficiently familiar with the Malay language to take part in formal discussions in that language to address the various councils in their own language. Arrangements could be made for the provision of interpreters.

Letter from Edward Gent to H.T. Bourdillon

Kings House
Kuala Lumpur
Malayan Union

4th October, 1947

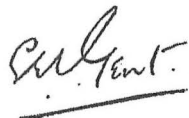
Dear Bourdillon,

You will have seen or heard reports of a Constitution for Malaya drafted by the local Combination of left-wing groups comprising the All Malaya Council of Joint Action and a Malay Nationalist party organisation called PUTERA for short. This Combination drew up some 3 months ago two separate and conflicting drafts (both in very undigested form). The next stage was a single revised scheme on which the various groups were said to have agreed, and which was published as such in the local Press. The third stage is a new set of proposals or commentaries substantially different from the Stage 2 scheme — by internal evidence it appears to have been influenced by legal advice from some quarter with a more detached point of view. But this latest set of proposal contains continual references to sections and paragraphs of a constitutional scheme which are not identifiable in the actual Stage 2 scheme, and it looks as if there were a further revised scheme between stages two and three.

As none of these series has been sent to this Government at any stage, although the organising Secretary, a Singapore Eurasian communist sent to the Public Relations Officer, Singapore, a copy of the Stage 2 scheme, we have relied on our confidential sources of supply to get the others, It may be that there is no final AMCJA-PUTERA scheme, but that they are still pulling a draft about during to an inability to reconcile their different interests.

In this situation I think you may like to have a copy of the attached note by Linehan on the nature of the federal legislature as far as it appears from a study of the Scheme. We both apologise for the last 3 lines of it.

Yours sincerely,



H.T. Bourdillion, Esq.
Colonial Office,
London, S.W.L.

Confidential

Note: These are comments on AMCJA-PUTERA Published Scheme.

Comments on the Proposals of the AMCJA-PUTERA (here referred to as A-P) on Citizenship

A-P make great play over the fact that citizenship in the government Proposals will not be a nationality and take credit to themselves for

proposing a form of citizenship which is a nationality and which involves the discarding of any other nationality which the citizen may possess.

They ignore the fact that it is practically impossible for Chinese to divest themselves of their Chinese nationality. They would deprive the States-born Malayan of their State nationality; and they would deprive British subjects in the Settlements of Penang and Malacca of their status of British Subjects.

Apart from these considerations do the A-P leaders really voice the opinion of those, who, they claim, support them? The bulk of AMCJA adherents, it is claimed, come from the PMFTU.

Now the real views of the PMFTU may be gauged from the response of the 'Perak People's Association' to the invitation to give their views on citizenship to the Citizenship Proposal Committee in 1946. The 'Perak People's Association' claiming to represent 69 Associations and Guilds throughout Perak (all of which were affiliated to the PMFTU or to the MCP) gave its view that 'any foreigner (including British, Chinese, Indians and others) resident in the Malayan Union or Singapore and who acquires Malayan Union citizenship may at the same time preserve his or her original national citizenship'. And again 'Foreign residents in the Malayan Union ... should be recognised as legitimate citizens of the Union. But however, each and every foreign resident has his or her own national concept, especially the overseas Chinese. We, therefore, welcome the opinion that a dual citizenship should be granted to all foreign residents in the Union'.

Mr Chen Thung Hua, representing the 'Perak People's Association' in his evidence at the public session of the Citizenship Proposals Committee on 1st June, 1946 stressed the view of this Association that what they really wanted was dual citizenship (or a dual citizenship).

The view of the MNP (which forms the bulk of Putera) presented to the Citizenship Proposals Committee, included a statement if a Malay by becoming a Malayan Union citizen should lose his Malay nationality the Party were opposed to the whole Malayan Union Scheme.

These facts provide strong evidence of the bogus nature of the claim of the leaders of AMCJA-PUTERA that the proposals put forward by them in fact represent the view of the organisations which make up their uneasy alliance.

The A-P citizenship proposals are unrealistic, futile, and in parts dangerous. Their branch of citizenship is to be termed *Melayu* (Section 2). Does any sane man believe that the Malays will acquiesce in non-Malay residents arrogating to themselves this name or that the great bulk of the non-Malays will agree to having themselves designated as *Melayu*?

Section 3 of the proposals provides in effect that any person born in Malaya becomes a citizen automatically and that any such person of the age of 18 or over may make a sworn declaration before a magistrate either that he does not desire citizenship whereupon he shall not be a citizen or that he desires citizenship whereupon he becomes a citizen. What of the person who does not make a declaration? Example 1 tells us what happens to him: if he does nothing he will automatically become a citizen! This makes the provision for a declaration in Section 3 farcical. But apart from this, Example 1 shows us what the framers of the scheme aim at. Every person born in Malaya *ipso facto* becomes a citizen without any enquiry whatever into his antecedent or his loyalties. So all our young black mailers, gang-robbers, murderers, and other criminals born in Malaya (the overwhelming majority of whom are of non-Malay race) automatically become citizen under the A-P proposals unless indeed they choose to make 'a sworn declaration before a magistrate' that they do not desire citizenship! And having become citizens, no matter what their conduct, they cannot while they live in Malaya (unless in the case of a female marrying an alien) be deprived of that status (or suffer banishment).

These implications of the AP proposals demonstrate how essential it is to impose tests, such as those prescribed in the Government Proposals, before a person is admitted to citizenship.

Chapter three of the A-P proposal is headed 'Right and Duties of

Citizens'. The framers do not consider it irrelevant to introduce under that heading matters such as a minimum wage level for all wage and salary earners, the right of every worker to vacation leave, the right to strike etc.

Confidential

A-P Proposals

Federal Legislative Assembly (Section 24)

The proposals provide for the establishment of an elected sovereign Federal Legislative Assembly, the constituencies returning members to be each State and Singapore, Penang and Malacca, and the life of the Assembly to be three years. 'There shall be no communal electorates, candidatures, representatives or allocation of seats whatever'. The Malays, however, would be given 55% of the seats in the Assembly for the first three Assemblies. The High Commissioner's only function in connection with the Assembly would be open to it.

It is not easy to see how in a constitution so loudly proclaimed by its framers to be democratic 'communal electorates, candidatures, representatives or allocations of seats' could be prevented. There is of course the Russian system whereby only 'approved' parties are allowed to put up panels of names for election. It is not clear whether the framers of the A-P proposals envisage such a system. But if the elections are meant to be free, voting in Malaya would most certainly proceed on communal lines. And if there is to be no communal allocation of seats minority communities will most certainly suffer, and there will be no representatives of, for examples, the Eurasian, Ceylonese or European communities in the Assembly. As the proposals would deprive the High Commissioner of all reserved powers or powers of veto the minority communities would be left completely unprotected.

The Malays are given the 'privilege' of having 55% of the seats in the first three Assemblies. In other words they would be given a rope nine years long with which to hang themselves, for after this period of grace had expired, with no restriction on immigration, they would be submerged by locally born swarms of the non-Malay immigrant races who under the A-P citizenship proposals would be given indiscriminate citizenship.

Council of Races (Section 26)

Having said that in elections for the Federal Legislative Assembly 'there shall be no communal electorates, candidatures, representatives or allocation of seats whatever' the framers of the A-P proposals then proceed to provide for the establishment of a 'Council of Races'. The framers of the proposals give their reason for the creation of this body. 'We realised' they said 'that there would be a transitional period in which it would be necessary to provide *some* means by which the Federal Legislative Assembly would be *reminded* of the necessity to refrain from discriminatory legislation.'

Let us examine the method of election to and the composition and powers of this 'Council of Races' which would act as a reminder to the Assembly to refrain from discriminatory legislation. It would consist of two members of each of the following communities: Malay, Chinese, Indian, Eurasian, Ceylonese, Aborigine, Arab, European, Jews and others. Its members would be 'Melayu' citizens and *they would be elected by the Assembly* from outside its own members. 'No amendment of the Constitution or other legislature, shall have the effect of *abolishing* the Council, until after *nine years from the date of this Constitution*'. Every Bill would be sent to this Council. If the Council by a majority decided that a Bill was not discriminatory on racial or religious grounds it would be returned to the Assembly with a statement by the objecting members of the Council. If the Bill on reconsideration by the Assembly is passed, after formal assent has been given, it becomes law.

If the Council or a majority of Council decide that a Bill is discriminatory it is returned to the Assembly. If it is passed by the Assembly it is sent back to the Council. If the Bill is again passed by the Assembly it again goes back to the Council. If the Council still persists in its objection the Bill would not become law in the life of the Assembly. The Council would then have no further say in the matter and if the Bill were introduced in the next Assembly and passed it would become law after formal assent had been given.

The 'Council of Races' would also have power to recommend to the Assembly any measure which it decided was necessary for the 'advancement or protection of any section of the people'.

In practice the power of this Council to protect the country against discriminatory legislation by the Assembly would be negligible for it is the Assembly that would elect the members of the Council. In other words the Council would be a creature of the Assembly and would be 'coloured' in any way that the Assembly liked. Then, the framers of the proposals would introduce still further racial complications by admitting Arabs and Jews to seats on the Council. And the Jews having a population of some hundred would have an equal voting strength with the Malays who have a population of some two and a half million. The Malays on the Council could be hopelessly outvoted on every issue coming before the Council. The framers of the proposals evidently visualised the abolition of the Council after nine years. The mention of this period is significant: it synchronizes with the period during which the Malays would be allowed 55% of the seats in the Assembly. After that period, with indiscriminate immigration, and the indiscriminate conferring of citizenship, the Malays would be submerged by other races. The creation of the Council can only be regarded as an attempt at giving a sop to the Malays. And what a sop! Two seats in an ineffectual Council of eighteen.

Even if such a Council had any real power to protect the people against unjust and discriminatory laws (which it is evident from the above analysis that it has not) the history of other countries demonstrates that communal differences are deep-seated and cannot

thus be disposed of in a few years.

The guarantee to Malays of 55% of the seats in the Assembly and the establishment of the 'Council of Races', coupled with provisions for withdrawal of the 55% guarantee and the visualising of the possibility of the abolition of the Council of Races after nine years assimilates the position of the Malays to that of the unfortunate king, so well known in their history, whose 'bottom was being stuck with thorns as at the time that his mouth was being fed with bananas', (*mulut di-suap pisang buntut di-kait onak*).

(Sgd.) W. Linehan
23.9.47

Appendix B

The Hartal Manifesto

PUTERA-AMCJA¹

The Putera and the All-Malaya Council of Joint Action call upon all those who regard Malaya as their real home, to observe October 20, 1947 as a Day of Protest against the Revised Constitutional Proposals, by staging a Malaya-wide hartal on that day.

October 20 has been selected as the Day of Protest because it is on that day that the British Parliament is scheduled to begin its Autumn session, during which it is reported that a debate on the constitutional issue in Malaya will take place.

On October 20, therefore, between the hours of six a.m. and midnight, all those who regard Malaya as their real home and who support the People's Constitutional Proposals issued by Putera and the All-Malaya Council of Joint Action, are asked not to carry out their usual occupations, but to remain indoors throughout the day and night.

You are asked for one day to cease work in order to demonstrate to government that you reject the undemocratic Revised Constitutional Proposals, and in order to carry our struggle for acceptance of the People's Constitutional Proposals one step further.

But all workers in the essential public services, though we know that they are in full sympathy with us, are requested not to join us in

¹ Source: *The Straits Echo*, 7 October 1947. Available online at: <http://10tahun.blogspot.my/2007/10/putera-amcjas-hartal-manifesto.html>

hartal, though we do ask them to issue statements declaring that they are in full sympathy with the hartal.

The carrying out of the Malaya-wide hartal, or general stoppage of work for one day, has been forced upon us by the obstinate and undemocratic attitude of Government, which seems fixed on imposing on Malaya its Revised Constitutional Proposals, although every effort has been made to show that these Proposals are not accepted by the people.

One year ago, on October 14, 1946, at a reception in Malacca to Governor-General, Mr Malcolm MacDonald, the Chairman of the All-Malaya Council of Joint Action, Mr Tan Cheng Lock warned the Governor-General that if government tried to present the people of Malaya with a fait accompli on the constitutional issue, then the people would have no alternative but to undertake passive resistance and non-cooperation with Government.

The history of the past year shows that Mr Tan Cheng Lock's fears were fully justified. All our attempts, in the shape of memoranda, mass meetings throughout the length and breadth of Malaya, and drawing up the People's Constitutional Proposals, have been ignored by the Government.

We have, therefore, to carry our struggle one step further and make this Malaya-wide hartal on October 20, an unqualified success.

We ask our sympathisers throughout the country to remember that hartal is essentially voluntary, peaceful and non-violent in nature. We ask them to keep strict watch in every town, kampong and village, for irresponsible elements who may be instructed by sources hostile to us, and the cause we represent, to make trouble. These elements should be exposed as soon as they try to sabotage the voluntary and peaceful nature of the hartal.

We advise the people to do their marketing for October 20 on the previous day, so that they will not be inconvenienced.

We advise our supporters and sympathisers as far as possible to spend October 20 indoors, and preferably in the premises of their

various associations, parties and trade unions, studying the People's Constitutional Proposals.

Finally, we call upon all those who regard Malaya as their real home to remain calm, peaceful and tolerant on October 20 – our Day of Protest – confident in the justice and final success of their cause.

THE LIBRARY OF THE
CONSTITUTIONAL FOUNDATION

EXCERPTS FROM THE ORIGINAL MANUSCRIPTS
OF THE FEDERAL CONSTITUTION

Biographical Excerpts

The following excerpts are taken from the original manuscripts of the Federal Constitution, and are arranged in chronological order of the date of their composition. They are intended to give a general idea of the character and scope of the work, and to show the progress of the various branches of the government, from the first meeting of the Convention to the adoption of the Constitution.

The first of these excerpts is from the original manuscript of the Constitution, and is the only one which has been preserved in its original form. It is a copy of the original manuscript, and is the only one which has been preserved in its original form.

The following excerpts are taken from the original manuscripts of the Federal Constitution, and are arranged in chronological order of the date of their composition. They are intended to give a general idea of the character and scope of the work, and to show the progress of the various branches of the government, from the first meeting of the Convention to the adoption of the Constitution.

Mustapha Hussain and the Making of the Constitutional Proposals

Excerpt from *Malay Nationalism Before
UMNO: The Memoirs of Mustapha Hussain*¹

PUTERA-AMCJA Conference

Before attending the PUTERA-AMCJA Conference, we Malays met in the rented Kampung Baru home of Ibrahim Karim, API's Secretary-General. We drank black coffee out of a pail for lack of proper utensils. It was bought with the paltry balance of money collected from our garland-auctions and the sale of photographs of Dr Burhanuddin and Ibrahim Yaakub. Disappointingly, the photos were not selling. No one bought the one of Ibrahim, although he was then deemed a Malay hero.

We took a bus to a five-storey building in Foch Avenue, the highest building in Kuala Lumpur at the time, where the MCP flag fluttered in the wind. However, the conference was not held on the floor housing the MCP's headquarters. Desks were arranged in a circle. Dr Burhanuddin sat rigidly, with me on his left, and Taha Kalu on his right. John Eber (MDU) was on Taha's right and farther on, beside John Eber, were Ahmad Boestamam (API), Lim Kean Chye (MDU)

¹ Mustapha Hussain, *Malay Nationalism before UMNO: The Memoirs of Mustapha Hussain*, trans. Insun Sony Mustapha, ed. Jomo K.S., Kuala Lumpur: Utusan Publisher and Distributors, 2005.

and John Thivy (MIC). Ishak sat opposite me with Conference Secretary Gerald de Cruz (MDU) on his left while Sir Cheng Lock Tan (AMCJA) dressed in a shirt and coat ensemble sans tie, sat on Ishak's right. On Sir Cheng Lock Tan's right were representatives from the New Democratic Youth League (NDYL), Malayan People's Anti-Japanese Ex-Comrades Association (MPAJECA) and Cheng Loo from the Pan-Malayan Federation of Trade Union (PMFTU) – all very young men. They were probably the front men or dummies. Everyone held a draft of The People's Constitutional Proposals for Malaya. Mine was full of markings, reflecting my pre-occupation during the train journey.

The PUTERA-AMCJA Conference began with a speech by Ishak as Chairman. We had to tread carefully; no undesirable elements should come into play lest an ugly impasse rear its head. Nothing untoward must happen to jeopardise our efforts to gain the nation's Independence. We had to be of one heart; bickering would only contribute to prolonged British rule. Even the normally vocal and aggressive Ahmad Boestamam was extraordinarily impassive. Everyone adopted a passive attitude, a patient disposition, a tolerant demeanour, a peaceful mind and a united stance. Everyone wanted an end to British rule. Everyone craved to live in a free Malaya. Chairman Ishak was extremely careful in choosing his words and ministering his responsibilities. The only one who spoke more shrilly than the rest was Conference Secretary Gerald de Cruz, who was known for his humour and jest. All the six items were endorsed with ease. I noticed that the representatives from the NDYL, MPAJECA and PMFTU hardly uttered a word, just like Sir Cheng Lock Tan.

On behalf of PUTERA, I proposed four more clauses to strengthen our rights, referring to the magic phrase 'the Nine Malay States' already in the preamble as proof of PUTERA's absolute right to claim them:

- a. Malay to be Malaya's national and official language,
- b. Malaya's defence and foreign policies be handled by the Malayan and British Governments with equal responsibility,

- c. *Melayu* (Malay) as the nationality of the people of Malaya,
- d. The National Flag would have a red band above a white one.

Clauses (a) and (b) were quickly endorsed with the support of NDYL, MPAJECA and PMFTU representatives who abhorred colonialism. But clause (c) raised the conference room's temperature. The same degree of unrest was experienced each time the Malays demanded a 60-40 quota in the running of the administration and in employment. Sir Cheng Lock Tan vehemently opposed demand (c) while the three young men looked calm enough. I stood up to voice my disappointment at the opposition, drawing their attention to one question. How would hundreds of thousands of Malays – supporters of MNP, API and AWAS in the kampungs – react, should PUTERA announce that 'Malayan' and not 'Melayu' would be the term used to describe the people's nationality? They would probably charge at us like bulls provoked by a red cape. Leftist Malay parties would be ruined, much to the glee of the British and right-wing Malay parties.

Even though I had presented my case with great care, Lim stood up and remarked, 'We are not dogs to be led by the people. We lead the people.' In response to such strong words, I retorted in a flash, 'Are you not here at this conference table because the people chose you? Do not humiliate the people. You ought to retract your words.'

I then saw Conference Secretary de Cruz write something on a large piece of paper and hold it up for all to see. On the paper was written 'CRACK' in big, bold letters. Chairman Ishak wisely proposed the matter be handled by a sub-committee later that evening and its decision be announced the next day. The sub-committee met that night in Kampung Baru over a Malay dinner of rice and tapioca shoot vegetable curry, during which time a PUTERA representative managed to positively influence members who had opposed the proposal to describe our nationality as 'Malay'.

We had asked, 'What is wrong with using the term 'Malay' to describe our nationality? If this request is denied, we can only deduce that colonial elements have infiltrated this conference, and

that colonialists are still in control.' Gerald de Cruz loved Malay food. Perhaps the tapioca shoot vegetable curry contributed to the agreement that 'Malay' will be the agreed nationality of the people. I was glad that the matter had not split up the conference. Actually, the Malay nationality proposal was won due to the votes of the three Chinese youths. They were the first ones to be convinced by our little speech and appeals. On the second day of the PUTERA-AMCJA Conference, API leader Ahmad Boestamam, who was honoured with the final vote, gave PUTERA the winning edge. With that victory, I felt that the Malay states and the Malay race would be forever preserved. In Hang Tuah's words, 'The Malays will not perish from this earth.'

Next in the discussion was the question of citizenship. AMCJA had proposed the *jus soli* concept, but PUTERA found it difficult to accept. However, Taha Kalu seemed to agree with *jus soli*. As he sat near me, I raised my fist as if to warn him, 'Should you support this *jus soli* concept, I will punch you.' To my relief, he voted in support of PUTERA. Despite some frantic hand signaling, Ahmad Boestamam – who sat at a distance from me – did not understand my signals. He chose AMCJA's stand. I said to myself, 'Allah! What will happen now?' The AMCJA won and we were in deep trouble.

My mind quickly came up with an idea to overcome the matter. Pretending not to know the meaning of 'amendments', I asked the chairman to define the term. Then, I asked what 'clause' meant. I pretended not to know these words so as to allay the fear of the others. I then proposed a 'clause' be included to determine the quota for Malays and non-Malays in all Federal Councils and in all government business. I wanted a restriction or a certain formula in the Malay and non-Malay sharing.

Conference secretary Gerald de Cruz commented on my proposal as sweetly as he could. He said he had anticipated it. He explained that if the 'universal franchise' policy was adopted, the Malays should get 95 per cent of the vote and 95 per cent of all seats and posts. The other conference members were taken in. Chairman Ishak could not

do much as his hands were tied. Dr Burhanuddin's mouth was shut tight, as the conference was conducted in English. (Earlier, when the 'national language' issue was being discussed, non-Malay members had asked for a compromise, 'Please give us ten years to master the Malay Language.' In view of this, how could we compel them to use Malay at the conference?) I stood up, stating with great care that, 'We Malays do not want 95 per cent as that is unjust. We do not want 80 per cent as that would be unfair. Neither do we want 80 per cent or 70 per cent. But in the name of all Malays who own this land, we want 60 per cent. We ask for only 60 per cent because we are holding fast to the concept of democracy. At the same time, we want to preserve the rights of the people of this land.'

I was shouted at by the MDU leader, the lawyer John Eber. He snarled, 'I did not want to say anything harsh earlier, but now, I have to. The truth is, your people do not have the right to claim Independence – what more to obtain other people's help to appeal on your behalf.' He added, 'We are the ones who are willing to work with you and help you claim it. Now you want to determine the quota for yourselves and for us?' He paused and continued, 'I am standing here to promote my party principles and one of them is democracy.' Before sitting down, he pointed his finger at me and asked clearly, 'Is he democratic?'

I was forced to stand up another time to respond to his words. I forgot how to remain calm and collected. I had forgotten about compromise and co-operation. Luckily, I remembered Sutan Jenain's words, 'Be hot in the heart, but not in the head.' With whatever was left of my composure, I said, 'Look at the appearance of PUTERA members, the Malays, at this conference. Their hair uncombed, clothes unkempt and not ironed. Some did not have a chance to wash as they slept in bus stations and train stations in order to attend this conference. Some did not even have breakfast. They drank coffee out of a pail. But you, sir (looking at John Eber), even though you were given a comfortable rattan chair, you still need a folded towel to serve as a cushion. Who among us truly needs Independence, you or us?'

John Eber got up to pull the folded towel off his chair. His face was red with anger. He was enraged, but I could not care less. An insult for an insult!

The Chairman stood up to calm the situation and again suggested the quota issue be discussed by a sub-committee. The outcome was positive. AMCJA agreed to the 60-40 quota. I was thankful to God for His blessings. The Malay States and the Malay people were now secure and safe. This would maintain Malay pre-eminence. The outcome would guarantee the future of the Malays, especially in a situation where non-Malay votes may outnumber Malay votes. I must add that MIC John Thivy in the AMCJA kept his word by giving us his vote every time, to our mutual benefit.

Outcome

The ten principles we discussed came to be known as the Ten People's Principles, to represent all communities. Since The People's Constitutional Proposals for Malaya was endorsed and announced to the nation, the PUTERA-AMCJA partnership was reinforced because the masses, not the administrators and the elite, were strongly behind us. The final copy of The People's Constitutional Proposals for Malaya was sent to the British Government as the voice of the different communities living in Malaya who clamoured for Independence. The people's response to the constitution was proof of their spirit. But the British appeared unconcerned, refusing to hold discussions with us, or even to read the constitution, as if nothing urgent was happening. We had to think of our next constitutional move. As a result, the hartal of October 1947 was organised and received widespread support from the people. Shops and business houses shut their doors. Kuala Lumpur looked deserted.

What the Dailies Wrote

I don't remember what the Malay papers wrote. Majlis was certainly in opposition to the hartal as it was wary of any co-operative efforts by the three races. But the 23 September 1947 edition of the *Straits Times* described the hartal as: 'The first attempt to put Malayan party politics on a plane higher than that of rival racial interests and also the first attempt to build a political bridge between the domiciled non-Malay communities and the Malay race'. The other English language newspaper editorials also found The People's Constitutional Proposals for Malaya generally fair.

Gerald de Cruz on the Impact of the People's Proposals

Extract from *The 1948 Communist Revolt in Malaya: A Note on Historical Sources and Interpretation & A Reply*¹

The following extract forms a part of Gerald de Cruz's response to Michael Stenson's paper given at the Institute of Southeast Asian Studies, Singapore in 1970 on the topic of the causes of the communist revolt in 1948. Stenson's thesis, that the transition to armed struggle occurred because of British political repression and the failure of democratic political opposition, was challenged by de Cruz who argued that the Malayan Communist Party's turn to armed struggle formed part of an international Communist strategy which in turn stifled the possibility of popular democratic action.

There were two main fronts of the MCP: the political united front or AMCJA-Putera; and the economic front, the Pan-Malayan Federation of Trade Unions. In neither of these was intimidation widespread in 1947. As the executive secretary of the political body, I travelled widely throughout that year and the following one in Malaya, and my whole impression was quite the contrary.

¹ Stenson, Michael & de Cruz, Gerald, *The 1948 Communist Revolt in Malaya: A Note on Historical Sources and Interpretation & A Reply*, Occasional Paper, Singapore: ISEAS Publishing, 1970.

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I also discovered that the trespass law, on which Dr. Stenson places such emphasis, was honoured more in the breach than in observance. I was smuggled in easily into such estates to give rabble-rousing speeches to the Indian rubber tappers, and I was informed that the support of the tappers made entry into and exit from estates quite convenient despite the trespass law and the management's warnings.

Turning to the positive side, I cannot recognise, in Dr. Stenson's account of the position of the AMCJA-Putera, the picture of debilitation which he paints. He gives three reasons for this: (a) 'the intransigent, even aggressive, British response to the People's Constitutional Proposals and the Hartal (general stoppage and closure of offices and shops) of October 1947'; (b) its 'failure' to 'embody a sufficiently united mass-based national front' and (c) the many attempts made by the British 'to divide and decry it' (the AMCJA-Putera).

I was at the hub of the AMCJA-Putera and my impression was totally different. We had succeeded for the first time in getting the Malay nationalists and leftists to work together with us on democratic proposals for a new self-governing country; all over the area gigantic multiracial mass meetings were held of a kind this country had hitherto never seen, with crowds massing in their tens of thousands to listen to us spread our good news. Everywhere there were special meetings at which the flag of the people's constitution was raised and pledges taken. The MCP made the study of Malay compulsory among all its members. They composed several moving songs about the Constitution, some of them being love songs.

We had three hartals. The fifth, organised by Tan Cheng Lock whom I had persuaded to lead the AMCJA-Putera, was in Malacca. It was extraordinarily successful. The second was in Perak and was equally effective. Then we called the Pan-Malayan hartal of October 1947. Here are some comments from the *Straits Times* on the effectiveness of this hartal.

Reporting on the Pan-Malayan hartal which took place the

previous day the *Straits Times* (Oct. 21, 1947) said:

Singapore commercial life came to a vital standstill with the closure of most non-European business houses and the strike of thousands of workers ... There was no damage to property and no injury to persons ... In Kuala Lumpur all Chinese and almost all Indian shops were closed ... In Selangor every rubber estate contacted by the *Straits Times* said that the Indian and Chinese labourers were not tapping.

And the *Straits Times* editorial of the same date, October 21, 1947 said:

Singapore presented an impressive spectacle yesterday with miles of shuttered shops and its streets almost empty of traffic. The organisers of the hartal certainly made a proper job of it, as might be expected from a unique and extraordinary combination of forces which included the Chinese Chamber of Commerce, the Communist Party and the Federation of Trade Unions.... These organisations, with the genteel co-operation of the Malayan Democratic Union and the not so genteel support of the Communist Party, succeeded in bringing about an almost complete shut-down in Singapore yesterday.

How Dr. Stenson can maintain, in the face of such evidence, that we 'failed to embody a sufficiently united mass-based national front', or that we were 'excluded from political influence', I fail to understand.

In under a year we had brought strong elements of all communities together, we had combined workers, intellectuals and employers, we had organised three successful hartals, we had held scores of huge mass meetings up and down the country, we had persuaded the majority of British subjects in Singapore to boycott registration as voters and later to boycott the polls; - and Dr. Stenson says we were 'excluded from political influence'. If he means the 'seats of power' he is correct, but that did not bother us much. We knew we were in for a long uphill pull, and we were extremely grateful that we had, in such

a relatively short time, gathered so much support. He is indeed, quite wrong. Our morale was high.

We had even decided, for the sake of unity with our Malay partners in Putera, the Malay nationalist-leftist groupings, to boycott the Singapore elections since Malays who were British-protected subjects were being denied the vote, which was confined only to British subjects. When we made this decision we were the only existing political organisations in Singapore. The Progressive Party did not come into existence until after we had declared that we would boycott the polls. This was certainly poor tactics on our part, but it was testimony to our high morale, sense of dedication and readiness to sacrifice 'political influence' for the sake of unity with Putera.

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