

TAN SRI DATO'
HARUN MAHMUD HASHIM

THE
BENCHMARK

15 JUL 2002

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PERPUSTAKAAN NEGARA MALAYSIA

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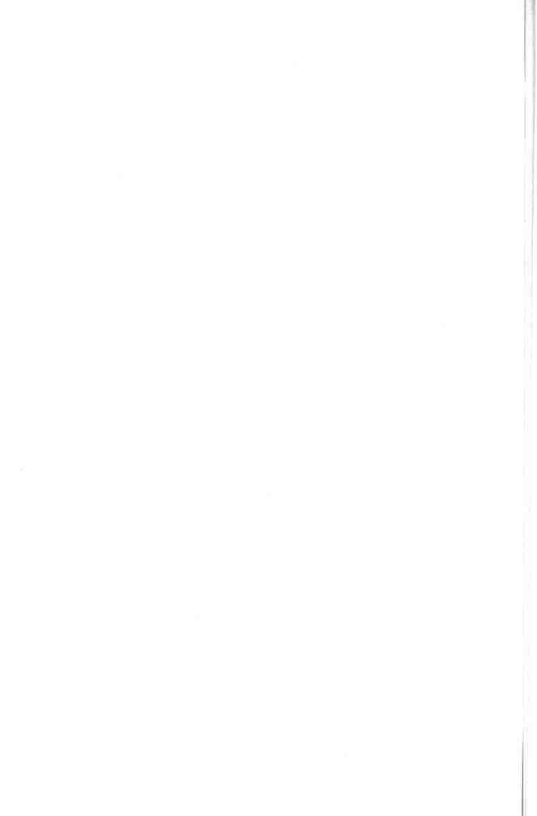
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FOREWORD

THE PAST IS PROLOGUE

IT seems cartoonists and caricaturists, the pictorial equivalent of journalists, enjoy greater public acclamation than the other class of journalists – the columnists. The reason is, of course, obvious. This may seem a little unfair as their job is almost the same. The artists and the columnists comment on those in public life and criticise those who demonstrate by their public activities the need for criticism of them.

Be that as it may, columnists are gradually becoming popular even though their number in Malaysia is way behind the legions that grace the pages of newspapers in the Philippines. One column which has endured is 'The Benchmark' appearing every Thursday since 1994 in the opinion page of the *New Straits Times*. It may be because its author is a well known public figure and a former Supreme Court judge – giving the assumption that he has a lot to say. He certainly has.

Tan Sri Dato' Harun Mahmud Hashim was an upright civil servant and was among the cream of the civil service that the country inherited from the British. Many still remember the healthy respect the public had for the Anti-Corruption Agency when he was its Director-General in the 1960s. Others observe that he will be remembered, perhaps earning honourable mention in the numerous footnotes in Malaysian history books, as the judge who declared UMNO, the dominant United Malays National Organisation in the ruling Barisan Nasional, illegal.

But more than that, he will be remembered for the glimpses his column has provided into what went on in the courts and outside the courts of the lives of those people we call lawyers, magistrates and judges. No doubt social historians will find his column a rich source of information, especially when the former judge reminisces on his early days as a civil servant.

There is more that he could tell and often readers discern the care

that he exercises in selecting the stories for his column. His column began with many interesting reminiscences but by 1998, much of what he writes seems more a commentary of contemporary happenings in the country. Of course, there are those who would like him to reveal more of the alleged murderers murdering, alleged traitors betraying and alleged thieves stealing, to say nothing of a substantial assortment of alleged naughty persons a-mollocking but remain 'respectable'. But having sat on the bench for a good two score and four years and during those years never once been referred to as a hanging judge, he is not about to hang anyone's reputation after having retired from the judiciary in 1994.

Of course, there is much that he knows but would not write about. But catch him at the right time and ask the right questions and history would have gained a few more pieces of the jigsaw that is Malaysia.

In effect, 'The Benchmark' column is in recognition of Tan Sri Dato' Harun's role as Chairman of the Panel of Judges of the Malaysian Press Prizes, organised annually since 1985 by the Malaysian Press Institute. Indeed he has set the press for Malaysian journalists.

Recalled in his reminiscences is a part of T.S. Elliot's Four Quartets:

*"Time present and time past
Are both perhaps present in time future
And time future contained in time past."*

Mazlan Nordin

Chairman, Malaysian Press Institute

30 September 2001

PREFACE

THAT I am an admirer of 'Tan Sri Dato' Harun Mahmud Hashim is no secret. Just as I am an admirer of certain members of the judiciary, one of whom was the late Tun Mohamad Suffian Hashim, who had been Lord President of the Federal Court. They stand for dedication, honour, integrity and sincerity - values that we should all try to uphold and live by in our lives.

Thus, when I was approached by Yasmin Gan Abdullah to help her in producing a book, to consist of Tan Sri Harun's 'The Benchmark' articles, there was no hesitation on my part. Indeed, I feel it an honour and a privilege that 'Tan Sri Harun has accorded Yasmin and I his trust in bringing this book to fruition. In this regard, we have much to thank 'Tan Sri Dato' Abdullah Ahmad, Group Editor-In-Chief of the New Straits Times Press (Malaysia) Berhad, who has made it possible for this book to be published.

Tan Sri Harun began writing his column, 'The Benchmark', in the *New Straits Times* in 1994. And the column is still going strong, appearing every Thursday in this national newspaper. Through his column, Tan Sri Harun shares with the public his views and perspectives on a wide range of issues, from the law to social services. His words hold considerable weight, backed as they are by his years of experience in government service and on the Bench. Many of these issues are still topical and relevant today, and he has put forward some interesting and practical ideas and suggestions. He also manages to create, amongst Malaysians today, an awareness of the nation's history through reminiscences of his early years.

I wish we could include all the articles that have appeared in 'The Benchmark' in this book. But space constraints dictate that we can only have 149 of the 281 articles written from 1994 to 1999. These have been

carefully selected to reflect the diverse range of subjects and topics covered by Tan Sri Harun during that period. For ease of reading, the articles have been arranged chronologically under a number of themes.

Editing the articles for this book has its challenges. The articles were written for publication as a newspaper column, the rules of which differ from that for a book. I have had to accept certain book publishing 'don'ts', such as ending a page with one line of a new paragraph. The overriding premise, I feel in this case, should be to maintain the original format of Tan Sri Harun's articles as much as possible.

I trust readers will find this collection of Tan Sri Harun's 'The Benchmark' articles a worthwhile addition to their book collection. They will have, in one volume, the wit and wisdom of a distinguished man. I hope that another volume of Tan Sri Harun's later articles will soon come.

Zuraidah Omar
Editor
September 2001

TAN SRI DATO' HARUN MAHMUD HASHIM – HIS EARLY YEARS

*"The only guide to a man is his conscience;
the only shield to his memory is the rectitude
and sincerity of his actions. With this shield,
however the fates may play, we march
always in the ranks of honour."*

– Sir Winston Churchill (1874-1965),
former British Prime Minister

"Thou art not for the fashion of these times, Where none will sweat but for promotion." These words in William Shakespeare's *As You Like It* aptly describes the manner in which Tan Sri Dato' Harun Mahmud Hashim (Harun) has gone about doing the things he does. Selflessly, honourably, ethically, with no thought of reward for himself or his family. The fact that he chose, after retirement from the judiciary in 1994, to take up an academic position at the International Islamic University is testimony to Harun's impeccable character. Many others would have chosen a lucrative appointment as chairman of some corporation or other.

Harun's integrity was evident even in his early years. When he was President of the Sessions Court in Kelantan, Harun had a Ford Consul that he had bought three years earlier for RM6,005. He had by then clocked 1,000 miles a month on the car, and the time had come to sell it. He received an offer of RM6,000 for the car from a Chinese man. This surprised Harun, who had not expected such a high second-hand price for the car.

Upon checking the man's details with the Chief Police Officer, Harun found out that the man was a notorious opium smuggler. The buyer was eager to get hold of Harun's car as it had been driven all over Kelantan and Terengganu and was well-known to the police. Harun declined the

offer and sold his car to a civil servant instead for RM3,500 – “When you are in a position of authority, you are often plagued with all manner of temptation. Money is not everything but to maintain one’s reputation is important, especially in the judiciary” (The Benchmark, 12 January 1995).

Even family links were not something to be capitalised upon. When he was a Deputy Public Prosecutor (DPP) in the Attorney-General’s Chambers, Harun was assigned a murder case in Raub. However, he found out that the judge sitting on the case would be his own father. Harun therefore assigned the case to another DPP. Harun said that he jokingly told his father that “as he had declined to prosecute in my court, there was no reason why I should prosecute in his. If I had, the consequences would have been disastrous for both of us. If the accused was convicted, he could allege that it was a case of favouritism. If he was acquitted, the Attorney-General could say that my father bent over backwards to demonstrate his impartiality” (The Benchmark, 24 November 1994).

Later, when Harun became President of the Sessions Court in Kelantan, his father was transferred there as the High Court judge. According to Harun, “The first thing he did was to get me transferred out as he did not want to hear appeals from my court” (The Benchmark, 24 November 1994).

People are very much a product of their environment, and Harun’s sense of discipline and uprightness had been nurtured very early in his life. He lived with his grandfather, Captain Noor Mohamed Hashim, in Kuala Lumpur and later in Singapore for a great deal of his childhood. Captain Hashim was one of the earliest Malays appointed to the elite Malayan Civil Service (MCS). When he retired in 1935, he was appointed a member of the Straits Settlements Legislative Council to represent the Malays. He was conferred the Imperial Service Order by the King of England.

Harun, who had started schooling at Sekolah Melayu Siputih in Kuala Lumpur for a year, moved to the Kota Raja Malay School in Singapore when his grandfather went to live there. After passing his Standard Four, he was transferred to Monk’s Hill School – he was amongst the first pupils of the school in 1939.

Captain Hashim ran his house like a military establishment and there was no doubt that he was a strict disciplinarian. Harun reported

that "everything had to be precise, neat, smart and well polished, including the way we dressed" (The Benchmark, 13 February 1997). Harun described an occasion when the family was on its way to attend the King's birthday in Singapore. Traffic came to a halt and the family's car drew alongside an open military truck carrying soldiers of the Malay Regiment. It was raining and the soldiers were shivering in the rain. Captain Hashim rolled down the car window and shouted, "Soldiers, look like soldiers!"

Harun was still living with his grandfather in Singapore when World War II broke out. Harun's father at that time was stationed in Kota Baru as Registrar of the Supreme Court and magistrate of the Central Court. During the war, Captain Hashim was appointed a member of the War Council and built an air raid shelter behind his house in St Michael's road, off Serangoon. Harun remembered, "It was large enough for all of us to sleep in so that we did not have to get out of our beds during the night every time there was an air raid" (The Benchmark, 7 August 1995).

The Japanese were constantly bombing Singapore at that time - exciting times indeed for a young imaginative boy. "During the day, I would get out of the air raid shelter and watched, fascinated rather than in awe, British and Japanese fighters engaged in dog-fights in the air, planes that were hit going down in a trail of smoke and bombs dropped from Japanese planes."

By the first week of February 1942, the Japanese had conquered all of Malaya and were preparing to cross into Singapore. On 6 February 1942, Captain Hashim rushed home from a meeting and told his household to get ready by 6pm that evening to leave the island. He would however remain behind and join them later.

Harun and the rest of the family were directed to Clifford Pier and boarded a passenger ship, *SS Felix Russell*. There were three ships with evacuees leaving Singapore that night, escorted by British navy destroyers. When leaving the harbour, the *SS Felix Russell* was bombed by the Japanese. Its water tank was hit and the ship was without fresh water for the rest of the journey. Harun and his family were, in fact, rather lucky. The Japanese continually bombed the ships and the other two were hit and sank.

When the remaining ship finally reached Colombo, Sri Lanka, it was not allowed to land, and the ship then went on to Bombay. The whole journey had taken 18 days! On the ship was a friend of Captain

Hashim's, an Indian Justice of Peace of Singapore, who invited Harun and family to join him at his village, Edava, in Travancore in South India. The trip took three days by train. It was a Muslim village with substantial houses built with money remitted by the men working in Singapore. As the children had to go to school, Harun's family moved to the state's capital city, Trivandrum.

Short of money, Harun wrote to the Malayan representative in India and obtained allowances from his grandfather's Widows and Orphans Pension Fund. He also succeeded in getting a portion of his father's salary. The family of two adults, 11 children and three servants were thus able to live moderately in a rented bungalow. It is hard to believe that Harun himself was just a child then: "As the oldest male, I had become the head of the family at the age of 12!"

Captain Hashim never got to join the family in India. He passed away in 1944. After the war, Harun and the family returned to Singapore in 1946. In the meantime, Harun's father had been transferred to the island and was with the Attorney-General's department.

Harun followed in the footsteps of his grandfather and father by entering public service. In 1951, he was the Assistant District Officer (ADO) in charge of Gua Musang in Kelantan. This was during the Emergency Period, from 1948 to 1960, when the Government was doing battle with Communists in the country. Gua Musang, a one-street town with wooden shophouses, was in fact regarded as a war zone. The Chinese population was hostile to the authorities and the town was enclosed in a double perimeter fence, with watchtowers. An all-night curfew was in place.

He learnt early in his career that he had to show his authority when put in charge. At Gua Musang, he noticed that the *lalang* between the two perimeter fences had grown to a great height. Despite several meetings with the local council to clear the *lalang*, nothing was done. Harun then exercised his powers, called for a curfew from 6am to 6pm and had the residents clear the *lalang*. Upon inspecting the fencing later, he found holes in it and saw tinned food on the ground. It appeared that the residents were providing food to the Communists!

Harun threatened the Officer-in-Charge of the Police Department (OCPD), a strapping six-footer expatriate, that he would report the matter to the State War Executive Committee. He relented when the OCPD pleaded against it, provided the holes were mended and the

lalang not be allowed to grow. Recounted Harun, "Since then, whenever he passed me along the street, he would give me a salute. This impressed the Chinese very much because there was a gun-carrying European in uniform who saluted the Malay ADO and therefore, I must be superior" (The Benchmark, 18 August 1994).

There were no problems in administering the town thereafter. Harun was able to approve long-pending building plans, granted Temporary Occupation Licences to allow the residents to grow vegetables, and even re-sited the pig-sties for a cleaner environment. The ineffective local council was dissolved, and he gave the councillors dinner: "Never before had a Malay officer entertained the local Chinese. It was plain to them who was now in charge. They respect authority which is firm but fair."

This penchant for being firm but fair would appear continually throughout Harun's career, such as when he later became President of the Sessions Court in Kota Baru. The court staff were complacent, including the process-server who often played truant. Said Harun, "I gave him the sack. It was a painful decision as he had been in government service for many years and had a family to support. Personally, he was quite a pleasant fellow but personal feelings should not deter one from doing one's duty, especially when placed in a position of responsibility" (The Benchmark, 12 January 1995).

Life in pre-Merdeka days was simple. Harun's success as a public administrator led to his secondment as a magistrate in Kelantan. An avid picture-goer, he had no problems with parking. "On the very first night after becoming a magistrate, I went to the cinema as usual and a uniformed policeman gave me a smart salute and directed me to park my car right in front of the main entrance reserved for the VIPs" (The Benchmark, 10 November 1994).

Facilities were rudimentary: "The Pasir Puteh Court was literally an open court as the court room had no walls - just the pillars and the roof, with a commanding view from the Bench of the compound outside, including the public toilets to the left and the main road in front."

There were moments of hilarity to lighten things up, such as when Harun's court was in session and charges were read out for a number of people riding bicycles at night without lights. Harun fined each person RM2. Finally a name 'Ismail Ali' was called out once, twice and then three times, "whereupon I saw a man emerge from the public toilet and sprint into the dock." Harun fined this man RM3 because "in his

haste to get to the dock, he had overlooked to button up his trousers!" It was a fair amount indeed to be fined for contempt of court.

Harun's secondment as a magistrate was part of the 'malayanisation' of the judiciary. In 1955, he was selected to do law at the Inns of Court in London. He returned to Malaya in November 1958, after having been called to the Bar of England and Wales by the Honourable Society of Lincoln's Inn. He had also completed the post-final practical course by the Council of Legal Education of the Inns of Court, in lieu of chambering. Harun's return home saw him joining the ranks of 'England Returned'.

Harun was posted as First Magistrate in Penang and soon found out that it was not easy to be rid of the vestiges of the colonial period. "On my first working day, I arrived just before 8.30am and was guided to a personal garage next to my Chambers. A peon opened the door of my car, another opened the other door and took my brief. This procession then proceeded to my Chambers, where a third peon held open the swing door for my entry. A fourth peon flicked the last speck of dust on my table with his feather duster. This routine was kept up throughout my stay in Penang. And I was only a magistrate!" (The Benchmark, May 1995).

Two months later, Harun was transferred to Kota Baru as President of the Sessions Court. And so his illustrious career in government service and on the Bench continued until his retirement from the judiciary as a judge of the Supreme Court in 1994.



ABOVE: Justice Dato' Mahmud Mohamed Hashim, Tan Sri Dato' Harun's father when he was a High Court judge of the East Coast, 1962



TOP LEFT: Captain Noor Mohamed Hashim, Tan Sri Dato' Harun's grandfather

Three generations of Hashims - Tan Sri Dato' Harun is the young boy on the extreme right



In London as a law student in 1956

INSET: At the age of two years in London



Called to the Bar of England and Wales in 1958



Kelantan Civil Service Association Annual Dinner, 1950 (Tan Sri Dato' Harun is standing on the extreme right)



Evacuation of Belum Valley, Perak inhabitants through Kelantan, Emergency 1952 (Tan Sri Dato' Harun is on the extreme right)



Farewell dinner for WFN Churchill, the retiring British Adviser, 1953 (Tan Sri Dato' Harun is standing sixth from left)



Kelantan Sessions and Magistrate Courts staff, 1954 (Tan Sri Dato' Harun is seated fourth from left)



Meeting HRH Sultan Ibrahim of Kelantan, 1958 (Tan Sri Dato' Harun is third from right)



Visit of Tun Dr Ismail Abdul Rahman, Minister of Home Affairs, to the Anti-Corruption Agency, 1970 (Tan Sri Dato' Harun is on the extreme left)



Tan Sri Dato' Harun and family, 2001





LEGAL ISSUES

"If we desire respect for the law, we must first make the law respectable."

- Louis D. Brandeis (1856-1941),
US Supreme Court Judge

New legal system better than trial by seven jurors

 2.2.95

JURY trials were abolished recently. Some people are happy with the decision while others lament its passing. Trial by a judge with a jury as we know it in this country is an English system. It was first introduced into the Straits Settlements but after Merdeka, it was extended to the other States of Malaya.

The reason for its late entry in the Malay States was due to the lack of English-speaking people in the various districts, as jurors were selected from the district where the offence took place and who had a sufficient command of the English language - being the official language of the courts - to follow the proceedings in that language. Over the years, District Officers invariably nominated government servants and school teachers to be jurors as they were the only people who could speak English.

With the change in the education policy making Malay the medium of instruction in schools, it was becoming increasingly difficult to find jurors who could speak English. Now that Malay has become the official language of the courts, there should be no difficulty to find suitable jurors.

But why have a jury in the first place? The institution was based on the concept of trial by one's peers. In England, jury trials are declining in usage with jurors being picked from passers-by in the street where the courts are located. In Malaysia, it was questionable whether the real

spirit of trial by one's peers was ever practised. Who are one's peers? If a rubber-tapper was charged with murder, should not all the jurors be rubber-tappers? This, of course, never happened as jurors were invariably town people who most probably had not even been to a rubber estate.

Then again we have a multi-racial society. Who should the jury be composed of if a Malay is charged with the murder of a Chinese? I prosecuted such a case. Three Malays had been empanelled on the jury when the defence counsel objected to Chinese jurors. I asked him why and he said his client was a Malay and he wanted an all-Malay jury. I pointed out to him that the victim in the case was Chinese and what would the family think of an all-Malay jury if he got acquitted. He agreed to the Chinese jurors. After three Chinese had been selected, I suggested why not put an Indian to reflect the Malaysian society. He agreed to an Indian as the seventh juror.

It was a clear case of murder. The jurors retired to consider their verdict. They took a very long time and came out with a "Not Guilty" verdict. The defence counsel could not believe it. Neither could I but there was nothing the judge could do as he was bound by law to accept the unanimous "Not Guilty" verdict of the jury.

Later, I discovered that at the first count the vote was six to one guilty. This was good enough but the foreman wanted a unanimous verdict and asked the dissenter to explain why he thought the accused was not guilty. After his explanation a vote was taken. It was five to two guilty. This was still a valid verdict but the foreman asked the dissenter to explain further. After each explanation, more jurors found the accused not guilty. The dissenter was the Indian!

Juries can be very unpredictable. We will never know what goes on in the jury room and how they arrive at their verdicts because the law does not require them to give reasons. Up to the 1960s, it was difficult to get a guilty verdict for murder in the Kuala Lumpur courts. When I successfully prosecuted and obtained such a verdict, the *Straits Times* came out with a front-page headline: "Kuala Lumpur jury at last returns a guilty verdict for murder." It appeared that most jurors then were of a certain religious persuasion who believed that it was wrong to sentence a man to death.

Two Malays were charged with murder. They had knocked at the door of a village sundry-shop after it had just closed at about 10 at

night. As the Chinese shopkeeper and his family lived in the premises, he asked what they wanted and the men said they wanted to buy some cigarettes. He let them in. One of them had a gun and said that it was a robbery. He also said his gun was real and fired a shot at the ceiling to prove that it was. The other robber was emptying the cash box when the shopkeeper's young son took a broomstick and struck the hand of the robber holding the gun. A shot rang out and he was killed.

In his defence, the robber said he was surprised that the boy used a broomstick to knock off his gun after he had demonstrated that it was real. He did not know how the gun went off. Jury's verdict: Accident, not guilty of murder!

Before its abolition, Malaysia was the only country in Asia to practise the jury system. Other countries that had the system due to English influence abolished it a long time ago. Indeed, at present a jury trial is still in progress under the old law. It will most probably be the last. The system costs money and time. It only applies to murder cases which carry the death penalty but not to drugs, firearms and kidnapping cases which are also punishable with death.

There must first be a preliminary inquiry by a magistrate before committal to the High Court. Depositions have to be recorded of each witness who is to give evidence at the trial. After a murder investigation is completed by the police, it will take about a year to commence the preliminary inquiry. It will take another year to prepare the records and another year before the trial in the High Court.

The memory of witnesses tends to fade over time and they are often subject to severe cross-examination if there is any variation of their story in the High Court from the depositions taken by the magistrate. There is much undue publicity at the preliminary inquiry stage in the press and people tend to say the accused is guilty even before the trial.

When the Americans colonised the Philippines, they introduced into that country, the US legal system, which still prevails today. But no jury. Choosing a jury in the US can take months. So why no jury in the Philippines? I asked the Chief Justice of that country during one of my visits to Manila and he explained that the Americans did introduce the jury system at first. The Filipinos did not like the Americans and murdered them from time to time. American judges could not get guilty verdicts from Filipino juries in such cases and decided that the system was not suitable in the Philippines. So they abolished it.

It was never suitable for us either. Why we introduced it after Merdeka I don't know. Were we so blinded by the English legal system that everything they did must be good for us? The new system is certainly more than fair. Preliminary inquiries have also been abolished and the case goes straight to the High Court for trial. This means an early trial. If the accused is convicted, he can appeal to the Court of Appeal where three judges will hear the case. If he is still not satisfied, he can appeal to the Federal Court before five judges. Apart from the trial judge, his case would have been heard by eight other judges who are experienced and learned in the law. This is surely better than seven reluctant jurors of uncertain vintage.

Judges' controversial power in determining fate of legislators



20.7.95

IN recent times, judges are in a dilemma. When a person is convicted of an offence in a court of law, the judge is guided by certain well-established principles with regard to the appropriate sentence that should be passed. In a criminal case, this part of the judicial function, namely sentencing, is the more difficult task than the other earlier function of finding whether the person is guilty or otherwise of the offence charged.

Each case is decided on its merits. There is no such thing as a standard sentence for a particular offence. That is why the law provides for a maximum sentence for each type of offence and leaves it to the discretion, experience and wisdom of the judge to impose the appropriate sentence. Of late, however, there is a tendency for Parliament to provide a minimum sentence as well to express its abhorrence of certain crimes. This no doubt limits the judicial function to a certain extent as there may be instances where the circumstances of the case are such that the imposition of the minimum mandatory sentence will be harsh and even unjust but as it has often been observed, hard cases make bad law.

Be that as it may, there are certain instances where the judge is expected, quite unfairly, to look beyond the facts and the law before him. One such instance is when a politician is involved. The question

arises: should the judge in passing sentence in such cases take into consideration the consequential effect of the sentence?

Of particular interest is the provision in the Constitution which disqualifies a Member of Parliament of either the Senate or the Dewan Rakyat from continuing to hold office if he has been convicted of an offence by a court of law in Malaysia and sentenced to imprisonment for a term of not less than one year or to a fine of not less than RM2,000 and has not received a free pardon. There are similar provisions for members of State Legislatures.

The disqualification takes effect automatically. The disqualification, however, is the consequence of the sentence exceeding the minimum limit prescribed by the Constitution. In practice, judges are not concerned with such consequence but public opinion and the reaction of politicians seem to indicate that they should. Hence, the judge's dilemma.

If the convicted politician is a member of the party of the Government in power, the judge is said to be pro-government if the sentence does not result in disqualification or anti-government if the sentence results in disqualification. On the other hand, if the politician is a member of the Opposition, he is said to be pro-opposition (or anti-government) if the sentence does not result in disqualification and conversely if the sentence results in disqualification. Either way, one side is not happy with the outcome. Things are not made any easier for the judge with the prevalent practice of party-hopping.

The one-year imprisonment or RM2,000 fine was prescribed in 1957. Since then, new laws have been made and sentences of old laws have been increased providing for punishments well beyond the minimum prescribed to disqualify an MP. The result is that even a magistrate can now sentence an MP, which could lead to disqualification for any number of offences not contemplated by the founding fathers of the Constitution.

But more importantly, should judges and magistrates (in effect) be given the apparent and now controversial power to disqualify or not to disqualify members of the legislature? One thing is certain. No judge or magistrate wants such power and the sooner it is taken from him, the better it is for everybody. Judges should not be seen to be making political decisions.

In criminal cases involving government servants, judges and

magistrates impose the appropriate punishment to fit the crime without having to consider the consequences of the punishment meted out. This is because whether the government servant keeps his job after being convicted and sentenced is a matter entirely for the Public Services Commission to decide in consequential and separate disciplinary proceedings.

The same procedure applies to lawyers and other professional people. It is the governing professional body that decides whether the convicted professional can continue to practise. So, too, in cases of membership of social clubs and sporting organisations - expulsion is for the organisation to decide, not the courts.

Parliament is a more superior institution than the bodies just mentioned. It should therefore be given the exclusive power of self-regulation of its membership. Indeed, the Constitution provides that Parliament has the final say whether a member has become disqualified. But this power only arises when there is doubt or challenge that a member has become disqualified. It should instead be exercised before a member is disqualified, be it on the grounds of insanity, bankruptcy, conviction by a criminal court or any of the other grounds prescribed by the Constitution. Let Parliament alone deliberate, decide, declare and disqualify the member.

The existing criterion for disqualification based on the quantum of punishment would appear to be irrelevant. Of greater relevance is the honour and dignity of Parliament as reflected by the character and conduct of the honourable members. In the armed forces, an officer can be dishonourably discharged for conduct unbecoming of an officer and a gentleman. The criterion for disqualification should therefore be the nature of the offence like corruption, dishonesty, fraud, offences against public order and decency. A member ceases to be honourable if he is convicted and fined RM100 for indecent exposure in a public place - honourable flashers!

Let Parliament therefore make out a list of offences which, if committed by any person and convicted of any such offence by a court of law in Malaysia, will disqualify the person for membership of either Parliament or State Legislature irrespective of the sentence to imprisonment for any term or the amount of any fine. Such a provision will automatically disqualify a person before he enters Parliament or the State Legislature, but if he is already a member, the disqualification will

take effect by a resolution of the House or State Legislature of which he is a member, unless of course he does the honourable thing by resigning upon conviction. Law makers should not be law breakers.

If this be the law, there is no cause for judges to be in a dilemma.

Status of Syariah court judges should be enhanced



24.8.95

THE Menteri Besar of Negeri Sembilan, at the opening of the national seminar of Syariah court judges and prosecutors in Port Dickson, recently said the main reason why the Syariah courts could not match the civil courts in performance was due to the shortage of staff in the Syariah courts. Why is this so?

In 1988, Parliament amended the Constitution whereby the civil courts have no jurisdiction in respect of any matter within the jurisdiction of the Syariah courts. The object of the amendment is to make clear once and for all the separation of the two judicial systems. Until then, there had been instances of overlapping jurisdiction and attending confusion between the two court systems.

Following the constitutional amendment, both the Federal and State Governments said the status of the Syariah courts will be improved, including the status of Syariah court judges. The trouble is that Islamic law matters are within the exclusive legislative and executive powers of the states except in the Federal Territories of Kuala Lumpur and Labuan. The consequence is that proposals to improve the Syariah courts and the administration of Islamic law in the country cannot be carried out uniformly or simultaneously. It is not suggested for one moment, however, that there should be any change in the constitutional arrangements now existing.

Malaysia is a federation of formerly sovereign states and the arrangement was that the states gave up some of their powers to the Federal Government whilst retaining the rest. One of the powers retained by the states is the administration of Islamic law and in particular personal and family law of Muslims. Indeed even when the British were ruling the country, they never interfered with such matters although the Syariah courts were neglected and placed in a subordinate position.

Islamic law was the law of the land from as early as the beginning of the 15th century. The Europeans first came to our shores in the 16th century. The Portuguese and the Dutch invaders did not change our laws and the British did so only in 1786 when they leased the island of Penang from Kedah; in 1824 when they finally settled in Malacca; and in the Malay States in stages from 1874.

All that, of course, is now history. We have been independent for 38 years now but it does seem that the desired enhanced status of the Syariah courts has been painfully slow. The fact is that the Syariah courts have only recently been reorganised structurally to provide for a Syariah subordinate court, a Syariah High Court and a Syariah Court of Appeal.

But that alone is not enough. Judges are needed to make the justice system function efficiently and effectively. The civil courts are what they are today only after many years of steady growth in the build-up of magistrates and judges. This is what is lacking in the Syariah courts. The Menteri Besar is therefore right in pointing his finger at the core of the problem.

The irony is that there are qualified people to be appointed Syariah court judges. Some have actually been appointed but do not stay long due to poor prospects of advancement in their careers. The truth of the matter is that if each state is to continue to function independently as at present, the shortage of Syariah court judges and prosecutors will persist for the simple reason that the number of judges and prosecutors required for each state is small and promotion prospects remote.

The remedy would appear to be to create a corps of Syariah court judges and prosecutors on a national level as part of a federal service. The members of this service could then be posted to the states. They would however be appointed by the state authority in conformity with state laws.

This concept of federal officers made available for service in the states is neither new nor radical. As it is, the Rulers appoint magistrates in their respective states from members of the Judicial and Legal Service. The appointment of officers for the Syariah courts will only be an extension of the system.

To further attract and retain officers for the Syariah courts, they should be recruited into the Judicial and Legal Service. After all, the officers required for the Syariah courts are law graduates with qualifications in Islamic law.

By being members of the Judicial and Legal Service, they will be paid the same salaries and be placed on the same status as other members of the service. They can be appointed as magistrates, Sessions Court judges and Deputy Public Prosecutors – interchangeable with appointments as Syariah court judges and prosecutors and eventually qualify to be appointed as judges of the High Court and beyond.

The jurisdiction of Syariah court judges includes cases involving marriage, divorce and custody of children of Muslims. This is the same jurisdiction exercised by judges of the civil High Courts in respect of non-Muslims. It is all the more reason why the status of Syariah court judges should be enhanced. In time, they should also take over the administration of estates of deceased Muslims now administered by the civil High Courts.

Hopefully also, a Syariah Supreme Court will be established to hear appeals from the Syariah Court of Appeal of the states on the same lines as the Privy Council does in giving advice to the Yang di-Pertuan Agong in respect of appeals from the civil courts.

With a single Syariah Supreme Court giving advice to the Rulers, Muslims in the country will be guided by judicial decisions of Islamic law applicable to all Muslims in the country. The Syariah courts and civil courts will be separate but equal.

Three-tier trial system working well

 9.5.96

THE recently-concluded Conference of Commonwealth Law Ministers and Attorneys-General in Kuala Lumpur appointed a working group to inquire into the judicial systems of member countries and to make its recommendations to the next conference in 1999.

Members of the Commonwealth were all part of the British Empire and had inherited the English judicial system. There are of course local variations but basically the system is about the same in all these countries. The fact that it has been found necessary to appoint the working group shows that all is not well with the system, although specific problems may vary from country to country.

The question is, should Malaysia wait for this report? By the time the report is published, studied and its recommendations, if any,

implemented, we would be well into the 21st century. So be it, some may well say. Is there any urgency?

Unfortunately, the answer is yes, judging from recent events involving the judiciary. There was the Ayer Molek case and the decisions arising out of some of the election petitions. From then on comments, even criticisms, on the judiciary seem to have flowed in a flood: the statements of the Bar Council; the speech of Deputy Prime Minister Datuk Seri Anwar Ibrahim to the Asean Law Association Conference in Kuala Lumpur last November; the speech of Prime Minister Datuk Seri Dr Mahathir Mohamad to the judges' conference in Kuching recently; the bombshell released by the Attorney-General on poison-pen letters at the same conference; letters to the press; and last but not least, the speeches by government backbenchers and the Opposition during the recent debate on the Royal Address in the Dewan Rakyat.

I sincerely believe we are quite capable of identifying our problems and finding our own solutions. Of course, it is useful to learn from the experiences of other countries. Much of these we know already.

First the judicial system itself. Ours is the adversarial system. The alternative is the inquisitorial system. Neither system is perfect but our system has served us well and there is no necessity to change it. In 1994, Parliament improved the system by establishing the three-tier system of one trial and two appeals. It is working well and so it should.

Next, how is the system operated? There are basically two layers, the Subordinate Judiciary consisting of the Magistrates' and Sessions Courts, and the Superior Judiciary comprising the High Courts, Court of Appeal and Federal Court.

Magistrates and Sessions Court judges are appointed from members of the Judicial and Legal Service. It is a joint service of the Judicial Department and the Legal Service. The officers are interchangeable, for example, a magistrate can be transferred to be a Deputy Public Prosecutor and vice versa. All along it was thought that all officers should be given the experience to serve in the many capacities requiring legal qualifications.

The joint service is subject to the control of the Judicial and Legal Service Commission, with the head of the Public Services Commission as chairman, the Attorney-General and (presently) four serving judges of the Superior Courts as members. The Commission, created by the Federal Constitution, is independent of the executive when making its

decisions to appoint, promote, transfer, retire or discipline members of the service.

Superior Court judges are appointed by the Yang di-Pertuan Agong, on the advice of the Prime Minister, after consulting the Conference of Rulers. Before tendering his advice, the Prime Minister is required to consult the Chief Justice of the Federal Court or the president of the Court of Appeal, or the Chief Judge of the High Court depending on which court the judge is to be appointed to. Candidates for appointment can either be from the Judicial and Legal Service or from practising Advocates and Solicitors. These judges are not members of the public service. There is much talk nowadays about the Code of Ethics for judges. Ethics is a very wide term including personal behaviour, both private and public, and the way a judge conducts himself in court. The Quran has several injunctions on the ethics of judges. The Ottoman Empire prescribed 36 attributes of a judge more than 100 years ago.

Judges, at whatever level, are expected to behave in a certain way. It is a culture by itself. But judges are also human and cannot be expected to change lifestyles just because they change jobs – reserved when a judge and freely mixing with other people when a legal adviser. Many countries have recognised this human problem and so in Japan, Thailand, and elsewhere, to be a judge is a closed career, from the lowest rung right up to the Supreme Court. There are no lateral entries at higher levels. It takes many years to really mould a judge.

Perhaps we should do the same. The judicial service should be separated from the Judicial and Legal Service but include the Superior Judiciary as well. Thus this service will be confined to judicial appointments only, namely, Registrars of the Superior Courts, magistrates, Sessions Courts judges and judges of the Superior Courts. Entry to the service is at the Registrar level only.

Persons desirous of entering the service should first have been called to the Bar, namely they are Advocates and Solicitors. They would be specially selected for a judicial career and undergo training for a year before taking office. They may be liable to be weeded out during probation, if found unsuitable.

The Judicial and Legal Service Commission should be headed by a retired judge of the Superior Courts with four other such retired judges as members. The chairman should have direct access to the Attorney-General, the Inspector-General of Police and the president of the Bar

Council, should the commission wish to consult any of them in respect of any appointment or promotion.

Under such a system the Prime Minister will get the best advice, as he is entitled to, from the commission and not as now from a single person as to the suitability of a particular candidate for appointment or promotion, before tendering his advice to the Yang di-Pertuan Agong. Of course the initial nomination would come from the Chief Justice and in appropriate cases, on the recommendation of the president of the Court of Appeal or Chief Judge of the High Court.

Appointments, promotions and transfers should be made by a full sitting of the commission to avoid allegations of favouritism, victimisation and other undesirable trends.

The commission would replace the ad hoc tribunal appointed for the removal of judges under the Constitution, as it would be the sole body to advise the Yang di-Pertuan Agong on the discipline of judges at all levels. All judges, from magistrates to Federal Court judges, would be bound by the same code of ethics, terms and conditions of service and other related matters which would be separate from the rest of the public service. This would give meaning to the independence of the judiciary.

It has often been said that the best of systems can be fouled by the people who operate them. The Malaysian judiciary has enjoyed public respect and confidence for a very long time. Let's keep it that way as we enter the 21st century.

Some confusion in judiciary over constitutional amendments

 **23.5.96**

THE 1994 constitutional amendments restructuring the judiciary introduced a new law which appears to have created some sort of confusion in the judiciary itself. The new law reads:

"The President of the Court of Appeal and the Chief Judges of the High Courts shall be responsible to the Chief Justice of the Federal Court."

What this new law means has practical implications in the day-to-day administration of justice.

One thing is, however, crystal clear. The President and the Chief

Judges are not required to obtain the approval of the Chief Justice before they deliver judgments in respect of any matter that comes before them in court. Even magistrates, Sessions Court and High Court judges do not have to obtain the approval of anybody before deciding a case. That is the crux of our legal system. That is what is meant by the independence of the judiciary.

The new law therefore can only apply to the discharge of administrative functions by the President and the Chief Judges.

The administrative functions of the President of the Court of Appeal are quite limited in the sense that he only has to appoint the panel of judges for each sitting of the court and the allocation of cases for the sitting. Does the new law mean that the President has to seek the approval of the Chief Justice in the exercise of these functions? According to the Courts of Judicature Act, he does not have to. Indeed in the case of the Malaysian Bar v. Tan Sri Abdul Hamid Omar (1989), the Supreme Court held that nobody except the President can exercise such powers.

Chief Judges of the High Courts have very extensive administrative duties since they are responsible not only for the proper and efficient functioning of the High Court but of the subordinate courts as well. Under the Subordinate Courts Act, it is the Chief Judge who recommends the appointment of Sessions Court judges and magistrates to the appropriate authorities without reference to the Chief Justice. And under the Courts of Judicature Act, it is the Chief Judge who decides on the distribution of work of High Court judges.

All these years, it was the Chief Judge alone who transferred judges and magistrates from place to place. Apparently in pursuance of this practice, the Chief Judge recently transferred four judges of the High Court. Three weeks later, on the eve of the day when these judges were to proceed to their new stations, the Chief Justice cancelled the transfers by fax. What now?

It is true that the Constitution is the supreme law of the Federation and any law which is inconsistent with the Constitution shall, to the extent of the inconsistency, be void. It should be noted, however, that simultaneously with the constitutional amendments, the Courts of Judicature Act and the Subordinate Courts Act were consequentially amended but preserved intact the powers of the Chief Judges hitherto exercised by them.

We do not question the wisdom of Parliament to make new laws or amend old laws. The question is what is the intention of Parliament in making this new law. In interpreting this law, the key words are 'responsible to'. According to the dictionary, these words mean: "having to account for one's action to someone".

Based on a strict interpretation of this new law, the intention of Parliament is that, in practical terms, the President of the Court of Appeal and the Chief Judges of the High Courts will have to obtain the approval and consent of the Chief Justice in everything that they do in the discharge of their administrative functions. The net result is that the Chief Justice is now the chief administrator of the judiciary, a position similar to that of the director-general of any government department. In plain language, what does Parliament want of the Chief Justice: an administrator or a judge or both?

It is well known that the administrative duties of the Chief Judge are quite considerable. That is why, although the Chief Judge is a member of the Federal Court, he is not called upon to sit in court as often as the other judges of the Federal Court. But when the administrative duties of two Chief Judges are combined, the task will be quite herculean.

On the other hand, the office of Chief Justice has always been associated with a judge of deep knowledge of the law, judicial experience, wisdom and justice. He practically lays down the law for the country to follow. That is why, in the past, the Chief Justice (formerly the Lord President of the Supreme Court) was not involved in the day-to-day administration of the High Courts and the subordinate courts. That was the job of the Chief Judge (formerly the Chief Justice of the High Court). A Chief Justice devoting full time to the law bereft of administrative duties is the common practice in most countries.

Now if the Chief Justice is required to perform both, namely the administrative functions of the entire judiciary and his judicial functions as well, Parliament is certainly expecting too much from a single person for the simple reason that he will be doing the work which in the past was performed by three people. His overall performance will surely suffer with grave consequences to the judiciary and the country.

But Parliament in its wisdom had no such expectation. That is why it used the words 'responsible to' intending thereby that the President and the Chief Judges are to do their jobs as before but subject to the general direction of the Chief Justice.

It follows as the law stands, the Chief Justice need only issue general policy guidelines on administrative matters for the President of the Court of Appeal and the Chief Judges of the High Courts to follow with a system of keeping the Chief Justice informed on certain matters. Such an arrangement will allow the Chief Justice to play a more prominent role as Chief Justice of the Federal Court. We eagerly await his learned judgments.

It may well be that there were good reasons for the cancellation of the transfers at the last minute but even so it could have been done with some degree of finesse. From what happened, members of the public will get the impression of muddled thinking and confusion in high places.

This time around the four judges were at the wrong end of the stick. In the courtroom, if a lawyer disagrees with the judge he says: "As your lordship pleases!"

Wise to separate judiciaries of Peninsula, Sabah and Sarawak

 15.8.96

MALAYSIA consists of the territories of Malaysia, Sabah and Sarawak. Broadly speaking, these territories have distinct histories, cultures, customs, traditions, ethnic groups and languages.

The Malaysian judiciary is a federal establishment. This is a good thing as it enhances the independence of the judiciary. A consequence of federalism is that judges and magistrates are liable to be transferred to any part of Malaysia. The frequent transfers of judges and magistrates however between the territories is not necessarily a good thing. Apart from the high costs of such transfers, a transitory disposition prevails in the judges and magistrates – here today and gone tomorrow.

The administration of the criminal justice system is a rather complicated business. Apart from a knowledge of the law and procedure, judges and magistrates are expected to be familiar with the local conditions of the community in which the trial is held. A criminal trial necessarily consists of witnesses giving evidence in open court. A judge when receiving the evidence of a witness must appreciate the culture, traditions and customs of the witness to better evaluate the

evidence. In assessing the appropriate sentence in each case, the judge is also required to take into consideration the economic and social conditions of the community so that the sentence will have the desired impact intended by the court and meet the ends of justice expected by the victims of crime and the community.

Judges and magistrates who are mere birds of passage cannot acquire the required knowledge and experience in such matters. The result is that the criminal justice system does not achieve the desired objective.

When Lord Denning, the Master of the Rolls of England and Wales (the equivalent of the President of the Court of Appeal here) was on a visit to the country in 1975, he said we should not refer criminal appeals to the Privy Council in London because English judges were not familiar with Malaysian conditions. We have since ceased doing so.

What then can be done so that we have a more effective judiciary in so far as the criminal justice system is concerned? The answer seems to lie in developing separate judiciaries for each of the three territories from the magistrate's level right up to the High Court. The judges and magistrates will still be liable to be transferred from time to time, so that they do not get stagnant and stale by being in a particular locality for too long a period of time, but the transfers will be within their respective territories.

In this connection, it is about time that the High Courts of Sabah and Sarawak each had its own Chief Judge instead of as now with a Chief Judge for both Sabah and Sarawak. Both states have considerably enlarged their respective judiciaries since 1963 as a result of increases in the population and economic development. In addition, both states have since produced capable judges and magistrates.

With separate judiciaries then the Chief Judge of each High Court will be better able to assess the capabilities of the magistrates and judges of their respective territory and thereby enhance judicial administration and control. True, the Malaysian judiciary was restructured as recently as in 1994 but what is required now is a little fine-tuning.

There will thus be three High Courts of co-ordinate jurisdiction. In addition to their duties of judicial administration, the Chief Judges should preside over all criminal appeals in the Court of Appeals arising from their respective territories. By doing so, not only will criminal

appeals be disposed of much quicker but the Chief Judges with their knowledge and experience of local conditions will be most effective in administering the criminal justice system.

The President of the Court of Appeals will in effect be confined to civil appeals only arising from all the three territories. The President of the Court of Appeal and the three Chief Judges of the High Courts should sit in the Federal Court. This will make the Federal Court completely separate and independent of the other courts subordinate to it and thus have a more transparent objective view of the appeals that come before it. The Malaysian judiciary and the public can only benefit from these changes.

Heavier sentence needed for rape

 19.9.96

I am most honoured by the comments of readers of this column on the subject of robbers-cum-rapists (*NST*, August 8). I respect the views expressed and in all humility I agree with them. As the headline correctly summarises, these criminals do not deserve mercy.

Perhaps, I was misunderstood. It was certainly not my intention to blame rape cases on women. The point I was making was that rapists do not pick and choose their victims. The three cases cited confirm this view.

Why, only the other day, a village in France got together to celebrate the 100th birthday of its most senior citizen. A few days later, the centenarian was robbed, raped and killed by a 27-year-old man.

Recently, the Chief Justice of Singapore in an appeal from a conviction for rape remarked that it would be an insult to the animal kingdom to say that the rapist behaved like an animal. With respect, I agree with the learned Chief Justice because animals and birds do not commit rape. Without the consent of the female of the species, no mating can take place. Often there is much foreplay. Indeed, many are even monogamous.

Be that as it may, the issue has turned on what is the appropriate punishment for rape. Judges in Malaysia do not make law.

Their job is to interpret the laws made by Parliament. In the past, the punishment for rape was imprisonment for life (meaning natural life) or imprisonment up to 10 years and fine or whipping. At present, the

punishment is not less than five years' and not more than 20 years' imprisonment and whipping.

Judges are guided by certain basic principles in assessing the sentence for each particular case. Both under the old law and in the present law, judges are given a discretion as to what sentence to impose. In assessing the sentence, they must consider all the circumstances of the case which must necessarily include all facts concerning the victim. This is not to say that the woman is to be blamed for the rape but Parliament has imposed a discretion on the judge – should it be five years, 10 years or 20 years. To decide on the severity, the judge has to consider the victim as well and it is in this context that reference was made as to who and what the victim is.

That is the state of our present law. A reader seems to suggest that all rapists suffer the same punishment and no account should be taken of who or what the victim is. Rape is rape. It is despicable. Indeed, it is. In short, judges should not be given any discretion in the matter.

This is known as the doctrine of absolute liability calling for a single mandatory sentence like the death penalty for murder, dadah trafficking and illegal possession of firearms and explosives. It appears that rape should be placed in this category.

In Islam, fornication and adultery are strictly forbidden. The punishment for an offence like rape in Islamic law is death if the rapist is married and 100 lashes if he is unmarried. The victim is not punished no matter what or who she is. In California, the United States, a new law provides that rapists be punished with castration.

Perhaps, there should be a public debate on the punishment for rape to influence our legislators. It has happened before. In the early 1960s, public pressure influenced the establishment of a Royal Commission which recommended the enactment of the Law Reform (Marriage and Divorce) Act which effectively abolished polygamy among non-Muslims and provided for monogamous marriages. Recently, again as a result of public pressure, the Domestic Violence Act became law.

In proposing to change the law, consideration should be given to raise the age of consent which is a complete defence to a charge for rape. At one time, the age of consent was 14 years. It is now 16 years. Should it not be raised to 18 years which will protect all schoolgirls until they complete Form Five? At the same time, should we not have separate schools for boys and girls all the way from Standard One to

Form Five? In the West, parents think something is wrong if their daughter does not have a boyfriend at the age of 16.

Finally, the mandatory sentence for rape should be 10 years' imprisonment plus six strokes of the rotan and castration without regard to who or what the victim is.

Rape is despicable. The present law is not sufficiently deterrent. Judges should not be blamed. It is the law that needs changing if that is what the public wants.

Reform needed before Bar's AGMs become a farce

 3.10.96

THE legal fraternity never ceases to provide the public with excitement. This is perhaps understandable because it is the oldest profession in the world and its work involves the social and economic affairs of the community it serves.

The latest episode was triggered by the statement of the Attorney-General at the Medico-Legal Society on July 19 that his department was proposing to the Government to reform the Bar by admitting government lawyers, academic and legal advisers of corporations as members on the grounds that the Bar was not truly representative of the legal profession. He also had other reasons but these were political.

The Attorney-General's statement of fact is correct because the Bar is not representative of the legal profession as Parliament in its wisdom never intended it to be. The Malaysian Bar represents advocates and solicitors in private practice. This is also so in all Commonwealth countries except that in the UK, the Bar Council represents barristers and the Law Society represents solicitors.

As a term, the legal profession includes judges, lawyers in private practice and legal officers in government service. Perhaps the title of the law governing advocates and solicitors, namely the Legal Profession Act 1976, is what led the Attorney-General to say that the Bar is not representative of the legal profession. This law should properly be called the Advocates and Solicitors Act as its predecessor, the Advocates and Solicitors Ordinance 1947 was called and the existing Advocates Ordinance of Sabah and the Advocates Ordinance of Sarawak are called.

Be that as it may, the law governing lawyers in private practice in this country dates back to 1905. Basically it regulates who can practise law and the discipline of lawyers in private practice as measures to protect the public; professionalism in legal practice; and above all to uphold justice and the law. Crucial is the concept that only an independent Bar can ensure an independent judiciary.

If all legally-qualified people are admitted to the Bar as members, there will be much confusion and duplicity in respect of disciplinary matters. At present, the discipline of Superior Court judges is under the Federal Constitution; government legal officers under the General Orders and by the Judicial and Legal Service Commission; legal advisers of corporations are subject to their contracts of employment; and academics by regulations of the respective universities. One cannot belong to an organisation without being subject to its rules of discipline.

Some years ago I had proposed the establishment of the Academy of Law, incorporating all legally qualified persons, as a forum for interaction. Singapore has already done so by legislation and by providing the premises for its functions in the famous old City Hall building adjacent to the Supreme Court building, while the Bar is retained separately. A similar arrangement should exist here. After more than 90 years, there is no reason to interfere with the independence and exclusiveness of the Malaysian Bar.

So it is not surprising that the AG's proposal met with very strong opposition from the Bar. The Bar Council called an EGM which was attended by 1,883 members, exceeding the required quorum of 1,296, on September 21. All but three members resolved to register their protest and concern at the AG's proposal to dilute the Bar.

The very large attendance is reflective of the anxiety and concern felt by members of the Bar. Its AGMs have frequently lacked a quorum. The law requires a quorum of not less than one-fifth of the membership and any question at such meetings must be decided by not less than two-thirds of the members present and voting.

It is here perhaps that real reform is called for. The AGM of the Bar in size is almost equivalent to the Umno general assembly. It costs money to hold such a large meeting, not to mention the personal out-of-pocket expenses incurred by lawyers from outside Kuala Lumpur in air fares and hotel accommodation.

In 1980 there were only 1,000 lawyers. It is now 6,480 and

increasing. At this rate, the AGM of the Bar will become a mammoth affair and a farce.

The law should be changed so that all matters requiring a resolution of the Bar should be tabled and voted upon at the statutory State Bar AGM. The number of votes obtained at state level, again subject to two-thirds majority, will constitute the number of votes required at the Malaysian Bar AGM. This vote will be truly representative of the Bar.

At the State Bar AGM, delegates should be elected in proportion to its membership to represent the State Bar at the Malaysian Bar AGM. This reform will considerably reduce costs, will be more representative instead of as now being dominated by lawyers from Kuala Lumpur and Selangor.

The Attorney-General's response to the Malaysian Bar resolution of September 21 was that its action was premature because nothing definite had occurred. In any event what he said was at a private meeting. Therein lies the nub. People in high places do not have the luxury of thinking aloud. What they say gets reported in the press and provokes public reaction.

In the old days, the Attorney-General would have consulted the president of the Malaysian Bar in private in respect of any matter involving the Bar. Indeed, even in matters of proposed legislation affecting the administration of justice generally. There was much mutual respect between them. But then again, we would have been deprived of another excitement.

Academy can boost law profession



10.10.96

ONCE upon a time, judges and lawyers in this country were all barristers of one of the four Inns of Court in London. These Inns have existed since the 14th century. They are steeped in tradition.

Apart from having to pass the Bar examinations, every law student was also required to eat dinners at the Inns before he qualified to be called to the Bar.

At Lincoln's Inn, for example, every student had to eat six dinners a term, four terms a year for three years in the dining hall of the Inn. At these formal dinners, the student must be dressed in a dark lounge suit.

On arrival at the cloak room, the student was greeted by the porter with a "Good evening, Sir", who then proceeded to robe the student with a black gown before he entered the hall. This very simple gesture assured the student the acknowledgement of his membership of the Inn.

The great doors of the hall were closed at exactly seven. If one was late he was not permitted to enter, thus missing the entire dining term and had to repeat it in the following term. Lawyers are expected to be punctual. There were students who passed the Bar final examinations but yet had to stay back just to eat dinners. There were of course students who had completed eating dinners but yet to pass their exams!

After the students were seated, the Masters of the Bench (the Benchers) made their entrance. All stood and bowed. The Benchers bowed in return to the barristers and then to the students. This was an exercise to respect your seniors and observe decorum as if you were in a court of law.

The high table of the Benchers was on the highest level of the hall. The Benchers were mostly judges. In my time, they included Lord Hailsham, the Lord High Chancellor and Head of the Judiciary, and Lord Denning, the Master of the Rolls and President of the Court of Appeal.

The full regular attendance of the Benchers and barristers every night during dining term demonstrated the commitment of senior members of the legal profession in the education of law students.

And so it came to pass on their return home, lawyers of yore continued the traditions and etiquette they had acquired during their student days in England. The formality of our court proceedings testify to this.

Until quite recently, the social graces attendant at legal gatherings were best illustrated at the annual Bench and Bar dinners on the occasion of the annual general meeting of the Bar hosted by the Bar Council, with judges as guests, which were always well attended and became some sort of a ritual.

We always looked forward to the after-dinner speeches of the newly elected chairman of the Bar Council and the reply by the Lord President. Both speeches invariably carried pertinent messages but were artfully interlaced with legal wit and humour.

Today that common bond is missing. Malaysian lawyers now come from a variety of backgrounds, ranging from the graduates of our local universities to those of the UK, Australia and New Zealand. There is neither a common traditional background nor even a common

professional standard. Not that being trained in various countries or in different universities is a bad thing. Indeed, varied exposure will in fact enrich the legal profession.

In Australia, I found the English legal traditions very much in evidence.

What is lacking here, to borrow an expression, is the corporate image of lawyers. It follows that at one stage of their training, all future lawyers should be put through a single institution and made to pass a common Bar examination so that all lawyers would have acquired the same competence and rules of etiquette.

The solution is the establishment of the Academy of Law with membership to include judges, lawyers in government and private practice, academics and legal advisers of corporations. This was perhaps what the Attorney-General was thinking when proposing reform of the legal profession in his capacity as the chairman of the Qualifying Board of the Legal Profession.

The primary function of the Academy of Law will be to conduct the Bar examinations, provide facilities for vocational training of lawyers, legal research and continuing legal education.

As the umbrella organisation of the legal profession, it could take over from the Bar the Biennial Malaysia Law Conference, legal seminars and workshops. Its activities could even include organising the annual Bench and Bar Games between Malaysia and Singapore for the Tun Azmi Trophy.

In time to come, the academy could even excel the Inns of Court in tradition and professional excellence.

Restore mutual respect to solve Bar-Bench quarrel



21.11.96

A decade is a long time although it may seem that it was only yesterday that the Bench and Bar rift began. The situation is most unfortunate and does not speak well of the legal profession as a whole.

The trouble is that when two parties quarrel in public, both sides insist that they are in the right and the other side is wrong. Neither side wants to be seen to have lost the fight. So it goes on and on. But this is

no ordinary quarrel because at stake is public confidence in our legal system.

Judges and magistrates are not infallible and so we have in place a three-tier system of one trial and two appeals. In every court case in the adversarial system, one party wins and the other loses. If the party that loses is dissatisfied with the court's decision, he has a right of appeal to a higher court and there is provision for a second appeal to the next higher appellate court.

With such a system, there is no reason for judges and lawyers to quarrel outside the court room. But they do, why? The quarrel sadly is not about the system but the people who operate the system by people who have no right of choice of the people on the other side.

The judges say that lawyers are not doing their job properly and the lawyers in turn say that the judges are not doing a proper job. They accuse each other of a deterioration in standards of professional performance. Perhaps both are right.

In every profession there are bound to be a few black sheep but this does not mean that all are bad. What is happening now is not new although the number of complaints against both sides has increased due inevitably to the increase in the number of judges, magistrates, lawyers and the volume of court cases, both civil and criminal.

What is new is the style of dealing with problems that exist. In the past, any complaint against the Magistrate's or Sessions Court was addressed to the local High Court judges who would institute an inquiry and where necessary, call upon the magistrate or Sessions judge to give his side of the story. All this was conducted in strict confidence by letter or personal contact.

If the complaint was against the High Court itself, then a confidential letter would be addressed to the Chief Justice. This was followed by an inquiry by the CJ asking for an explanation from the judge concerned by confidential letter.

If the judge was in Kuala Lumpur or nearby, an invitation to have coffee with the Chief was all that was required.

If the judge or magistrate had a complaint against a member of the Bar, then a confidential letter would be addressed to the chairman of the Bar Council for his attention and action with a copy to the Chief Justice. Public rebuke of counsel from the Bench was very rare. Thus problems between the two sides were sorted out quietly and effectively.

The crux of the problem today appears to lie in the breakdown of communication and loss of mutual respect between the two. The Bar Council claims it has difficulty in obtaining a private audience with the Chief Justice. Even letters to the Chief Justice go unanswered. So in frustration it resorts to issuing press statements.

The Chief Justice in turn calls a press conference to criticise the Bar and in particular its inability to discipline lawyers.

Now this is really new. In the past Chief Justices were never known to give press conferences. The only public statements the Chief Justices would make would be in judgments delivered in open courts. Any extra-judicial public statement would be made by the Chief Registrar. In this way, public debate is avoided and the dignity of the court is maintained.

The solution. Let the recent past be forgotten and start anew. Perhaps a beginning can now be made by regular quarterly meetings between the Chief Justice, the President of the Court of Appeal, the Chief Judges of the High Courts and members of the Bar Council to deal with any problems that may arise from time to time and together improve the administration of justice. Similar regular meetings should also be held between the state judiciary and the State Bar Committee.

The feud must stop here and now. The legal system is transparent enough as it is. There is no need to overdo it. All that is needed now is to restore mutual respect between the Bench and the Bar.

There is great need to simplify and speed up High Court cases

 28.11.96

IT is good to hear that the judiciary is proposing to change the rules so that civil cases in the High Court will be disposed of in a shorter time than now.

At present, two different sets of rules apply, namely one set of rules for the subordinate courts and another for the High Court.

In the subordinate courts, the rules provide for judge-controlled litigation whereby the magistrate or Sessions Court judge sets the pace of litigation from beginning to end. This is done by first setting the date for the parties to appear before the court when the summons is first issued and, thereafter, to fix dates for the subsequent steps of litigation.

In the High Court, however, the rules provide for lawyer-controlled litigation in the sense that if the lawyers do not make a move the court sits still and does nothing, perhaps biblically, ask and thou shall be given. When the writ is first issued, there is no return date and the plaintiff or his solicitor has 12 months to serve the writ.

Whereas in the subordinate court, the parties are required to appear in court as early as three weeks from the date of issue of the summons with the possibility that the case can be disposed of at first appearance in court, in the High Court the plaintiff may opt to serve the writ, say, in the twelfth month of issue of the writ. So nearly a year has gone before the case can even get moving in the High Court.

This flexibility of time, however, is favoured by businessmen who do not really want a court battle but, armed with a writ, the plaintiff can persuade the defendant to settle the claim out of court. Many cases are in fact settled in this way.

The rationale for flexible time is that if the plaintiff is really keen in getting on with the case, there is nothing to stop his solicitor from serving the writ on the defendant on the same day the writ is issued and from then on, the rules provide for time limits for the subsequent steps.

The proposal is to reduce the 12-month service period to six months. Whether this will actually speed up cases is arguable because there is provision for extension of time to serve the writ and there may be valid reasons why the writ cannot be served within the stipulated time. One reason for filing the writ is to beat the statute of limitations which provides that you cannot sue after a lapse of six years and, in some cases, 12 years, from the accrual of the right to sue.

Another proposal is that for open court trials, witnesses should first give evidence by affidavit and, at the trial, they will be subject to cross-examination only.

If the matter has to be decided in open court, then it is really contentious and affidavit evidence is not suitable. Affidavit evidence should only be allowed in an open court trial if the opposing party accepts the statement without qualification.

A practical way to shorten proceedings is to make better use of the pre-trial procedure during the Summons for Directions where the issues can be narrowed down and only disputed issues are tried.

In one case not long ago, a trial took three weeks. Witnesses were examined and cross-examined at great length although the facts were

not disputed and the supporting documents were not challenged. The only issue was who was in breach of contract which could have been decided by legal argument and would not have taken more than one hour of the High Court's time!

There is, however, a great need to simplify and thereby speed up cases in the High Court. The Rules of the High Court 1980 are derived from the English Rules of the Supreme Court 1965. We were already then 15 years behind time. The English rules have since undergone major changes.

Under our rules, applications for mandamus, prohibition, certiorari and such like are governed by separate rules and, if you make the wrong application, the case is lost. In England, such applications have been simplified by making a single application for judicial review and an appropriate order will be given at the end of the case.

Again in England, special and simple rules are provided for the trial of commercial cases involving merchants and traders, the object being to arrive at quick decisions. We do not have such rules. Even the rules regarding entry of appearance have been simplified and are more like our Subordinate Court Rules for the defendant to say whether he wants to fight the case or admit the claim and his proposal for payment.

Finally, the rules are made by the Rules Committee with the Chief Justice as chairman, with other judges, the Attorney-General and three advocates, one practising in the peninsula, one in Sabah and one in Sarawak, appointed by the Chief Justice as members.

As lawyers are the people who make the system work, perhaps, the Chief Justice should appoint the chairman of the Bar Council and the chairmen of the Sabah and Sarawak Bars to the Rules Committee for more effective representation and feedback.

Financial accountability of legal firms

 13.3.97

THE Johor Baru District Housebuyers Association last week lodged a report against 50 legal firms alleging that lawyers in these firms have been practising without valid Annual Practising Certificates. Some of these firms, it was further alleged, had ceased operating altogether.

It appears that the clients of these firms are in a dilemma as they do not know how to get back the money they had paid to the firms. It is obvious that the clients are more anxious at the prospect of losing their money than the fact that the lawyers are going about their business illegally.

This is most disturbing news. To make such an allegation against a single lawyer is bad enough but against 50 legal firms is a matter of grave concern. Not that such claims are new but that they continue to occur in spite of very stringent regulations under the Legal Profession Act.

It shakes the very foundations of our legal system.

Why? Because if lawyers who belong to an honourable profession are dishonest and thieves, the public will lose confidence in the ability to protect their rights in the pursuit of justice by an independent Bar of which we have been proud all these years.

Before independence, there was only one isolated case of a lawyer who committed criminal breach of trust of his client's money. He was a brilliant lawyer but unfortunately a compulsive gambler. He had "borrowed" the money entrusted to him to bet on horses hoping to replace the money with his winnings. He lost heavily. He was prosecuted, sentenced to imprisonment and disbarred.

Honour and the very thought of disgrace and shame to family and society at such acts of dishonesty and consequent punishment were perhaps the reasons why lawyers behaved honourably and gained public respect and confidence.

Alas, today such considerations no longer apply. In spite of a number of lawyers recently who have been prosecuted for criminal breach of trust and given prison sentences followed by disbarment, such cases sadly are still on the increase.

People are not ashamed any more. Honour has been lost.

True, the number of lawyers is on the increase each year but this cannot excuse their dishonourable conduct. Never.

The trouble today is that people have acquired expensive tastes before they can afford to, and thus want to get rich quick by fair means or foul. Some are just plain thieves and have left the country with their clients' money. In one case alone, the amount involved was RM6 million!

It is precisely because of the increasing number of cases of lawyers

stealing their clients' money that regulations had to be made requiring legal firms to operate a separate client's account with a bank and that such accounts be audited each year by independent auditors. Only when the auditor certifies that the accounts are in order would Annual Practising Certificates be issued.

The most common occurrence of lawyers stealing their clients' money is when they act as stakeholders in a property sale and purchase transaction. The routine is that the lawyer will keep the purchase money pending the registration of the transfer documents before releasing the money to the seller or developer. Several lawyers have succumbed to the temptation of misusing the money while it is in their custody.

It is becoming increasingly obvious that existing regulations and safeguards have proven to be inadequate.

What then is the solution to this problem?

Legally, a practising lawyer is considered an independent professional. He cannot be employed by anybody. Clients must go to him for legal advice. Touting for business is illegal. Some lawyers get together to set up a legal firm. Others are content to operate one-man legal firms. Technically, a lawyer is personally responsible for his actions, not the firm. It is here that clients find difficulty in recovering lost money.

Most cases of lawyers stealing their clients' money are by one-man or small legal firms.

Perhaps the answer is for the Bar Council to make regulations restricting conveyancing practice to large firms. Such firms should have not fewer than 10 lawyers and employ full-time office managers responsible for the administration of the firm and accountants responsible for the firm's finances. Such firms must also be specifically authorised by the Bar Council. Any loss of client's money is the responsibility of the firm. This will place legal firms on the same footing as other business firms as far as financial accountability is concerned.

It is one thing to have an independent Bar but quite another for lawyers to act independently as far as other people's money is concerned.

Way to expedite Industrial Court cases



20.3.97

THE primary objective of the Industrial Relations Act is the prevention and expeditious settlement of differences or trade disputes that may arise between employers and workmen in order to reduce disruption of productivity and preserve peace and harmony in the workplace.

Towards this objective, the Act provides for trade disputes to be resolved firstly, by direct negotiations between the parties. Failing settlement, the Director-General of Industrial Relations may be called upon to conciliate and when expedient, the Minister himself may conciliate. Indeed, 85 per cent of cases reported for conciliation are settled at this stage.

Finally, failing settlement at the conciliation stage, the Minister may refer the dispute to the Industrial Court for arbitration. A unique feature of Malaysian law is that once a dispute is referred to the Industrial Court, industrial action or strikes related to the dispute must cease forthwith.

To further emphasise expeditious settlement, the Act provides that the award, decision or order of the Industrial Court shall be final and conclusive, and shall not be challenged, appealed against, reviewed, quashed or called in question in any court. In practice, time and time again, it has been shown that the award of the Industrial Court is not so final.

This is because the Act also provides, subject to the discretion of the Industrial Court and under certain conditions, on the application of any party to the proceedings in which the award was made, to refer to the High Court on a question of law.

In addition, a dissatisfied party may apply direct to the High Court for judicial review to quash the award of the Industrial Court on the ground that it has acted in excess or want of jurisdiction. The High Court exercises this power because in the eyes of the law, the Industrial Court is an inferior tribunal and, therefore, subject to the jurisdiction of the High Court.

These two avenues to the High Court, after the Industrial Court has made a final decision, are the causes of delays in the final resolution of trade disputes. It is said that some cases have taken more than three years. This is partly because the High Court has other cases to attend to.

The right to appeal is inherent in any legal system. The obvious

remedy is to provide this right and do away with the cumbersome and long delaying procedure of a reference to the High Court on a question of law or of judicial review by the High Court. This will not necessarily open the floodgates and deluge the High Court with appeals. This can be seen from the fact that only a very small percentage of appeals go to the High Court from the thousands upon thousands of civil cases tried by the subordinate courts.

The clamour for the right to appeal against the decisions of the Industrial Court has been going on for years. So when the Minister of Human Resources, Datuk Lim Ah Lek, announced recently that his Ministry was studying a proposal to establish an Industrial Appellate Court, it was greeted with much acclaim and relief.

It appears that the proposal is based on the Australian model with suitable modifications to suit Malaysian conditions. From what I have seen in Australia, the Industrial Arbitration Commission there is a very elaborate organisation employing many judges.

Be that as it may, our Industrial Court system is simple, effective and capable of expeditious settlement. An appellate system can be introduced quite simply and inexpensively by using existing human resources and experience.

To begin with, what needs to be done is to make the Presidency of the Industrial Court a Division of the High Court. A judge of the High Court can then be appointed as the President of the Industrial Court to exercise his appellate powers.

With the right of appeal, all cases decided by the Industrial Court will automatically be appealable to the High Court.

The advantage of the proposed arrangement is that the judge of the High Court, who is appointed the President of the Industrial Court, is physically on the Industrial Court premises and can therefore devote his judicial time exclusively to Industrial Court cases, thus reducing delays.

From the decisions of the President (High Court judge) in the exercise of his appellate jurisdiction, an appeal may lie direct to the Court of Appeal under special rules in respect of such cases, in particular without prescribing a minimum amount of the claim.

There will, therefore, be no necessity to establish a separate Industrial Appellate Court. At the same time, a balance is struck between the desirability of the expeditious settlement of trade disputes and the exercise of the right to appeal.

Case for a Director of Public Prosecutions

17.4.97

THE Deputy Prime Minister, Datuk Seri Anwar Ibrahim, announced in the Dewan Rakyat last week that plans were afoot to increase the budgetary and manpower resources of the Anti-Corruption Agency. In addition, the Prevention of Corruption Act 1961 is being amended. Together, these proposals, the DPM said, would further enhance the effectiveness of the ACA as part of the Government's measures to fight corruption.

The Leader of the Opposition in the Dewan Rakyat proposed that the amendments to the Prevention of Corruption Act 1961 should include a revamp of the existing structure of the ACA. He said that the Director-General of the ACA should be the sole authority to direct the prosecutions of all corruption cases in addition to his existing powers to direct the investigations of such cases. He also proposed that the DG of the ACA report direct to Parliament.

Lim Kit Siang's proposals, if implemented, will in effect mean that the ACA will become an independent commission with power to investigate and prosecute corruption cases without fear or favour. It would seem to follow that the DG of the ACA, once appointed, cannot be removed from office until he attains the age of 65 except on grounds of inability, from infirmity of body or mind or misbehaviour to properly discharge the functions of his office, to be decided by a resolution of Parliament.

Implicit in Lim's proposals is that there has been political interference in the ACA in the past and that the incidence of corruption in the country has reached the level that it is now imperative to create and establish an Independent Commission Against Corruption. Lim's implied assumptions were, however, partly torpedoed three days later when the Parliamentary Secretary in the Prime Minister's Department revealed in the House that the ACA is investigating eight Exco members in six states.

The ACA, like the police, is a purely investigative agency. Under the law, all criminal prosecutions are instituted in the name of the Public Prosecutor. The decision whether to prosecute or otherwise lies with the Public Prosecutor. That is why when the ACA or the police have completed their investigations, they have to refer their papers to the Public Prosecutor's office.

I was a Deputy Public Prosecutor for 10 years and I can state with

some confidence that the ACA and the police do investigate all cases reported or referred to them. The Prevention of Corruption Act 1961 further provides that the prosecution of all offences under the Act must be with the consent of the Public Prosecutor. Indeed, our legal system of separating the powers of investigation and prosecution is sound as a balance of power is maintained.

Under the Constitution, the Attorney-General is the principal legal adviser to the Federal Government and also the Public Prosecutor. In the latter capacity, the Constitution provides that he shall have power, exercisable at his discretion, to institute, conduct or discontinue any proceedings for an offence, other than proceedings before a Syariah court, a native court or a court martial.

In the recent past, the A-G has personally appeared in court to discontinue proceedings against a politician and directed the withdrawal of other charges in another court against the same politician on the grounds of insufficient evidence. In so doing, he was constitutionally correct. It is perhaps in reference to these cases that prompted Lim to propose conferring powers of prosecution on the DG of the ACA and thus marginalise the A-G in respect of corruption cases.

Generally, criminal proceedings are not instituted or discontinued because there is a lack of or insufficient evidence to prove the case. Whether or not there is sufficient evidence is a question of law. In cases of lack of or insufficient evidence before the case goes to trial, the practice is either not to institute the case at all or, if the accused person has been charged in court, to withdraw the charge in order to avoid the perils of a criminal trial of an innocent person.

Such decisions are made by experienced and professionally qualified Deputy Public Prosecutors practically every day all over the country.

It follows that it is not necessary for the A-G in his capacity as the Public Prosecutor to make such decisions. Indeed it is practically impossible for him to do so because of the sheer volume of cases that come up each day.

But there are exceptional cases from time to time when a case is either not instituted or discontinued on grounds of public policy or in the interest of international relations. A recent instance of non-prosecution is the decision not to prosecute the French "Spiderman" for scaling one of the Petronas Twin Towers, although he had clearly committed an offence.

Perhaps in the interest of transparency of government, the powers of the A-G not to institute or discontinue criminal proceedings should be confined to cases of public policy or in the interest of international relations, in short on grounds other than strictly legal ones like insufficient evidence.

For the day-to-day management and control of criminal prosecutions nationwide, there should be created and established the office of the Director of Public Prosecutions. He will rank next to the Solicitor-General and his decisions on criminal matters are final. The A-G's involvement in criminal cases will, therefore, be extremely rare.

In the event that the A-G wishes to intervene in a particular case in the exercise of his constitutional powers, this fact should be made public so that the people will know that the charge is being withdrawn for reasons other than legal ones.

An independent judiciary, an independent Bar and an impartial public prosecution service will ensure justice to all in a parliamentary democracy.

And God willing, a country free of corruption.

Resident lawyers and interests of clients



7.8.97

It has happened again! This time a controversy has arisen because some people continue to overlook the reality that Malaysia consists of three distinct territories, namely the States of Malaya, Sabah and Sarawak.

We are a federation and not a union state.

That is why there are specific and separate provisions enshrined in the Federal Constitution in respect of Sabah and Sarawak which are not applicable to the States of Malaya.

The latest controversy arose out of the requirement that Peninsula lawyers who are retained by clients to appear in the courts in Sabah and Sarawak are required to obtain ad hoc admission to the Bar of Sabah or Sarawak for each particular case, in addition to obtaining a work permit before they can do so.

This requirement has been in existence since 1963.

So what is new?

Article 161B of the Constitution provides:

- "(1) In so far as any provision made by or under an Act of Parliament, by removing or altering a residence qualification, confers a right to practise before a court in the States of Sabah and Sarawak or either of them on persons not previously having the right, that provision shall not come into operation until adopted in the States or State in question by an enactment of the legislature.
- (2) This Article shall apply to the right to practise before the Federal Court and the Court of Appeal when sitting in Sabah or Sarawak and entertaining proceedings on appeal from the High Court in Sabah and Sarawak or a judge thereof or proceedings under clause (2) of Article 128 for the determination of a question which has arisen in proceedings before the High Court in Sabah or Sarawak or a subordinate court in Sabah and Sarawak."

The so-called controversy is actually a complaint against the State Legislature of Sabah and Sarawak in not adopting section 35 of the Legal Profession Act 1976.

This is an Act of the Federal Parliament but applicable only to the States of Malaya.

The specific provision reads:

- "(1) Any advocate and solicitor shall, subject to this Act and any other written law, have the exclusive right to appear and plead in all Courts of Justice in Malaysia according to the law in force in those courts, and as between themselves shall have the same rights and privileges without differentiation."

The question arises: why should the State Legislature of Sabah and Sarawak adopt section 35 of the Legal Profession Act? The constitutional protection accorded to Sabah and Sarawak lawyers is not even unique.

In fact, it is not even about whether Peninsular lawyers are more experienced or knowledgeable than the lawyers of Sabah and Sarawak (one should not be that presumptuous).

The truth of the matter is about protecting one's rice bowl! And lawyers are the most experienced about such matters.

The Malaysian Federation was formed only in 1963 yet in older countries, the closed-shop policy of lawyers is the same.

The United Kingdom was formed in stages - England and Wales in

1284, with Scotland in 1707; and Ireland in 1801 (the south broke away in 1921).

Barristers called to the Bar by the Inns of Courts in London could only practise in England and Wales and that too restricted to circuits (or regions). English barristers cannot appear in the courts of Scotland and Northern Ireland and vice versa.

The United States was formed in 1787. Attorneys can only appear and plead in the courts of the respective 50 states they are enrolled in. So a California attorney cannot appear in a New York court.

Of greater importance than the rice-bowl viewpoint is the interest of the client.

Resident lawyers of each state are more knowledgeable about local conditions; local court practice (which may even vary from one judge to another in the same place); state laws, rules and regulations.

It follows that only resident lawyers of each state can best serve their client. This is true not only of Sabah and Sarawak but also of the States of Malaya.

Perhaps the time has arrived, even in the Peninsula, that the solicitors' role of legal practice should be restricted to resident lawyers of each state.

The upshot is that legal practice should be confined, as of right, to all matters within the local jurisdiction of the High Courts and the courts subordinate to them.

So Peninsula lawyers should forget about ever practising in Sabah and Sarawak as of right.

Ad hoc admission will continue. The best they can hope for is to get exempted from having to obtain a work permit!

There is perhaps a case to grant all lawyers the right of audience in the Court of Appeal and the Federal Court whenever they are sitting, irrespective of any matter arising from any court, because the jurisdiction of these two courts covers the entire Federation.

There may well be an advocate in Sabah or Sarawak more able than any Peninsula lawyer to argue a particular appeal in the Federal Court arising from, say, a Selangor matter.

The court should not be denied the assistance of such learned counsel, instructed of course by a resident solicitor!

Easing the eternal struggle between executive and judiciary

6.11.97

A new turbulence has erupted in Pakistan. This time it is over the appointment of judges to the Supreme Court.

Chief Justice Sajjad Ali Shah in August had recommended to Prime Minister Nawaz Shariff to fill five vacancies in the Supreme Court of Pakistan out of a Bench of 17 judges. It appears that the Prime Minister has been reluctant to make the appointments.

The Chief Justice insists that his nominees must be appointed or the Government give grounds for non-compliance, in which case the court will rule on these grounds. The court had ruled earlier that such cases are justiciable.

Early last month, the Chief Justice wrote a letter to President Farooq Leghari to come to the aid of the Supreme Court to get his nominees appointed. Under the Constitution, the President shall act on the advice of the Prime Minister.

In the meantime, the Prime Minister has proposed a law to the National Assembly to reduce the number of judges of the Supreme Court, thus making the Chief Justice's nominations redundant.

Sadly, the issue has been politicised with 20 political parties accusing the Government of being antagonistic towards the judiciary and alleging the proposed law is designed to subdue prevailing judicial activism. Demonstrators have taken to the streets and clashed with the police over the issue.

This is not the first time the Supreme Court has come into direct conflict with the executive. On a previous occasion, the late President Zia ul-Huq dismissed all Supreme Court judges by the expedient of requiring the judges to take a new oath. Not all were asked to do so. Those not asked and those who declined lost their jobs.

Coincidentally, former Lord President of the Federal Court, Tun Mohamed Suffian was on a visit to Pakistan at the time. He was met at the airport by the Chief Justice who invited him to dinner that evening. When Tun Suffian arrived for the dinner, he was informed by his host that he was no longer the Chief Justice since they last met but he was welcome to dinner anyway!

The tussle between the executive and the judiciary has been going on for a long time in many countries. The executive is of the view that

as it has been elected by the people to govern the country, the judges who are only appointed by the Government and not elected by the people, should not tell it how to do its job and be a hindrance or obstacle to what the executive does.

Judges, on the other hand, say that on appointment they took the oath to preserve, protect and defend the Constitution. Such a stance, of course, gives expression to the doctrine of the separation of powers among the three branches of government, namely the legislature, the executive and the judiciary.

All democratically-elected governments subscribe to the concept of an independent judiciary. But politicians are like football players who do not like to be fouled by the referee. The tussle between the executive and judiciary will be eternal. The potential rift between the two branches of government, however, can be much reduced if appointments to high judicial office are not politically tainted, made on purely professional ability and integrity and with transparency to preserve the independence of the judiciary.

In Malaysia, judges are appointed by the Yang di-Pertuan Agong acting on the advice of the Prime Minister, after consulting the Conference of Rulers. Before tendering his advice, the Prime Minister consults the Chief Justice of the Federal Court, the President of the Court of Appeal or Chief Judge of the High Court, depending on which court the judge is being appointed to.

In practice, the nomination is first made by the Chief Justice to the Prime Minister. It follows that the nomination could be made by a single person, namely the Chief Justice, since the Prime Minister cannot be expected to be personally acquainted with the Who's Who of the legal fraternity and certainly not of the professional track record of the candidate for appointment.

Persons appointed to high judicial office are now the subject of criticism by both the legal profession and the public in several countries. Even in England there are proposals to change the system because recent appointments are said to be lacking in merit and ability. The central issue in all these jurisdictions is, who should be given the power to select people to be appointed judges. The consensus is that the power should not be exercised by a single person.

Perhaps the time has come to change our system also, namely at the stage before the nomination goes to the Prime Minister. The judiciary

should first nominate the candidate for the approval of a Judicial Council consisting of three retired judges of the Federal Court, the Attorney-General and the President of the Bar Council, with the senior retired judge as the chairman. The council will then recommend the approved candidate to the Prime Minister.

Maybe if Pakistan has such a council, the personal tussle between the Prime Minister and the Chief Justice would not have arisen.

By the way, whatever happened to the post of the Chief Judge of the High Court of Malaya which has been vacant since April?

Chambering no longer fulfilling needs



8.1.98

CONTRARY to popular belief, the training to be a lawyer is not that easy when compared with other professions like medicine, engineering or accountancy. From the very first day in law school, the student is committed to intensive reading, extensive research, intelligent application and writing.

Apart from pure law, the student is expected to be knowledgeable in the political, economic and social conditions of the day, including the various crimes that are being committed.

Yet each year, thousands of young people take up law studies as the preferred course. The attraction to law is perhaps the publicity one gets in doing the work of a lawyer because of the transparency of the job itself.

Court cases inevitably attract public attention because they involve the rights of the individual as against the state and the lawyers involved in the case are regarded as champions of the public.

Even court cases between citizens arising out of contract, divorce, intestacy and the like seem to concern everybody because it could one day happen to anybody.

There is no doubt that law practice today is more complicated than it was in the past. Numerous laws and regulations are promulgated by the state to better regulate our daily lives. Global trade and commerce accompanied by advances in science and technology have created a demand for the services of lawyers who are experts in this field of the law.

The question arises whether our system of legal education is attuned to equip tomorrow's lawyers for the challenging tasks ahead.

The legal profession is said to be the oldest except one other in the world. It is dictated by history, custom and convention. In many aspects changes are slow, often made when it is inevitable. Of particular relevance is the practical side of a lawyer's training.

In Malaysia, a lawyer's training consists of an undergraduate course in law, both academic and professional, leading to the degree of LL B (Hons). It is a four-year course. On graduation, the law graduate is required to read in Chambers at a private law firm for a period of nine months under a Master before he can qualify for admission to the Bar.

The object of the pupillage is to familiarise the pupil in the practical aspects of law practice. In the old days, there were not many law firms and most lawyers had a general practice and so the pupils were exposed to various disciplines of the law. The number of pupils each year was also small.

Today there are many more law firms and except for the very few large law firms, most legal firms are small and specialised, for example, criminal practice, conveyancing and motor accident cases. The result is that the chambering student's exposure is limited to a specific branch of the law.

Added to this, there are more students than places in law firms for chambering. About 500 students graduate from law schools in Malaysia each year. In addition, another 1,000 graduate from law schools overseas.

Recently I attended the convocation ceremony of the Certificate in Legal Practice course conducted by the Qualifying Board of the Legal Profession. I was surprised to find the Merdeka Hall of the Putra World Trade Centre, where the ceremony was held, filled to capacity with parents, relatives and friends of the CLP graduands.

All the graduands had graduated from British universities. Most were young but a few were mature students, including two Datuks and two Datins. They will all be seeking places in law firms to do chambering.

In several countries, chambering has been abolished because it is not achieving the purpose originally intended. We should do likewise. It must be admitted that chambering now lacks the capacity and adequacy intended by the Legal Profession Act.

The Final Year course at a Malaysian university is the same as that of the CLP course for overseas graduates. Perhaps these two courses should be combined and extended to 18 months to include the practical training the student should have received during chambering.

The combined course should especially be designed to equip the student not only in advocacy but also the duties of a solicitor, which is at present lacking. This is essential because the legal profession in Malaysia is fused, hence Malaysian lawyers are known as advocates and solicitors. Only 25 per cent of practising lawyers are advocates, the rest are solicitors.

It is submitted that this combined practical course should be held and confined to the four law schools in Malaysia. In this way, overseas law graduates will get to know their peers of the future in a Malaysian university setting.

The Bar Council has complained about the standard and conduct of present-day foreign-trained lawyers. Perhaps this combined course at a Malaysian university for all law students will provide the opportunity to enhance the training and conduct of future members of the Malaysian Bar.

Giving credence to constitutional right to legal representation



15.1.98

THE Constitution provides that when a person is arrested, he shall be informed as soon as may be of the grounds of his arrest and shall be allowed to consult and be defended by a legal practitioner of his choice.

The right to be defended by a lawyer of one's choice, however, is severely limited to one's ability to pay for the professional services of a lawyer. There is no scale of fees for lawyers in criminal law practice. The more experienced the lawyer and the more busy he is with court cases, the higher the fee.

Before a lawyer agrees to accept the brief to defend a criminal case, the fee must be agreed upon and paid before he goes to court. This is in fact a legal requirement because as officers of the court, the conduct of a lawyer in court should not be influenced by monetary rewards on

the result of the case. He has been paid and is expected to discharge his duty to client and court.

Cynics, however, say that lawyers are paid in advance because if the client is convicted and sent to prison before he is paid, the lawyer will never see the money for work done!

The requirement for upfront payment, however, may lead to more crime. In the 1960s, there were several cases when a person was charged in court for serious offences like kidnapping for ransom; soon afterward, there would be a bank robbery to get the money to engage a lawyer to defend the case!

The only time an accused person gets a lawyer for free in Malaysia is when he is charged with an offence that carries the death penalty. The court will assign him a lawyer if he has not retained one himself. The fees of assigned counsel are paid by the Government.

The fees are not much and a lawyer when assigned a case cannot refuse without good reason. Such assignments are made on a rotational basis.

Be that as it may, several lawyers previously unheard of by the public became famous almost overnight after successfully defending an assigned case.

The late David Marshall of Singapore was one such lawyer. He had been in legal practice for some years but was unknown until he was assigned the Nonis murder case. The accused was acquitted. From that moment on, David Marshall was in great demand not only in Singapore but in Malaysia too.

As a Deputy Public Prosecutor, I appeared against David Marshall in several cases. He prepared his cases thoroughly and even had quotations from Shakespeare at the ready. He performed in court with a more than somewhat flamboyant style, to the delight of the press corps and the spectators in the public gallery.

He was expensive. In one long-drawn-out corruption case, the trial had spilled over into the Fasting Month. At that time, Government offices closed early at 2.30pm during Ramadhan. I was anxious for an early conclusion of the case and so applied to the court for afternoon sittings as well. Marshall objected to my application most strongly and urged the court to respect Islam as the religion of the Federation. I was the only Muslim in the case. The judge was a Buddhist, the accused a Hindu and Marshall a Jew. The court granted my application.

I later discovered that Marshall had received a fat fee upfront to take the case and was being paid a refresher of RM1000 per day (or part of a day) during the trial. He stayed at the Station Hotel and would not leave for the court house each day until the client came up with the cash!

The late D R Seenivasagam of Ipoh was another well-known lawyer of criminal cases in the 1960s. He too, quite correctly, insisted on payment upfront. His fees were quite high by the standards of the time but it was payable in a lump sum.

He had no reason to prolong cases unnecessarily. Both he and his brother S P Seenivasagam, who specialised in civil cases, were lawyers who adhered strictly to legal ethics. It was always an honour and pleasure to appear against them in court.

Which brings us to the constitutional right to counsel. Apart from cases that carry the death penalty and other serious crimes which are punishable with life or long terms of imprisonment, the accused should be represented by counsel in all cases. Many accused persons, however, cannot afford one and are unrepresented, although invariably such cases are prosecuted by a professionally qualified and often experienced Deputy Public Prosecutor. Justice does not seem to be done.

There are now more than 7,000 lawyers in private practice. It is about time that legal representation be extended to more criminal cases. A panel of public defenders for each state should be established, made up of lawyers who volunteer to be on the panel. This will make it easy for the court to assign counsel and at the same time, build up a body of experienced defence counsel.

Perhaps for a start, all cases tried in the Sessions Court and the High Court shall be defended by a legal practitioner, whether retained or assigned. The scheme can be extended to specific crimes tried in the Magistrate's Court.

To pay for the scheme, a Legal Aid Fund should be established. The income of the fund can be derived by apportionment of, say ten per cent of the fines paid into court each day.

Such a scheme will not only enhance our criminal justice system but give greater meaning to a constitutional right.

Merge legal systems to avoid injustice

 15.4.99

IN a country with multiple legal systems, conflicts of laws giving rise to conflicting jurisdictions of the courts are bound to arise. Malaysia is such a country.

We have three legal systems:

- (1) the Native courts of Sabah and Sarawak administering native and customary laws;
- (2) the Syariah courts administering Islamic laws applicable to Muslims only; and,
- (3) the civil courts consisting of the Magistrates' and Sessions Courts, the High Courts, the Court of Appeal and the Federal Court administering the general laws applicable to all persons.

Due to social changes in recent years, the conflict between the Syariah courts and the civil courts has become more apparent.

As a measure to avoid such conflict, Parliament in 1988 amended the Federal Constitution by providing that the civil courts shall not exercise jurisdiction in any matter where the Syariah courts have been conferred with jurisdiction.

Since then however the Federal Court has ruled that because the word 'exclusive' is missing from the constitutional amendment, the civil courts can exercise jurisdiction even in a matter where the Syariah courts have been conferred with jurisdiction!

The Federal Court ruling has enabled the prosecution of Muslims in the civil courts, even though an Act of Parliament has specifically conferred jurisdiction on the Syariah courts in respect of certain offences committed by Muslims.

Conflicting jurisdiction between the Syariah courts and the civil courts has also resulted in misery and injustice.

Ah Chong and Ah Moi were office mates. They had known each other for two years before they got married. As they were non-Muslims, the marriage was registered under the Law Reform (Marriage and Divorce) Act which makes it a monogamous marriage. It was a happy marriage and they were blessed with three children.

Ten years after the marriage, Ah Chong became a Muslim. He persuaded his wife to embrace Islam but she refused.

In Islam there is no compulsion in religion. In such a situation, the wife is given a grace period of three months to convert to Islam.

If at the end of the grace period she has not converted, then under Islamic law the marriage is deemed dissolved.

But under the civil law, the marriage is still subsisting. Ah Moi however, can seek a divorce in the civil court on the ground that the husband became a Muslim but if she does not, she is legally still Ah Chong's wife.

Ah Chong, now a Muslim, must live separately from his 'wife' because if he continues to live with her in the same house, he is committing a criminal offence under Islamic law for *khalwat*.

What then of the children? Under Islamic law, the children follow the religion of the father. Ah Moi, however, refuses to part with the children. A custody battle ensues. Ah Chong can obtain a custody order from the Syariah court but Ah Moi cannot be heard in the Syariah court because she is not a Muslim.

Likewise, if Ah Moi obtains custody of the children in the High Court, Ah Chong is not bound to comply because the High Court has no jurisdiction in respect of the custody of Muslim children.

What if Ah Chong decides to take another wife. As a Muslim, he is entitled to marry again but as his former marriage is monogamous, will he not be guilty of bigamy under the Penal Code?

When Ah Chong dies, his estate is to be distributed in accordance with Islamic law. Ah Moi survives him and claims that as his widow, she is a beneficiary under the civil law, thus creating a conflict of laws situation.

The example of Ah Chong and Ah Moi is only the tip of the iceberg which is causing mental anguish, heartbreak and misery because of the uncertainty of the law and conflicting jurisdictions.

The law should not be an injustice to Ah Chong and Ah Moi but the truth of the matter is that such cases are on the rise. The solution is to merge the Syariah and civil courts. There should be only a single legal system in the country. Before the British introduced their legal system, there was only a single system of the Syariah court which administered the law to Muslims and non-Muslims alike.

Judges are trained to administer any law and they have no problem administering both civil law and Islamic law in the same court.

Indeed for the last 15 years, the International Islamic University Malaysia has been producing law graduates trained academically and professionally in both the civil and Islamic law.

All it needs is the political will to merge the two courts system to administer justice to all and thereby solve the problem of conflicting laws and jurisdictions.

Do away with outdated practice



13.5.99

LAST week, Bukit Aman issued directives to police officers that they should obtain the written authorisation of the OCPD or the Chief Police Officer before applying for a remand order from the court under section 117 of the Criminal Procedure Code.

In Internal Security Act cases, they should obtain a written authorisation from the CPO of the state or the Inspector-General of Police before arresting any person.

These directives are intended to prevent abuse by investigating officers in unnecessarily detaining suspects in police custody for a period longer than is necessary.

It is perhaps not a coincidence that the directives were issued arising from recent allegations of police brutality of suspects while in police custody.

Criminal cases are investigated by the Criminal Investigation Department and one would have thought that the written authorisation should come from the District or State CID chiefs.

Internal security cases are investigated by the Special Branch and the written authorisation should be issued by the State Special Branch head or the Director of the Special Branch in Kuala Lumpur.

Be that as it may, the Constitution provides: "When a person is arrested and not released he shall without unreasonable delay, and in any case within 24 hours (excluding time of any necessary journey) be produced before a magistrate and shall not be further detained in custody without the magistrate's authority."

In applying for a remand order under section 117, the investigating officer is required to produce to the magistrate the investigation diary which will show the progress of the investigation and the reason the suspect should be detained in police custody.

The maximum period allowed for such detention is 15 days but magistrates usually do not grant more than five days at a time. After the

15-day period, the police must either charge the suspect for allegedly committing an offence or release the suspect.

The reason for detention under section 117 is to enable the police to complete their investigation into the case. There is a tendency however for the police to arrest first and investigate later.

This is evident when the prosecution applies for postponements of the case and the accused has been charged in court on grounds that the police investigation has not been completed.

What this means is that the accused has been charged in court for an offence in which the police have yet to gather the evidence to substantiate the charge. This cannot be right but it has become a common practice.

Non-violent cases like fraud, criminal breach of trust and corruption should all be thoroughly investigated and all the required evidence gathered before a person is arrested and charged in court. In such cases, a remand order under section 117 cannot be justified.

Violent crimes like robbery, rape or murder would justify detention under section 117, and even subsequent remand in custody in prison pending trial, to prevent the accused from committing similar crimes or the possibility that the accused may intimidate or harm witnesses who can lead to his conviction.

Upon arrest, the police have the power to grant bail requiring the suspect to appear in court at some future date to be charged with the alleged offence.

This power should be more extensively used in appropriate cases. Perhaps the law should be amended by providing that persons on police bail should be restricted within the police district to assist the police in their investigation.

The Constitution also provides: "Where a person is arrested he shall be informed as soon as may be of the grounds of his arrest and shall be allowed to consult and be defended by a legal practitioner of his choice."

In practice, the right of access to a lawyer is denied for as long as the person is on remand under section 117 on the ground that he may interfere with police investigation.

The practice is clearly outdated. It is for the police to investigate the case and not to prove their case by detaining a suspect to exact a confession.

The law should be amended by providing that upon arrest, the person should be allowed to consult his lawyer and in any case when he is first produced before a magistrate.

With such a law, allegations of police brutality will be a thing of the past and the new directives from Bukit Aman will not be necessary.

Need for permanent law reform commission



20.5.99

THE Revision of Laws (Amendment) Bill 1999 was passed by the Dewan Rakyat on the last day of the recently concluded sitting of the House.

The object of the Bill is to standardise the terminology and spelling of laws in Bahasa Malaysia by referring to the Law Terminology Committee at Dewan Bahasa dan Pustaka for the appropriate term.

This is a very welcome development and makes for exactitude in the interpretation of laws in Bahasa Malaysia.

In the past, different terminologies were used for the same intended term by the Court, the Attorney-General's Chambers and the Translation Bureau of the Prime Minister's Department and made more confusing by different legal draftsmen of the same establishment using different terminologies.

Malaysian laws are the most complex in the world. At the end of World War II, the laws of the Straits Settlements applied to Penang and Malacca. The laws of the Federated Malay States applied to Selangor, Perak, Negeri Sembilan and Pahang.

The states of Johor, Kedah, Perlis, Kelantan, Terengganu, Sabah and Sarawak each had their own laws. Then with the Federation of Malaya Agreement of 1948, some state laws in the peninsula became federal laws. With the Constitution of 1957, some federal laws became state laws and some state laws became federal laws.

The 1957 Constitution provided for three legislative lists, namely, Federal, State and Concurrent lists. This resulted in laws referring to matters partly in the Federal list and partly in the Concurrent or State list or partly in the Concurrent list and partly in the State list.

When Sabah and Sarawak joined the Federation in 1963, confusion was worse confounded by special provisions in the State list of those

states to include matters in the Federal list. To clear up the mess, Parliament enacted the Revision of Laws Act 1968 which came into force on January 1, 1969. From then on, a new series of laws was instituted called the "Laws of Malaysia" which are numbered serially with the Revision of Laws Act as Act 1.

Act 1 created the appointment of the Commissioner of Law Revision appointed by the Yang di-Pertuan Agong.

It also created a Law Revision Committee comprising not less than five and not more than seven members from amongst judges and other persons appointed by the Chief Justice of the Federal Court who in his opinion are suitably qualified for the purpose of examining copies of revised laws in draft. I was a member of the committee for many years.

The Commissioner has been conferred with powers set out in 24 paragraphs, basically to update pre-1969 laws by deleting matters in the Concurrent or State lists found in federal laws so that the Laws of Malaysia are strictly federal laws.

In the process, he can for example, change names of offices, like from "High Commissioner" to "Minister", and generally standardise the format of laws.

The Commissioner, however, has no power to change the basic substance of the law. That is for Parliament. In a nutshell, law revision is a cosmetic job.

He then transmits draft copies of every revised law to the Committee for its examination and opinion whether the amendments are or are not within the powers of the Commissioner and certify accordingly.

When published, the laws are known as revised laws. Thus far, 247 pre-1969 Acts have been revised with another 140 awaiting revision. Now after 30 years, the Commissioner should have worked himself out of his job!

During the debate on the Bill, an MP suggested that the Government establish a Law Reform Commission.

Deputy Minister in the Prime Minister's Department, Datuk Ibrahim Ali, who tabled the Bill replied that the Government would consider the suggestion if there was a need for it.

Ibrahim, however, added that the present system of law revision is appropriate, implying that there is no need for law reform. There is clearly some confusion here. Law revision is old law in new wrapping. Law reform is research and development of the law.

Several countries including the United Kingdom and Nigeria have established permanent Law Reform Commissions for years. In Australia, there is a Law Reform Commission for every state and at federal level. The function of the Commission is to either propose a new law or change old laws to meet the needs of society today and tomorrow.

It holds public inquiries to find out the needs of the community before recommending the proposed law to Parliament for its approval and enactment.

The Attorney-General's Chambers services the Government. It makes laws or changes law according to the needs of the Government in power.

The Parliamentary Draftsman does not and cannot hold public inquiries before drafting a new law. Indeed before a Bill is introduced in Parliament, it is classified as 'secret'.

Malaysia has had so far two ad hoc Law Reform Commissions. The first resulted in the Law Reform (Marriage and Divorce) Act 1976.

There was a series of public inquiries chaired by the late Chief Justice H T Ong. I testified before the Commission as a concerned citizen. The other resulted in the Law Reform (Eradication of Illicit Samsu) Act 1976.

Prime Minister Datuk Seri Dr Mahathir Mohamad has stressed time and again the importance of research and development in various fields. The importance of R&D of the law is no exception. There is therefore a need for a permanent Law Reform Commission as the country enters the new millennium.

Indeed, there is much work for the Law Reform Commission to do, starting with the revised laws!

Time has come to establish Family courts



17.6.99

PAST pleas for the establishment of Family courts were not successful because the number of cases that were to be dealt with by such courts did not justify the expense.

Last week, Datuk Napsiah Omar, the State Wanita Umno Chief of Negeri Sembilan and National Deputy President of Wanita Umno, raised the issue again.

She said that there is now an urgent need for Family courts because the courts are unable to cope with the large number of family cases brought before them.

She revealed some startling information. There is the case of a single mother who after 17 years is still waiting for her case to be settled!

She also said that there are 670,000 single mothers in the country. Quite obviously, their single status alone in such large numbers is an indication of the magnitude of the problem in a number of given situations, which invariably need judicial intervention.

What sort of cases would a Family court be required to deal with? First and foremost must surely be the rising number of domestic violence cases.

Whilst recent legislation has imposed severe penalties on husbands who frequently beat their wives or parents who physically abuse their children, attention should also be given to the traumatic effects of such incidents on the children who should be protected by the courts by means of appropriate orders for their safety and well-being.

Single mothers, usually with children in their care, need regular and adequate financial support. There are many husbands and fathers who just fail to perform their family duties.

Then there are cases of children being neglected by their parents. Such children take to the streets and eventually end up in the Juvenile Court. Many such children are in orphanages.

Divorces are on the increase leading to claims for custody of children, alimony, maintenance and guardianship of infants. On the caring side, there are the applications for the adoption of children.

All these cases affect people of all races and religions. But the legal system, however, separates Muslims and non-Muslims in respect of Family law cases.

Muslims can only seek redress in the Syariah courts. But the Syariah court is a state institution and its jurisdiction is limited to the boundaries of the state.

There are practical difficulties in enforcing orders issued by the Syariah court of one state if the offending party is residing in a different state.

Even the process of executing a warrant of arrest or serving a summons against an errant husband resident in another state is like going through the process in a foreign country!

The difficulties faced by litigants in the Syariah courts have frequently resulted in long delays for divorce and maintenance claims which generally cause hardship to women. Suspended animation seems to be the order of the day.

For non-Muslims, whilst they have no difficulty in the enforcement of court orders because of the nationwide effect of such orders, they are faced with having to go to different courts for different matters, like to the Magistrate Court for maintenance of wives and children; the Sessions Court for the adoption of children and the High Court for divorce, alimony and custody of children.

The ideal solution is a Family court for all family law cases for both Muslims and non-Muslims. The court should be conferred with criminal and civil jurisdictions.

It is recognised that to establish such a Family court will take time because it involves legislation including constitutional amendments. However, in respect of divorces between non-Muslims, jurisdiction may be conferred on Session Court judges under the Law Reform (Marriage and Divorce) Act 1976, thus removing such cases from the High Court. Applications for maintenance of wives and children may be removed from the Magistrate Court to the Sessions Court.

Syariah court judges, however, have unlimited jurisdiction in respect of family law cases.

In the meantime, it must also be recognised that we have a national pressing problem affecting all races and religions that calls for urgent solution. Perhaps a practical approach at the initial and immediate stage is to establish Family courts administratively within the confines of existing law.

To begin with at each state capital, a Family court be established under one roof with a Sessions Court judge and a Syariah court judge to hear all family-law-related cases including domestic violence, divorce, maintenance, custody of children, guardianship and adoption applications.

There should also be counselling services at each court. A social welfare officer should be attached to such courts to assist the court with investigative reports and recommendations. Eventually such courts should also deal with probate and the administration of estates.

The Family court should also double up as a Juvenile court. This will give the judges of the Family court an overall perspective of family-

related problems. At the same time, the support staff of the court can be specially selected and trained to service the court. The staff should serve both the Sessions Court judge and the Syariah court judge for better coordination and efficiency.

With the Government's commitment in creating a caring society, the day has truly arrived to establish Family courts.

Better late than never to boost law enforcement

 26.8.99

OVER the years we have established a body of laws for the welfare of our citizens. In certain respects we are even ahead of other countries with laws to regulate current and future situations, like cyber laws for instance.

Government departments and bodies have been created to administer the laws. In other words, for every law there is a government agency charged with the responsibility of enforcing the law.

Effective enforcement of the law, however, is another matter, which in some cases is woefully inadequate or even lacking.

There are several factors which have brought about ineffective law enforcement. These would include insufficient manpower on the ground, inefficient use of available human resources, poor supervision, outdated procedures, lack of co-ordination between different agencies, and conflicting authorities.

This situation is confounded by the propensity of people to break the law on the premise that laws are made to be broken.

Take land use for example. The National Land Code is a very comprehensive law and if strictly adhered to, there will be no problems like landslides, silted and polluted rivers, and illegal squatters.

To begin with, all land in the country belongs to the state. It is then parcelled out to individuals or corporations by way of alienation, lease or temporary occupation, all subject to specific written conditions.

Nearly two-thirds of the land are forest reserves, water catchment areas and cattle grazing reserves.

Land use is classified as agricultural, residential, industrial, commercial and public utility services.

The actual use permitted is in accord with a master plan laid out by the Department of Town and Country Planning.

But then confusion sets in. Residential areas have become commercial with housing units converted into shops, restaurants, etc. Protests by residents associations are largely ignored. House purchasers have invested their life savings or borrowed from banks, only to see the potential value of their properties decline.

The land office does not have an inspectorate to enforce the conditions attached to land use or to prevent the encroachment by squatters on state land.

Administratively, it relies on the local authority that specific conditions on land use are not breached when issuing trade or business licences or the illegal building of houses and factories. These two agencies are expected to complement one another.

Green belts proposed by the Town and Country Planning Department have become housing estates.

The Department of the Environment seems to be activated only after the damage has been done.

Forest reserves are degazetted with considerable ease resulting in landslides, silted rivers and dried-up water supply resources.

The solution is to use the State Development Office as the co-ordinating authority, on which all the relevant government agencies are represented, as the clearing house for effective land use and law enforcement.

Better still, if land administration is co-ordinated with all agencies through cybernetics.

In the towns, the local authorities seem to be helpless. By law, all buildings must, for example, provide covered five-foot ways for the convenience of pedestrians from sun and rain but are invariably cluttered up with hawkers and merchandise, which is an offence.

Back lanes too are occupied by hawkers who are even licensed by the local authority thus putting to nought fire-breaks the lanes were originally intended for, apart from being used as a passage for garbage collection.

But there is hope yet. Last week the Minister of Housing and Local Government, Datuk Dr Ting Chew Peh, said that the Government had agreed to create 699 new posts to ease the manpower constraints of 96 municipal and district councils in the peninsula.

Of the 699 posts, 176 will be for professionals, including engineers, town planners and architects. The rest will consist of technical assistants and support staff.

The acknowledgement that local authorities lack the appropriate and adequate staff for effective law enforcement has been a long time coming.

Even the current staff increase proposals took two years of study by the Public Services Department, the Malaysian Administrative Modernisation and Management Planning Unit and the Ministry of Housing and Local Government.

But these inadequacies were highlighted by the Royal Commission on Salaries and Terms and Conditions of Services of Statutory Bodies and Local Authorities in its Report of 1975!

I suppose it is better to be late than never. At least action is being taken before the end of the 20th century.

It is conceded that rapid economic development is the main cause of inefficient law enforcement.

As a society, however, we seem to react only after a major disaster has hit us, like the collapse of the Highland Towers, the drying up of the Malacca reservoir, water supply shortages, mosquito-borne diseases, city traffic jams, river and air pollution.

Perhaps the wisdom of the Second National Economic Consultative Council will take us to a brighter future in the next millennium and preserve for posterity God's bounty of this beautiful country.

Replace English rules with our own



30.9.99

IN the administration of justice, laws are of two kinds, namely, substantive law and procedural law.

Substantive law prescribes the determination of rights, liabilities and duties of the state and its citizens, as for example, criminal laws and the law of contract.

Procedural law is rules that govern the conduct of judicial proceedings. Procedural law is only an aid to the efficient administration of justice. It is a servant and not a master. A strict application of procedural law may lead to miscarriage of justice, as

for example, a criminal who escapes punishment because of a procedural defect.

Many years ago, the judge in passing the death sentence for murder need only say: "You are sentenced to death by hanging".

In carrying out the sentence, a murderer was duly hanged but somehow the rope around his neck slipped a little and he did not die. He could not be hanged a second time because according to the rules, he had already been hanged and the sentence had therefore been carried out.

The rule was then changed and now the judge in passing the death sentence has to direct that the person be hanged by the neck till he is dead.

In the pursuit of civil claims in the courts, the litigant is confronted by all sorts of rules. There have been occasions in the past when a strict application of the procedural rules had actually denied the litigant a right which he/she was entitled to under the substantive law.

The Rules of the High Court 1980 claim that their aim is for the "just, expeditious and economical" disposal of the proceedings.

In practice many people put off getting help with legal problems, because the legal system is slow, expensive and difficult to understand. Indeed, apart from the very rich and occasionally the very poor, thanks to legal aid, many people are excluded from access to justice.

Our civil procedure rules were adapted from England. During the 18th and early 19th centuries, England developed rules of court for use by judges and lawyers which were compiled in practice books.

The number and variety of such practice books were so great that the Common Law Commissioner in 1833 recommended that they should all be replaced by a single practice book.

But it was not until 1883 that the White Book, containing the Rules of the Supreme Court of England, was first published.

In 1957 we adapted the 1883 English rules. In 1962, England embarked on a complete overhaul of the 1883 rules and finally produced the Rules of the Supreme Court of 1965.

In 1980 we adapted the English rules of 1965 which are currently in force.

In April this year, England produced a unified code of procedural rules, written in plain English, to replace the High Court and County Court rules.

An interesting feature of the new English rules is that they have departed from the long established practice of the passive role of judges and have practically moved to the Islamic System, where the judge has an active role in the proceedings.

The English common law system which we have adapted is adversarial. The two contesting parties fight it out and the judge acts as a referee to see the rules are observed.

Under this system, the judge decides on the evidence produced in court. He cannot call witnesses if the parties do not do so.

In the Islamic legal system, the judge is in charge of the proceedings. He has the power to question witnesses and call witnesses if not called by either party in order to determine the truth of the matter.

Although both the High Courts and the subordinate courts in Malaysia operate under the adversarial system, the rules applicable are different.

In the subordinate courts, namely the Magistrate Courts and the Sessions Courts, the system is judge-controlled litigation which means that the courts set the dates and progress of the cases before them.

In the High Court, however, it is lawyer-controlled litigation, where it is the parties or their lawyers who set the pace.

If the parties do not move, the court does nothing. This is based on the concept that if the parties themselves are not interested in having their cases heard and concluded, why should the court bother.

The new English rules have moved towards judge-controlled litigation.

The English by reputation are conservative, the legal profession more so with their centuries-old robes and wigs.

But even they have had to change to suit present-day needs. We have slavishly adapted the English rules albeit with some cosmetic changes but retained the essence of the old English rules which are not really suitable to our needs.

Now that the English themselves have abandoned their procedural rules, there is no reason for us to keep them. The time has therefore arrived for us to make our own rules to give access to justice for all our people – the sooner the better.

Better to have remand centres for suspects



UNDER our criminal law, an accused person is presumed innocent until proven guilty. When a person is arrested on suspicion that he has committed an offence, the police can release him on bail pending the completion of investigations before he is charged in court.

If a suspect is not released on police bail within 24 hours after being arrested, the Constitution provides that he shall be produced before a magistrate.

At this stage, the police may apply to the magistrate that the suspect be remanded in police custody up to a maximum of 15 days to enable them to complete their investigations.

When sufficient evidence has been gathered that the suspect has committed an offence, he is charged in court with the offence. He then becomes an accused person.

Depending on the seriousness of the case and other factors, the magistrate may either release the accused on bail to appear in court for the trial or order him to be remanded in prison custody pending the trial.

Thus, we have a situation where a person can be detained in police custody before he is charged or detained in prison custody before the trial.

The question arises as to how a person should be treated when he is remanded in custody, bearing in mind that the person is innocent until proven guilty. The question is of some significance because it goes to the root of our criminal justice system.

The investigation process of the police includes interrogating the suspect to determine whether he actually committed the crime.

Such interrogation, it is true, has resulted in the police releasing the person because he is innocent of the crime as, for instance, in cases of mistaken identity by complainants or that the suspect has a cast iron alibi. Not every person arrested is guilty of having committed a crime.

Interrogation is, therefore, an important part of police investigation. The question is whether he should be detained in police custody for the purpose of being interrogated because such interrogation can take place anywhere and not necessarily in a police station.

Another reason given for remanding a suspect in police custody is to prevent him from impeding police investigation, like interfering with

witnesses who are likely to testify against him at the trial or the destruction of evidence that would prove that he is guilty of the crime. Here again, the suspect can be detained at any place other than at a police station.

At present, suspects detained in police custody, albeit on an order of a magistrate, are kept in the lock-up at the police station.

Most of the cells in lock-ups are designed to hold not more than three people but quite often up to seven are held in the same cell.

Further, for reasons of security, suspects are only allowed to wear underwear. Such conditions are not consistent with the presumption of innocence.

Persons remanded in prison custody pending trial receive better treatment but even then, they should not bear the stigma of having spent time in prison until convicted.

The solution is to establish remand centres administered by the Prisons Department in every major town.

Such centres will be multi-storeyed or high-rise buildings and thus not much land will be needed for the purpose.

Each level of the building can be designated for male or female suspects or to separate violent and serious crime suspects, as for example, persons accused of murder, rape or robbery from the others such as white-collar crime suspects or even political agitators.

The room for a suspect should have an attached toilet and shower. The detainees will be allowed to wear their own clothes. They can even have their meals specially prepared by relatives brought to them.

Remand centres will have facilities for the police to conduct interrogations; for relatives to visit; for lawyers to interview clients; and for the magistrate to make weekly visits.

With the establishment of remand centres, persons arrested by the police will at most spend not more than 24 hours in a police lock-up before they are produced in a magistrate's court for the remand order under section 117 of the Civil Procedure Code. It will also hold accused persons who have been charged with serious crime pending trial.

Remand centres will put to nought allegations of police brutality because there will be no opportunity to do so due to shortness of time and production before a magistrate within 24 hours of arrest.

Such centres will not be cheap to build and maintain but no expense should be spared when it comes to upholding the constitutional rights

of the individual whilst at the same time protecting the community from dangerous criminals.

Justice does not come cheap.

Towards codification, uniformity of Islamic law

 14.10.99

FEBRUARY 1, 1948 marked the end of the separate existence of states in the Malay Peninsula and the birth of a new nation called the Federation of Malaya.

The 1957 Merdeka Constitution crystallised the constitutional arrangements of the Federation of Malaya Agreement of 1948.

A significant aspect of these changes was that the Malay Rulers retained their sovereignty, prerogatives, powers, and jurisdiction within their respective territories which they hitherto had enjoyed subject only to the provisions of the Federal Constitution.

The Federal Constitution specifically provides *inter alia* that the Ruler may act in his discretion in the performance of his function as Head of the religion of Islam.

It further provides that Islamic law and personal and family law of persons professing the religion of Islam are matters on which the State Legislative Assembly may make laws.

In the exercise of its legislative power, every state has enacted Administration of Islamic Law Enactments and laws pertaining to marriage, divorce, *zakat*, *wakaf*, and Islamic criminal offences, and established Syariah courts to administer such laws.

Apart from conferring jurisdiction in the Syariah courts, the State Enactments are rather skeletal in that the Islamic law to be applied in any particular case is largely left to the interpretation of the presiding judge.

In doing so the judge has to resource the law from the Quran, the Hadith and the interpretation given by Islamic jurists in the past.

The result is that there is a lack of consistency and uniformity of the law between the states and sometimes even within the state itself.

Three matters arise out of these separate state legislations on Islamic law, namely, codification, uniformity and jurisdiction.

A basic factor in the efficient administration of justice is that there must first be certainty of the law. By certainty is meant that the law must be clearly stated for the public, the judge and the lawyers to know what the law is.

Many provisions of the State Enactments on the law merely state "in accordance with Hukum Syara'", which is defined as Islamic law according to any recognized Mazhub (school of law).

Islamic law has developed over a period of more than 1,400 years. Much of it is well settled but there are many areas of the law in practice which are subject to different interpretations by the Islamic schools of law and even by different judges.

The solution is for the State Enactments to state in plain Malay and English what the law is, as for example who one can marry and who one cannot marry. This exercise is known as codification of the law.

There should be no difficulty to codify Islamic law as it is intended to apply to Muslims living and practising the religion of Islam in Malaysia in respect of personal and family law.

There should also be uniformity of the Islamic law throughout Malaysia. With certain exceptions applicable to the States of Sabah and Sarawak, the Federal Constitution grants to every citizen the right to move freely throughout the Federation and to reside in any part thereof. As a result, inter-marriages between Muslims of different states are now quite common, for example a Kedah resident marrying one from Johor.

At present, the *mas kahwin* (obligatory marriage payment) by the husband to the wife varies from state to state. Why should there be a fixed amount in the first place, whether rich or poor, because the obligation is according to one's means and the consent of both parties?

Again the law governing the taking of a second wife varies from state to state, very stringent in some states like first having to obtain the consent of the first wife before such a marriage, to telling her afterwards and not telling her at all.

It is therefore submitted that the Islamic laws applicable should not only be codified but be uniform throughout Malaysia.

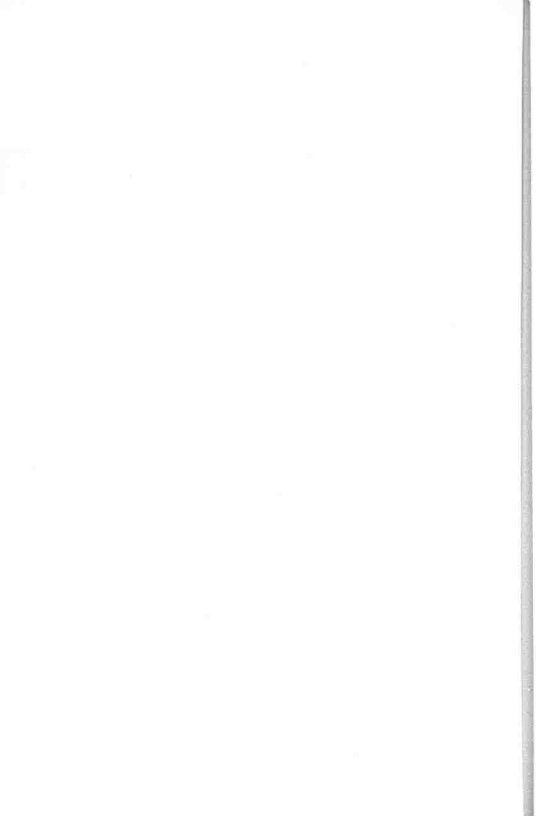
Finally there is the matter of jurisdiction. The Islamic law of each state is applicable only within its boundaries. Thus an erring husband in Petaling Jaya need only move house across the road to the Federal Territory of Kuala Lumpur and escape the jurisdiction of the Syariah court of Selangor.

It is easier to serve a process issued by any civil court in Malaysia to a defendant in a foreign country than a summons issued by the Syariah court of Johor to a defendant living in Perak.

It is time that the restricted state jurisdiction of the Syariah courts in civil and criminal matters be removed and extended throughout Malaysia.

Without in any way impinging on the authority and discretion of the Rulers as Head of the religion of Islam in their respective states, it is submitted that it is constitutionally possible to achieve codification and uniformity of the Islamic law in this country and extend territorial jurisdiction of the Syariah courts for the good of Muslims in Malaysia.





POLITICS

*"Politics is too serious a matter to be left
to the politician."*

– Charles de Gaulle (1890-1970),
former French President

Final activities leading to country's independence



29.12.94

MALAYA Hall at 44 Bryanston Square, London, was the hub of Malayan students' activity in the United Kingdom in those days. Malaysia Hall, as it is now called, is conveniently located as it is within walking distance to Marble Arch (from where one could get to almost any part of London by Tube); Hyde Park (where on Sunday afternoons one could listen to an array of speakers on politics, religion, economics or whatever and experience the right of freedom of speech being fully exercised without having to worry about freedom after speech); and Oxford Street, the shopping centre.

At Malaya Hall, there were rooms for men and women, usually for short periods; a large lounge with newspapers and magazines; a TV room (a novelty for Malaysians at the time); a dining hall where cheap but wholesome food was served; and a meeting room. The warden, housekeeper and porters were all English. Malayan students living in London treated the hall like a club and converged there every evening, joined by students in the provinces during weekends.

Practically everyone was in their 20s, a few a little older but not much. The first thing that struck you was that they looked mature and well-mannered.

Law students were the best dressed, always, and you could tell them apart from the other students. That law students were better dressed was not by choice but by being students at the Inns of Court, they were

required to wear dark lounge suits at dinners and probably could not afford other suits when visiting the hall.

The next best dressed were Malayan cadets at Sandhurst – also because they were required to be “an officer and a gentleman” at all times.

Looking back, I think, this subtle English mode of discipline is a good thing.

Student activities were largely organised by the Malay Society of Great Britain, established in the 1920s with Tuanku Abdul Rahman (the first Yang di-Pertuan Agong) as president and Tunku Abdul Rahman (the first Prime Minister) as secretary; the Malayan Students Union (a multi-racial organisation established in the 1950s); and the Malayan Forum (formed by Abdul Razak Hussein, later Tun and the second Prime Minister). I joined all three.

The Malay Society and Students Union were largely cultural and social organisations. They organised annual events like Hari Raya, Chinese New Year, Christmas and attended to the welfare of the students.

The Malayan Forum was basically intellectual and organised a monthly forum on politics and economics. The leader of the Conservative Party would be invited to speak and in the dialogue session, members would ask him anti-Conservative questions. The following month, the leader of the Labour Party would be invited and the same students would ask him anti-Labour questions.

The students were not partisan but the object of the Forum was to broaden one’s political outlook and awareness of current political trends. Many well-known personages accepted invitations to speak at Malaya Hall.

Apart from visiting personalities from Malaya and Singapore, others included the Chinese Ambassador to Britain; Dr Cheddi Jaavan (the first Chief Minister of Guyana); his successor in office, Dr Burnham; Krishna Menon, India’s Defence Minister, who holds the record for the longest speech ever made at the United Nations General Assembly.

Menon’s theme was India’s neutral policy and emphasised the point that India was not interested in military strength. He was an eloquent speaker and spoke without notes. When asked what would he do as Defence Minister if Pakistan invaded India, his quick reply was: “Sir, as Defence Minister, my duty is not to discuss the matter with you.”

These forums proved invaluable in our understanding of world

affairs. They were always well attended, mostly standing room only, with students asking intelligent questions. More particularly, as we acquired our professional qualifications and university degrees, we became increasingly aware of the problems and responsibilities our country was to face when preparing for independence.

A university education bereft of any interest in political, economic and social problems of the day will not provide the kind of leadership the country needs in the future. All our past and present leaders had the benefit of extramural exposure. It is sad to see that students at our universities today do not even read the newspapers!

Hussein Onn (later Tun and the third Prime Minister) was elected president of the Malay Society and I the vice-president. Under the leadership of Tunku Abdul Rahman, negotiations were going to be held in London for the independence of Malaya.

As vice-president, I was part of the welcoming committee at London airport to meet the Malayan delegation. The Tunku was the first to come out of the aircraft followed by Colonel H S Lee (later Tun) and V T Sambanthan (later Tun).

It was a cold winter's day with strong winds at the airport. As Sambanthan walked down the steps from the plane, there was a gust of wind which nearly blew off the *vesti* he was wearing. His immediate concern was not to keep himself from the cold but to prevent total exposure of the lower part of his anatomy. We knew he was representing the MIC but was it necessary to be so attired as if he was visiting Madras?

One day, after a round of talks, the Tunku announced that he had promoted Lee to a general. When asked general of what, the Tunku replied: "General nuisance. After Lennox-Boyd had agreed to certain terms I proposed, Lee reopened the subject. Now we have to start all over again."

Lennox-Boyd was Secretary of State for the Colonies and leader of the British delegation to the talks. A small group of us had asked to meet Lee separately. He agreed to see us in his room at a London club. After listening to our ideas for Malaya's economy, he said we were all Socialists but would know better when we got home. He added: "Ismail Ali was also like you people but he changed."

Ismail (later Tun) was the first Governor of Bank Negara. Lee (later Tun) was Malaya's first Finance Minister.

Finally, agreement was reached that Malaya be granted independence on August 31, 1957. The Malay Society, together with Malayan Students Union and Malayan Forum, organised the Malayan Independence Convention at the Royal Festival Hall in London. We invited and received papers from the leaders of all political parties in Malaya. There were also papers from students studying in England. Ibrahim Abdul Manan (later Tan Sri and a judge of the Federal Court) was elected president of the convention. It was a very successful conference. It would be interesting to research these papers at the National Archives today.

As the country was preparing for independence, the Conservative Party requested the Malayan Commission in London to nominate a speaker to address the party's branches about Malaya. I was nominated to be the speaker and addressed members of the party all over England. I spoke to die-hard Conservatives, young Conservatives and women Conservatives. The talk: "Malaya, my country, my people and its future". Even then, I encouraged them to invest in Malaya.

On one occasion, I was asked to give the talk in the country. I was taken to the village hall and was rather surprised that the audience consisted entirely of women above 60 years of age. I had to change my style of delivery. I began by saying: "My country is Malaya and its capital is Kuala Lumpur" - with "Lumpur" pronounced "Lamper".

A woman in the back row raised her shaky hand. I stopped. She said: "Mr Speaker, Sir, I have a son out there and he says the capital of your country is Kuala Lumpur ("Lumpur" pronounced Malay style)."

I said: "Madam, he is absolutely right. That is how the natives pronounced it."

One never knows what a small world it can be.

August 31 was a proud day for all of us in London. We had gathered in full strength at Trafalgar Square in front of Malaya House from early morning. A horse-drawn carriage arrived from Buckingham Palace carrying Malaya's first High Commissioner to Britain - Nik Ahmad Kamil (later Tan Sri) - resplendent in uniform. He inspected a guard of honour. *Negaraku* was played for the first time in London as the national flag was raised, fluttering proudly atop Malaya House. Shouts of 'Merdeka' made the pigeons take to flight. We were free at last.

Pa' Sheikh – Perlis Menteri Besar extraordinary



16.2.95

WHEN I first arrived in Perlis, the Raja was in Kuala Lumpur having been elected the Yang di-Pertuan Agong. The state was ruled by a Regent, first the Raja's son-in-law, Tengku Sulaiman, and later the Raja Muda who had been called out from active duty as a cavalry officer in the armed forces.

The Raja Muda was the product of a tradition, which the British introduced in this country following their own Royal Family tradition, that the King's (or Queen's) sons should serve in the armed forces. The tradition was not alien to Malay Royalty either as the Rulers' sons in the past were *panglima* or *laksamana* leading their men into battle as proof of their leadership qualities.

Perlis had the smallest State Government. Apart from the Menteri Besar and the three ex-officio members of the Exco, there were only four elected Exco members as opposed to eight in other states. They were not given portfolios either. The Menteri Besar governed almost exclusively. This was compounded by the dominating personality of the Menteri Besar, the late Datuk Sheikh Ahmad Hashim – Pa' Sheikh.

Exco meetings usually took only 15-20 minutes. Papers, previously circulated, were presented and agreed to without debate unless someone asked for clarification.

After each meeting, we would adjourn to the Menteri Besar's residence for lunch which was always excellent. Pa' Sheikh was a gourmet. The first course was always a soup no matter what the main course would be, western or eastern, but it would end abruptly when coffee was served.

At that time, it could be said that Pa' Sheikh was Perlis and Perlis was Pa' Sheikh. He was involved in everything and was determined that Perlis was not to be left behind in development.

The only problem was Perlis had no money. State revenues would be exhausted by March or April just paying out salaries. But Pa' Sheikh was not to be outdone. He said that Perlis produced more rice than the people consumed and the surplus was sold to other states. Since no export tax was levied, therefore the Federal Government was bound to finance the state's development projects.

He was a persistent fund raiser during his visits to Kuala Lumpur

and would never return empty-handed. On one occasion, he had been in Kuala Lumpur for three days but could not get to meet Tun Abdul Razak who was then the Deputy Prime Minister and Minister for National Development. When the Tun heard about it on the fourth day, he made time for Pa' Sheikh.

As soon as he entered the office, Tun Razak said: "Ah Pa' Sheikh. Approved." The MB thanked the Tun and returned to Perlis. It took us three months to sort out what was approved and for how much!

On another occasion, Sardon Zubir (later Tun) who was then Minister for Works took measures to avoid meeting Pa' Sheikh at his office. The latter was not going to be defeated. The following day, as Sardon stepped into the garden of his official residence at 6.30am in his *sarung*, there was Pa' Sheikh beaming "Got you!" He got what he wanted.

All these efforts were for the state, roads, bridges, midwives' clinics and much else. He also built the football stadium (now named after him) and a golf course in the only place available, the water catchment area!

He kept heads of departments on their toes and on the go. A favourite device was to call a department head on the telephone at seven in the morning and invite him to breakfast. He had everything planned and the official was expected to agree and get on with the job.

An official visit by Tun Razak was planned. The itinerary was drawn up and sent to Kuala Lumpur and the Tun promptly slashed it to half. Pa' Sheikh agreed to the reduced programme and the Tun arrived. As he was taken round the state by car, Pa' Sheikh directed the driver to make detours between one official visit and the next and by doing so succeeded in completing the original itinerary! Tun Razak did not visit the state much after remarking that Perlis was the most over-developed state in the country.

There had been a bad drought before my arrival and that year's *padi* harvest failed. The Federal Government offered to compensate the farmers. A list was drawn up of the farmers involved and the acreage of the land affected. This was sent to Kuala Lumpur.

A young Treasury official totalled the acreage on which compensation was claimed and found that it exceeded the total area of the state, including its forests and rivers! On a re-check it was found

that the claims had been brought to the nearest acre in each case. By the time the compensation money arrived, the farmers had replanted and there was a bountiful harvest.

It was decided that instead of paying out the money, the entire sum was placed with the Padi Planters Board and used to finance the purchase of land by tenant-farmers from the absentee landlords.

It was past 10.30 at night. The telephone rang, rather unusual in Alor Star at the time. I answered it and found an agitated Pa' Sheikh at the other end. He wanted to cancel the State Legislative Assembly meeting due to be held the following day. I told him it could not be done as the meeting had been convened by the Ruler by proclamation under the Constitution. He then said it was important that the meeting should not go on as there was a resolution for a vote of no confidence against him! I told him I would look into the matter.

I went to Kangar early the next day and sought out the Speaker. He said he had no choice as the motion was in proper form and had been correctly presented. There was no reason to reject it and therefore the motion was up for debate. I agreed.

I then asked him the reason for the motion. It appeared that the MB's party members had had enough of him and wanted him replaced by his protege, Penghulu Ja'afar, who had returned to Perlis after qualifying as a barrister in England. I told him that it was an internal party problem which should be solved internally and not openly at a sitting of the legislative. He finally agreed.

I then advised the Speaker that the Assembly meeting should go on as scheduled. The public gallery was packed and charged with excitement. For the first time I saw Pa' Sheikh consumed with anxiety. He kept on asking me: "What is happening? What is happening?"

The clerk-of-council announced the entry of the Speaker into the chamber preceded by the sergeant-at-arms bearing the mace. Everyone in the chamber stood up and bowed to the Speaker. The clerk-of-council then read the prayer after which the Speaker asked everyone to sit.

I then gave a signal to the Speaker and he said: "In exercise of the powers invested in me by the Standing Orders, this Assembly is adjourned *sine die*." He stood up, followed by a ceremonial departure.

Relief could be seen on Pa' Sheikh's face. The public gallery was aghast in utter disbelief. As far as I was concerned, it was a political situation which had to be solved by the politicians themselves.

As State Legal Adviser my duty was to give advice within the framework of the Constitution. The Ruler had commanded the State Legislature to meet at an appointed day and time. It did. As soon as the clerk-of-council read the prayer, the Speaker was in full charge and he could adjourn the sitting at any time. That he did so after the prayer was a political decision because the Speaker was an elected party man himself.

Pa' Sheikh kept his job until the next general election and was succeeded by Penghulu Ja'afar who was in fact a reluctant participant in the attempted coup!

Serving with selfless dedication



9.3.95

IN August 1967 Tun Abdul Razak (then Deputy Prime Minister and Minister of National Development) visited Alor Star. It was one of his regular visits to the states to see for himself the progress of development projects.

The Tun treated the implementation of economic development projects like a military operation and utilised the techniques in monitoring the Emergency from 1948 to 1960 for this purpose. At national level, he established an Operations Room complete with maps, diagrams and statistics. Similar rooms were established at state and district levels.

So at Kuala Lumpur, he would know for example the road system of the country; at state-level the details of that road system within the state and so on at district-level.

The five-year development plans consisted of proposals coming from the top and proposals arising from the district and the state. At district level, local officials, *penghulus* and the public were encouraged to put all their ideas and proposals into the district development book. Then at state-level, similar proposals for the state.

These proposals were then superimposed on to the national plan. In this way, the plans and proposals were integrated and to the best extent possible, the requirements of the people themselves.

The Tun's routine was in a way quite simple. Before visiting a state, he would be briefed at the National Operations Room on what was

supposed to be going on in the state. On arrival at the State Operations Room, he would be briefed on the progress of the various projects. At this stage, he would have been armed with questions and a pre-determined set of approvals for impact.

Then he would visit the District Operations Room for a similar exercise followed by actual visit to the site.

He told me that on one occasion he had been briefed that a particular project had been completed by all three levels of operations rooms but when he got to the site, the project had not even been started. Apparently the official responsible for the project had the literary ability of writing graphic progress reports of visionary projects!

During the August visit to the State Operations Room, the Menteri Besar (Datuk Syed Omar Shahabudin) passed me a note inviting me to join him and the Tun for lunch at the Residency, the official residence of the Menteri Besar.

There were only three of us at the lunch. At the lunch, the Tun said at the Cabinet meeting the previous day it was decided that an Anti-Corruption Agency be established with me as its first director. Could I take the job in Kuala Lumpur in one week's time?

The announcement came as a bolt from the blue. It surprised both the MB and me. I could only say I would be able to do so if both the State Governments of Kedah and Perlis could release me from my present appointment. The Tun explained that it was a matter of national importance. Both Governments agreed and I was released.

By then I had been living in Alor Star for more than three years. I had got used to its lifestyle and even the unique taste of Kedah rice. I had made many friends who by then accepted me as one of their own. They had even elected me vice-president of the Kedah Club and president of the Rotary Club of Alor Star.

Now to pack up and say farewell in two states simultaneously in one week was really quite a feat. But it was done although with much reluctance. It was the way of life of a civil servant to be transferred from place to place and this was accepted by both the officer and the community he was serving.

Career-wise I was making a quantum leap by being promoted from the Superscale H grade to Superscale D grade. Why I was selected I don't really know. I was enjoying myself in Alor Star.

The Menteri Besar gave an official farewell dinner in my honour at

the Residency. He had invited practically everybody, members of the State Exco, heads of federal and state departments, Assemblymen, Senators, Members of Parliament and District Officers.

The following day, the State Secretary (Datuk Shuib) accompanied me on my official farewell visit to the MB at his office. The MB said he was really sorry to lose me and hoped that I would return to Kedah in another capacity, perhaps as judge of the High Court. Tears rolled down his cheeks.

Datuk Shuib said later it was the first time he had seen the MB shed tears at an official's farewell call. I did return to Kedah later several times in various capacities, including as judge of the High Court but only for specific cases or to relieve the resident judge when he went on long leave.

Datuk Syed Omar died in office not long after my transfer to Kuala Lumpur. He belonged to a generation of political leaders that was unique to this country, unlike in many countries of the Third World that had gained political independence from their colonial masters after World War II.

As Menteri Besar, they lived in official residences provided by the Government; in the case of Kedah and Perlis, the residence of the former British Advisers to the state. The only car they had was that provided by the Government, not very new, breakdowns silently suffered. They actually lived on their official salaries and allowances with no means of private incomes to supplement expenditure.

Although the styles of government of Datuk Syed Omar of Kedah and Datuk Sheikh Ahmad Hashim (Pa' Sheikh) of Perlis were different, almost two opposites, their lifestyles were almost identical. The Tunku (Prime Minister) was like that too and so was Datuk Dr Mohd Said of Negri Sembilan. All were careful when spending government money.

The Tunku's secretary telephoned me early one morning and said that the Tunku wanted to see me urgently that day. When I arrived at the Residency, the Tunku said he had to catch a plane and said we could talk in the car on the way to the airport.

We got into his official car. The car moved a few yards and stopped dead in its tracks. Driver: "*Rosak lagi.*" The Tunku said the car was doing that all the time and lamented that the PWD could not do a better job at maintenance. It did not cross his mind to replace the car with a new one. We went to the airport in the police escort car!

On another occasion the Tunku was flying to London. En route there was a stop-over in Colombo for refuelling. When the plane landed in the early hours of the morning, the Tunku told the Australian airline official accompanying him that Malaysia's High Commissioner to Ceylon (Datuk Mohd Sopiee) would be at the airport to meet him. The Tunku told the official to tell Mohd Sopiee that he was not disembarking as he was asleep and could not be disturbed.

The reason for this white lie? The Tunku said the only reason the High Commissioner wanted to see him was that he wanted a new official car. There was no point in meeting him as the Government could not afford it.

They were truly dedicated leaders of the people and served at great personal self-sacrifice with no thought for self-enrichment or taking advantage of their power and position. When they retired, they had nothing really to show that they held such high office in the state except their good name.

The Tunku's house in Alor Star, left him by his mother, was a brick and timber affair by the riverside.

On that August day in 1967, little did I realise that I was to be a resident of the Klang Valley for the next quarter century and beyond. I had lived a nomadic existence since childhood until then. I held several jobs since coming to Kuala Lumpur but for the first time in my life I had a permanent home address.

A great son who was no yes-man to cling to office



18.5.95

TUN Dr Ismail Datuk Abdul Rahman was an upright man with high principles. He was also more than somewhat bold.

At a time when Communism was Malaysia's public enemy number one, he proposed in Parliament that Malaysia establish diplomatic relations with Beijing and Moscow. As part of Malaysia's foreign policy, he proposed a Zone of Peace and Neutrality (Zopan) in Southeast Asia, a policy which remains to this day.

As Malaysia's Ambassador to the United Nations, he startled the Security Council by exhibiting arms and ammunition during one of its

sessions in an effort to prove Malaysia's claim of Indonesian aggression during the Confrontation of 1964. It has not been revealed how the Malaysian delegation got past the UN security personnel in bringing the weapons into the Security Council chamber!

As a member of Tunku Abdul Rahman's Cabinet, he resigned when he disagreed with the Tunku on a policy matter. He was no yes-man to hold onto office. He returned to private medical practice.

When the racial riots broke out in May 1969, he offered his services to the Government and was promptly appointed Minister of Home Affairs. He went on TV and began his speech with the words: "Democracy is dead." The speech was a morale booster and renewed public confidence in the ability of the Government to restore peace.

The following day when the police driver came to fetch me to Tun Abdul Razak's official residence for the fourth consecutive day, he said: "I have been on duty non-stop since the Emergency was declared and the curfew imposed. I have not seen or heard from my family since then. But after hearing Tun Dr Ismail on TV last night, my duty to the country is more important."

I had occasion to call on Tun Dr Ismail to discuss a certain matter. After listening to me, he said: "Why don't you go upstairs and discuss it with the Prime Minister? See what he says." I went upstairs. After I had explained the matter, the Tunku asked: "Have you discussed this with Tun Ismail?" I said I had and he asked: "What did he say?" I said: "He asked me to seek your views on the matter." The Tunku: "What I say or think does not matter. If I say anything he will disagree with me and resign again. That will cause me a lot of problems. Let him decide." I went back to Tun Dr Ismail and reported the conversation I had with the Prime Minister. He smiled and we came to a decision.

On another occasion, an applicant who had been unsuccessful in obtaining citizenship wrote an appeal to the Prime Minister. The Tunku made a note on the letter and asked the applicant to see Tun Dr Ismail with it. The Tun called for the file, read it and said: "I have given full consideration to your application" whereupon he tore up the letter, dropped it into the waste-paper basket in the presence of the applicant and showed him the door.

At official functions he was very particular that people who had accepted invitations should actually attend. VIP seats are usually marked with the name of the VIP it is intended for. At such functions

he would instruct an aide to go round and collect the name cards of the empty seats and give them to him. The following day the VIP would be asked for an explanation. If no reasonable explanation was forthcoming, he would instruct that the VIP not be invited to future functions.

He was also a stickler for punctuality. He sent for me one day. I arrived five minutes before the appointed time. In the waiting room was a Cabinet Minister. There were two lights above the door leading to his office. The red light was on. When the green light came on, his secretary asked me to go in. As the Minister had arrived before me, I gave way to him. The Minister went in but before the door could shut, I heard the words "Get Out" and the Minister re-emerged and left.

The secretary asked me to go in. Tun Dr Ismail welcomed me with a smile and invited me to sit. He then said that the Lord President of the Federal Court wanted me in the Judiciary as the Chief Registrar. He asked in what way did that job compare with my job at the ACA. I said the Chief Registrar's job would be a promotion for me as it was in the Superscale C grade whereas the ACA job was in Superscale D grade. Further, the Chief Registrar's post was usually the stepping-stone to a judgeship. He then said he wanted me to stay on in the ACA. He picked up the telephone and asked to speak to the Director-General of the Public Services Department. When the call came through he said: "I am upgrading Harun's post to Superscale C with immediate effect. Get it done." It was.

On the way out, I asked Gopal, Tun Dr Ismail's old and faithful secretary, why the Minister was treated so briskly. It appeared that the Minister had arrived five minutes late for his 2.30pm appointment and as the light had turned red by then, he could not enter. The green light at 3pm was for me, not the Minister.

In 1970, Tunku Abdul Rahman retired as Prime Minister. Tun Abdul Razak became Prime Minister and Tun Dr Ismail became Deputy Prime Minister but continued to hold the Home Affairs portfolio.

Early in 1971, Tun Dr Ismail sent for me. I knew why. I had received a letter from the Prime Minister asking for my consent to be considered for appointment as a judge of the High Court. Tun Dr Ismail offered to increase my pay and privileges to that of a judge if I agreed to stay at the ACA. I declined, politely.

The offer of a judgeship is made only once. It was my ambition to

be a judge and also to fulfil my father's wishes. If I stayed on there was no guarantee that he (Tun Dr Ismail) would remain Home Minister for many years to come. His successor may not want me and, if that were to happen, there would be no equivalent post for me to go to. I would be forced into early retirement. In any case I had no intention of being a Herbert Hoover (of the FBI) and I was certainly not indispensable. The Tun understood my position and agreed to release me. In March 1971, I was appointed a judge of the High Court.

Tun Dr Ismail was the easiest Minister I had worked with. He was decisive and firm. If you knew your job, he was a very pleasant man and even had a sense of humour.

One day, his wife Toh Puan Norashikin had gone out. He was alone in the house with his Chinese amah. He sent for her and said: "I am going to die." Those were his last words. Malaysia had lost a great son (in 1971). In tribute, the nation gave him a state funeral and he was the first to be buried at the Hero's Mausoleum of the National Mosque in Kuala Lumpur.

Let's reflect on system of government, electoral process



7.9.95

THE next General Election in Malaysia is not due until the year 2000. In the meantime perhaps we should reflect on our system of government, in particular the electoral process, as we prepare to enter the 21st century. It may well be that no changes are necessary because we have had elected stable governments for the last 40 years.

Now that the Government is in the process of reviewing the conduct of elections, it should perhaps review the entire electoral process to see if it could not be made better.

Malaysia's parliamentary democracy is based on the Westminster model of Britain with a multi-party system providing for a party with a parliamentary majority to be the government and the members of the other parties to be in opposition in Parliament. Such a system is democratic and safeguards against dictatorship and oppression.

In Britain, the people vote for the candidate, not the party, and that is why British MPs can switch parties at will and yet retain their seats

in Parliament. India adopted the same system but later found that as a result of defections, the Prime Minister of the day was never quite sure whether he had the necessary majority in Parliament. So India changed the system with an anti-hopping law whereby an MP loses his seat if he crosses over to another party.

We in Malaysia, as in Britain, are supposed to vote for the candidate and not the party. In practice, however, voters are told by politicians at election time to vote for the party and not the candidate. Thus Malaysians are confused when they see legislators changing parties and yet remain Yang Berhormat. To them this is an act of betrayal of the trust the people had placed in the candidate when they elected him.

Over the years it can be said that Malaysians have voted for the party and not the candidate, which accounts for the continued successes of the Barisan Nasional and its predecessor, the Alliance Party, at general elections.

It is time the position was made clear that the vote is for the party and not the candidate, unless of course if the vote is for an independent candidate. Only an anti-hopping law will achieve the desired result. Such a law will reflect our sense of value, trust, integrity and the keeping of promises whilst at the same time provide for stable governments and enhance political party discipline.

Under the present system, the candidate first past the post gets elected. When there are three or more candidates standing for election in the same constituency, the candidate with the highest number of votes gets elected although he may not have obtained more than 50 per cent of the votes. Such a candidate cannot be said to represent the majority of the electorate.

In some countries this problem is overcome by a run-off election two weeks after the general election between the candidate with the highest number of votes and the candidate next highest, as they do in France. We should have such a system.

The single member of constituency system we have had all along has proven to be most suitable for this country. In any event the people after more than 40 years are familiar with the system. Yet there is something to be said in favour of proportional representation. The advantage of proportional representation is that practically every political viewpoint is represented in Parliament and hence is more democratic.

There is no reason why we cannot have the best of both worlds. The

dual system, as found in Germany, South Korea and now Japan amongst other countries, provides for parliaments consisting of MPs from single member constituencies and MPs elected by proportional representation.

Under such a system, a voter will be given two ballot papers, one containing the names of candidates and the parties they represent for election as MP for the constituency and the other ballot paper containing the names of political parties only contesting the election called the party preference vote.

Thus under this system, for example, a Barisan Nasional supporter may vote for the MCA candidate standing for the constituency and vote UMNO as his party preference.

The proportion between the two types of MPs varies from country to country. For Malaysia it is suggested that the present number of 192 directly elected MPs be retained (subject to any future increase by delimitation) and a fixed 100 additional MPs elected by proportional representation.

As our political parties are not exactly national, the 100 seats will be proportionately apportioned between Semenanjung, Sabah and Sarawak based on the number of registered voters of each of the three territories. The party preference votes will be counted on this territorial basis and as in Germany, a party with less than 5 per cent of the total preference vote territorially will not be eligible for proportional representation.

The advantage of the system is that leaders of political parties with not less than 5 per cent of the total territorial preferential vote will be returned to Parliament under the proportional Territorial List. This will make our Parliament truly representative of the people.

In addition, party leaders will not be burdened with constituency duties and will have a more national perspective.

The system allows the Prime Minister to hand-pick his choice of Cabinet Ministers by putting them on the proportional Territorial List at election time.

Finally, the procedure in the appointment of Prime-Minister. As the Cabinet of Ministers is collectively responsible to Parliament, the process of appointing the Prime Minister should in the first instance begin in Parliament itself. This is achieved by the MPs being sworn in immediately after a general election. They first elect a Speaker and thereafter elect the Leader of the House.

The Speaker then reports to the Yang di-Pertuan Agong that the new

Parliament has elected its Leader. The Yang di-Pertuan Agong then summons the Leader and appoints him Prime Minister.

True our parliamentary democracy is modelled on Westminster but it does not have to be 100 per cent British. As Tunku Abdul Rahman explained to a puzzled English visitor: "You have a Queen who goes on forever and you change the Prime Minister every five years. We have exactly the same system except that we change the King every five years and the Prime Minister goes on forever!"

Tradition of fighting tooth and nail without enmity



7.12.95

RECENT press photographs showed the leaders of all political parties in the country eating at the same table with the Prime Minister. It was a most welcome and encouraging sight of unity in diversity.

In a parliamentary democracy with a multi-party system, it is inevitable and indeed part and parcel of the system itself that there will be differences of political opinion but such differences do not extend to animosity between politicians on a personal level. After all, they represent different political views of the people who elected them to Parliament.

Visiting parliamentarians from other countries are universally impressed with our Parliament. During sittings, our MPs are properly dressed. There is decorum in the proceedings. The cut and thrust of debate is in parliamentary language.

When Singapore was part of the Federation, Mr Lee Kuan Yew, the Singapore Premier, was in the opposition in the Dewan Rakyat. During a debate on the Budget, Lee made a rather strong attack on Government policy. When Lee finished speaking, Datuk Syed Ja'afar Albar (the Lion of Umno and the father of Datuk Syed Hamid Albar, the present Defence Minister) rose and launched a spirited counter-attack against Lee. Tempers were rising. The Speaker, Tan Sri Mohd Noah, acclaimed by other parliaments as the best Speaker in the Commonwealth, decided to intervene. He asked Syed Ja'afar under what head was he speaking – meaning under what Head of Expenditure. Khir Johari (now Tan Sri), a Cabinet Minister at the time, promptly rose and said: "Mr Speaker Sir,

under the bald head" – Syed Ja'afar was bald headed. The House broke into spontaneous laughter and tempers cooled.

The concept of parliamentary democracy is adversarial and physically MPs are seated facing each other in the Chamber divided by a void in the centre wide enough to prevent bodily contact between the opposing sides and sufficiently distant lest any missile thrown from one side reaches the other side.

The Speaker sits facing the void, sort of no-man's land. To his right sit the Government Bench led by the Leader of the House (Prime Minister) and to his left sit the Opposition Bench led by the Leader of the Opposition. A member can only speak if he catches the Speaker's eye. Only one member can speak at a time.

The Opposition has a positive role in government. Its primary function is to act as a check and balance of the Government in power. It is sometimes referred to as the Loyal Opposition because it is loyal to the Constitution, King and Country. When in a foreign country, Members of the Opposition do not criticise their own country.

Generally, the foreign policy of a country does not change even though the Government may change from time to time. Indeed in some countries, the Prime Minister consults the Leader of the Opposition on foreign policy issues.

When the country is threatened by a foreign invasion, every citizen irrespective of his political views will defend the country. This spirit was amply demonstrated in the 1964 General Election when the Alliance Party won a landslide victory in the face of the Indonesian Confrontation.

In Britain during World War II, the Conservative Party Government led by Winston Churchill invited the Opposition Labour Party to form a coalition government to fight the War. Churchill was Prime Minister and the Labour Party Leader Clement Attlee was made Deputy Prime Minister. At the first General Election after the War, the Conservative Party lost and Attlee became Prime Minister. The King offered a Knighthood to Churchill for his services in winning the War. Churchill declined saying: "What's the point when the people have given me the Order of the Boot!" Such are the vagaries of an electorate in a parliamentary democracy.

Our legal system is also adversarial. In court, lawyers of the opposing sides fight tooth and nail pleading the case of their respective

clients. But one can often see the opposing lawyers during the lunch adjournment going out together for a meal at the same club or restaurant. There is no enmity between them. That is why they are called Brothers-at-law.

Religion is the highest commitment of any person. Malaysia is renowned for religious tolerance. It is perhaps the only country in the world that has declared public holidays for practically every religion celebrating the respective religious festivals. From this tolerance has evolved the Malaysian culture of "open house" whereby Malaysians welcome to their homes friends of other religious beliefs when celebrating their own festivals.

In comparison, politics is at a much lower level of commitment than religion. Even politicians hop from one party to another. Why then is there so much conflict and misery on purely political grounds? Civil wars continue to afflict many countries resulting in wanton destruction of life and property. Thousands of people flee from their homes and become refugees in a foreign land.

Not so long ago, differences in political opinion led to the ridiculous spectacle of people praying in separate mosques, not attending marriages and funerals, and even divorces between married couples. That is the past now.

Our political leaders have set a good example. In spite of political differences they can sit at the same table and enjoy a meal. As Malaysians, let us follow the example of our leaders and make Malaysia in truth and deed the beacon of religious tolerance and political maturity to the rest of the world.

Polls candidates treated like products



15.2.96

MALAYS have apt words to describe most occasions. The presentation of a gift to royalty is *persembahan* (offering); to a religious person or *ulamak*, *sedekah* (charity); to a politician in power, *cenderamata* (souvenir) although of late it is a *cenderahati* (gift from the heart); and to a government servant, *rasuah* (bribe). In the old days, a bribe was described as *makan suap* (spoonfed).

Recent press reports have given much prominence with regard to

payments to politicians. Two former South Korean presidents are now in court facing charges that the receipt of such payments was improper. Several captains of industry in that country have also been charged along with the former presidents for making the payments. Their defence is that the payments were traditional in South Korea, otherwise it would be difficult to do business.

In Japan the LDP, which had been in continuous power for 40 years, lost the last general election, again on allegations of improper receipt of monies by its politicians. Allegations of bribery and corruption are made against politicians in India, Pakistan, Columbia, Guatemala, Mexico, Russia and China, to name a few. Indeed it is difficult these days to find a country with a government that has not been accused of being corrupt, whether true or false.

Now why is this so? Democracy comes from the Greek word *demos*, meaning the common people and democracy is government by the people exercised either directly or through elected representatives. Most countries have opted for the latter, which has given birth to political parties. The peoples' representatives have to be elected by the people at regular intervals. It is, however, not as simple as in the old days when the villagers got together and elected the *penghulu* or chief not only to govern them but also to represent them at the state level of government.

The irony of the system is that the people have to be persuaded who to choose as their representative. Indeed, election campaigns of political parties these days are really one huge advertising drive. The candidate is treated more like a product of a self-proclaimed superior factory without any equal. He is better than the best. Like any manufactured product, the brand name is more important than the product itself.

The most sophisticated, elaborate and expensive election machinery is in the US. The best time to witness the spectacle is in a leap year which incidentally 1996 is, as that is the time the US president is elected. Thousands of people are involved in the campaign - with posters, press coverage, television, road shows, speech writers. If the candidate is a good actor and has the physical strength to go through it all, then the campaigners have had it made. The candidate in fact practically sits back - his speeches are written for him and he would be told what clothes to wear, where to go, when to speak and when to go about kissing babies in the street. Photographers are also told what angle to photograph him from.

Election campaigns cost money. Political parties fighting an election need cash, lots of it. The only people with the cash are the businessmen. So an unholy alliance develops. But they really need each other. The politician needs the cash to run an election. The businessman needs the politician to improve and protect his business. This aspect, however, has nothing to do with Malaysia Inc.

But why do businessmen give money to politicians? One version is that they do so in the expectation that if the party comes to power they would be rewarded with contracts. To them it is a form of investment – risky perhaps because there is no telling how the ordinary elector will vote. Even pollsters can go wrong.

Another version is that, successful business people give contributions to political parties out of gratitude, because owing to the country's political stability and ensuing economic development, business has been good and they have made handsome profits. Malaysian politicians like to think that contributors to their party funds belong to this category.

There are of course genuine contributors who believe in the ideals a particular party stands for and would contribute regardless of the party's fortunes in a general election. But such people are now rare. Why? Many political parties find it difficult even to collect the RM2 annual subscription from their own members.

Then of course there is the odd fellow. A millionaire in the US decided to give a generous contribution to a candidate standing for the US presidency. The candidate won and asked the millionaire if there was anything he could do for him. The millionaire said he would very much appreciate being an ambassador.

In due course, the president nominated him to be US ambassador to Sri Lanka. When he appeared before the Senate Foreign Relations Committee, he was asked where Sri Lanka was and he replied in China. As for the name of the prime minister, he said he was not very good at remembering oriental names. The Senate turned down the nomination. The president had kept his promise. It was the millionaire who had failed himself.

We have to concede that political parties need money to operate. The problem is how to obtain the money without getting into trouble. With things going the way they are in several countries now, many politicians cannot even retire gracefully and peacefully. All it needs is for a small

group of university students to dig up the past, cry foul and scream across the country that the political leaders of the past have been robbing the national treasury and lined their pockets with bribes from businessmen and should therefore be brought to justice.

We certainly do not want such incidents to happen here. Perhaps there could be a law providing for legal contributions to political parties. A ceiling could be set for each company or individual – say not exceeding RM100,000 per year, whether to a single political party or to be shared between several parties. Payments to be made to the political party only and official receipts obtained. And of course payments should not be made to individual politicians.

Finally the political party's account books should be open to inspection by the Election Commission before it allows any political party to take part in any election. I suppose the Malay word for such authorised and legal political contributions would be *caruman* or is it *bantuan* - stylised form of *bantu tuan*!

It would be very dull without politicians



2.5.96

THERE are three things about politicians that seem to defy the odds: age, tenure of office and qualifications.

Madam Sirimavo Bandaranaike, the Prime Minister of Sri Lanka and the world's first woman prime minister in 1960, recently celebrated her 80th birthday. I met her in Colombo during the 1994 Sri Lankan parliamentary general election. Her party was then in opposition but it was obvious she had an alert mind and was directing her party's campaign. Her party eventually won and she became prime minister for the third time.

By comparison, Prime Minister Datuk Seri Dr Mahathir Mohamad is comparatively young at 70. He keeps a hectic pace in public life, often wearing out his much younger aides. President Suharto of Indonesia is 75 and is also still going strong.

At the other end of the scale was William Pitt, the Younger (1759-1806), who became an MP at the age of 22, Chancellor of the Exchequer (Finance Minister) at 23, and Prime Minister of England at 24.

Thus the question arises then at what age should politicians begin

to hold public office in view of the immense power they wield. In the context of our society and culture, maturity must surely be the primary consideration. The Federal Constitution provides that a citizen can become an MP or State Assemblyman at the age of 21 and a Senator at the age of 30. These ages do not reflect maturity. At 21 a person has not really gained experience of life or learnt the ways of the world or even the vicissitudes of earning a living.

Perhaps the Constitution should be amended to raise the minimum age of MPs and State Assemblymen to 30 and that of Senators to 40. After all, the origin of the institution of the Senate was a Council of Elders and Prophet Muhammad did not become a prophet until he was 40. Our legislators should at least look old enough to tell the rest of the population what to do and what not to do.

The tenure of office of politicians is something else. There is no retiring age for them. They can go on for as long as they can get re-elected every five years. And, of course, if they can continue to enjoy the support of the people and the party membership.

It is said that for developing countries, it is essential to maintain political stability in order to achieve economic and social development. This means that politicians of proven political leadership, intellectual ability and physical capacity should hold office for as long as possible.

Mr Lee Kuan Yew of Singapore was prime minister for 30 years. President Suharto of Indonesia has been in office for 30 years. Both countries have enjoyed political stability, economic and social development. Yet Japan's economic miracle after World War II to be a world leader was achieved with prime ministers being changed every two years. It must be said, however, that the Japanese success story is probably attributable to the same political party remaining in power for nearly five decades and ably assisted by a strong bureaucracy.

Malaysia, too, for the past 40 years, has had the same political party in power at national level with four prime ministers, two of whom held office for 15 years each, which must surely account for our success story.

Be that as it may, at state level there were some rumblings after the general election last year attributable in no small degree to the size of the states with its closed societies. It is not easy for a politician in power to step down. Several of them are comparatively young with several good years of public service to look forward to. Then again there are others who have been waiting too long to go up.

One thing a Malaysian politician would not endure is *kena pecat* (dismissal). He does not mind having to retire if the law says so.

Perhaps the Constitution should be amended to provide that Menteri Besar and Chief Ministers should not hold office for more than two terms. If they are still young, willing and able to continue to serve the people, they could hold office at federal level.

The late Tun Abdul Razak once said to me (or complained really) that senior civil servants were not showing due respect to their ministers and even looked down upon them. I replied that it was probably because civil servants had a university education and the ministers had not.

The story is told of the Agriculture Minister who was on an official visit to the US. He was taken to a farm where the manager explained in English the functions and qualities of the animals there. The Minister spoke very little English but at the end of the briefing he said: "This is a good cow", pointing to a stud bull! To a Malay, male or female, it is still *lembu*.

True, it has often been said that to be a politician requires no academic or professional qualification except of course the gift of the gab. An example was English politician Sir Winston Churchill, who was actually a school drop-out but held various government posts from time to time between 1905 and when he retired as prime minister in 1955.

Churchill achieved world reputation not only as a great strategist and inspiring war leader, but as a classic orator with a supreme command of English. He won the 1953 Nobel Prize for literature. When he was leader of the Opposition, he could not accuse a minister of lying to the house because that would be unparliamentary language, so he coined the phrase that the minister was "guilty of terminological inexactitude!"

The late Temenggong Jugah of Sarawak, Chief of Chiefs, but affectionately known as Ah Pai was illiterate. When Sarawak joined Malaysia, he became a Federal Minister. He was a born leader of men, could size up a delicate or complicated problem and make a decision on the spot. He also had a sense of humour. A senior civil servant, who accompanied him to Bangkok, took it upon himself to explain and demonstrate the various gadgets in the bathroom of the Minister's hotel room. Ah Pai listened and watched with rapt attention. When the civil servant finished explaining, he said: "Thank you. The hotel in KL has the same facilities".

A university education is of course an asset, especially nowadays as

in most countries, a first degree is considered basic. It does not necessarily make one a better politician. Perhaps politicians are born. One can only conclude that politicians belong to a very special breed, annoying at times, usually the cause of world conflicts but necessary in any civilised society. It would be a very dull world without them.

Reasons for founding Umno will remain valid for many years yet



16.5.96

AS Umno celebrates its 50th anniversary, my thoughts go back to those early days of the party's founding. It all started with the arrival of Sir Harold MacMichael with his Malayan Union plan after the end of World War II.

The Malays suddenly realised that the plan spelt the extinction of the Malay race in their own land. With the survival instinct aroused, hence the battle cry of '*Hidup Melayu*' (Long Live the Malays), the disparate Malay associations and groups in the various states got together for the first time and founded Umno, making it the first nationwide Malay political party.

Dato Onn Ja'afar became the first real leader of all the Malays. He was a good orator and drew large crowds whenever he spoke in his countryside tour to unite the Malays and firmly establish Umno. The Malays were poor at the time and Dato Onn was not wealthy either. He stayed with friends wherever he went. No posh hotels for him.

With the Malays united under Umno and thus a force to be reckoned with, the Malayan Union plan was abandoned and gave way to the establishment of the Federation of Malaya on February 1, 1948.

Dato Onn proposed to admit non-Malays into Umno. He was too far ahead of his time. Umno members did not go along with him and he resigned as president of the party.

Tunku Abdul Rahman Putra became the next president. With countries around us gaining independence from their colonial masters, the Tunku changed the Umno slogan to *Merdeka* (Independence). This prompted the Chinese and Indians to form their own political parties, MCA and MIC respectively.

Umno sustained its growth by sheer willpower and people power.

The leaders sold their *padi* lands to finance the party. Ordinary members gave their services to the party for free.

As more than 80 per cent of the Malays were in the rural areas, Malay school teachers in the *kampungs* became the backbone of Umno. In the urban areas Malay civil servants played a leading role.

The Chinese obtained a licence from the Government to run the MCA lottery as a source of funds for the party. The MIC relied on contributions from members.

Umno, MCA and MIC got together and formed the Alliance to contest the first general election in 1955. The Alliance won 51 of the 52 seats contested. Thus politically strengthened, the Tunku claimed independence which was finally granted on August 31, 1957.

The Tunku provided a benign but firm leadership. He was also politically astute. There was a time he disliked a particular minister and complained often about him. So I told the Tunku why not just sack the minister. He said he could not do that because the minister had the full support of the State Umno and if he sacked the minister, he would lose the support of that state. Hence the saying that politicians sleep with strange bedfellows!

Generally, however, the Tunku had his way. This made cynics say that Umno stood for 'you must not oppose'. They went on to say that MCA is 'money controls all' and MIC is 'may I come in', as the sum total of the relationship between the parties in the Alliance.

Umno as a political party was organised along the lines of the British Labour Party. This was perhaps due to the more friendly attitude of the Labourites towards independence for Malaya than that of the Conservatives. Be that as it may, all political parties in Malaysia are structured on mass membership with many parties now being modelled on Umno.

Although Malaysian political parties are basically and largely based along racial lines, Umno's style of leadership has taught tolerance towards others and the spirit of give and take. It has been magnanimous in allocating predominantly Malay populated constituencies to non-Malay candidates at general elections.

The Malays are hospitable and liberal by nature. Beware, however, of the Malay saying '*diberi betis hendak paha*' – do not take advantage of their generosity.

Even after 50 years, it seems that the reasons for founding Umno are still valid and will remain so for many years yet.

Democracy with a unique Malaysian flavour



6.6.96

ALL over the world, people expect their governments to be politically stable and the country economically sound so that they can enjoy peaceful and happy lives. Alas, this is not happening in many countries today.

The pundits say all you need is democracy as if it is the panacea for all the evils of society. Look at the world's largest democracy, India. It is certainly one of the most democratic countries in the world, with regular free and fair elections, a free press and an independent judiciary.

The recently concluded general election in India has resulted in a hung parliament with no single party obtaining a clear majority to form a government. The first new prime minister appointed resigned after 13 days. Another has been appointed and a coalition government seems to be in the offing.

In France at one time, a prime minister appointed in the morning would resign by dinner time. Italy changes its government so often that the people have lost interest in elections. In the UK, Prime Minister John Major has only a majority of one in Parliament with a member indicating he is going to defect. In the US, the Republican-controlled Congress delayed the budget proposals of Democrat President Bill Clinton resulting in thousands of people being thrown out of work.

But why so? The short answer is that there is an overdose of democracy. Governments, it seems, no longer exist to serve the people but are more concerned with their own survival.

Malaysia, like India, has adapted the Westminster model of government. We have been very lucky because we have had stable governments since independence, which enabled us to have a sound economy and improve the living standard of the people.

But looking at recent events in India, we should not be complacent with our system of government. The Barisan Nasional Government consists of a coalition of 14 political parties. It is a marvel to the rest of the world how we have managed to have stable governments in spite of the coalition because many coalition governments have never lasted for any length of time. Turkey is a recent example. Even here, Pas and PBS were formerly members of BN.

There is, however, much virtue in coalition governments as Malaysia's experience has shown because the government will be

moderate, having to compromise most of the time and keep excesses in check.

Nonetheless at times it can be quite frustrating. Take for example members of a political party protesting against toll collection after the Government had agreed to it when their own party is in the Government.

Seeing what is happening in India, the UK, US and Turkey, should we not give some thought to our own future so that the country can continue to prosper as we do now? How then can we reconcile democracy with a strong stable government? Perhaps the answer is a mixture of parliamentary democracy and the presidential system with a unique Malaysian flavour.

Let us have democracy by all means. There is no limit to the number of political parties and the people are free to elect their chosen representatives to Parliament. Let all voices be heard. Their job, however, is to legislate. They will not be part of the executive.

For a strong executive representing a majority of all the people, the Prime Minister and the Deputy Prime Minister should be directly elected by the people – one vote for both. The successful pair should command more than 50 per cent of the total vote. If less, there should be a run-off election between the two top pairs. The same rule should apply to Menteri Besar, Chief Ministers and their deputies. We are choosing the right person to be our leader. It is the duty of the people to make the choice. Even if there is only one pair, the people should endorse it by a yes or no vote.

The elected Prime Minister will be free to appoint any suitable people who are not MPs to the Cabinet, with power to dismiss such ministers at any time. This will make for a strong and talented executive with the Prime Minister as the driving political force and the ministers to implement his policies professionally, uninhibited with gaining political mileage of their own.

The Deputy Prime Minister, although a member of the Cabinet, will not have an executive portfolio of his own but, as ex-office President of the Senate, will be the head of his legislature to provide the link between the executive and the legislative by guiding and monitoring legislation.

The Constitution should provide that there shall be a general election once every five years in the year which is divisible by five, for example the years 2000, 2005, 2010 and so on. The election shall be held in the first week of June and in the event of a run-off, in the third week

of June. Successful candidates take office on July 1 and continue to hold office until 30 June of the next election year. There will be no dissolution of Parliament in mid-term or at any other time.

All Federal and State Elections to the legislatures, including for the office of Prime Minister, Deputy Prime Minister, Menteri Besar, Chief Minister and their deputies, shall be held simultaneously.

Once elected they all hold office until the next election, thereby stability of both the legislature and the executive is ensured. No politicking to unseat governments or for snap elections.

With such a system, there will be a real separation of powers between the legislature, the executive and the judiciary, but unlike in the US, in the event Parliament stalls the budget proposals of the executive, the Yang di-Pertuan Agong has the power to appropriate funds from the Treasury for periods of three months at a time to pay for the day-to-day operating expenditure of the Government.

Under such a system of government, we will have democracy and stable governments at the same time, all the time, a la Malaysia.

Ways Umno Youth can help boost party



31.10.96

WHEN I was a university student in India in the 1940s, I became a member of the All India Students Congress. We were a rather rebellious lot but we had a cause, the independence of India from the British.

We readily took to the streets demonstrating against the arrests of Mahatma Gandhi, Pandit Jawaharlal Nehru and other leaders for anti-British activities.

When India gained independence in 1947, the All India Students Congress had to find other causes to continue in existence.

On August 26, 1949, Umno established Umno Youth in its quest for the independence of this country, also from the British. It was led by Captain Hussein Onn (later Prime Minister and Tun), the son of the founder of Umno, Dato Onn Ja'afar.

Umno Youth clearly had a cause at the time but after independence in 1957, it became a sort of pressure group within Umno itself. Over the years, however, it seems to have lost its sense of direction.

It is not surprising, therefore, in the aftermath of the recently-concluded Umno General Assembly, it was suggested that Umno Youth should be dissolved. By way of reaction, the newly-elected executive council of Umno Youth at its first meeting announced the establishment of 22 councils covering a wide-ranging sphere of activities to ensure, it is said, that the organisation fulfilled its social responsibilities to youths as a reform movement.

Now, that is surprising indeed. There are already so many reform movements in this country and if our youths have not been reformed, it is not for lack of trying. True, youths continue to be a source of concern what with *dadah* addiction, *lepak*, *bohsia*, AIDS, HIV, indiscipline and other horrors. Rakan Muda, Pemadam and other specialised organisations, including religious bodies, are already at work to overcome such social problems, costing millions of ringgit. Umno Youth on its own cannot tackle all these problems and does not need to, but the spirit is appreciated, which can best be demonstrated by encouraging its members to support and participate in these largely government-sponsored programmes.

Having said that, I sincerely believe that Umno Youth has a vital role to play by fine-tuning its functions to that of the parent body.

Political parties are in the business of contesting and winning elections in order to gain power to govern the country. To be successful, it needs grassroots support because it is the people who vote political parties to power. Since its establishment in 1946, Umno has enjoyed grassroots support to be in power for more than 40 years. The question is how to retain and enhance such support.

Organisationally, Umno membership is made up of branches at the lowest and smallest administrative unit in towns and villages, each consisting of 50 to 100 members. The branches together form the division representing a parliamentary constituency. Umno Youth is likewise organised.

The branch is the life blood of the party. The job of Umno Youth at this level should be to win the hearts and minds of the people to support and believe in the aims of the party. Apart from continuously recruiting new blood to the party, it should be the eyes and ears of the parent body. One of the causes of the tragic events of May 13, 1969 was that the leadership had momentarily lost touch with the people.

A practical way to keep in touch with the people is to set up service

centres to which the public can turn for assistance and devise a mechanism whereby problems are not only attended to but solutions found. Umno Youth is best suited to man such centres in support of the local State Assemblyman or Member of Parliament. When a natural disaster occurs, like floods and landslides, Umno Youth should be in the frontline to render aid.

At the division level, Umno Youth should play an active role in the affairs of the local authority. Indeed, this was one of the basic aims when Umno Youth was first established. Much can be learnt by attending the monthly meetings of the district council in order to better appreciate the problems faced by the community. They can organise *gotong-royong* projects. Ministers, MPs and State Assemblymen have better things to do than cleaning up clogged drains and polluted rivers.

There is so much to do at branch and division levels for Umno Youth to be effectively supportive of the parent body. This should be the focal point of Umno Youth, not 22 councils at national level. The disintegration of the Congress Party of India in spite of years of struggle to gain independence from the British and subsequently governing that country for nearly half a century is a constant reminder to all of us on the fortunes of political parties.

The motivation for Umno Youth should be: What can I do for the party and not what the party can do for me, with the motto: Service above self to the party and the community.

Think political.

Umno-Pas seesaw in Kelantan



16.1.97

KELANTAN has done it again. To many people the result of the recent Pulai Chondong by-election was certainly a surprise given the mass media assurances that the constituency is an Umno stronghold. In the 1995 General Election, Mohd Noor Ahmad of S46 won the seat with the backing of Pas, defeating Mohd Shukri Hassan of Umno by a majority of 1,461 votes.

On October 6 last year, S46 was disbanded and Mohd Noor crossed the floor when he rejoined Umno along with other former S46 members.

On the day he tendered his resignation from the State Exco, he suffered a heart attack and died on December 4. Hence the by-election.

The population of Kelantan consists of more than 95 per cent Malays, Kelantanese at that and all are Muslims. Geographically and historically Kelantan was isolated from the rest of the peninsula. It has a distinctive culture, some of it since nationalised – the *wau bulan* (kite) is the logo of the national airline, MAS; the old Kelantan *pettis* (currency coin), the logo of Bank Simpanan Nasional; the state mascot *kijang*, the logo of Bank Negara; and of course the batik and *kain songket*.

The people, both men and women, are of independent spirit, business-minded, hardworking, literate and adventurous. Kelantanese communities can be found in various parts of the country.

They are strongly parochial like the Jaffna Tamils and the Sikhs. They speak the Kelantan dialect wherever they are in spite of having been educated in the United Kingdom, United States or Egypt. The state and its people are like what Scotland is to the UK.

The two dominant political parties in the state are Umno and Pas. People rarely speak of the Barisan Nasional or Angkatan Perpaduan Ummah. It is always Umno or Pas. It is the only state in Malaysia with a two-party political system of parliamentary democracy with the Government changing hands from time to time, like between the Conservatives and Labour in the UK or between the Republicans and Democrats in the US.

In the first General Election of 1955, the support for Umno was so strong that it wiped out Parti Negara. The performance of the elected Umno politicians, however, was the cause of much discontent. So for the 1959 General Election, the people asked for a completely new Umno slate. This was denied by the party leadership. In retaliation and show of disgust, the people voted in Pas although they were not against Umno as such. "Let us try out somebody new – *Cuba orang baru*," they said. This mentality accounts for the high divorce rate and re-marriages in the state! Quite the opposite of other Malaysians who prefer to deal with the devil they know rather than with the angel they don't know.

In 1959, Pas gained power by default so to speak, but shrewdly consolidated its power to the extent that the people are equally divided between Umno and Pas. Ironically what Pas has achieved in Kelantan is attributable in part to the conduct of Umno.

During the 1959 General Election campaign, Umno promised to

build a bridge across the Kelantan river, something which the people of Kelantan had dreamed of for generations. Indeed, as a show of its intentions, signboards proclaiming the event were put up on both sides of the river at Salor and Pasir Mas. An English Public Works Department engineer was despatched from Kuala Lumpur to be on site. A gang of Malayalees even began piling work in the middle of the river working from a pontoon. The day after the results were announced that Umno had lost the elections, the signboards, the engineer and the Malayalees vanished. Pas built a much longer bridge at Kota Baru instead.

Years later Umno regained power and there was much development of roads and bridges including the Pasir Mas bridge. Water and electricity supplies were extended to the rural areas. However, petty-minded Umno members of the JKKK (village committee) denied supply to known Pas members although supply was connected to Umno households next door. The practice did not endear the people to Umno. The consequence was that Umno lost power again.

The point is that the people of Kelantan are politically divided almost equally in number. To deprive the people of development because they voted Pas simultaneously punishes the other half who voted Umno. The Pulai Chondong result is a case in point. A majority of 118 with an electorate of 12,635 could have swung the result either way.

Gratitude is inherent in the Malay, more so with the Kelantanese. *Budi di balas dengan budi*. If election promises are kept regardless of the result, perhaps the people will respond to Umno more positively.

Of campaign styles and public rallies



27.2.97

THE election judge recently declared the election of a State Assemblyman in Sarawak as null and void on the ground that there was vote-buying.

Apparently the assemblyman was personally cleared of any wrongdoing but the judge found that his party workers had committed the electoral offence.

Over the years, election campaign styles have obviously changed in Sarawak. In the 1960s when elections were first held in that state, it was the fashion for the candidate visiting a longhouse to take with him cases

of beer. Everybody would then get down to a drinking session. As the candidate bade farewell, the longhouse residents, by then in high spirits, promised to vote for him at the election.

The only problem with this style of electioneering was that other candidates were doing the same thing. Taking turns to visit the longhouse, every candidate was promised the vote. Memories and promises appear to be short. The last candidate to visit the longhouse got the votes!

In the 1959 General Election in Kelantan, Pas had very little campaign funds. The party certainly had no money to provide transport to ferry the voters from the *kampung* to the polling stations. Most of the voters used the transport provided by Umno.

Election result: Pas won a landslide victory!

The question arises whether it is really worth spending money to win votes this way. The vote is secret anyway and there is no guarantee that the voter will return the favour.

Today, via the newspapers, radio and television, every party contesting the election can make itself known to the electorate without resorting to any hanky-panky.

Perhaps the old practice of party political rallies should be restored during electioneering. We had political rallies even during the Emergency from 1948 to 1960 when public security was of primary concern. The last of such rallies were held in 1969 when some politicians went overboard inciting racial hatred. Since then, only *ceramahs* are allowed.

The *ceramah* is supposed to be a closed door affair but with loud-speakers, it has become a farce. In any event, how to influence the floating voters if they cannot attend the *ceramah*? Let the politicians face the public in an open public rally. They will then be subject to catcalls and heckling if they say something audacious.

Public rallies do provide the environment of restraint on the part of the speakers as members of other parties will also be present. I am reminded of the public rally for Tunku Abdul Rahman during the 1959 election campaign. The very large audience at the town padang was orderly and listened to him attentively. This created the impression on the Tunku that Umno was going to win in Kelantan. He was wrong, of course. There is something missing in holding an election without public rallies. Quite unpolitic.

It seems to me what really prompted the election petition in Sarawak

was that the candidate who lost could not believe the result, having won the seat previously with a handsome majority.

What the former Yang Berhormat appears to have overlooked was that this time he was standing as an independent against the candidate who was standing on his old party ticket.

For popularity, not everyone is a Lee Lam Thye or a Tan Chee Khoon. Datuk Lee was a true *wakil rakyat* who looked after the interests of his constituents without regard to their party affiliations. The late Tan Sri Tan was returned at every election even though he changed parties from time to time.

Truly independent politicians are a rare breed. They have to be completely selfless and thoroughly dedicated to serve the constituency without expectation of financial reward or public office. They must also have the time and money to represent the rakyat in the legislature. Above all, they must command the respect of the people. Nowadays, such a politician is probably a saint!

The independent candidate is actually a lame duck, more so if previously he was a member of a political party. People vote for the party and not the individual candidate. This is because the Legislative Assembly is not a debating society but provides the executive that governs the state. People look up to the Government to solve their problems.

A good instance of the people voting for the party and not the candidate occurred in Kelantan not so long ago.

Two State Assemblymen won the election on a S46 ticket. They subsequently joined Umno and their seats were declared vacant. At the by-election they stood as Umno candidates and lost. The people voted for the replacement S46 candidates. Is this what happened in Sarawak with or without vote-buying?

Is it not time to review our electoral system?



27.3.97

MALAYSIANS are showing a keen interest in the forthcoming British General Election on May 1. This is not surprising as our system of parliamentary democracy is based on the Westminster model. In principle both systems are similar but in practice are not identical.

The British Parliament dates back to 1254 and began to exercise its power over the King in 1688. It became more representative of the people in the 19th century. Its present legislative powers are derived from the Parliament Act of 1911.

The British people now think that their electoral system is outdated. A proposal to change to proportional representation is gaining momentum. The Liberal Democrats are keen on such a system and Labour is considering a referendum to effect any such change. Admittedly, proportional representation provides for wider representation but it can also lead to unstable governments.

The British House of Commons has 651 elected MPs. Like our MPs in the Dewan Rakyat, they are elected for five years from single-member constituencies. The Prime Minister, however, can call an election within that period.

It is because the Prime Minister can call a snap election that political parties in Britain are always well prepared for an election at any time. Thus when Prime Minister John Major gave six weeks' notice of an impending election, all parties already had their candidates in place. This preparedness is historical and conventional. Historically, the MP represents all the people in his constituency. He is elected in his individual capacity and not as a member of a particular political party although over time, his party affiliation plays a very significant part. By convention, because he represents a constituency, he is chosen by the people of the constituency. In practice, a prospective candidate is adopted by his party at constituency level well before an election so that he will have time to nurse the constituency. He need not be a local and some candidates do change constituencies from one election to another.

In Malaysia, the candidate for election is chosen by the party leadership at national level and his candidature is only known on Nomination Day. Apparently our political parties favour the element of surprise. In the 1980s, a Cabinet Minister with a proven good track record in office, honest and hardworking was told by telephone at about midnight on the eve of Nomination Day that the party had decided not to renominate him. He has since given up politics and is now a respected figure in the financial world.

The practice of springing candidates at the last moment on an electorate has had negative results. Some of these candidates are

complete strangers to the constituency they are seeking to represent. This creates dissatisfaction and resentment among the party rank and file and they thus become unwilling workers for the candidate, which has resulted in the candidate losing the election. Perhaps, it is time we discontinue the practice, if not for anything, at least it will put an end to a patronage culture.

The British practice of adopting prospective candidates for election by the constituency party is more democratic.

In Britain, as here, the candidate "first past the post" is declared the winner. The British want this changed as the winner might not represent even the majority of the electorate. We should change also.

If the winning candidate does not secure more than 50 per cent of the votes, there should be a run-off election. This is already practised in many countries.

The proposal to do away with single-member constituencies in favour of proportional representation, however, does not suit our culture. For generations we have been so used to the *penghulu* of the *mukim* representing the people. His representative role has now been taken over by the *wakil rakyat*. We should retain the single-member constituency system. Proportional representation, if adopted in Malaysia, should only be complementary to the single-member constituency system and limited to not more than one-third of the total membership of the Dewan Rakyat. Several countries now have both systems.

Talking of representation in Parliament, I was intrigued the other day by the request of Malaysian Muslims of Indian descent for representation in the Senate on the grounds that a much smaller community is already represented in the Senate. The question is to what extent should representation stretch in the name of democracy without dividing the people into yet smaller ethnic and religious communities. If the request is granted and followed by others, the Senate could end up as the House of Minorities!

Westminster itself is changing. Is it not time to re-examine our system in the context of the 21st century?

Ensuring Constitution is in tune with the times



1.5.97

MALAYSIA, like many other countries, has a written constitution. From time to time, changes are made to a constitution to accord with changing times and circumstances. Generally, a constitution reflects the time and circumstance when it was written.

Some provisions of a constitution are said to be entrenched, that is to say, they cannot be changed at all. Such provisions may cause difficulties to later generations.

Yet in others, the conditions imposed for an amendment are such that it is almost impossible to make a change. An example of such a provision is the Australian Constitution which provides that the Constitution cannot be amended unless all the states agree. The life of Parliament is limited to three years which is further subject to snap elections. Most Australians are tired of frequent elections and a proposal to extend the life of Parliament to five years has not met with success because all the states have not agreed.

The Constitution of the Philippines was amended following that country's experience with the Marcos era. Now the tenure of the presidency is limited to a single term of six years.

Recently, the Constitution of Pakistan was amended to remove the power of the President to dismiss the Prime Minister because two previous prime ministers were dismissed before they could complete their terms in office. Earlier, the power of the President to grant pardons to persons convicted of murder was removed to accord with Islamic law. Persons accused of murder are tried by the courts and, if found guilty, are convicted and sentenced to death in the same way as in Malaysia. The power to grant pardons to convicted murderers is now in the hands of the family of the victim and if this power is not exercised within a certain period, the death penalty will be executed by the state.

In Sri Lanka, the 1978 Constitution, at the insistence of the late President J R Jayewardene, concentrated executive power in the presidency. During the 1994 parliamentary election when I was there as an international observer, most political parties held the view that the President's powers were dictatorial and should be curbed. Now 30 political parties, both in the Government and in the Opposition, have agreed to amend the Constitution by devolution of power from the

centre to the provinces. There will be a central Parliament and nine provincial Parliaments with each region enjoying a large measure of autonomy. The proposed changes are also intended to diffuse Sri Lanka's ethnic conflict between the Sinhalese majority and the Tamil minority of the last two decades.

And so it is with our Constitution which has been amended 38 times. Prior to the present Constitution, we first had the Malayan Union Constitution of 1946. It was devised by Sir Edward Gent in the Colonial Office in London with some help from Tun Tan Cheng Lock, the founder of the MCA. It made Malaya a British colony with a central government in Kuala Lumpur. At that time, a government department in Perlis could not even employ a peon without approval from Kuala Lumpur.

The Malays protested, resulting in the Federation of Malaya Agreement of 1948. It restored sovereignty to the Malay States but some of their powers were given to the Federal Government. The present 1957 Constitution is more or less based on the 1948 Constitution.

In 1957, when the Constitution was being written, the country had an agricultural economy. The era of large European rubber plantations had come to an end and fragmentation of estates had begun. Alienation of state land was limited to small plots for *padi* and *dusun* (orchards).

Forests were preserved and their produce for local consumption only. We had not become a timber exporting country. Even tin mining was on the decline. So, it was not considered important for the Federal Government to exercise powers over land, forests and mines and the states retained these powers.

Now times have changed with large tracts of land used for housing development schemes and industrial estates at the cost of diminishing forest reserves, environmental damage and pollution. Perhaps, it is time to look at our Constitution again and effect changes for the good of the country as a whole.

Why, for a country of our size and after 40 years of independence, we have yet to have a uniform administration of Islamic Law is because each state has exclusive legislative powers in respect of such laws.

The proposed Federal Syariah judiciary is on hold because only five states have so far agreed to it. Rather than wait, why not implement the scheme in these five states to begin with?

Times and circumstances change. So must the Constitution. And the powers that be to make change possible.

Case for changes to system of government



12.6.97

THE recent parliamentary elections held in Britain, France and Canada have given rise to some thought-provoking constitutional issues. Such issues are of interest to us because our system of government is more or less similar to these countries.

Of particular significance is whether we should continue to retain our present system without any modification as we enter the 21st century.

In Britain, the Conservative Party had been in continuous power for 18 years. The elections were held at the end of a full five-year term. The economy was in good shape and the unemployment rate had been much reduced. Yet the opposition Labour Party won the election with a landslide victory. It would seem that economic achievement alone is not good enough to ensure an incumbent government is returned to power.

In France, the President is elected for a term of seven years. After nearly two years in office, President Jacques Chirac called for a snap election to consolidate his Conservative Party majority in Parliament for the remaining five years of his presidency. Chirac was formerly a Conservative Prime Minister under a Socialist President (Francois Mitterrand) and did not want to repeat the difficult experience he had between the PM and the President.

In the polls, the people voted in the Socialists. Chirac's party lost half the seats it held in the previous parliament. So instead of strengthening his power, Chirac walked into a situation which he was most anxious to avoid by calling for mid-term polls.

In Canada, Prime Minister Jean Chretien also called for a snap poll. His party ended up with a much reduced majority and nearly lost power. Voting was on provincial issues overriding national interests.

The results of these three elections show that it makes no difference to the outcome in their unpredictability whether the election is held at the end of the full five-year term or in mid-term.

It follows that the power given to the Government to call for early elections to suit its political agenda to retain power is not justified and may even lead to a mockery of the system.

The possibility of elections in mid-term creates uncertainty in the stability of the Government which invariably affects the economy of the country. Another factor is that with too frequent elections, politicians

spend more time and effort in politicking to retain power at the expense of orderly and predictable government.

Elections are a very expensive exercise costing the tax-payer millions of ringgit and are also a strain on the financial resources of political parties participating in the elections.

It would seem to follow that fixed terms and election times are more appropriate to good governance. Once elected, legislators should serve the full five-year term and thus fulfil the mandate given by the people.

This could be effected by providing in the Constitution that general federal and state elections shall be held once every five years in the year divisible by five beginning with the year 2000. It should also provide that the elections be held in the month of June with MPs and State Assemblymen taking office on July 1 and holding office until June 30 of the election year. Constitutionally, this means the Dewan Rakyat and State Legislatures are permanent institutions and not subject to dissolution.

It does not follow that the Government cannot be changed in mid-term should the occasion arise. This can be achieved by a vote of no confidence in the Government at any sitting of the Dewan Rakyat or State Legislative Assembly. It can also be done by the party in power by changing its leader and thereby the Prime Minister or Chief Minister.

In Britain, the parliamentary party does this on an annual basis. This was how Prime Minister Margaret Thatcher lost her job because the party felt it needed a change in leadership to win the next election. In Japan, the party elects its leader every two years and Parliament is called upon to vote for or against the elected leader as Prime Minister.

In Malaysia, too, we have changed Prime Ministers in mid-term. The first occasion was when Tun Abdul Razak became PM following the resignation of Tunku Abdul Rahman. Tun Hussein Onn, in turn, became the PM after the death of Tun Abdul Razak.

And Datuk Seri Dr Mahathir Mohamad became PM after the resignation of Tun Hussein Onn. And so it was in Kedah, Selangor and Malacca recently. All these changes were effected without a general election.

Finally, it is about time we abolish the system of permitting independent candidates to stand at any federal or state election. In a multi-party system such as ours, there should be no place for inde-

pendent candidates because independent MPs or State Assemblymen will never be able to form a government.

The law should, therefore, provide that only candidates nominated by a political party registered with the Election Commission are qualified to stand for election.

Times change, people change. So should the system of government.

Business of regulating political parties



19.6.97

POLITICAL parties are formed with the singular object of participating in elections with a view to gain political power or influence. It follows that political parties are part and parcel of the electoral system in a parliamentary democracy such as ours. The question arises: how do political parties function as an organisation to enable them to participate in elections?

In our legal system when a body of persons get together in furtherance of a common object, it has to be registered under the law to be legally recognised and protected.

Thus societies, associations and clubs have to be registered under the Societies Act 1966, co-operative societies under the Co-operative Societies Act 1993, companies under the Companies Act 1965 and trade unions under the Trades Union Act 1959.

At present, political parties are registered under the Societies Act. This Act was originally conceived as a measure to outlaw secret societies and triads and remains so to this day. Political parties, however, do not seem to really fit into the myriad of bodies that may be registered under the Act. Indeed, an attempt was made to provide special rules for political parties under the Act some years ago but it was subsequently abandoned.

Political parties are the lifeblood in a democracy. They are very special, more so than co-operative societies and trade unions which have separate regulatory laws, because political parties are capable of exercising political power over the entire nation. It is, therefore, appropriate that political parties should be governed and regulated by laws exclusively tailored for their political functions.

The question then arises: what is the appropriate regulatory law for

political parties? The format of all existing laws regulating bodies and organisations confers powers on the executive branch of the Government as the final arbiter in all matters. If this format is followed for political parties, it will effectively mean that the Government of the day has the power to deny the registration of a new political party or cancel the registration of an existing political party. At the very least, the Government can delay the registration of a new political party particularly when an application for registration is made on the eve of an impending general election.

It must be stated at once, however, that the Government in Malaysia has permitted the formation and registration of political parties freely. There is no limit as to the number of political parties which accounts for why we have so many political parties.

At issue here is the principle whether the executive should be given the power to control the existence or otherwise of political parties. Within permissible limits short of subversion and treason, political parties should be able to exist and exercise fully the rights of freedom of speech, assembly and association as guaranteed by Article 10 of the Constitution.

To meet the special attributes and functions of political parties, it is submitted that political parties should be regulated by an independent body which is free from any influence or control by the executive. As political parties and elections are inseparable, that body should be the Election Commission.

The Election Commission is an independent body constituted under Article 114 of the Federal Constitution. Like the judiciary, it is not subject to control by the executive and performs its functions as empowered by the Constitution.

It is therefore proposed that all political parties should be registered with the Election Commission. Towards this end, there should be created the office of the Registrar of Political Parties of the Election Commission.

There should of course be certain rules to qualify for registration. Foremost of these rules should be a declaration in the party constitution that it bears true faith and allegiance to Malaysia and will preserve, protect and defend its Constitution.

As the object of political parties is to contest in elections, membership of political parties must demonstrate this commitment to the electoral system by only admitting members who are citizens and qualified to vote under Article 119 of the Constitution and are registered

as electors. A person who has not even bothered to register as an elector has no business to take an active part in politics.

Like other organisations, political parties will be required to file annual reports and statements of accounts but unlike others, a membership list also with the Registrar each year.

The rules should also provide for disclosure of sources of funds to allay allegations of corrupt influences, whether domestic or foreign, and observance of permissible funding.

Perhaps such measures will provide transparency of our political parties in the electoral system.

Politicians of yesteryear and today



4.9.97

IT is said that politicians are born and not made. It is about the only job that does not require academic or professional qualifications. Common to all politicians, however, is the gift of the gab. That the world has to endure such people both in the past and at present is perhaps one of the mysteries of politics.

Politics is the art or science of power and government. It has been with us since the advent of civilisation. In the past, people were governed by kings advised or manipulated by ministers who were knowledgeable, intelligent or crafty. Both King and Prime Minister played politics to their personal advantage.

The present-day politician is of recent vintage, the product of democracy, giving opportunity to all and sundry who persevere to rise to heights of power and governance.

Adolf Hitler was a corporal in the German Army during World War I. He entered politics in 1921 and became Chancellor of Nazi Germany in 1933. He started World War II in 1939 and committed suicide in 1945 when Germany lost the war.

Idi Amin was a sergeant under the British. After independence he became army chief in 1966. He staged a military coup in 1971 that overthrew President Obote and became President of Uganda. He fled the country after being deposed in 1979.

Patrice Lumumba was a postal clerk who became Prime Minister when The Congo was granted independence in 1960. But he himself

was toppled by Mobutu who renamed the country Zaire and remained in power for more than 30 years until he was ousted recently.

Lech Walesa was a shipyard electrician when he was elected President of Poland in 1990 with the collapse of Communism.

John Major was a school drop-out and became British Prime Minister in 1990 until his party lost the election early this year.

Film actors are sometimes favoured, like Ronald Reagan who was elected Governor of California for eight years and subsequently President of the United States for two terms. In India, two film stars became State Chief Ministers and in the Philippines, the Vice-President was also an actor.

We too have had our share of unpredictables. There was the ferry mandore who became Menteri Besar and a former security guard who also became Menteri Besar. Then there was the small town rubber dealer who became a Cabinet Minister and a complete illiterate who also made it to the Cabinet, although it must be said he had tremendous leadership qualities.

To be sure, at present our Cabinet Ministers and members of State Executive Councils are well-educated. This is as it should be. Governing a country today is no longer just to maintain law and order and to collect revenue.

The world has gone global in several spheres of human activity. Government today is complicated and sophisticated. Momentous decisions have to be made by our ministers often because of what others do to us - like George Soros - rather than what we do to ourselves.

The upshot is that we need politicians who are smart and well-educated in addition to their leadership qualities.

This brings us to the question what sort of people are we electing generally to the Dewan Rakyat and the State Legislative Assemblies. Electing a few good leaders is not enough. It is true that they are *wakil rakyat* but this does not mean that if the Yang Berhormat for example represents farmers and fishermen, he himself must be a farmer or fisherman.

In our society, he must be a representative capable of understanding farmers and fishermen and of representing them effectively. Above all, he must command the respect of the people of his constituency and this he can only achieve if by his education, experience and professionalism, he is superior to the majority of the people he represents.

In all our cultures, we have always looked up to the learned. The Dewan Rakyat is the House of Representatives of the People and not a meeting place of the *rakyat*.

In this context we can perhaps understand why in the draft for a new constitution for Thailand is the proposal that all candidates standing for election to Parliament must at least possess a university degree.

There must be change with the times. Born politicians are no longer acceptable. They have to be made.

Changes in Senate may be necessary



1.1.98

LAST week, the Leader of the Opposition in the Dewan Rakyat, Lim Kit Siang, raised the issue of who and how people became Senators. His statement sparked a debate in the Senate.

The Federal Constitution provides that the Senate shall consist of elected and appointed members, namely:

- (a) Two members for each state elected by the State Legislative Assembly;
- (b) Two members for the Federal Territory of Kuala Lumpur and one member for the Federal Territory of Labuan to be appointed by the Yang di-Pertuan Agong; and
- (c) Forty members to be appointed by the Yang di-Pertuan Agong.

The members to be appointed by the Yang di-Pertuan Agong shall be persons who, in his opinion, have rendered distinguished public service or have achieved distinction in the professions, commerce, industry, agriculture, cultural activities or social service or are representative of racial minorities or are capable of representing the interests of the aborigines.

When Tunku Abdul Rahman was Prime Minister, he regarded the Senate like an elite club whose membership was by invitation only.

The members appointed during the early years were luminaries of the spectrum of society.

Quite a number were rather advanced in age but mentally alert and had to seek the permission of the Chair to speak sitting down! They certainly reflected the spirit of the Constitution to qualify for appointment.

During the third term of his premiership, however, the Tunku was more than somewhat pained by the apparent audacity of some people who actually wrote to him asking to be appointed a Senator!

Due to the popularity of the job, the original term of six years of a Senator was reduced to three years in 1978.

The number of appointed members was increased from the original 16 to 22 in 1963 (consequential on the establishment of Malaysia); than to 32 in 1964 and to the present 40 in 1978.

Since 1981, a Senator can only hold office for a maximum of two terms, either continuously or otherwise.

In the beginning, the choice for senatorship was fairly straightforward as there were only three political parties that made up the Alliance Party government.

Now, however, there are 14 political parties in the Barisan Nasional.

It is only politically natural for every political party in the BN that it should be represented in the Senate.

Perhaps in these days of democracy and transparency, every political party that contested the last general election obtaining not less than five per cent of the votes cast at Semenanjung, Sabah and Sarawak levels should be entitled to a seat in the Senate. At least they will be representing something. Such Senators should be elected at a party convention and serve for a three-year term.

What seems to be politically unacceptable, however, is for a politician who was defeated at a general election, to be appointed a Senator almost immediately afterwards, likened to a back-door entry.

The argument is that if he has been rejected by his own constituency, how could he be made nationally acceptable by appointment to the Senate?

The Reid Commission that drafted the Constitution recommended that the representatives of each state should eventually be elected by the direct vote of the electors of the Senate and to increase the number for each state to three.

The Constitution makes provision for such changes.

Perhaps the change can be made at the next state election to the Legislative Assembly with the proviso that one seat be reserved for a woman Senator; that they be above 40 years old and have been a member of the State Legislative Assembly for at least a term as a sort of political track record.

Their term as Senator will lapse with the dissolution of the State Legislative Assembly, an exception to the three-year term rule.

The Senate is, after all, the Upper House of Parliament and entitled to command the respect of the people. It is no place for jobs for the boys.

Perhaps the time has come to effect changes. The Senate should consist of:

- (a) Three directly elected Senators from each state;
- (b) One Senator to represent each political party;
- (c) Not more than 10 Senators each representing the professions, commerce, industry, agriculture, elected by the organisation they represent at a general meeting of members; and
- (d) Life Senators – (i) past Prime Ministers and Deputy Prime Ministers;
 - (ii) persons who have been conferred the title of Tun (but not holding public office);
 - (iii) retired judges of the Federal (Supreme) Court; and
 - (iv) retired Chief Secretaries to the Government.

With such a membership composition of the Senate, the occasion will not arise for the Leader of the Opposition to make the statement that he did, which so distressed the honourable Senators last week.

A question of regaining public trust



23.1.98

DURING the last two decades or so, the Asian Tigers have witnessed tremendous economic development. No matter what the form of government or the extent of democracy practised in these states, the most singular factor of their economic achievements was the existence of political leadership.

As long as the money was coming, more people became prosperous, standards of living kept on improving, more people had jobs, owned houses and cars, the interest in democracy and the transparency of government were not of much concern to the general public. These governments have surely taken their people a great leap forward in a much shorter time than it took the West to become industrialised and democratic nations.

Alas, the bubble burst in July 1997. What went wrong? How could it happen? People have lost jobs, cars repossessed by finance companies and houses up for sale. Instant millionaires have become impoverished overnight. The talk now is how soon can we recover. And inevitably an important factor towards recovery is political stability.

It is becoming increasingly obvious that governments cannot expect to return to the political status quo. People's memories are lamentably short. When times were good they did not mind very much how the government functioned. They are not interested in history, however recent. The metamorphosis is easily explained. Their present predicament was brought about by the very government that they had trusted and supported all these years, especially when the government was the principal agent of change that had so affected their lives. It follows that the government can no longer repeat the old tune. Indeed, not so long ago, people were convicted for treason for making adverse remarks against the President. Now the people have taken to the streets demanding for a change of government with the local press giving front-page coverage.

The upshot is that Asian governments must change their present form of government to regain public confidence, not only in terms of greater democracy but also transparency and accountability.

We in Malaysia are comparatively more fortunate in that we have practised parliamentary democracy for more than four decades. General elections, free and fair, have been held regularly. Even so some changes may now be necessary.

Whenever there is a conflict of power or authority, the first question a Malay will ask is: *Siapa raja?*

Malaysia's parliamentary system is modelled after Westminster. Over the years that model is based on a two-party system as in Britain, Canada, Australia, New Zealand and Sri Lanka. In these countries there is a built-in system of checks and balances with possible changes of government after every election. Both the Government and the Opposition are forever mindful of the next election. Thus the executive is truly accountable to Parliament.

This form of accountability, though applicable in Malaysia, does not appear to be apparent. The executive is demonstrably more powerful than the legislature. This is because we do not have a two-party system in the Westminster sense except perhaps in Kelantan and in the past,

Sabah also. For many years to come, if ever, there is no prospect of the Opposition ever forming the Government at national level.

The solution appears to be that a system be devised so that Parliament can exercise a greater degree of authority over the executive by requiring specific parliamentary approval before the executive can embark on projects that involve large public expenditure. The Dewan Rakyat should appoint Special Select Committees to examine such projects.

Another solution is for the Dewan Rakyat to be continuous like the Senate and not subject to dissolution. This will create political stability. In times past even a rumour that the Government would call for a snap election has created uncertainty in the stock market and frozen intending investors.

To be continuous, the term of office of an MP should be six years with half of the MPs retiring every three years. Parliamentary constituencies are numbered serially from P1 to P192. Elections should be held every three years alternating between odd number constituencies and even number constituencies. Elections should be held in June during an election year and the MP holds office from July 1 until June 30 of the end of term year.

Parliamentary constituencies are sub-divided into two or more state constituencies. Elections to the State Legislatures are held at the same time as parliamentary constituencies, so that the State Legislatures are also continuous.

A Senator should be elected to represent the state from the odd number constituencies and another from the even number constituencies.

An elector will thus have three votes at each election once every six years.

All political parties should hold their party elections at branch, division and national levels once every three years between January and April of the election year, so that the people know who the political leaders are going to be for the next three years.

Such a system of political certainty and stability will enhance public confidence in our system of government, with the executive being more transparent and accountable.

The answer to *stapa raja* is: Parliament!

System of appointed councillors has failed



5.3.98

ON the eve of the last general election, an incumbent MP from a government party declined renomination on the grounds that he was disappointed with the job.

A practising lawyer, the MP had looked forward to being an active legislator but instead he was expected to organise *gotong-royong* to clean up clogged drains and clear uncollected garbage in his constituency.

He was rather politically new to the game. Other MPs and State Assemblymen had been doing it all the time as part of their duty to the electorate.

This is why many are the first to arrive at a fire or flood in their constituency. Politicians thrive on the publicity.

The existing political culture begs the question: Why has the Yang Berhormat assumed the role of the *penghulu* (headman) of the days of yore?

We have a three-tier government structure, namely, local, State and Federal Governments. The constitution defines clearly the legislative and executive powers of the Federal and State Governments.

A local government, however, exercises powers conferred upon it by the Local Government Act of 1976, basically a services and regulatory function, subject to the overall control of the State Government.

Every day there are complaints about accumulated uncollected garbage, clogged drains, polluted rivers, flash floods, filthy public toilets, dirty markets, unclean hawkers, potholes in roads and much more.

The obvious causes are inadequate maintenance or sometimes slack law enforcement by the local authorities.

All these shortcomings involve the people directly and are localised. A clogged drain in a remote town should not deserve the attention of the Federal Government in Kuala Lumpur or for that matter of the State Government in the state capital.

It is something to which the local authority should be capable of giving immediate attention and, certainly, of preventing from occurring.

Alas, this is not happening for a variety of reasons.

To be fair, the local authority is not entirely to be blamed for the current situation. Perennially short of finance and in manpower resources, it can be said that as a local authority it has responsibility but without the power.

On the other hand, the councillors of a local authority have power but are without responsibility. This is so because they are appointed by the state authority and are not elected by the people.

The Athinahappan Commission on local government in its 1968 report recommended that all councillors of local authorities should be directly elected by the people.

Even the Cabinet Committee which reviewed the report endorsed the recommendation. The civil service, however, thought otherwise and recommended that councillors be appointed by the state authority. Its recommendation was made law and exists to this day.

The civil service's opposition to elected local authorities may be fully justified in the aftermath of the May 13 racial riots of 1969.

Indeed, at the time, Tun Abdul Razak said that there should be less politicking and that the country should concentrate all efforts on economic development.

Hence, his proposal that the Alliance Party consisting of Umno, MCA and MIC be expanded to the Barisan Nasional – consisting of all political parties whose main objectives are national unity and prosperity.

Razak's foresight has borne fruit to make what Malaysia is today. But should the ghost of 1969 continue to haunt us to this day and dictate our future?

For more than 40 years, we have had elected governments at the federal and state levels. Surely elected politicians are equally capable to manage local authorities?

Indeed, local authorities were elected bodies before the elections to the State Legislature and the Federal Parliament.

In fact, the Kuala Lumpur municipal elections paved the way to independence because its result demolished the divide and rule practice of the colonial power. There is unity in diversity.

After 30 years of appointed councillors in local authorities, the system has surely failed. More than 90 per cent of public complaints against the Government are at the local government level.

The people have ignored appointed councillors and gone straight to their local MP or State Assemblyman with the complaints. They look up to their elected *wakil rakyat*. They will do the same with elected councillors of their local authority.

The enduring strength of a system of government springs from the grassroots and local government is the base of such a system.

It is therefore time to restore local government elections so that local authorities will be managed by elected mayors and councillors, hopefully more independent and with transparency, supported of course by career civil servants.

The days when MPs and State Assemblymen had to organise *gotong-royong* to clean up clogged drains and clear garbage should pass into history.

Of voters and political party commitment



26.3.98

THE on-going Umno divisional elections continue to attract public interest. But why should the public get excited about these elections? The simple answer is that since before independence, Umno has been the backbone of the Government and will continue to be so in the foreseeable future.

This time around, the added attraction is the sight of an apparently enforced road-show by the party's leaders consisting of the president, the deputy president and the vice-presidents attending the divisional meetings to explain the reason to avoid contest for the post of division head, which has given rise to some misunderstanding and misinterpretation.

The reason, of course, is to preserve party unity during the current economic situation.

The advice to party members is to elect leaders by consultation and consensus and only if that fails should democratic elections be held. The fact that these leaders have had to find time to go on a road-show, when their utmost attention is required to address the country's economic problems, displays a weakness in the party's administrative machinery to communicate effectively with members at the grassroots.

Umno has a membership of more than 2.4 million, a number which is larger than the population of several countries. Party membership is at the branch level and the number of branches runs into thousands. It follows that just to keep track of the membership is a Herculean task.

During the on-going elections, there are complaints that the membership status of former Semangat 46 members who have since applied to rejoin Umno remains unsettled. They have thus been

deprived of attending branch and division meetings and more importantly of standing for election to party posts.

To be missing from the membership list can be embarrassing. Tan Sri Othman Sa'at, a former long-time Menteri Besar of Johor, who was largely instrumental in setting up and maintaining a united Umno for the entire State of Johor, has discovered that he is not a member of any of the branches in the Pagoh division but is listed as a member of a branch in Perak!

Several years ago, the MCA had a similar membership problem and the matter ended up in court. After several court appearances, Tun Ghafar Baba, then the deputy president of Umno, intervened and settled the matter out of court. As the judge handling the case, I was much relieved at not having to make a decision on the case because a court of law is not the most appropriate forum to resolve disputes arising out of internal political party matters.

In an age of computers, there is no reason why party membership lists cannot be compiled and published well before party meetings and elections to avoid dispute (and even fist-fights).

Perhaps an increase in the annual membership subscription would go a long way to streamline Umno's administrative machinery and even reduce the incidence of money politics. In the past, it was known that the small subscription dues of an entire branch were paid for by aspiring politicians standing for division posts to ensure success!

Branches too are always short of funds for party work and have had to organise fund-raising dinners. The annual subscription should, therefore, be increased to RM10 payable in advance for ensuing year on or before December 31 of each year.

The full membership list could then be compiled in January for inspection by members and confirmation by Umno Headquarters before the annual party branch and division meeting in February and March. With an annual subscription income of RM24 million, Umno Headquarters can afford to be on-line with its 168 divisions and thereby enhance its administrative machinery and communication system.

Ten ringgit is not much to pay these days if a person is really dedicated to Umno. The founder-members of the party sold their inherited *padi* lands to finance Umno. Party members should have a more committed attitude and ask themselves: what can I do for Umno and not what Umno can do for me.

Lastly, Pemuda Umno chief Datuk Ahmad Zahid Hamidi lamented that a large number of Umno members were still not registered as voters for parliamentary and state elections. Perhaps Umno Youth can persuade the party to change the rules. If a person is not registered as a voter, then he has no business being a member of any political party because the principal function of a political party is to contest the elections.

Perhaps it is time that the law should provide that political party membership is restricted only to citizens who are registered as voters.

Politics not the special preserve of politicians



21.5.98

WHEN a group of people get together with a common objective to do something, then the law says that such a grouping is an organisation or enterprise and has to be registered with the government. The primary object of the law requiring registration is to protect the public.

Registration ensures protection of shareholders' investments and rights; that contributions to a fund are expended for the purpose the money was collected and that the organisation carries out its declared objective.

With registration, the law makes it mandatory to hold annual general meetings to elect office-bearers, to present an annual report of the organisation's activities during the preceding year, and to present the audited statement of accounts of the organisation's financial year for the approval of members.

In addition, registration clothes the organisation with a legal entity to sue and be sued and to be legally liable for any wrongdoing.

Organisations can be broadly classified into three main functions, namely economic, social and political.

If the organisation is economic, the regulatory body of the organisation would be one of the following: the Companies Act, the Registration of Businesses Act, the Partnership Act, the Banking and Financial Institutions Act, the Insurance Act, the Trust Companies Act, the Securities Industry Act and such like laws. Economic activity should obviously be trading, manufacturing or the provision of services and is profit-oriented.

Recently, however, questions have been raised that some non-governmental organisations have been registered as companies under the Companies Act and not under the Societies Act. It seems that to register an organisation under the Societies Act is fraught with difficulties and delay but to register a two-ringgit company does not take much effort and time.

But even the Companies Act has a strict regime. Not so long ago, deposit-taking and trading enterprises took the easy way out by registering themselves under the Co-operative Societies Act. Due to inadequate supervision by the regulatory body under the Act, thousands of hawkers, taxi drivers and vegetable gardeners lost their life-savings arising from the mismanagement of their investment by the co-operatives.

All social activities like cultural, educational, sports, charities, religious bodies, associations and clubs should properly be registered under the Societies Act. These organisations are clearly not of a strictly commercial character although to function effectively, it may own property and provide for sources to generate income like donations, fees and subscriptions. They are not or should not be profit-oriented in the same way as companies are expected to declare dividends to shareholders.

The Societies Act was originally enacted to curb the activities of secret societies and triads and has proven to be inadequate in some respects, which is one of the reasons why some organisations have resorted to registering themselves under the Companies Act. It should therefore be reformed to provide specific provisions for each type of activity under separate chapters, as for example sports clubs, churches and temples, and NGOs.

Perhaps the best example of social-type legislation in terms of governance of an organisation is the Trade Unions Act. The Societies Act could be re-modelled along similar lines as the Trade Unions Act.

Politics of course is everybody's business in the sense that what we can and cannot do is the result of political activity. The granting of subsidies by the Government to certain sectors of the economy is both socio-economic and political. We cannot talk about human rights without political implications. Citizens cannot be expected to cast their votes wisely at a general election in complete disregard of political issues. Politics certainly is not the special preserve of politicians.

Political parties as organisations, however, are another matter. Their existence and management are basic to our system of parliamentary democracy. They must be allowed a certain latitude to function effectively and independently. They are certainly quite distinct from economic and social activities. Quite obviously, the requirement that political parties must be registered under the Societies Act is inappropriate.

As political parties exist to participate in general elections, they should be separately and properly registered with the Election Commission. They will then be regulated by a constitutionally independent body as befits their status in a democracy.

Incidentally there was a suggestion recently by the leader of a political party that party elections be postponed until after the general election. This suggestion cannot be right. The voter is entitled to know whether a candidate for election has at least the support of his own party before he goes to the people. That is why in most democracies party conventions are held to choose candidates for a general election.

Whilst registration of organisations and enterprises is necessary in the public interest, there is an urgent need to reform existing laws to suit current needs and development.

The law should clearly demarcate between the economic, social and political functions of organisations for purposes of registration and governance. NGOs have a right to sound political from time to time although not a political party!

Let not history repeat itself



2.7.98

HISTORY repeats itself. The British Empire was established not so much by military conquest but by gun-boat diplomacy. All the English had to do was to anchor a gun-boat offshore and fire a single salvo towards land to subdue a native ruler.

Next it ruled the newly-gained territory by proxy, that is to say, the native ruler continued to rule his kingdom for as long as he accepted British advice.

If the ruler proved difficult, the British installed another ruler who was more suppliant to their wishes.

The British were so successful at this game that they proudly proclaimed that the sun never sets on the British Empire.

Political maps showed red-coloured countries from East to West. The Indian sub-continent was the jewel of the British Crown.

Immediately after World War II, the British sought to regain their lost territories. To Malaya they sent Sir Harold MacMichael who made the Malay Rulers sign away their sovereignty in favour of a new British colony called the Malayan Union.

He told each Ruler that if they refused to sign, he would find a Ruler who would.

The British Empire has since ceased to exist. But a new imperialism has emerged.

The key player this time is the United States. It supported dictators in various parts of the world who were willing to do its bidding until the dictators became an embarrassment.

They were replaced by new leaders in the name of democracy. Government by proxy is still evident.

So too gun-boat diplomacy. Remember the US aircraft carrier that was sent towards Jakarta just before the fall of President Suharto. The US Navy is all over the place to keep native rulers in check.

After the bitter lessons of Korea and Vietnam, Uncle Sam has increased his power and influence through the UN Security Council, the IMF and the US dollar.

Sanctions imposed on Iraq, Libya and Cuba are at the behest of the United States albeit in the name of democracy, human rights and threat to world peace.

Japan is the second world economic power after the US. When the yen fell to a new low, all President Bill Clinton had to do was to lift the telephone and speak with Prime Minister Ryutaro Hashimoto that he would prop up the yen provided that Hashimoto reformed the Japanese banking and financial system.

Hashimoto agreed. The US bought the yen at its lowest price with US dollars. The yen went up again and the US stands to gain when it sells the yen at a later date when the exchange rate is high.

Malaysia is a comparatively small country. We have enjoyed our independence for 40 years.

The country has prospered and we have been at peace with the world. We never had it so good.

Then all of a sudden calamity has befallen us. There are unseen forces trying to undermine us politically and economically.

It is difficult to explain to the old man in the *kampung* why his sons and daughters have returned home after having lost their jobs in the city. Whatever happened to the car they used to drive. Essential goods and services have risen in price and the ringgit is not what it used to be.

Housebuyers now have to pay an additional sum of up to 50 per cent of their monthly instalments to banks because of higher interest rates.

We can therefore appreciate the tremendous challenges that face the Prime Minister Datuk Seri Dr Mahathir Mohamad.

There are enemies within and without. They are not his enemies alone but ours as well.

He has enlisted the help of veteran politicians headed by Tun Ghafar Baba to explain to the masses the reasons for our economic predicament.

Apart from patience and tightening of their belts, they will also want to know when they can resume their lifestyles which they have recently lost through no fault of theirs.

Tun Daim Zainuddin's return to the Cabinet to revive the economy is equally significant but it will not be as easy as when he turned around the economy in the 1980s.

Dr Mahathir explained that Tun Daim's appointment as Special Functions Minister in the Prime Minister's Department was to give him official status when negotiating with foreign countries.

We had this sort of problem before. When Menteris Muda visited foreign countries, they were known as Assistant Ministers.

They were met by lesser functionaries because in some countries, a vice-minister is our equivalent of the secretary-general of a ministry and an assistant minister was junior to a vice-minister.

We therefore had their titles changed to Deputy Minister. There was however, no need to change the Malay title of Menteri Muda as well!

It is to be hoped that the Prime Minister and his cabinet colleagues with the support of the people will successfully fight to retain our political and economic independence against the new imperialism.

This is not the time to fight amongst ourselves. We must stand united. We do not want to be colonised again. Let not history repeat itself.

Senators can opt to be elected to enhance their status



20.8.98

THE debate on the motion to change the sitting hours of Parliament in the Senate last week has raised certain issues of public interest.

There are two political systems in existence today, namely the unicameral legislature and the bicameral legislature. The unicameral system operates in 119 countries such as Cuba, Egypt, Indonesia, Singapore and New Zealand. The bicameral system operates in 58 countries such as Australia, Canada, France, India, Japan, Malaysia, the UK and the US.

Whatever be the reason for a country to choose either system, as far as Malaysia is concerned, the reason is that Malaysia is a federation of states and there is a need for state interests to be represented in the federal legislature. In addition, an Upper House acts as a safety valve to proposed legislation that may emanate from an over-zealous or a hasty Lower House. A sort of second opinion as it were.

This is the reason why the Constitution provides that the Senate shall consist of two members for each state to be elected by the State Legislature, two members for the Federal Territory of Kuala Lumpur, one member for the Federal Territory of Labuan and 40 other members to be appointed by the Yang di-Pertuan Agong from persons who have rendered distinguished public service or have achieved distinction in the professions, commerce, industry, agriculture, cultural activities or social service or are representative of racial minorities or aborigines.

During the debate in the Senate, there were complaints that Ministers gave more preference to attending sittings of the Dewan Rakyat than the Senate because it is said that Senators are not representing any constituency like the MPs in the Dewan Rakyat. The complaint is not exactly accurate because there are 29 Senators representing the states and the Federal Territories which are their constituencies.

The complaint, however, is more than somewhat justified if it is for the fact that Senators are not directly elected by the people. The Constitution indeed foresaw such an eventuality by providing:

"Parliament may by law -

- (a) increase to three the number of members elected for each State;
- (b) provide that the members to be elected for each State shall be so elected by the direct vote of the electors of that State;

- (c) decrease the number of appointed members or abolish appointed members."

Thus Parliament has already been given the power to provide for Senators to be elected by the people directly without having to amend the Constitution. Indeed, if Senators feel so strongly about their status and relevance, they could themselves take the initiative by introducing legislation for the change because the Constitution also provides that a Bill may originate in either House, except a money Bill which must originate in the Dewan Rakyat.

After more than 40 years of independence, it is none too soon for direct elections to the Senate to represent the states and the Federal Territories. It will not cost the taxpayer much if provision is made that elections to the Senate shall be held simultaneously with parliamentary elections - just an additional ballot paper.

The country's population is almost equally divided between males and females. The proposed law could provide that elected Senators for each state should be one male Senator and one female Senator to be separately elected by male and female voters respectively. Such a provision is not only fair to women but will also make Malaysia the unique country in the world in terms of parliamentary representation.

The law should also provide that only candidates nominated by political parties registered with the Election Commission be allowed to stand for election to the Senate. This is to provide for the contingency in the event of a casual vacancy arising from resignation or death during term. The vacancy shall be filled for the remainder of the term by a candidate nominated by the same political party that won the previous election for the particular Senate seat. The reason: it will be extremely expensive to hold a by-election of the entire state to fill the vacancy.

The Senators also complained that their term in office is limited to three years subject to a maximum of six years. Now that they are to be elected directly, this limitation should be removed but their tenure will automatically expire with the dissolution of the Dewan Rakyat because their election is held simultaneously with parliamentary elections. The existing limited three-year term however, should continue to apply to appointed members. Further, the number of appointed members should not exceed that of elected members to maintain a balance between state interests and national interests. The original number of appointed members was only 16.

The primary function of the Senate is law-making by reviewing Bills sent to it by the Dewan Rakyat. For the better performance of this function, Parliament should provide researchers consisting of lawyers, economists, political scientists, social scientists and environmentalists to assist the Senators in their work.

There were other complaints during the debate but the gist of these was that the Senate is not accorded the respect due to it as the senior legislative organ of the state. It is in the power of the Senators themselves to earn the respect they yearn so dearly for themselves and the House. Perhaps under the leadership for Tan Sri Mohammed Ya'acob, the President of the Senate, that respect will come.

Stable system of government since 1957



1.10.98

THROUGHOUT history, winds of change blow across countries from time to time. The 20th century will go down in history as the era of most change in systems of governments in much of the world.

It witnessed the rise and fall of Communism and the end of empires; colonialism giving way to independent sovereign states; kingdoms replaced by republics and the rise and fall of dictatorships.

The end of World War II in particular saw the beginnings of the clamour for independence from the European powers in Asia and Africa.

In our region, the Philippines in 1946, India and Pakistan in 1947, Burma and Ceylon in 1948, Indonesia in 1949, Vietnam, Cambodia and Laos in 1954, and Malaya in 1957 became independent nations.

Most of these countries attained their independence after a spate of violence and bloodshed.

India actually led the way over a long period of agitation for independence from the British Raj which had ruled the sub-continent since the 18th century. The final thrust of the independence struggle was in the 1940s.

The Indian masses were largely illiterate and the independence movement was led by the educated elite and backed by university students from its 53 universities.

Indeed, the tactics employed by Indian university students at the time for independence of their country were copied by university

students of other countries to effect political change in recent times, in Myanmar, Thailand, the Philippines and Indonesia.

As a university student in India in the 1940s, I was caught by the flood waters of the independence movement. I had gone to attend the Greek history lecture as usual. The professor was there but I was the only student present in the lecture theatre.

The professor looked at me and said: "Young man, if you know what is good for you, you better join the others outside." I did. A massive student demonstration against the British was in progress.

Eventually I became an active participant. Peer pressure I suppose. I joined the All-India Students Congress and soon became a committee member.

After all, my country was part of the British Empire although temporarily occupied by the Japanese Imperial Army at the time.

I had found common cause with my Indian hosts.

Public demonstrations against British Imperialism, the English King at the time also had the title of Emperor of India, was part of parcel of the independence struggle.

There were public demonstrations by the students when Mahatma Gandhi got arrested and sent to prison and another when Pandit Jawaharlal Nehru was arrested and sent to prison. And on many more incidents that were enough to provoke a demonstration.

Most times, the demonstrations started off peacefully but it was a matter of time after rabble-rousing speeches and slogan-shouting, the demonstration would erupt into violence, stone throwing, burning public buses and much else besides.

Once violence broke out, the police would arrive to break up the demonstrators. I became quite adept at dodging the *lathi* charge mounted by horse-riding policemen. *Lathi* is a long truncheon wielded by policemen primarily aimed at the heads of demonstrators.

I learnt some valuable lessons from this early experience. Idealistic university students are easily marshalled and led.

Peaceful demonstrations can easily turn ugly and mob rule takes over. There will always be 'outsiders' who have nothing to do with 'the cause' to take advantage of the situation in pursuit of their own secret agenda.

Malaya in 1957 was one of the very few exceptions to gain independence without violence but through peaceful and patient

negotiations. This was principally due to the late Tunku Abdul Rahman's princely and gentlemanly way of doing things.

Since then, we have had a stable system of government with general elections once in every five years. The transition from one government to the next has always been smooth and peaceful.

When the time came, Tunku Abdul Rahman retired gracefully and was succeeded by Tun Abdul Razak, his loyal deputy of 15 years. On the death of Tun Abdul Razak, he was succeeded by his deputy Tun Hussein Onn.

And when Tun Hussein Onn resigned for health reasons, he was succeeded by his deputy Datuk Seri Dr Mahathir Mohamad, the present Prime Minister.

Indeed, the succession of prime ministers in Malaysia has been more like that of an heir-apparent succeeding to the throne of a royal dynasty. Let us keep it that way.

The winds of change may be blowing again across Malaysia but let it not be an ill wind bearing anarchy and chaos.

Look at varsities to recruit future members

 22.10.98

UMNO has been the dominant political partner of all coalition governments in the country since 1955.

At all times it could have formed one-party governments because of the party's parliamentary majority, but it has refrained from doing so out of the realisation that Malaysia is a multi-religious and multi-racial country.

What Umno does or says, therefore, is of public interest and of general concern to all citizens.

It was announced recently that Umno is proposing to amend its party constitution in several respects.

One of the proposed changes is to lower the membership entry age from 18 to 16.

Soon afterwards, the Minister of Education, Datuk Seri Najib Tun Razak, said that the proposal will not apply to the 16-18 age group who are in secondary school and not allowed to indulge in politics. The ruling makes good sense.

It would seem to follow that the target group of new recruits to the party would be school drop-outs who are largely unemployed.

Their youth and innocence would be best diverted to more meaningful social causes and economic future.

The legal age of majority is 18. On attaining this age, youths can own property, enter into contracts or even decide the religion he or she chooses to profess.

The Constitution, however, provides that to be an elector in a general election or to stand for election to Parliament, a person must have attained the age of 21.

It thus appears that the founding fathers of our Constitution held the view that 21 is the age when a person can be said to have attained political maturity.

In our system of parliamentary democracy, the principal object of a political party is to gain political power to govern the country through constitutional means in a general election or at least to seek representation in Parliament.

Political parties therefore, are in the business of contesting elections. That being so, the only people who are really qualified to be members of a political party are persons who have attained the age of 21. Thus, even 18-year-olds should not be admitted as members of any political party.

Indeed, only persons who have registered as electors should be allowed to join a political party because they have shown their commitment to the political system.

Now speaking of the 21 something, thousands in this age group are students in our local universities. The law forbids them from taking an active part in politics on pain of expulsion from the institutions if they do so.

Malaysians studying abroad have no such restrictions. Indeed, Umno clubs, consisting mostly of university students overseas, are recognised by the party and even invited to attend the annual Umno General Assembly.

The Government's policy is that Malaysians should study locally for their first degrees and that they should concentrate on their studies to be future leaders of the country.

It must be conceded in the local context that they should not take an active part in partisan politics.

But if our university graduates are expected to become future leaders, their university education will not be complete if they have not been exposed to political discussion of current events.

In the old days, to be a Socialist at 21 was regarded as a healthy sign. The real meaning of course is recognition that young people are anti-establishment, no matter which political party is in power.

Perhaps the solution is to allow university students to air their views within the campus, so that they do not have to take to the streets which is so un-Malaysian. Many years ago, Universiti Malaya had a Speakers' Corner within the campus on Sundays to allow budding politicians to let off steam. In addition, university students should be allowed, within the campus, to hold dialogue sessions with the leaders of all political parties to enable them to judge for themselves what each party stands for.

The very thought that they are not allowed to discuss current political issues is construed as suppression of the freedom of speech and expression. A total ban on politics will only lead to an undercurrent whispering campaign and a torrent of anonymous leaflets thereby cultivating an undesirable culture. It is never easy to cap the exuberance of youth.

Perhaps Umno should be looking at the universities to recruit its future members and not 16-year-old school drop-outs!

Modern-day visionaries can serve as a beacon for the 21st century



5.11.98

ISLAM came to India in the year 712 when Arab Muslim invaders occupied the north west. In 1001 Sultan Mahmud of Turkey (971-1030) took Islam eastward into the Punjab and beyond. After the 12th century, the Ghurids of Afghanistan captured Mahmud's Indian empire and built their own empire, which became the powerful Sultanate of Delhi until a Mongol invasion in 1398 greatly reduced its powers.

From 1519, Babur the Lion (1453-1530), a Muslim of Mongol extraction, crushed what was left of the Delhi Sultanate and in 1526 founded the Mughal empire. His grandson, Akhbar the Great (1542-1605), extended it throughout most of northern India and part of the Deccan.

By 1799 the British East India Company had become the dominant power in India and by 1849, virtually the whole of the Indian sub-continent was under British control. The Muslims, nonetheless, made a last desperate attempt to reassert their former authority and glory but were finally crushed by the British during the Indian Mutiny of 1857, when thousands of Muslims were massacred in Delhi.

By the second half of the 19th century, Indian Muslims had become a sad spectacle of inertia and degeneration steeped in ignorance, conservatism, traditionalism and superstitions. Then came Sir Syed Ahmad Khan (1817-1898) who realised that the key to the upliftment of his fellow Muslims was education in modern science and arts. In 1875 he founded the Mohammadan Anglo-Oriental College at Aligarh after a visit to the Oxford and Cambridge universities. His plan was to develop the college into a university. His vision was realised in 1920 when the college became the Aligarh Muslim University, the 10th university in India, drawing students from all over India, to attend courses in Arts, Science, Social Sciences, Commerce, Law, Theology, Medicine, Engineering and Technology.

In 1969 the Malays of Malaysia realised that political independence and power alone were not enough. In the aftermath of the May 13 riots, the Government of Tun Abdul Razak introduced the New Economic Policy to create an even playing field in economics for the Malays to compete with the non-Malays.

From 1971 onwards, hundreds of young Malays were sent each year to universities in the United Kingdom, United States, Canada, Australia and New Zealand. The Malays have since become captains of industry, bankers, financiers and leaders of the corporate world.

In this context, the fate of the Malays in their own country should be construed alongside the fate of Muslims in the entire world. In 1977, the First World Conference on Muslim Education held in Mecca recommended the establishment of an International Islamic University.

It was becoming abundantly clear that the only way the Muslims could meet the challenges of the future was to equip themselves with the knowledge and skills of modern science and technology, economics and the professions in an era of globalisation, in addition to being good practising Muslims.

In 1983, Prime Minister Datuk Seri Dr Mahathir Mohamad took the initiative to implement the 1977 Mecca recommendation by establishing

the International Islamic University Malaysia, with the Government of Malaysia as the founder and co-sponsored by the Organisation of Islamic Conference.

The IIUM operates as a company under the direction of a board of governors consisting of government representatives of Malaysia, Bangladesh, Egypt, Libya, the Maldives, Pakistan, Saudi Arabia, Turkey and the OIC. The university has close links with the League of Islamic Universities, the International Association of Universities and the Association of Commonwealth Universities. It has a brand new permanent campus at Gombak in Selangor offering courses in Revealed Knowledge, Human Sciences, Economics and Management, Law, Engineering, Architecture and Post-Graduate Studies; a branch campus for Medicine, Dentistry, Pharmacy, Nursing and Science at Kuantan; and a branch campus for Law and Revealed Knowledge at Kuala Terengganu.

The university is truly international with Muslim students from 96 countries reflecting the geographic and cultural diversity of the *ummah*. The teaching and research staff consists of eminent academicians from the East and the West.

Islam is a religion of peace. Yet today, Muslims continue to kill each other in spite of Quranic injunctions prohibiting such killings. Worse, Muslims get killed by non-Muslims and the rest of the Islamic world hardly reach out to assist their fellow Muslims. Perhaps in the 21st century, the new generation of Muslims will be motivated by modern-day visionaries like Sir Syed Ahmad Khan, Tun Abdul Razak and Datuk Dr Mahathir for a brighter, peaceful and prosperous future of the *ummah*.

Greatest challenge lies ahead for Umno



19.11.98

UMNO, being the dominant political party in all the coalition governments since 1955 is of public interest to all citizens in what it says or does. Last week, its secretary-general, Dato' Sabaruddin Chik, announced several dates of the meetings to be held by the party. This time around all the meetings are of special importance to the party and the country.

A Special General Assembly will be held on December 13 to review the party's constitution and consider several proposed amendments.

One of the proposals is the abolition of bonus votes for the office of president and deputy president.

The proposal, it appears, has received wide support. It was first introduced consequential to the voting results of the 1987 party elections when the number of votes obtained by the two candidates vying for the post of president did not reflect the number of divisions nominating a particular candidate.

Since then, a serious issue of principle is involved. It was never the intention of the party that the nomination of a candidate for the presidency or deputy presidency should translate as a block vote of the entire division for the candidate it nominated.

Indeed, delegates to the General Assembly have all along voted by secret ballot according to their individual conscience, taking into consideration the political track record of the contenders, their acceptability to the community and generally for the good of the party and the country.

In amending this part of the constitution, perhaps the party should also provide that in the event that only a single candidate is contesting, he should not be returned unopposed but should be endorsed by a "Yes" or "No" vote of the General Assembly. Such a provision will truly reflect a vote of confidence and acknowledgement of the party leader.

Umno is a mass membership party with 2.4 million members. Political leadership in Umno counts upon support from members at branch level who make up the divisions, which in turn send delegates to the General Assembly where party elections are held to the party's Supreme Council.

Elections of office bearers at branch level are held annually; at division level, once every two years; and at the General Assembly, once every three years. Every such election is important to members desirous of political leadership. There is much political activity throughout the year which tends to encroach on the time of politicians holding public office.

Perhaps the solution is to hold party elections at all levels in the same year, say once every two years or once every three years. Such an arrangement will ensure that party leaders elected at the General Assembly will continue to enjoy grassroots' support until the next election.

This year, after the Special General Assembly meeting on December

13, there will be a period of relative peace and quiet because the Fasting Month of Ramadhan will commence on December 20.

It is a time for Umno politicians, in addition to their religious obligations, to seriously reflect on the future of the party and the country because next year, they will be electing leaders who are expected to lead the party in the General Elections due in the year 2000.

The electorate has changed much since independence in 1957. The ever growing middle class have vastly expanded with a large majority of them having had their education overseas where they have been exposed to Western-type democracy.

In addition, the education system has resulted in a literacy rate of over 90 per cent with thousands graduating from our local universities each year.

In cities and villages, the population generally has access to information from within and outside the country. Malaysians today are better informed than their parents.

As we come to the end of the 20th century, the era of the personality cult and strong one-man leadership of a country is also coming to an end. This is happening all over the world. In the new millennium, collective leadership and consensus will be the order of governments.

After more than 50 years of its existence and national leadership, Umno faces its greatest challenges in the coming months. May wisdom and foresight prevail in its deliberations at meetings of branches from March 4 to April 4; divisions from April 15 to May 2; Youth and Wanita on June 16; and the General Assembly from June 17 to 19.

In the final analysis, it is the people who get the government that they deserve.

Gore strengthened Dr M's position as PM



3.12.98

AL Gore is confused. So are a lot of other people. The confusion arises from the same name for *reformasi* movements in Indonesia and Malaysia.

Reformasi is an Indonesian word borrowed from the English word "reform". When borrowing a word from English, the Indonesians add "si" to it. Thus, *delegasi-delegasi di konfronsi telah membuat resolusi*

(The delegates at the conference passed a resolution). We would have said; *Para perwakilan di persidangan telah membuat ketetapan.*

Reform means to improve, as by alteration, correction of error, or abolition of abuses or malpractices. The late Tun Abdul Razak never liked the word reform.

He preferred restructuring. From the current state of affairs in Indonesia, the Indonesians most probably need reform or *reformasi*.

During the 20th century, the Indonesians have had a violent history. In 1945 it made a unilateral declaration of independence.

After World War II ended, the Dutch returned to regain its lost territories of Dutch East Indies which it had lost to the Japanese.

The Indonesians fought bloody battles against the Dutch to retain their independence until the Dutch finally granted them independence in 1949.

Independent Indonesia did not have in place an administrative apparatus to govern the country after the departure of the Dutch.

So it had to rely on the freedom fighters which had any sort of organisation to do the job. As a result, two-thirds of the present-day military forces are actually involved in the day-to-day administration of the country from the centre right down to village level.

After the traumatic experience of an attempted Communist takeover of the country in 1965, President Suharto needed to rule the country with a strong hand to achieve political stability and economic development but he sustained it for too long – a total of 32 years.

It was only to be a matter of time when suppressed political freedoms would erupt into violence.

The economic downturn since July last year was followed by massive retrenchments, soaring consumer prices and rampant corruption, that finally led to street demonstrations and violence forcing President Suharto to resign in May this year.

Violent street demonstrations continue to this day demanding all manner of reform, including that the military should return to their barracks so that the country would be solely governed by civilians and politicians.

Malaya attained self-government in 1955 through negotiations with the British, followed by further negotiations leading to independence in 1957.

The British had built up a career civil service and legal system

manned by Malaysians to ensure a smooth and peaceful transfer of power.

Malaya, and later Malaysia, has never been under a military government since independence, unlike Thailand, the Philippines and Indonesia.

We have had regular free and fair elections every five years or less. We have changed from an agricultural economy to industrialised nation.

Our laws are enacted by Parliament. Even the Constitution has been amended 40 times to accord with changing times.

Political parties can be formed without limit as to number and are free to participate in elections.

We value our independence. That is why the late Tunku Abdul Rahman refused to join the South East Asia Treaty Organisation, even though the US offered to build for free the East-West Highway because he did not want the Americans to replace the British with their presence in the country.

When Malaysia was formed in 1963, President Sukarno was annoyed. He had reserved the name 'Malaysia' for his grand design of a Greater Nation of the Malays to include Indonesia, Malaya, Borneo and the Philippines.

He launched a military attack against Malaysia in 1964 which he called '*Konfrontasi*'.

The people rallied behind the Government against this external attack to extinguish it and for added emphasis, voted in the Alliance Party with a landslide victory in the 1964 General Election.

Umno did not perform as expected in the 1959 and 1969 General Elections. Following the observation of Tunku Abdul Rahman, no general election has been held since then in the year ending with '9'. It follows that the present Government will complete its full term to the year 2000.

In the meantime, *reformasi* supporters should consider forming a political party, preferably with a Malaysian name.

Last week, Information Minister Datuk Mohamed Rahmat said that the people should be given the opportunity to express their views.

The solution is to issue them with police permits to hold political rallies in enclosed premises like stadiums and public halls, so that they do not have to take to the streets.

Gore was confused about *reformasi*. He was not, however, confused

when he delivered the US signal that Prime Minister Datuk Seri Dr Mahathir Mohamad should step down.

His dinner speech during the Apec summit was clearly an interference with our domestic affairs to which all right thinking Malaysians have taken umbrage.

Thanks to Gore, he has strengthened Dr Mahathir's position as Prime Minister!

Dr M – a genius in art of the possible



14.1.99

POLITICS is the art of the possible. When Umno celebrated its 50th anniversary not long ago, it was acclaimed that the party will continue to exist and prosper for another 100 years.

By a sudden turn of events, however, it seemed that Umno might not last the 20th century. The party, and hence the country, were in a state of political uncertainty bordering on political instability.

The situation was initially triggered by the economic downturn in July 1997, then influenced by the political upheavals in Indonesia in May 1998, made worse by reports of alleged discontent of the masses in the foreign press; and finally culminating in the removal of Datuk Seri Anwar Ibrahim from government and party posts in September 1998.

A ground swell had developed against the Umno leadership and even against the Government.

Umno members were confused and some were angry at the sudden fall from grace of Anwar, their idol for the last 16 years.

Unlike 1988, when there was a mass exodus of the Umno membership to Semangat 46, this time around there was no breakaway at all, thus creating a deadly silence of the majority.

Umno is battle-scarred and has survived one crisis after another.

It lost some ground in the May 1969 General Election which led to racial riots. The only issue at that election was corruption.

Then in the early 1980s there was the constitutional crisis involving the Malay Rulers.

This was followed by the recession of the mid-1980s when word went round that the only way to solve the economic crisis was to get rid of Datuk Seri Dr Mahathir Mohamad as Prime Minister.

His leadership was indeed challenged in 1987 and in the aftermath, Umno was declared an illegal organisation by the High Court in 1988.

During the 17 years he has been Prime Minister, Dr Mahathir has appointed and lost three deputies, namely Tan Sri Musa Hitam, Tun Ghafar Baba and Anwar.

Until last week, the country was without a Deputy Prime Minister after the dismissal of Anwar on September 2, 1998, which it was said was the continuing cause of political uncertainty and a disincentive to economic recovery.

As Prime Minister, Dr Mahathir was under mounting pressure to fill the vacant post of Deputy Prime Minister.

As president of Umno, he wanted the Umno membership to elect the deputy president, who by tradition would be appointed Deputy Prime Minister.

Which should come first? To appoint a Deputy Prime Minister ahead of the party elections would be considered as some sort of *fait accompli* for the incumbent at the election.

A tricky political situation indeed! Enter Dr Mahathir the Visionary.

Whilst Umno delegates at the Special General Assembly on December 13, 1998 focused attention on the abolition of bonus votes for the office of president and deputy president on the agenda to amend the party constitution, there was an amendment which enabled party elections to be postponed by 18 months which was passed without debate.

Last Friday, Dr Mahathir took advantage of the amendment and announced that party elections scheduled for June 1999 were postponed to the year 2000 until after the General Election due by April 2000.

In one full swoop, he neutralised internal party rivalry which was already simmering for the June elections but retained the right of the membership to elect the deputy president by not appointing anyone to that office.

He called upon the party membership instead to gear itself for the general election, it being the higher priority of the party.

He then proceeded to appoint Datuk Seri Abdullah Ahmad Badawi as Deputy Prime Minister and effectively silenced any intended challenge to that office for the next 18 months.

In appointing Abdullah, who is second vice-president, he passed over Datuk Seri Najib Tun Razak, the first vice-president.

There is a precedent for this. When Dr Mahathir himself was appointed Deputy Prime Minister he was third vice-president and superseded the first and second vice-president, namely Ghafar and Tengku Razaleigh Hamzah.

With Abdullah's appointment, political stability and certainty have been restored as evident by renewed confidence in the stock market.

With politicking in suspended animation party-wise, full attention can now be diverted to economic recovery.

Umno has survived another crisis and the country can breathe again.

Whether one likes or dislikes Dr Mahathir, it must be conceded that he is a political genius and is living proof that politics is the art of the possible.

DPM too seasoned not to separate grain from chaff



28.1.99

DATUK Seri Abdullah Ahmad Badawi has received many congratulatory messages on his recent appointment as the Deputy Prime Minister. Some of the messages are from people who say that the appointment has restored political stability to the country.

A number of the messages are from genuine well-wishers and friends but others are of the anticipatory remember-me type as a sort of political insurance.

In sum, the messages convey expressions of hope for the political future of Abdullah. For a politician who has tasted a period of political wilderness after being dropped from the Cabinet and further exemplified by the absence of supporters to greet him on his return to Penang after failing to retain his position as Umno vice-president at a party election, the hundreds who greeted him at the same airport after regaining the vice-president post at a subsequent election, and the thousands who attended his Hari Raya open house in Kuala Lumpur and Penang recently, Abdullah is now too seasoned a politician not to separate the grain from the chaff in maintaining his true self and perspective.

The reactions to his appointment, however, disclose signs of confusion on the part of the general public as to what the Deputy Prime

Minister can or cannot do in his official capacity and more particularly the role of the DPM in the hierarchy of government.

As the title of the appointment suggests, the emphasis surely is on the word 'deputy', thereby signifying a higher authority. The DPM deputises for the Prime Minister at functions and occasions which the Prime Minister is unable to attend.

On occasion he presides over the weekly Cabinet meeting when the Prime Minister is overseas. When the DPM speaks, he actually articulates the views of the Prime Minister.

The exemplary DPM was undoubtedly the late Tun Abdul Razak who meticulously always gave the impression that he spoke on behalf of Prime Minister Tunku Abdul Rahman or that of the Government as a whole.

Tun Ghafar Baba was another DPM who played the role of the deputy to the letter in spirit and substance.

The role of the DPM was somewhat confused by the press when Tan Sri Musa Hitam was the DPM. The press had dubbed the Government then as the 2M Government, meaning a joint partnership between Prime Minister Datuk Seri Dr Mahathir Mohamad and Musa. To be fair, Musa himself did not have any such illusions.

At a function at the Istana Negara soon after his appointment as DPM, I remarked to Musa that his *songkok* was a little askew. He retorted that was because he is only the deputy. In time, however, Musa resigned from the Government on the ground that he could not accept Dr Mahathir's style of leadership.

Musa did the right thing in resigning because this is what our system of government is all about. There can only be one leader at a time and that is the Prime Minister.

If a Cabinet Minister cannot agree with the Prime Minister, he has no choice but to resign honourably. It does not mean, however, that the Prime Minister himself is irremovable.

If a prime minister has lost his bearings or his leadership is injurious to the country or the party and there is sufficient party support for his removal, he can be dumped at any time.

This is what happened to British Prime Minister Margaret Thatcher when her Conservative Party decided that she had become a liability to the party's fortunes at the general election.

Abdullah's real executive power is that of Home Minister where he

has his own ministry with powers conferred by law in respect of the several departments of the ministry.

In the current administration, it can be fairly described that Abdullah is the Home Minister with the added rank of Deputy Prime Minister.

The DPM can only show his true colours when he becomes the Prime Minister. Only then may he initiate his own policies and exercise his personal style of government. Above all, as the DPM he has no competing executive powers with the Prime Minister.

Until the DPM becomes the Prime Minister, he is at best only a safety valve of the Prime Minister. To all those who have congratulated Abdullah on his appointment as the DPM, be best reminded that he is only a deputy of Dr Mahathir, the one and only Head of the present Government.

Room for constitutional electoral changes



4.2.99

ELECTION fever is upon us once again. It has reached a high pitch in Sabah where it is said that the state elections will be held any time now. This is because the Sabah State Legislative Assembly's current term expires on March 22.

The election fever, nevertheless, has also caught on in the rest of the country, fuelled to some extent by the political parties announcing urgent preparations for a general election; Umno's postponement of party elections, previously due in June, to after the general election; and demands by the opposition parties that the Government should call for a snap poll.

In a democracy, the aim of a general election is to elect legislators to represent the people in Parliament. The question arises: how effective is the electoral system to meet this objective?

There are basically three electoral systems, namely the first-past-the-post system of single-member constituencies, the proportional system; and the combination of both systems.

The first-past-the-post system, as practised in the United Kingdom and Malaysia, declares a candidate duly elected if he has won the most number of votes, although such vote is less than 50 per cent of the total vote when there are three or more candidates. Such a candidate cannot

be said to represent the majority of the electorate. That is why in some countries, a run-off election is held soon afterwards between the two top candidates to decide which candidate actually represents more than 50 per cent of the electorate. Such a system is obviously democratic.

The proportional representation system, as announced recently by Indonesia, allows for representation in Parliament by a wide range of parties and is decidedly more democratic. Unlike the first-past-the-post system where there is a tendency for personal attacks on individual candidates, the electioneering process of the proportional system is concentrated on the policies of the parties and not on individual candidates. The disadvantage of the system is that the legislator is not identified to represent any particular constituency and, therefore, lacks that personal touch to be a *wakil rakyat*.

The combined system, as practised in Germany, Japan and Sri Lanka, appears to be the best. Under this system, a proportion of the legislators represent directly single-member constituencies and the others represent political parties on the proportional system.

Malaysia should adopt the combined system by retaining the present single-member constituencies, subject to a run-off election if any candidate obtains less than 50 per cent of the total vote. In addition, not more than 100 MPs can be elected by proportional representation, subject to a cut-off in respect of political parties which do not obtain more than five per cent of the total vote to qualify for representation in Parliament.

Next, the term of Parliament.

In the United States, the term of legislators, both in the House of Representatives and the Senate, is four years with half retiring every two years. Elections are held in November with new legislators taking office in January. The dates are fixed by the Constitution and Congress is never dissolved.

In a parliamentary democracy, like the UK and Malaysia, the term is five years but Parliament can be dissolved at any time before then.

For a country like Malaysia, such a system creates political uncertainty and instability. We should change to a fixed term of five years with elections held in June and MPs taking office on July 1 of the election year. The year 2000 is a good year to begin so that the Constitution can provide for general elections to be held in the year divisible by five.

Elections are an expensive business. Simultaneous elections should, therefore, be held to the Senate, the Dewan Rakyat and the State Legislative Assemblies. It will also result in less politicking all the time.

For proportional representation, every voter should be given a party preference vote, namely the party itself like Umno and not the Barisan Nasional. For example, the voter may vote the BN represented by the MCA in his constituency but vote Umno for the party preference vote.

In this way, every political party will know its real strength.

The advantage of proportional representation is that more political parties will be represented in Parliament. In addition, the party leader can choose the best candidates for Cabinet appointments by putting them on the party list. Such ministers can devote more time to administration without responsibility for any particular constituency. The whole country will be their constituency.

The present Parliament has the power to make these constitutional electoral changes before the next general election. The electorate is now better educated and demanding. Parliament and the State Legislatures should, therefore, be more representative and effective so that the people do not have to take to the streets to force changes.

Poser over composition of new Parliament



11.2.99

SOON we will be going to the polls to elect a new Parliament. The question arises: what will the new Parliament be like?

A democratic government has three branches, namely, the legislature, the executive and the judiciary on the principle of the separation of powers with a system of checks and balances.

All over the world, the judiciary, in theory at least if not in actual practice, is independent in the sense that the executive does not interfere with the work of the judges.

The judiciary in most countries including Malaysia, as an independent branch of the government, is some sort of referee to oversee that the other two branches of government discharge their duties according to law with powers to strike down any law enacted by Parliament that is unconstitutional or any act of the executive that is in excess of their powers or for want of jurisdiction.

Be that as it may, the separation of powers between the legislature and the executive can be very real in some countries but not so in others. In the United States for example, the separation is very real. Members of the House of Representatives and the Senate are legislators.

Indeed, the Constitution provides that they cannot be appointed as members of the Cabinet. The President appoints his Cabinet members from the private sector from amongst persons best qualified to do the job. This is a plus point for efficient administration.

The disadvantage of the system is that the President practically has no power over the legislature.

Congress can reject the President's legislative and budget proposals. In recent times because the Congress had not approved the budget, the Government was forced to close down as there was no money to pay the employees!

Such situations arise because the President belongs to the Democrat Party and the majority of members of the House of Representatives and the Senate belong to the Republican Party.

Malaysia, like the United Kingdom, practises parliamentary democracy but in some respects that similarity ends there. In Britain, as in several other Commonwealth countries, there is a two-party system with the Government liable to change between the Conservative Party and the Labour Party after a general election.

In addition, the press, sometimes known as the Fourth Estate, maintains a watchful eye over government policies and actions in its exercise of the right of the freedom of the press. The Government of the day is ever mindful of the Opposition and the press.

The advantage of a parliamentary democracy is that the executive is made up of the majority party in Parliament.

The system is assured of political and, with it, economic and social stability because legislative and budget proposals by the executive are invariably approved by Parliament by virtue of the party in power enjoying a majority in Parliament.

The disadvantage of the system, particularly in a country without an effective opposition that is capable of forming an alternative government, is that Parliament can be reduced to a rubber-stamp institution of the executive. Malaysia should safeguard itself from such a predicament. As far as possible, legislation in the new Parliament should be more deliberate.

All Bills should be referred to a Parliamentary Committee of the Dewan Rakyat for public comment before it becomes law.

In 1976, Parliament passed the Law Reform (Marriage and Divorce) Act on a certificate of urgency. There was such a hue and cry over the new law that it did not come into force until March 1, 1982!

Parliament is given the exclusive power to approve the Budget. The executive cannot spend the taxpayers' money without such approval.

Here again, government ministries and departments should be made to appear before Parliamentary Committees of the Dewan Rakyat to justify proposed expenditure before the money is spent.

For a long time now, Parliament has had to regularly approve Supplementary Supply Bills after the expenditure has been incurred. This cannot be right.

There is a Public Accounts Committee to examine the Annual Report of the Auditor-General but such reports are two to three years old and after the damage has been done!

The new Malaysian Parliament should therefore be more proactive in its legislative process and as the custodian of the taxpayers' money.

The solution is to establish parliamentary committees to oversee legislative proposals and government expenditure on a regular and continuous basis.

This means that future MPs will have to devote more time in the House to parliamentary business.

Perhaps MPs should be paid more in terms of salary as full-time politicians. Politics then will truly be a profession.

Deputy Prime Minister should hold unenviable job of Home Minister



18.2.99

WHEN Deputy Prime Minister and Home Affairs Minister, Tan Sri Musa Hitam, resigned from the Government in the mid-1980s, the Prime Minister, Datuk Seri Dr Mahathir Mohamad, took over the Home Ministry.

He held this position since then until the recent Cabinet reshuffle. This was a heavy responsibility for the Prime Minister and not the most desirable arrangement.

A Prime Minister should not be burdened with the day-to-day business of another ministry. It is like a ship's captain having to mind the engine room at the same time.

The appointment of Datuk Seri Abdullah Ahmad Badawi as Deputy Prime Minister and concurrently as Minister of Home Affairs is therefore most welcome and timely.

In effect it is the restoration of good governance during the early years of the Mahathir administration.

In the context of Malaysian politics, an MP who is appointed Deputy Prime Minister has arrived, politically speaking, in the sense that he does not have to spend much time and effort to gain further political mileage, more so when the DPM is also the Home Minister.

The departments under the Home Minister do not open avenues to sustain a patronage culture for political mileage.

The responsibilities at the Home Ministry are politically sensitive.

Indeed, an aspiring politician on the rise with a keen eye on the popularity stakes would not want to be Home Minister.

The departments under the Home Ministry include the Police, the Prisons Department, the Immigration Department, the National Registration Department and the Registrar of Societies.

These are all very well established departments whose main functions are law enforcement and they form the back-up of the country's political system.

None of these are vote catchers. That is why the Home Ministry should be assigned to the DPM.

The primary function of any government is the maintenance of law and order. The police bear the brunt of this responsibility.

From recent events, Abdullah has much image restoration work to do particularly with Malaysia's long reputation of having a police force which serves the public and is a friend of the people.

It does not have a history anywhere near Nazi Germany's Gestapo, the Japanese Kempetai, the Soviet Union's KGB or even the Shah of Iran's Savak.

We have never really been a police state even at the worst of times.

The power of the Government to detain people without trial should be applied in strict compliance with the law and should never be abused, certainly not for any political agenda.

The Minister should personally exercise such power.

A deputy minister should be assigned with the responsibility for the prisons, and to especially visit every prison at least once a year to ensure that the inmates are treated fairly.

We should maintain our reputation of a sound penal system in having the lowest rate of recidivism in the world.

Efforts are being made to improve immigration services. Its officers should be polite but firm when performing their duties. The current exercise to be on-line at all entry and exit points should be expedited.

Tourists, businessmen and even members of the foreign press are important lifelines of the country's economy, but national security and interests should never be compromised.

One of the functions of the National Registration Department is to grant citizenship status. This exercise should be a solemn affair.

Perhaps the laws should make it mandatory for all new citizens to take the Oath of Allegiance before a Sessions Court judge in open court and the citizenship certificate presented at the ceremony to make the acquisition of citizenship more meaningful.

One of the most sensitive and sometimes politically explosive situations concern the registration of new political parties.

We subscribe to a multiple political party system. Applications for registration should therefore be expeditiously dealt with to dispel any allegation of suppression by the Government of political opposition.

The new Home Minister has much to do. To his credit, he has begun to address the problems of his ministry soon after assuming office. The task is not enviable.

Any wonder why politicians do not want the job! From now on it should be an established tradition of the Government that the Home Affairs portfolio be held by the Deputy Prime Minister.

System to ensure phantom voters become a thing of the past



11.3.99

PHANTOM voters! This is an old cry at previous general elections, but it is still being raised at the on-going election in Sabah. Not surprisingly really, because the phantom voter in Sabah is of a different kind from what we used to know in Semenanjung. In Sabah, the

phantom voter is in the form of registered voters with forged identity cards, apparently of sufficient number to cause alarm.

It is, therefore, of great relief to learn that the Election Commission has given the assurance that forged ICs can be easily detected and thus the holders will be prevented from voting.

Still, phantoms are phantoms, no matter the form. They seem to surface during election time, quite seasonal really, once every five years. But that is precisely the point. They could not have come into existence overnight.

So the question arises: could they not have been detected during the five years of the intervals between elections? To put it in another way, the Election Commission should have a continuous system of instant detection and effective prevention of phantom voters.

Who really is a phantom voter? The first type is the voter who lives in one constituency but is registered as a voter in a different constituency. Such a voter can be quite genuine because he was living in the constituency at time of registration as a voter but has since moved to another constituency where he is now employed at the time the election is held. He returns to his old place to cast his vote. Indeed, I had to do this on three consecutive elections because I was frequently transferred when I was in government service.

Another type is the voter who is registered in two different constituencies with the possibility of voting twice in the same election at the instance of a political party taking advantage of the situation, provided of course that the two polling stations are not too far apart. This arises due to change of residence like the first type but the double registration occurs due to administrative slips. The locals, however, know that he had migrated a long time ago and justifiably brand him a phantom voter.

The third type is perhaps the objectionable one. This is when a large group of people normally resident in one constituency is organised by a political party to be registered in another constituency to ensure victory! The locals naturally scream because they know who their neighbours are.

Some years ago, through an administrative error, the entire electorate of a *kampung* in Kelantan found that they had to vote in a remote *kampung* in Perak!

The Election Commission must ensure the public that phantom voters of any kind is a nightmare of the past.

For reasons of geography, the Election Commission should establish and maintain separate master electoral rolls for Semenanjung, Sabah and Sarawak at Kuala Lumpur, Kota Kinabalu and Kuching of all the registered voters of each of the territories respectively.

Every citizen who has the right to vote must first have a blue IC in order to be registered. No two persons can have the same IC number.

With a fairly efficient computer system, any person who attempts to register at two different places at the same time will, therefore, be instantly detected by the computer at Kuala Lumpur, Kota Kinabalu or Kuching as the case may be. The second registration should automatically cancel the earlier registration.

The present system of an annual registration exercise over a given period is out-dated. There should be a continuous and automatic system to compile and maintain the electoral rolls. This can be done with the Election Commission going on-line with the National Registration Department.

All deaths, as they occur, of persons over the age of 21 will be notified by the NRD to the Election Commission which will then delete the voter's name from the electoral roll.

Every citizen on reaching the age of 21 or any person becoming a citizen acquires the right to vote at a general election. The NRD shall notify the commission of such persons as and when the event occurs. They would not be required to register to vote as at present.

On notification by the NRD, the commission will automatically put the name of the citizen on the electoral roll and inform the citizen by a congratulatory message that he has acquired the constitutional right to vote at future elections, indicating at the same time the location of the polling station.

The law requires every person who changes his address to notify the change to the NRD. The latter department in turn shall notify the Election Commission of the change which will make the necessary change of the electoral roll automatically, with the voter being notified of the location of his new polling station.

All these exercises should be ongoing and carried out continuously from January 1 to December 31 of each year at Kuala Lumpur, Kota Kinabalu and Kuching.

The electoral rolls will be deemed closed as at December 31 for use for any election in the ensuing year. In January of each year, the

Election Commission will issue the revised and updated electoral rolls for public examination.

In addition, the EC should issue in April, July and October in respect of every constituency the list of voters who have died, new voters and voters who have changed their addresses only during the preceding quarter for public examination.

Every political party should have an Electoral Rolls Committee at state constituency level to examine the revised annual electoral roll and the quarterly subsidiary list of changes during the year and notify the commission of any discrepancies.

There should be no occasion then for any political party to cry phantom voters during any election.

Political parties to remain racially-based



25.3.99

THE late Dato Onn bin Ja'afar, the first president of Umno, made an attempt to allow non-Malays to become associate members of the party during its early years.

The membership rejected the proposal and Onn resigned as president and quit the party. He then founded the multi-racial Independence of Malaya Party and later Parti Negara.

Both did not receive much support either because the people were inclined to be organised racially. The IMP and Parti Negara passed into oblivion.

The late Tunku Abdul Rahman succeeded Onn as president of Umno. A realist, the Tunku forged a political alliance of Umno, representing the Malays, the MCA, representing the Chinese, and the MIC, representing the Indians, to form the Alliance Party.

Thus politically united, the Alliance Party played a major role in obtaining independence of the country from the British in 1957.

The Alliance Party also made an attempt to create a multi-racial party through direct membership.

There was some response but it never really took off and that too passed into oblivion.

Since then, several multi-racial political parties came into existence like the Pan Malayan Islamic Party (now Pas), the Labour Party, Parti

Socialis Rakyat Malaysia (now Parti Rakyat Malaysia), the People's Progressive Party, the Gerakan, and the DAP.

Pas originally was a splinter group of Umno. It is Malay-based but has since declared as its objective the creation of an Islamic state.

The Gerakan was actually a splinter group of the MCA and is Chinese-based.

The DAP was originally the DAP of Singapore but after Singapore left the Malaysian federation in 1965, it was renamed the DAP. It is basically Chinese-based.

After more than half a century of active party politics, the political structure has not really changed although attempts continue to be made to establish and sustain multi-racial political parties.

Malaysians are still organised politically along racial lines. It will thus appear that without strong racial support, a political party cannot hope to survive in this country.

In terms of political ideology, there is not much of a difference between the political parties.

Generally, political parties advocate free enterprise and a fair means of wealth distribution.

Indeed, Malaysia's success story can be partly attributed to this pragmatic political approach and practice.

After the 1969 racial riots, the late Tun Abdul Razak enlarged the Alliance Party to form the Barisan Nasional to reduce politicking.

The tragic events of 1969, however, have convinced Malaysians that political and economic differences cannot be resolved by inter-racial violence.

Divided as we are racially in terms of political party organisation, it is recognised that no one community can go it alone to govern this multi-racial country.

From this realisation, the concept of power-sharing has become the norm of governance. The Barisan Nasional, with the consent of Umno, has made a practice of allocating Malay majority constituencies to non-Malay candidates during parliamentary elections to reflect the racial composition of the country.

Although Umno is the majority party in the Penang State Legislative Assembly, the Chief Minister of the State is a Chinese from the Gerakan.

In Sabah, power-sharing is manifested by the system of rotating the

office of Chief Minister for two-year terms between Muslim Bumiputeras, non-Muslim Bumiputeras and Chinese Assemblymen.

This system was further reflected during the recently concluded state elections when the electorate of each constituency were classified as:

- (a) Muslim Bumiputeras;
- (b) non-Muslim Bumiputeras;
- (c) Chinese; and
- (d) Others.

Until now all political parties in Sabah gave the impression that they are multi-racial.

When Umno went into Sabah, it amended the party constitution to admit non-Muslim Bumiputeras as members of the party.

The results of the recent elections, however, seem to indicate a move towards racialism.

The Bumiputeras of Sabah actually consist of several tribes. Some of tribes have come together and have found common cause in the fact that they are Muslims.

This common factor, albeit based on religion, is the true support of Umno Sabah which is amply illustrated when it won all the 24 seats it contested in Muslim Bumiputera majority constituencies.

The Kadazandusun are Bumiputeras and constitute 40 per cent of the population of Sabah.

Of the 48 seats the PBS contested, it won 17, all in non-Muslim Bumiputera majority constituencies but tellingly in the rural districts populated by Kadazandusun.

The PBS obtained 41.2 per cent of the total vote including in constituencies that it lost where the Kadazandusun are in the minority. It is obviously a Kadazandusun-based political party.

As in the peninsula, where the Malays who are Muslims are divided between Umno and Pas, the Chinese, irrespective of religion, are divided between the MCA, the Gerakan and the DAP, the Indians divided between the MIC and several other parties which they can join, Sabah political parties are in fact racially-based, in spite of attempts at multi-racialism.

For a long time to come, Malaysian political parties will continue to be racially-based. Indeed, Umno has vowed that it will last another 100 years. This is the political reality.

It is not necessarily a bad thing that this is so, as long as we

recognise and respect the religious and cultural differences of each other.

Above all we have to co-exist and work together as Malaysians for the good of Malaysia.

Onn's son, the late Tun Hussein Onn, became Prime Minister as an Umno man and so his grandson, Dato' Hishammuddin Tun Hussein, now a deputy minister, is also an Umno man.

Clearly Onn was way ahead of his time to think of multi-racial political parties in Malaysia!

Needed – a new breed of politicians



29.4.99

AS the month of April draws to a close, the countdown on the life of the present Dewan Rakyat and the State Legislative Assemblies in the Peninsula begins.

The legislatures would have completed their five-year terms by April 2000 and would be dissolved automatically if a general election is not held sooner.

The general election itself, however, may be held beyond April up to 60 days from the date of the dissolution which means that the latest the general election must be held is in June 2000.

Already, incumbent politicians of all political parties must be thinking of retirement or re-election while aspiring upcoming politicians anxiously await selection for nomination to stand for the election.

It is inevitable that there will be changes due to age, long service, overstaying or simply that the incumbents have passed their peak to win votes for the party.

In 1967 on a visit to New Zealand, the late Tun Abdul Razak asked the Prime Minister, Sir Keith Holyoake, how he managed to remain PM for so long (1957, 1960-1972). His host replied: "That's easy. I appoint new Cabinet Ministers after every election and the people think they have a new government!" New Zealand elections are held once every three years.

The electorate, however, can be quite unpredictable. The first general election was held in 1955. Apart from the very few at the top leadership of the political parties, the rest of the candidates for the

election were a motley crowd who had had no experience of government. At that time, the best people were in government service and had effectively up to then governed the country.

In Kelantan, for example, the Umno candidates consisted of the have-nots and the generally socially disadvantaged. Opposing them in the 1955 election were senior civil servants who had resigned to contest the election as Parti Negara candidates.

Umno won a landslide victory and Parti Negara candidates were wiped out. The people wanted a change of government.

The newly-elected State Government messed up the administration, so when candidates for the 1959 General Election were being chosen, Umno supporters asked for a new set of candidates. The party chiefs demurred and all incumbents were renominated. This time Umno was opposed by the PMIP (now Pas).

The late Tunku Abdul Rahman, the Prime Minister, addressed an election rally at Kota Baru. For as far as the eye could see from the rostrum, thousands of people had come to listen to him. The Tunku declared that Umno would retain Kelantan. Umno instead suffered a resounding defeat when the PMIP won by a landslide.

What the Tunku did not know was that the Kelantan people, irrespective of party affiliations, attended all election rallies conducted by the parties participating in the election.

Everyone was surprised at the result, especially the PMIP which did not expect to win, least of all to form the Government because the vote for the PMIP was really a protest vote against Umno for not putting up fresh candidates!

In the 1969 General Election, the electorate had a blacklist of incumbent MPs and State Assemblymen. The issue at that time was corruption but in spite of warnings and pleas that particular incumbents should not be re-nominated, they contested nevertheless. All such candidates lost.

The forthcoming election is crucial in many respects as the country faces new challenges with new expectations. The electorate now is better educated and more critical of the establishment than their forefathers were.

Ironically, one of the problems of election campaigning this time is the country's economic success and development. Gone are the days when it was enough to promise electricity supply, piped water and

roads. More than 90 per cent of the population in the Peninsula already have these amenities.

Beyond tarred roads, we have highways, and public health centres have been replaced with general and specialised hospitals. And of course, more schools, colleges and universities, making the country a centre of educational excellence.

This election is more than somewhat crucial especially because the choice of candidates will determine success and not just the party flag. The 21- to 50-something voters are not interested in their forefathers' fight for independence of the country. To them that is history. Nor are they interested in how we have become a developed country and the achievements acknowledged internationally. They were born into and grew up in freedom and plenty. They think only of the future and what the country has in store for them.

It is fair to conclude that this time around we should have a new type of politician, educated and dedicated to the service of the people. Nay, the new politicians should be idealistic, full-time career politicians, a completely new breed of politician for the 21st century. They should not only record full attendances at parliamentary and Legislative Assembly meetings but be alert and participate fully in their deliberations. Question Time should be more meaningful. They should even introduce Private Member's Bills and initiate legislation in response to public requests and grievances rather than wait for the Government to act all the time.

More importantly, the future of politics lies in a complete separation between politics and business in the sense that MPs should not be businessmen at the same time and vice versa.

The truth of the matter is that politics and business do not mix simply because conflicts of interest are bound to arise. The businessman wants to make money. MPs generally want to spend other people's money.

As the present Dewan Rakyat and State Legislatures slip into history, may the new-look Parliament be the dawn of our future political development.

Let political clubs be set up in varsities



24.6.99

PERHAPS a significant focus of the recently concluded Umno General Assembly was the concern expressed by the delegates that educated young Malays were not joining the party in large numbers.

The concern is understandable because no political party can survive for any length of time if it is deprived of a regular injection of new blood.

Umno is a Malay party and the future of the Malays is its paramount objective. Hence Datuk Seri Dr Mahathir Mohamad in his presidential address reminded delegates that the Malays had been oppressed for more than 400 years before Umno came to the rescue in 1946, in order to focus attention on why Umno is relevant for the survival of the Malays in the next millennium.

The question arises: how is Umno going to manage sustainable growth with the need to recruit educated young Malays in the context of today's realities?

To begin with, throughout the ages, the young have always been anti-establishment.

This attitude may be expressed in many ways, like men with long hair or the teddy boys of the 1950s. They just want to be different from their fathers.

It is the same with politics. Taking an interest in politics has its beginnings when the young are at university. They want to change the world and initially express it with being anti-establishment.

When my late father was the Registrar of Societies, he sent for me one day. He was obviously agitated about something.

Apparently earlier that day, he had received the annual returns of new office bearers of the Socialist Club of University of Malaya.

My brother had been elected secretary of the club. In the 1950s the Socialists were considered as anti-establishment.

I told my father that to be a Socialist at 21 was a healthy sign but if at 40, then may be it would be of some concern. He relented.

Upon graduation, my brother joined the Foreign Service and retired recently as Malaysia's Ambassador to the United States, none the worse for his socialist views at university.

A delegation of Malayan students met the late Tun H S Lee, then the Finance Minister in London.

We tried to persuade him what Malaya's economic policy ought to be after independence.

He said our ideas were that of Socialists but we would change upon returning home when we faced reality.

As an example, he said that the late Tun Ismail Ali was also a Socialist in his youth but he turned out to be the ideal Governor of the Central Bank.

The late Tun Abdul Razak was a member of the Fabian Society during his student days in London.

The society was founded in Britain in 1883 to promote the gradual spread of democratic socialism with the strategy of avoiding direct confrontation with the state.

Many Malayan students at the time were influenced by Professor Harold Laski (1893-1950) of the London School of Economics.

He was a Socialist and political theorist. One cannot say, however that Tun Abdul Razak was a socialist Prime Minister!

The most fertile ground to recruit educated young people to a political party must obviously be the university campuses in the country and abroad.

That is why there are 29 Umno clubs at universities worldwide. But there are no such clubs in Malaysian universities.

The Prime Minister said that if Umno clubs are allowed to be formed in local universities, then other political parties should also be allowed to do so.

Taking an interest in politics should be distinguished from taking an active part in partisan politics.

For years the Government policy has been that students at universities should concentrate on their studies.

Partisan politics is for those who have graduated. The policy, however, has actually worked against Umno.

The truth of the matter is that Malaysian university students, like their compatriots in the UK, Australia, New Zealand, India, Indonesia and Thailand, are political activists.

A total ban on partisan politics would appear to be ignoring the reality of political awareness and activism of university students.

But the activism subsists nonetheless through for example, the Students Representative Council of each university.

It is understood that 10 out of 11 such councils are dominated by

supporters of Pas. To be sure, on the quiet, there are also supporters of Umno and of other political groups on local university campuses.

The solution perhaps is to allow political activity to be in the open and permit the free establishment of political clubs in our local universities.

Let such clubs be part of university education for those who are politically inclined.

They will learn to respect the views of others whilst forming lifelong friendships of having belonged to the same alma mater.

The university is the ideal place to cultivate the practice of parliamentary democracy.

Under existing conditions, subversion and surreptitiousness have crept into the university culture.

This is not a healthy development but arises because the human spirit can never be suppressed.

If restriction there be, their activism should be confined to the campus and certainly not by participating in political demonstrations in public.

Umno knows we reap what we sow.

Remedy for inadequate press coverage in hands of political parties themselves



1.7.99

PRIME Minister Datuk Seri Dr Mahathir Mohamad has declared that the general election will be called at any time from now on.

Indeed, the country has been gripped with election fever for some weeks now with several political parties proclaiming that they are already in a state of preparedness for the election.

On the eve of a general election, it is not unusual for Opposition political parties to allege that they are not getting adequate coverage in the newspapers for their election campaigns.

In a parliamentary democracy, the newspapers play an important role during an election in influencing voters as to which political party they should support.

There are basically three types of voters in an election. Firstly, the party diehards who will vote for the party no matter what. Secondly,

there is the floating voter who does not belong to any political party and may vote for different parties at different elections. And thirdly, young people who are voting for the first time.

It is natural for a partisan newspaper to target the second and third groups. Hence the allegation of unfairness by Opposition parties of inadequate reporting of their cause.

The allegation stems from the contention that all newspapers are expected to be neutral and should give equal space and prominence to the views of the Government party and the Opposition parties. Such a contention ignores reality.

Is there really a neutral newspaper? Or even an independent editor?

Recently, a newspaper tried to be independent in Timor-Timor. For every incident with a political implication, it published the Government version of the incident and also that of the Opposition. For good measure, it also published the results of its independent investigation of the incident. When the editor was away on an overseas trip, his newspaper office and printing equipment were burnt down by protestors for publishing the other's views!

In 1994, I was invited by the Sri Lanka Elections Commissioner as an international observer of the parliamentary elections of that country.

Each day, the Colombo Hilton delivered a newspaper to my room. The newspaper was obviously 100 per cent pro-Government. To get a better picture of the political situation and election issues, I bought each day a rival newspaper which was 100 per cent pro-Opposition.

The election was free and fair if only because the incumbent government party lost and the opposition coalition parties won.

The day following the results of the election, the Hilton delivered the same newspaper but its content was 100 per cent pro the new Government! Obviously the policy of the newspaper is to be pro-Government, no matter which political party is in power.

In many countries, however, newspapers are aligned to a political party whether the party is in power or not. Thus, in Britain, I had to read both a Conservative Party paper and a Labour Party paper to follow current political affairs.

When Sabah first became independent, the late Tun Mustapha Harun had a newspaper to promote his party. His political rival at the time, the late Tun Donald Stephens, also had a newspaper to promote his party.

The truth of the matter is that no newspaper is truly independent or neutral. Editorial policy is dictated by the owners of the newspaper. It may be partisan when reporting on political issues but neutral when reporting on business, foreign affairs or sports.

The bottom line is that newspapers are in the business of making money for the shareholders of the newspaper. It has to maintain a certain level of circulation to keep advertisers happy because it is the advertisements that keep a newspaper in business.

However, the final arbiter is really the reader who decides which newspaper he or she wants to read. Recent declines in the sales of certain newspapers and increases in others reflect the preference of readers on political issues. There are of course readers who buy a particular newspaper just because they like the format of the business pages!

A free press is a misnomer in some respects because it is only free to express the views of its editorial policy and it does not mean that it must freely publish the views of everybody.

In a parliamentary democracy, a free press is vital. It is said that a person attains maturity at 40. As a nation we have been free for more than 40 years. In that sense, the people too have matured in their experience with parliamentary democracy and should therefore have access to newspapers of varying political views. The intelligence of the people should be respected.

Following the trend in other democratic countries, it seems that to communicate effectively with the public, a political party should have its own daily newspaper. That is how the system operates in a parliamentary democracy.

The remedy for inadequate press coverage is within the power of the political parties themselves.

Commission should be above suspicion



23.9.99

IN recent times, the mass media has given wide publicity that general elections held in some countries are neither free nor fair and often rigged. Take for example the last presidential election under the Marcos regime of the Philippines.

From an island constituency, it was found that the number of votes cast exceeded the entire population of the island including that of persons below voting age.

To ensure credibility and universal recognition of elections, several countries either invite or are coerced to accept official foreign observers. The recently concluded parliamentary election of Indonesia is an example.

As that is the prevalent mood worldwide, it is not surprising that a request was made for foreign observers for the upcoming election in Malaysia.

The request was turned down because we did not need such foreign endorsement in past elections, although this will not prevent foreign journalists from reporting the conduct of our election.

Recently I was invited to sit on the panel of a public forum to discuss the conduct of elections in Malaysia.

I was invited because I was an international observer to the 1994 parliamentary election of Sri Lanka. I had also been an election judge of previous elections in Malaysia. The forum was attended by members from 41 NGOs and interested individuals.

I was surprised at the comments made and even the aspersions cast on the credibility of the Election Commission.

I have voted at every election in Malaysia since 1955 and had no reason to doubt the independence and integrity of the Commission established under the Constitution in conducting elections.

Perhaps what it lacks is good public relations to dispel any doubt that what happened in other countries did not and will not happen here.

The conduct of an election by the Commission begins with the preparation of the electoral rolls.

Currently the rolls are being exhibited for public inspection. The Commission should remind the public through daily and frequent announcements in the radio, TV and the newspapers that the rolls are open to public inspection.

Above all, as I said at the forum, it is the duty of every political party to examine the rolls thoroughly.

It is no use complaining after the election that there were phantom voters or even people voting from their graves!

The Commission itself has admitted that there could be clerical

errors and it is up to all concerned, including the voters, that such errors are rectified. That is the object of the publication of the rolls.

As far as the balloting process is concerned, there has never been any serious complaint in all past elections that the polling and the counting of votes were not held according to the rules.

In any event, both procedures are held under the watchful eyes of representatives of all political parties contesting in the election.

Serious concern was however raised on the procedure of postal voting. There seems to be a lack of transparency in the process and a seemingly large disparity in the number of such votes with the actual number of the military and police personnel.

It could well be that the figures include citizens voting at Malaysian diplomatic missions overseas.

Perhaps a breakdown of figures of who the postal voters are will be useful to dispel the doubts.

Perhaps also that the actual balloting by such voters be held under the supervision of the Commission itself rather than by the Commanding Officer of the unit will be acceptable.

There are several marginal constituencies in the country and the result of the election has in the past been determined by the postal votes.

Hence the public anxiety. Is it not possible to list out who the actual postal voters are in each constituency?

There is also the question of, for example, the soldier who registered as a voter when he was stationed at Sungai Petani in Kedah but on polling day he is stationed in Kota Kinabalu, Sabah. Which ballot paper is issued to him? This is what the public wants to know.

The question arises in the present global climate whether there should be an Election Watch consisting of Malaysian citizens for the forthcoming election.

Such a body could assist the Election Commission in assuring the public, and the foreign media in particular, that the forthcoming general election will be free and fair. And of course, no rigging.

We owe no duty to explain to foreigners how we go about our business but in an age of globalisation and IT, foreign investors are primarily influenced by what their press tells them.

It is most unfortunate that by implication and unwarranted association of questionable elections in foreign lands, we are being painted with the same brush.

We really have nothing to hide and should not go down by default. Like Caesar's wife, the Election Commission should be above suspicion.

Today's voters capable of deciding which party, candidate to choose

 18.11.99

THE general election is upon us again. I have voted at every election since 1955. The 1955 election was the curtain raiser to our practice of parliamentary democracy. That election demonstrated to the colonial masters, after years of their divide-and-rule policy, that in spite of the multi-racial composition of our people, we were ready for self-government.

Umno, MCA and MIC formed the Alliance Party to contest the election as a single united political front. In that event, the Alliance Party won 51 of the 52 seats up for grabs, with Pas winning the remaining seat.

The result showed that Malays, Chinese and Indians could work together to achieve a common objective.

Being the first general election, the Government went to great lengths to educate the people to exercise their right to vote and assured them that their vote is secret.

Without the advantage of television at the time, the Public Relations Department, the predecessor of the Information Department, visited every district in the country to explain how votes are cast.

Many of the voters were illiterate and had never held a pencil in their lives, so they had to be shown how to mark the "X" on the ballot paper.

There were other "advisers". In the *kampungs*, parents told their school-going children to ask the *Cik Gu* which party to vote for.

Indeed, the Malay school teacher became the backbone of the Umno membership and for years dominated the party's General Assembly in the election of members to the Supreme Council.

Some politicians said the "X" represented a mistake or rejection and advised voters that if they did not like a particular candidate, they should mark the "X" against his name!

The election result, however, showed that the electorate voted for the party rather than individual candidates.

It was said unkindly at the time that even if a donkey was the candidate, it would get the vote if it stood for the right party.

Following the election, Tunku Abdul Rahman Putra was appointed the Chief Minister of Malaya.

Encouraged by the overwhelming support of the people, the Alliance Party and the Malay Rulers decided to demand complete independence from the British, instead of self-government for a number of years preceding independence.

In negotiations with the Colonial Office in London, the British granted independence to Malaya in 1957.

Parliamentary democracy is not just about holding an election once every five years.

To the credit of the constitutionally independent Election Commission, it has conducted numerous general elections in accordance with the Constitution, the Election Offences Act 1954 and the Election Act 1958.

The electoral rolls are revised annually and open for public inspection and objections. Nominations for the election are held openly with time allotted for objections.

Polling and the counting of votes are conducted in the presence of representatives of political parties participating in the election. There has never been an allegation that the votes have been rigged.

An election is said to be free and fair if participating candidates and political parties are given the right to be heard by the electorate during the campaign period.

The exercise of such right was first introduced during the 1955 General Election when all political parties were permitted to hold public rallies. These were well attended by those who wanted to know what each party stood for.

The speakers were gifted orators and spiced their speeches with wit and humour which kept the audience's attention.

On one occasion in 1955, I was on duty at Segamat, Johor and went to the town *padang* where the Alliance Party was holding a rally. There was a large crowd, and the late Tun Sardon Zubir was holding court. He had a rapid style of delivery like the rattle of a firing machine-gun.

I asked the person next to me if he understood what was being said. He replied:

"*Mengerti tidak, tapi bunyinya sedap*" (I do not understand but the sound is nice).

The people attended the rallies of all political parties. Large attendances however do not necessarily translate into votes.

Tunku Abdul Rahman discovered this at the 1959 General Election when the Alliance Party lost to Pas in Kelantan in spite of the very large crowd at his public rally in Kota Bahru.

Public rallies became the norm at every subsequent election until 1969.

Unfortunately, the right to exercise freedom of speech during that election was abused more than somewhat with some politicians inciting racial hatred which led to the tragic events of May 13.

In the interests of public security, law and order, public rallies by political parties during election time were prohibited from 1974 onwards.

Instead, indoor meetings were allowed but attendance limited to the space available. In the course of time, loudspeakers were used to reach a larger audience.

Of late, however, *ceramah* held by political parties have attracted large crowds, reminiscent of political rallies of the past.

These should be fairly permitted to all political parties during the present election campaign. In as much as the political parties have a right to be heard, the electorate too should have the opportunity to know the objectives and policies of every political party.

Today's voter is literate, better educated than his forefathers and capable of making his own decision on what party or candidate to vote for.

A general election without public rallies is no election at all.

EC must register new voters on daily basis



2.12.99

CONGRATULATIONS are due to the Election Commission, the police, political party officials and all those involved in conducting an incident-free and peaceful general election on Monday.

It was the 11th, including the first and only pre-independence general election of 1955, at which I had cast my vote.

The results have been a surprise to many and a disappointment to others. Whatever the reaction, nobody can say that the results were in any way rigged because Cabinet members and Deputy Ministers lost their seats and parties opposed to the Barisan Nasional captured two states and were returned to the Opposition benches in other states.

Soon the political parties will conduct separate post-mortems of the results as to why they lost outright or why, although they won, they had much reduced majorities.

Significantly, perhaps it can be said that the Malaysian electorate is conservative in the choice of party in the sense that the successful political parties in the election are the long established ones.

New political parties entering the fray were either totally ignored or fared poorly. The reason, apart from the political ideology of the party or even the lack of one, is that for a political party to be successful in an election it must have the logistics at the ground level, with dedicated party workers, to have any impact.

It takes time to build up such a party. That is why political parties established overnight to contest an election usually fail and often lapse into oblivion.

As a voter, I was rather disappointed with the absence of debate on national issues. Mud-slinging of personalities dominated the campaigning period. As a cultured people, the debate should have been confined to the merits, or otherwise, of the party manifestos.

There are two types of voters, namely the party faithful who will vote for the party no matter what and the non-partisan voter, otherwise referred to as the silent majority, whose vote can decisively determine the final result.

To spring total strangers on the voter to stand for election perhaps accounts for the large number of spoiled votes this time.

Again, the ballot boxes for Parliament and the State Legislatures were both painted black.

Could not the boxes be of different colours to distinguish between the two? As it was, the voters had to be guided by the election officials as to which box to insert the appropriate ballot.

Perhaps the most disappointing thing about this election is the inability of 680,000 voters, who registered in May this year, to vote because the electoral rolls containing their names could not be legally validated in time.

This means that they will not be able to exercise their constitutional right for another five years.

Opportunity should therefore be taken from now, before the next general election, and possibly any by-election before that, for automatic registration of voters on reaching the age of 21 years.

This can be done on a daily basis to enable those eligible to vote, with the minimum of legal technicalities.

It should not be necessary to actually register by filling up a form. The procedures can be effected by the Election Commission by being on-line with the Registration Department, which can key in the required information and particulars.

This new system should be introduced with effect from January 2000, with a parallel system of working backwards for those who had attained the age of 21 years before that date.

Incidentally, from the Election Commission's website, I found two voters, one in Selangor and the other in Kedah, with identical new identity card numbers but with different old identity card numbers and names.

This type of mistake should be eradicated. I am told that this is not an isolated case.

Now that the election is over, it is time to forgive and forget all the bitterness recently generated by the contest. Let us together as a nation prepare to meet the challenges of the new millennium.

Time for Parliament to exert its authority



9.12.99

MALAYSIA's 10th Parliament is expected to reflect the winds of change now blowing across the country.

The election results clearly indicate that more of the same is not good enough.

What then is expected of the new Parliament?

Under our system of parliamentary democracy, the government consists of three branches, namely the legislature, the executive and the judiciary under the concept of the separation of powers.

In practice, only the judiciary is truly separate from the legislature and the executive.

In a parliamentary democracy, the executive is made up of Members of Parliament of the political party which commands a majority in the Dewan Rakyat.

The executive derives its powers from laws made by Parliament. In theory, therefore, it is Parliament that decides what powers to give to the executive. Indeed this is so by reading the law as it stands.

The plain fact of the matter, however, is that it is otherwise. The executive decides what powers it wants and then goes to Parliament with the draft law known as the Bill and seeks its approval.

In all our previous Parliaments, the Government majority was so large that the approval of the Bill was assured.

Indeed, the Dewan Rakyat has sometimes been unkindly described as the rubber-stamp institution of the executive.

There is little debate or no debate on some Bills, unlike in other Parliaments with a two-party system which is always capable of forming an alternative government. Bills are hotly contested and debated before they become law.

In Malaysia where the electorate is in favour of stable governments by invariably voting the Government with a two-thirds majority, the separation of powers between the legislature and the executive is an illusion.

For more effective government, therefore, the new Parliament should be more proactive.

Indeed, it is time that the Parliament exerts its authority and to be seen to be doing so. It can do this in one of two ways.

Firstly, as a general rule, every Bill except a money Bill should be referred to a Special Select Committee which has the power to obtain the views of the public.

I have personally appeared before such a Committee in the 1960s when there was a Bill to abolish appeals to the Privy Council.

The Select Committee procedure ensures that new laws are made or old laws are changed or abolished after getting feedback from members of the public or organisations concerned with a particular matter.

It obviates the necessity of amending the new law following an outcry from the public. There will then be greater transparency in the law-making process.

Secondly, MPs should make greater use of the Private Member's Bill procedure where any MP can introduce a law without waiting for the

Government to make a law which the public wants but due to constraints of priorities, the Government has yet to make.

So far there has been only one Private Member's Bill. It was introduced by Dr Lim Chong Eu (now Tun) on June 15, 1966 in the Dewan Rakyat to amend the Constitution.

The leader of the Opposition should play a more significant role by assigning an Opposition MP to be its spokesman for every government ministry, for example, the Opposition spokesman for Home Affairs or Finance or Labour.

It is time that registration of political parties be taken out of the ambit of the Societies Act, 1966 along the lines of the Sports Development Act 1997 in respect of sports bodies.

Under such a law, registration of political parties and the membership of political parties can be properly spelt out and funding of political parties made more transparent.

There could also be provision that the Government will contribute to the political fund of the party by the payment of say, two ringgit for every vote obtained by the party at a general election.

After all, it is in the interest of the nation that our system of democracy is maintained for all time by giving tangible support to political parties large or small.

In the new Parliament, every MP should make it his duty to attend meetings. During the last Parliament, attendance was very poor giving the impression that the business of law-making is not important or, worse, that the MPs are not discharging their public duties to which they have been elected.

In a previous election, an MP declined renomination. He was a well-known practising lawyer and when first elected, had looked forward to the serious business of law-making.

Instead he was asked to play an active role in his constituency to clean up clogged drains and report on pot-holed roads.

That surely is the business of the local authority. Perhaps it is time that we have fully elected local authorities and mayors as the present system is not working.

The electorate have great expectations of the new Parliament to take them to greater heights in the new millennium. They should be not be disappointed.

Allow prospective candidates to nurse their constituencies well before polls



16.12.99

AFTER the November 29 election results were announced, public interest turned towards the formation of the new Federal Government and the State Governments.

At state level, the politicians said that the choice of the new Menteri Besar and Chief Ministers was the sole prerogative of the Prime Minister.

As further manifestation of such assertions, the mass media displayed pictures of prospective state leaders presenting the "Letter of Appointment" from the Prime Minister to the respective Rulers.

Under the State Constitution, the Prime Minister has no power to decide, let alone appoint, the Menteri Besar or Chief Minister of a state. Indeed, the State Constitution specifically provides the Ruler may act in his discretion in the appointment of the Menteri Besar.

The State Constitution further provides that the Ruler shall first appoint as Menteri Besar to preside over the Executive Council a member of the Legislative Assembly who in his judgment is likely to command the confidence of the majority of the members of the Assembly and he shall, on the advice of the Menteri Besar, appoint not more than 10 nor less than four other members from among the members of the Legislative Assembly to the Executive Council.

The purported power of the Prime Minister in deciding the state leadership has created a mistaken concept of the constitutional position. The reality is that the component parties of the Barisan Nasional have entrusted to the chairman of the Barisan Nasional the power to choose the state leaders. The object of the exercise is to ensure stable and smooth relations between the Federal and State Governments.

It so happens that the chairman of the Barisan Nasional is also the Prime Minister, hence the confusion caused in the minds of the public in not separating the dual functions of Datuk Seri Dr Mahathir Mohamad.

It should be noted that the appointment of the Menteri Besar of Kelantan and the Menteri Besar of Terengganu recently had nothing to do with Dr Mahathir.

Be that as it may, perhaps it is time that the process of forming State Governments is made more transparent and be in accord with the spirit of the State Constitution.

And it can be achieved by not even having to amend the State Constitution but merely by establishing a tradition or at most by the rules of procedure of the Legislative Assembly.

As soon as may be, say within 14 days after a general election, the new Legislative Assembly should be convened, the members sworn in and proceed to elect the Speaker.

Thereafter, the Assembly shall proceed by secret ballot to elect the leader of the House. The Speaker will then report to the Ruler that a new leader of the Assembly has been elected. The Ruler will thereupon invite the leader to the *istana* and appoint him as Menteri Besar, or Chief Minister as the case may be.

Such a procedure with its obvious transparency will be seen by the people of the state that their Menteri Besar was elected by the State Legislative Assembly and not by somebody in Kuala Lumpur.

In addition, the Menteri Besar will realise that he owes his position to the majority vote of the Legislative Assembly and bring into focus the provision in the State Constitution that the Executive Council shall be collectively responsible to the Legislative Assembly.

The Ruler in turn, in exercising his discretion and judgment in the appointment of the Menteri Besar, is assured that he does so on strong foundations.

As we enter the new millennium, there should be a more purposeful approach to gradually convert our political system from a top-down style to bottom-up in the true spirit of our democratic system of government.

Henceforth, political leaders should initially be elected by members of the party at parliamentary or state constituency levels.

They should be known to the electorate long before a general election. The days of imposing surprise candidates hours before Nomination Day should be history. It is up to the prospective candidates to nurse their constituency well before the election.

Whilst the 14-party coalition of the Barisan Nasional has so far ensured political stability which has enabled the country to achieve economic and social development, the attendant risks of a coalition are always present.

Factionalism within political parties is nothing new and exists in other countries as well. The Congress Party of India, for example, which secured the country's independence and governed India for four

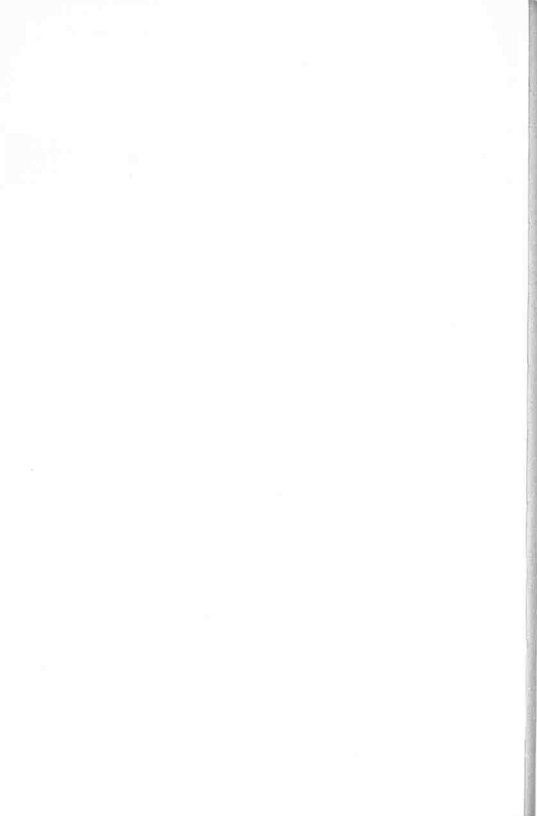
decades is now in the opposition in Parliament, its electoral failure largely due to factionalism, complacency and the defects of a system reliant on political patronage.

Pas and PBS of Sabah were at one time component parties in the Barisan Nasional. Ten years ago, Umno saw an exodus of members to S46. Recently some Umno members joined Keadilan and Pas.

Perhaps the Barisan Nasional should seriously consider changing its name to Parti Nasional with direct membership of individuals as a component, in addition to the existing 14-party membership, so that it will have a more solid base. The very name Barisan (Front) indicates that it is a hotchpotch arrangement.

History has shown that fronts have collapsed because it had no back!





GOVERNMENT & ADMINISTRATION

"The punishment which the wise suffer, who refuse to take part in government, is to live under the government of worse men."

– Plato (428-348 BC),
Greek philosopher

A lesson on never to lose one's temper



25.8.94

CADETS of the Kelantan Civil Service were required to pass the First Efficiency Bar Examination within three years of their first appointment in order to be confirmed in the service.

The examination consisted of a written test in General Orders, the Manual of Office Procedure and Financial Regulations, and an oral test to gauge the officer's ability to express himself in the English Language. I passed the written test scoring 98 per cent in the first year of service.

The oral test was held at the British Residency. I attended the test one morning and was conducted into the dining room. The British Adviser was seated at the head of a very long dining table flanked by two Senior Officers of the Kelantan Civil Service, a Tengku on his right and a Datuk on his left. I was asked to sit at the other end of the table.

The test proceeded quite normally at first with the BA asking me questions in English and I was required to answer in English. Then he asked me if I had heard about Rida. I said I had. It was reported in the newspapers the day before that Dato Onn bin Ja'afar had announced the establishment of the Rural Industry Development Authority.

He then asked me what could Rida (the forerunner of Mara) do for Kelantan. I told him that as Kelantan was a rice-growing state perhaps they could build ricemills. He then asked me what a ricemill would cost. I told him frankly I did not know. He then asked me to make a guess. I said I didn't know. He said: "Give a figure." He kept on insisting that I should but I declined because this was not a guessing competition. He

then lost his temper and said, "You refuse?" and banged the table with his fist. I reacted, "I do" and banged the table with my fist also. Result: I failed the test.

I returned to my office and within the hour, I was sent for by the Menteri Besar. He was not amused. He told me that this was the first time in the history of the state that an officer had failed the oral test. He asked me why. I said I didn't know but if the British Adviser (he was Irish) said that I could not speak English, then there was nothing I could do. The MB said: "We all know you can speak English better than anyone else." After all, I had been to English schools and had entered university at the age of 16. I returned to the office.

When I came back after lunch, the District Officer told me that I had been transferred to Bachok. Obviously, the British Adviser was very annoyed with me and had advised the State Government to transfer me out of Kota Baru. This experience taught me a lesson, i.e. never to lose my temper again. Looking back, I never did for the next 45 years. When things went wrong, and they often did, I always looked for the funny side of things.

Now Bachok was known to all of us then as the "exile colony." Difficult officers and other staff were sent there. The road from Kota Baru to Bachok at the time was so bad, muddy and full of potholes that when you got there, you didn't feel like getting out again. The District Officer (Haji Abdullah Bakti) was a very intelligent man but difficult to get on with everybody. He was very pleased to welcome me to the district and said that he had been waiting to go on long leave for a very long time and now that I had arrived, he could take the leave. He left. I found myself as the acting DO.

It was then the end of the year and the monsoon season; the state was flooded as usual. The floods eventually subsided and the British Adviser sent for me. He was not in a good mood. He asked me if I was aware that parts of my district had been flooded. I said I was aware. He said every other DO had asked for emergency supplies because of the floods but nothing had been heard from me. It was obvious that as far as he was concerned, he had got me this time and I should be looking for another job.

I told the BA Kelantan gets flooded every year. So when I became the acting DO, the first thing I did was to find out the areas subject to flooding and instructed the *pengawas* and *penghulus* to stock

up enough rice and other foodstuff on high ground in their respective areas.

The floods came and those affected moved to high ground where food and blankets had been stored. There was no need for emergency supplies. He beamed and said, "Why didn't we think of that before?" He became very pleasant and even invited me to dinner.

The next day I was informed that I had been transferred to another district - on promotion!

Lessons learnt while moving house during the Emergency



15.9.94

WEN Churchill, a cousin of the wartime British Prime Minister, was the British Adviser to Kelantan. It was during his last term in office before retirement. He arrived in Gua Musang one day and told me that the Communist terrorists were obtaining food from the Malays in the Merapoh area in Pahang, which circumstance was a threat to the security of the state of Kelantan.

He was going to Merapoh to assess the situation and asked me to accompany him. I was living dangerously. First, the District Officer and now the BA asking me to undertake such journeys. Both were British officers of the Government and prime targets of the Communists to be liquidated in what they regarded as their way against British imperialism and for the independence of Malaya. I had no choice. It was my duty to accompany them knowing full well that the Establishment had classified me as expendable because I was a bachelor and the main consideration why I was posted to Gua Musang in the first place.

At that time, the only way to get to Merapoh from Gua Musang was by using the abandoned railway track to Kuala Lipis. The Japanese had during the occupation removed the railway lines to build the Burma Death Railway made notorious by the film 'The Bridge Over the River Kwai'. We went to Merapoh in two police armoured personnel carriers (APCs). On arrival at Merapoh, we went to the police station where a young inspector met us. Churchill commented that the *lalang* in the station compound was too tall. The inspector replied that he had instructed the sergeant to cut the *lalang* the week before whereupon

Churchill said: "Young man, if you give orders and they are not carried out, then you are not fit to give orders." Another lesson learnt.

We found the *penghulu* and explained to him the security situation. His *mukim* consisted of clusters of a few houses scattered all over the area without any government protection and easy prey to the Communists. Churchill decided that all these houses had to be regrouped in a single area on land in front of the police station. He put me in charge of the operation.

During the Emergency, there were two types of resettlement schemes. The Chinese were resettled in New Villages with houses built by the Government, piped water supply and electricity. The Malays were resettled in Regrouped Areas. The Government paid for the barbed-wire fencing and a pittance as disturbance grants. The Malays had to build their houses themselves, usually by pulling down the old houses and rebuilding them in the Regrouped Area or if the old house was not too far away, by moving the entire house with the help of neighbours and friends - literally moving house. There was an undercurrent of discontent amongst the Malays in the Regrouped Areas as they felt that they were being discriminated against, although regarded as being loyal to the Government.

With the assistance of the *penghulu*, I stayed behind and made arrangements for the houses to be moved. Two weeks later, I revisited Merapoh. All the families had moved in and the fence had been erected. Regrouping completed. On the return journey, the OCPD was in the front APC. I was in the second APC sitting next to the driver with a number of policemen in the rear of the vehicle. As we were travelling along an embankment, someone at the back reminded the driver that we were approaching the stretch which had been the terrorists' ambush point the day before. The driver increased speed. The width of the APC was almost exactly the width of the railway track. He lost control and we went down the steep embankment. Those at the back shouted to the driver to apply the brakes but I told him not to because by doing so we would turn turtle. Fortunately he did not do so. We finally came to rest when the APC hit a rock. There were moans and groans at the back complaining of injuries. I took charge and told the policemen to forget their injuries for the time being but to take up positions in the event of an attack by the terrorists. An hour later, the OCPD, realising we were not behind him, turned around and rescued us.

A few years later, I was in London and met Churchill. He invited me to Sunday lunch at his cottage in the country. He was at the railway station to meet me and took me in his rather battered small car to the house. He drove the car himself, saying, "No Deraman here" referring to the driver of his official car with the Union Jack flying on top of the bonnet in Kelantan. It was a nice house with a lovely rose garden. He had married. During lunch, he and his wife took turns to go into the kitchen to take out the food or take away the dishes. He said, "No Ah Long here either" referring to the house-boy at the Residency in Kota Baru.

They were obviously a happy couple. Churchill even looked younger and sprightly compared with what I remembered of him after years of service in the tropics. He had lost the stammer in his speech. He used to go "tat, tat, tat, Tuanku" when addressing the Sultan whom he held in some awe. Few people realise that British officers of the Colonial Service took their duties in the service of the Empire seriously and often at great personal sacrifice. Many were single throughout their careers as they had no opportunity to meet a partner of their choice during vacation leave at home, or furlough as it was known then. Churchill was one of them.

Speaking of dedication, whilst in London I also met Sir Richard Winstedt who had devoted much time and effort to the Malay language. The story goes that whilst he was going up the river in Pahang in a *perahu*, the boatman broke wind. Winstedt asked, "*Apa itu Mat*" who replied: "*Kentut Tuan.*" Winstedt wanted to make a correct record of the word for his dictionary and said: "*Lagi sekali Mat.*" Mat tried very hard and said: "*Tidak boleh Tuan.*"

An easier way to maintain files of citizens and residents



23.3.95

IN a letter to the editor (*NST*, March 10), a reader complained of the trouble she is going through in trying to renew her identity card. Her problem is only one aspect of the legal requirement to register with the Government various events of our lives from birth to death.

Every new birth has to be registered with the Registrar of Births and Deaths. Then at the age of 12 years, one has to apply for an identity card

which has to be renewed at the age of 18. These cards are issued by the Department of National Registration. Sometimes, one has to obtain a Citizenship Certificate after the age of 21. These certificates are issued by the Registrar of Citizens. At the age of 21, one is eligible to vote and to exercise this right, one has to register with the Election Commission.

Most people marry. The marriage has to be registered with the Registrar of Marriages and in the unfortunate circumstances there is a divorce, that too has to be registered. If one wants to travel abroad, a passport has to be obtained. For that, one has to go to the Immigration Department. Finally, death catches up. Someone will have to report the death which has to be registered also.

At every instance, the relevant government department insists that you produce all sorts of documents, sometimes the same documents all over again.

With an ever increasing population, much mobility of people between states due to employment opportunities and thousands of people having the same names, it makes sense to have a system of registration of citizens, permanent residents and visitors, more so with the current influx of illegal immigrants. The identity card was first introduced following the Emergency of 1948 to separate the good people from the bad. With the complexities of modern life, the identity card has become a necessity.

Now all this registration and documentation (except elections) comes within the portfolio of the Home Ministry. With computers and sophisticated technology, it is a simple matter to organise the storage and retrieval of all information about the citizen that the authorities and the people need to know, especially if all the information is already stored at the Central Registry in Petaling Jaya.

The Government needs to maintain only a single file (or dossier) in respect of every citizen or resident. When a child is born, the birth is reported at the hospital or police station and the information transmitted to the Central Registry. A new file is opened and an identity number given - the number the child would be given anyway when he applies for his identity card at the age of 12. A birth certificate is issued bearing this identity number. His file is also cross-indexed to his parents. When he applies for his first identity card, the same file is used to process the application. There is no need to supply a copy of his birth certificate or those of his parents. All that information is already in his file.

The law at present requires that a child be issued with his first identity card at the age of 12. There is really no point in this requirement because the child cannot even, legally, enter the job market until he is 16. Children also lose their identity cards easily and frequently.

The first identity card should be issued when the child is 15 years old. If this is adopted, the National Registration Department will automatically get a breathing space of three years from now on to concentrate on the issuing of new identity cards.

As far as children are concerned, it makes more sense and usefulness if every child is issued an identity card by his school from Standard 1 onwards. On one side will be his name and identity number, his home address, the name of his parent or guardian and telephone number (office and house). On the reverse side, the name and address of his school, telephone number and his class in school. This will greatly assist the police and the authorities in the event the child is involved in an accident or other emergency.

To ease the work of the National Registration Department, application forms for the issue of the first identity card at the age of 15 should be supplied to the schools. Teachers can even assist in filling up these forms. In any event, they will be assisting the authorities to ensure that all 15-year-olds are issued with identity cards.

As people get older, their facial appearance changes. The first renewal should be made at the age of 20 (now 18) and thereafter every 10 years - 30, 40, 50 and the last change at 60.

The citizen or resident will have to pay for the cost of each replacement - it will not be much and the taxpayer will not be burdened with extra costs.

If this is done, there will be really no need for the population census every 10 years since all that information is already available, including population movements, actual population in every district, the number of children expected to attend school in the next five years (to assist the Education Department in its school-building programme) and the age groups.

All identity cards should be superimposed in large figures with the numbers 15, 20, 30, 40, 50 or 60 to indicate the age group of the holder. This will assist the police, especially at night at roadblocks and raids (for example, children found at night-spots where they are not supposed to be found).

The processing of citizenship certificates should also be done in the same file. So, too, the registration of marriages and divorces, and finally death. When a person attains the age of 21, his particulars are automatically transmitted to the Election Commission which will then issue him a card indicating where he should vote at the next election. There is no need to conduct exercises to register voters from time to time.

When a person applies for a passport, he needs only fill up a form giving his personal particulars. The Immigration Department should be on-line with the Central Registry for all the other particulars it wants to know. There is no need for the applicant to chase around looking for Division 1 government servants, *penghulu*, MPs or JPs.

Before marriage, to know whether a person is single or otherwise, all that needs be done is to go to the nearest post office, fill up a form, giving the name, identity number and address of the person about whom the information is required regarding his marital status, pay a fee and wait. The Post Master will fax the form to the Central Registry and within minutes, the desired information is supplied by fax. No need to go around looking for *kadi*, priests or *penghulu* to say that a particular person is still single. With the Central Registry so organised, when a person dies it will be easy to find out how many times he has been married or divorced and how many children he has and who they are because all such information would be in his file.

Some time back, it took several years to wind up a Chinese estate in the High Court because the deceased's widows and their children kept popping up from time to time in various states. He was a businessman and had a family in every state he did business in. The first widow did not divulge the information about his other wives to the court when she claimed the estate – quite simply, she did not know of them.

Muslim marriages (and divorces), however, are registered separately for each state. It will not be encroaching on the constitutional jurisdiction of the states if a further requirement is made that copies of such marriage and divorce certificates are transmitted to the Central Registry as well. As Muslims make up more than half of the population, this lack of information from a single source has caused administrative and other difficulties.

A Malay family in Kedah was celebrating a wedding. After the *bersanding* ceremony, the bride went into a room to change. She did not

come out again. It was an arranged marriage. She went through the marriage ceremony to comply with her parents' wishes. Her boyfriend waited outside the window and she climbed out. They went to Perlis and got married. According to the records of both states, the bride was single at the time of her marriage!

Hope this Arab finds an abode of peace



28.9.95

THE Prime Minister recently launched the establishment of Putrajaya, the new administrative centre of the Federal Government, signalling its move out of Kuala Lumpur. This sounds like the story of the Arab and the camel.

Kuala Lumpur was established as the country's administrative capital more than 100 years ago. From the mid-1960s, it welcomed an influx of commercial people following the separation of Singapore from Malaysia, thus making KL a commercial and financial capital as well.

In keeping with its new functions, commercial office buildings, five-star hotels, apartment buildings and shopping complexes mushroomed practically overnight. Overcrowding and traffic congestion became the city's main preoccupation, necessitating improved infrastructure costing millions of ringgit. Government operating costs increased as ministries and departments competed with the private sector for space and facilities. The inevitable had to happen.

After 30 years of sustained growth, the city can no longer accommodate the dual function of being an administrative and commercial capital of the country. One had to go. The Government's decision to move out is wise and certainly cheaper for the tax-payer in the long run.

Apart from very attractive perspective drawings of the new city, not much has been made public. What we do know is that the entire project will cost RM20 billion, making it the largest single project cost-wise so far. Of this sum, RM700 million has been spent on land acquisition.

History should not be allowed to repeat itself in the sense that the experience of Kuala Lumpur should not be repeated in the future. The longevity and sustainability of Putrajaya as an administrative capital should be like Washington DC, Ottawa, Canberra and Pretoria.

Putrajaya should be built and intended for posterity purely as a

government administrative centre. There should be no industrial zones within a radius of at least 10 miles of the city. Commercial activities and civic facilities should be confined to being merely supportive of the people who work and live in the city. Above all, Putrajaya should have a planned saturation point of growth right now and beyond that merely a maintenance mentality. How can this be done?

The acquired land should remain government property for all time. It should not be sold to the private sector except on lease and limited for specified commercial purposes, with a provision for reversal back to the Government if no longer required for the purpose. This will prevent land speculators from moving in. Some years ago when the idea of the Government moving out of KL was mooted, speculators rushed to buy land in Janda Baik. After all, the reason for moving out of KL is to reduce the Government's operating costs.

It is presumed that all Federal Ministries will be relocated at Putrajaya. This will certainly increase efficiency and reduce costs. At present, Federal Ministries in Kuala Lumpur are located in different parts of the city. Regular inter-ministry meetings at specified venues mean officials have to traverse the city through traffic jams resulting in lost man-hours at work.

All Ministers, Deputy Ministers and Parliamentary Secretaries should be provided with official residences in Putrajaya. Why? Apart from increasing their efficiency by living over the shop as it were, they are all birds of passage. They come from different parts of the country and once they complete their tenure of office, they have no reason to remain. If they are given plots of land to build their own houses, there will be no end as their numbers will grow over the years. And there will be no reason to build a house better than the other fellow. All Ministers will feel they are equal and their stay at Putrajaya is temporary.

For the same reasons, housing should also be provided for all the government servants who have to work there. It will save them transport costs and time by not having to commute daily from home to work and back.

Naturally to make the city conducive to work and live in, there should be schools for the children, shopping centres, banks, a General Hospital, restaurants, a hotel for visitors and sports facilities.

If there are plans to move the courts, too, it should be the Federal Court and Court of Appeal only. The High Court and subordinate courts

should remain in Kuala Lumpur for the convenience of the public, as litigants and lawyers are all resident in Kuala Lumpur or at least have their business in Kuala Lumpur. In any event, it will be unthinkable to have hundreds of people who appear in court each day commuting to Putrajaya. The time and money spent will only add to costs of litigation. Justice should go to the people and not the other way round.

In recent times, several countries have established new administrative capitals which have since become white elephants. This was owing to poor planning, inadequate infrastructure facilities and, in most cases, wrong choice of location. The planners of Putrajaya have no doubt taken into account these factors of failure.

Yes, the Arab had to move out of his tent leaving the camel to occupy it. Let us hope the Arab did not have to wander all over the desert but has found an abode of peace.

Time to revive local government polls



26.9.96

POWER without accountability seems inconsistent with the concept of transparency of government. That this is so is becoming increasingly obvious at local government level. Daily, the newspapers report of pot-holes, clogged drains causing flash floods, uncollected rubbish, rivers turned into sewers, illegal squatter settlements flourishing unchallenged and unsupervised building works causing damage to life and property.

All this, it seems, is in utter defiance of the Prime Minister's oft-repeated pleas for garden cities, landscaped neighbourhoods and a clean environment. Who is to blame for this state of affairs? It seems everybody but nobody.

In the early 1950s, elections to local councils were held for the first time. I organised and conducted a number of these elections. At that time, mostly school teachers were elected because they were about the only literate ones in a rural society. After the elections, I went round to instruct them on how to hold monthly meetings, keep minutes, collect revenue and the basics of book-keeping.

The elections were held at the height of the Emergency. The elected councillors took their duties seriously to make their locality a better place to live in. They were truly civic-minded without thought of

financial rewards themselves. Above all, as residents themselves, they were aware of the needs of the community and were easily accessible to members of the public.

As secretary of a fully-elected town council of the state capital, I was kept on my toes to provide the services the public had a right to expect. Local government is basically service and maintenance-oriented.

In the mid-1960s, the Athinahappan Commission reviewed the functions and organisation of local government. Many of its recommendations have since been implemented, in particular the reduction in the number of local authorities but in area covering the whole country, so that they will be more efficient and effective.

It is true that in some urban areas, the councils were in the hands of political parties that were opposed to the Government in power at state and national levels. On one occasion, the city of Georgetown, Penang, boycotted the National Day celebrations for political reasons whilst the rest of the country celebrated. Following the tragic events of May 13, 1969, local council elections were abolished. The real reason for this was that Tun Abdul Razak Hussein wanted to reduce politicking and concentrate on economic development.

Much water has since flowed under the bridge. The electorate is now more literate, sophisticated and vocal. Tun Razak's dreams of economic development have been successfully achieved by his successors, particularly during the last 15 years. Perhaps, it is time consideration be given to restore local government elections to provide for grassroots democracy.

We already have elected governments at state and federal levels which have stood the test of time. The present system of nominated local government councillors falls short of accountability and transparency. Nominated councillors, however personally eminent, can never be as effective as elected ones who are permanent residents of the locality and easily accessible to the electorate.

The number of councillors for each local authority should be multiples of three so that one-third of the councillors will retire each year under a three-year term. There should be single councillor wards so that the residents will know who their councillor is. For the first election, one-third of the councillors with the highest number of votes will serve three years, next highest one-third - two years - and the rest one year. The highest votes could be based on the percentage of votes gained for the ward, as the number of voters may not be the same for all wards.

The councillors in turn should elect the mayor from among themselves each year.

Elected local governments should be a blessing for political parties because it will keep their members occupied the year round, reduce factionalism, in-fighting within the party and provide a constant barometer of the political climate. These elections should be held simultaneously in June each year.

Aspiring politicians should begin their career in local government, then move on to state level and finally to federal level government. No politician should be allowed to hold office in more than one body at the same time. An elected mayor and councillors serviced by a permanent secretariat of civil servants will give meaning to power with accountability and transparency in a democracy like Malaysia.

Making statutory bodies lean, more efficient



10.7.97

THE year was 1971. The Government had set up the Royal Commission on Salaries and Terms and Conditions of Service of Statutory Bodies and Local Authorities. I was appointed its chairman.

There was a proliferation of statutory bodies and even more were in the pipeline at the time. The functions of some of the bodies overlapped. There was also a shortage of professionally qualified officers to properly manage some of these bodies and local authorities.

The Commission felt that the Government should be apprised of the situation at the earliest possible opportunity. Within three months of our appointments, we presented a preliminary report to the Prime Minister, Tun Abdul Razak. And was he more than somewhat surprised at what we had to tell him!

There was a Padi Board and a Rice Board. Of what use is *padi* unless it is milled into rice and, of course, you cannot get rice unless you have *padi*. So, why have two organisations? The Government accepted our recommendation and the two bodies were merged the same year. In 1994, Lembaga Padi dan Beras was privatised.

There was Mardi carrying out research on agricultural products but there was another body conducting pineapple research and yet another into rice research.

There was a body carrying out industrial research and another on standards of manufactured products. Both were having identical equipment for their work. We recommended a merger and Sirim was the result.

At that time, Socso was in its early years. Every person who was liable (and still is) contributed to the EPF. It was pointed out that if the contributions to Socso were made to the long-established EPF, it would save Socso RM6 million a year at the time in collection costs. All it needed to be done was to provide an additional column for Socso contributions in the EPF contribution form for submission each month to the EPF, which would pass on the money to Socso. It would certainly save employers a lot of additional paperwork and bother on behalf of the same set of workers in making contributions to the EPF and Socso.

Perhaps, the powers that be should be considering the possibility of merging Socso and EPF to provide for the dual functions of social security during the working life of an employee and provision for old age upon retirement.

But the most glaring multiplicity of bodies was that related to rubber. There were 13 separate statutory bodies for this single, albeit important, commodity.

There was a body producing selected rubber seeds. Another for replanting rubber by small-holders and yet another for replanting in plantations. There was a rubber research institute for production in Kuala Lumpur and another for consumption research in England.

Having produced the rubber, there was a body to control shipping and packing. Then there was a board to market the rubber. Having sold the rubber, there was a board to advise on the uses of rubber.

We recommended the establishment of a single Malaysian Rubber Board incorporating all activities related to rubber. There could, of course, be divisions or departments under the board for specific functions.

In 1996, Parliament enacted the establishment of the Malaysian Rubber Board. Yes, it has taken 25 years, about the same period as the economic life of a rubber tree!

The gestation period has been long indeed. The good news is that it has now gone into labour and delivery is expected on January 1, 1998. Last week, Primary Industries Minister Datuk Seri Dr Lim Keng Yaik announced that the Malaysian Rubber Board will take over all functions and facilities of the Malaysian Rubber Exchange and Licensing Boards.

Rubber Research Institute of Malaysia and the Malaysian Rubber Research and Development Board, which are to be dissolved with the consequent abolition of 1,246 posts.

It appears that the retrenchment exercise is the cause of the prolonged labour pains.

Perhaps, the powers that be would want to have a fresh look at the recommendations of the Royal Commission with the objective of restructuring statutory bodies into single macro bodies for each single commodity or specific functions to ensure better co-ordination, improve efficiency, reduce costs and maximise human resources.

Cutting costs in government operations



25.9.97

SLASH time is here again. The Government recently announced a two per cent cut in expenditure across the board in ministries, departments and agencies.

Such an exercise is not new. In my 46 years of government service, these cutbacks have occurred from time to time.

Before independence, there was an economy drive. Used government envelopes were recycled. Indeed, if an inter-departmental matter could be resolved through the telephone, the decision was recorded in the respective file of the departments concerned as action taken thereon. There was no need even to send a confirming note.

In the 1960s, there was another economy drive. One of the measures adopted was to switch off the lights when leaving the room. On one occasion, this requirement was a blessing in disguise. At that time I was with the Attorney-General's Chambers. The parliamentary draftsman then had returned to the office early from lunch. He saw lights in the Solicitor-General's room next to his and entered it to switch them off. He found the S-G slumped on his desk, suffering from a heart attack. He sent for the ambulance and thus saved the S-G's life.

In a review of government departments during that period, it was found that the sole function of a certain department was the recovery of money owed to the Government. It transpired that for a period of five years before the review, the annual cost of operating the department was more than the money to be recovered! Quite sensibly, it was

decided to write-off the loans and close the department. Perhaps a similar exercise now would be equally rewarding.

As head of a department then, I directed the executive officer to inspect the stores of every branch office in the country. It was a routine carried over from colonial times for government departments to indent various items of stationery every three months from the Government Printer. The same orders were repeated each time and duly supplied. Heaps of unused blotting paper, pens, nibs and bottles of ink had accumulated in the stores because by then, the Government had issued ball-point pens instead.

In the 1980s, there was yet another cost-cutting exercise because of the recession. I was head of another government agency this time. The only cost-cutting measure I could impose was in the travelling vote. The 25 per cent cut of the annual vote caused much inconvenience to the public. Later, I was very disappointed to learn that the Deputy Minister had at the same time gone abroad with his family on his leave entitlement, which cost the Government more than the entire annual travelling allocation of the agency!

Perhaps this time, ministries would be more judicious in their sense of priorities. Some ministers when attending official functions bring in tow the Deputy Minister, the Parliamentary Secretary, the Secretary-General and other functionaries. Their arrivals at these functions are attended with much ceremony, which resembles a cross between a royal entourage and a wedding procession.

Is all this necessary? And please get rid of that expensive corsage. The VIPs are already well-known and do not need to be further identified by wasteful adornment.

In addition to the two per cent cutback, the Government also announced restrictions on the importation of luxury cars, machinery and building materials to ease the balance of payments. Henceforth, government officials will only be supplied with Proton cars.

Apart from savings on foreign exchange, the ruling is in keeping with all car-manufacturing countries where only locally-made vehicles are used for official purposes. The same rule applies to the country's taxis.

On a visit to Manila, I stayed at a five-star hotel. The Filipinos were proud to tell me that the entire building, fittings and furniture were resourced locally. Yes, not a single item was imported.

Perhaps one effective way to save government operating costs is to introduce a five-day week. Turning on the air-conditioning and lighting on Saturdays for a half-day's work is not economical.

In addition, real productivity is low and the transport cost for the government servant to the workplace is the same whether for one day or for half-a-day's work. All that is required is for the office hours to be from 8am to 5pm, and the lunch break reduced to one hour except Fridays. Productivity is maintained and even enhanced with longer afternoon hours.

After all, the momentum is already there.

Government servants will still work 38 hours 30 minutes a week as they do now with the advantage of having properly rested workers each week.

Necessity is the mother of invention.

But why should a financial crisis evoke cost-cutting measures in operating the government machinery which should be ongoing?

Perhaps the time has come to establish a proactive All-Party Parliamentary Committee to oversee the Government's day-to-day operations. Waste not, want not!

Creating an efficient, productive staff



9.7.98

IT is matter of management and discipline. That sums up what was behind the exhortation of Prime Minister Datuk Seri Dr Mahathir Mohamad that the civil service must be revamped to reduce red tape, which can delay the approval of applications urgently needed to revive the economy. He also said that public servants could no longer operate at the current pace in today's economic climate.

The Prime Minister's statement involves two aspects of the civil service, namely the system and the people who operate the system.

First the system, popularly known as red tape. There is really not very much that can be done which has not already been done because the system is designed to ensure that everything is in order and that the laws are complied with.

As the Prime Minister's immediate concern is to revive the economy, applications for planning approval are very good examples.

Take, for instance, an application to build a factory. The applicant would have purchased a piece of agricultural land for the purpose. He must first convert the title of the land from agricultural to industrial use.

The Land Office will then have to refer the application to the Agricultural Department, the Department of the Environment, the Local Planning Authority, besides others, for their comments before approval can be given.

Of late, much of this hassle has been removed by State Governments creating industrial zones with set guidelines for the types of factories that may be established within each industrial zone.

Still, there are people who prefer to establish factories outside industrial zones for one reason or another and delays ensue.

Perhaps one way of overcoming delays is for the District Planning Committee to meet once a month to consider applications in a sort of one-stop-agency where all the relevant government departments are represented, including the companies for the supply of electricity, water and telecommunications. A standard application form should be supplied to the applicant containing all the required information with sufficient copies to be sent simultaneously to all the relevant departments and agencies for their separate investigation in time for the monthly meeting. The Government could then set time limits for the approval of such applications.

Next is people and their attitude to work. Before and for some years after Merdeka, the rule was that one had to clear the desk before going home each day, even if it meant going home after office hours without overtime pay.

Sadly this is not so today. With people having to clock-in on time, it is said that they have a right to clock-out on time also. Work piles up and a back-log accumulates, resulting in delays.

There was a time when government servants, except teachers and nurses, were mostly male. Now in most offices, the majority of the support staff are female. They are good and diligent workers but from time to time they go on maternity leave and the real workforce is reduced. At the moment, I have an administration staff of 20, all women, but at any given time one-third of them are on maternity leave. Perhaps the Public Services Department should make a survey of staffing positions and create a leave reserve so that a real and effective workforce is maintained at all times.

Discipline in a large organisation is of prime importance. The mode of dress at work instills discipline. Uniformed staff like the military, the police, fire and rescue, the prisons, customs, immigration and nurses create an impression of discipline. Judges, lawyers, registrars and court staff are required to comply with a dress code when in court, thus creating an environment of discipline and decorum.

Perhaps the civil service should also have a dress code for male and female officers and staff. On a visit to the courts in Manila, I was impressed with the uniforms worn by all the court office staff. They looked disciplined and could be easily distinguished from members of the public. At home, the staff of Bank Simpanan Nasional wear uniforms, so do airline staff and several other organisations. Uniforms project a corporate image and a sense of pride in belonging to an organisation. It is much more economical to wear a uniform than one's own set of clothes because there is no need to own so many suits and dresses. The invention of the black dinner suit for men at functions, for example, has the twin aim of formality and egalitarianism but at the same time, it is economical because one need only have one such suit for the purpose rather than several lounge suits!

Good management and with it effective supervision of the staff is what makes a department tick with efficiency and productivity.

At one commercial bank, when the doors open for business at 9.30am, all the cashiers at the counters were neatly dressed and all counters were open. They had the cash at the ready to serve customers. At another bank, also at 9.30am, nine out of 10 counters had *Tutup* signs. The sole cashier with the open counter was just settling down for the day's work. He had to go to the chief cashier for cash, count the money and so on before attending to the first customer. The other cashiers took their time to open each counter! None of them were smartly dressed. It is obvious which bank is more efficient and creates confidence.

All these years, we have been repeatedly told that we have the best civil service. Even foreign visitors say so. Perhaps they were just being polite because of our well-known hospitality! Have we really fallen prey into believing our own propaganda? Or was the Prime Minister only asking the civil service to go the extra mile to revive the economy? He most probably was, because the occasion for the exhortation was the presentation of excellent service awards to his staff!

A rewarding half-century of public service



13.8.98

EXACTLY 50 years ago this week I entered government service. My career spanned three phases.

It commenced with six years of public administration, then 40 years in the law and now that of a university law lecturer.

The public administration period was varied. Under the old system, I learnt on the job.

In 1948, I was appointed as an Assistant District Officer. My first assignment was as Head of the Land Revenue Collection Section which taught me the government system of revenue collection and accounting.

After six weeks, I was transferred to the Land Dealings Section and introduced to the intricacies of land title registration under the Torrens System.

This was followed by a transfer to the Land Alienation Section under which I had to take a course in land survey and settlement.

During this period, I was concurrently attached to the *istana* to be educated in ceremonies, customs and language of the Malay royalty.

I was then transferred to a coastal district and made an acting District Officer.

It was quite an experience because for the first time I had to deal with flood relief problems of the entire district. I kept close to the people by regularly visiting villages in the district, usually with office files, and solving their problems on the spot.

Once a year, a team would be sent out to the various *mukim* to collect quit rent from the *rakyat* at harvest time.

Next, I was transferred to a district upriver (the *ulu* or interior), an area larger than the State of Negeri Sembilan and mostly virgin jungle.

It was during the height of the Emergency with Communist terrorists all over the place, killing, destroying and committing all manner of atrocities. As an ex-officio magistrate, I often had to view the bodies of terrorists killed by the security forces to dispense with the legal need for autopsies and inquests.

The Government established the Home Guards of the civilian population to protect their homes and villages whilst the security forces concentrated on fighting the terrorists in the jungles.

I was made a captain of the Home Guards and underwent basic military training at an army camp.

As part of my duties, I had to establish new villages for the Chinese community and Regrouping Areas for the Malays, both with the object of denying food supplies to the terrorists and ensuring the safety of the civilian population. I was also the District Treasurer which taught me to control and disburse government expenditure and accounting systems.

Next, I was transferred to the state capital as secretary of the town council. It was the first time I had to work with elected politicians. Times were changing. Apart for my official duties, throughout my public administration days, I had to organise various fund-raising programmes for charities and social welfare projects, athletic sports events, football competitions and agricultural exhibitions.

All in all, a most rewarding experience in human resource management which was to stand me in good stead in my legal career.

In 1954, I was appointed a magistrate. In course of time, I served as president of the Sessions Court, Deputy Public Prosecutor, Federal Counsel, State Legal Adviser, director-general of the Anti-Corruption Agency, judge of the High Court, chairman of the Royal Commission on Salaries and Conditions of Service in Statutory Bodies and Local Authorities, president of the Industrial Court and finally judge of the Supreme Court from which I retired in 1994.

The day after my retirement from the judiciary, I joined a university as a law lecturer. This is a completely different working environment and culture but intellectually very stimulating.

A bonus is the unfailing gratitude expressed by students who have since graduated and are now in law practice or government service.

Looking back, the lifestyle of a civil service officer 50 years ago was more than somewhat feudal. We had to maintain a certain standard befitting an officer and a gentleman.

On my starting salary, and as a bachelor, I was able to rent a bungalow before being allocated government quarters.

I employed a cook and a houseboy. I did not have to borrow money or incur any debts. Actually, I lived in style on my salary.

I was made to join a social club on the very first day I joined the service – part of the civil service culture at the time.

After work each day, we played tennis at the club and after dinner, billiards. Indeed the club was like a second home. It was the place for government officers to socialise and in fact conduct inter-departmental business.

Weekends, we either went fishing or hunting in the jungle. We worked hard but played hard as well.

The Government was quite generous with all sorts of allowances and perquisites. Once every three years, we were given an interest-free car loan which was sufficient to pay for the full price of a new car. The mileage allowance was more than sufficient to pay for the maintenance of the car, including refund of the loan, petrol, tyres, batteries, road tax and insurance. Old cars were sold and the proceeds converted into savings. Then a new loan and a new car. It actually cost us nothing to own a car.

Furnished government quarters were cheap at a rental of RM15 to RM25 per month, depending on the size and class.

It has been half a century of public service and I am grateful for the privilege and honour to have served the public. I have enjoyed every moment of it, with job satisfaction always. It seemed only yesterday that I first entered government service. How time passes us by.

Time to get rid of patronage culture



31.12.98

IN recent weeks the Chief Secretary to the Government and Head of the Civil Service, Tan Sri Abdul Halim Ali, has had to repeatedly remind civil servants not to be involved in partisan politics. That he should have to issue such a reminder is of concern to the public.

Soon after India gained independence in 1947, the politicians thought that they could run the country without the aid of the long established British-trained Indian Civil Service.

The administration soon became chaotic and the Indian Prime Minister Jawaharlal Nehru had to restore order. The ICS was renamed the Indian Administrative Service and ministers were directed to accept the advice of their permanent secretaries.

If however they felt strongly against accepting any particular advice, the matter should be referred to the Cabinet for a decision. The system has remained since and just as well.

In recent years, both the central government and state governments have changed from one political party to another without affecting the general administration of the country.

In 1994, I was in Sri Lanka to observe the conduct of the parliamentary election at the invitation of the Elections Commissioner. I had occasion to visit government offices in Colombo and also in the provinces and observed civil servants at work. They were very professional in the performance of their duties in an environment of intense political rivalry.

The country had retained the legacy of the British civil service system. There too the government had changed hands several times among the political parties.

We too inherited the British civil service system, which is structured to be an impartial, professional, career and non-political service in a parliamentary democracy.

Such a service is essential for good governance and continuity of service because the government in power can change from one political party to another, as has already occurred in Kelantan, Terengganu, Sabah and Penang.

Irrespective of which political party is in power, it should be able to command compliance of its policies by the civil service. Politicians in power make policies. The civil service implements them.

Politicians however come and go. When making policy, the politician has to rely on the civil servant for information in respect of several matters that will be affected by implementing a policy.

It is the duty of the civil servant to give the best advice to his political master but if the policy decision is against his advice, it is still his duty to implement it.

That has been the tradition of the civil service all these years. So why the reminder from the Chief Secretary? The truth of the matter is that loyalties have been brought into question that might affect implementation of government policies.

The general rule is that civil servants are not allowed to take an active part in party politics to maintain their impartiality, but there is no rule which prohibits government servants from joining any political party.

It is rather difficult to believe that a government servant can remain impartial if he is a member of a political party. Thus if he is a member of the party in power, he cannot be impartial in his dealings with a citizen who belongs to the opposition party. Likewise, if he is a member of an opposition party, he cannot be loyal to the party in power.

Lately, there is another dimension that certain civil servants are associated with or aligned to particular politicians in power. This is apparent when the civil servant's relationship with his political master has progressed from being merely civil to personal. This is a new culture developed by politicians to consolidate and extend their personal power base with the civil servant taking advantage of the situation for his personal gain.

Such a patronage culture is bad for the country and should be quashed right now. It splits the civil service into factions and results in purges amounting to vendettas with changes in political personalities in power.

All government servants should be prohibited from joining any political party. Transfers and promotion of officers should be on merit and free from political influence.

The civil service, the military and the police should all be regarded as the King's men, owing loyalty only to the Yang di-Pertuan Agong and the country.

A step towards revitalising local authorities



4.3.99

BEGINNING this week, the Task Force appointed by the Housing and Local Government Minister will be going round the country on a fact-finding mission to report on the condition of roads, drains and public toilets.

This exercise begs the question whether our local government system has collapsed to the point that it has compelled the intervention of the Federal Government.

Public complaints of potholed roads; drains clogged with garbage; silted rivers caused by soil erosion of building sites; flash floods causing damage to homes; uncollected garbage; unlicensed hawkers all over the place; squatter areas mushrooming overnight; neglected children's playgrounds; and filthy public toilets have all become too familiar.

Quite obviously therefore, something is amiss. Several factors have brought about such a state of affairs. Foremost of these is the capacity of local authorities to cope with rapid economic development.

Another is poor co-ordination between the several authorities and agencies. A third is the disappointing performance of privatised services. And lastly, the system of administration of local authorities.

And local authorities simply do not have adequate staff to oversee development projects. Many rely on the consultants appointed by developers like engineers, architects and surveyors in the belief that they will supervise ongoing projects carried out by contractors.

The solution appears to be that projects of a certain size and cost should only be undertaken by a developer with in-house engineers and architects to ensure full responsibility and supervision.

Every local authority should have a master plan of the development projects within its locality and co-ordinated with all other relevant agencies.

If this is done, it will avoid the current spectacle of a road recently paved by the local authority dug up again soon afterwards by another authority to lay cables or pipes.

Worse, newly completed housing estates are unexpectedly divided by a new highway built right across it.

The primary function of a local authority is to provide services and amenities to its residents.

Of late, the privatisation of services has not seen any improvement from the services previously provided directly by the local authority.

Perhaps what has been overlooked is that private companies stay in business only if they can make profits for the shareholders.

Local authorities therefore should return to the old system of employing staff to provide the services.

With proper supervision, the job can be done as it was in the past. The workers will enjoy job security and take pride in their work.

The system of being directly employed by the local authority was abolished to reduce the Government's liability in the payment of pensions. This problem can be overcome by employing new staff and placing them on the EPF scheme.

A new wage scheme can also be introduced. For example, parking attendants can be paid a basic monthly wage plus a commission for tickets sold beyond a certain minimum level.

It will give school drop-outs in the locality an employment opportunity and save the cost of buying, installing and maintaining parking machines which are often vandalised anyway.

A local authority exists for the benefit and well-being of its residents.

It should be responsible in respect of matters that concern the residents in their daily lives and activities like roads, drains, children's playgrounds, parks and gardens, the hospital, clinics, markets, street lighting, water supply and electricity.

The maintenance of these services could be met from assessment rates, local taxes and annual grants from the ministries responsible for the respective establishments.

Only good leadership of the local community is capable of providing such responsibility and concern.

Councillors are at present appointed by the State Government.

The practice has been going on for years but clearly it has not been effective, and this has aroused the concern of the minister.

The solution is to have elected councillors.

Every local authority shall be divided territorially into sectors with a multiple divisible by three, say 9, 12 or 15.

Councillors are elected for a term of three years with one-third of the councillors retiring each year to maintain continuity. The councillors in turn will elect a mayor from amongst themselves each year.

Elected local governments are the grassroots of a democracy. The findings of the Minister's Task Force will hopefully revitalise the ailing local authorities towards democratic local governments.

Police set to regain public confidence



1.4.99

LAST week the Royal Malaysian Police celebrated its 192nd Police Day. As the basic function of any government is the maintenance of law and order, it makes the police force one of the oldest departments of the Government.

Sadly, unlike previous years, a dark shadow was cast over this year's celebrations triggered by an incident involving the former Deputy Prime Minister, Datuk Seri Anwar Ibrahim.

Almost overnight, the long years of tradition and devoted public service of the police were forgotten. The force is now being pictured as an instrument for brutality, oppression and persecution of the Government. The public have such short memories!

My association with members of the force dates back to more than half a century.

First, there was Constable Wan Hassan who was a personal body-guard to my late father when he was a District Judge during the British Military Administration of Malaya immediately after World War II.

In the early 1950s, Wan Hassan, by then a Corporal, was then the OCS of the Lubok Bongor police station, a riverine settlement along the Pergau River in Ulu Kelantan.

The only means of communication between the several villages along the river was by boat. At that time, it was a black area with terrorists regularly ambushing and killing the security forces using the river.

As the Assistant District Officer, I had to make official visits to these villages. Wan Hassan and his men provided me with the security escort.

One afternoon, after escorting me safely to my forward base at Kuala Balah, a mission partly accomplished out of his loyalty to my father, he was returning to Lubok Bongor when his boat was ambushed by the terrorists.

He immediately mounted a counter-attack which not only saved the lives of his men but also inflicted heavy casualties on the terrorists.

For this act of gallantry, leadership and bravery, he was awarded the George Medal by the British monarch.

During the Emergency (1948-1960), hundreds of policemen gave their lives in the defence of the country for which they are remembered on every Police Day.

I am grateful to all officers and members of the police force for protecting me during my official visits on foot and by boat through the jungles of Ulu Kelantan.

Unforgettable was the incident when a police party returning to Gua Musang along the abandoned railway track after escorting the Tengku Mahkota of Kelantan to Bertam was ambushed near Limau Kasturi.

Eleven police personnel were killed in that ambush. I was to have been with them but changed my travel plans at the last minute and stayed behind in Bertam.

I first knew Tun Mohd Salleh Ismail when he was the Chief Police Officer of Negeri Sembilan and I was then a magistrate in that state in 1955. Later, he became the first Malaysian to be Inspector-General of Police. In 1967, I was appointed Director-General of the Anti-Corruption Agency.

In establishing the agency from scratch, Salleh was very co-operative in seconding police officers of my choice to the ACA. He also acceded to my request to promote these officers on their return to the force in recognition of their service to the ACA.

Salleh died in office and was succeeded by Tan Sri Abdul Rahman whose tenure as IGP was sadly very brief. He was killed in an ambush by unknown gunmen while travelling in his car at the foot of Court Hill in Kuala Lumpur on his way to work at Bukit Aman.

I suffered a personal loss. He was my neighbour for three years in the government quarters complex off Jalan Duta when he was Director of the Special Branch and I was with the Attorney-General's Chambers.

The assassination of Abdul Rahman was a traumatic experience for the top brass of the police, so much so that they even suggested that I should be appointed as IGP in his place!

Better counsel, however, prevailed and Tun Haniff Omar was appointed instead. He was comparatively junior in rank at the time but the senior officers he had superseded nonetheless acknowledged his appointment. He has the distinction of being the first university graduate to hold the post.

I first knew Haniff in the early 1960s when he was an Assistant Superintendent of Police and a prosecution witness in a sedition trial which I prosecuted.

He had tape-recorded a speech made by a politician at an election rally. The case itself made legal history because it was the first time that a tape-recording was admitted in evidence by a Malaysian court.

Haniff has a very positive attitude. He readily accepted constructive suggestions and criticisms. During the 20 years as IGP, a record for any police chief, he introduced many changes for the betterment of the police force, in particular the upgrading of the officer corps by recruiting direct entry university graduates to the force and encouraging serving officers to take up university degrees and diploma courses.

In the 1950s, I was in England and witnessed a bands' display competition at Earls Court in London. It was a proud moment for me when our police band marched into the stadium and gave a splendid display.

At the end of the performance, they received a standing ovation from the thousands of spectators present. We can truly be proud of our police force for much more than this.

Let not because of a fleeting transgression in a moment of madness of one officer blind us in appreciating the services rendered in the line of duty by the thousands of officers and men of the police force during the last 192 years in maintaining law and order in this country, which has enabled us to enjoy peace and prosperity.

The police are now in the process of damage control and have introduced several measures to regain their lost image and public confidence.

We wish them speedy recovery and greater glory because traditionally, the police have always been a friend of the people.

Vital not to lose sight of responsibility



6.5.99

PUBLIC administration in a modern State like Malaysia is a very complex affair. Policy and project approval decisions are made by the Cabinet at its weekly meeting on Wednesdays.

The Minister responsible for the particular matter has the responsibility to carry out the policy decision or implement the project. He does this by directing the Secretary-General of the Ministry to execute the Cabinet decision.

The Secretary-General in turn directs the head of the department concerned in the Ministry to implement the Cabinet decision. The head of department in turn will direct the appropriate officer to do the job.

In this scenario, power will be delegated from one official to another. The Secretary-General coordinates the work of the several departments of the Ministry and is the linkman between the Minister and the department that actually implements government policy and directives.

Throughout however, the Minister bears full responsibility for all work carried out by the Ministry simply because the law has conferred on him such responsibility.

Such sense of ministerial responsibility is sometimes illustrated politically in some countries by a minister tendering his resignation when an accident occurs, like an aeroplane crash or a train derailment, merely because he is the Transport Minister although he did not personally cause the mishap.

That is why also, Prime Minister Datuk Seri Dr Mahathir Mohamad

is chairman of the National Economic Action Council because he is ultimately responsible for the economic health of the country.

In a system where power is being delegated from one official to several others down the line but responsibility remaining with the Minister, it becomes necessary to install a monitoring and supervisory mechanism. This is particularly so in relation to infrastructure projects involving public funds.

The late Tun Abdul Razak devised the operations room concept at federal, state and district levels to project sites.

He had the knack of being fully briefed before each surprise visit. He did this by checking on the development projects of the district as they appeared on the charts in the Federal operations room before leaving Kuala Lumpur, and after being briefed in the District operations room, he would announce his surprise: that he wanted to visit a particular project site.

On one occasion, the charts in Kuala Lumpur, the State capital and the District operations room all showed in colour a project had been completed. Upon visiting the site however, he found that the project had not even started!

As Deputy Prime Minister, Tun Razak played the role of Minister Co-ordinator of development projects and woe betide the Minister whose projects were behind schedule or inadequately supervised.

Needless to say, civil servants shivered in their pants at the prospect of a visit by the then Deputy Prime Minister!

The success of many five-year development plans owes much to Tun Razak's system of monitoring and supervision of development projects.

Recent events seem to indicate however that the completion of development projects leaves much to be desired.

Several projects are still behind schedule. Projects which should have been completed by now have not even been started.

Shoddy work of so-called completed projects is becoming an increasingly frequent occurrence. Perhaps the recent 'discovery' of the sad state of affairs of the Royal Malaysian Navy training centre project in Tanjung Pengelih in Johor highlights the problem.

This RM195 million project which commenced in 1995 was found to be unfit for occupation by a minister 16 months ago, yet nothing was done until another minister visited the project recently. Worse, how come the project was not supervised for more than three years?

It seems obvious that the bureaucracy has lapsed into the attitude of delegating and forgetting.

Is this because there are too many projects to monitor and supervise due to lack of manpower at government-level or over-reliance on private consultants employed for the projects?

Whatever be the reason, there is no excuse for abdicating responsibility by the department concerned of the progress of projects so that any problems that may arise is attended to promptly before the situation gets out of hand. We just cannot afford to see public funds go to waste.

It is therefore a welcome relief that the Government convened the Conference of District Officers this week for feedback on the cause of delays in the implementation of development projects.

Although the purpose of the conference is to find ways and means as part of the economic recovery exercise, the opportunity should be taken to put in place new work ethics and procedures in the implementation of development projects involving public funds.

In the complex system of public administration, delegation of power is inevitable but one should never lose sight of responsibility.

Being a victim of bureaucracy is just too much

 16.9.99

IT was so totally unexpected. I was on my way to attend a dinner given by a government agency at a university campus.

My car had stopped at a "T" junction as I intended to cross to the other side of the dual carriageway.

Whilst waiting for a clear passage, another car pulled up behind mine and was also waiting with signal lights blinking. It was about 8.30pm.

Then, all of a sudden there were two loud bangs. A third car had crashed into the rear of the car behind mine which in turn crashed into the rear of my car.

I came out to see the rear of my car badly damaged.

The car behind mine was damaged in front and at the rear, and the third car was badly damaged on its side and front. Most fortunately, no one was physically injured.

In my 30 years on the Bench, I had often been confronted with having to make a decision as to which party was to blame based on the evidence before the court that a violent collision had occurred between two absolutely stationary vehicles.

In this instance, two stationary vehicles had in fact collided, but it is obvious that the collision was the effect caused by the third car crashing into the second.

The contention that it was possible for two stationary cars to collide into one another is not far-fetched after all!

As far as road crashes are concerned, this incident is not really extraordinary. What follows is something else.

I was told that the nearest police station at which a report could be made was Kajang.

So I went to the Kajang police station. The police corporal-in-charge of the traffic branch attended to us immediately.

He said the police station was now computerised. Another officer behind him was at work with the computer.

I was impressed. The police corporal proceeded to record the report from my driver.

After he had finished, he said he had recorded the report on Police Form 55 because the accident had occurred within the jurisdiction of the Dengkil police station.

And we had to go to Dengkil to obtain the report number within 24 hours of the accident, computerisation notwithstanding. He gave me a copy of the report.

At Dengkil, a report number was given and the sergeant there said I had to furnish him with copies of a number of documents and photographs of the damage to my car, if it could not be brought to the station for his inspection. He then said we had to go to the Sepang police station as part of the investigation.

We went to the Sepang police station which is the District Police Headquarters. When told that I had come about the accident, I was directed to go to the traffic branch at the old police station building in another part of the town.

I had no difficulty in finding the building because in 1955, I was a magistrate covering the Sepang court.

A peculiarity here was that I had to take off my shoes at the steps before entering the building!

I was told that Sepang does not investigate Dengkil traffic accident cases, but that Sepang police can only provide a certified copy of the police report for insurance claim purposes.

The copy, however, could only be supplied by the District Police Headquarters because the computer was located there.

So back I went to the District Police Headquarters and was supplied with a copy on payment of RM2 for which an official receipt was issued.

I was then told to go back to Dengkil.

I returned to Dengkil. The traffic branch was closed because the police sergeant-in-charge was attending a court case outstation.

I asked another police sergeant at the station whether he would receive on behalf of the traffic branch, the several documents I had brought with me.

I am most obliged that he agreed because it saved me another trip to Dengkil.

I must say for the record that at all the stations, the police personnel were polite and most helpful.

I appreciate that they had to comply with standard procedures and regulations.

Yet there is certainly room for improvement, at least for the convenience of the general public.

Is it not possible for police personnel receiving reports on Police Form 55 to obtain the report number from the relevant police station by using the telephone, or better still to be on-line for the purpose?

Is it also not possible for the police station carrying out the investigation to issue a certified copy of the report for insurance claim purposes?

To reduce red tape, the officer-in-charge of the investigating police station should be conferred with authority to certify copies of any police document, such as reports, sketch plans and photographs.

All I got from Sepang was a rubber stamp and a signature above it on the copy of the report made at Kajang, and on the other documents prepared by Dengkil police on the second visit to Sepang.

A road accident always happens unexpectedly, especially if one is not the cause. The innocent victim of the accident however tends to suffer more than the perpetrator.

But to be the victim of bureaucracy in addition to all these is just too much and quite unnecessary.

Fine-tuning vital for nation to maintain impartial civil service



4.11.99

WHEN the British ruled Malaysia before independence, they introduced a system of government which is supported by a traditionally impartial career civil service.

The system involved people joining the public service at a young age by learning on the job as they progressed up the ladder of government service until they retired at the age of 55. There was security of tenure, social status and a lifetime pension on retirement.

It was a reliable system based on DOD (discipline, obedience and dedication).

Discipline: Punctuality when reporting for work each day. Public counters were opened exactly on time at the stated hours for business. The staff had to be dressed appropriately – peons in uniform; clerical staff in white cotton shirt tucked into white drill trousers; and officers similarly dressed but with tie or white shirt, no tie and white shorts with long white stockings if on field work. And leather shoes black or brown for everybody or white leather shoes for officers on field duty.

The officers were even required to walk with a recognisable purposeful gait – no lounging.

Obedience: Outwardly manifested in the style of official letter-writing, whether inter-departmental or to members of the public. It began with the address of "Sir" (no Dear Sir). The first paragraph of the letter had to commence with: "I have the honour to refer to...." The letter concludes with: "I have the honour to be, Sir, Your Most Obedient Servant" in three separate lines after each comma.

Symbolically, this signified loyalty to the government of the day in the sense that the public servant dutifully carried out and implemented the orders and policies of the government, whether or not he agreed with them.

The British had no problem with imposing obedience on the public service because there already was in existence the centuries-old feudal system of absolute loyalty to the Ruler by his minister, officials and subjects.

The punishment for *derhaka* (treason) was death, an offence more serious than murder. The concept of loyalty had been further strengthened by Islam with the injunction to follow the elected or

recognised leader unless the leader departed from the Islamic path ordained by Allah.

In the present-day system of parliamentary democracy with possible changes of government after a general election, as in Kelantan and Sabah, it is important that the public servant maintains the traditional impartiality expected of him when performing official duties.

Of late, both the Prime Minister and the Chief Secretary to the Government have had to repeatedly remind government servants of their duty to be loyal and serve the government of the day in their official capacities.

There were even allegations that some government servants had sabotaged the Government because of partisan politics. These are very serious allegations which had never occurred before and should be nipped in the bud.

The solution is to impose a strict rule that no government servant of whatever grade should be allowed to be a member of any political party on pain of instant dismissal.

By the same token, politicians should not in any way influence the transfer or promotion of government servants which should be left to the Public Services Commission.

Such a policy will discourage the tendency of some public servants to seek promotion by currying the favour of their political master. In any event, such people do not usually deserve promotion and are a source of creating dissatisfaction amongst colleagues.

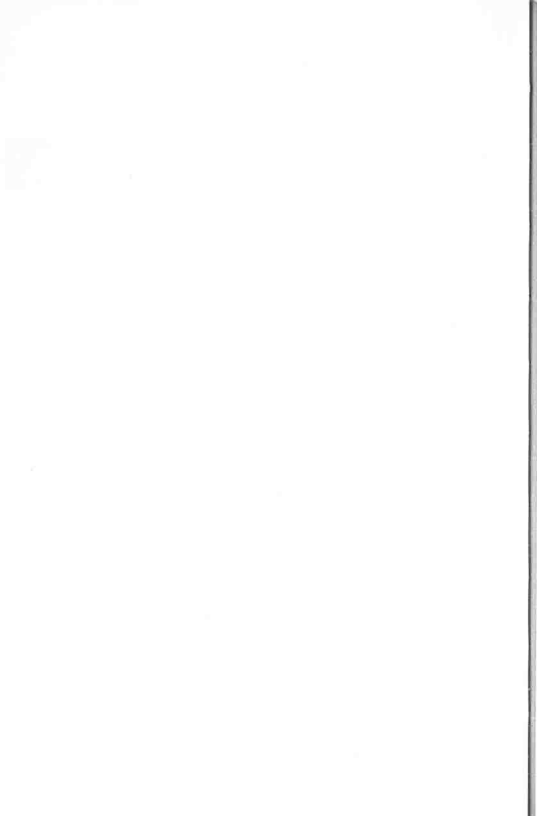
Dedication: In the old days, although government servants were expected to be punctual when reporting for duty, they were not expected to clock out punctually at the end of the day. The routine was to clear their work for the day beyond office hours if necessary, before leaving. There was no such thing as overtime. Government servants were committed and dedicated in performing their official duties.

Be that as it may, it is fair to say that the majority of government servants today are still dedicated. If such is not the case, the government machinery on which the Government relies so much for carrying out its economic and social policies would have broken down a long time ago. And the Government has indeed given recognition to the untiring work of its servants by the generous pay increases, allowances and bonus in its latest budget proposal.

With a little fine-tuning and correct mental attitude on the part of the

political masters and government servants alike, Malaysia can take pride in having and maintaining an impartial and incorruptible career civil service dedicated to serving the government of the day and the public at large.





CORRUPTION

"The accomplice to the crime of corruption is frequently our own indifference."

- Bess Myerson (born 1924),
US government official

Years of fighting corruption without fear or favour



30.3.95

ON August 11, 1967, I assumed duties as director of the Anti-Corruption Agency. There was no law to establish such an agency. It was a purely administrative arrangement. I was appointed a Deputy Public Prosecutor when I joined the Attorney-General's Department in January 1962 and continued to hold that office. For practical purposes, therefore, I was head of a federal department nationwide coupled with the rights and powers of a Deputy Public Prosecutor.

What was most significant was the political will to stamp out corruption. When I called on the Prime Minister, he expressed great concern that many countries in Asia at the time were riddled with corruption and he did not want that to happen to this country. My job was to see to that.

The agency's charter was brief but far reaching: (a) to prevent and eradicate corruption; (b) to investigate and prosecute all cases of corruption. I was given a free hand to run the agency. There will be no interference by the executive. During my tenure as director, there never was any. Indeed, when a politician of the government party was arrested for corruption, his supporters went to see Tunku Abdul Rahman and asked him to intervene. On learning that the arrest and prosecution was by the agency, the Tunku said there was no way he could intervene. The best he could do was to recommend one of his lawyer friends to defend the accused in court.

As Deputy Public Prosecutor, I was the sole and ultimate authority to sanction the prosecution of all corruption cases without reference to the Attorney-General. I never did. The Attorney-General at the time was a Cabinet Minister. Not once did he inquire from me about any case.

I was given the authority to pick and choose any officer of the public services to staff the agency. I exercised this right without any problems or delay. The first batch of 200 officers and men were drawn from the police and the Customs for their investigative skills; the Administrative and Diplomatic Service for administrative and research work; the Judicial and Legal Service to conduct prosecutions in court; and an accountant from the Corps of Accountants to assist investigations involving banks, financial institutions and companies.

I had direct access to the Minister of Finance (Tun Tan Siew Sin) for money to finance the agency's operations. He allocated funds with the minimum of fuss.

Initially, the agency was given two rooms on the ground floor of a government office building in Petaling Street, Kuala Lumpur. Before World War II, the building housed the Chinese Affairs Secretariat. During the war, it was the headquarters of the Kempetai, the Japanese secret service much feared by the local population.

The building was ideally located in the middle of Chinatown, giving direct access to the public. The rest of the building was occupied by the Labour Department and other related offices. I indicated to them that I wanted the entire building for the agency's headquarters and that they had to find alternative accommodation. They did. A case of the camel, the Arab and his tent!

I asked for a secretary. Encik Mohd Din Abdullah from the Prime Minister's Department was the choice. He was to be my secretary for the next 27 years.

Branch offices had to be established in every state. This was done by transferring all officers and men of the Special Crimes Division of the Criminal Investigations Department of the police to the agency. Special Crimes was the unit that investigated corruption cases at the time. This wholesale transfer was a logical administrative step so as not to disrupt ongoing investigations. Indeed, they formed the nucleus of the agency.

Within six weeks of its establishment, the agency was fully operational in all states, including Sabah and Sarawak. I was lucky as I had very able officers. My first deputy was a former Chief Police Officer

of a state, the late Encik Othman (better known as Osman Kancil), the father of the former Attorney-General, Tan Sri Abu Talib. He was a talented, experienced and persevering crime investigator. The assistant directors were Encik Abdul Rahim Datuk Tak (later director-general of Customs and Excise and Tan Sri) and Encik Mohd Nor Abu Osman of the Administrative and Diplomatic Service.

I established a routine. As soon as I reached the office in the morning, Encik Din would come in with the mail. We had started PO Box 6000 for the public to write in from any part of the country, postage free. They did, averaging about 200 letters per day. All official external and internal mail, even if addressed to the Chief Clerk, was opened by me. On opening the mail, I would give directions on what was to be done on the letter itself. Encik Din took dictation in respect of letters I had to reply to personally.

By going through the mail each day, I had an overall picture of what was going on in the country and how the agency itself was functioning. I could, as it were, feel the public pulse on what they thought was wrong with the Government and its officials.

Internally, a gentle reminder from an officer at one of the agency's branches that there was delay in the payment of his travelling claims was sufficient to trigger an inquiry into the efficiency of the agency's operations. If such a letter was opened by the clerk it was addressed to, it would most probably be ignored.

After the mail routine, the head of each division would come separately into my office. Each had two or three files for the day. After discussion, a decision would be made and recorded in the file. The officer concerned would not be called in for the rest of the day so that he could get on with this work. Files were never left on my table.

Heads of government departments who called at my office for consultations often remarked, as director, how come I had no files on my table. My answer was that it was because I am the director. Files are with officers who are expected to work on them.

I would spend the rest of the day when in the office, THINKING; yes, just sit and think what should be done to prevent and eradicate corruption in the country. Where else to do the thinking except in the confines of your office? Some department heads, alas, get bogged down with paperwork, mostly reacting to problems that arise on an ad hoc basis, rather than putting on their thinking caps that the problem

should not have arisen in the first place. As department head, one is expected to be proactive and innovative.

At 4pm each day, the Float File would come in containing copies of letters or notes of action taken by the officers on the instructions I had given in the morning. Delegate yes, but without a system of monitoring, it will never be effective.

Historically, the country was almost corruption-free before World War II. Due to hard times during the Japanese Occupation, some public servants had become corrupt. In establishing the Anti-Corruption Agency, the Government did not want the cancer of corruption to spread and become a way of life. With political will by word and deed, my job was made easy.

PO Box 6000 exposes the corrupt



6.4.95

PO Box 6000 proved to be a mine of information. Although most of the letters to the ACA from the public containing allegations of corruption were anonymous, they provided useful pointers as to where and what to look at.

Generally, the letters said a particular government department was corrupt and in what way. Other letters pointed fingers at particular public officials and why they were suspected of being corrupt.

In the early period of the ACA, it was essential that it established a database. In doing so, I had to set priorities as allegations of corruption were made against both the public sector and the private sector.

My first priority was to clean up the public service. Allegations of corruption in the private sector where under-the-counter payments were made to gain a business advantage were said to be commissions, and therefore normal in the way of doing business, were passed on to the police for their investigation and action, as these allegations did not involve the Government.

Every letter received was analysed and catalogued. Two sets of files were opened, namely a file on the suspect government department or agency (department file) and a file on every identified public official alleged to be corrupt (personal file).

All allegations against a particular government department were put

into the department file. Soon a composite picture would emerge about the department – how its officers took advantage of its system of operations to obtain corrupt payments, for example delays in dealing with the public due to shortage of staff or inflexible rules and regulations or just plain lack of supervision of junior staff.

The ACA's Research Division would then put up a position paper identifying the avenues of corruption in that department. I would then make recommendations to the department concerned about the appropriate measures required to prevent corruption in that department. I must say at once that department heads were very co-operative and implemented the recommendations.

Personal file cases were more complicated. First, it had to be established whether he was the only official or whether there were other officials in the department doing the same job who were likely to be similarly corrupt.

The answer was found in a system of cross-indexing personal and department files. We had to do this manually – there were no computers at the time.

Thus it was alleged that driving testers of the Road Transport Department were on the take – not just one but all of them in a particular state. They were paid by the driving school to pass learner drivers.

The learner drivers themselves did not know of the arrangement. All they had to do was to pay a fixed fee and take driving lessons for a fixed number of times. The fee, of course, included the amount of bribe that was paid by the driving school instructor to the tester to pass the candidates of that school.

That established, the problem was how to prosecute the testers for bribery in court. The driving school instructor refused to co-operate because that would be the end of his business.

Extraordinary measures had to be taken. An officer of the ACA (incognito) applied for the job of tester and got it. Soon enough he had to join the crowd.

All the takings went into a pool and were distributed at the end of each month. The officer made a record of the takings and handed in his share to the ACA. Eventually, there was sufficient evidence to prosecute the whole lot of them – excluding the ACA officer, of course.

Malaysia was fortunate. The number of public officials who were

corrupt did not exceed 0.01 per cent of the entire public service. This very low figure compared most favourably with other countries.

Malaysia's exceptional position in the 1960s was due to several factors. Foremost was its long tradition of having an impartial and incorruptible civil service.

The best people were in the civil service. They enjoyed social status. They were the elite of society.

Next, the civil service was one of the best paid among Asian countries. The salaries were more than enough to maintain a standard of living commensurate with office.

The corrupt ones were the exceptions.

They fall into two main groups. The first group were those who were living beyond their official incomes. They were obvious targets of the ACA – luxury cars, gambling, nightclubbing and wives with expensive jewellery.

They were quickly identified and asked to explain their sources of income. When they failed to do so, they were asked to resign or action taken for their dismissal.

This had to be done to prevent contamination of the others because it is so easy for the others to think that if he can do it and get away with it, why not me.

The other group was, in a way, a victim of circumstances. Businessmen were always in a hurry to get things done – the issue of a permit or licence or approval of some application.

It occurred to them that the best way to achieve the desired results was to bribe their way through. There was no demand for a bribe but the bribes were pressed on the public servant, who accepted them passively.

Foreign businessmen were the worse offenders as they had the preconceived idea that all Asian countries are corrupt.

Corruption was so rampant and blatant in some countries that there was even a standard rate for each type of service!

In the 1960s, Malaysia never got to that stage, not since and not now. But it must be acknowledged that there were corrupt officials and PO Box 6000 was telling the ACA who they were.

Fighting corruption brought instant recognition



20.4.95

CORRUPTION is something nobody wants and everybody hates. It is, however, an evil which has plagued mankind since the beginning of time. Human nature and weakness being what it is, corruption will persist to the end of time. In short, it is too idealistic to imagine the total eradication of corruption for all time.

Total, rampant and blatant corruption, however, has a limited life-span in any country. It has caused the downfall of empires, the collapse of governments and sown the seeds of revolutions. But these calamities need not happen if governments are wise and nip in the bud the moment corruption rears its ugly head. Failure to do so will result in the destruction of the government itself.

Corruption, like cancer, however, can be brought under control, minimised and prevented. In some countries today, the problem is regarded so seriously that the penalty for corruption is death. In other countries, corruption is classified as economic sabotage of the nation punishable with life imprisonment.

Corruption takes many forms depending on the particular weakness of the person from whom a favour is sought – it could be money, sex or something quite out of the ordinary. That is how the giver of the bribe gets his way. Then there is the taker who demands and invariably is motivated by greed. He is never satisfied and always wants more and more.

The public, however, thinks any act or omission which it considers wrong is corruption. Thus plain inefficiency of a government department gives rise to the suspicion that its officials are corrupt. I received many such letters from the public. It was some coincidence then that I had a very special guest at the Agency.

Tun Abdul Razak, who was then the Deputy Prime Minister, was very impressed with the Ombudsman system of New Zealand during an official visit to that country. He invited the Ombudsman, Sir Guy Powles, to make a study with a view to the introduction of the system in Malaysia.

Sir Guy was given an office at the Agency. We had several discussions and it became clear that many of the letters I was receiving at the time were really the stuff for the Ombudsman. Following Sir

Guy's report to the Government, the Public Complaints Bureau was established at the Prime Minister's Department. That bureau survives to this day and is in fact performing the functions of the Ombudsman.

Although people hate corruption, they love scandal. So with great expectations they awaited eagerly the success stories of the newly established ACA. The birth of the ACA was accompanied by the fanfare that the Government was serious in preventing and eradicating corruption and that it really meant business.

The press corps was at my office door practically everyday for the latest development and, if possible, individual reporters wanted a scoop.

The public likes to associate an organisation like the ACA with a face. The press decided to satisfy the public by printing my photograph every time it carried a story from the ACA. Soon, my photograph appeared in every newspaper in the country.

And if that was not enough, the Government TV joined in and screened my photograph every time it broadcasted a news footage on corruption. Almost overnight, I lost my privacy. I could not go anywhere without being recognised.

And so it came to pass, as far as the public was concerned, the ACA was Harun and Harun was the ACA. My counterpart in Singapore, the Director of the Corrupt Practices Investigation Bureau of that Republic, decided to pay us a visit. I sent a car to the airport to meet him. He later called to say he could not make the flight but would be arriving that day anyway and would make his own way to the office. I recalled the car. He arrived and took a taxi. He asked the Chinese taxi driver to take him to the ACA office in English, Malay and Chinese but was not understood. As he approached the city, in desperation he said: "Take me to Harun." That was understood!

With all this mass media coverage, I had to deliver. A letter said a coffee-shop had been operating for a long time without a licence, giving an address of the shop. The letter was post-marked 5.30pm the previous day. I telephoned the Datuk Bandar and read him the letter. Accompanied by his officers, he visited the shop and found the allegation to be true. By 9am he had ordered the closure of the shop. The informant was impressed.

The allegation was that cinema hall managements issued complimentary passes to government officers so that they would not

be prosecuted for ignoring health and safety regulations. I issued a statement that government officers using such complimentary passes would be arrested on the spot with immediate effect.

That night I sent officers to several cinemas throughout the country. They identified themselves to the managers. Those who came with complimentary passes were told by the management that the ACA officers were around and they should pay for the tickets. The practice of issuing complimentary passes to government officers ceased forthwith.

I even issued a statement that offering a single cigarette to a government officer was a bribe. This practice was stopped also. And sending hampers to government servants for Christmas was out.

A watch was kept at the residence of a particular government official. The hamper arrived as expected but what was not expected was the turkey being flung out of the front gate!

These statements were made through the press. The coverage proved very effective in the work of the ACA, although at the expense of my privacy and discomfort. I suppose that is the price for transparency in government.

Two officers of the ACA went to a district office to question an official. Whilst they were waiting to see the DO to brief him, an official tendered his resignation with immediate effect by paying a month's salary. When the ACA officers finally saw the DO, they were told about the resignation. But he was not the official they were going to question!

An ACA officer went to a tailor shop to get a pair of trousers made. Whilst in the shop, he saw six well-cut suits on display and asked about the price. The tailor said all six suits were for a government official whom he named, but added that the suits were being paid for by a contractor who had business dealings with the official's department. People talk. Some of them are even proud to announce to the world that government officials are in their pocket and by how much.

It was 10pm. The phone rang. An ACA officer reported that the agency had successfully arrested a government official for accepting a bribe but there was a small problem. The arrested official had swallowed the evidence of marked notes.

I directed the officers to take the arrested person to the nearest government hospital and ask the doctor to administer to the man a dose

of castor oil. They should then ask him to sit over a bedpan and wait. At 2am, they reported mission accomplished.

The currency notes were recovered although more than somewhat tattered and later produced in court as an exhibit!

Publicity on graft cases earns us no-nonsense reputation



4.5.95

PRESIDENT Suharto of Indonesia was on a State visit to Malaysia. By coincidence, Malaysian newspapers published on their front pages on the day of the President's arrival, a story of the arrest and prosecution of the Menteri Besar of Perak for corruption.

On reading the story, the President turned to his Chief of Police, who was accompanying him and said: "This is what we should be doing in our country."

The MB's case not only convinced the people of Malaysia that the Government was serious about stamping out corruption but the move had repercussions beyond our shores. From then on, we received delegations from other countries to study our methods of anti-corruption work.

Newspapers in Indonesia and India, for example, regularly reported Malaysian court cases involving corruption.

There were fears at one time that the publicity might have a negative effect on foreign investment and perspective of Malaysia but such fears proved groundless and, indeed, had a very positive effect. We earned the reputation of being a no-nonsense country.

The Perak MB's case was the first but not the last involving the high and mighty. Before that case, the public was under the impression that the ACA only caught the small fish and not the big fish. Both types of fish are equally smelly.

If the chief is corrupt, then those below him will become corrupt as well - a perverse sort of leadership-by-example. But a corrupt minor official has a more devastating effect on the people, especially the poor whose only contact with the Government is with such minor officials.

Take the case of petty traders selling a few chillies and cucumbers on the five-foot ways. A payment of 20 sen to every beat policeman who

are changed every four hours, is a lot of money to these poor souls. The traders of course are committing two offences, namely, hawking without a licence and obstructing the public five-foot way.

Due to public demand for their goods, the hawkers continue to thrive. The obvious solution is for City Hall to provide adequate facilities for these hawkers and the public.

For more than 100 years, our building regulations have provided that all shophouses and buildings fronting a street should have a five-foot way. This is because of our climate, either rain or sunshine. The five-foot ways are for the convenience of the public and by law a public right of way, yet they are cluttered up with goods and hawkers, forcing the public to walk on the road intended for vehicular traffic. This is a blatant case of lack of law enforcement – ideal breeding ground for petty corruption.

A daily collection of 20 sen may not sound much but multiply that with the number of hawkers on a particular street, it will amount to quite a tidy sum. Indeed, one police sergeant, whose duty it was to allocate beats to the policemen under his charge, hit upon the idea of auctioning the beats so that he could have a slice of the action!

And why were the policemen not doing their job? In the 1960s the police constable was paid RM52.50 monthly as housing allowance if not provided with quarters. There were not enough quarters for them in Kuala Lumpur.

A one-room accommodation for bachelors under Malay-type houses (*bawah rumah*) in Kampung Baru at the time was RM50. Most policemen had families and could only afford accommodation in squatter areas or outside the city limits. The 20 sen bribe was to make up house rent and travelling expenses to and from work. They were demanding bribes out of necessity.

So why not take up City Hall flats then under construction in Circular Road (now Jalan Tun Abdul Razak)? No, because the flats were not up to police specifications!

When the May 1969 riots broke out, the policemen could not be found. Then someone remembered the Circular Road flats, which were promptly requisitioned under the Emergency Regulations for the police. They are still there.

Yes, 20 sen is not much but when you examine the cause and effect of such a bribe, catching the small fish, like *ikan bilis*, is big business!

It is gratifying to note that the new prison complex at Sungai Buluh

is providing quarters for all its officers and men. Our uniformed services, the armed forces, the police, Prisons Department, the Fire Services Department, customs and immigration should be provided with quarters for the efficient performance of their duties and as a measure to prevent corruption.

A Cabinet Minister was returning to Kuala Lumpur from his constituency. He was driving the car and stopped on the way to answer nature's call. He got out of the car and went to the roadside.

His driver thought the Minister was tired and had got into the rear seat, so he drove off.

The Minister then walked to a nearby police station and asked the police to get his car to turn back. Whilst waiting for his car, he stood by the roadside. A police road-block was in operation.

A lorry stopped and the driver handed down two ringgit to the policeman who refused to take it and waved the driver to move on, whereupon the lorry driver said, "What, no collection tonight?"

Transparency must also mean accountability



8.2.96

NOT so long ago, Prime Minister Datuk Seri Dr Mahathir Mohamad spoke of transparency in government. It was not clear what he meant really.

Shortly afterwards, I attended a function at which the PM delivered the keynote address. The rostrum from which he spoke was entirely made of glass-like material so that the audience had a full view of the PM from head to foot. Perhaps, this was an indication of transparency in government.

Since then, it is becoming obvious that the Government does not live by slogans alone. Indeed, one recalls the openness of government when Dr Mahathir first became Prime Minister in 1980. Detailed reports of the Auditor-General, which revealed the inadequacies of government agencies, were given wide publicity in the press.

In recent times, Datuk Seri Anwar Ibrahim, in his dual capacity of Deputy Prime Minister and Finance Minister, has not only been vocal but action-oriented as well. First, he stopped further annual grants to Felda. Next, he withheld grants to Mara and asked it to explain why and

how it had exhausted its reserves. It appears that the impecunious Mara had recently purchased 35 brand new automatic Proton Wiras.

But Anwar's real bombshell came when he revealed that financial grants to government agencies to alleviate poverty did not reach the people it had intended but had been exhausted towards management costs.

One begins to wonder. First, it was said that government departments were not efficient because of their entrenched bureaucracy. So they were replaced by corporations for greater efficiency. Apparently this was not good enough and so the answer lay in privatisation. But the moment the privatised agencies proceed to be business-like in their operations, they are told not to raise prices by the public.

The plain fact is that one cannot have it both ways - efficient free market services at subsidised rates. It's like wanting to eat at the Hilton at Government Rest House prices. First, if a government agency has been privatised, it means there are shareholders who are members of the public and who naturally expect dividend income for their investment. Next, everything has to be paid for. One recalls the surprise the Electricity Board and Telecoms had when they were privatised because they had to pay road-tax for their vehicles!

This conflicting interest between free enterprise and subsidised public utilities appears to arise out of inadequate public information. The truth of the matter is that the public pays at the end of the day. If a private railway charges 10 sen per km to cover its operating costs and make a profit, a state railway will charge five sen but will recover the other five sen through taxes.

This conflict of interest mind-set was even apparent in government in the 1960s and 1970s, when the Federal and State Governments established a number of agencies under the umbrella of economic development. They had to do so because the private sector did not have the money or was unwilling to risk their money on such ventures. Admittedly, some of the projects were socio-economic like Felda but others were commercial and manufacturing.

The State Economic Development Corporations and their subsidiaries were at the forefront of this endeavour. Many lost money. One reason for the failure was that the agencies were managed by civil servants, like any other government department. They had not been trained in business management. But more importantly, feasibility

studies were either inadequate or non-existent. These calamities could have been avoided if the agencies had employed the services of cost accountants. They still don't.

After World War I, the British realised that traditional methods of accountancy were unable to provide the range of information required in order to plan and manage modern business.

So on March 8, 1919, they established the Institute of Cost Accountants. Since 1986, this organisation is known as the Chartered Institute of Management Accountants (CIMA). It has more than 40,000 members and 60,000 students in more than 100 countries.

The CIMA qualification is recognised in the Accountants Act 1967 to gain employment as an accountant in Malaysia, subject to registration with the Malaysian Institute of Accountants. The Public Services Department recognises the qualification as a professional qualification equivalent to an honours degree in accountancy awarded by a Malaysian university. The main function of the management accountant is the application of his skills to resource and strategic planning and to active control, having a clear idea where the enterprise is at a given time and where it is going. It has to do with vision and knowing how to bring about that vision to reality. Audited accounts are important but more important is the need to improve the commercial reality that supports them. This is CIMA's special province.

Yet at a recent certificate award ceremony in Kuala Lumpur, out of 200 recipients only two were employed by the Government, both in the Treasury, one in Kuala Lumpur and the other in Kuching. And only one was employed by a statutory body. All the rest were in the private sector, in banking, commerce and manufacturing. Perhaps, it is time that the Government insists that all statutory bodies should employ management accountants as a necessary adjunct to their respective establishments.

Thanks to the Government's policy in investing in education, more qualified people are now available who are specially trained to do specific jobs, and the need to fall back on the generalist administrator is no longer necessary or even desirable. Knowing the right person to do a specific job is the first step towards efficiency in every enterprise.

Transparency in government does not end with openness in how the government agencies operate financially. It has to be coupled with accountability. Many government agencies have done a great job in

making what Malaysia is today. While we cannot expect total success in every venture, the failures need not have to be monumental either. Part of the problem lies in the fact that the Menteri Besar is himself the chairman of the State Economic Development Corporation. When things go wrong, who is the chairman *vis-à-vis* the MB accountable to?

Some MBs and Chief Ministers are also chairmen of various other State Boards and even head the local municipality. Such establishments call for a high degree of responsibility and accountability on the part of the chairman. There should not be a conflict of interest situation. When things go wrong, the MB or CM should have no hesitation in giving the chairman the sack. Only then will the MB be effective and the establishment efficient.

So it came to pass when an entire reservoir was drained due to negligence, thus cutting off the water supply to an entire city. The chairman of the Water Board was the Chief Minister himself. He said he was accountable but not responsible for the disaster. In the event, he kept both jobs. This is not the kind of transparency in government the PM had in mind!

Driver wished he had paid RM2 bribe



7.3.96

A police road-block is one of the most effective means of law enforcement. It is usually mounted immediately after the commission of a serious crime has been reported to the police. The object is to prevent the escape of the criminal from the scene of the crime and to facilitate his arrest.

Many policemen have lost their lives in the line of duty manning such road-blocks – being killed by desperate criminals attempting to make good their escape either being shot at or simply by being run over by the criminal's escaping vehicle. The country salutes these men.

A more familiar type of police road-block is that mounted by the traffic police all over the country both during the day and at night. The object of this exercise is to issue summonses to traffic offenders. Over the years, this type of road-block has been branded by the public as "*polis cari makan*" (policemen earning a living). The public branding has not been without justification.

Instead of being issued a summons, which means paying a hefty compound fee at a police station or being compelled to answer the summons in court, it is cheaper to bribe the policeman and be on one's way. This malpractice has been going on long enough that the public accept it as a way of life.

Indeed, many lorry drivers carry a load of cash to bribe their way out of trouble on each journey. Drivers of overloaded lorries, commercial vehicles carrying other peoples' goods when they are not supposed to or buses carrying excess passengers are the common bribe givers.

In one state, the Highway Patrol issued identification cards to taxi drivers and others who make monthly contributions to the police. On being stopped at any road-block, all the driver had to do was flash the card and say "*sudah kira*" (on account)!

A surprise check on a Highway Patrol car led to the discovery of RM5,000 in cash in the glove compartment. In an effort to prevent such corrupt practices, an order was issued many years ago permitting traffic policemen on duty to carry on his person not more than RM10 to enable him to buy a cold drink. I suppose it is too much work to make a body search of every policeman going off-duty.

When I was a magistrate in 1954, a lorry driver appeared in court to answer 11 summonses issued to him on a single occasion. He pleaded guilty to all the charges which included dirty number plates; road tax dic not properly dispalyed on the windscreen; wipers not in working order; speedometer faulty; not wearing the PSV dog-tag and so on. By way of explanation he said: "If only I had paid the RM2 the policeman demanded, I would not be in court!"

We used to laugh at other people. When Mansor Mohd Noor (now Tan Sri) was KL's Traffic Chief, he hosted a delegation of police officers from a foreign country on a visit to study our traffic system. One of the things Mansor explained to them was the powers given to police to compound offences to avoid congesting the courts with cases. The compound fees collected were sent to the Treasury as government revenue. The leader of the delegation said his country had a similar system but "we keep the money"!

Sadly our policemen had been doing the same thing. It is most refreshing therefore to hear that such malpractices are now history. Orders have recently gone out to arrest any person on the spot for attempting to bribe a policeman. The number of such arrests made so

far is commendable. It also belies the horrible truth that what we have witnessed over the past few days is most probably only the tip of the iceberg.

Not satisfied with that, policemen in plain clothes have been deployed to nab their colleagues who solicit bribes. We can only hope this is not just another "*operasi*" of the "*panas tahi ayam*" (the heat of chicken droppings) variety and that it would be sustained long enough so that the public would learn the bitter lesson not to bribe policemen.

To be fair, the top brass of the police have not been oblivious to what has been going on. The number of policemen who have been dismissed and prosecuted in court for corruption is testimony of their awareness and determination to rid the police force of its black sheep.

The irony of it all is that the Royal Malaysian Police is one of the best police forces in the world. The police forces of other countries regularly send their officers to Malaysia for training with our police. They only have high praise for our police and legal system.

So why do we have policemen on the take? Apart from the usual human weaknesses, part of the answer lies in inadequate wages and insufficient police accommodation for its officers and men. Former Inspector-General of Police Tun Haniff Omar fought long and hard to better the lot of policemen. Doubtless he subscribed to the theory that if you pay peanuts, you get monkeys. Let us hope his efforts will meet with success soon. After all, the primary function of any government is the maintenance of law and order. This is the job of the police and the courts.

A police force well armed and equipped, well paid and cared for, disciplined, honest and efficient, will command public respect and pride even at road-blocks.

Use tender system to beat house auction syndicate



18.4.96

AH Chong is a young man who wants to start his own business but has no capital. Ali is a contractor who has been given a contract to do a job but has no cash to get started. Ramasamy has been allocated a low-cost housing unit but has no savings to pay for it.

All three go to the bank to obtain loans. The banker is very pleasant and says there is no problem in giving them loans if they can provide security. Ah Chong has no land of his own but his mother agrees to charge the family house to the bank as security for the loan. Ali charges his *kampung* land to the bank. In Ramasamy's case, the bank pays the developer and gets the house itself be charged to the bank.

In the course of time, all three default in the repayment of their loans. So the bank instructs its lawyer to foreclose the properties which had been charged to the bank to recover the outstanding sums owed to the bank. The lawyer goes to court and obtains an order from the judge for the lands to be sold by public auction. An auction date is fixed.

In the meantime, a valuer appraises the market value of the properties and recommends a price, which is below the market price, called the forced value because a public auction is not a transaction between a willing buyer and a willing seller. As far as the bank is concerned, it is only interested in recovering the actual amount owing to it plus interest and costs, which are usually less than the forced value.

The court fixes the reserved price, which is somewhere between the forced value and the market value, as the starting price at the auction. An auctioneer is appointed by the court who proceeds to prepare the Proclamation of Sale, which is then published in the newspapers and posted at specified places to attract public attention.

On the day of the public auction, a few bidders appear in court at the appointed time. All this sounds very familiar and ordinary, even routine in the precincts of the High Court buildings all over the country.

But in practice, all is not well with this system. The bidders at these court auctions are regulars. They are in fact members of a syndicate and decide beforehand amongst themselves what the knocked down price should be. They take turns to be the successful bidder. Any stranger who appears at the auction with a genuine desire to buy the property is intimidated by members of the syndicate to refrain from bidding. The result is that the knocked down price is only marginally higher than the reserved price.

The property is then resold at a handsome profit in the open market. Sometimes there will be no bidding and the auction is aborted, which means at the next auction, the reserved price is lowered. And of course, a larger profit margin for the syndicate after the subsequent auction.

To be sure, the court authorities have been aware of this problem for

a long time and although various measures have been taken to curb the malpractice, the problem persists. In this scenario, the real losers are Ah Chong, Ali and Ramasamy who not only have lost their properties but also received practically nothing from the auction sale because there is not much left after the bank has been paid and the commissions for the auctioneers and the court have been deducted from the purchase price.

The root cause of this problem is the system prescribed by the National Land Code. A public auction in this context is archaic. It was a good system in the old days and would remain so even today, if all the bidders at the auction are genuine buyers. The syndicates however have turned the system into a farce.

What then can be done? The solution would appear to be to change the public tender system. Under such a system, members of the public will know from the newspapers and notices at public places what properties are up for sale and the reserved price. The Proclamation of Sale will specify the closing date for tenders and the date and time when the tenders will be opened.

All the intending purchaser has to do is to collect a form from the court, fill in his particulars, amount of bid and enclose a bank draft of 10 per cent of his bid in a sealed envelope which must be deposited into a locked box in court.

On the appointed day and time, the tender box will be opened by a court official in the presence of all the bidders and members of the public. As each envelope is opened, the bidding price is written on a board. The highest bidder will be the successful purchaser.

The tender system should effectively put an end to the existing malpractice and unfairness. All that needs to be done is a minor amendment to the National Land Code and hopefully, the sad stories of the likes of Ah Chong, Ali and Ramasamy will be heard no more.

Holders of public office must come clean in financial affairs



I salute the Prime Minister for his frankness on the existence of corrupt politicians in this country. On becoming Prime Minister 15 years ago, he wanted his government to be clean, efficient and

trustworthy. Due to his vision and leadership, the country has seen tremendous economic development.

The Malays have since acquired much wealth. There are now not only Malay millionaires but billionaires as well, with several jet-setting in their own private jets and yachts. Many top people in the corporate world are Malays. I am proud of them.

With so much money about, some things have changed. There are politicians who want to become rich and there are successful businessmen who want to become politicians. There are, of course, businessmen who want to become richer, they always do, and find an easy way to achieve wealth by financing politicians in power to grant them licences, permits, construction contracts, allotment of shares and alienation of state land.

The politicians, in turn, want to remain in power and to do so need a lot of money for election campaigning purpose, at state and national levels down to party levels.

Even the Prime Minister wondered at the source of these funds at the recently-concluded Umno elections where, in spite of the ban on campaigning, a lot of money had been spent on the polls.

This scenario is not peculiar to Malaysia, only that it is of recent vintage here. South Korea recently convicted two former presidents for corruption. Allegations of corruption cost the Congress Party of India to lose power, although it was the party that gained independence for India and governed that country for nearly half a century.

Allegations of corruption brought down the Thai Government recently. It seems this is the season for bringing down governments due to corruption in Europe, Africa and South America.

It is not surprising, therefore, that the Prime Minister was genuinely and deeply concerned about the future of Umno in his presidential address to the party general assembly last week.

He urged the delegates not to vote for corrupt candidates. Umno has to save it itself if it wants to remain in power and lead the Malays to greater heights for generations to come. If it does not do so it will self-destruct.

As Umno is the backbone of the Government in this country since independence 40 years ago, what it does or does not do affects the country as a whole.

Indeed in concluding his address, the Prime Minister was visibly

moved to tears at the very thought of what would become of this country if corruption was allowed to fester unchecked.

Money politics is but a symptom of corruption. The word "corrupt" has a very wide meaning, from the material to the mind to morals. Depending on the intention of the giver, a similar gift to different people can mean different things.

The Malays have very apt descriptions. If something is given to royalty, it is *persembahan* (offering). To a religious person, *sedekah* (charity). To a relative, *hadiah* (gift). To a businessman, *habuan* (commission). To a politician, *cenderamata* now *cenderahati* (souvenir). And to a government servant, *rasuah* (bribe). But by whatever description, the value of the article given is the obvious indication of the real intention of the giver depending, of course, on the status of the recipient.

Apart from not electing corrupt politicians not only in Umno but in all political parties, positive steps should be taken that there is greater transparency in government and of politicians in power.

For a start, perhaps all politicians on taking office and thereafter annually should declare their assets and liabilities to the chairman of the Elections Commission, who will then be required by law to publish in the government gazette the declaration for public information.

This might be an invasion of privacy but that is the price to pay by holders of public office. If there is such a law, the Prime Minister's declaration of war on corrupt politicians would have made a salutary beginning.

Making illicit enrichment a crime can check corruption



5.12.96

DEPUTY Prime Minister Datuk Seri Anwar Ibrahim recently announced that the Government is proposing to confer additional powers on the Anti-Corruption Agency in its efforts to prevent and eradicate corruption. The announcement is most welcome as indicative of the political will to rid this country of the curse of corruption.

The popular jibe is that the ACA is only after the small fry and has not been able to catch the big fish. The public perception is not quite fair nor accurate either but not entirely without basis.

The apparent impotency of the ACA can be attributed to our legal system. To prosecute a person for corruption, the court needs proof which can only be obtained if a witness is willing to testify that he has given or that he has been offered a bribe.

A motorist commits a traffic offence. He is promptly stopped by a traffic policeman. The motorist in order to avoid prosecution offers the policeman a bribe. To the credit of our traffic policeman, the motorist is arrested on the spot for offering the bribe and is prosecuted.

Such arrest and prosecution is successful because the intended receiver is honest and provides proof to the court.

A citizen goes to a government agency to apply for a licence. The official demands a bribe. The citizen reports to the ACA which arranges a trap by making the payment with marked notes. The official is arrested and the prosecution is successful because the honest citizen has provided proof to the court.

The big fish, however, plays a different game. In this case, both the giver and receiver of the bribe are willing partners of the crime. Neither is willing to testify against the other because the secret transaction has resulted in mutual benefits. Thus there will be no prosecution due to lack of evidence.

But the so-called secret transaction does not remain a secret for long. When the big fish rots, it stinks. People begin to talk of the new-found wealth of government officials and politicians.

Market talk is filled with stories of how some businessmen have been very lucky in obtaining government contracts, orders, concessions and state land. Some even boast that they know who, and how and when to pay.

The main campaign issue during the general election of 1969 was allegations of corruption. In the aftermath of that election, the Government enacted the Emergency (Essential Powers) Ordinance No. 22 of 1970. The aim of this law is to strike at corrupt politicians and public officers who have used their public position or office for pecuniary or other advantages.

Such persons are said to have committed the offence of corrupt practice and on conviction, are liable to imprisonment for a term not exceeding 14 years or fine not exceeding RM20,000 or both. After more than 25 years, this law should have been incorporated into the main Prevention of Corruption Act 1961.

Be that as it may, the 1970 Ordinance has a lot of teeth and if public talk of corruption in high places has any truth, one would expect a spate of prosecutions under this law. True, there had been some prosecutions in the past but not obvious in recent times.

The point is that it is not difficult to make laws or to confer extensive powers of investigation on the ACA but enforcement of the law is another matter.

So how do we catch the big fish? Perhaps the best way is to make illicit enrichment an offence namely, politicians holding public office and government officers who are in possession of pecuniary resources or property disproportionate to their known sources of income for which they cannot satisfactorily account, punishable with imprisonment not exceeding 20 years without the option of a fine and such properties be forfeited. "Possession" includes possession by spouses, children, siblings and even front companies.

Above all, it is important that the public believes in the capacity of the ACA to perform its duties without fear or favour.

When I was director-general of the ACA in the 1960s, I authorised all prosecutions without reference to either the Prime Minister or the Attorney-General. Tunku Abdul Rahman who was the Prime Minister at the time wanted it that way to assure the public that there was no political interference of the ACA.

It was only an administrative arrangement but it was effective.

The public knows who are corrupt. So does the ACA.

Time to close chapter on money politics



2.1.97

AS we welcome the New Year, let us pause awhile to reflect on the past year. One of the significant events of 1996 was the Umno General Assembly and, in particular, the party elections to its supreme council. The event is significant as whatever happens in Umno is the concern of all Malaysians because Umno has been the dominant political force in the country before and after Merdeka and will continue to be so for years to come.

The 1996 party elections were in marked contrast to that of 1993. In the earlier election, large sums of money were spent by the candidates

during the campaigning for party posts preceding the General Assembly. The result was that several candidates were elected not because of their service to the party and the country but because they had money to spend.

The Umno president, Datuk Seri Dr Mahathir Mohamad, came out strongly against money politics and warned delegates that this was an unhealthy trend which could spell doom for the party and the country. So, for the 1996 party elections, strict disciplinary rules were enforced. Roadshows were banned. Even indirect campaigning was prohibited. Candidates holding public office were told not to abuse their official positions to gain political mileage. A few were even disqualified from standing.

Political leaders were to be chosen for their good track record of service to the party and the country and the potential for doing more. There was really no need for the politicians to go on a campaign trail for party posts. Practically every day in the mass media, there is publicity on the performance of politicians. But for money politics, the delegates to the General Assembly are quite capable of exercising their own judgment when making their choice of party leaders.

In the old days, money politics was unheard of. The late Tun Sardon Zubir, when he was a minister, always insisted that the press should not cover him when attending dinners but instead only when he was performing official functions, like standing under the blazing sun and inspecting the progress of a road under construction or in the pouring rain checking the safety of railway coaches.

Fortunately for all of us, the 1993 elections proved to be only an aberration. The 1996 election results showed that the delegates had taken heed of the president's warning. Candidates who were businessmen and had stood to advance their commercial interests failed to get elected. The apparent popularity of some politicians in 1993 hit rock bottom in 1996. The Umno leadership has been restored to normalcy, more or less.

What then of the future? After more than 50 years of its existence, the general membership of Umno is now more knowledgeable and better informed, indeed, even constructively critical of party and government policies. At the party elections in 1999, the delegates will be choosing leaders who will be taking the country into the 21st century. The question arises: what type of politicians should we have?

It is becoming increasingly obvious that politics and business are not a good mix. We have seen how some people enter politics and then become millionaires, even though they started with practically empty pockets. There have also been successful businessmen who entered politics only to become richer. This image of our politicians has to go. This is not to say that Malaysia Inc is wrong. It is not. The concept is right but the perception is somewhat confused.

The time has probably arrived when we should seriously consider politics as a career in itself. The country needs talented people who are really dedicated towards serving country and people. They should not enter politics as a stepping stone to untold riches.

Some countries have overcome this problem by paying their politicians well enough to devote their time, energy and expertise as full-time career politicians. Indeed, apart from Cabinet Ministers and State Exco members, even ordinary MPs and State Assemblymen find that if they were to discharge the public duties expected of them, they do not have time for business or other activities. With full-time, well-paid legislators, Parliament and State Assemblies can sit more often. Politicians can, of course, resign any time to enter into business or the professions and make money but not when they are politicians holding public office.

Perhaps the 1999 Umno elections should impose a prequalification that only MPs and State Assemblymen can stand as Supreme Council candidates. We will then know who are our real politicians and their track record. We would have created politics as a profession and closed the chapter on money politics.

Still time yet to stem the tide of moral decay



20.2.97

IN the 1950s, I was a magistrate in Penang. My duties included the approval of applications for liquor licences. Under a law peculiar to Penang at the time, persons desirous of operating a public bar where intoxicating liquors are sold were required to make their intentions public in the newspapers and in notices at the premises intended for such activity. Such notices also stated the date of hearing of the application in the magistrate's court.

At the hearing, the police and the Customs were represented. More importantly, members of the public could raise their objections, if any, on the suitability of the location of the premises for such activity. If there were no objections from them, the application was approved. But if there were objections for good reasons, it was rejected.

This law was imported from England and not surprisingly, as Penang was the first British Colony to be established in this country. Indeed, I was performing the like duties of the licensing justices of England. But I must say it was a good law. It is certainly a good example of transparency of government, especially when a public bar can affect the peace of the local community.

In England, such bars or pubs are very well controlled. They have very strict opening and closing hours. Only cash transactions are allowed so that if the cash register bell rings after closing time, a policeman will enter and say that an offence has been committed. Persons under 18 years of age are prohibited from entering a pub. The pub operators themselves strictly enforce this law.

I remember taking a group of curious young Malaysians, both men and women, to show them what an English pub was like. No sooner had the party sat down, a policeman came up and asked one of the girls her age. She said she was 23. The policeman congratulated her for looking much younger and apologised for the interruption.

Asian women do look deceptively young for their age. By the way, they all had soft drinks lest I be accused of corrupting the young!

I first visited Manila in 1975 and stayed at an international hotel. Next to the hotel was a very large bazaar where all sorts of things were sold. But what really attracted my attention was the long rows of video game machines, mostly patronised by schoolchildren. Their school books were on the floor and they seem to operate the machines all day. I said to myself: I hope this does not happen to my country.

Alas, it has. And with such vengeance. Video arcades are all over the place to which the young have been attracted, including the underaged. It is reported that stern action is being taken to close down these outlets.

The question is how did such places mushroom practically overnight in the first place. And that too in locations where they should not have been. Many are not even licensed. Whatever happened to law enforcement? The public will be excused if they jump to the conclusion that corruption has raised its ugly head.

Perhaps part of the answer lies in the power given to a single authority to grant licences. One might well ask if the police were even consulted before the local authority issued such licences.

The machines look innocent enough and designed for fun play only. But Malaysians being what they are, any machine with an unpredictable result is a good vehicle for gambling. Hence its popularity.

Then, lo and behold! All of a sudden it seems our political masters appear to have been caught by surprise by what has been going on and quite expectedly have pressed the panic button. A blitz on all video arcades. Early closing hours for bars, discotheques, karaoke lounges and billiard rooms.

The truth of the matter is that with economic prosperity, there is much money about. People just want to enjoy themselves. Busy working parents are giving their children too much time on their own with money to spend.

The future of our youth is at stake. Video arcades should be banned altogether. Other places of amusement, entertainment and refreshment should be licensed, subject to more effective law enforcement. A breach of the law should result in closure and the licence revoked. Perhaps as a measure of the community's involvement, the old Penang law should be introduced before licences are granted to all such outlets.

Nowadays, with active consumer and residents associations, much good can be done. There is still time yet to stem the tide of moral decay in our society.

Of corruption among politicians and coffee-shop talk



24.4.97

POLITICS is the art or science of power and government. When a politician says that politics is in his blood, what he really means is that his ambition is to gain or retain political office so that he can exercise the political power of government.

Many politicians like to think, and some even believe, that political discussion of any kind is the special preserve of politicians.

Aristotle (384 – 322 BC), the Greek political philosopher, said that man is a political animal.

This probably explains why ordinary citizens discuss the latest political developments whenever they meet.

In Malaysia, the favourite venue is the local coffee-shop in towns and villages.

The discussion gets more than somewhat animated when the topic is about the politician himself, usually spiced with much colourful speculation.

This Malaysian coffee-shop culture is not surprising because the actions and words of politicians invariably affect the lives of every citizen - whether directly or indirectly.

Some politicians, indeed more than some, are oblivious of the fact that once elected to public office, they become public property.

It is not only how they discharge their public duties that is subject to fair comment and criticism but how they conduct their private lives as well.

The price of public life is loss of privacy, period.

In our Asian cultures, political leaders are expected to be of exemplary conduct, indeed perfect in every detail.

They have become leaders of their own choosing and are expected to lead by example.

The standards demanded of them are high, very high.

A senior politician despaired recently that the mass media said little of his many achievements but blew sky high one little mistake.

He obviously overlooked the fact that in a parliamentary democracy, the press is the watchdog of the people so that his role as the people's representative is kept in check.

During the past few weeks, there has been much discussion and reports of corruption among government servants and businessmen.

The people intuitively look up to the political leadership, not so much as the means and authority to fight corruption but to the leadership by example that it is itself clean.

It is comparatively easy to prevent and even eradicate corruption if the root cause is the poor pay of government servants or bureaucratic bottlenecks arising from inefficient management.

All you have to do is to give better salaries or improve the efficiency of the administration.

It is, however, another matter if the political masters themselves are corrupt.

Then everybody down the line will follow the example and become corrupt also.

In such a situation, there will be chaos finally ending in revolution or worse, a military *coup d'état*.

So it was with some sort of welcome relief that Prime Minister Datuk Seri Dr Mahathir Mohamad announced the resignation of the Menteri Besar of Selangor, Tan Sri Muhammad Muhammad Taib, arising out of a court case in Australia followed by an Anti-Corruption Agency investigation concerning his alleged investments in that country.

Whilst the country will not tolerate corruption in high places, especially at the political leadership level, it was not necessary to lean over backwards for the Parliamentary Secretary in the Prime Minister's Department to reveal that eight Exco members in six states are being investigated by the ACA.

He even identified the six states!

Now, allegations of corruption, particularly those involving members of the administration, are investigated discreetly and confidentially until sufficient evidence has been gathered leading to charges in open court.

The reason for such type of investigation is that in the event that the allegations prove to be false, then the matter can be closed quietly without causing embarrassment to anybody.

If the investigation is made public without resulting in prosecution, the public will unfairly conclude that there has been a cover-up.

Their logic: No smoke without fire!

Politicians have political enemies and also rivals within the party itself.

False allegations are made against them in the contest for power and position.

Everybody wants to become Menteri Besar.

If enough mud is thrown at anything or anybody, some of it is bound to stick.

To be fair to the eight, therefore, it is hoped that the investigations will be completed quickly one way or the other.

The disclosure was premature.

The MB Selangor's case is different because what is alleged against him is already public knowledge.

Our coffee-shops must be doing a roaring business these days!

The die is cast against corruption



26.6.97

THE battle cry has been sounded. Politicians and government servants must not only be clean but be seen to be clean, said the Prime Minister. Corruption must be eradicated from top to bottom, starting from the top, said the Acting Prime Minister.

Both statements have far-reaching consequences giving rise to great expectations that the era of giving advice, warnings and polite suggestions to retire from positions of power has come to an end. The era of resolute and positive action to stamp out corruption has begun.

Not that the country is now riddled with corruption at all levels of government, but the disclosure that corruption has been on the increase during the last 20 years is certainly cause for great concern. The PM said corrupt transactions under the counter must stop before it reaches the stage of over the counter. This probably explains why the Government is increasing the powers of the Anti-Corruption Agency and its budget allocations.

Recent court cases seem to indicate that we have either reached the precipice or commenced the fall into the abyss and quagmire of corruption. A Road Transport Department official was recently convicted of receiving a bribe of RM200 for not weighing four lorries to determine their laden weight. He pleaded guilty. Two things stand out from this case. The demand of RM50 bribe per lorry was made openly and paid over the counter. And the functionary was only 22 years old!

Nor are bribes, it seems nowadays, paid to secret bank accounts overseas or to nominees. Even gifts in kind are given directly and blatantly. The ACA should have no difficulty investigating such cases.

The ACA's difficult job is how to ensure that politicians and government servants are seen to be clean. To achieve such an objective, they must not wait for official reports of alleged acts of corruption, but take the initiative to investigate into signs of corrupt practices. It has to have its ears and eyes on the ground. In short, it has to double its role of an investigative agency with that of an intelligence agency and, if need be, as some sort of secret police.

The public perceives corruption as much more than just the giving and taking of bribes. If a karaoke lounge is operating without a licence, then the conclusion is that bribes have been paid and not a case of ineffective or inefficient law enforcement. So, too, with unauthorised

building construction or illegal hawking. If Calcutta, a city with a population of 11 million, can clean its streets and five-footways of hawkers and illegal traders, why cannot our local authorities do the same?

What about politicians and government officers owning multi-million ringgit bungalows? Where did the money come from? On an overseas visit, I was given an official car with a driver by the host country. On one free afternoon, I asked the driver to take me to parts of the capital city I had not visited. He took me to a very posh residential area and said: "These bungalows belong to our corrupt ministers! The public knows."

Some government servants own and drive expensive cars. At their level of salaries, position and the amount of loan they can borrow from the Government to buy a car, the majority of government servants can only afford to buy cars in the Proton and Perodua ranges. Even if the expensive cars were bought second-hand at a used-car mart, the public will brand the government servants as corrupt. Such government servants should refrain from using such cars to uphold the Government's image of a clean, civil service.

Conspicuous consumption is a fertile area for the ACA to start asking questions of politicians and government servants without further ado. And what about retiring civil servants appointed to directorships of companies they dealt with before retiring from office? Or congratulatory messages from the private sector in newspapers when conferred a Datukship or Tan Sri? The same goes for politicians. It is embarrassing, really. In some countries the penalty for corruption is death. A million-ringgit maximum fine and forfeiture of ill-gotten gains will do just as nicely here.

The die has been cast by the PM and the DPM. At stake is the Government's creditability. Indeed, the ACA is on trial!

Proper role of Public Prosecutor in ACA



14.8.97

DURING its last sitting, the Dewan Rakyat set aside an entire parliamentary week to debate on a single Bill. In a blaze of publicity by the mass media, the House deliberated and passed the new Anti-Corruption law.

From the speeches on both sides of the House, it was common ground that a new law was required to combat corruption. Divergent views were nevertheless expressed but these were substantially confined as to how the job is to be done. There was some concern that the new law should not be draconian.

It was nonetheless a controversial piece of proposed legislation. That this was so is evidenced by the fact that during its passage in the House, the Government proposed 29 amendments to the Bill which were adopted and the rejection of 29 amendments proposed by the Opposition.

Perhaps it would have been more prudent for the House, after the debate on the Second Reading of the Bill, to have referred it to a Special Select Committee of the House for a more detailed consideration of the Bill and, if necessary, the opportunity to seek the views of the public as well. Like marriage, enacting a new law should not be made in haste only to regret at leisure.

Be that as it may, the new law raises a fundamental issue which concerns our criminal justice system.

In every criminal case there are two stages, namely investigation and prosecution.

To ensure that justice is done to all parties concerned, there must be a clear dividing line between investigation and prosecution.

To achieve this objective, the two stages should be kept separate from each other and controlled respectively by an independent, separate and distinct authority in a system of checks and balances.

The Anti-Corruption Agency is an investigative authority. To carry out its functions, it must be given the powers to investigate freely without let or hindrance. The public and the suspect must be assured that every case will be thoroughly investigated. Whether a prosecution will follow is another matter.

There are several aids to investigation, beginning with legwork, examining witnesses, intercepting communications, inspecting bank accounts and requiring suspects to declare their assets and liabilities.

All these are necessary for a full investigation in order to procure evidence with a view to prosecution.

Now, under the new law, before an ACA investigator can exercise any of these powers of investigation, he has to obtain the written authority of the Public Prosecutor during the investigation stage of the

case to the extent that he can be said to be part of the investigation team! It is true that the Public Prosecutor, who is also the Attorney-General, may not exercise these powers personally, at least most of the time, and the actual work is done by Deputy Public Prosecutors attached to the ACA. But this is begging the question.

Article 145(3) of the Constitution reads:

"The Attorney-General shall have power exercisable at his discretion, to institute, conduct or discontinue any proceedings for an offence, other than proceedings before a Syariah court, a native court or a court-martial."

And section 376 of the Criminal Procedure Code provides: "The Attorney-General shall be the Public Prosecutor and shall have the control and direction of all criminal prosecutions and proceedings under this Code" and under other laws (section 376 (3)).

On a strict interpretation of these two provisions, it can be argued that the powers of the Public Prosecutor are only exercisable after investigations have been completed and the investigation papers submitted to him for him to decide whether to prosecute the case in court or otherwise.

It may well be that this new law is actually a legacy of the past. In the old days, there were few legal officers and so Deputy Public Prosecutors were called upon to advise and direct police officers during the course of their investigations that their actions are legally correct. There is no shortage of legal officers now.

The Government has the right to protect itself from civil suits for wrongful arrest and detention, invasion of privacy and even acts of persecution committed by overzealous investigators. To prevent such calamities, all that is required is to appoint Legal Advisers to the ACA.

The Legal Adviser will be a backroom functionary to advise ACA investigators on the law at various stages of the investigation as may be prescribed by Standing Orders of the ACA. His role need not be spelt out in the law.

The powers conferred on the Public Prosecutor under the new law during the investigation stage should therefore be conferred on the Director-General of the ACA instead. The only reference to the Public Prosecutor in the new law should be as stated in section 51 which reads:

"A prosecution for an offence under this Act shall not be instituted except by or with the consent of the Public Prosecutor."

Thus a clear dividing line between investigation and prosecution will patently come into existence and place our criminal justice system in proper perspective. Further, it will enhance public confidence in the ACA to discharge its functions without fear or favour.

And that precisely is what the new Anti-Corruption law sets out to do.

Putting anonymous letters to good use



2.4.98

FIFTY years ago when I first entered government service, all unsigned letters and letters without the name and address of the sender were routinely consigned to the waste-paper basket.

This standard practice rested on two factors. The Government does not deal with an unknown entity. Secondly, allegations of wrongdoing against the Government or any of its servants must be proven which can only be achieved if the accuser can be identified and if necessary be able to give evidence in court. Anything short of that is considered as baseless accusation.

The public seemed to know that the Government and its functionaries paid no attention to anonymous letters and consequently, such letters were few.

On the flip side, however, the Government was oblivious to wrongdoing and what the public thought of its services.

Thirty years ago, I was appointed the head of the Anti-Corruption Agency. I had to know the extent of corruption in the country – what, where and who.

Initially, pleas for information on corruption from the public with the assurance that their identities would be kept a secret did not meet with much response. The people were afraid of being victimised by the very people they had bribed. Bribery is a secret transaction between two individuals and if the secret is not kept, it must have been revealed by the giver. Victimisation is a natural consequence.

But I had to know. So I established PO Box 6000. The public were invited to write to me on anything they knew about corruption in government or by any of its servants without having to disclose their identity if they did not want to. Postage was free.

The response was tremendous. Sometimes I received about 200 letters in a single day from all over the country. I read them all. I was then able to implement a plan of action of instituting measures to prevent corruption, the primary objective of the agency, and where there was sufficient evidence to sanction criminal prosecutions.

The letters, mostly anonymous, were classified into two categories. The first category alleged corrupt practices in particular government departments. This enabled us to identify departments which the public thought were corrupt. Invariably such accusations also contained the nature of the corrupt practice in the department. The information enabled us to inquire into the workings of the department, usually with the active assistance of the head of the department, and to propose preventive measures against corruption to the department concerned.

The other category of letters identified the corrupt officer. This enabled us to build a dossier on the officer.

Of course, we could not take action on just a single anonymous letter. If an officer was really corrupt, there would be several more letters and from different sources. Investigation would follow. Sooner or later, he would fall into a trap and be prosecuted or at least face disciplinary proceedings leading to dismissal.

The public would not have kept writing to the agency if they did not see any results. Indeed, the agency could not have functioned effectively without the assistance rendered by the thousands of anonymous letter writers who gave vital information.

People generally are not vicious. They do not spend time and effort writing letters unless they see or are affected by injustice. They are driven to anonymity only because of the fear of victimisation.

There are, of course, other types of anonymous writers. There is the type that presume corruption when in reality, it was a case of plain inefficiency on the part of a department. Such complaints were easily remedied, especially after the coming into existence of the Public Complaints Bureau.

A few writers were clearly mentally deranged; they wrote very long letters with irritating frequency. Such letters went straight to the waste-paper basket.

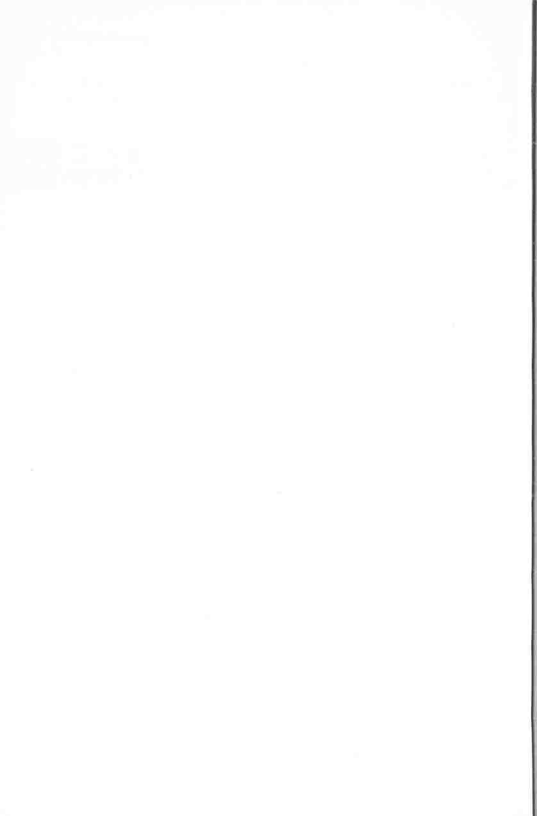
The most vicious must surely be the poison-pen letter writer singularly aimed at character assassination. There were two types of occasion for such letters. The first was when a promotion exercise was

in progress in a department. The other, and more frequently, was targeted against politicians during a party election or during parliamentary and state elections. Perhaps this is an occupational hazard of politicians!

There is wisdom in ignoring anonymous letters but it should not be applied to all such letters without regard to circumstances.

What I did was clearly against established practice and civil service tradition. The genuine letter, albeit anonymous, did not suffer the ignominy of ending up in the waste-paper basket because it opened a window to the real world outside the walls of government office buildings. An instance when the end justified the means!





*"The spirit of truth and the spirit of freedom –
they are the pillars of society."*

– Henrik Ibsen (1828-1906),
Norwegian dramatist

26 years on, Malaysians have become more united



11.5.95

THE May 1969 General Election had just ended. The race riots that broke out soon after shocked the nation into reality. It was totally unexpected. The country had gained independence from colonialism without shedding a drop of blood. Until then, it was a peaceful country marked by scenes of revelry, feasting and dancing which led Prime Minister Tunku Abdul Rahman to declare that he was the happiest Prime Minister in the world. What went wrong?

Soon after the end of World War II, Sir Harold MacMichael arrived in October 1945 and concluded treaties with all the Malay Rulers who effectively signed away all their powers to the British Crown. In January 1946, the British Parliament created the Malayan Union as a full-fledged Crown Colony with effect from April 1, 1946.

The Malays woke up when they realised what had happened to their country. Led by Dato' Onn Ja'afar from Johor, they formed Umno in 1946. For the first time, the Malays were united and succeeded in abrogating the treaties the Malay Rulers had signed and the revocation of the British Order-in-Council creating the Malayan Union.

The Malay Rulers, the British and Umno jointly signed a new accord called the Federation of Malaya Agreement, restoring the power and privileges of the Malay Rulers, the establishment of a strong central government and the creation of a new nation called Persekutuan Tanah Melayu with effect from February 1, 1948.

The 1948 agreement was designed towards eventual self-government. The British, however, practised the well-tried method of divide and rule which would certainly delay the attainment of even that status. As the Malays had Umno, the Chinese got together and formed the MCA, and Indians, the MIC. By then Indonesia, India, Pakistan, Ceylon (now Sri Lanka) and Burma (now Myanmar) had gained independence.

The three communities then realised that unless they got together, the country would never attain self-government. They formed the Alliance Party consisting of Umno, MCA and MIC. At the first general election in 1955, the Alliance Party won 51 out of 52 seats contested. The election results proved that the three communities could work together. An elected central government was installed for the first time with Tunku Abdul Rahman as Chief Minister.

Inspired by its success, the Alliance Party decided to fight for full independence from the British. There was no armed struggle as such, the Communist insurgency notwithstanding. Indeed, the British had used the Communist threat as an excuse for staying on. Instead, our forefathers said, "Give us independence and the Communists will have no reason to continue with their armed struggle."

Tough negotiations followed in London and the country was finally granted independence on August 31, 1957. The transition of power was smooth, gentlemanly and cultured. No upheavals, no power grabbing, no nationalisation of foreign-owned companies. The British civil servants and troops left the country graciously, often with feelings of nostalgia on both sides. In their place, British traders and businessmen arrived to do business and invest.

The Malays now held political power. General elections were held in 1959 and 1964 which confirmed their position. The Chinese were left to go about their business. The Communist insurgency which erupted in 1948 ended in 1960. Malaysia was established in 1963.

The results of the 1969 General Election on May 10 showed that the political power of the Malays had been eroded. Worse, the Malays had virtually no economic power in their own country. All they had was ownership of *padi* fields and rubber smallholdings in the rural areas. The tacit arrangement was that political power would be held by the Malays and the economic power by the Chinese. It shocked the Malays to discover that this was a bad bargain, as the Chinese had not only become richer but had quietly acquired political power as well.

The Anti-Corruption Agency was given the task of monitoring corrupt election practices during the 1969 election. I was at the ACA headquarters in Petaling Street throughout May 10 (polling day) until the following morning. As the results were being announced on television during the night, it became obvious that the Alliance Party had been defeated in several constituencies. At about 2am, there were victory motorcades in front of the ACA headquarters and all over Kuala Lumpur, screaming over loud-speakers "*Melayu mati*" (Malays dead) and "*China kuasa*" (Chinese in power). Umno had almost lost governance of Selangor and Perak, with Penang in opposition hands.

Tension was building up. By nightfall of May 13, riots broke out. Houses and shops were burnt down. People were being killed. A curfew was imposed until further notice. From my house, I could see clouds of smoke erupting in Kuala Lumpur from time to time – another house, another shop being burnt – all day on May 14.

The country was totally unprepared for such an eventuality. At 7am on May 15, the telephone rang. The private secretary to the Deputy Prime Minister (Tun Abdul Razak Hussein) said the Tun wanted to see me. I was to get ready and a police car would come over to the house to fetch me. When I arrived, the Tun said: "Thank you for coming. I do not know who to trust!" That was the greatest moment of my public life – to be called upon by the highest authority when the nation was at the height of a political and constitutional crisis.

A very select few of us planned each morning with the Tun the ways and means of governing the country during the Emergency. Parliament was suspended. The Tun was appointed director of operations – virtually making him the governor of Malaysia. Each morning after discussions, emergency regulations were drawn up for the day, approved by the Tun in the evening, assented to by the Yang di-Pertuan Agong and became law the following day.

Out of the ashes of the 1969 riots, the New Economic Policy was planned and implemented. Its main object was to ensure that the Malays would get at least 30 per cent of the economic pie without taking away anything already held by the other races. The strategy was to increase the economic pie by creating new opportunities for investment.

Simultaneously, the Tun with his farsightedness and pragmatic approach to problems, formed the Barisan Nasional by bringing together as many political parties willing to participate in a government

of national coalition to reduce politicking and to divert energies towards economic development.

In the last 26 years, more Malays have had access to higher education and have become professionals in all fields of endeavour. A new breed of Malay entrepreneurs can now hold their own against any other Malaysian and even internationally. The present National Development Policy is for all Malaysians.

This is really a success story in social engineering. The recently-concluded general election convincingly retaining the Barisan Nasional in power is eloquent testimony of the end of racism in politics. In the process, we have evolved a unique form of parliamentary democracy ala Malaysia. There are 14 political parties in the Barisan representing all the races, tribes and religions in the country, therefore making it a self-contained forum of checks and balances in a government of national unity and consensus.

Truly we are living up to the national motto of "Unity is Strength". Those who perished in 1969 did not die in vain.

Public Housing Authority will solve some of the woes



29.6.95

THE Government recently announced new measures to overcome the housing shortage. The obvious sign of a housing shortage is the existence of squatter settlements in the major towns and cities. The inhabitants of these settlements are migrants from other parts of the country attracted to new jobs created by economic development of the country. Housing for the new arrivals has not kept pace with demand, coupled with a misunderstanding of the kind of demand itself.

There are basically two groups of people in squatter settlements. One group consists of people who cannot afford to rent houses built by the private sector with the wages they earn. They are generally the more recent arrivals working in factories, the services sector and the construction industry. All they need is a place to live until they make something of themselves. The obvious solution for these people is a half-way house at subsidised rents which they can afford. The other group is people who can now afford to buy low-cost houses but such

houses are difficult to come by and when available, are allocated to people who do not qualify.

It is generally agreed that make-shift dwellings in squatter settlements are an eyesore with the attendant danger to public health and the hotbed of social problems. These settlements must be cleared but at the same time, suitable alternative accommodation must be built to house the inhabitants. Such a task must be seen from a purely economic and social point of view. Only the Government can undertake such a task.

Perhaps the answer lies in the establishment of a Public Housing Authority. The Federal Government has the expertise and the financial resources. But houses can only be built on land which is the exclusive preserve of the State Government. The two Governments must therefore get together if the job is to be done. The Public Housing Authority should accordingly be a joint venture of the Federal and State Governments – sort of federal driver and state vehicle.

The Public Housing Authority should build two types of accommodation – the half-way house or *rumah sementara* (permanent buildings with temporary tenants) to be rented out at subsidised rates. There is a regular turnover for such accommodation – notice how squatter houses continue to remain occupied even when the settlers have been allocated new housing. The other type is low-cost housing for sale.

Government servants constitute more than 60 per cent of house purchasers because of their entitlement to housing loans. Several, however, have been cheated by unscrupulous and dubious developers. Progress payments have been made to the developers but they end up with salary cuts and no house. A way out of such calamities would be for the Housing Loans Division of the Treasury to underwrite progress payments to developers. Only when the house is ready for occupation and handed over to the government servant would he be liable to repay the loan. Admittedly the Treasury will run a certain amount of risk but with adequate supervision of progress payments, the risk can be reduced.

Go to any newly completed housing scheme and you will invariably see signboards at the gate offering the house for sale or rent. Who are these buyers? There are in fact two types. One is the investor and the other the speculator. The existence of the investor is probably justified because there will always be a market for rented premises.

But the speculator? He is the one who is forcing the price of houses to go up. He sits on his purchase until a genuine buyer comes along. By

now, the original price has gone up by at least 50 per cent. The genuine buyer is desperate and agrees to buy at the higher price – sold.

The speculator has made a profit by creating an artificial shortage. He made a booking when the house was first advertised for sale but had no intention of living in it. How can this practice be prevented? All original house buyers have to enter into a Sale and Purchase Agreement with the developer. This is a legal requirement. A standard clause in the agreement provides that the purchaser has the right to name either himself or his nominee as the ultimate purchaser at the time when the title to the property is issued. What the speculator does is to withhold the exercise of this right until the house is sold to a third party, thus making it appear as if the third party is the original purchaser. In this way, the speculator avoids paying land transfer fees and the Real Property Gains Tax. Both the State and Federal Governments have lost revenue this way.

To plug this loophole, all that needs to be done is for the law to provide that the title shall be issued to the purchaser named in the Sale and Purchase Agreement. Further, a stamped copy of the Sale and Purchase Agreement shall be deposited with the relevant Land Office on payment of a deposit fee within 14 days of the execution of the agreement. This will ensure that names are not changed before the issue of title and also protects government revenue.

A much simpler system of course is for the law to provide that only houses ready and fit for occupation with title are permitted to be sold. No progress payments, no hanky panky and no abandoned projects. Surely by now the housing industry and the relevant authorities can devise a mechanism for bridging finance without relying on the purchaser! Perhaps the EPF can show the way to protect and provide a service to its contributors!

Time to abolish the subsidy mentality



12.10.95

A Malay without a piece of land to his name is not worth a grain of salt, it was said. In former times, the Malay would carve out a piece of jungle land to cultivate and build a home for his family. This practice was recognised and even encouraged as it displayed a pioneering spirit,

independence and self-help. What was more important to society, the produce of his toil was a source of food supply to the community as the surplus for the family's needs were sold in the market. In time, he acquired a proprietary right to the land by the sweat of his brow.

With the introduction of the Torrens System of land tenure in this country, the people had to apply to the Ruler for the alienation of state land. But the old pioneering spirit was very much evident. In the days when I was an Assistant District Officer, applicants for state land would pay a deposit towards alienation and survey fees, which was not an inconsiderable sum at the time, out of moneys they had saved over the years. When approval was given, they would clear the jungle, which sometimes might take a few years as they had to earn a living in the meantime by doing other work. They were independent folk, proud and hardworking. The subsidy mentality was unknown.

In an agrarian society, land is everything. The landowners fought hard to defend their possessions, sometimes physically and quite illegally, by taking the law into their own hands. In one instance, a man claimed ownership to a quarter acre of land, insisting that he had inherited it from his ancestors but it was now occupied by a stranger who, he said, had no right to it. He had made his claim in the Land Office repeatedly over 25 years. When I pointed out to him that within that time, effort and money he could have bought himself a much larger piece of land, he replied that it was a matter of principle. He lost his case again because he lacked proof beyond his bare assertion and the present occupant was the registered owner of the land with the Land Office.

In later years, the family holding became smaller in size as, with each death of the head of the family, the land was subdivided to the beneficiaries according to Islamic Law. In time, the land was no longer economical or sufficient to sustain a family. It was at this time that Tun Abdul Razak, the Deputy Prime Minister and Minister of Rural Development, established in the early 1960s the Federal Land Development Authority (Felda) by opening large tracks of jungle land to resettle farmers under a policy of land for the landless.

The venture was successful and one Felda scheme after another was opened. Our economy was, until recently, agricultural. Above all else, every settler was given a title to his land. The pioneering spirit, however, apart from the fact of having to leave one's old *kampung* to

resettle in another state, was more than somewhat diminished, as Felda employed contractors to clear the jungle first and even built the houses before allowing the settlers to move in. They were paid monthly allowances for their labour, out of which a certain sum was deducted to pay for the eventual ownership of the land.

A generation of the first settlers has passed. New problems have arisen. Part of the problem is attributable to Felda's own success story at social engineering. Bright children of Felda settlers have gone on to university and qualified as professionals. It would of course be wrong to expect these people to keep to farming, generation after generation.

The story is told of a soldier who had served his country well. When he retired with the rank of Sergeant, he became a Felda settler. He worked hard. Of his children, the sons except the youngest had become professionals and his daughters had married professionals. When he died, his youngest son refused to carry on as Felda settler as all his siblings were resident in Kuala Lumpur. His widow could not stay on as there was no one to work the land. Now what happens to the ownership of the land in such a situation?

Similar stories abound in several Felda schemes. Did our early planners overlook beyond a generation? By now of course, the policy is not to subdivide the land as such a policy would re-create land ownership problems of the past, which was the reason for the establishment of Felda in the first place.

Perhaps the solution lies in exchanging the land title with the issue of shares in a company which should be incorporated for each Felda scheme. The original settler (or his descendants) thus become shareholders of the company. Labour should be recruited to work the land if there are no more settlers able or willing to do the job. Either way, the workers will be paid MAPA rates for the work they do. The shareholders of course will be entitled to dividends out of the profits of the company, which should be managed by professional managers.

Felda has come a full cycle. Recently, the Deputy Prime Minister in his capacity as Finance Minister announced that the Government will not give any more annual grants to Felda from next year. Felda has to find RM130 million to pay salaries. Will this amount be really necessary if the Felda schemes are "privatised"? It is time to cut the apron strings and with it abolish the subsidy mentality.

Times have changed. Ownership of land in the old style is no longer

a social status symbol even for *padi* planters. The Malays should move on to be proud corporate shareholders of the country's economic progress.

Let's have the will to cut accident rate



10.1.96

A road accident fatality or injury is always a tragedy. The sad fact is that we have come to accept road accidents during school and festive holidays as something inevitable. It always happens.

The point is that it need not happen. Take the case of the driver who is driving the family car to *balik kampung*. Driving the car in town is quite different from driving it long distance along the highway or country road. There is a tendency to reach home as early as possible rather than making the journey itself as part of the holiday with frequent stops on the way. They do not even enjoy the scenery of our beautiful country. One careless moment and the holiday becomes a nightmare.

Becoming more frequent these days are accidents involving tour buses. The frequency of such accidents may eventually deter people from touring the country by bus. Coach tours have become very popular. The packages are well planned to include stops at tourist spots, hotel accommodation and meals at attractive prices.

But why the accidents? Quite often they occur at night. Sleepy drivers or whatever. Perhaps the answer lies in that tour buses should not travel at night. What is the point of travelling at night when you do not see the country at all? Overnight travelling by land should be on the railway only.

A coach tour through Europe always begins in the morning and ends in the evening. You reach your hotel for the night in time for dinner and after that, a good night's sleep in a proper bed. I did a coach tour of Europe and visited many countries. There was only one driver for the entire tour of nearly three weeks. He was always cheerful and alert. During the day, we had frequent stops at some historical or interesting places or for a meal. There was always time for the driver to take a rest from driving and stretch his legs.

One of the causes of accidents of buses on our roads is that our

buses are insufficiently powered. During a seminar, I travelled by bus up Genting Highlands. As the bus went uphill, it started going backwards. It was underpowered. We got out of the bus to avoid an accident. The coach buses in Europe are high powered. Going up steep hills and mountains was effortless. The engine purred but never groaned. Some of the roads are quite narrow and winding but with power steering and efficient braking system, the journeys were a breeze.

The recent Genting Highlands bus plunging into a ravine should not have happened. How did the bus leave the depot without a routine check of all systems? At one time in Kelantan, buses were always breaking down everywhere and the bus company nearly went bankrupt. Mara took over the company and appointed an English mechanical engineer as manager. He introduced a check-list system before every bus left the depot. If a bus broke down on the road, the blame fell on the foreman who signed the bus out. He was fined and soon there were no more broken-down buses.

Another cause of accidents on our highways is lorries, either because they have broken down or are moving too slowly due to overloading and being underpowered. In Russia, long distance lorry drivers are trained to repair the engine should it break down. Lorry drivers should not drive for more than four hours at a stretch. They should be provided with a proper cabin, air-conditioned for long journeys, with sleeping facilities for a co-driver.

The rule requiring an attendant at the back of the lorry should be abolished. If container lorries do not require such people, why impose it on other lorries? They live precarious and uncomfortable lives. Many have fallen off without the driver even realising. With modern signalling facilities, there is really no need for the attendant.

To prevent accidents, the rear portions of buses and lorries should be brightly coloured and reflective to light. To assist the police, all taxis, buses and lorries should have the registration number of the vehicle boldly painted on the roof top for easy identification by helicopter. This will not only prevent thefts and hijackings of commercial vehicles but also assist the police in hot pursuit after the commission of a crime or hit-and-run case.

Let our holidays and festive seasons be times of joy. With careful drivers and effective law enforcement accidents can be avoided.

Civil servants must improve their English



14.3.96

IT comes as no surprise to hear that Datuk Dr Mazlan Ahmad, the Director-General of the Public Services Department, found it necessary to make the observation that new officers in the civil service are incapable of speaking and writing in English in his address to new appointees of the civil service at Intan recently. The appointees are fresh university graduates.

The problem arises as the result of the education system of the not-so-recent past, which over-emphasised Malay and practically made the speaking and writing of English as being anti-national. It began in the 1960s with first a National Language Week, then a National Language Month and finally the National Language always.

Incidentally, it is wrong to refer to the National Language as 'Bahasa' which simply means language. The National Language is Malay just as English is said to be spoken in Britain, the US, Canada, Australia, New Zealand, India and many other countries.

The switch from English to Malay at official levels in the 1960s had many pitfalls. When my father was the Official Assignee, he was told that the Minister was on the telephone. He picked up the telephone and said: "*Pejabat Syphilis*". Minister Datuk Suleiman said: "No Moody, *Pejabat Muflis*" (new Malay name for Bankruptcy Office).

Tun Sambanthan was Minister of Works. At a ceremony to hand over a building to the Welfare Ministry, he made a speech written for him in Malay. At the bottom of the speech was an instruction in English: "Now invite the Welfare Minister to unveil the plaque." Continuing in Malay, Sambanthan turned to Datin Fatimah Hashim (now Tan Sri), the Welfare Minister, and said: "*Sekarang Datin boleh buka kain*" (an unfortunate invitation to undress!).

In Parliament, a certain minister with limited knowledge of Malay answered all supplementary questions during Question Time with the words "*boleh timbang*" (literally can be weighed but meaning will be considered). The Minister began his career as a rubber dealer in a Malay district before entering politics. When the local Malays asked him how much they would be paid for their rubber sheets, his stock answer was "*boleh timbang*", meaning weigh before deciding on the price.

To command any language needs practice, listening, speaking, reading and writing. In my student days in India, I could speak

Malayalam, the native language of Travancore (now part of Kerala) and even read the newspaper in that language. For my matriculation examination I had to take an Indian language. I chose Hindi. I went to the cinema three times a week to watch Hindi films and bought Hindi gramophone records, which I listened to every day. I passed the examination.

At university I was required to take a foreign language. I chose French because at that time, it was the internationally recognised language of diplomacy and considered more cultured than English. Notice how the more expensive English restaurants have their menus in French.

We had a good teacher and within three months, we were reading Victor Hugo's *Les Misérables* in the original text. When I returned home, I tuned in to Radio Saigon every day until the French lost the Indo-China War and the radio station stopped broadcasting in French.

In Malaysia, there are tremendous facilities to learn English. Not only are there people almost everywhere who can speak English but there are English newspapers, books and magazines easily available. In addition, there are radio and television broadcasts in English.

Yet in our universities, the students hardly speak English. They think in Malay and write in English. Confronted with English textbooks as their resource material, they translate into Malay in order to understand the text. About 90 per cent do not read a daily newspaper in any language and so are out of touch with current affairs and events.

When I was a judge, a magistrate newly transferred to Kuala Lumpur paid me a courtesy call. I spoke to him in English for about 20 minutes. He nodded politely from time to time until he said: "*Minta ma'af Yang Ariff, saya tidak faham Bahasa Inggeris*" (indicating that he could not understand English). He had been through school and university entirely in the Malay medium. Obviously, he will never be able to deal with complex questions until he improves his command of English.

Perhaps at Intan, every trainee should be made to buy a daily English newspaper and write each day a summary of the editorial, the main front page news item, the top story from the business page and one optional item of his choice. Hopefully our civil servants will not only improve their English but also keep abreast with what is going on in the world. And acquire the habit of reading a daily newspaper.

As a consumer organisation of the products of our universities, my sympathies go out to Mazlan.

Sign of the times – forging a unique identity for the country



21.3.96

TRAVELLING abroad, the expectation is to see something different, if not the climate at least the geography, the people, the architecture, culture and customs of its inhabitants. Indeed every other place can be said to be different in some way, which is the bedrock of the tourism industry. Inevitably, the traveller forms certain impressions of the country visited.

During a visit to Egypt, I was taken to see some of the ancient tombs of the rich and the famous, which are more than 5,000 years old. The paintings in vivid colours, which still survive in spite of the passage of time on the walls inside the tombs, depicted life as it was then, the idea being that the departed will not miss the scenery he was used to during his lifetime.

Coming out of the tombs, I found that the countryside scenery had not changed at all, the farmers being dressed as their ancestors did and tilling the land in the same way as shown in the paintings.

There is much fascination visiting ancient cities but new cities tend to be the same the world over – highrise buildings, flats and apartments are basically of common architectural design.

Once inside a five-star hotel, you could be in any other part of the world as they are so much alike in layout and facilities. Even the food.

A special characteristic of any place, however, is the lettering of street names, road signs, billboards and signboards which distinguishes the place from any other. How different are the letterings in China, India, the Middle East, Europe and other fascinating places.

Notice the difference between the Hebrew script of the Israelis and the Arabic script of the Palestinians in the news broadcasts. In Bali, the street names are written in Sanskrit to remind you of its Hindu origins.

Alas, as far as the lettering is concerned, there is nothing really unique about Malaysia.

Certainly there is not much difference between Singapore and Malaysia, the letterings being just Roman letters and Chinese characters everywhere.

Yet, there is no reason why this should continue to be so. Admittedly Malay was merely a spoken language and became a written language only with the advent of Islam in the 15th century.

Malay came to be written in the Jawi script, which is an adaptation of the Arabic script with certain modifications. All writings in Malay were in the Jawi script. It has been with us for nearly 500 years. Jawi was taught in all schools where Malay was taught as a subject.

Even my teacher, Miss Soo Kim Lian in the special Malay Class in an English school in Singapore, invariably wrote in Jawi whenever she had anything to write in Malay. Many non-Malays I know also write Jawi.

In recent times, an attempt is being made to standardise spoken Malay called Baku, which simply means to pronounce the word the way it is written.

The endeavour has not been very successful simply because the script used is Rumi. The only way to pronounce a Malay word correctly is from Jawi.

It is as if the Jawi script was invented especially for the Malay language.

It also reflects the Malay character of being brief if he can.

In forming a word, if a letter is awkward for its formation, the letter is simply dropped. Command of language does the rest. The Arabic is more elaborate where one or two letters in a word are not pronounced at all.

Now, where did Rumi come from? It was brought by the British when they seriously began to interfere in our internal affairs towards the end of the 18th century. The English letters were first evolved by the ancient Romans from that of the Greek by way of the Etruscan alphabet, consisting of 23 letters upon which are founded the modern western European alphabets. Hence Rumi.

Article 152(1) of the Federal Constitution reads:

"The National language shall be the Malay language and shall be in such script as Parliament may by law provide."

Parliament has done so in the National Language Act 1963/67 which provides in section 9:

"The script of the national language shall be the Rumi script: Provided that this shall not prohibit the use of the Malay script, more commonly known as the Jawi script of the national languages."

In some ways, this was a pity.

There are many non-Arabic languages which have adapted the Arabic script which have flourished over the centuries without having to change the script as, for example, Urdu (spoken in India and

Pakistan), Persian, several languages in Africa and the Muslim republics in the Russian Federation.

Be that as it may, why not use Jawi to project the image that Malaysia is unique and having a distinct character that is different from our neighbours?

Street names should be in both scripts with Jawi on top of the Rumi. Road signs along highways should also be in Jawi and Rumi, either Jawi on top of Rumi or alongside each other. Signboards and billboards should display the Jawi script more prominently than other scripts.

Approaching Kuala Terengganu town from the airport at night, one is struck by the illuminated word, Allah, in the Arabic script as if it is suspended in the sky but in reality it is fixed on top of a hill.

Malaysia has many attractions for the tourist.

The use of the Jawi script as suggested, which no tourist can avoid seeing, will add that little extra to make this country unique.

A traveller entering Malaysia from Singapore will immediately notice the difference just as much as he will notice the difference when entering Thailand from Malaysia.

That is what the tourist is looking for.

What indeed is Malaysia?



4.7.96

WHAT is Malaysia? After 33 years it seems that there is still some confusion as to the meaning of its concept, constitutionally speaking that is.

In the early 1960s when the idea was first mooted by Tunku Abdul Rahman, then Prime Minister, to create a single nation consisting of all the territories in the region that were formerly under British rule, namely, Malaya, Singapore, Sarawak, North Borneo (now Sabah) and Brunei, there was a difference of opinion as to whether the proposed nation should be called the Federation of Malaysia or the Confederation of Malaysia.

The Tunku, being the astute statesman that he was, suggested that the nation be called simply "Malaysia". All parties agreed to this suggestion. That, of course, leaves the question whether Malaysia is a federation or a confederation.

A federation consists of a group of states independent in local matters but united under a central government for other purposes, for example, defence, foreign affairs and a common currency. The system aims to maintain national unity while allowing for regional diversity. A confederation, on the other hand, confers minimal power on the national government with the states retaining most of their legislative and executive powers. Malaysia is a combination of both systems, much of the federation and a little of the confederation.

The apparent confusion that exists today can be related back to history.

On Merdeka Day (August 31, 1957), Article 1 of the Constitution read (in part):

- "(1) The Federation shall be known by the name of Persekutuan Tanah Melayu (in English the Federation of Malaya).
- (2) The States of the Federation are Johore, Kedah, Kelantan, Negeri Sembilan, Pahang, Perak, Perlis, Selangor and Terengganu (formerly known as the Malay States) and Malacca and Penang (formerly known as the Settlements of Malacca and Penang)."

The country was popularly known then as Tanah Melayu. Many motor cars at the time even had "PTM" badges. The name "Malaya" was considered a British concoction.

When Malaysia was established on September 16, 1963, it consisted of four components. Article 1 was reworded as follows:

- "(1) The Federation shall be known, in Malay and in English, by the name Malaysia.
- (2) The States of the Federation shall be the States of Malaya, namely Johor, Kedah, Kelantan, Malacca, Negeri Sembilan, Pahang, Penang, Perak, Perlis, Selangor and Terengganu; the Borneo State, namely Sabah and Sarawak; and the State of Singapore."

On August 9, 1965, Singapore separated from Malaysia and Clause (2)(c) was deleted.

On April 16, 1984, however, Article 1 was amended again and Clause (2) now reads as follows:

"The States of the Federation shall be Johor, Kedah, Kelantan, Malacca, Negeri Sembilan, Pahang, Penang, Perak, Sabah, Sarawak, Selangor and Terengganu."

On the face of it, therefore, for the last 12 years the general impression is that all the states of Malaysia are of equal status. The people of Sabah and Sarawak resent any such impression and say that they are more than equal with any of the states of Malaya. They say that Malaysia now consists of three components, namely Malaya, Sabah and Sarawak.

On a recent visit to Sarawak, I had to produce my international passport to enter the state. The Immigration there stamped it with a social visit pass valid for three months and "not permitted to engage in employment, business or professional occupation"! This is an illustration of the special position of Sabah and Sarawak compared with the States of Malaya, because the law says that the right of every citizen to move freely throughout the Federation and to reside in any part of thereof under Article 9 of the Constitution does not include Sabah and Sarawak.

In the early days of Malaysia, the Government sent a civil servant to Sabah as Federal Secretary to be resident there. The official considered it his duty to show the flag which he did by flying the Malaysian flag on the bonnet of his car. The people there were not amused and said the official was behaving like a colonial governor. He was recalled and the post was abolished.

The truth of the matter is that the states of Sabah and Sarawak do have more legislative and executive powers than any of the states in Malaya. This is provided for in Article 161 of the Constitution. Their native languages are preserved, including for official purposes. They have their own system of Native courts. Lawyers who are non-residents in either state are not permitted to practise before the courts in Sabah and Sarawak. They are entitled to collect taxes which are federal taxes in Semananjung. And, of course, there is the residual power of legislation under Article 77 in respect of any matter not enumerated in the Federal List, the State List or the Concurrent List except in respect of any matter which Parliament has power to make laws.

Under the federal system, it is the states which before joining the Federation were sovereign states and had full power to legislate but on joining the Federation gave up some of their powers to the Federal Parliament. The principle is that the Federal Authority only has powers which the states have given to it.

And so it came to pass as to who has the power to legislate on the

environment. Until smoke started belching from factory chimneys and motor vehicles, landslides and floods occurring all over the place, the writers of our Constitution were oblivious to the importance of the environment and hence made no mention of it in any of the legislative list. The contention is that we now have a constitutional issue. What indeed is Malaysia?

Protect environment from developers



10.4.97

IT is said that every time Datuk Seri Dr Mahathir Mohamad sneezes, lesser politicians and bureaucrats are galvanised into action, all echoing with similar refrain what should have been obvious if only they had done something about it much earlier. So said a politician recently, perhaps with tongue in cheek.

I am reminded of the old days of a gramophone and record company with the brand name of His Master's Voice. The company's logo depicted a horn and a dog. The dog will be in a sitting position with its ears practically glued to the exit end of the horn, a picture of rapt attention, obedience and loyalty.

Time and again, for more than 15 years, the Prime Minister has been cast in the role of an oracle for something to be done about anything only after he had spoken.

It now seems a long time ago when we were invaded by wave after wave of Vietnamese refugees. The Government appealed to the world community for assistance because we could not afford to accommodate and feed the thousands who came to our shores and islands.

Our pleas fell on deaf ears for a long time until Dr Mahathir spoke out in obvious desperation.

The Western press reported that the Malaysian Government had ordered the army to "shoot" any more refugees.

Tan Sri Ghazali Shafie, who was the Foreign Minister at the time, clarified the statement. He said that what Dr Mahathir actually said was "to shoo" the refugees away.

The misreported statement, however, drew worldwide attention and soon thereafter, our Vietnamese refugee problem received the proper attention it deserved, including from the United Nations.

The latest sneeze came about when the Prime Minister was flying by helicopter from Terengganu to return to Kuala Lumpur. From the air, he was horrified at the sight of what looked like a desert in the middle of a tropical jungle. Bulldozers had viciously levelled hills and stripped a rain forest bare, landfilling a river in the process.

The local authority responsible for the administration of the area said that the project was designed to have been developed in five phases. It had issued five compliance notices to the developer, all of which had obviously been ignored.

The developer had taken the easy and cheap way out by cutting down the trees and levelling the entire area in one go.

It is easy to issue notices, however strongly worded and threatening, but without follow-up and law enforcement, the effect of such notices is no more than an irritant to developers.

But this particular episode is not unique. Development projects are progressing simultaneously all over the place.

The truth of the matter is that our regulatory agencies do not have the manpower resources to keep an eye on all the projects all at once. In addition, there is too much trust that everybody will comply with the regulations and approval guidelines.

It is assumed that the professionals will observe the ethics of their respective professions.

Regrettably, these assumptions are now misplaced because there are not enough of them to be on the ground.

In the 1960s when I was building my house, I had weekly site meetings with the architect, the structural engineer and the contractor for the six months that it took to build the house.

All materials to be used were subject to inspection and approval of the architect. The main contract price was only RM38,000!

Today it is difficult to find an architect who will be interested to design, let alone supervise a house under construction if the estimated cost is less than RM2 million!

At issue here is the environment. Our forests and rivers must be preserved and protected, otherwise we and the future generations will be in serious trouble.

Development is inevitable and indeed a necessity but it should not be at the expense of the environment which, once lost, may never be recovered.

Perhaps the time has come to empower the Ministry of Science, Technology and Environment with extraordinary supervisory and executive powers, like requiring its approval before a forest is degazetted by the State Authority or even granting timber logging licences.

Too often too late much damage has been done. We cannot afford any more *nasi sudah menjadi bubur*.

And certainly awaiting the Prime Minister's next sneeze is not something to be proud of.

Ensure *halal* food is genuinely so



3.7.97

OVER the years, lifestyles have changed, quite dramatically in fact. There was a time when we had most of our meals at home. Mother's cooking was always associated with good cooking. It still is. Indeed, a selling point today is to advertise mass-produced foodstuffs as home-cooked!

As long as meals were cooked at home, Muslims did not worry whether the food was *halal* (lawful) or *haram* (unlawful). In the old days, chicken was bought alive and slaughtered at home in accordance with Islamic rites. I became quite an expert chicken slaughterer! Other meats were slaughtered by Muslims and sold fresh in the local wet market.

Today, shopping is done in supermarkets. The chicken is already slaughtered and cleaned, either whole or in pieces.

Frozen meat is the order of the day. And several types of other foods come in packets and cans.

The Muslim shopper looks for the *halal* label before he buys anything.

The majority of the *halal* label does not indicate on whose authority that it is *halal*. Some restaurants display the sign 'Ditanggung Halal' but does not say by whom.

Foods which are otherwise *halal* for Muslims may become *haram* if certain forbidden ingredients are used in its preparation, as for example gelatine. Even peanuts can be *haram* if fried in lard.

It is therefore important to assure Muslims that foods labelled *halal* are in fact *halal*.

Of course, if the foodstuff is not really *halal*, the seller and the manufacturer can be prosecuted under the Trade Descriptions Act 1972 (for making false or misleading statement) or under the Food Act 1983 (fraud in the preparation, sale and use of food). Such laws, however, do not assist the individual Muslim consumer. He has purchased the article in good faith relying solely on the *halal* label.

To be sure, many of the *halal* labels are used after obtaining approval from the state Islamic authority. But with 14 separate Islamic authorities, the labels can be quite confusing especially when manufactured food products from various states are sold at the same place.

Malaysia is a small country. To avoid confusion and suspicion, the *halal* label should be issued by a single authority. That authority should be the Islamic Development Department of Malaysia (Jakim) of the Prime Minister's Department with its very distinctive *halal* label bearing the registration number of the manufacturer.

The Jakim *halal* label should be used not only by food manufacturers in Malaysia, but also on all imported foodstuffs for the consumption of Muslims as a form of re-endorsement of its authenticity of being *halal*.

Jakim staff are properly qualified religious food inspectors. Jakim should also collaborate with the state religious authorities, Sirim, the Chemistry Department, the Veterinary Department and the Health Department. In addition, it should have linkages with food manufacturers and slaughterhouses in foreign countries from which our meats and manufactured food products are imported.

An initial registration fee should be charged for use of the *halal* label and thereafter an annual service fee. This will pay for operating expenses, including periodic inspections of the premises where the foods are manufactured or meat slaughtered.

'*Ditanggung Halal*' displayed in restaurants and hotels is good for business. Indeed, many five-star hotels now serve food which can be eaten by Muslims. Such premises should in addition display prominently the certificate issued by Jakim that the food served therein is *halal*. It should also display the *halal* label on the menu.

Halal restaurants are symbolic of the Malaysian lifestyle where people of different religions, cultures and races mingle together freely and enjoy the wide variety of Malaysian cuisine. *Bon appetit*.

Consider setting up National Fatwa Council



17.7.97

MALAYSIA is a model to other Muslim States in combining economic, scientific and technological advancement with sustaining and advancing Islamic values in a multi-religious society. Events of the past weeks, however, may have caused ripples in an otherwise placid sea.

The turbulence was caused by the arrest and prosecution of three young Muslim women who participated in a beauty contest in Selangor because they were not dressed in accordance with the Quranic injunction:

"And say to the believing women that they should lower their gaze and guard their modesty;

"that they should not display their beauty and ornaments except what (must ordinarily) appear thereof;

"that they should draw their veils over their bosoms and not display their beauty except to their husbands, their fathers, their husbands' fathers, their sons, their husbands' sons, their brothers or their brothers' sons, or their sisters' sons, or their women, or the slaves whom their right hands possess, or male servants free of physical needs, or small children who have no sense of the shame of sex; and,

"that they should not strike their feet in order to draw attention to their hidden ornaments.

"And o ye Believers! Turn ye all together towards Allah, that ye may attain Bliss." (Al Nur, surah 24:31)

Being a Quranic injunction, the dress code for women is observed strictly in cities like Mecca, Medina and by Muslim communities in several countries, exposing only their faces and hands.

In former times in Malaysia, only grandmothers, widows and women who have performed the pilgrimage covered their heads. Now an increasing number of women wear the *tudung*, including schoolgirls and women university students, either because institutional regulations require them to do so or out of personal choice.

The Selangor prosecutions for not observing the dress code by Muslims are the first in the country, hence the outcry by women writers and commentators who were more than somewhat critical at the turn of events to the extent of alleging selective prosecutions by the authorities.

Their outburst is perhaps understandable because it is a common

sight for royalty, ministers, ministers' wives, government officers, the rich and famous Muslim women to appear at public functions with uncovered heads. But this is not exceptional. Many Muslim women in other parts of the world, including the Middle East States, go about with uncovered heads.

What then of the Quranic injunction?

So our Muslim women and the Islamic religious authorities are now in some sort of a dilemma. Indeed, the three young ladies who are from the northern states even contended that they were not aware of the Selangor law.

The question arises on the importance of having a uniform set of administration of Islamic laws.

Article 3 of the Federal Constitution provides, *inter alia*: "In every State other than States not having a Ruler as the Head of the religion of Islam in his State, in the manner and to the extent acknowledged and declared by the Constitution of that State, and, subject to that Constitution, all rights, privileges, prerogatives and powers enjoyed by him as Head of that religion, are unaffected and unimpaired; but in any acts, observances or ceremonies with respect to which the Conference of Rulers has agreed that they should extend to the Federation as a whole each of the other Rulers shall in his capacity of Head of the religion of Islam authorise the Yang di-Pertuan Agong to represent him." States without a Ruler provide in their Constitution conferring on the Yang di-Pertuan Agong the position of Head of the religion of Islam in that state.

By invoking this constitutional provision, the commencement of the Fast of Ramadhan and celebration of Hari Raya Aidil Fitri and Aidil Adha are observed on the same days throughout Malaysia.

The Mufti of each state is conferred with the power to issue *fatwa* (ruling) on religious practices and observances by Muslims. How our Muslim women should be dressed in public could be resolved by a *fatwa*. For the avoidance of doubt and in favour of uniformity and consistency, there should be only one *fatwa* on the subject because at present there are conflicting *fatwas* on a particular matter between one state and another.

Perhaps by invoking Article 3 of the Constitution, the Conference of Rulers should establish a National Fatwa Council consisting of all the State Muftis to issue *fatwa* from time to time for the approval of the

Conference of Rulers before the *fatwa* is gazetted, publicised and made binding on all Muslims in the country.

We would then be spared the embarrassment of the past weeks and preserve our image of the model state.

Narrow the income gap to spread out talented people



28.8.97

THE Prime Minister, Datuk Seri Dr Mahathir Mohamad, the other day made a very significant statement. He said, if you want to be rich, do not become a politician or a government servant. These positions, he said, call for dedication in the service of the country above considerations of financial rewards.

To illustrate the point he was making, he said his monthly salary as Prime Minister is RM16,000, whereas some heads of corporations under his ministry were paid much more than that. The Prime Minister's statement is in fact reflective of the changes in our social order that have taken place since independence.

Before independence, government servants were considered the elite of society because of the power and prestige they held in public life. Senior officers of the civil service held positions of Chief Minister, State Secretary and District Officer, which wielded considerable political power. In states with hereditary Rulers who were sovereign and exercised absolute power, these officials were directly linked to the palace. All official acts were expressed in the name of the Ruler, hence the Malay word '*kerajaan*' for government. In Johor, for example, government funds were referred to as *duit raja*.

Government servants then were truly dedicated. Many were the sons and grandsons of people who were themselves government servants. There were family tradition and honour to uphold. Added to this was job security and the lifetime pension to look forward to. Indeed, they enjoyed a lifestyle way above that of most ordinary people on their government salaries. Hence corruption was practically unheard of and the standard of integrity in public life was high.

The social order and environment of the time attracted and retained the best qualified people in government service. Businessmen were

regarded as belonging to a lower strata of society. After independence, there was a perceptible shift of the best people into politics because political power had now passed from the civil servant to the politician elected by the people.

Many civil servants resigned and entered politics. Indeed, all our prime ministers so far were initially in government service. So also were a number of cabinet ministers until the late 1970s.

They carried with them the same standard of integrity in political life as they did when in government service. In addition, they had played an active part in the fight for independence from colonial rule.

They were truly dedicated in the service of the country and the people. Led by example, the public service as a whole was still largely clean and free from corruption.

The next major shift of the best people began to occur in the aftermath of the racial riots of May 13, 1969, which gave birth to the New Economic Policy. Thousands of school-leavers were sent abroad to acquire higher academic and professional qualifications.

On their return, they began their careers in the private sector. Within two decades, they had risen to be captains of industry.

The corporate world has attracted the most brilliant of our university graduates.

They are not interested in joining government service or even entering politics. In their mindset, government servants and politicians are there to serve their business interests.

They are now the elite of society with their luxurious homes, cars, yachts and private jets. It is the era of the rich and the famous. They receive enormous salaries, fees and allowances.

In addition, they are not exposed to the regulated and transparent life of a government servant or politician who are often blamed when things go wrong and seldom acknowledged when things are right.

Government servants and politicians are not exactly poor. The huge and widening disparity in incomes between the public and private sectors, especially between people with similar qualifications in the higher levels of both sectors, however is cause for national concern, not the least of which it creates a fertile ground to sow the seeds of corruption.

There is obvious disenchantment and frustration in the public service. Many highly qualified civil servants are still in government

service only because they have to serve out their bonded period in government under their scholarship contracts. They are waiting for the time to get out, even with the loss of pension rights. With such people, dedication in the service of the country is furthest from their minds. If the present trend continues unabated, we will end up with a mediocre civil service and puppet politicians by the year 2020.

To be sure, the country needs talented people in government service, politics and the private sector. Some sort of balanced distribution of talented human resource has to be achieved and maintained.

It seems that the only practical way is to narrow the gap in incomes between the public and private sectors. Of course, this will cost the taxpayers more but quality does not come cheap. It is not too high a price to pay for a corruption-free public service, which we once had because our government servants and ministers were the best paid in the region.

It must be remembered that without dedicated government servants and politicians, businessmen will not achieve fame and fortune. It is only fair and just that incomes be equitably distributed.

Dedication yes but often times, the spirit is willing but the flesh is weak!

Home is where discipline takes root



24.9.98

DISCIPLINE is often emphasised in our daily lives but seems to be an elusive characteristic. There is indiscipline at home, in the schools, at the workplace and even in political parties.

On the global scale, indiscipline has resulted in the current financial crisis, stock market and currency exchange distortions.

Discipline, however, can be instilled and enforced if it is the core requirement of an organisation. The best example of such an organisation is the military because without strict enforcement and adherence to discipline, battles cannot be fought and wars won. The strict observance of discipline required in times of war is continuously enforced in times of peace so that the military is for ever battle-ready.

The military discipline includes the wearing of uniforms for officers and men and that, too, the uniform must be clean and pressed and

worn smartly down to the angle of the headdress. Such discipline has become almost instinctive. This is true of the military in practically every country. In several countries, it is about the only organised and disciplined organisation so much so that in times of national instability and political crisis, the military is a natural choice to enforce law and order and even govern the country.

The civilian population is not subject to such regimentation. Indeed, the popular attitude is that because they are not in the military, they should not be subject to strict discipline. Therein lies the fallacy and the root cause of most of our problems today.

Where and when do we then begin to instil and practise discipline as a way of life? The obvious place is in the home and nurtured from childhood.

It is said that grandparents spoil children. Not necessarily so. I was raised by my grandfather from the age of two-something. Grandfather was a strict disciplinarian. He disciplined himself at all times and imposed discipline on the entire family. He was always properly dressed for all occasions, even at home. Meal times were strictly observed. We had to be at the table on time and properly dressed. Strict eating habits and table manners were observed but in spite of that, we enjoyed our meals and a family atmosphere prevailed always.

After breakfast and dressed for school, I had to appear before grandfather for kit inspection: hair properly combed, shirt properly tucked in, the belt buckle in the centre and properly strapped, socks properly turned up, shoelaces tied properly in exactly the same length on both sides and the shoes, white clean with no part of the bottom lining covered with any dripping of the blanco. Finally, both arms outstretched to show that the nails were manicured. I have observed this dressed-up discipline ever since.

Grandfather had a bowl full of five-cent coins. On the honour system, I was only to take one five-cent coin each day for school, a discipline in honesty and trust. To tell a lie was practically a capital offence. I just could not tell a lie to grandfather and readily owned up if I made a mistake or did something wrong.

Discipline at home is the responsibility of parents who themselves should be disciplined to impart discipline to children. At school, discipline is the responsibility of the teachers. They should themselves be punctual and properly dressed to motivate the pupils. Punctuality

should be a Malaysian cultural habit. Teachers should inspect the uniforms of the pupils to ensure cleanliness every morning before they are allowed to enter the class.

If there is indiscipline in school, then we will be raising a generation of undisciplined adults. At the workplace, discipline is the key to productivity. Here again discipline includes pride in personal appearance, punctuality and dedication to work during working hours.

A truly disciplined person is an honest person and instinctively abhors corruption, fraud, theft, greed or abuse of power and position. He does not throw rubbish all over the place, polluting rivers; he cares for the environment. There must be a limit to personal freedom. Lack of discipline is very corrosive and affects society as a whole.

Surely with our cultural and religious backgrounds, it does not require much effort to restore the disciplined society we have had in the past before its erosion by external influences.

It's all about caring for society



29.10.98

THE 1999 Budget announced last week at last gave a ray of hope to government servants over a matter which had exercised their minds for years. Prime Minister Datuk Seri Dr Mahathir Mohamad, in his capacity as the First Finance Minister in his Budget speech, proposed that "one Saturday per month be declared as a holiday for the public sector. The private sector is encouraged to take a similar step."

The proposal was made in the context of promoting domestic tourism in line with efforts to revive the economy.

Although much appreciated, the general view however was that the Government should have proposed a total five-day week. Many private firms have long since observed a five-day work week. Moreover, a weekly two-day weekend will provide for a better over-spread of transport and accommodation facilities in promoting domestic tourism.

Government servants have been asking for a five-day work week ever since *Merdeka*. It was first refused on the ground that it would increase the overtime payment bill. Later, it was refused on the ground that the five-day work week was a luxury which the country could not afford at a time of rapid economic development.

The Royal Commission on the Salaries and Conditions of Service of Employees in Statutory Bodies and Local Authorities, 1971 recommended a five-day work week. It also recommended a common weekend for all states. After consulting all religious bodies and obtaining their consent and Bank Negara on the effects of foreign exchange and trade, the commission recommended a common weekend of Friday and Saturday. So far, only Kelantan has implemented these recommendations.

Over the years, times have truly changed. When I first entered government service more than 50 years ago, nearly all government office workers were men. The women were largely employed as school teachers and nurses in hospitals. Wives were content to stay at home to look after the children, cook and attend to the many chores of house-keeping. Mother was always at home ready with a hot meal when the children returned home from school. There was much love in the family and parental control.

Nowadays both parents are at work, leaving the children to their own devices after school leading to *lepak*, *bohsia*, drug-taking and an increase in juvenile delinquency. A five-day work week would at least reduce present-day social ills and promote a caring society. So that children will have more quality time with their parents, schools should also observe a five-day week, if necessary by reducing the number of long school holidays.

The five-day week does not mean government servants will work less. They have to work longer hours each working day to make up for lost Saturdays or Thursdays as Kelantan has done. In addition, the Government will make significant savings in operating costs like reduced electricity bills by closing on half-days. As a "trade-off", I would humbly suggest that non-religious public holidays like Workers Day, the birthdays of the Yang di-Pertuan Agong and the Rulers should be celebrated on Saturdays without being replaced by a public holiday on the following working day.

For the last 17 years, residents of Peninsular Malaysia have had to put up with an unnatural clock of GMT plus 8. Most religions observe prayers at sunset but social invitations to dinners and weddings are still for 7.30pm or 8pm. Many Muslim schoolchildren and workers have to miss *subuh* prayers in order to be in school at 7.30am or at work by 8am. We should revert to GMT plus 7 by January 1, 1999. Malaysia will

still be a united nation in spite of separate time zones for Sabah and Sarawak and Peninsula Malaysia.

Finally, the Prime Minister also announced that there will be no bonus for government servants because of the economic downturn. In government service, the word "bonus" is a misnomer because it is profit-oriented. The lower-paid government servants in particular look forward to the so-called bonus as a necessity to pay for school books and uniforms of their children at the end of each year.

The solution is to fix government salaries on an annual basis, namely the salary of an official is so much per annum rather than the present practice of so much per month. To effect the change, the existing monthly salary is multiplied by 12 to determine the annual salary. The annual salary is then divided by 52 to determine the weekly salary. Multiply the weekly salary by four for the monthly salary payment which will in effect equal to 48 weeks per year.

The balance of four weeks salary is the "bonus" or more correctly "deferred salary payment", which can be paid out in full at the end of each year or half of it at the option of the employee for Hari Raya Puasa, Chinese New Year, Deepavali or Christmas and the other half at the end of the year. When times are better, the annual salary or the weekly rate can be revised upwards.

The 1999 Budget is about a caring society. Let us make it really so.

Society will no longer accept lack of maintenance as an excuse



21.1.99

THE Prime Minister, Datuk Seri Dr Mahathir Mohamad, the other day lamented at the lack of a maintenance culture in our society. His lament is not new. In 1949, the Colombo Plan countries held a conference in Karachi specifically to address the problem of maintenance in developing countries.

It was noted that developing countries were constructing new roads, bridges and buildings but paid little attention to their maintenance. It recommended that a maintenance unit should consist of an engineer, four technical assistants and 10 technicians.

This came to be known as the Karachi Formula for maintenance.

Newly independent countries, particularly, were catching up with lost time. Infrastructure projects had to be completed fast to give meaning to their newly found political independence. But financial and human resources were limited and it was then a question of priorities.

Where there used to be road inspectors and drainage inspectors, these technical personnel were diverted to construction projects. With sustained development projects, there really was nobody to look after maintenance. Indeed, even local authorities became development-oriented instead of remaining maintenance-oriented. The result – potholed roads; clogged drains causing flash floods; government buildings in a sorry state of disrepair; and, most regrettably, the perennial problem of dirty public toilets.

The times have much to do with a sustainable maintenance culture.

In the old days, things were made to last. Car owners proudly boasted that their 10-year-old vehicles were still looking new and in good working condition. Grandmothers passed down their Singer sewing machines to their daughters and granddaughters. Sons proudly rode Raleigh bicycles first bought for their father's use.

Many old buildings stand proud and are now declared part of the country's heritage. The Sultan Abdul Samad building for instance is more than 100 years old. The walls are about 30cm thick.

When it was being renovated for the courts, the size of the courtrooms were restricted to existing walls because the walls could not be demolished without causing a collapse of the entire structure.

Nowadays, buildings are constructed with the concrete pillars and beams making a frame. The walls are mere fillers which can be knocked down at any time. And of course, economically, it is cheaper to demolish an old building and construct a new one rather than renovate an old building.

Economics has much to do with the change in social attitudes. As the manufacturing industries reach saturation point in the sale of their products, it becomes necessary to maintain production and increase output.

The solution was to make things not to last longer than three years to create an everlasting consumer market. So when refrigerators, washing machines, toasters and other household equipment break down, one is told that there are no spare parts and it is better to replace them with new ones.

Even cars now are considered old after five years. And periodic cosmetic changes of the product always boost sales. The mindset is then made up – forget about maintenance and replace old things with new.

The trouble, of course, is that certain things cannot just be discarded and changed at will, like roads, bridges and irrigation canals. These have to be regularly maintained.

Society will no longer accept a lack of maintenance as an excuse. The highway authorities should be warned of likely suits for misfeasance and nonfeasance.

Stage buses and express buses frequently break down all over the place. Some taxis are fit for the scrapyard. Such incidents display a lack of supervision and maintenance by the management and the licensing authority. It reflects on society as a whole that our public transport system is dirty and unreliable.

The public authorities should appoint maintenance inspectors to activate a maintenance culture.

At home and in school, children have to be taught as a matter of discipline that cleanliness of one's habits and surroundings are the attributes of a cultured person and society.

But must we wait for the Prime Minister to tell us that we are less than cultured?

Rioting must be severely dealt with



22.4.99

THE Malay phrase, '*tunjuk perasaan*', literally showing one's feelings, aptly describes street demonstrations by members of the public. In recent years, people have taken to the streets for all manner of causes and by way of protesting against the actions of governments all over the world.

Nowadays, not a single day passes without reports and pictures in the newspapers and on television of street demonstrations.

In the US, demonstrations in front of the White House are a regular occurrence. In England, Trafalgar Square in London is a favourite venue for demonstrators. And so also in other parts of the world. Only last week, 5,000 people demonstrated in New York against police brutality of Blacks.

Public demonstrations to right a wrong or to demand something from the authorities are not new.

On June 15, 1215 at Runnymede, King John of England granted the Magna Carta of political and civil liberties to his people following public protests of his authoritarian rule.

On December 16, 1773, white American colonialists disguised as Indians staged a protest against the British tax on imported tea, boarded British ships in Boston Harbour and threw chests of tea overboard. The incident is known as the Boston Tea Party.

On July 14, 1789, the French people stormed the Bastille, a fortress in Paris used as a prison at the outset of the French Revolution, again because of misrule by the King.

Mahatma Gandhi's non-violent civil disobedience campaigns in the 1940s finally won independence for India from British imperialism.

Nearer home in recent times, public demonstrations have brought down governments in Thailand, the Philippines and Indonesia.

We too have had a history of public demonstrations. The public demonstrations of Umno in 1946 against the Malayan Union Constitution, which made Malaya a British colony, resulted in its abandonment and restored sovereignty to the Malay Rulers and the establishment of the Federation of Malay States in 1948.

Fifty years ago, when the late Tunku Abdul Rahman was President of Umno, he led a public bonfire of the Malay magazine *Mastika* for its anti-Umno contents. In recent times, Umno Youth have demonstrated in front of foreign embassies in Kuala Lumpur for one reason or another.

The question arises: why do people take to the streets?

An obvious answer is that even in countries with democratic systems of government, the rulers are sometimes insensitive to current public opinion.

There are of course parliaments which are supposed to represent the people and to voice public opinion or to bring to the attention of the government the problems of the people.

This is not actually happening. Parliaments nowadays are mainly law-making bodies. Indeed in most countries, including Malaysia, the press has taken over this function from parliaments in voicing public opinion.

Another reason is that public demonstrations have somehow resulted in positive response from the Government.

The public reaction of the Malays to the 1969 General Elections policy, which enabled thousands of Malays to gain access to higher education at home and abroad and a more positive role in the economy of the country, was likewise. It would seem therefore that, for better or for worse, we have to put up with public demonstrations as part of the social change in our daily lives.

As a general rule, peaceful public demonstrations should be allowed (tolerated) as a forum for members of the public to express their views on any matter of public interest. A clear distinction, however, has to be drawn between peaceful public demonstrations for lawful worthy causes or grievances and rioting.

Rioting is not only illegal but is senseless when public property is destroyed, because public property is paid by the taxpayer and is like destroying one's own property. Further during rioting with violence, there is much injustice to law-abiding citizens for the inconvenience and disruption of their daily lives, in addition to loss and destruction of private property.

In most instances, it is the poor who really suffer. Rioting cannot be justified under any circumstances and should therefore be condemned and severely dealt with. Let there be public demonstrations by all means but let them be orderly and peaceful.

The police should gain the confidence of the public that its presence at public demonstrations is to protect them from unruly elements and untoward incidents.

'*Tunjuk perasaan*' will then have real meaning and purpose in effectively conveying the intended message to the authorities and other members of the public.

Cheng Lock's idea of racial harmony still valid today



27.5.99

IN 1946, I journeyed by sea on the *SS City of Paris* from Madras to Singapore. On board I met the late Tan Cheng Lock. With the late Sir Edward Gent of the Colonial Office in London, he had co-authored the Malayan Union Constitution and the future of Malaya was very much on his mind.

He said that the best way to build a future Malay nation was for the Malay and Chinese to inter-marry.

Cheng Lock, who later founded the MCA after Umno and the Malays scuttled the Malayan Union Constitution, was obviously thinking of his home state of Malacca as the model for racial and cultural integration for the rest of Malaya.

The Chinese of Malacca had become better known as Baba and Nyonya. Most of them spoke Malay and many could not speak any Chinese dialect.

The Nyonya had taken to wearing *sarong kebaya* and concocted Nyonya *kuih* and other Malaysianised culinary delights. They were the equals of the Malays in their rendition of the *Dondang Sayang*.

In 1948, I started out in life away from the security and the environment of the family home.

During the first two years, however, my late father arranged that I live with a Chinese family for a year followed by another year with an Indian family. He said that we could not drive the Chinese into the South China Sea and the Indians into the Bay of Bengal. They were going to be my fellow citizens.

I certainly got to know and understand my fellow countrymen better from the fatherly enforced experience.

Cheng Lock's idea of social engineering for a Malayan nation in the form of reverse ethnic cleansing did not take place. Indeed, the people had become politically polarised racially with Umno, MCA and the MIC.

Instead, the late Tunku Abdul Rahman conceived the Alliance Party by forging an alliance of the three political parties, on the basis of co-existence of the three races towards the common objective of independence from British colonialism, which was realised in 1957.

Be that as it may, for more than 500 years, Malaysia's shores have continuously attracted people from other lands.

They came as single men, and it was only a matter of time before the emigrants married the native women, thus creating a melting pot of peoples and cultures.

The present generation of Malaysians is a mixed lot, with Arab, Bugis, Chinese, European, Indian, Javanese, Malay, Pakistani, Sumatran, Thai or Turkish blood.

The Malaysian workplace is now multi-racial and mixed marriages are becoming commonplace.

A Malaysian culture of sorts has evolved over the years with people speaking Malay, the men wearing *batik* shirts, and women, the *sarong kebaya*, albeit with stylised versions.

We have acquired common eating habits like *nasi lemak*, *satay*, *roti canai*, *ichakuey* and *teh tarik*. And of course durians. The dinner table will have dishes of Malay, Chinese, Indian, Thai, Arab and European origins, all served at the same time with rice.

We have come a long way to evolving a truly Malaysian people but much more lies ahead. We have yet to shed identifying ourselves racially. We are Malaysian only when we are in a foreign country.

We still have separate Malay, Chinese and Tamil medium schools. The Sekolah Kebangsaan accepts pupils of all races which has helped reduce racial differences more than somewhat, just as the English medium schools did before Merdeka.

Perhaps the authorities should consider offering Arabic, Mandarin or Tamil as a compulsory third language after Malay and English in all schools, so that eventually there would be only a single school system with all Malaysians being trilingual like the Dutch.

Our political parties are still racially based, largely motivated by the uneven playing fields of education and economics.

If limited to these fields, we will continue to enjoy peace and prosperity. Politicians, however, should be reminded not to overplay race or religion in their politics.

The tragic events of May 13, 1969 should serve as a constant reminder.

Look at what is happening today between the Roman Catholics and Protestants in Northern Ireland; the Hindus and Muslims in India; the Bosnians and the Serbs in Bosnia; the Albanians and the Serbs in Kosovo; the Israelis and the Palestinians; and the Pribumis and the Chinese in Indonesia. The religious and cultural differences of people have been exploited by politicians resulting in bloodshed and the misery of ordinary people.

Recently, Sonia Gandhi almost became Prime Minister of India until someone pointed out that she is of Italian origin and a Christian, and therefore unfit to govern Hindu India.

As our own general election looms ahead, let not the politicians point fingers at the racial origins of others for political advantage because the same can be said of the finger pointer.

As the old saying goes, people who live in glass houses should not throw stones.

What Tan Cheng Lock really had in mind in nation building was racial harmony. This is still valid today, as it was in his time.

Sword of Damocles over the heads of journalists



3.6.99

ON the occasion of World Press Freedom Day last month, 581 Malaysian journalists signed a memorandum calling upon the Government to repeal the Printing Presses and Publications Act 1984.

What is it, then, about this law, that calls for such drastic action? To begin with, Article 10 of the Federal Constitution confers on every citizen the right to freedom of speech and expression. The Act is clearly unconstitutional if the constitutional right stands alone.

There is, however, a historical reason for the Act. When the Emergency was declared in 1948, the Government had to deal with the situation on several fronts.

One of these was to counter Communist propaganda, including the elimination of all means of such propaganda and subversive literature.

This was achieved by enacting the Printing Presses Ordinance 1948, which required all printing presses to be licensed by the Government and also imposed conditions on the licence that the licensee could not print any subversive material.

In addition, all newspapers had to obtain a permit from the Government to publish legally, and refrain from publishing anything that would hamper the Government's war effort.

The 1957 Constitution had to preserve this law because the Emergency was still on at the time.

It did this by providing in Article 10 itself, that Parliament may, by law, impose restrictions on the right to freedom of speech and expression in the interest of the security of the Federation or any part thereof, friendly relations with other countries, public order or morality, and restrictions designed to protect the privileges of Parliament or of any Legislative Assembly, or to provide against contempt of court, defamation, or incitement to any offence.

Under the restrictive provision, the Government also enacted the Control of Imported Publications Act 1958, principally aimed at Mao Zedong's Red Book and other subversive literature printed outside the country.

In the aftermath of the 1969 race riots, Article 10 was amended by adding a new clause imposing restrictions in the interest of the security of the Federation or any part thereof, or public order prohibiting the questioning of any matter, right, status, position, privilege, sovereignty or prerogative, established or protected in respect of citizenship, the national language, the reservation quotas in respect of services, and permits for Malays and the natives of Sabah and Sarawak, or saving for Rulers' Sovereignty.

The Printing Presses and Publications Act 1984 consolidates the Printing Presses Act 1948 and the Control of Imported Publications Act 1958. It imposes restrictions on the right to freedom of speech and expression, but as such restrictions are permitted by the Constitution, the law is valid.

Be that as it may, the administration of the law is a cause of irritation for newspaper proprietors. They have to make an annual pilgrimage to the Home Affairs Ministry to obtain new licences and permits because the licences and permits are only valid for twelve months.

There is no such thing as renewal, with the Minister given absolute discretion to refuse an application for a licence or permit. Once granted, the Minister may revoke it at any time.

Any decision of the Minister to refuse to grant or to revoke or suspend a licence or permit is final, and shall not be called in question by any court on any ground whatsoever.

In addition, a newspaper can be put out of business under the provisions of the Sedition Act 1948, the Internal Security Act 1960, the Official Secrets Act 1972, and defamation suits.

Newspaper printing and publication is therefore a very risky business.

It can cost millions of ringgit to run a newspaper. Innocent members of the public who have purchased shares in the newspaper company can find their investment wiped out overnight.

For the sake of stability of the newspaper industry, the thousands of people who depend for their livelihood on the industry, and the shareholders, perhaps it should be possible, if the Act is to continue to

remain in force, for changes to be made to the law, by at least providing that a licence or permit once issued, shall be valid for all time until revoked by the Minister who must state specific reasons for the revocation.

In a democracy, the press is regarded as the Fourth Estate. The Law of Defamation is more than sufficient to control a newspaper. A Press Council for self-regulation will certainly help.

Damocles was a courtier of Dionysius the Elder, tyrant of Syracuse (405-367 BC). He extolled the happiness of royalty, but Dionysius showed him the precarious nature of a king's fortune by seating him at a banquet with a keen-edged sword suspended over his head by a single horsehair.

Let not the Printing Presses and Publications Act be the Sword of Damocles hanging over the heads of the 581 Malaysian journalists!

Find ways to harmonise racial integration policies



8.7.99

THE conflict on policy seems to pervade. Ever since Merdeka, Chinese and Tamil medium schools have been allowed to co-exist with the national schools, where the medium of instruction is Malay.

At the same time, continuous efforts have been made to integrate the various races.

Legally, all schools are open to all races. Indeed, Malay and Indian children can be found in Chinese schools. And of course, all races can be found in the national schools.

The pupil population in Chinese and Tamil schools, however, is dominated by a single race amounting to racial segregation.

How then to achieve integration of the races?

Education Minister Datuk Seri Najib Tun Abdul Razak recently suggested that students of the different races should share rooms in university hostels to promote more effective integration. The suggestion is timely.

In the past few weeks, I have had to attend meetings at Universiti Malaya. Throughout the campus, I found students in small groups walking to classes.

But each group was singularly racial, without exception – Malays with Malays, Chinese with Chinese and Indians with Indians. I have yet to see a multi-racial group walking to class.

The question is surely asked: When do university students of the various races get together?

Much of these "birds of a feather flock together" attitude springs from childhood.

More than 30 years ago, on a trip to the Pedu dam in Kedah, which was then under construction, I passed through a one-street rural town.

Just beyond the town's boundary, there was a well-built government Malay school with a large football field in front of it. Opposite this school was a Chinese School in a modest building and a basketball field. Next to it was an apology for a school building, housing the Tamil school with no playing field at all.

How does one expect racial integration when from a tender age, the children are racially segregated at school?

Last week, Datuk Seri Najib assured the Chinese community that the Government has no intention of abolishing the Chinese schools. The assurance is consistent with the protection accorded by the Constitution with regard to Chinese and Tamil schools.

In the aftermath of the racial riots of 1969, the Proclamation of Emergency suspended Parliament and established the National Operations Council which effectively became the Government of the country.

The late Tun Abdul Razak, then Deputy Prime Minister, was appointed the Director of Operations. In an effort to promote racial integration, I suggested to Tun Razak to abolish racial schools but retaining the teaching of the various languages. He demurred.

His son, Najib, has maintained the same position but has found a novel way to overcome the problem.

Najib's solution is the three-in-one formula.

The concept is to have all three schools – Malay, Chinese and Tamil – in a single complex, sharing common facilities like the football field, sports facilities, gymnasium, cafeteria and school hall.

What a splendid idea and economical too. At least, the children will be playing and caring together.

But lo and behold, a local politician in a small town in Perak at a Parent-Teacher Association function urged the assembled company to

boycott the forthcoming general election because the three-in-one school concept will effectively demolish the individual character of the local Tamil school!

Even the International Islamic University Malaysia, with students from 98 countries, admits non-Muslim students.

Apart from promoting more purposeful integration of the races at school and university, efforts should also be made to encourage multi-racial sports clubs, social clubs and non-religious associations, if necessary, by directing the Registrar of Societies to de-register organisations with membership limited by race, unless it is opened to other races. The only exception should be purely religious organisations and institutions.

As it is, Malaysia is a very tolerant society.

Unlike in other countries, we have not forced the non-indigenous citizens to adopt native names or prohibit the use of languages other than Malay on the signboards of shops and business premises.

Chinese and Tamil newspapers, magazines and books are freely published and circulated.

Malaysia's practice of tolerance and co-existence should not, however, lead to polarisation of the races and imperceptibly erode all efforts at racial integration towards the ultimate goal of creating a Malaysian people.

Ways have to be found to reconcile what are patently conflicting policies, because an overdose of diversity is an impediment to unity for want of common interests.

Tunku's vision of separate capitals realised



2.9.99

WHEN Malaysia was established in 1963, then Prime Minister the late Tunku Abdul Rahman Putra declared that Kuala Lumpur would be the Washington DC and Singapore the New York of Malaysia, meaning that Kuala Lumpur would be the administrative capital and Singapore the commercial capital of the new nation.

Indeed until then, Kuala Lumpur was the administrative capital of the Federated Malay States before World War II and that of the Federation of Malaya since 1948.

Singapore had become a well established commercial and one of the busiest sea ports in the world ever since Sir Stamford Raffles (1781-1826) founded Singapore in 1819.

The head offices of commercial houses and banks serving the region were all located in Singapore.

When Singapore separated from Malaysia in 1965, however, commercial houses and banks wanting to do business with Malaysia established their head offices in Kuala Lumpur.

In 1974, Selangor ceded Kuala Lumpur to the Federation to establish the Federal Territory of Kuala Lumpur.

Rapid development of hotels, office blocks and apartments followed to cater to the needs of a bustling commercial centre.

The wisdom of separating the administrative capital from the commercial capital of a country had long been recognised.

Hence Washington DC 1800 (USA), Ottawa 1858 (Canada), Pretoria 1881 (South Africa), Kuala Lumpur 1895 (Malaysia), New Delhi 1912 (India), Canberra 1913 (Australia), Ankara 1923 (Turkey), Brasilia 1960 (Brazil) and several others.

An obvious reason for separation between administrative and commercial activities is that the cost of public administration is high if both are located in the same city due to competition for land and services, thus raising the cost of land, office space, housing, social services and basic infrastructures.

Unequal lifestyles due to the disparity of income between government employees and those in the private sector do not make them ideal neighbours or socially desirable.

The former exists to provide a public service at the lowest cost to the taxpayer, the latter is in the sole business of making money. Unequal disposal incomes is the result.

Until the 1960s, Kuala Lumpur was a placid administrative town with tree-lined roads. Most of its inhabitants were government employees who lived in government quarters.

Even government clerks enjoyed a comfortable lifestyle on their modest salary.

The private sector largely provided basic services to the government and its employees like the market, sundry-shops, textile shops, coffee shops, laundry, the cinema and limited banking facilities.

The largest hotel was the Majestic opposite the railway station which

also had a hotel of government resthouse standard on the upper floor of the station building.

For some time now, Kuala Lumpur had become congested. Traffic jams had worsened to the notoriety of other Asean capitals.

From my house in Petaling Jaya, it took me less than ten minutes by car in 1971 to travel to the Sultan Abdul Samad building in Kuala Lumpur. By the time I retired in 1994, the same journey took 45 minutes. Government servants found the cost of living in Kuala Lumpur beyond their means.

The solution was to move government administration out of Kuala Lumpur. Some years ago, there was a proposal to relocate to Janda Baik but was abandoned for a variety of reasons.

Eventually, the Prime Minister Datuk Seri Dr Mahathir Mohamad had to make the inevitable decision to move the federal administrative centre to Putrajaya.

Dr Mahathir has since declared that the federal capital will be in two locations: Kuala Lumpur to remain as the commercial capital and Putrajaya, the administrative capital.

In countries with an administrative capital, the three branches of government, namely the legislature, the executive and the judiciary, are all located in the same city.

The Prime Minister's Department has since moved to Putrajaya and will be followed by other ministries.

Last week, the Deputy Minister in the Prime Minister's Department, Datuk Ibrahim Ali, announced that the Palace of Justice to accommodate the Federal Court and the Court of Appeal will be located in Putrajaya.

In time to come, Parliament will also have to be moved to Putrajaya, thus completing the creation of a separate and truly administrative capital.

Just as the House of Parliament with the Big Ben clock symbolises London, the Sultan Abdul Samad building with the '*Jam Besar*' has symbolised Kuala Lumpur for 100 years. The citizens of Kuala Lumpur and all other Malaysians take pride in this building, which has been the silent witness to changes of government over the years. It faces the *padang* on which *Jalur Gemilang* was first raised in 1957.

When the law courts move out of the Sultan Abdul Samad building, it rightly should be restored to the City Fathers.

It will be most fitting then for the Datuk Bandar to have his mayoral offices in the building in terms of historical significance and the pride of the city.

The Tunku's vision of separate administrative and commercial capitals has become a reality with the completion of Putrajaya. Most appropriately therefore, Malaysia's new administrative capital is named after Tunku Abdul Rahman Putra.

Let not religion divide the Malays

 30.12.99

THE Malays are in a dilemma. There are Malays who are Muslims and there are Muslims who are Malays. The recently concluded general election has generally divided the Malays between Umno and Pas.

What concerns the Malay, who is not a card-carrying party member of either Umno or Pas, is the practice of his religion. He is confused because of his religion. He is confused because his religion has been politicised.

What is meant in this context is that politicians of both political parties have been making conflicting statements on religious issues to the extent that one is claiming to be more Islamic than the other. This was not so in the past.

From his father and his grandfather, he was taught that Islam is a universal religion. That all Muslims are brothers. The *ummah* is borderless and global. In Mecca, Muslims from all over the world pray together and in the same way.

In the past, he would also consult the *imam* of his mosque on religious issues.

Then, there was the *ulama* recognised by the state who would visit the district mosque from time to time to deliver lectures on Islam.

When uncertainty arose concerning any particular religious issue, the State Mufti would deliver a ruling which is binding on all Muslims in the state. More importantly, the ruling is accepted and followed voluntarily by everybody.

The authority of the Mufti, the *ulama* and the *imam* was unquestioned because these learned religious men were apolitical, and did not have any connections with politicians.

Politics was politics and had nothing to do with religious practices. People were free to join any political party but when it came to religion, they were all Muslims. They prayed in the same mosque, attended weddings and funerals as brothers and sisters in Islam.

In recent years, State Governments have successfully separated the Syariah courts from the administration of the Religious Affairs Department, thus restoring the independence of the Islamic judiciary.

The Religious Affairs Department is alleged to be politically motivated and influenced.

Whether or not there is any justification for such allegations, the fact remains that rulings on religious issues have resulted in controversy amongst the people.

It is time that we isolate purely religious matters from day-to-day politics. This can be achieved by the appointment of persons learned in the religion of Islam and who are acknowledged by their peers and respected by the community as truly knowledgeable and learned to be the State Mufti.

Such recognition is accorded to people who possess a doctorate degree in Islamic theology from a recognised university or other reputable institutions. He has perhaps written books and treatises on Islam.

The office of the Mufti should be charged with the responsibility of administering Islamic family law other than judicial functions, as for example the registration of marriages and converts; *zakat*; *fitrah*; *waqaf*; mosques; to advise the Ruler on the selection and appointment of *imams*, *bilals* and *dakwah* officials; and matters generally connected with Islam.

The State Mufti should be accorded the equivalent status, salary and privileges as the State Secretary.

Territorially, Malaysia is a small country with a comparatively small Muslim population. It follows that in matters of religion, and in particular religious rulings, these should apply to the country as a whole.

To achieve commonality, there should be a National Islamic Council consisting of all the State Muftis.

The State Muftis in turn shall elect from amongst the members of the Council the President of the Council and the Grand Mufti of Malaysia.

All *fatwas* or rulings shall only emanate from and be issued by the Council and made binding on all Muslims in the country with the consent of the Ruler of the state.

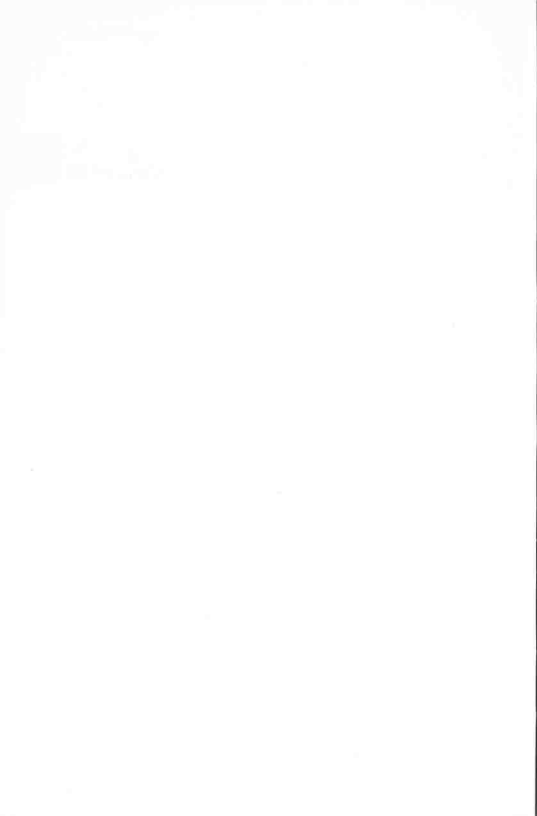
The Grand Mufti shall be accorded the salary, status and privileges equivalent to the Chief Secretary to the Government.

The Government, both Federal and State, will continue to play a role in Islamic matters by the provision of adequate funds for its administration. It will consult the Grand Mufti or the State Mufti as the case may be in respect of any matter affecting the religion of Islam.

Politicians should rightly perform their political roles but they should not confuse the people by being both politician and *ulama* at the same time and pronounce religious rulings. The Malay should never have doubts about the injunction of Islam, irrespective of whichever political party he supports.

Let not Islam ever divide the *ummah* and the Malays in particular.





OTHER ISSUES

*"A little knowledge that acts is infinitely more
than much knowledge that is idle."*

- Kahlil Gibran (1883-1931),
Lebanese poet

EDUCATION

18-day voyage to England for further studies

 22.12.94

IN December 1955, I left for England on board the *SS Canton* of the P&O Line, a passenger ship which regularly plied between the East and West. The voyage was to take 18 days. This was the normal mode of travelling to England at the time.

When I left the Kuala Lumpur Railway Station for the journey to Singapore by train to join the ship there, I also left behind all pretensions of having been a magistrate and assumed the role of a student going abroad to further his studies. In life, one has to be practical and not rest on past laurels, to do one's best in the present with hopes for the future.

By courtesy of the Government though, the train journey was by first class but the sea voyage was in the economy class. This was acceptable and indeed enjoyable as the first class was filled with senior British officers going back to England on retirement or furlough. Very colonial.

On arrival in Singapore, I checked into the Station Hotel and then went out to check the time, how and where to embark on the *Canton*. I was completely on my own. I stayed the night in Singapore and joined the ship the following day.

When I got on board, I was shown to my cabin. A Goanese crew member said he was my cabin steward. Following advice, I gave him a

\$10 tip. He then introduced me to another Goanese crew member who looked after the toilets and bathrooms. I gave him a \$5 tip.

Next, I was shown the dining room and the table where I would be served all meals. I told the waiter, another Goanese, who was assigned my table, that I am a Muslim. He understood and I gave him a \$10 tip. Thus with a \$25 investment for expected services, we left Singapore in the evening and reached Penang the following day. The passage through the Straits of Malacca was smooth.

I went ashore in Penang and called on my father's cousin, the late CM Hashim (later the first Penang Malay to be made a Tan Sri). He was better known as Che Din Allen Dennys. He had joined the firm in Beach Street as an employee and ended up owning it. The family still owns the firm.

Che Din was also my trustee over some property in Penang my grandfather had bequeathed me. He took me to his seaside bungalow in Tanjung Bungah and invited me to join him fishing. There I was sitting on a rock, with hook, line and sinker on my last afternoon before leaving Malaya. I did not catch any fish.

When I returned to the ship, another magistrate who was also going to England to read law had been allotted to share my cabin with an Indian who spoke no English but was going to England to work. I advised my cabin-mates to tip the stewards but they both declined. The ship left Penang for Colombo that evening.

Each morning Gomez (the cabin steward) would wake me up at seven with a cup of hot tea. No tea for the other two. He had also polished my shoes during the night. No such service for the other two. After tea, I would go to the toilet and a smiling attendant with a "Good Morning Sir" would unlock the door marked "Engaged". After that he would unlock another door also marked "Engaged" with a hot bath ready for me. My cabin-mates complained bitterly that the toilets and bathrooms were always in use in spite of repeated attempts and available only much later, but steadfastly refused to tip the stewards.

At the table I was always the first to be served. There was quite a variety on the menu with generous proportions but the curry was the same although called differently after each port, like Singapore curry, Penang curry, Bombay curry and so on. At sea, one was always hungry. The sea air, I suppose.

To pass the time, the ship organised all sorts of games and events. It

also celebrated Christmas and New Year's Eve in a big way. After the events, a group of us would adjourn to the smoking room and join in the singing or just listening to someone playing the piano – old version of karaoke!

It would be well past midnight before we returned to our cabins. Faithful Gomez would always be there waiting for me with a couple of hot capatis and dhal from the crews' kitchen and insisted I eat them before going to bed.

In the economy class, practically everyone was travelling alone. I made friends easily. Perhaps I was reminded of what happened to my father. He was returning to Malaya after his studies in England. An Indian gentleman who had come out of Sandhurst (England's Royal Military Academy) invited my father to join him in a drink. My father declined because his experience taught him that if an Indian invited you to join in a drink, you ended up paying for it.

The Indian man persisted throughout the voyage but my father settled for conversation only as he was quite pleasant really.

When ship reached Bombay, the Indian man bade my father farewell. My father stood on the deck and watched him walk down the gangway. He was greeted by a guard of honour with bands playing and driven away in a Rolls Royce.

On inquiry, my father was told the Indian man was the crown prince of a maharaja. My father said: "If I had only known!" His advice: Never condemn an entire community just because of an unpleasant experience with a single member of that community.

Perhaps also that I should not have such prejudices. When I first started life on my own, my father arranged that I lived with a Chinese family for a year and an Indian family for another year.

He said the Chinese and Indians in this country were going to be my fellow-citizens and it was just as well I should know them better. So with the Chinese family, I ate dinners at six from a bowl with chopsticks and the Indian family served meals on banana leaves.

The *Canton* called at Colombo Harbour and I went ashore and did a tour of Colombo, including the zoo, and had lunch at the Mount Lavina Hotel.

The country had just become independent and had installed its first set of traffic lights. When the light turned green, the tour bus made a turn to the right but at the same time a cyclist from the opposite

direction insisted he had the right of way. The bus driver thought otherwise because of the size of his vehicle. He got down from the bus and there was a heated argument.

The bus driver was in the process of strangling the cyclist when the tour guide decided to intervene. The cyclist was allowed to proceed first. The tour guide then said Ceylon had the highest murder rate in the world.

Our next stop was Bombay and I went ashore and toured the city. After that it was Aden. There was not much to see and we toured the town on foot. We then reached Suez and the ship had to queue up to cross the canal. Arabs in little boats came up to the ship and offered their wares for sale by tying the goods to a rope which was pulled up the side of the ship. There was much bargaining and last price offered only when the ship sounded it was going to sail.

It took almost an entire day to cross the canal because of several locks in between and low speed to prevent erosion of the sand banks. The Egyptians were trying to regain control of the canal. They were politically angry and whenever an Arab on the banks saw a European on board, they would shout insults and expose their private parts. We finally reached Port Said in the evening. The city was well lit and I went ashore. I was very cold and I had to buy a pair of leather gloves.

We then crossed the Mediterranean Sea. The sea was getting rough and worse when we crossed the Bay of Biscay. By then, there were few passengers at the dinner table as they got seasick.

I survived it all and continued to enjoy my meals. We reached England. We were supposed to dock at Southampton but due to the tides, we were diverted to the East India Docks which were not designed to receive passengers. A very cold reception to begin life in England.

Different ball game for Najib in Education



22.6.95

IN the latest Cabinet line-up, Datuk Seri Najib Tun Razak has been moved from the Defence portfolio to Education. He thus follows in the footsteps of his illustrious father who was Minister of Education and later Defence Minister, the only difference being that Najib is doing it the other way round but this would actually be to his advantage.

By now, Najib would have realised the tremendous difference in the

workstyle between the two ministries. For one thing, the military is very organised and disciplined. It runs itself. In many countries, the military is about the only organised institution to which the people turn when the government breaks down.

The chain of command in the military is precise and strictly adhered to ensure performance. In a recruitment exercise for new officers, candidates were asked: An observation tower 30 feet high had collapsed in a storm. As an officer, what would you do to put up the tower again? All the candidates except one wrote out lengthy answers explaining how the job can be done and the number of people required to do the job.

The odd candidate's answer? "I will order the sergeant to carry on." He passed.

Discipline is the key to military performance. Soldiers are taught: If it moves, salute it. If it does not, polish it. And yours is not to question why but to do or die.

So even with more than 100,000 men and women in the Armed Forces, the Minister does not really have an industrial relations problem.

Now, Najib has more than 200,000 men and women in the Education Ministry, making it the largest single organisation in the country manpowerwise and with a more than somewhat different sort of discipline he has been accustomed to at Mindef.

When I was at school, teachers were dressed in plain white shirts and trousers with school tie. Every day it was the same, but always clean and tidy, hair well-groomed. The teacher's image in being neat, smart and proper was very pervasive. As pupils, we too had to look neat and smart. To dress up smartly is, after all, part of discipline.

Today with not many exceptions, when they reach university, students are not only very casual in their dress in class but also in their attitude to studies as if they are forced to undergo tertiary education.

This *'tidak apa'* attitude persists when they graduate and find employment. Employers complain that new graduate employees today lack discipline and commitment to their jobs. Why? Is something amiss in our education system?

A current topic of discussion is the children's burden of having to carry too many books to school each day. If there is a set timetable, surely it will not be necessary to carry all the books to school everyday. But why so many books?

When I first went to school, I only carried a *papan batu* (slate) and

qalam batu (writing instrument) to school. To erase any writing, all I had to do was to wet the tip of my finger in my mouth and use it to wipe off the error.

Only teachers had textbooks to prepare lessons for us. We used exercise books from Standard Two and had our first textbook in Standard Four. I learnt the three Rs and have never felt I was deprived of a proper education.

School days are our most treasured memories. Each year, we relived the past by attending the Old Boys Reunion Dinner where we would meet our former teachers. They were proud of us as we made something of ourselves in life and projected us as good examples to the present students to emulate.

Yes, former teachers, as most of the teachers would remain in the same school until they retired. Quite a number of them could even say: "I taught your father." We took pride in our alma mater. So did the teachers. Not anymore.

Today, if you go to your school, even new old boys and old girls (sorry, past pupils), the teachers are probably new also, not because your former teachers have retired but because they have been transferred to other schools.

Is it really necessary to transfer teachers all the time? For the general good of the community, tradition and continuity, teachers and the establishment of new schools each year, it can be done in a better way.

To begin with, reduce compulsory transfers to the minimum. Teachers should only be transferred at their request or with their consent. Decentralisation of teacher transfer could help.

The Education Director-General's office should only be concerned with inter-state transfers; the State Director with inter-district transfers; and the District Education Officer with the initial posting to a school and inter-school transfers within his district.

Information on the existing number of vacancies and category of teachers required at any given time should be available at the school, district, state and national levels.

It is then a matter of posting new teachers or approving transfers to fill vacancies subject, of course, to priorities and exigencies of the Education Service.

At the Federal Level, the Director-General is only concerned that there are sufficient number of teachers in every state.

In allocating new teachers or approving inter-state transfers, the State Director decides, without further reference to Kuala Lumpur, the district the teacher should be posted to.

It is then up to the District Education Officer to post the teacher to the school, again without reference to, or approval from, the State Director. This will cut down red tape and time.

Where the teacher is finally located will, of course, be notified to the Central Records Office of the Director-General and the State Director by the District Education Officer.

To reduce the number of transfers in future, applicants for teacher jobs should indicate their preference to serve in a particular state so that recruitment will be targeted at those willing to serve in the states where there are vacancies.

It is appreciated that transfers by request will be inevitable. For example, in cases of married teachers who have to follow their spouses who are transferred to another district or state.

If teachers are happy where they are, we can expect better dedication in their work which can only result in a better school environment and naturally better citizens of the future.

A teacher had been unexpectedly transferred. He telephoned the Education Office and let off a torrent of abuse.

When he paused for breath, the person who answered the call said: "Yes, this is the Director, who are you?" The teacher did not give his name but with a sigh of relief said "Thank God" and put down the telephone."

Our best wishes and hope to Datuk Seri Najib in his new appointment.

Don't douse enthusiasm of schoolchildren



4.1.96

ANOTHER year has gone by. In my time we looked forward with eagerness to going back to school in the new year. There were old friends to catch up with after the December holidays. And what would it be like in the new class with a different teacher.

Before the holidays, we had been told that we were promoted to a higher class. In those days, classes were divided into A, B and C. The best students from all three classes were promoted to class A of the next

Standard, the next best to class B and the rest to class C. For the teachers, this meant the job was made easier because pupils in each class were capable of learning at the same pace. Slow learners were not holding back the fast learners.

For the students, however, there was the constant drive to achieve and to try to remain at the top always because if you slack, you might end up being from class A in the previous year to class B or even class C the following year. But such calamities did not discourage the student because invariably he fought back to gain a higher position. The environment was healthy competition all the time.

I think this system of promotion and recognition for hard work and excellence prepared us for the challenges of life that was yet to come. In life, there will always be ups and downs. If you fall, rise again. Nothing ventured nothing gained.

'*Melayu bodoh*'. That was the epithet branded on Malays in the past. It was repeated so often by everybody that the Malays themselves began to believe that they were really stupid. As Dr Goebbels, Hitler's wartime Propaganda Minister, said: "If you repeat a lie often enough, people will believe that it is the truth."

When I was in a Malay school, I was always at the top of the class. That was not much to go by because all the students were Malays. When I was transferred to an English school and joined a class with Chinese and Indian students, I was not very sure of my ability until the examinations when I came out on top beating my Chinese and Indian classmates. There is much to be said of equal opportunity and a level playing field.

After I passed my Matriculation Examination from Madras University which qualified me for university entrance, I applied for a place at the University of Travancore in India. Travancore is now part of Kerala where the Malayalees come from. At that time, Travancore had the highest literary rate in India at 54 per cent compared with the rest of India at four per cent.

The Malayalees are a very intelligent people with many intellectuals who are idealistic. Indeed when India became independent, Kerala elected the first Communist Party government in the belief that Communism was the ideal solution to their economic and social problems.

Anyway, I had to enter into an open competition for a place at the university. In gaining a place, I beat 500 Malayalees in their own home

ground. From that moment on, any thought of being a 'Bodoh' vanished from my mind for good.

Going back to school in the new year meant new textbooks for new subjects. There were not many then and the same set of books were prescribed year after year for each class as there were no changes in the curriculum. Financially, this was advantageous to families with a number of children as the books bought for the elder child could be passed down to the younger ones.

We took good care of the textbooks because they could be sold back to the shop when no longer required by the family. These books were then resold as secondhand to children whose parents could not afford to buy brand new textbooks.

There were no printed workbooks as now. All work was done in exercise books. At the end of the year, the used exercise books were sold to the *kacang puteh* seller to be used as wrappers for the nuts he was selling – early beginnings of recycling!

During the last 30 years, there have been many changes in the school curriculum occasioned in part by advances in science and technology, the rewriting of history and changes in education policy to meet the challenges of the 21st century. These changes are good and necessary for the future wellbeing of our country and its citizens.

But lo and behold, when the schools reopened recently, the prescribed textbooks were not available for distribution. Whatever the reasons may be and where the blame should lie, the shortage should not have occurred at all.

The exercise is purely a matter of logistics. Time is required to prepare and approve the manuscripts, proofreading, printing and distribution. Good management tells us that time frames or deadlines have to be set for the entire process to ensure prompt delivery. A trigger device could have sounded an early warning of a breakdown of national proportions. Wasn't anybody responsible for monitoring the situation?

Children today as their forefathers did in the past do look forward to going back to school for new experiences. But without new textbooks and to have to bring their own chairs to school will more than somewhat dampen their enthusiasm!

Varsity education is more than just getting a degree



29.5.97

LAST week's newspapers carried stories and pictures of happy young faces full of great expectations. They were that of students registering to enter the nine Malaysian universities at the start of the new academic year.

They are the cream of the cream, all 53,510 of them. Many of the students were accompanied by parents with expressions of anxiety mixed with pride.

The press reports brought back memories of the time I entered university more than 50 years ago. It was during World War II and I was then a war refugee in India.

The qualification to enter university was a pass with respectable grades in a number of subjects obtained in the Matriculation examination.

The Matriculation examination was a public examination which the candidate had to sit for both arts and science subjects, in addition to English language and literature, an Indian language and mathematics.

I was then schooling in Trivandrum, the capital of the State of Travancore, now part of Kerala State. The Matriculation examination, however, was conducted by the University of Madras. This meant I had to sit for the examination at a centre in the Madras presidency, now Tamil Nadu.

The nearest centre was Madurai. I went there by train and bus and stayed at a hotel. I was a teenager and travelled alone; no fussing parents accompanied me.

It was the first time I was on my own in a strange place. At the hotel, I met other students who were also sitting for the same examination. We became instant friends.

I passed the examination at the first attempt. Apparently it was quite common to make several attempts before passing this reputedly difficult examination.

Like students today, we had to make a choice of the course of study we wanted to pursue at university. My ambition was to be a medical doctor. I had all the grades in mathematics and science subjects for entry into the medical faculty, so I opted to study medicine as my choice.

I was called for an interview by the University of Travancore. There were nine people on the interview board, all heads of the different schools. They all asked questions during the 20-minute interview.

At the end of the interview, I was told that I was being admitted to the Arts faculty. I protested because I really wanted to become a doctor.

The chairman of the Board said: "We have seen many young people like you. Your future is in public administration or law. Accept our offer or nothing." I accepted.

At the time, it never crossed my mind to enter into the field of public administration or law as a future career.

As events turned out later, I did both, six years of public administration and 40 years of law. Those old, learned and wise men on the Board must have put me through an aptitude test during the interview!

Thus I was enrolled into the HH The Maharajah's University College of the University of Travancore at Trivandrum.

The college was first established in the 19th century and affiliated to the University of London.

The lecturers and professors were all trained in England. The set-up at the college was quite English really.

The lecturers were actually facilitators. They lectured on concepts and told us what books to read.

It was up to us to follow-up, to do our own research by going to the library and write our own notes. It trained us to be independent.

I also enrolled in the Officers Training Corps (OTC) of the university.

It was a two-year course of military training, at the end of which the cadet was commissioned into the army as a second lieutenant.

It taught us how to react to given situations, plan strategies and leadership.

In addition, I joined the All India Students Congress. That was an introduction into active politics with more opportunities to develop leadership qualities, initiative and resourcefulness.

I ended up by being on the executive committee, organising political meetings and demonstrations in India's struggle for independence from the British!

In spite of all these extra-curricular activities, I did pass my university examinations.

A university education is much more than just passing examinations to obtain a degree and the passport to employment or a profession.

It is a period of comprehensive training to adulthood and personality development to serve God and society.

Looking back, the years at university as a student were the best and most enjoyable part of my life. How time passes us by.

For the millions of ringgit the country spends in providing university education, let us hope that this huge investment in human resources will benefit the freshies entering our universities this year and the nation in the years to come.

Meeting challenge of next millennium



22.5.97

I first went to school at the age of six years. That was in the 1930s. At present the school-going age is seven years. Recently, the Minister of Education announced plans to reorganise the education system, enabling children to start schooling at the age of six years.

Starting school at six cannot be a burden on the children, what with pre-school kindergarten and '*tadika*' now practically available to most children in urban and rural areas. Indeed, most children complain of boredom during the first year at school because the lessons taught are a repetition of what they have already learnt at kindergarten.

The proposed system envisages six years of primary education and six years of secondary education. Twelve years of pre-university schooling is about standard in most countries.

Proposals for the secondary stage are quite exciting. It is called four plus two, namely four years of study for the Ordinary level examination and a further two years of study for the Advanced level examination.

It is to be hoped that during the first four years at secondary school, the students will be taught both arts and science subjects thus providing them an all-round education. There should be no streaming into arts and science streams at this level because it is too early to determine the real aptitudes and academic capability of students at this early stage. Let the Ordinary level examination results determine that.

Streaming of course is necessary for entry into university. The two-year Advanced level stage is the most appropriate period to do this. It is never too late to convert arts students to science. I was basically an arts student but took to science and mathematics during the last two

years at school, principally because I had good teachers for these subjects. They made these subjects so interesting that I obtained grades which qualified me to enter medical school!

There is at present a shortage of science students and the Government hopes to attain a ratio of 60 per cent science to 40 per cent arts student population. The kingdom of Jordan had a similar problem. There were more students taking arts than science until the Government, being the largest employer, decided to offer better salaries, perks and social status to jobs requiring science and technology qualifications than to arts graduates. Perhaps we should do the same.

It will be a good idea if the upper secondary education is made fully residential with separate schools for boys and girls. This will prepare them for eventual university life, a sort of transition stage.

As potential leaders of the future, it would also be a good idea if these students are made to undergo compulsory military training during the two years on the lines of the Boys Wing of the Royal Military College. The discipline will stand them in good stead in their future careers.

The effect of the education system proposals is to reduce pre-university schooling from 13 years to 12 years and at the same time to reduce the university entry age from 20 to 18 years. This is not necessarily an early age to enter university. After all under the law, 18 is the legal age of majority.

In my time, entrance to university was based on whether a university education given to the applicant will benefit society.

This was determined by a personal interview. The result was that candidates with the right aptitudes and potential but with lower minimum grades were selected against candidates with merely better grades. This process kept wastage to the minimum.

Now that students eligible to enter university are in the thousands, a personal interview will not be practicable.

Perhaps a written aptitude test could be devised like answering 100 questions in one hour.

The late Prime Minister, Tun Abdul Razak when he was Minister of Education, laid down an education policy to suit the agricultural and commodity export economy of his time. Now his son, Datuk Seri Najib, has the task to lay down an education policy to produce a workforce geared towards an industrialised nation entering the next millennium.

It can be done, InsyaAllah.

Malaysian education in local environment



20.11.97

ENGLAND Returned. That was the label given to Malaysians who were educated in England before independence. They were a select few: sons of royalty, senior civil servants and Chinese towkays who could afford the expense. Very few of them had won scholarships for academic excellence. Higher education in the United Kingdom was made necessary because the British did not recognise academic and professional qualifications of other countries.

It was also convenient and practical because future Rulers, civil servants and businessmen acquired knowledge in the way the British administered the country and did business. Most of the Sultans today and the first three Prime Ministers were educated in England.

Malaya was not alone. India's Mahatma Gandhi and Prime Minister Pandit Jawaharlal Nehru, Pakistan's President Mohamed Ali Jinnah and Singapore's first Prime Minister Lee Kuan Yew were all educated in England. Incidentally, like our first three Prime Ministers, they were all trained as lawyers. So was the first Yang di-Pertuan Agong and his son, the present Yang di-Pertuan Agong.

Before independence, India already had several universities long established, yet the elite had to go to England to complete their education. There was, however, no university in Malaya before independence. The only place for higher education other than the UK was in Singapore at Raffles College, which awarded a Diploma in Arts, and the King Edward VII Medical School, which trained doctors. Prime Minister Datuk Seri Dr Mahathir Mohamad is a graduate of the school.

In 1939 my grandfather, Capt Noor Mohamed Hashim, as a member of the Straits Settlements Legislative Council, proposed the establishment of the University of Malaya in Singapore. Before the proposal could be implemented, the Pacific War broke out in 1941 and the university was not established in Singapore until 1949 and much later in Kuala Lumpur in 1962.

After independence, a foreign university education was no longer for the privileged few, made possible by government scholarships and study grants and loans by foundations and banks. Today, there are some 50,000 Malaysians studying at overseas universities in the UK, the United States, Canada, Australia, New Zealand and several other countries.

A debate is now unfolding on the advantages and disadvantages of acquiring first degrees overseas or locally. It started with the proposal by the Government to make Malaysia the centre for educational excellence and has become more intense with the recent drop in the value of the ringgit. It costs the country RM1.2 billion in foreign exchange annually for our students to be educated abroad.

In most countries, the first degree is obtained at home and only a few go abroad for Masters and doctorates. The advantage of such a practice is that young people go abroad only when they are mature and have exhibited a sufficient level of academic performance to pursue specialised studies. In addition, it will not be a drain on the country's foreign exchange.

On a visit to a university in the US sometime ago, Datuk Seri Dr Siti Hasmah Mohamed Ali, the Prime Minister's wife, was shocked to find a large group of Malaysian students there had kept to themselves, spoke Malay all the time and had not interacted with the local people. They might as well have been in a campus in Shah Alam!

The main reason why there are so many Malaysian students studying abroad for first degrees is because there are not enough places in our universities. Quite a large number though do study locally for foreign degrees at private colleges through twinning programmes. They are neither here nor there. They have missed out on a Malaysian education and have obtained a foreign degree without the benefits of a foreign education.

At present, there are ten established universities in the country, including three new ones. Another two are in the process of being established. These should be enough for the moment to provide the core for university education. Establishing a new university involves a high level of human resource development, setting of academic standards and much else.

To cater for increased student enrolment, branch campuses should be established all over the country by our universities.

Private colleges should switch their twinning programmes with foreign institutions to local universities.

The students will be acquiring a Malaysian education in a Malaysian environment at much lower costs to their parents and the taxpayers.

Nonetheless, students should continue to be sent abroad but not in such large numbers as now to maintain educational and cultural links.

We would then have come a full circle. The England Returned will in future be the Foreign Returned, having acquired their academic, professional and specialist qualifications from the best universities in the world.

They will be the new elite, few in number like their predecessors of yore but with the distinction of being elite because they are the best. The cream of the cream.

Education system, common lifestyles maketh a Malaysian



29.1.98

DATUK Seri Dr Ling Liong Sik was very impressive. The MCA president and Transport Minister was appearing on TV3's talk show, Face to Face, the other night. He came through very much a Malaysian.

The intention of the programme's organiser was to find out from the modern version of Kapitan China what the Chinese community was doing to redress the country's economic and financial problems. Dr Ling's answers to questions were that what the Chinese community was doing, not doing and should not be doing was the same as that of the other communities. We are all Malaysians, he said, and react the same way.

At independence, it was more than somewhat unforeseeable to picture the likes of Dr Ling or the young Malaysian of today. Our forefathers dreamed of it of course and even preached that it would be a reality some day. That reality has indeed arrived.

In 1946, I was travelling by sea from Madras to Singapore on the *SS City of Paris*. Tan Cheng Lock (later Tun) was on the same boat and I had several conversations with him during the voyage.

He said the best way to build a Malayan nation was for the Malays and Chinese to inter-marry. He later founded the MCA but such marriages were not arranged on any organised scale.

The present MCA president has no such plans either. Over the years there have been marriages between Malays and Chinese but not for political or nationhood reasons. Such marriages occur out of natural causes.

Be that as it may, we are all witnesses to a great evolution in history - the making of a Malaysian.

At independence, the education system was divided into English,

Malay, Chinese and Tamil schools. The English school was open to all races and it is not without significance that the political leaders of pre-independence and post-independence Malaya/Malaysia for the first 25 years were mostly products of the school. Although they were of different races, they understood each other.

The English schools have since been replaced by the Sekolah Kebangsaan (national schools), open to all races. The products of these schools speak Malay fluently without any trace of their racial origins.

But more importantly, they understand each other. They have even adopted some Malay customs. Notice how Malaysians greet each other. They shake hands and instinctively after that, place the right hand on the heart, whether they are Malay or not. When caught by surprise, they exclaim *alamak*, not aware that the word is a shortened combination of Allah and *mak* (mother)!

Malaysians today dress alike. The men have taken to batik shirts and even wear the *songkok* on official occasions. The original Malay headdress was the turban, now symbolised by the *tengkolok* worn by royalty, dignitaries and bridegrooms on special occasions.

The *songkok* was brought in by Indian Muslim traders. The Indian headgear is much taller. It is said that the traders wanting to make wider profit margins, halved the height and marketed it as the *songkok* which all Muslims should wear!

Perhaps what we eat really make us Malaysians because we are all eating the same type of food, prepared the same way. *Nasi lemak*, satay, *sambal petai*, *belacan* (Malay origin); *kicap*, *taufu*, noodles (Chinese origin); *thosai*, *wadai*, *papadam*, *teh tarik* (Indian origin); and *rojak*, *mee Siam*, *mee Mamak* and *roti canai* (Malaysian concoctions); not available in countries they are purported to have originated.

Then of course there are cross-country dishes, like chillies and *belacan* in Chinese cooking; *taufu* and *kicap* in Malay cooking. And to round up the Malaysian cuisine, there are adaptations of Middle Eastern and European dishes as well. Go to any buffet lunch spread at restaurants and you will not find the likes of it anywhere else in the world.

Perhaps it is the climate and perhaps the food we eat, that it is becoming increasingly difficult to tell the origins of Malaysian women. They are dressed alike, speak and behave alike and have evolved a distinct Malaysian identity.

The evolution of the Malaysian has taken 30 years and continues to develop and reinforce. The key to this evolution is our education system and common lifestyles.

Dr Ling is a product of the Boys Wing of the Royal Military College. This must be the reason he is so Malaysian!

Possible changes in educational system



25.6.98

THE announcement by the Minister of Education, Datuk Seri Najib Tun Abdul Razak, that his Ministry will eventually take over the on-campus matriculation programmes from public universities signals another revamp of our education system. The main reason for doing so, according to the Minister, is to enable public universities to concentrate on their core business of undergraduate and postgraduate courses.

He also said that Form Six, the other gateway to university entrance, would be revamped to make it more interesting.

It is obvious, however, that the Minister's announcement was prompted by the short fall in matriculation places at our universities in spite of an increased intake this year. Part of the reason for the shortfall is because school leavers are not being sent abroad for A-level courses due to the economic downturn. Added to this is the number of First Graders in the recent Sijil Pelajaran Malaysia examinations.

The concern for matriculation programmes is in line with an earlier announced government policy that Malaysian students should pursue first-degree courses within the country unless a particular course is not available locally. It is also part of the overall objective of making Malaysia a centre for education excellence.

It follows that the Malaysian Matriculation programme must be tailored to meet the aspirations of all students who wish to enter university.

At this point, it is perhaps useful to review the education system as a whole. Today, the system consists of six years of primary school, three years of lower secondary school and two years of upper secondary school leading to the SPM examination. Beyond that is two years of Form Six or the Matriculation programme.

Practically all schoolchildren complete six years of primary school

and three years of lower secondary school. But these two levels of schooling are held in different schools.

Before Merdeka, children went to a single school, for Primary One and two, then on to Standard One up to Standard Nine when they sat the Cambridge School Certificate examination. There seems to be no reason why the primary school and the lower secondary cannot now be conducted in the same school. The cost to government and parent will be much less.

Such a combination will cover the school-going age of seven to 15, a very formative period of a young person's life. During this period, the pupil should go to a school nearest to his home. He will be under parental care with the opportunity to develop and enhance his religious knowledge and practices, moral values, culture and customs beneficial to himself and society. We would then have fewer cases of *lepak*, *bohsia* and dadah addiction. There should be separate schools for boys and girls to develop their individual characters.

The nine years at school, which can be renamed Sekolah Asas from Grade One to Grade Nine, should consist of a basic general education in languages, history, geography, science and mathematics. A national monitoring system should be designed to test the pupil's progress and teaching standards once every three years – at the end of Grades Three, Six and Nine.

The Grade Nine Examination will determine the student's potential to pursue one of three main streams – academic, technical or agricultural.

The academic stream will enter residential colleges. There should be separate arts and science colleges which will create the right environment and save costs. The intake to colleges should be 40 per cent arts, and 60 per cent science. Existing residential schools and colleges can be converted for such colleges for boys and girls, again in deference to our Asian cultural values.

The period of studies at college is three years. This will replace Forms Four, Five and Six or Matriculation. A year will then be saved. The course of study at college should be designed over the three-year period for the Matriculation level. By so doing, every student is given an equal opportunity to matriculate. It will also eliminate what is considered as discriminatory between the Sijil Tinggi Pelajaran Malaysia and Matriculation programmes. Of course, not all will matriculate. The

final college examination will grade students at Ordinary or Advanced levels. Those who achieve only "O" level will be given the SPM certificate and those who achieve "A" level will be given the Matriculation certificate.

Matriculation certificates are conferred by a university. The courses of study at college should, therefore, be developed by the Examination Syndicate in collaboration with the university. As Universiti Malaya is the oldest university in the country, the Matriculation certificate should be awarded by that university but acceptable by any university in Malaysia as an entry requirement and perhaps recognised by foreign universities as well.

The Ministry's proposal to take over the Matriculation programme is feasible and can be achieved at minimum cost. On the basis of equal opportunity for all, it should be a welcome change.

A melting pot for Malaysian students indeed



10.9.98

MALAYA Hall at 44, Bryanston Square, London was established in 1951. It is ideally located, being within walking distance to the Marble Arch underground station, which could take one to any part of Metropolitan London.

It is also within walking distance to Oxford Street, London's shopping centre. And just beyond Marble Arch is Hyde Park for walks and jogging.

On Sunday afternoons, people gather around Speakers Corner in Hyde Park to listen and be amused by the soapbox orators propounding on a variety of topics ranging from politics to religion. The fun part was to heckle the speakers. It is an exceptional place where anybody could exercise the right to freedom of speech.

Malaya Hall was thus an ideal location for Malayan students studying in London and during weekends and holidays for those studying in the provinces. It provided accommodation for first arrivals in Britain until they could find permanent lodging. Some students were allowed to stay for a full term. In the dining hall, Malayan meals were served to residents and non-residents at reasonable prices. A large multi-purpose hall catered for meetings and gatherings.

The lounge was the favourite meeting place for students and visitors with Malayan newspapers available to catch up with news from home.

I made many friends at this lounge. They were mostly students but there were also government officers passing through to attend Devonshire courses and some very interesting people not connected with government.

There was Felix Abishegan, a journalist. I went forward to greet him and introduced myself. He looked surprised and said I was the first person to do so. The other students were aloof. I told him that they were really nice people but that they had become Anglicised and would not talk to anyone unless properly introduced!

I met Ghafar Baba (now Tun) for the first time there. I asked him what it was like to be a member of the Federal Legislative Council. He said it was boring. There was only one member of the Opposition after the 1955 elections and he was missing the cut and thrust of parliamentary debate. There was Aishah Ghani (later Umno Wanita Leader, Cabinet Minister and Tan Sri). She was doing a course in English journalism. We all called her Ka' Esah.

Three organisations operated out of Malaya Hall, namely the Malay Society of Great Britain, the Malayan Students Union and the Malayan Forum. I was a member of all three.

The Malay Society was the oldest, founded in the 1920s. It organised 'Hari Raya Puasa' gatherings and the annual trip to Woking Mosque. On the eve of independence, it organised the Merdeka Convention. Tun Hussein Onn was the president and I was the vice-president of the society at the time. The convention itself was under the chairmanship of Ibrahim Manan, later a Federal Court judge and Tan Sri.

The Malayan Students Union was multi-racial. It organised the Chinese New Year, Christmas and New Year festivities in addition to doing welfare work for members. Sulaiman Alias was the president.

The Malayan Forum was founded by the late Tun Abdul Razak. It organised monthly political forums at Malaya Hall.

Some of the speakers were the leaders of the Conservative Party and the Labour Party; the Chinese Ambassador to London; Krishna Menon, the Indian Defence Minister; Dr Cheddi Jaavan, the Chief Minister of Guyana and his successor Dr Burnham; the late Tunku Abdul Rahman and Malayan ministers visiting London.

The dialogue sessions were revealing, with no-holds-barred.

The participants at these sessions later became public figures back home, although they sounded very anti-government at the time!

It was an education in itself, in addition to the university degrees and professional qualifications they were acquiring.

Malaya Hall was indeed a melting pot, nurturing future Malaysians. We always considered ourselves as Malaysians.

Malaya Hall in 1963 was renamed Malaysia Hall but continued with its time honoured traditions of not only providing a place we called home away from home but also the focal point of Malaysian society in London.

Alas it has become one of the victims of our current economic predicament. The Government recently announced that Malaysia Hall will be closed for good. More is the pity. Is it now too late to retain it as a self-supporting institution?

Designing varsity education to realise full potential



8.4.99

IT is the time of the year when parents are more concerned about their children's education than the children themselves. The publication of the SPM examination results last week has set in motion the annual rush to gain a place at the Matriculation Centre of one of the universities, thus, it is said, ensuring good prospects of a tertiary education.

It is also the time when children cannot make up their minds on what they want to do with their lives. Many are confused and worse, confounded by conflicting advice of career prospects presented at school, the persuasion of classmates, and the specific demands of parents who naturally want the best for their sons and daughters but at times ignore their capabilities or inclinations.

The question is who should really enter university.

In my time, the Matriculation Examination consisted of compulsory subjects in arts and science, in addition to English and one other language of choice.

To enter university, one had to attain a minimum Matriculation grade. All who qualified and applied to enter university were personally interviewed by the university authority.

The interview board had to apply two tests: (a) will a university education of the student benefit the community? and (b) the student's aptitude to pursue a particular course.

Under the system, a student who has obtained higher marks than the minimum in the Matriculation Examination may not necessarily be accepted but the student with the minimum could because he satisfied both tests.

I had applied to enter the medical faculty because I wanted to be a doctor and had done well in science subjects. At the end of the interview by the nine-member board, I was offered a place in the arts faculty. I protested. The chairman of the board said: "We have seen many young men like you. Your future is in public administration or law." It was arts or nothing. I accepted. And as events turned out, I first pursued a career in public administration and subsequently changed to law!

Students sitting for the SPM examination are already channelled into arts or science streams. Applicants for Matriculation have to make a choice of university and course in order of preference.

If the applicant fails to gain a place of first choice, the possibility of gaining entry to the second choice is very slim because every university has more applicants of first choice than it can accept. The system seems unfair because it amounts to first choice or nothing.

Fortunately, this year may be the last when such a problem will occur because the Ministry of Education is establishing its own Matriculation Centres, taking the task away from the universities, thus giving equal opportunities to all deserving students.

At one of our local universities I asked a student why he was studying law? His answer: "That is the only scholarship I could get."

It is essential for the country's future and that of the student that the right ones are selected for Matriculation.

Unlike in my time, there are too many students to be personally interviewed. The solution is to require all students with the minimum qualification for entry to matriculation sit a compulsory aptitude test.

Public universities in Malaysia are heavily subsidised by the Government.

The aptitude test as an additional means of selection to university will ensure that public funds are well spent by the Government as an investment in future human resource development.

For sometime now, undergraduates with the STPM seem to perform better at their studies than students with Matriculation.

Perhaps it is the realisation of this disparity that the Malaysian Education Council has restructured the matriculation courses conducted by the Ministry of Education by extending it to a three-full-semester course and the syllabi in tandem with the STPM (which is also a three-semester course) with effect from 1999.

In terms of time taken and course content therefore, there will be no difference between STPM and Matriculation.

The SPM results clearly show that our school leavers have the potential to be high achievers.

It is only fitting that our university education system should be designed to realise their full potential to benefit the country.

Provide four years of college education



22.7.99

EDUCATION is the hot topic these days. Partly, this is because it is that time of the year when young hopefuls graduate from universities and still younger hopefuls commence tertiary education. The climate is a far cry from the colonial days.

Most Malays could only look forward to an education in a Malay school before World War II. I went to such a school in 1935. The medium of instruction was entirely in Malay during the first three years, consisting of reading, writing and arithmetic. We were taught to write in Jawi and Rumi. In the fourth year, we were taught English as a subject. The majority of Malays ended their formal education after the fourth year. Those who wanted to be a Malay school teacher stayed back for another year. Only a very few Malays proceeded to further their education by going to an English school.

After the war, there was a greater demand among the Malays for an English education leading to the Senior Cambridge Examination.

Schooling took 11 years consisting of two years of primary school and nine years of lower and secondary education, all in the same school.

The education system has since undergone many changes. Basically, it now consists of six years of primary school and five years of secondary school in separate schools.

Malaysia can take pride that since Merdeka, the literacy rate of the population is more than 90 per cent. Practically every child of school-going age is in school.

Primary schools have been built within a radius of five kilometres from home. There are now 11 universities when there were none at the time of independence in 1957.

The Government announced recently that the education system is being geared towards providing tertiary education for 40 per cent of school-leavers. Of these, 60 per cent will be for science and 40 per cent for arts courses.

In an exercise at making the population grasp the mechanics of information technology, schoolchildren are being made to be computer-literate.

Beginning this year, passing the Malaysian University English Test (MUET) is being made a compulsory requirement for entry into university. For good measure, a third language of choice is being offered after compulsory Malay and English in secondary schools.

These measures are intended to produce a skilled workforce in a very competitive new millennium.

The Government spends 22 per cent of the national budget on education. Primary and secondary education is almost free. University education is subsidised to the extent of 90 per cent.

The cost of education is bound to increase in the years to come. Perhaps the Government should consider options on ways to achieve its laudable objectives at the best cost-effectiveness. The obvious solution is to maximise the existing infrastructure and take into consideration social conditions.

The Government is rightly concerned with the moral conduct of its future citizens and is undertaking a revamp of the Islamic and moral education of schoolchildren.

Parents and the home play a significant role in a child's moral education and upbringing. To achieve this objective, children should stay at home with their parents and attend day schools.

The critical age of their development is when the children are 15 years old. Neighbourhood schools should therefore provide education up to this age. This means that existing primary schools should be extended up to Form Three. The combined school should be simply renamed "school" (*sekolah*).

The classes could be called Grades One to Nine. Indeed the Senior Cambridge class in my time was known as Standard Nine.

The next stage is "college" (*maktab*). These will be in a different building, thus giving the student the experience of both physical and psychological changes, marking a milestone of achievement in their pursuit of education.

Many of the existing secondary schools can be converted to colleges, either as day colleges or residential colleges.

College education should combine the present Form Four, Five and Six or Matriculation into an integrated four-year course. The students in this 16-19 age group will be streamed from the beginning and prepared for the job market or entry to university.

To minimise costs, each college should specialise in science, technology or arts. This arrangement will maximise the use of facilities and equipment. At present, secondary schools and Matriculation Centres have to cater for all three streams.

The final stage is university. All university students will be in the 20-something age group and enter the job market at 23, 24 or 25, depending on the course they take.

The education system will thus consist of three distinct levels namely, basic education at school of nine years for everybody, college education for four years and university education of three to five years. At each level, there will be leavers for the job market.

In matters of education, the Government can only provide equal opportunities for all.

Success is entirely up to the individual.

Swedish varsity scheme worth considering



12.8.99

UNIVERSITY students all over the world are generally and perennially short of funds. This is especially so when the students have to be away from home during the semester.

Some find accommodation within the campus, which is a great help because it is cheaper than private accommodation outside the campus and the convenience of being able to walk to class.

Others not so fortunate have to find lodging outside the campus, generally not an ideal condition for study with the added expense of transport costs to attend classes.

In their 20s, the students have a healthy appetite. Food costs naturally take a large chunk out of their pocket money. It is not surprising therefore that university students are in a permanent state of destitution.

During my student days in the United Kingdom, I experienced cash flow problems from time to time. Sometimes during the cold winter months, I could only afford a bowl of hot soup and a sandwich from a tiny Italian food counter. On some occasions, after a party I walked home because I could not afford the taxi fare when the buses and trains stopped operating after midnight.

Not all students, however, wring their hands in despair. In the UK and the US, university students find seasonal employment during the long summer vacation, like picking apples and oranges at farms. There are good paying jobs during the wee hours of the morning like loading loaves of bread into vans or even garbage disposal.

In the old days, university education was only available to those whose parents could afford the fees and a reasonable allowance for board and lodging.

There were of course scholarships for the poor but these were few in number and only awarded to students who had excelled academically at school.

Sweden has a unique system. Students who qualify to enter university, whether rich or poor, are given an adequate allowance by the university to pay for fees, books, board and lodging throughout their course at university.

Upon graduation, everyone has to pay back the cost of his university education through a compulsory salary deduction scheme.

Swedish universities are self-financing. They operate a revolving fund into which the automatic compulsory salary deductions are paid to finance the present student population.

The system is egalitarian. Even students whose parents can afford to pay for their children's university education are compelled to join the system. As a result, the Swedes developed a culture of self-reliance.

In Malaysia, the Government's education policy has enabled students who qualify to pursue a university education.

Whilst the Government, for the time being at least, subsidises university education to the extent of 90 per cent of the cost, a large number of students cannot even afford the 10 per cent of the fees and much less for board and lodging.

The Government has therefore established the National Higher Education Fund from which the students can borrow for their university education.

For sometime now, however, the method of disbursement of the loan to the students has given rise to dissatisfaction. Late payments seem to be the primary cause.

A lecturer at a local university found a student at the cafeteria eating only rice and gravy for lunch. He asked the student to see him in his office.

The student with tears in his eyes, explained that he came from a poor rural family. His father had died and his mother had to care for six other siblings. His mother could only afford to send him RM50 a month. On further inquiries, there were many other students like him. Most of them came from Kelantan and Kedah.

A few had abandoned their studies because they could not afford to stay on whilst waiting for their study loans. Apparently the first payment is not made until after the first semester.

At another local university, about 500 students demonstrated recently protesting at the delay in receiving their study loan payments.

All successful new entrants to university are given a form to apply for the loan in which they have to give details of their family income, occupation of parents, number of dependants and other relevant information as a sort of means test.

It is the processing of such applications, of which there are thousands, that takes time.

Surely there could be a better system to expedite payments. For instance, the loan application could be processed when the student is at the Matriculation Centre or before sitting for his Sijil Tinggi Persekolahan Malaysia examination.

This will enable payment to be made when the student registers for admission to the university. The alternative is to grant the RM1,000 advance upon request to students who have applied for the loan.

The Swedish system is worth looking into. Perhaps this could be a matter for the Second National Economic Consultative Council to

consider as it plans the nation's economic and social structure towards the year 2020, in particular the development of a self-reliant society.

In Washington, my taxi driver was a PhD student at Harvard University. Many of the waiters in restaurants there were university students working part-time.

Student life is an education in itself.

LABOUR & WELFARE

At the core of industrial relations



27.7.95

PRESIDING in the Industrial Court was quite an experience. It gave me an insight into the private sector and how it operated and conducted business.

As an arbitrator, I was constantly reminded to strike a balance between the interests of the companies and their shareholders, the welfare of the workers they employed and the overall economic and social interests of the country as a whole.

The Industrial Court was first set up in 1940 and was then known as the Industrial Arbitration Tribunal. It was an ad hoc tribunal formed as and when a trade dispute arose. The tribunal comprised a chairman from an independent panel and two others, one representing employers and the other workers.

In 1965, Sir George Oehlers was first appointed the first full-time chairman and in 1967, its first president when the tribunal was renamed the Industrial Court.

In spite of the appointment of full-time presidents and chairmen, the independent member of the Court remained.

It was odd having a four-member Court, although provision was made for the president or chairman to have an additional casting vote in the event the Court was equally divided on any issue. In practice, such a situation did not arise.

After a hearing in open court, we would adjourn to chambers to deliberate on the award. The member representing employers would give his views and the member representing workers would (sometimes) give the opposite view.

The independent member would invariably say that as he was a neutral member, he should not express anything specific in the decision-making process but to assist the Court in matters of general application and usage. His continued existence was an obvious anachronism. It took some time for Parliament to remove this anomaly.

During the initial period of my appointment, I heard all types of cases which had been fixed for hearing before my arrival. This enabled me to get the feel of the Court before initiating any changes that might be necessary.

At these hearings, the representatives of both parties usually made long speeches to plead not only their cases but also took the opportunity to air long-time causes.

Representatives of the workers were accompanied by their fellow workers in large numbers who sat in the public gallery. It was obvious he had to make an impression because his own position was at stake at the next trade union elections.

So he would begin with statements like exploitation of labour and how the employer company was making huge profits at the expense of the poor, hardworking and underpaid workers. The management, not to be outdone, would reply that the workers were making unreasonable demands, always for more pay and less work.

It became clear that the proceedings were taking too much of the Court's time, resulting in the cumulative backlog of cases. There was a lot of hot air on both sides and vital issues were clouded by the dust of eternal conflict. Changes were necessary.

Hearing of dismissal cases were shortened by the simple expedient of not calling upon the dismissed employee to plead his case. After all, his complaint was that he had been dismissed for no apparent reason. So it was up to employer to explain why the worker was dismissed and then give the worker the opportunity to rebut the employer's accusations.

If the dismissed worker was not a member of a trade union, his case was heard by the chairman sitting alone and he had to file his complaint within one month of the dismissal. But if he was a member of a trade union, his dismissal became a trade dispute and there was no time limit. Some trade unions took advantage of this provision and used the dismissal of an employee as a pawn to settle other scores against the management.

The welfare of the dismissed employee was often neglected. This was unfair. Further, as a trade dispute, the case had to be heard by a full Court. The law had to be changed. It was. Now, there is no difference between the two. All dismissal cases, irrespective of whether the worker is a member of a trade union or otherwise, are heard by the chairman sitting alone resulting in a speedy disposal of such cases.

The Industrial Court is the only forum where a dismissed worker can get his job back, namely reinstatement. In the civil courts, he can only get damages. This piece of social legislation has been more than somewhat abused. The law should provide a minimum period of service with the employer, say two or three years, before the worker is given the right to job security. The law should also exclude dismissed employees in executive positions to seek reinstatement because very often, compensation in lieu of reinstatement is awarded on the ground that reinstatement is not the appropriate remedy as it would not be in the interest and harmony in the employer's establishment.

To seek reinstatement by such people is, therefore, a farce. They should instead seek relief in the civil courts.

To save time in respect of trade disputes involving terms and conditions of employment, the parties were initially referred to the Registrar to record items where the parties are in agreement, and to attempt conciliation of disputed issues.

Open court hearings were confined to disputed issues only. Complaints of non-compliance of collective agreements or awards were heard at the rate of one a week. Here again, speeches were reduced to the minimum and employers were asked to explain the complaint.

Eventually we were able to hear up to five cases a day. In one case, following legislative amendment, the workers were left in serious doubt and had refused to do overtime work throughout the country. The Court heard the case within three days of being notified of the matter and handed down an award on the same day. Industrial peace and harmony was restored.

During my tenure, I was invited by both employer organisations and trade unions to give talks on current issues affecting labour at seminars and conferences. These meetings proved invaluable in developing better understanding between capital, labour and the Government. To meet, to discuss and understand one another is what industrial relations is all about.

Socso-like fund needed to help accident victims



26.10.95

JUDGES interpret the law as made by Parliament. Judges cannot make, except on very rare occasions when there is no law applicable to a particular case, in which event the judge exercises his inherent jurisdiction to do justice to the case. In the latter situation, his decision is known as the Common Law or judge-made law.

During the many years I was a judge, I could not help having feelings of great sympathy for people who are maimed and crippled for life arising out of road accidents because under the law, they were not entitled to compensation. It is true in law, they were to be blamed for the accident like suddenly darting across the road without looking whether it was safe to do so and getting knocked down by a car. It was a moment of foolishness for which they pay dearly for the rest of their lives, a burden to their families and a liability to society.

There were of course road accident victims who are entitled to compensation in money for the injuries they suffered but the legal system is such that there is a long delay in time between the accident and the actual payment, some as long as 10 to 12 years. In the meantime, there is much suffering and misery affecting the entire family. It is time that we should not allow the present state of affairs to continue.

I was given the opportunity to state my views when I was invited to deliver the Third Tun Hussein Onn Memorial Lecture recently. The main theme of this lecture series was "Law and the Common Man". It occurred to me that a discussion on the fate of road accident victims would be most appropriate for the occasion. And so it was.

The law makes it mandatory for all vehicle owners to take out Third Party insurance. The law is enforced by the Road Transport Department in requiring vehicle owners to produce the insurance policy or cover note before they are allowed to renew the annual road tax of their vehicles.

The Third Party insurance policy covers two specific areas, namely bodily injury and death and vehicle and property damage. It is proposed that these two types of cover be separated. Under the proposal, vehicle owners will continue to be required by law to take out Third Party insurance as at present but limited to vehicle and property damage only. The premiums should be reduced as a consequence.

For the protection and payment of compensation to persons injured or killed in motor accidents, a statutory fund be established to be called the Motor Vehicles Accident Compensation Fund. All motor vehicle drivers will be required by law to contribute to the fund. This is only fair as road accidents are caused by motor vehicle drivers or at least they are involved.

Owner drivers should not, however, consider the proposal as an added burden because the Third Party insurance premium will be proportionately reduced and the amount saved will go towards the fund.

The proposal is a no-fault liability scheme under which all persons injured or killed in motor accidents will be automatically compensated and paid out of the fund. It does not matter who was at fault. The scheme will operate the same way as Socso administers to employees injured or killed in respect of industrial accidents.

The contributors to the proposed fund will be collected by the RTD as part of the annual driving licence fee. This will not only ensure payment but at the same time will not incur additional expenditure.

There are at present more than 6.5 million licensed motor vehicle drivers and against the current level of payments by the insurance industry towards bodily injury and dependency claims, the annual contribution to the fund by each driver works out at a flat rate of RM50. It may well be that the rates of contributions to the fund will vary according to the category of driving licence held, for example a motorcyclist will pay less than a bus driver.

It is proposed that the fund be administered by Socso as the organisation has the expertise and the resources to administer such a fund. A broken leg is the same whether it is sustained in a factory accident or a road accident.

If Socso is given the job, there will be great savings in not having to create another agency and incur recurrent operating costs. The contributions will be transmitted by the RTD to Socso at practically no cost. In the process, the rate of contribution will kept as low as possible whilst road accident victims will receive compensation in quantum no less than that awarded by the courts. There are about 50,000 road accident victims a year.

If these proposals are accepted and become law, it will be a win-win situation for all concerned. It will not cost the Government a single sen. Indeed, it will result in savings to the Government as there will be no

more court cases claiming damages for bodily injury or dependency claims. These account for 60 per cent of the civil cases in the subordinate courts.

Government hospitals will recover costs of medical treatment and hospitalisation of road accident victims. Insurance companies will no longer suffer losses in respect of payments for such claims as they do under the present Third Party insurance cover. All road accident victims will be compensated promptly and adequately with the minimum of fuss.

It will make Malaysia a truly caring society.

Pressing need for legally managed and orderly entry of foreign workers



4.4.96

AT various stages of its economic development, this country has relied on foreign labour. First, it was the Chinese to work the tin mines and later the Indians to work at rubber estates.

Before World War II, the Chinese and Indian labourers worked hard and saved money for retirement in their homelands. After the war, the practice of getting workers from China and India ceased because of changed circumstances.

In 1948, India and Pakistan gained independence. In that same year, Malayan citizenship laws were enforced. The Indians and Pakistanis had to make a choice between staying on or returning to their countries. Many decided to stay.

In 1949, China became a Communist state. That stopped the Chinese from coming to this country, and the Chinese who were already here could not return to China either.

Over the years, first a Malayan and later a Malaysian citizenry was evolved – albeit painfully at first during the Emergency (1948-1960) – but eventually a multi-racial people were proud to call themselves Malaysians.

Pre-war, the Malay, Chinese and Indian committees kept to themselves for the most part, especially in the rural areas. The Chinese and Indian immigrant workers were not here to stay. They were birds of passage. But, more importantly, they played a significant part in the

economic development of the country without causing a social problem.

In the 1980s, we decided to industrialise in a big way.

The construction and manufacturing industries moved into high gear. The change and rapidity of these developments created a labour shortage which attracted workers from neighbouring countries. We had to rely on foreign workers again for our economic development.

This time, however, nothing was organised beforehand. The foreign workers just appeared, at first in a trickle which soon turned into an avalanche.

Thousands came to our shores, mostly illegally. Many have been lost at sea in the attempt to get here – either because their boats were overloaded or because they were asked to disembark while still at sea to avoid detection. Thousands have been arrested and sent back.

There is no gainsaying that we need foreign workers at this stage of our economic development. The problem is how to manage this need to the mutual advantage of this country and the foreign workers.

To begin with, it must be clearly understood by all concerned that the present flow of foreign workers are here for a limited period and that they would eventually return to their home countries. They are not here to be absorbed into the permanent Malaysian population.

The most acute problem facing the country now is the flood of illegal immigrants who have entered the country to find work. The problem seems to persist in spite of government-to-government agreements for their orderly and legal entry into this country.

Perhaps the solution lies in having a restricted open door policy. That is, all intending foreign workers will be permitted to enter the country for an initial period of three months provided they carry a valid passport issued by their country of origin and have sufficient funds to sustain themselves for board and lodging during the initial period.

Next, the Government should establish reception centres at strategic locations. On arrival, these potential workers should be sent to the centre where they will be provided with temporary accommodation and facilities to buy their own food.

The reception centre envisaged will be a one-stop processing centre. There they will first be screened by the immigration authorities. If they are desirable aliens, they will be required to undergo a medical examination.

After that, they will be examined by officers of the Labour Department and issued with work permits if their services are required. They will then be available for recruitment by registered employment agencies. If they cannot find work within three months of arrival, they will be sent back to their countries.

All the paperwork will be done at the centre, including the payment of fees and deposits. Of course, such centres will entail the stationing of immigration, health and labour officers of the Government. Officials of foreign embassies will have free access to the centre to see to the welfare of their nationals.

These reception centres are not detention centres. It is established for the convenience of everybody. The hassle of going from department to department will be eliminated. The Government in turn will have full knowledge and control of foreign workers in the country as they will also be required to go through the centre on the expiry of their work permits.

Hopefully, under such a system, there will be no need for foreign workers to enter the country illegally.

It will certainly reduce the workload of the police and the courts and congestion of the prisons. And, last but not least, it will prevent exploitation of foreign workers by all manner of people.

Selamat datang (Welcome).

Declare Emergency to deal with illegal immigrants



19.3.98

Hujan emas di negeri orang, hujan batu di negeri sendiri, lebih baik di negeri sendiri – it is better to endure the hardships in your own country than enjoy the comforts in a foreign land.

This old Malay saying explains why Malays as a general rule do not migrate to look for work in other countries, certainly not in hordes. It also explains why Malays are content with what they have and regard those who migrate to this country as destitute in their homelands.

The fact remains, however, we have played host to waves of immigrants for a long time now. But in recent years, the waves of immigrants have swelled into an avalanche. Many have even drowned at sea in trying to reach our shores.

During the last few years, the new immigrants were most welcome because we were short of labour arising from our rapid economic development. Now, suddenly, they have ceased to be so on account of the economic downturn. We want them to leave so that our own people will be kept in employment.

There are two aspects to the current situation. Firstly, to stop the influx of new immigrants and, secondly, those already here should go home.

In recent weeks, the waves of illegal immigrants, particularly along the west coast of the peninsula, have increased tremendously in frequency and number, almost amounting to an invasion by foreign military forces. In tactical terms, the west coast is porous for secret landings.

Perhaps we may have reached the critical situation to justify calling upon the military forces of land, sea and air to defend our shores against this concerted invasion.

Much in fact has been done and is being done, including the active co-operation of the Indonesian authorities to persuade and prevent their people from leaving their country for Malaysia.

One of the basic problems that gives rise to illegal immigrants is the existence of so-called recruiting agents in neighbouring countries who dupe and fleece their own people on payment of exorbitant fees with false promises that there are well-paid jobs in Malaysia. Such people should be exposed as cheats and prosecuted.

There is nevertheless a continuing need for foreign workers in Malaysia, as for example in the plantation industry.

Perhaps our neighbours should establish a Foreign Labour Exchange in their countries to officially process recruitment to meet the requirements of Malaysia. It is not a heavy burden for them because people working abroad are a source of foreign currency income.

The police especially have been very active in ferreting out illegal immigrants already in the country in recent months.

These operations cost the taxpayers a lot of money in themselves and much more to intern and feed those caught pending repatriation.

The process of repatriation takes months and so it was suggested that the period could be shortened with the establishment of special courts to deal exclusively with illegal immigrant cases. This will again cost more money.

Several years ago, special magistrates' courts were established to deal exclusively with drug cases.

Soon it was found that it was not a good idea after all. It affected the minds of the magistrates assigned to such courts as they were going cuckoo with the sob stories of the addicts and inevitably inhaling the fumes emanating from the court exhibits! It similarly affected the prosecutors as well.

In any case, why should we spend money to prosecute illegal immigrants in the first place and feed them in our prisons. The process has overburdened the workload of the courts and congested our prisons.

If a person is arrested for alleged illegal entry, it is up to him to prove otherwise by producing valid papers that he has entered the country legally. If he cannot do so, then he should be declared an undesirable alien and deported forthwith to his country of origin.

There is no need to prosecute and jail him. The Vietnamese boat people were never prosecuted although legally, they committed the offence of illegal entry.

The solution would appear to be to declare a state of Emergency under Article 150 of the Constitution as the security and economic life of the country is already threatened.

An Emergency Regulation could then be enacted to arrest and deport the illegal immigrants without further ceremony.

We fully sympathise with the plight of our neighbours but honestly, with our economic downturn we cannot afford to play host anymore. Charity begins at home.

Individual names now of secondary importance



7.5.98

UNTIL the outbreak of the Emergency in 1948, there was no system of national registration of persons in the country which required people to be identified by number and to carry identity cards.

Thus for purposes of identifying people in the past, for instance in land transactions at the Land Office, the *penghulu* was invariably called upon to personally identify the parties and witness the transaction.

One of my duties as an Assistant District Officer was to visit the *mukims* to deliver land titles to the proprietors.

Malays, like other Malaysians, have common names. So when a name like Ahmed bin Ali is called, about half a dozen people will respond. The *penghulu* was always at hand to assist in such situations.

The location plan in the title showed the names of land proprietors adjoining the land: thus to the north Salleh bin Kassim, to the east Abdullah bin Hassan, to the west Mariam bte Hussein and to the south Yusoff bin Ismail. The *penghulu*, with obvious recognition of all these names, said that the Ahmed in this case is the husband of Fatimah!

The *penghulu's* personal knowledge of his *anak buah* was quite legendary. The British recognised this fact and conferred on the *penghulu* the power of arrest without an order from a magistrate and without a warrant of arrest, any person suspected of having committed any of a long list of offences. Thus a stranger in the *mukim* was easily spotted and questioned in a routine exercise of crime prevention. The *penghulu's* power of arrest is enshrined to this day in the Criminal Procedure Code.

Those were the days when the population was small and practically static. Nowadays there is much movement with people migrating from the rural to urban areas and from town to town.

The identity card system which was first introduced as a security measure during the Emergency period is now a necessity in our daily lives. But the identity card system which has been in existence for nearly fifty years has yet to be fully utilised and co-ordinated by government departments and agencies.

An EPF contributor is entitled to withdraw his money if he is leaving the country for good. Some years ago, this provision was abused. All a contributor had to do was produce a letter from his employer that he had ceased employment and a one-way ticket on the "*Rajulah*" to Madras. After receiving the money from the EPF, he would cancel the ticket and seek employment at another place and be given a new EPF number. Later, when the EPF indexed contributors by their identity card number, it was discovered that some people had up to four separate accounts and had never left the country!

There was this petition for distribution of an estate in the High Court. The deceased was a travelling salesman based in Kuala Lumpur. He travelled often to other major towns in the course of his business.

He had amassed a modest fortune and his widow and children claimed the inheritance.

Just before I could issue the distribution order, another widow and her children turned up from Johor Baru. Later another widow from Ipoh and yet another from Penang turned up. Each believed she was the only widow and were unaware of the existence of the others!

All this confusion occurred because petitions for probate and administration at the time were not indexed by identity card numbers and to make matters worse there was no databank to link the several marriages and offspring.

Births, deaths, marriages and divorces (of non-Muslims), and citizenship all have to be registered under the law. All this information is available at the National Registration Department headquarters but not collated and have to be searched separately. Incidentally, it is time that Muslim marriages and divorces, registered separately in the states, also be centralised by sending copies of such certificates of registration to the NRD.

And not so long ago, some people were refused loans by banks just because their names were listed as bankrupts when the real bankrupt was some other person with a similar name. Again, identity card numbers were not used in the bankruptcy list.

Fortunately for all of us, the NRD has been continuously progressive albeit cautiously. Its director-general, Azizan Ayob, recently announced that henceforth birth certificates will be bar-coded with a number that will ultimately be the person's IC number.

In addition, the birth certificate should also record the blood group of the child to be incorporated into the identity card.

However, issuing the first identity card at the age of 12 is too early. It should be issued at 15 and first renewed at the age of 20 and thereafter at the ages of 30, 40, 50 and 60. The first issue and renewal fees of ICs should make the NRD financially self-supporting.

It is hoped that the NRD will collate the information of every individual from birth to death and that such information be made available at the press of a button, not only to government agencies but also to members of the public, for a fee of course.

It is a sign of the times that we humans have just become a number in the IT age: our individual name is merely of secondary importance. Really after all, what's in a name!

Ways to improve workers' welfare



14.5.98

AS in previous years, Workers' Day was celebrated on May 1, for years declared a national public holiday. This year, May 1 fell on a Friday.

Most workers had to turn up for work on the following Saturday. Some, however, took leave, so that they could have a long weekend.

Workers' Day, in other countries known as Labour Day or May Day, in honour of workers is not universally celebrated on May 1.

In some countries, it is celebrated on the first working day of May. Indeed, in the United States and Canada, Labour Day is observed on the first Monday of September.

The question arises: what is the most appropriate day to celebrate Workers' Day in Malaysia?

In determining the most appropriate day, the principle should be the day that will be most beneficial for all workers in the country.

With different weekends, Friday or Sunday, the first working day of May would again result on different days, unless it is midweek and therefore unsuitable.

It seems that the most appropriate day in the circumstances is the first Saturday of May. In so deciding, all workers will have a two-day weekend, namely Saturday and Sunday or Friday and Saturday.

Perhaps the Malaysian Trades Union Congress and Cuepacs could jointly persuade the Government to declare the first Saturday of May to be Workers' Day in the future. Incidentally, Saturday is a non-trading day on the Kuala Lumpur Stock Exchange.

As usual, in celebrating Workers' Day, the topic of the day is to find ways to better the lot of workers.

This year, because of the economic downturn, there were suggestions that retrenched workers be allowed to withdraw part of their Employees' Provident Fund contributions to help them tide over bad times.

There are in existence two social security schemes in the country - namely Socso to benefit workers during their working life and the EPF to provide for retirement or old age. The functions of these two schemes should not overlap or be confused but rather complement each other.

The EPF scheme is clearly to provide for old age, that is after a person has ceased working legally after attaining the age of 55. The

scheme provides that on attaining that age, a contributor can either withdraw the entire in his account or opt to convert that sum into an annuity.

If the object of the scheme is to provide for old age, then the rate of contributions should be such that the total amount contributed with accumulated dividends at the end of the day should produce a minimum monthly income, of say, not less than RM300 a month.

It follows that the scheme should not permit the amount of contributions to be diluted from time to time due to pressures external to old age provisions.

At present, early withdrawals can be made to buy a house. It can be said that this facility is in preparation for old age. However, there should be a separate account for this purpose, with the worker contributing any amount of his choice from the day he joins the EPF with a minimum statutory amount and subject to increased contributions from time to time at his option and right to withdraw at any time to pay for a house.

At present, a contributor can also withdraw from the EPF before retirement to pay for medical expenses. This should not have been allowed. The proposal to withdraw part of EPF contributions by retrenched workers should also not be allowed.

The EPF should never lose sight of its primary objective to provide for old age. Thus the EPF should have only two accounts, namely for an old-age pension scheme and the housing scheme. The old-age pension scheme should be made compulsory for everybody, namely a minimum pension of RM300 a month.

It could be increased for a larger amount at the option of the retiree, if his total EPF contributions is sufficient to pay for the increase, or he may withdraw the remaining portion not required to pay for the compulsory minimum old-age pension scheme.

Medical benefits and retrenchment payments should clearly be made through the Sosco scheme, as these payments may be necessary during a person's working life.

The much-touted Medical Insurance Scheme could be implemented and administrated by Sosco.

The existing legislation on retrenchment benefits would appear to be inadequate. In particular, if a company has gone bankrupt, there will not be money to pay retrenchment benefits.

The solution appears to be to make contributions to Sosco for retrenchment as they are being made for disability insurance.

In any event, retrenchment benefit payments should only be for a limited period, say not exceeding three months.

It should not be allowed to degenerate into unemployment insurance where it pays not to work rather than to work.

Workers' Day surely is the time to reflect on the welfare of all workers for the good of the country as a whole.

Let's not forget vital input of trade unions

 26.11.98

WORLD War II had come to an end. The British had returned to Malaya. It first imposed the British Military Administration which was followed by the Malayan Union, to which the people protested. On February 1, 1948, the Federation of Malaya was established.

By then the Labour Party had come to power in United Kingdom. It was inevitable that the policies of the party influenced political, economic and social developments in the post-war years of the empire.

In Malaya, the British encouraged the establishment of trade unions. Soon trade unions mushroomed throughout the country. These trade unions were mostly localised and enterprise-based. They were popularly known as mosquito unions, small in terms of membership but extremely vocal and often irritating.

In September 1948, the Communist Party of Malaya launched its attack to overthrow the Government by force of arms. As part of its strategy, it infiltrated into the trade unions to undermine the economy by wild-cat strikes.

The Government found it difficult to deal with multiple trade unions affecting each particular industry. It thus encouraged the formation of national trade unions to represent a particular industry.

The chief beneficiary of the government policy was the National Union of Plantation Workers, which became the largest trade union in the country. During the Emergency (1948-1960), all the Government had to do when a problem arose in the plantation industry was to send for P P Narayanan, the NUPW leader.

The importance of trade unionism to the Government was further

illustrated by the appointment of trade unionist V M N Menon as Member for Posts and Telegraphs in the Templer Government of 1953.

The apex of trade unionism was the establishment of umbrella organisations of trade unions, namely the Malaysian Trades Union Congress for the private sector and the Congress of Unions of Employees in the Public and Civil Services for the public sector. The MTUC and Cuepacs through the National Labour Advisory Council thus provide a direct link with the Government on labour matters and policy.

Last week, the Government expressed concern over the effectiveness of the labour movement in protecting workers' rights arising out of disagreements within the MTUC.

It appears that the National Union of Bank Employees is planning to pull out of the MTUC. The NUBE, with a membership of 30,000, represents an important sector of the economy and its exit from the MTUC will affect the latter's effectiveness in representing labour in its dealings with the Government and employers in general.

In 1989, internal disagreements within the MTUC resulted in the establishment of the Malaysian Labour Organisation. They were bitter rivals for seven years until the MLO was officially integrated into the MTUC on May 1, 1996.

Credit must be given to Datuk Lim Ah Lek, the Human Resources Minister, for bringing both parties together. It also illustrates that the Government does not want to see another major split in the trade union movement.

The current disagreement within the MTUC has been simmering for the last three years. It has led to the MTUC secretary-general recommending to the Minister that the NUBE general-secretary and his assistant be removed from membership of the National Labour Advisory Council because the NUBE general-secretary had resigned from the post of MTUC vice-president.

The Minister, more inclined towards marriages rather than divorces, has turned down the request because the appointment to NLAC is his prerogative and, particularly in the instant case, he wants to abide by the agreement between the MTUC and the MLO to preserve all appointments made to government councils and bodies.

The solution perhaps lies firstly in the MTUC that it be reorganised into sectors of trade unions of plantation, manufacturing, trade, finance and services, with each sector electing a vice-president.

The vice-presidents, by annual rotation, are then elected deputy president and president of the MTUC. Future appointments to the NLAC could then be made on an ex-officio basis of the office holders who could properly be said to be the effective leaders of the labour movement.

Of greater interest to the general public, however, is that now is the time when everybody, including capital, labour and the Government, should do everything possible to bring about economic recovery. Nothing else is important.

Trade unions in the 1940s disrupted the economy. Let the 1990s be remembered for the significant role played by the trade unions in the recovery of the economy.

Provide free medical treatment to unemployed, poor, elderly, youths

 23.12.99

THERE was a time half a century ago when there was a General Hospital in the state capital and government dispensaries in the districts. Trained paramedics called dressers (later hospital assistants) were in charge of the district dispensaries.

They treated common ills like fever, coughs and colds, skin diseases and wounds but referred the serious cases to the General Hospital.

Mobile medical units visited remote *kampungs* regularly. Once a year, a medical team would visit every school to check on the general health of the pupils, including an eye test and examination of the teeth.

Health inspectors carried out regular checks on coffee-shops, cinemas and other public places. Malarial inspectors had a team of larvae collectors and DDT sprayers to prevent the spread of malaria.

We were then a relatively poor country but government healthcare, including hospitalisation and surgery, was free. The poor had access to the best medical care available in the country.

We now have the finest hospitals, both public and private, with well-trained specialists. Indeed, in the districts there are now hospitals with many doctors. In every town, there are private medical clinics, just like the certainty of finding one like the local coffee shop, sundry shop, laundry or barber.

At present, it costs the Government about RM5 billion a year to provide basic healthcare to the people with only a nominal RM1 charge for treatment and medication at all government hospitals and clinics. It would have been much more if not for the existence of private hospitals and clinics patronised by the middle and higher income groups.

But in spite of all these facilities, from time to time the newspapers launch pleas for donations for urgent surgery and treatment of very sick people, mostly children, because they are poor or not so rich and cannot afford the RM25,000 or more fees for an operation. Public response has invariably been most generous.

The requests for such donations, however, have become more frequent these last few years.

With the increase in population and all sorts of new diseases, it is inevitable that the Government expenditure to continue providing free medical services will increase. But healthcare and free access to medical treatment are the responsibility of modern governments.

In order to reconcile the Government's responsibility to the people and its financial resources, second-term Health Minister Datuk Chua Jui Meng announced plans last week to create a special fund to finance the cost of healthcare and medical treatment of the poor and needy. He said the proposed fund would serve as a social safety net and expects implementation within three years.

The majority of people in hospitals are working people. A large section of the working people are employees and are therefore covered by the Employees Social Security Act. Under the Act, the Social Security Organisation (Socso) manages two funds, namely the Invalidity Pension Fund and the Employment Injury Fund.

It is a compulsory contribution scheme in respect of all employees whose monthly wages are at least RM1,000. Benefits include all medical and surgical expenses, hospitalisation, rehabilitation, periodical payments of 60 per cent of last wages, dependants' benefits and funeral expenses in case of death.

But the benefits are only for employees with contributions to the Socso funds and that too in respect of employment injury, disease or death. For the social safety net proposed by the Minister, instead of creating a special fund, Socso should extend coverage to the self-employed and others with incomes over the RM1,000 limit and in respect of all cases of hospitalisation.

To begin with, all persons above the age of 18 years should be registered with Socso on payment of a RM10 registration fee and should carry a social security card. Any person admitted to hospital need only produce the social security card to be given immediate medical or surgical treatment. The hospital can then bill Socso for the cost of treatment and hospitalisation.

In this way, government hospitals will recover a large part of their operating costs. Persons admitted to private hospitals should only recover the equivalent of the cost charged by government hospitals.

Children under 18 years, persons above the age of 55, the unemployed and poor should be treated free of charge at government hospitals, irrespective of the cost of the surgical operation.

To be more effective, the law should provide that it is an offence to employ any person without a social security card. It should be made compulsory for all employees, irrespective of monthly salary, but voluntary for the self-employed and others.

The proposed scheme will in effect be a cross between a medical insurance scheme and public welfare, with the working able bodied aiding the less fortunate. Malaysia would then have a comprehensive social security system.

In this day and age of the country's economic progress, no Malaysian man, woman or child should be denied medical treatment purely on account of his or her inability to pay.

PUBLIC SERVICES

Keeping transport costs down



15.6.95

WHAT has inflation got to do with traffic jams? Plenty. It does not take an economist to tell us that traffic jams cost money in terms of lost manhours at work and the wasteful burning of fuel by very slow moving motor vehicles on our public roads. When transport costs go up, so does everything else.

Millions of ringgit have been spent to widen existing roads, build new highways, flyovers, viaducts and much else, yet traffic jams seem to get worse each day. It was not too long ago that it took only ten

minutes by car from Petaling Jaya to Dataran Merdeka during the peak rush hour. Now you will be very lucky if you can do it in 45 minutes. Traffic jams afflict all our major towns.

Kuala Lumpur has joined its sister Asean capitals of Bangkok, Jakarta and Manila in the notoriety of traffic jams. As one resident put it, in Bangkok there is only one traffic jam a day – all day! If you are there on business, you can only make one appointment a day. The Thais, however, good humouredly say that Bangkok's traffic jams are a blessing because it is a natural defence against foreign invasion and military coups! The tanks just can't get through.

London solved its traffic problems by practically not doing anything to its roads. It merely passed a law prohibiting parking and waiting along most of its roads. It made no provision for car parks in the city except the underground car park in Hyde Park. With no place to park, the people left their cars at home and used public transport. And the car? For weekend use only to go to the countryside.

Did you know that in the 1960s the Government had to pay a subsidy of RM2 for every passenger who boarded a Mara bus? There was nothing wrong with Mara's management of its bus services. The losses were due to our public transport system. At that time, Mara was asked to provide bus services along feeder roads to the trunk roads. The feeder roads were not metalled, with potholes which regularly damaged the vehicles and pushed up maintenance costs. Fares were fixed by the Government so they could not be increased to cover operating costs and allow a margin of profit. Added to that, they were only licensed to operate on feeder roads. Buses plying the lucrative trunk roads were licensed to other companies.

In an efficient public transport licensing system, both routes should have been licensed to the same company – taking the good with the bad – so that profits from the lucrative routes would cover losses of the non-lucrative routes – a sort of spreadover on a package basis. Both routes are equally an essential public utility service.

Today we are still plagued with an archaic public transport system. If you stand along the Federal Highway and watch passing traffic, you will observe empty lorries going to Port Klang or in the opposite direction toward Kuala Lumpur. Why? Because the lorries are either not licensed or organised to carry goods both ways. The effect of the system is that two lorries will have to be licensed instead of one. On top of that,

the consigner has to pay for the journey both ways. So the system doubles the cost of transport and doubles the number of lorries on the road. And of course, this adds to the cost of goods and services thus contributing to inflation and traffic jams.

In KL, you can take a taxi to go to the airport but the taxi is not allowed to pick passengers from the airport. Other taxis do that. It's the licensing system again contributing to inflation and traffic jams. The bottom-line is that if we have an efficient and cheap public transport system, there will not be so many motor cars on our roads. People use the car to get to work because they cannot rely on public transport. The car pool campaign can get people to go to work but not to take them home, because not everybody leaves the office at the same time or they may have other engagements in town before going home.

What then is the remedy? Deregulation, Decentralisation. And restructuring our road transport licensing system. How? To begin with, divide Peninsula Malaysia into eight public transport regions. Establish Regional Licensing Boards as follows: Region 1 - Perlis, Kedah and Penang; Region 2 - Kelantan; Region 3 - Perak; Region 4 - Terengganu; Region 5 - Kuala Lumpur and Selangor; Region 6 - Pahang; Region 7 - Negeri Sembilan and Malacca; Region 8 - Johor.

There should be only one public bus company to operate in each region and required to operate all routes within the region. Existing bus companies should merge to form the single regional bus company. In any event, most bus companies have a monopoly of routes. The merger will reduce operating costs and increase efficiency - economies of scale.

Goods vehicles in the region should be allowed to operate freely within the region to carry own goods and other peoples' goods for hire. Taxis too should be allowed to operate more freely within the region and pick up passengers anywhere within the region.

The Regional Licensing Board should be authorised to license as many buses, goods vehicle, taxis and mobile machine (tractors, bulldozers, etc) that are required for the region without reference to Kuala Lumpur, thus decentralising the system. There should, however, be a Federal Licensing Board to license inter-state transport, namely express buses, excursion buses, hire cars and goods vehicles, criss-crossing regional boundaries.

To facilitate law enforcement, the registration numbers of commercial vehicles should be identifiable by region and user - for

example, the letters "HA" for goods vehicles; "HB" for buses; "HC" for taxis; "HD" for hire cars; and "HE" for mobile machines preceded by the regional number and followed by the serial number of each category. Thus 5 HB 305 would refer to a bus operating in the Kuala Lumpur and Selangor region. Commercial vehicles licensed by the Federal Licensing Board will be identified by the figure "9", thus 9 HA, 9 HB and so on.

The registration numbers of regional commercial vehicles should be non-transferable to other regions to prevent fraud and avoid confusion. The number belongs to the operator although the vehicle itself is changed from time to time. The colour of the number plates of all commercial vehicles should be white (now applicable to taxis only). This will further assist law enforcement and traffic control.

Finally, the tax structure should be reviewed. People should be made to pay for actually using the road. At present, people are taxed for owning the vehicle even when they are not using it. Instead of the present system of road tax, vehicle owners need only pay an annual licence fee for administrative purposes of registration and licensing. Such a fee would be nominal and at a flat rate according to vehicle and user, say RM50 for motorcycles, RM100 for motor cars and RM200 for commercial vehicles, irrespective of the size and cylinder capacity of the vehicle. This will reduce overhead costs of commercial vehicles and prevent cheating by vehicle owners - using a single road tax disc on several vehicles or forged road tax discs.

And what about the road tax? Yes, the Government needs the money to maintain the roads. A simple method (and at no extra cost to the Government) to collect road tax is to impose it on the sale of fuels used for road transport. Oil companies already pay excise duty to the Government and all they need to do is to include the road tax element when making payment. In this way, the motorist pays tax when he is actually using the road. As the consumption of fuel varies according to size and cylinder capacity of the vehicle, the Kancil owner will be paying less tax.

The threat of inflation should be the concern of everybody. With an efficient and cheap public transport system coupled with fewer cars on the road, we can beat the traffic jams and help bring down inflation to zero level. *Yakin kita boleh.*

Let's have proper prayer rooms and clean public conveniences



11.4.96

MALAYSIA is being promoted as a convention centre. The effort has been a remarkable success judging from the many and frequent international conferences, seminars and workshops that have been held in this country.

Indeed, most major hotels derive a considerable part of their incomes from packaging these events and there is keen competition between them. Attendance at such events draw not only foreign participants but also Malaysians. The foreigners invariably stay at the hotels.

A number of the local participants and foreigners are Muslims. During the day, the Muslims have to perform two obligatory prayers, the noon prayer (*zohor*) and the afternoon prayer (*asar*). Most five-star hotels make no provision for a purpose-built prayer room (*surau*) where the prayers can be performed.

When asked for the location of the *surau*, one is directed to the basement car park or the one provided for the hotel staff which invariably takes one through a series of narrow corridors passing the kitchens and the storerooms, only to find a very small room in an obscure back portion of the hotel to serve the purpose.

True there are notable exceptions, but I would say 90 per cent of the hotels just do not have a *surau* for their guests. Nearly all hotels, however, do indicate the direction of the Kiblat in their guest rooms. Some even provide prayer mats. This is a remarkable achievement when compared with the position not so many years ago.

But surely it must be good for business for the hotels to make decent facilities for a proper *surau* located on the same floor as the convention or function rooms and given pride of place and respect for the non-resident guests who attend conferences. It can even cater for guests who attend dinners to perform the evening prayer (*maghrib*) in order to be punctual at such functions.

An international beach resort in Terengganu did the opposite. It had provided for a *surau* when the hotel was built but the *surau* has since been converted into a karaoke lounge!

The Government has taken the lead in providing *surau* in all ministries, departments and public buildings. Why cannot our hotels for the rich and the famous do the same?

Tourism is another success story. But in the matter of public conveniences, we seem to be more than somewhat lacking. Take for instance the call of nature. It can be very pressing and even excruciating but where to go for relief? For most travellers, the local coffeeshop is an obvious target but they are invariably so filthy even nature refuses to function. Another favourite target is the petrol station but the toilets are so poorly maintained that they do not serve the purpose intended. Many are just locked up and no one seems to have the key.

Most of these petrol stations belong to multinational companies. They spend millions of ringgit in advertising and to do up the front to attract customers but seem to neglect the back portion. Petrol station staff should be educated that it is just as important to look after the convenience of the driver, just as they do with the performance of the vehicle.

In nearly every town, public conveniences are practically non-existent. The few that exist are invariably filthy and not maintained properly. One would have thought that it is the basic duty of every local authority to provide toilet facilities at all public places.

I am reminded of the public toilets at the underground Tube station of Marble Arch in London. Thousands of people use these toilets day and night, yet every single toilet is cleaned after each use.

Local authorities should not only build public toilets at strategic locations for the convenience of the public but also maintain them at all times. Full-time attendants should be employed as that is the only way to keep them clean. A small fee should be charged for the use of the toilets and other facilities.

All public toilets should be equipped with a choice of three types of toilet: sitting, squatting and for the handicapped. All should be fitted with a water hose for washing and toilet paper. There should be separate urinals for men and boys; wash basins with liquid soap from a dispenser and tissue paper. In some establishments, there could even be facilities for a shower. All public toilets or rest rooms should not only be clean but smell clean as well.

Against this somewhat gloomy picture of our public toilets or the lack of it, credit must surely go to Projek Lebuhraya Utara-Selatan in providing convenient facilities along the North-South Expressway. Apart from providing facilities to eat and drink, there are also *surau* and well-kept public toilets.

What this shows is that it can be done, if only the local authorities make an effort to provide facilities for the convenience of our foreign guests, domestic tourists and last but not least, to their own residents and ratepayers as well.

Answering the call of nature is, well, something that happens to all of us naturally. Only that, when you least expect it, it happens!

Good, old and clean Petaling Jaya now only a memory



6.2.97

THIRTY years ago, I came to live in Petaling Jaya. For years PJ had the reputation of being the cleanest town in Malaysia with the most efficient town council administration.

The streets were clean, the roads well maintained, the grass verge always cut, the drains cleaned and garbage collected regularly. A telephone call was sufficient to get the septic tank cleaned, for free. All these services were provided in return for the assessment rate paid to the council each year.

Alas not anymore. The council extended its boundaries and became a municipality. Cleaning of septic tanks was privatised at RM250 per visit. The assessment rate, instead of being reduced, was increased. Roads began to have potholes. The maintenance people do not seem to exist. The '*ikut kiri*' signs on both sides of the roundabout leading to the Sri Aman Girls' School were broken three years ago and have yet to be replaced. The garbage at the Old Town market spills over throughout the day. The monsoon drains beside the Dato' Haji Kamaruddin mosque in Jalan 222 are filled with rubbish and stink. The list can go on and on but let us say services have generally deteriorated. Perhaps now that Subang Jaya has been taken out of Majlis Perbandaran Petaling Jaya's (MPPJ's) responsibilities, Petaling Jaya may yet return to its former glory.

The new and permanent campus of the International Islamic University Malaysia is located in Gombak. It is a valley surrounded by hills and limestone cliffs. Rivers flow through the campus and retention ponds to prevent flooding add to the beauty and serenity of the place. It is an ideal setting for a seat of higher learning.

The centrepiece of the complex of buildings is the mosque which

can accommodate 14,000 worshippers. From the mosque radiate other buildings to house the various faculties: law, economics and management science, engineering, education, Islamic Revealed Knowledge and Human Sciences, the library and administration buildings, all purposely designed to remind us that all knowledge is derived from Allah. The architecture is distinctly Islamic.

The university is fully residential with clusters of hostels on either side of the faculty buildings separating the male and female students. There are also separate sports and recreational facilities adjacent to the hostels.

Being an international university, it has a sizeable foreign student population and foreign academic staff. It draws scholars and visiting dignitaries from far and near. Indeed, the university is the brainchild of Prime Minister Datuk Seri Dr Mahathir Mohamad.

The approach road to this fine institution is like taking the backlane of a town. The campus is located off the 8th mile Gombak-Bentung road and is sandwiched between the old trunk road to Pahang and the Karak highway. Perhaps it is because of the existence of the highway that the old road has been more than somewhat neglected.

But that is not all. To get to the campus from Kuala Lumpur, there are three possible routes, namely from Selayang through Batu Caves to Jalan Gombak or through Sentul to Jalan Gombak or from Setapak.

The first two routes are subject to traffic jams and so people prefer the Setapak route. From the Setapak police station junction, Jalan Gombak is kept clean by Dewan Bandaraya Kuala Lumpur until one crosses the boundary between the Federal Territory and Selangor. From there on, heaps of rubbish jut the roadside all the way until one reaches the filthy junction leading to the campus.

The junction is water-logged, muddy with dilapidated huts. On Wednesdays, it is the site of a *pasar malam* and, of course, heaps of rubbish all over the place. From this point, a beautiful newly-constructed and surfaced road leads to the campus with street lights.

Soon after entering the road, a signboard proclaims: *Selamat Datang ke Indian Settlement, Gombak, Selangor DE.*

The residents of this settlement must have a wry sense of humour. The settlement consists of dilapidated coolie lines of bygone era of what was once a rubber plantation. Perhaps the powers that be should make this settlement a model village of Malaysians of Indian descent.

The Gombak District Council should take pride in having an international university in its district. Perhaps it could learn from the experience of MPPJ on how to cope with providing services when a local authority is entrusted with enlarged and increased responsibilities.

Time now for new body to take charge of rivers, water supply

 18.12.97

SEMENANJUNG Malaysia is blessed with rivers. Every state has its rivers. Indeed most states are named after their principal river. Our ancestors founded settlements along river-banks. Some of the settlements are now state or district capitals. Everywhere there is a river nearby.

The river is our source of life. It provides water for our daily needs, domestic, commercial and industrial; irrigates the *padi* fields and in former times, was the means of transportation between one place and another and to the outside world.

The river has influenced our language and culture. The expression '*ke hulu ke hilir*' literally means upstream and downstream but is the Malay version of hither and thither. The Malay word for river is *sungei*, but if someone says, "*Nak ke sungei*", what he means, politely, is that he wants to go to the toilet! We are indeed a riverine people.

The river is still the main source of piped water in towns and villages. There is still plenty of water in the rivers and thus it shocked us greatly when in recent times, supply was cut off for days on end, affecting households, industrial estates and city centres. The cause? Pollution!

Respect for the river has been lost. Our rivers have become open sewers and drains, polluted to the extent that river fish are almost extinct. Worse, most rivers now are heavily silted due to erosion brought about by deforestation and careless hill-cutting by developers. Fly across the country and one sees that the river water is murky and even black sometimes. Silted rivers cause floods in areas never before so afflicted.

The blame for such degradation must surely fall on the local authorities, town and country planners and above all the State Governments. Why?

According to the Federal Constitution, land tenure, land improvement and soil conservation, water supply, rivers and canals, control of silt, riparian rights, agriculture and forestry, and local government administration are state matters on which it can legislate and administer.

Kuala Lumpur is an exception but it is in an odd position. Geographically, it is an 'island' in the middle of Selangor and so it can lay part of the blame on the state for the polluted rivers that run through the city. It must, however, share the blame. It could, for example, do something to trap the garbage in the rivers as it enters the city and see to it that no garbage is dumped into the rivers within city limits.

City Hall could beautify the river-banks by building roads next to them, embankments and esplanades. It should only approve buildings along the waterfront if they face the river, just as bungalows, apartments, condominiums and hotels face the sea along our beaches.

The states should do likewise. Further, they should alienate land for industrial purposes away from river-banks and see to it that factory waste is not discharged into rivers.

The Federal Constitution also provides that the Federal Government has power over water supply, rivers and canals except those wholly within one state or regulated by an agreement between the states concerned; production, distribution and supply of water-generated power.

As water supply is erratic, subject to frequent disruptions and shortages not to mention economic loss, perhaps the time has come to establish a water authority for the entire peninsula to control and regulate rivers, canals, irrigation systems, dams and water supply with linkages to the land, forestry and agricultural departments of the states and the federal departments of the Environment and Meteorological Services, because water supply from its primary source right down to its ultimate use is inter-linked and must be managed accordingly.

The water authority should establish river patrols with inspectors cruising up and down the rivers in boats to detect pollution and erosion.

If the English can clean the River Thames which was once the most polluted river in Europe, and Sarawak, the Sarawak River with its beautiful esplanade in Kuching, there is no reason why the rivers in the peninsula cannot be just as beautiful and bountiful, as they were during the time of our forefathers.

Less than perfect bus service needs overhauling



26.2.98

IT has now been officially acknowledged that we have a less than perfect bus service. The Entrepreneur Development Minister, Datuk Mustapa Mohamed, said as much recently when he announced that the service should be thoroughly reviewed and restructured.

The Minister even invited members of the public to give their ideas and suggestions to the Ministry.

That our bus services are inadequate has been obvious for a long time. The inadequacy has compelled a large section of the working population to own and drive cars to get to and from work. This trend, of course, has largely contributed to road congestion and traffic jams in our cities and towns.

The solution was to widen existing roads, build new roads, flyovers and even an elevated highway. But improving the roads system never seem to catch up with the increasing volume of road traffic.

The Light Rail Transit system may ease the road congestion somewhat, but as the fares are comparatively high, it will only be an alternative to taxis and perhaps some owner-driver cars.

The bulk of the working population, however, relies almost solely on the bus in spite of its many inadequacies because it is the cheapest and most convenient. One need only walk a short distance from the house to the nearest bus stop and get off the bus almost at the doorstep of the workplace.

Not that the Government has not done anything to improve the bus services. Several years ago, it introduced the school bus service and later the factory bus service. These services can be said to be quite adequate.

To further ease traffic congestion, the Government introduced the minibus in Kuala Lumpur, conceptually even brilliant. The idea was for each minibus to carry seated passengers only and ply from a designated point in the suburbs to the city centre non-stop, taking the shortest route and vice versa. Passengers had to pay a little more than the stage bus fare.

Soon the 16-seater minibus was increased to 22, then standing passengers were allowed and finally no limit to capacity. Worse, these buses stopped at several points along the route to pick and drop passengers.

The situation deteriorated when minibus permits were issued rather freely and compounded when the permit holders let out the buses to whoever wished to hire them for a fixed daily rate to the permit holder. This led to hell-bent minibus drivers wanting to make as much money as possible during the period of the hire.

To overcome the problem of minibuses, the solution was to abolish them altogether because the service had simply gone out of control in spite of frequent prosecutions in court against errant drivers and owners. It need not have been because the primary causes were the licensing system and inadequate enforcement in the first place.

During my student days in London, I never saw a single London Transport bus break down on the roads. In fact they never did. The reason was that every bus was checked for roadworthiness before leaving the depot each day. Nowadays, we see even brand new Intrakota buses breaking down all over the place. Lack of supervision by the bus company executives is the obvious cause. Maintaining the company's reputation for reliability does not seem to occur to them.

Overcrowding of buses, especially during peak hours, is a perennial malady. Lack of discipline is the main cause of overcrowding and the blame must go to both passengers and the bus operator. In London, the conductress is made responsible not to allow excess passengers and she applies the rule very strictly. Londoners comply. Why can't we?

Road safety must be of utmost importance. This means that the buses must not only be roadworthy all the time, but the drivers must be properly trained and experienced. Bus drivers should be paid an adequate monthly salary which is not dependent on the number of passengers they carry or the trips they make. They should stick to a time schedule. Each year, they should be paid a safety bonus as an incentive for not being involved in a traffic accident or incurring any traffic summons.

The licensing policy has to be changed. As economy of scale is the basis of efficiency and profitability, there should be only a single operator for each region who should operate both the economic and non-economic routes within the region as a package. The regions are: (1) Perlis, Kedah and Penang; (2) Kelantan; (3) Perak; (4) Terengganu; (5) Selangor and Kuala Lumpur; (6) Pahang; (7) Negeri Sembilan and Malacca; and (8) Johor. There should be a single separate licence issued for interstate express buses.

In the final analysis, the provision of an efficient public transport system is an economic and social responsibility of the Government. Perhaps the Minister should seriously consider merging existing bus companies to operate on a regional basis.

At the same time, there is much to be gained by merging express bus companies that operate interstate services into a single company. More people will use the bus and there will be fewer cars on our roads, if only the bus service is more efficient.

Time for a single central water authority



16.4.98

DURING the current water shortage, I too was without water. There was only a trickle from the kitchen tap for the first three days and no water at all from the fourth day.

This was not for the first time and, as usual, the cut came without any prior warning. I, therefore, fully share the woes of my fellow citizens. The sight of residents, mostly women and children, of high-rise apartments with buckets to fill with water from a tanker is both pathetic and primitive.

Nearly 20 years ago when performing the Haj, I stayed at a high-rise apartment block in Mecca. There was no direct supply of water to the building but every hour or so, a water tanker would stop in front of the building and pump up water from the tanker to the water tank on top of the building.

We then had water from the taps in the bathroom and toilet. If the Saudis had the technology to do that a long time ago, why cannot we do the same now?

Water shortages have occurred not only in the Klang Valley but in other states as well for years now, especially during a drought. In addition, interruptions in water supply have been attributed to burst pipes from time to time. The former can be said to be an Act of God but the latter is surely man-made.

In both cases, inefficiency in water management is the primary cause. It is now openly admitted that 40 per cent of the water supply is lost through leakage, burst pipes and theft. That is a lot of water going to waste each day!

Not that the people directly responsible for ensuring an adequate supply of water at all times are not aware of what is going on or have not taken the appropriate steps to maintain supply. They have. It seems, however, forces beyond their control have frustrated their efforts.

Housing and industrial site projects have been approved at a faster rate than provision for water supply. Requests for additional funds to upgrade water supply infrastructure were given low priority.

Over the years, the State Governments have borrowed millions of ringgit from the Federal Government for their supply projects. Indeed, it is the declared policy of the Government to extend piped water supply to every house in the country, not only as a matter of household convenience but also in the interest of public health. If fault there be, implementation of the policy has overstretched supply and capability.

The current water shortage problem must surely be the worst the country has ever experienced. It has assumed such enormous properties that it has gone beyond the stage of sending water tankers to affected areas. The solution has to be more basic and fundamental and strike at the roots.

The Constitution was framed more than 40 years ago when the peninsula had a population of eight million. Every state is blessed with rivers and streams. At the time of writing the Constitution, there was sufficient water resources in every state to cater to household needs and an agricultural economy.

It was not anticipated that we would embark on an industrialised economy, the migration of people from the rural to the urban areas coupled with an increase in population that has more than doubled in four decades.

In the distribution of legislative and executive powers under the Constitution, the states retained power over water (including water supplies, rivers and canals), control of silt, riparian rights and forestry, all essential factors contributing to an effective water resource.

The solution to our water problems is in the creation of a single central water authority with power over the whole peninsula to preserve forests, for without forests there will be no rain and without rain there will be no rivers, streams and canals, which in turn must be kept free of pollution and silt.

The authority must be able to construct dams and divert water supply across state boundaries.

In short, the central water authority should have the same powers and flexibility of operation as Tenaga Nasional has in the supply of electricity and much more besides, due to the complexity of maintaining and harnessing a water resource vital to man, animal and agriculture.

The upshot is that the time has arrived for state constitutional rights and power over water and forests to be subordinate to the national interest and well-being of Malaysians as a whole.

The solution is to amend the Constitution to transfer legislative and executive power of the states in the peninsula over water and forestry to the Federal Government. Opportunity, however, should be taken to transfer some federal revenue to the states as compensation for loss of state revenue by the amendment. Perhaps also, executive power of the Federal Government can be delegated to the states in respect of health and education subject to federal policy and legislation, as the states are closer to the people in respect of these matters.

It is a sign of the times that a water crisis can give rise to the need for constitutional change!

Economies of scale vital for bus companies



30.4.98

IT is sometimes forgotten that the provision of public transport is a utility service as part of the socio-economic function of the modern state. That is why in many countries, cheap and reliable public transport is owned and run by the government or local municipality.

In countries where public transport is owned and run by the private sector, the government grants various incentives so that fares are kept as low as possible. For instance, many years ago there was an acute shortage of buses in Jakarta. To overcome the problem, the Indonesian Government exempted bus companies from paying import duty on buses.

Apart from the municipality-operated buses in Georgetown, Penang, bus companies in this country have always been operated by the private sector.

Bus companies normally operate within the boundaries of a state or part of a state. They all operated profitably, otherwise they would not have been in existence for so long. It is the one business where there are no bad debts because passengers pay cash.

Recently, however, bus companies have reported losses running into millions, especially express bus companies. The cause is not far to seek. Express bus service permits were issued freely without regard to passenger traffic.

In the past, applications to operate a bus service or even a transport service were published in the Government Gazette and a copy of the application served on the Malayan Railway. A public inquiry would be held and members of the public or existing bus or transport operators were free to object. If the railway could show it was providing the service, the application would be rejected. There was transparency and the risk of losing money in the transport industry was minimised.

Not that bus companies never lost money. They did but not because of over-supply of buses. For instance, the North East Transport Service was granted the monopoly to run bus services in Kelantan. It did well but at a later stage, lost money. The cause was poor management, pilfering of spare parts by the staff and collected fares went into the pockets of drivers and conductors. Mara took over the management and soon the bus company was making profits again without any increase in the fares.

One of the problems faced by bus companies these days is the fact that apart from having to pay all manner of taxes, they have borrowed heavily from banks to purchase buses. They have to service the loans, which means they have to pay interest to the bank. On top of that, the shareholders expect handsome dividends from their investment in the company. The result is high fares which the lower income group cannot afford.

To operate profitably and efficiently, bus companies need economies of scale to begin with. That means they should be given a monopoly to operate services in the entire state or region. Such a monopoly also means operating both the economic and uneconomic routes because it is a public utility service.

Recent suggestions against monopolies and that there should be competition for the same routes are foolhardy. Several years ago in Selangor, two bus companies were allowed to operate on the same route. The competition was so intense that thugs were employed to sabotage the other bus company by stone throwing and otherwise damaging the buses and causing danger to passengers. It got to the stage when it became racial, with one community refusing to ride buses because the bus company was owned by a different community.

A glaring example of unhealthy competition is the recent experience of minibuses with daredevil drivers in Kuala Lumpur that nearly put a long established bus company out of business.

If a particular bus company is inefficient, the remedy is to change the management but not to create competition. For years, London Transport was the sole authority to operate both the bus services and the underground railway across the London Metropolitan area. It was efficient and cheap.

By the same token, the Light Rail Transit service in Kuala Lumpur should complement the bus service. As a public utility service, the fares should be about the same as the bus fares. More people would use it and thus reduce traffic congestion. This could have been achieved if the Government had paid for the infrastructure and the LRT company given the franchise to operate and maintain the service.

Similarly, the Government should reduce the taxes payable by bus companies and create a cess out of a percentage of the taxes paid by bus companies to be used by them to obtain loans to buy new buses at the lowest cost.

Bus monopolies is a good thing. A cheap and reliable public transport system makes for sound socio-economic sense.

When judges used to take public transport

 17.9.98

DURING my student days in London in the 1950s, I thought nothing of walking a mile or taking a bus for a three-mile ride to the nearest underground railway station.

Indeed, it was a daily routine for five days a week, Monday to Friday.

Punctuality is part of English culture. So, sometimes, I had to run instead of walk briskly to the station.

From the physical health point of view, it was good daily exercise made conducive by the invigorating temperate climate of England.

London's public transport system was egalitarian, single class only – whether on buses or the Tube, although it carried different classes of people at different times.

Early morning passengers were manual workers wearing their working apparel. Later in the morning, the passengers were office

workers with men in city suits, complete with rolled-up black umbrella and bowler hats.

Using public transport was no reflection on their social status; even judges used public transport to go to and from the courts.

It is a matter of social attitude really. When I was a judge, I used to walk from the Court House to the club for lunch.

One day, a member of the public and a complete stranger stopped me and said, "My Lord! You should not be walking on the street!"

It took less than five minutes to walk but if I had taken the car, it would be 20 minutes because of the one-way road system, on top of adding to the lunch-hour traffic congestion.

But society's perception that the high and mighty should only travel in appropriate transport is perhaps feudalistic. Royalty does not walk but is carried; hence the word '*berangkat*' in obvious reference to the palanquin of ancient times.

When my grandfather was the District Officer of Balik Pulau, Penang, in the 1920s, he went about his rounds of the district in a horse-drawn carriage.

Nowadays, even a farmer owns a car. The problem, however, is that people drive their cars to work and park all day in Kuala Lumpur making the city's traffic congestion as notorious as Bangkok, Jakarta and Manila.

They do this out of convenience and necessity because our public transport system is still inadequate.

To be sure, the Government is acutely aware of the shortcomings of our public transport system.

It has done much to alleviate the problem by improving the roads, amalgamating bus companies in the Klang Valley, providing the double-track KTM Komuter service, and recently, introducing the Light Rail Transit Systems of STAR and Putra.

Much more, however, needs to be done.

Firstly, it is necessary to integrate the various systems. As far as possible, bus passengers should be able to travel from one point to another without having to change buses.

Many people at present have to take two or three buses to go to and from work. If people cannot walk to the KTM Komuter or LRT station because of the distance from their homes, there should be connecting bus services.

The KTM Komuter, STAR-LRT, Putra-LRT and the proposed Express Rail Link from KL Sentral to the KLIA should be integrated so that passengers can travel on one ticket from embarkation to final destination, although they have to change trains.

Perhaps all these rail services should be operated by a single company in the future.

Like the London Underground, the LRT is designed for speed and avoiding traffic jams. It is the best alternative to driving one's car.

But the LRT should be made more affordable to the general public. This is why there are only 53,300 passengers a day instead of the projected 170,000 on the STAR-LRT, and 10,000 passengers a day instead of the projected 90,000 per day on the Putra-LRT.

Public transport, as the term implies, is a public utility service. Synonymous with that is that it has to be efficient and cheap.

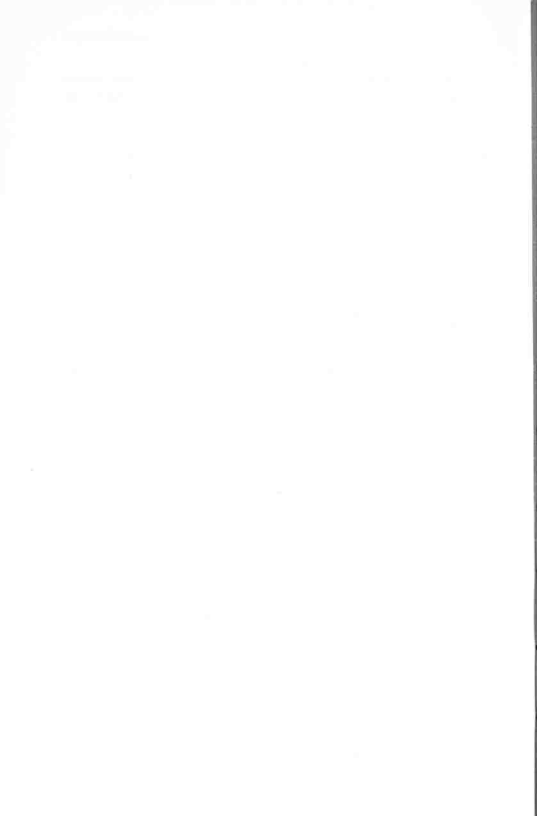
The Government should therefore find a way to relieve the burden of the infrastructure costs of the LRT companies so that the fares can be reduced to increase passenger traffic to justify the high infrastructure costs, lest they become white elephants. Clearly private LRT companies cannot continue to operate at a loss.

The licensing and tax structures should be reviewed to make our public transport affordable to the general public, if we are ever to reduce the high cost of traffic jams in lost time, money and productivity.

Hopefully, the people's mentality in the use of public transport will also change with time and the obvious convenience. The experience of the increase in LRT passenger traffic during the Commonwealth Games offers encouragement for such a change.

Kuala Lumpur today in size and population is still much smaller than London in the 1950s.

Perhaps in the 21st century, using public transport will not be associated with social status, to most people at least.



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