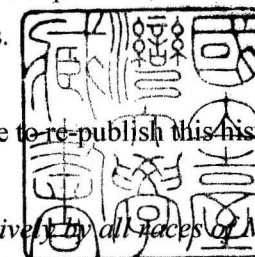




3547909

Words From Editor

The people's constitutional proposal for Malaya was drafted by the representatives of the PUSAT Tenaga Ra'ayat or PUTERA and the All Malaya Council of Joint Action between the months of May and August 1947 and approved by two conferences of Delegates from the PUTERA and the All Malaya Council of Joint Action on July 4 – 7 and on August 10, 1947 together with a full exposition, and an analysis of the Government's Constitutional Proposals.



It is of great significance to re-publish this historical document because,

1, It was drafted collectively by all races of Malaya after full consultation on the principle of democracy and justice in their struggle for National Independence after the war. For the purpose of promoting the draft constitution a national wide HARTAL was successfully launched on 20 Oct of the same year and caused great impact to the world opinion.

2, Since the political system and ideology of our country now which has little difference with our colonial past, it is still practical and of significance to-date through the study of this document to trace the historical background and the source of ideology of the political issues of the day.

3, It is an important and valuable reference material for the academic study of the history of our constitution, politic and its ideology, anthropology and ethnic relationship in our country.

Title: THE PEOPLE'S CONSTITUTION PROPOSAL FOR MALAYA 1947
drafted by PUTERA-AMCJA

Source: GREAT BRITAIN COLONIAL OFFICE
CODE NO: C0537/2148

Publisher: Ban Ah Kam
Pusat Kajian Bahan Serjarah Kontemporari Tempatan
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3547909

4, *It is a document that expresses the value of independence, democracy, multiculturalism, justice and fairness. These are still the value that form the core of the social reform of our country today.*

It is the common knowledge that a historical document as any other work of mind of mankind was mainly reflecting the practical needs for the struggle of that time and it always bear the mark of that era regardless of its immortality.

This book is published both in English in its original text and the translated Chinese version and the content of both version may be slightly difference. The original English version was taken from the declassified document of the British Colonial Office which includes confidential correspondents as supplements. The Chinese version is the translation published in "MING SHENG PAO" kept by ARKIB NEGERA with some related document and compilation of headlines on reports of activities of Putra-Amcja in 1947-1948.

Mr. Bourdillon.

We have now received from the London Office of the 'Malayan Peoples' United Front' (i.e. PUTERA-AMCJA) a copy of the 'Peoples Constitutional Proposals'.

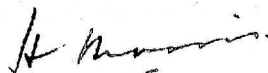
At (1) Sir E. Gent gives an account of the various stages in the preparation of this much-publicized set of proposals. It seems that the text which we now have, that, it would appear, which has been published in Singapore, represents the second stage. There is, however, yet a third and apparently quite different set of proposals, which are still under discussion by PUTERA-AMCJA and which are only known from secret sources. Probably the dissensions of the AMCJA-PUTERA explain why these proposals (stage 2) have not yet been submitted either to the Governor or direct to the Secretary of State formally, as part of a petition or otherwise.

The main features of the scheme are described by Dr. Linehan in the Note enclosed with (1) I would only add that while they pay lip service to inter-communal accord, they betray the uneasiness of their originators by the elaborate arrangements for a 'Council of Races' (Section 26) and the prohibition of communal candidatures etc. The great defect of this set of proposals is, in my opinion, that it indicates the irresponsibility of its authors; it is not an attempt to grapple with the real difficulties of making the communities of Malaya live side by side and take each their due part in the progress and welfare of the country but an academic exercise. It is a typical production of people unaccustomed to political power and responsibility, and either unaware of, or unwilling to face, the real difficulties of personal and racial animosities, and of economic rivalries, which make Malayan politics

so confused and the problem of settling a stable constitution so intractable.

The London Office of the AMCJA-PUTERA is apparently in the charge of Mr. Lim Hong Bee, and Mr. F.H. Cox, who is known to the office as a Army N.C.O. who spent part of his service in Singapore after liberation, where he made the acquaintance of various M.D.U. personalities. The London Office has produced a booklet called "Malaya, background", and is publishing a periodical, the "Malayan Monitor" (cyclostyled).

I submit a draft letter to Sir E. Gent.



13.11.47

Mr. Seel

I do not think you have yet seen these papers, and you may care to do so now. You will see that I have sent a copy of No.4 to Sir Edward Gent, It is interesting to have Mr. Jarrett's impressions of Mr. H.B. Lim, who appears to be a person of some stature. A litter later, and subject to our first having obtained Sir Edward Gent's concurrence, I think it might perhaps do no harm for us to see Mr. Lim, if he is willing, and to extract his ideas. Any such developments must obviously wait until the Federal Constitution is in force, but thereafter I think it might be worth considering.

Bring up to me in two months.



2.12.47

I think we had better drop a line - see opposite - to Sir E. Gent, to explain that we have not acted on the rather surprising suggestion in the postscript to No.6.

I agree that it would be better for us not to try and get into official touch with Mr. Lim. Mr. Rees Williams, however, may be interested to see the passage marked A in Mr. Bourdillon's minute of the 21st February. I am not sure whether Mr. Lim has attempted to make any contact with the Minister.

Recirculate to Mr. Morris as proposed.



23rd February, 1948.

DRAFT AND RECORD COPY.

Mr. Seel 23/2/48

Colonial Office,
The Church House,
Great Smith Street,
London, S.W.L.
23rd February, 1948.

52243/2/1/47.

Secret and Personal.

Dear Gent,

In a manuscript postscript to your letter to Bourdillon of the 11th December, 1947 (M. U. Secret. 294/A0/46) about H.B. Lim, you suggested that Bourdillon might let Jarrett see your letter, which enclosed a report by the Malayan Security Service on Lim.

We did not act on your suggestion at the time, and now that the Chinese opposition to the Federation proposals has turned out to be less determined than at one time seemed possible, we have come to the conclusion that there is no point in making Jarrett aware of this secret correspondence.

Yours sincerely,
(Sgd.) G.F. Seel.

Sir Edward Gent, KCMG., DSO., OBE., MC.

Note: Jarrett was the adviser to the tradeunions.

KING'S HOUSE
KUALA LUMPUR
MALAYAN UNION.

11th December, 1947.

My Dear Bourdillon,

Thank you for your letters (reference 52243/2/1/47) of the 20th November and 2nd December, 1947, on the subject of the PUTERA/AMCJA Draft Constitution.

We have now received printed copies of this document, and I enclose are herewith for your information.

I am glad to have Jarrett's note on H. B. Lim. Meanwhile I have been trying to collect some information both about him and about Cox, whom you mention in your first letter, and I attach herewith for your information a report furnished by the Director, Malayan Security Service, on these persons and some others of their associates.

I am able to confirm that the Associated Chinese Chambers of Commerce took no part whatsoever in producing the Draft Constitution. In fact, they are somewhat embarrassed by being so closely associated (especially in the Hartal) with the authors.

Your sincerely,



H.T. Bourdillon, Esq.,
The Colonial Office,
Downing Street,
LONDON.

(you might let Jarrett see this.)

COPY

From:

DIRECTOR,
MALAYAN SECURITY SERVICE,
P. O. Box No.200,
Singapore.

Date : 9th December, 1947. Your Ref.....
To : Private Secretary to Our Ref. M.S.S.No.1/119.
H.E. the Governor, M.U. Tel. Address "MALSEC/.

Sir,

I have the honour to refer to your letter dated 5th December, 1947, and the extract from a personal letter received by His Excellency from the Colonial Office in regard to Lim Hong Bee (林丰美).

2. I attach herewith the History Sheets of Lim Hong Bee, Mrs. Lim Kean Chye (林建才), Eu Chooi Yip (余柱业) and Lim Kean Chye, who is shortly going to England, all of whom are now playing a prominent part in M.D.U. affairs, either in Malaya or in England. All that is known of Cox is set out in para.8.

3. I also enclose an M.D.U. Press Release dated November 8th, 1947, in regard to the formation of the News and Information Bureau in London.

4. From information available in Singapore, Mrs Lim Kean Chye and Lim Hong Bee are in close touch with each other in London.

5. Mrs. Lim Kean Chye also appears to be in contact with a certain leftist 'John Dowling' who is studying Economics in the L.S.E. John Dowling and Lim Hong Bee are mentioned in connection with the proposed publication of a Malayan News Letter, and Press Reports indicate that Nedll-Stewart, Major, and Mr. and Mrs. John Eyre, Dr. I. Montussohi and S. H. Cox are connected with this enterprise.

6. The tutor of Mrs. Lim Kean Chye, a Socialist candidate, name unknown, who was not elected, appears to be also taking an interest in Malayan affairs and the former is putting up essays on Malaya for information.

7. Both Lim Hong Bee and Mrs. Lim Kean Chye met Lee Soong (李送) and Chien Tien (陈田), the two Malayan New Democratic Youth League delegates to the World Youth Conference in Prague, while they were passing through London. They are also both in touch with Alan E. Scarr, whose address is 67, Hinley Crescent, Goldthorne Park, Wolverhampton, and the Council for Civil Liberties. Scarr was at one time in the Services in Singapore and he holds strong left-wing views.

8. There are three references, in addition to that in para.5 above, to a person named Cox:-

(a) Mrs. Lim Kean Chye, Lim Hong Bee and 'John' (presumably Dowling) post a man named Cox and his sister in London soon after their return from a tour of Yugoslavia in October, 1947.

(b) Lim Hong Bee and a 'Captain Cox' recommended one E. K. Cook of the Democrat and General News, London, W.I., to get in touch with G. de Crus, the M.D.U. leader and Secretary of the C. J.A. in Malaya as a likely medium for distribution here of Cook's Agency News reports.

(c) According to Service records a "Capt." Sydney Herbert Cox left Singapore on repatriation in February, 1947, by the SS "ANDES".

It is possible that one or all of the above are identical with the ex N.C.O., F.H. Cox, mentioned in the Letter from the Colonial Offices.

9. The M.D.U. Bulletin is now being sent to:-

- (1) Lim Hong Bee,
186, Kensington Park Road,
London, W.11.
- (2) Union of Democratic Central
34, Victoria Street,
London, S.W.3.
- (3) National Council for Civil Liberties,
11, King's Road,
London, S.W.3.
- (4) Fabian Colonial Bureau,
11, Dartmouth Street,
Westminster, W.C.1.

It is assumed that this M.D.U. Bulletin forms the basis for the Malayan Monitor in London.

I have the honour to be,
Sir,
Your obedient servant,

Director,
Malayan Security Services.

COPY

PUTERA & ALL-MALAYA COUNCIL OF JOINT ACTION
PRESS RELEASE: For M.D.U.
NOVEMBER 8, 1947
KUALA LUMPUR.

NEWS AND INFORMATION BUREAU IN LONDON

The PUTERA and All Malaya Council of Joint Action take great pride in announcing to the people of Malaya that a News and Information Bureau on Malayan affairs has been set up in London under the direction of the representative of the PUTERA and AMCJA in London, Mr. Lim Hong Bee.

Mr Lim Hong Bee, a Queen's Scholar, who is now in London completing his law studies, is well-known to the democratic movement in Malaya as one of the founders and the first general secretary of the Malayan Democratic Union. He recently represented the people of Malaya at the International Human Rights Conference in London.

The News and Information Bureau has already set up a News and Information service on Malayan affairs, and is producing a regular Malayan news letter, the first issue of which was scheduled to appear last week.

The Bureau has also distributed a large number of copies of the people's Constitutional Proposals drafted by the PUTERA and AMCJA to M.P.'s, progressive associations, the leading English newspaper, the Colonial Office and others.

In his latest report to the PUTERA and AMCJA, Mr. Lim Hong Bee states that letters requesting copies of the People's Constitution, are pouring on every hand, while those to whom copies have been given, are asking for more. Request for copies of the People's Constitution, writes Mr. Hong Bee, have also been received from European countries, and from the United States.

Mr. Hong Bee also says in his latest report that the success of the hartal created a "powerful" impression in London. The London Times, he says, described the city of Singapore on Hartal Day as "an impressive spectacle of miles of shuttered shops and empty streets".

It will be of interest to the people of Malaya, as an exposure of the "anti-British" propaganda which is being used against the PUTERA and AMCJA, that among those working in the London News and Information Bureau, under our representative, are several Englishmen.

They include Mr. Neill-Stewart, the author; Major John Eyre and his wife, Joan Eyre; Mr. S. H. Cox, Mr. John Dowling and Dr. E. Montussohi, M.D.

All of them except Mr. Neill-Stewart, are well-known to democrats in Malaya; as they were stationed here with the British armed services for lengthy periods during the past two years. These British democrats studied Malayan conditions at first hand, and their readiness to participate in the establishing of a News and Information Bureau on Malayan Affairs in London, under the direction of the PUTERA and AMCJA representative, is very significant.

It proves that these British democrats agree that the policy of

the PUTERA and AMCJA on the Malayan constitutional issue is in the best interest not only of the people of Malaya, but also of the people of Britain.

It also shows that there are many Britishers who wholeheartedly support the campaign of the constitutional issue which is being directed by the PUTERA and AMCJA as being in the best traditions of British militant democracy.

Another function of the London News and Information Bureau will be to maintain constant and close contact with M.P.'s progressive associations, trade unions, and newspapers in England, in order that they may keep the truth about Malaya and Malayan conditions always before the eyes of the British people.

We therefore request all political and other organisations, all trade unions, etc. to send us information about their activities and other relevant news, in order that we may relay this information to our London representative, Mr. Lim Hong Bee, who would, in particular, like to have the journals, statements, and other publications of Malayan associations.

All documentary and other material intended for London should be addressed to the General Secretary, Putera and All-Malaya Council of Joint Actions, 59, Klyne Street, Kuala Lumpur.

(Sgd) G. de. Cruz.

For MALAYAN DEMOCRATIC UNION

General Secretary to the

PUTERA and All-Malaya council of Joint Action.

52243/2/1/47.

Colonial Office,
The Church House,
Great Smith Street,
London, S.W.L.

2nd December, 1947.

With reference to the third paragraph of my letter of the 20th of November about the "rival constitution" produced by PUTERA and AMCJA, you may like to see the enclosed copy of a letter which I have had from Jarrett about the personality of H.B.Lim.

(H.T. Bourdillon.)

Sir Edward Gent, KCMG., DSO., OBE., MC.

52243/2/1/47.

Colonial Office,
The Church House,
Great Smith Street,
London, S.W.L.

20th November, 1947.

Dear Gent,

Many thanks for your letter of 4th October enclosing some notes by Linehan on the PUTERA – AMCJA's "Peoples Constitutional proposals". We have just received from the "London Office" a copy of the proposals, clearly in their stage 2 form. It was not accompanied by any formal submission, and we presume, as your letter suggests, that internal dissensions are still preventing the authors from putting their plan forward formally. Would we be right in thinking that the Chambers of Commerce have had little or no say in the preparation of this scheme?

We are very grateful for the way in which you are keeping us so fully informed of the progress of the AMCJA-PUTERA attempts to formulate a plan of their own, information which is very useful to us. The scheme has had very little or no publicity here, but of course it may be taken up by the Press at some stage.

The London Representative of AMCJA-PUTERA is one Lim Hong Bee, who seems to be assisted by F.H. Cox, a ex-N.C.O. who served in Singapore after the liberation and made the acquaintance of

various M.D.U. personalities there. They have produced also a booklet called "Malaya Background" and the first number of a projected periodical, the "Malayan Monitor", a copy of which has been sent you in another connection.

(H.T. Bourdillon.)

Sir Edward Gent, KCMG., DSO., OBE., MC.

DRAFT.

For Mr. Bourdillion's signature.

SIR EDWARD GENT, K.C.M.G., D.S.O., O.B.E., M.C.
KING'S HOUSE, KUALA LUMPUR

(1) Many thanks for your letter of 4th October enclosing some notes by Linehan on the PUTERA – AMCJA's "Peoples Constitutional proposals". We have just received from the "London Office" of the "Malayan Peoples United Front" a copy of the proposals, clearly in their stage 2 form. It was not accompanied by any formal submission, and we presume, as your letter suggests, that internal dissensions are still preventing the authors from putting their plan forward formally. Would we be right in thinking that the Chambers of Commerce have had little or no say in the preparation of this scheme?

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PART ONE: INTRODUCTION

CONSTITUTIONAL AND POLITICAL DEVELOPMENTS FROM SEPTEMBER 1945 TO SEPTEMBER 1947

The constitutional Proposals and their exposition, which follow in Part Two, have been drawn up by the Pusat Tenaga Ra'ayat and the All-Malaya Council of Joint Action.

It is necessary at the outset to review the political developments in Malaya during the period since the liberation of the country from the Japanese.

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

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

Sir Harold MacMichael came to Malaya to take what His Majesty's Government considered was the first step necessary to implement the policy of unifying Malaya (excluding Singapore) under a strong central government—namely, to obtain the formal agreement of Their Highnesses the Malay Rulers to the transfer of full power and jurisdiction, in each of the Malay States, to His Majesty.

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

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

MALAY OPPOSITION

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

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

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

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

FORMATION OF U.M.N.O

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

Both these organisation soon withdrew, however, from the U.M.N.O., because of its undemocratic structure (the Malay Nationalist Party, for example, though the most numerically powerful of the affiliated organisations

—had a voting strength no greater than that of the small local associations with a fraction of the membership of the Malay Nationalist Party); because of the dictatorial methods of the aristocratic leaders of the U.M.N.O.; and, more importantly, because they felt that the policy of the U.M.N.O., formulated in this undemocratic and dictatorial manner, was contrary to the true interests of the Malay people.

The result of this withdrawal was that the U.M.N.O. became, and still remains, solely the organisation of the Malay aristocracy.

FORMATION OF CONSTITUTIONAL WORKING COMMITTEE

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

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

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

BIRTH OF "PUTERA" AND ALL-MALAYA COUNCIL OF JOINT ACTION

In the meanwhile, however, discussion and exchanges of opinion had been taking place between the representatives of various political parties, trade unions, youth organisations, women's associations. The Malay Nationalist Party, which from the very beginning, had advocated a united and democratic Malaya, in opposition to the Malayan Union scheme, took

the initiative in these discussions, and two days before the Proposals were published, the All-Malaya Council of Joint Action was formed, with Mr. Tan Cheng Lock as its Chairman. Two months later, the Pusat Tenaga Ra'ayat or "Putera" was established after a period of unprecedented political activity on the part of the Malay masses.

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

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

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

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

affiliated to the A.M.C.J.A. is approximately 400,000.

Since its inception, the A.M.C.J.A. has been led by one of the most distinguished public figures Malaya has produced – Mr. Tan Cheng Lock, C.B.E.

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

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

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

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

The Putera was formed on the basis of ten principles, the first six being identical with those of the A.M.C.J.A., while the remaining four were: that Malay should be the official language of the country; that Foreign Affairs and Defence of the country should be the joint responsibility of the government of Malaya and His Majesty's Government; that the term 'Melayu'

should be the title of any citizenship or national status in Malaya; and that the national flag of the country should incorporate the Malay national colours.

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

MALAYA-WIDE PROTEST

Since the formation of the Putera and the A.M.C.J.A. these organisation have sponsored mass demonstrations of protest against the Constitutional Proposals of the Working Committee, and in support of their principles of the Putera and the A.M.C.J.A., throughout the length and breadth of the country. Such demonstrations have been held at Singapore, Kuala Lumpur, Penang, Malacca, Ipoh, Taiping, Johore Bahru, Kota Bahru and Kuantan, and in a large number of smaller towns all over the country. Every meeting in the major towns was attended by several thousands of all races and classes.

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

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

to any stable constitution for Malaya.

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

PLEDGES OF "FULL CONSULTATION"

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

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

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

THE "CONSULTATIVE COMMITTEE"

The method chosen to implement these pledges was to set up a Consultative Committee headed by a Government official (the Director of

Education, Mr. H.R. Cheeseman) whose members had no shadow of a claim to represent those who regarded Malaya as their real home and as the object of their loyalty.

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

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

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

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

There was therefore no possibility of the presentation of alternative proposals. A more important objection, however (the objection which weighed primarily with the All-Malaya Council of Joint Action in deciding not to present their views to the Consultative Committee), was the fact that the method adopted encouraged the presentation of the views of individuals and groups who represented primarily sectional and communal interests. Thus, every individual and groups that presented views to the Consultative Committee was responsible, either to himself alone, or to some association representing a particular section or community. The consultative Committee provided a temptation which, in the absence or responsibility to the people

as a whole, could not be otherwise than irresistible, to press the claims of a particular community or sectional interest, as against the claims of other communities and sections. The procedure of the Consultative committee, therefore, deliberately fostered inter-communal and inter-sectional hostility and jealousy.

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

The Putera and A.M.C.J.A., decided not to submit themselves to the Consultative Committee because: (i) they realised the dangers referred to above, (ii) they felt that the pledges of "full and free consultative" had not been fulfilled by this procedure, (iii) since the A.M.C.J.A. and Putera were composed of and supported by all the political parties, the Pan-Malayan Federation of Trade Unions and other groups which adhered to the principle laid down by the Under-Secretary of State for the Colonies, the Putera and A.M.C.J.A. were therefore the only proper representatives of those who regarded Malaya as their real home and as the object of their loyalty, and (iv) because they rejected all the major provisions of the Proposals of the Working Committee which, they felt, although paying lip-service to the fundamental principles that a Federation should be formed on the basis of a partnership between His Majesty and Their Highnesses the Malay Rulers as sovereign constitutional monarchs, and that citizenship should be extended only to those who regarded Malaya as their real home and as the object of their loyalty, did not put these cardinal principles into practice in their Proposal.

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

"PUTERA" AND A.M.C.J.A. PROPOSALS.

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

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

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

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

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

PART TWO

CONSTITUTIONAL PROPOSALS AND EXPOSITION

TERRITORY

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

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

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

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

(i) The sovereignty of the Malay Rulers is shorn of all reality by the requirement that they must accept the "Advice" of His Majesty's Government through the High Commissioner and the British Advisers, in the exercise of their entire legislative and executive authority, with the exception of matters of Muslim religion and Malay custom. (See Section 4, Model State Agreements, and section 8, Draft Federation Agreement).

The word "sovereign" as applied to a state has the clear meaning that the state is not subject in the exercise of its jurisdiction to the interference or control of any alien government. Any requirement that a ruler should

"undertake to accept the advice "of an alien government is clearly a thin disguise for the fact that such "advice" amounts to full control ,and is therefore incompatible with sovereignty.

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

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

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

The Proposals of the Working Committee preserve the unfettered power of His Majesty's Government in Malaya, under the cloak of the same legal fictions as may have deceived past generations, but which are now no longer able to conceal from the people of Malaya the naked fact that Malaya is, from Perlis to Singapore, a British colony.

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

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

The requirement, therefore, that Their Highnesses should undertake to "accept advice" precludes them from being either sovereign or

constitutional, since, once the sovereign power have been transferred by such an undertaking to an alien power they cannot be delegated to the elected representatives of the people.

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

The effect of these provisions is as follows:

(a) In the Federation:

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

Full legislative authority also rests entirely in his hands:

(i) he can veto any legislation passed by the Federal Legislative Assembly ,by withholding his assent under Section 57. Section 57 (3) shows very clearly that it was intended that this power to withhold assent should be a real veto power.

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

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

(ii) On the other hand, the High Commissioner can impose any

legislation His Majesty's Government wishes, under Section 105, if he "considers that it is expedient in the interest of ...good government." The words "good government" are obviously all-embracing.

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

(b) In the Malay States:

Section 4 of the State Agreement, read in conjunction with Sections 91, 105, and 106 (2) of the Federation Agreement, place exactly the same powers of veto and imposition of legislation into the hands of the British Advisers in the Malay States as are held by the High Commissioner in the Federation.

(c) In the Settlements:

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

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

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

In our Proposals, however, we have sought to place Their Highnesses

in the position of truly sovereign and truly constitutional monarch.

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

The fact that the Straits Settlements (Repeal) Act 1946 did not affect the position of Penang and Malacca as colonies, easily escaped attention in the Working Committee's Proposals, since the whole of Malaya was to be brought, in fact, if not in legalistic theory, under the direct administration of His Majesty's Government as a colony.

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

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

(i) The vesting in Their Highnesses of all the rights, prerogatives and powers appropriate to the Ruler of a sovereign state.

(ii) The delegation by Their Highnesses of full legislative and executive powers to the elected representatives of their people.

(iii) The delegation by His Majesty of full legislative and executive powers over such territories formerly included in the Colony of the Straits Settlements as are to be included in the Federation, to the elected representatives of the people of such territories.

(iv) The further delegation, by the elected representatives of the people of the various States and Settlements, of such powers as would be necessary to ensure a strong central government, to the Federal Government.

We have incorporated these four essentials in our Proposals.

Very strong constitutional bonds will be established by the association of His Majesty in a Federation of this type. Such an association of the sovereignty of the British Crown with that of Their Highnesses the Malay Rulers would mean that the sovereignty of the Federation of Malaya incorporated the sovereignty of the British Crown, and would thus establish a closer association of the federation with the British Crown than exists in the case of the Dominions, whose sovereignty is more loosely associated with that of the British Crown.

* * * * *

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

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

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

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

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

The present strength of this sense of unity can be shown for example, by the fact that the political parties of Malaya and the Pan-Malayan Federation of Trade Unions are organized on a Malaya-wide basis which includes Singapore.

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

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

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

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

CITIZENSHIP

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

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

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

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

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

The essential attribute of both citizenship and nationality is the duty of allegiance to the state.

For instance, Sweet's "Dictionary of English Law" defines nationality as "that quality or character which arises from the fact of a person's belonging to a nation or state. It determines the political status of the individual, especially with reference to allegiance."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The political rights which must be recognised if the co-operation and consent of citizens is to be obtained must, however, be commensurate with the duties which the state demands of its citizens. Rights without duties is anarchy; duties without rights is slavery. There must be rights and duties in

equal measure.

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

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

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

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

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

This we have done:

(i) by incorporating the demand for allegiance into the definition of citizenship (Section 2);

(ii) by providing for a period of time during which potential citizens would have full opportunity to consider all the implications of citizenship, namely:

- (a) *that it confers a full national status and therefore excludes the retention of any other nationality;*
- (b) *that this national status is to be termed "Melayu";*
- (c) *that it connotes full allegiance, and therefore the renunciation of all other allegiance;*

(d) *that this allegiance connotes duties, in particular the duty to defend the country in the event of attack by any other country (Sections 19 to 21 inclusive).*

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

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

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

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

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

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

As we have shown, this protection can only be given, and this welfare can only be effectively promoted, by eliciting the co-operation and consent of the citizens by the acknowledgement of political rights. Such an acknowledgement of rights must be accompanied by an acknowledgement on the part of citizens of those civic duties which, together, comprise the general duty of allegiance.

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

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

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

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

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

"Before proceeding to the detailed consideration of the various categories of persons who should be included as citizens, the Committee wished to have clearly before it the meaning of "citizenship" and its implications. It was explained that it was not a nationality, neither could it

develop into a nationality. It would not affect or impair in any respect whatever the status of British subjects in the Settlements, or the status of subjects of the Rulers in the Malay States".

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

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

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

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

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

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

Paragraph 89 of the Reports reveals the real reason for the Working Committee's definition of citizenship as not a nationality, It was a

circumlocution, the real meaning of which was that citizenship was not to connote allegiance.

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

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

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

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

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

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

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

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

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

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

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

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

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

sit in the Federal Legislature as a "citizen", is nothing but a tragic farce.

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

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

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

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

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

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

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

(1) All persons born in Malaya,

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

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

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

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

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

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

- (a) *whose father was born in Malaya, or*
- (b) *whose father had become a Melayu citizen by naturalisation, or*
- (c) *who was registered as a Melayu citizen at the office of the Minister for Home Affairs within 1 year of his birth by delivery to such office of a declaration signed by the father and attested by two responsible persons setting out the place and date of birth, place and date of marriage, the name and sex of the child, and declaring that the father wishes his child to be registered as a Melayu citizen.*

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

Sub-section (1)

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

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

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

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

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

(a) that it confers a full national status, and therefore excludes the retention of any other nationality;

(b) that this national status is to be termed "Melayu";

(c) that it connotes full allegiance, and therefore the renunciation of all other allegiances;

(d) that this allegiance connotes duties, in particular the duty to defend the country in the event of attack by any other country.

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

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

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

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

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

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

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

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

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

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

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

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

2. "B" is over the age of 17 1/2 but under the age of 18 at the date of the Constitution. "B" can make a declaration either accepting or rejecting citizenship. If he does nothing, he will at the end of that period, divest himself of citizenship by making a declaration under the second Proviso before his 19th birthday.

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

3. "C" is under the age of 17 1/2 on the date of the constitution. He becomes a citizen automatically at once, since he would in any case be unable to perform any valid act of acceptance or rejection before the expiry of the 6-month period. He can however, renounce his citizenship between his 18th and 19th birthdays under the second Proviso, and can also, at any time after that, make a declaration of alienage under section 5 (2) (d).

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

If "D" is over the age of 18 1/2 when he returns, he will have 6 months in which to confirm citizenship. If he is under the age of 18 1/2 when he returns, he may, at any time after his 18th birthday, and before his 19th, confirm his citizenship.

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

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

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

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

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

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

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

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

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

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

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

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

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

Such residence is in no way inconsistent with a sentiment of attachment to some other country as the "real home", and with the feeling therefore,

that Malaya is merely, at best, a "second home".

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

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

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

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

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

To regard a country as a real home implies a considerable sentiment of attachment, involving a recognition of the essential identity of interest of the individual with the rest of the population, a consequent regards for the welfare of the people as a whole, which is synonymous with the sentiment of loyalty, a consequent acknowledgement of the duties to the people as a whole (that is, to the government) which comprise the general duty of allegiance, and lastly, an "animus manendi" a desire to remain permanently in the country. This "animus manendi" is not the mere intention to remain in

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

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

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

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

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

The man who lives in Malaya for 60 years, and feels throughout that time that he would live elsewhere, if only he could afford it, and whose last

wish it is, on his death-bed, that his remains should be removed from Malaya, to be buried elsewhere, can hardly be said to make Malaya his "real home".

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

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

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

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

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

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

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

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

That is the acid test - to say, in effect, to the potential citizen of, for

example, Chinese race: "Are you prepared, if called upon to do so, to fight in the defence of Malaya against China? "

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

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

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

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

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

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

Sub-section (2):-

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

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

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

* * * *

Sub-section (3):-

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

Section 4...

(1) Citizenship may be acquired by the granting of a certificate of naturalisation.

(2) A certificate of naturalisation may be granted by the Minister for Home Affairs on his being satisfied that that applicant:

(i) has resided in Malaysia for eight out of the ten years preceding the application,

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

And provided that this qualification shall not be required of

any woman who was a Melayu citizen prior to her marriage to an alien, and whose husband has died, or whose marriage has been dissolved.

(ii) is over the age of 18 years at the times of the application;

(iii) is of good character;

(iv) has made a sworn declaration that he intends, if his application is granted, to reside permanently in Malaya; and

(v) has passed a simple, oral test in the Malay language.

(3) A certificate of naturalisation shall not take effect until the applicant has taken the following Oath of Allegiance, or such translation of such Oath of Allegiance as may be authorised by the Minister for Home Affairs as correct and appropriate having regard to differences of religious belief:-

"I,....., of....., do solemnly (swear) declare that I will bear true allegiance to the Federation of Malaya. (So help me God),"

(4) When an alien obtains a certificate of naturalisation, the Minister for Home Affairs may, on the application of that alien, include in the certificate the name of any child of that alien born before the date of the certificate, and being under the age of 18, and that child shall there upon become a Melayu citizen.

Provided that any such child may, within one year of attaining to the age of 18, make a declaration of alienage, and shall thereupon cease to be a Melayu citizen.

(5) The Minister for Home Affairs may grant or refuse an application for a certificate of naturalisation at his absolute discretion.

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

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

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

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

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

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

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

Section 5...

- (1) (a) If, in the opinion of the Minister for Home Affairs, it is desirable that any certificate of naturalisation granted by him should be revoked, the Minister shall refer the case to the Federal Court for enquiry, and shall make a report in writing setting out the reasons why he considers that such certificate should be revoked, and shall cause to be served on the person whose certificate is to be enquired into a copy of such report.

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

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

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

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

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

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

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

or (d) makes a declaration of alienage.

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

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

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

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

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

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

or (f) being a Melayu citizen by virtue of the operation of Section 3 (2) (c), does not, within one year of attaining to the age of 18 years, make a declaration of retention of Melayu citizenship, duly registered.

Sub-section 1:

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

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

Sub-section 2 (a):

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

The remaining provisions follow English practice, and are based on the British Nationality and States of Alien' Act 1914.

RIGHTS AND DUTIES CITIZENS

A. RIGHTS

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

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

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

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

Freedom of speech

Freedom of publication

Freedom of assembly and meeting

Freedom of religion and conscience

Freedom of movement

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

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

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

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

Section 14... Citizens of Malaya have the right to leisure.

Section 15... Citizens of Malaya have the right to education.

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

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

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

B. DUTIES

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

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

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

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

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

ALIENS

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

FEDERAL GOVERNMENT

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

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

Section 24... Federal Legislative Assembly

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

(2) Each State and Singapore, Penang and Malacca shall be a constituency for the purposes of elections to the Assembly.

(3) There shall be one representative in the Assembly for every 45,000 Malayu citizens.

(4) Each State and Singapore, Penang and Malacca shall be entitled to return such number of representatives to the Assembly as shall be equal, to the nearest integer, to the total number of Melayu citizens within such State, or Singapore, Penang or Malacca, divided by forty-five thousand.

(5) Candidates for seats in the Assembly shall be Melayu citizens of the age of 23 or over.

(6) The life of the Assembly shall be three years.

(7) There shall be no communal electorates, candidatures, representatives or allocation of seats whatever,

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

(a) if, after the holding of the elections to the Assembly, it is found that less than 55 per cent of the representatives are of Malay race, then such number of seats shall be added to the number of seats in the Assembly as would, if filled by representatives of the Malay race, bring the number of representatives of Malay race up to 55 per cent of the total number of representatives.

(b) such seats shall thereupon be filled by those candidates of Malay race who polled the largest number of votes among those candidates of Malay race not returned at the elections.

(c) this proviso shall not, under any circumstances whatever, be subject to any amendment.

(8) Amendments to the Constitution shall be effected by a two-thirds majority of all members of the Assembly.

(9) Representatives shall receive, during the life of the Assembly, an emolument of \$600 per month, exclusive of traveling expenses, such sums to be chargeable on the funds of the Federal Government.

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

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

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

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

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

It is claimed that modern government can only be effectively

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

For instance, in a pamphlet entitled "Labour's Colonial Policy", published by the Fabian Society, the present Secretary of State for the Colonies, the Rt. Hon: Mr. Arthur Creech Jones, says, on page 11: "It is a truism, which is particularly applicable to colonial societies that good health and education are pre-requisites to the practice of democratic government."

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

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

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

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

We feel, therefore, that since this qualification is always put forward

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

The Working Committee consisted of six representatives of the Malayan Union Government (which is responsible only to the Imperial Government), most of whom were bureaucrats steeped in the reactionary traditions of colonial administration, and of six representatives of the Malay aristocracy and its political organisation (United Malaya National Organisation), the maintenance of whose privileged position depended on the continued control of the Imperial Government over Malaya.

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

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

We have two criticisms to make of this standpoint:-

(a) The Imperial Government reserves to itself the right arbitrarily to decide when the requisite educational standard has been reached, and by doing so, usurps the right which belongs only to the people to decide for

themselves if and when they are ready to accept the responsibility of self-government.

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

(b) The history of the movement for independence in colonial territories proves that the question of whether any particular educational standard has been reached, does not in practice arise. The recent political development in India is a case in point. The British Cabinet did not, we feel sure, base its decision to grant Indian independence on India's standards of literacy or education. If educational standards were really the touchstone for readiness for self-government, then it may justifiably be contended that Malaya is just as ready for self-government as India is, since the percentage of literacy in India and Malaya today is approximately the same.

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

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

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

There is, however, the saying, that "it is never too late to mend". The people of Great Britain should realise that the love of freedom is not confined to themselves alone, but is also held by their subject peoples. They should

therefore see to it that their democratically-elected governments understand the wisdom of securing the lasting friendship of their colonial peoples by permitting them to exercise their basic right to self-government, and the folly of waiting until mounting political hostility has destroyed the foundations of this goodwill.

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

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

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

of Britain gave it their co-operation.

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

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

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

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

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

— and Executive.

In our discussion on citizenship, we referred to the situation that could arise if, for example, there were a state of war between the Federation and China. In the event of such a war, there might very well be members both of the Legislature and executive whose real loyalty, as nationals of China, would be with China, and whose real national duty it would therefore be (if they were not interned as enemy nationals) to do everything in their power to sabotage the war effort of the people of Malaya from within the government.

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

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

Section 25... Federal Executive Council

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

(2) The Prime Minister shall be elected by the Assembly.

(3) The Prime Minister shall allocate the following Departments among the members of the Council:

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

(4) The Prime Minister shall be President of the Council.

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

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

Section 26... Council of Races

(1) There shall be a Council of Races (hereafter in this Section called "the Council") of consisting of two members of each of the following communities:

Malay, Chinese, Indian, Eurasian, Ceylonese, Aborigine, Arab, European, Jews and others.

(2) (a) *Members of the Council shall be Melayu citizens over the age of 23, elected by the Assembly.*

(b) *No member of the Assembly shall be a Member of the Council.*

(3) The life of the Council shall be three years.

(4) No amendment of the Constitution, or other legislature, shall have the effect of abolishing the Council until after nine years from the date of this Constitution.

(5) The Council shall have the following powers and duties:

(a) *Every Bill passed by the Assembly shall be sent to the Council, which shall thereupon consider whether or not such Bill is discriminatory.*

(b) *A discriminatory Bill is any Bill which, either as a whole, or in any particular provision, is discriminatory on racial or religious grounds.*

(c) *If the Council shall decide unanimously that any Bill is not discriminatory, such Bill shall thereupon, after formal assent has been given, become law.*

(d) *If the Council shall decide by a majority that such Bill is*

not discriminatory such Bill shall be returned to the Assembly together with a full and complete statement, drawn up and signed by each and every objecting member, showing clearly the provision or provisions to which objection was taken, and if such Bill on being reconsidered by the Assembly, is again passed by the Assembly, it shall, after formal assent has been given, thereupon become law.

- (e) (i) If the Council shall decide unanimously, or by a majority, that such Bill is discriminatory, such Bill shall be returned to the Assembly, together with the statements of objecting members as in (d) above.

(ii) If such Bill, after reconsideration by the Assembly, is again passed by the Assembly, it shall be returned to the Council together with a full record of the proceeding of the Assembly on such reconsideration.

(iii) If the Council, after reconsidering such Bill, again decides that such Bill is discriminatory, it shall be returned to the Assembly together with such further statements as any objecting member may wish to make.

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

(v) If the Council, after further reconsideration of such Bill, again decides that such Bill is discriminatory, such Bill shall not become law during the life of the Assembly, but if such Bill shall be introduced in the next Assembly, and shall be passed by such next Assembly, it shall, after formal assent has been given, thereupon become law.

- (f) *If at any time after the Council has decided whether or not any Bill is discriminatory under (d) or (e) above, and before such Bill become law, any amendment is passed in such Bill by the Assembly, such amendment shall be treated for the purposes of this sub-section, as if it were a provision in a Bill appearing for the first time before the Council, and the Council shall accordingly have three opportunities of recording its decision that such amended provision is discriminatory before such provision becomes law.*

- (g) *If the Council shall decide, under (e) (i) or (e) (iii) above, that any Bill is discriminatory, but due to the termination of the life of the Assembly such Bill is not brought before the Council again for the second or third time, such Bill, if brought before the new Council by the next elected Assembly, and if it is again decide to be discriminatory, shall be referred to the Assembly for consideration, and if it is, after such consideration, passed, shall, after formal assent has been given, thereupon become law.*

(6)(i) If at any time the Council shall decide by a majority, but not unanimously, that any Bill is discriminatory, and a resolution is carried by a two-thirds majority of the Assembly that such decision is unjustifiable, on the ground that the reasons put forward by the Council for its decision are unsatisfactory and inadequate, the matter shall thereupon be laid before the Federal Court.

(ii) If the Federal Court, after an examination of the minutes of the proceeding of the Assembly and of the Council, and after hearing any members of the Council or of the Assembly or of both the Council and the

Assembly as it shall think fit, is satisfied beyond reasonable doubt that the Bill is not discriminatory, such Bill shall, after formal assent has been given, thereupon become law.

(7) The Council may recommend to the Assembly any measure which it decides by a majority or unanimously is necessary for the advancement or protection of any section of the people,

Provided that, in the case of any such measure being introduced into the Council and being defeated, the proposer of such measure may demand that the minutes of the discussion in the Council, together with a statement as to the desirability of the measure proposed, drawn up and signed by the proposer, shall be tabled before the Assembly.

(8) All motions in the Council shall be proposed by a member of one community and seconded by a member of another community.

(9) A quorum of the Council shall be two-thirds of the members.

(10) Each member shall have one vote.

(11) The Council shall elect a Chairman from among its own members.

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

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

discriminatory legislation.

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

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

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

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

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

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

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

The procedure set out in this Section ensures, we feel, that any legislation finally placed on the Statute Book in the face of objections raised by the Council of Races, will have been passed by the Assembly for very

necessary and vital reasons, after the fullest consideration of the arguments against such legislation.

We have given the Council of Races a second function: to recommend to the Assembly any measure which it considers necessary for the advancement or protection of any section of the people.

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

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

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

Section 27... Conference of Rulers

(1) There shall be a Conference of Rulers consisting of the High Commissioner as the representative of His Majesty the King, and Their Highnesses the Malay Rulers.

(2) Copies of all Bills, on introduction into the Assembly, shall be placed before the Conference of Rulers for their consideration.

The Conference of Rulers symbolises the Federation of Malaya based on the partnership of His Majesty with Their Highnesses the Malay Ruler as sovereign constitutional monarchs.

Section 28... Federal Court

(1) There shall be Federal Court and such inferior courts as many hereafter be created by legislation, whose constitution and procedure shall be such as may hereafter be provided for by legislation.

(2) The jurisdiction of the Federal Court shall extend to all cases in law and equity arising under this Constitution, or under such laws as may hereafter be enacted by legislation, and to controversies between the various States and territories comprised in the Federation.

(3) The Federal Executive Council shall nominate the Chief Justice and the Judges of the Federal Court, and the Conference of Rulers shall thereupon appoint such Judges.

(4) The Judges of the Federal Court and all inferior Courts shall hold office during good behaviour, and shall only be removable from office on a motion to petition the Conference of Rulers for such removal before the Federal Legislative Assembly, carried by a majority of two-thirds of the

members present and voting; such motion to be preceded by an enquiry conducted by a judicial committee of not less than five and not more than ten members of the Federal Legislative Assembly, and presided over by the Chief Justice, whose recommendation shall be laid before the Federal Legislative Assembly, together with a full and complete record of the proceeding of the enquiry.

(5) The Judges of inferior Court shall be appointed by the Minister for Home Affairs.

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

MUSLIM RELIGION AND MALAY CUSTOM

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

Provided that any legislation found necessary by the Malays for the enforcement of such matters of Muslim religion and Malay Custom as are the proper subject or

legislation, may be recommended to the Assembly by such institutions as may hereafter be set up by the Malays to regulate their religion and custom.

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

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

HIGH COMMISSIONER

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

ASSENT TO BILLS

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

GOVERNMENT OF TERRITORIES OF FEDERATION

Section 32... There shall be established Legislative Assemblies in each State, and in Penang, Malacca, and Singapore.

(2) Such Assembly shall exercise within their respective territories, full legislative and executive authority, subject only to the provision of Section 23 of this Constitution.

(3) The members of such Assemblies shall be Melayu citizens of the age of 23 and above.

(4) Such Assemblies shall consist of the representatives of the people of such territories directly elected by the Melayu citizens resident within such territories of the age of 18 and above, by secret vote.

(5) There shall be no communal electorates, candidates, representatives or allocation of seats whatever,

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

Section 33... (1) There shall be established on Executive Council in each State, and in Penang, Malacca and Singapore.

(2) Such Council shall be responsible to and elected by their respective Legislative Assemblies from among their own members.

(3) The Menteri Besar of each State, and the Prime Minister of Penang, of Malacca and of Singapore shall be elected by their respective Legislative Assemblies.

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

(5) The Menteri Besar of each State, and the Prime Minister of Penang, of Malacca and of Singapore shall be the President of the Executive Councils in their respective territories.

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

LANGUAGE

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

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

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

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

They disagreed strongly, however, with the Working Committee's Proposal that only Malay or English should be used, since this would necessarily bar a great number of citizens from standing as candidates. They agreed that Melayu citizens should not, as loyal citizens giving allegiance to the Federation, be penalised in the exercise of their democratic rights by their inability to speak Malay, particularly as that inability was caused through

no fault or their own, but was the result of an imperial policy which has discouraged the development of the indigenous peoples, but has instead preference always being given to the English language. In the absence of a proper policy of teaching Malay in all schools, it could not be expected that all who regard Malaya as their real home should be familiar with the Malay language.

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

SCHEDULE A

MATTERS WITH RESPECT TO WHICH THE FEDERAL LEGISLATIVE ASSEMBLY HAS POWER TO PASS LAWS: AND EXTENT TO WHICH STATE AND SETTLEMENT GOVERNMENTS HAVE EXECUTIVE AUTHORITY UNDER SUCH LAWS.

| (1) | (2) |
|---|--|
| Matters with respect to which the Legislative Assembly has power to pass laws. | Extent to which each State or Settlement Government is to have executive authority under such laws, unless matters of policy to common two or more States or Settlements are involved. |
| 1. All matters relating to defence including: | 1. - |
| (a) naval, military or air forces of His Majesty; local forces; any armed forces which are not forces of His Majesty but are attached to or operating with any of His Majesty's forces within the Federation; | |
| (b) naval, military and air force or defence works; military and protected areas; | |
| (c) naval, military and air force manoeuvres; | |
| (d) central intelligence bureau; | |
| (e) preventive detention for reasons of State connected with defence; | |
| (f) defence contribution. | |

| (1) | (2) |
|--|-------|
| 2. External affairs including: | 2. - |
| (a) the implementing of treaties conventions and agreements with other countries or international organizations; | |
| (b) obligations of the Federation in relation to the British Empire and any part thereof; | |
| (c) extradition and fugitive offenders; prisoners removal. | |
| 3. Actionable wrongs. | 3. - |
| 4. Actions in rem and personal actions. | 4. - |
| 5. Arbitration. | 5. - |
| 6. Ascertainment in a Malay State of Muhammadan Law and the Custom of the Malaya in the Settlements. | 6. - |
| 7. Bankruptcy and insolvency. | 7. - |
| 8. Civil law and Procedure. | 8. - |
| 9. Companies and corporations. | 9. - |
| 10. Contracts, including partnership agency, contracts of carriage and other special forms or contract. | 10. - |

| (1) | (2) |
|---|--|
| 11. Criminal law generally, except offences against Enactments of any State or Settlement. | 11. - |
| Matters with respect to which the Legislative Council has power to pass laws. | Extent to which each State or Settlement Government is to have executive authority under such laws, unless matters of policy common to two or more States or Settlements are involved. |
| 12. Criminal procedure. | 12. Prerogative or pardon and mercy in cases tried in a Malay State to be exercise by the Ruler in Council with legal advice from the Attorney-General's Department. |
| 13. Delegation of Federal powers. | 13. - |
| 14. Easements. | 14. - |
| 15. Emergency powers, emergency legislation; trading with the enemy; enemy property; custodian of property; war damage claims and compensation; relief, rehabilitation and any other matters whatsoever arising out of war. | 15. - |
| 16. Equity: trusts and trustees: equitable relief, specific relief. | 16. - |

| (1) | (2) |
|--|--|
| 17. Establishment, jurisdiction and powers of all Courts, excluding Muslim religious Courts. | 17. The appointment of District Judges and Magistrates in any State to be by the Ruler in Council of that State. |
| 18. Evidence. | 18. - |
| 19. Factors. | 19. - |
| 20. Hire purchase. | 20. - |
| 21. Indemnity. | 21. - |
| 22. Inns and innkeepers. | 22. - |
| 23. Interpretation and general clauses: official titles. | 23. - |
| 24. Landlord and tenant; rent restriction. | 24. Rent restriction. |
| 25. Law of highways. | 25. - |
| 26. Law of insurance. | 26. - |
| 27. Lien. | 27. - |
| 28. Limitation. | 28. - |

| (1) | (2) |
|--|--|
| 29. Marriage and divorce; legitimacy; age of majority; infants and minors; adoption. | 29. Registration of marriages and of adoption. |
| 30. Married women 's property. | 30. - |
| 31. Master and servant. | 31. - |
| 32. Mercantile law generally. | 32. - |
| 33. Negotiable instruments, including cheques, bills of exchange. promissory notes and other like instruments. | 33. - |
| 34. Oaths and affirmations; statutory declaration. | 34. - |
| 35. Passed off; slander of title; slander of goods. | 35. - |
| Matters with respect to which the Legislative Council has power to pass laws. | Extent to which each State or Settlement Government is to have executive authority under such laws, unless matters of policy common to two or more States or Settlements are involved. |
| 36. Public Trustee. | 36. - |
| 37. Reciprocal enforcement of judgments and orders. | 37. - |

| (1) | (2) |
|---|--|
| 38. Statute law revision, | 38. - |
| 39. Suits by and against the Federal Government; Crown suits. | 39. - |
| 40. Suretyship and guarantee. | 40. - |
| 41. Transfer, hypothecation and mortgage of moveable property; bills of sale; registration of documents; powers of attorney. | 41. - |
| 42. Wills, intestacy and succession: probate; administration; distribution of estates of deceased persons; escheat; bona vacantia. | 42. - |
| 43. Admission into, and emigration and expulsion from, the Federation; banishment; restricted residence; aliens (including registration, immigration, and any other restriction of whatsoever nature on aliens); naturalization; passports, passengers' restriction; pilgrimage to places outside the Federation. | 43. Restricted residence. Case of banishment from a Malay State, the Ruler or the Malay State in which the person to be banished ordinarily resides should be associated with the actual banishment order. |
| 44. Arms and firearms; ammunition. | 44. - |

| (1) | (2) |
|---|--|
| 45. Societies. | 45. - |
| 46. Explosives. | 46. - |
| 47. Internal security including police forces, prisons, juvenile delinquents, reformatories, industrial schools, detention homes, criminal investigation and registration of criminals; removal of prisoners and accused persons within the Federation. | 47. In so far as it is considered by the Legislative Council to be appropriate for executive authority to be exercised by the State or Settlement. |
| 48. Newspapers, books, printing presses; publishers and publications. | 48. - |
| 49. Official secrets. | 49. - |
| 50. Peace, order and good government of the Federation with regard to any of the matters set out in this List. | 50. - |
| 51. Registration of residents. | 51. - |
| 52. Theatres; dramatic performances; cinemas and cinematograph films; censorship; places of public amusement. | 52. The whole, except Censership. |

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| 53. Federal Public Services, including the Malayan and Federal Establishments and Federal Public Services Commission; Public Authorities protection. | 53. - |
| 54. Pensions, including widows and orphans pensions; retiring allowances and gratuities. | 54. - |
| 55. Census. | 55. - |
| Matters with respect to which the Legislative Council has power to pass laws. | Extent to which each State or Settlement Government is to have executive authority under such laws, unless matters of policy common to two or more States or Settlements are involved. |
| 56. Commissions of Enquiry. | 56. - |
| 57. Corrupt practices, including corrupt practices at any Federal, State, Settlement or Municipal elections. | 57. - |
| 58. Election to the Federal Legislature. | 58. - |
| 59. Factories; dangerous and obnoxious trades. | 59. In so far as it is considered by the Legislative Council to be |

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| | appropriate for executive authority to be exercised by the State of Settlement. |
| 60. Legal, medical and other professions; dentists; pharmacists; nurses; dressers and midwives. | 60. Registration of midwives. |
| 61. Machinery; boilers. | 61. - |
| 62. Privileges and powers of the Federal Legislature and Members thereof. | 62. - |
| 63. Protection of women and girls; protection of children; mui tsai. | 63. - |
| 64. Protection of aborigines. | 64. - |
| 65. Public and Bank Holidays. | 65. To declare public holidays within the State or Settlement. |
| 66. Standard time. | 66. - |
| 67. Statistics. | 67. In so far as it is considered by the Legislative Council to be appropriate for executive authority to be exercised by the State or Settlement. |

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| 68. Superannuation; pensions; provident and benevolent funds. | 68. - |
| 69. Trade Unions; industrial and labour disputes. | 69. - |
| 70. Unemployment insurance. | 70. - |
| 71. Unauthorised use of arms and armorial bearings, flags, emblems, uniforms, Orders and decorations. | 71. - |
| 72. Welfare of labour; conditions of labour; employer's liability and workmen's compensation; health insurance including invalidity pensions; old age pensions. | 72. - |
| Matters with respect to which the Legislative Council has power to pass laws. | Extent to which each State or Settlement Government is to have executive authority under such laws, unless matters of policy common to two or more States or Settlements are involved. |
| 73. Boarding houses and lodging houses. | 73. The whole. |
| 74. Hindu Endowment Boards. | 74. - |

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| 75. Municipal Corporations, Improvement Trusts, Town Boards; Rular Boards and other local Authorities, including elections to such bodies. | 75. The Whole. |
| 76. Town planning and housing to the extent or ensuring uniformity of legislation. | 76. The whole. |
| 77. Youth organizations. | 77. - |
| 78. Charities and charitable Institutions. | 78. State or Settlement charities and charitable institutions. |
| 79. Primary, secondary and trade school education to the extent of ensuring a common system of administration; higher education; technical education; training of teachers; registration of schools; Federal educational institutions; translation bureau. | 79. Primary, secondary and trade school education excluding measures designed to ensure a common policy and a common system of administration; State and Settlement scholarships; State and Settlement educational endowments. |
| 80. Ethnology, anthropology and archaeology so as to ensure the promotion of science on proper lines; scientific societies. | 80. - |

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| 81. Federal agencies and institutions for the following purposes, that is to say for research, for professional or technical training or for the promotion of special studies. | 81. - |
| 82. Libraries, museums, memorials and similar institutions controlled or financed by the Federation. | 82. - |
| 83. Meteorology. | 83. - |
| 84. Protection of ancient and historical monuments and archaeological sites and remains; treasure trove. | 84. The whole. |
| 85. Surveys, including land, marine serial, geological, botanical and zoological surveys; boundaries and survey maps. | 85. - |
| 86. Wild life preservation. | 86. The whole, except the prescription of standards of maturity. |
| 87. Aircraft and air navigation; the provision of aerodromes: the regulation and organization of air traffic and of aerodromes. | 87. - |

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| Matters with respect to which the Legislative Council has power to pass laws. | Extent to which each State or Settlement Government is to have executive authority under such Laws, unless matters of policy common to two or more States or Settlements are involved. |
| 88. Carriage of passengers and goods by land, water or sir. | 88. Restriction and regulation or carriage by riverine traffic and by vehicles other than mechanically propelled vehicles. |
| 89. Posts and telegraphs, including telephones, wireless, broadcasting and other like forms of communication. | 89. - |
| 90. Railways. | 90. - |
| 91. Roads, bridges and ferries declared to be federal by the High Commissioner after consultation with the Federal Public Works Board. | 91. - |
| 92. Road transport; road traffic; mechanically propelled vehicles. | 92. In so far as it is considered by the Legislative Council to be appropriate for executive authority to be exercised by the State or Settlement. |

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| 93. Adulteration of foodstuffs and other goods. | 93. The whole. |
| 94. Lepers and Leper Institutions. | 94. - |
| 95. Lunacy and mental deficiency, including places for the reception or treatment of lunatics and mental deficient. | 95. - |
| 96. Poisons and deleterious drugs. | 96. - |
| 97. Public health and sanitation ; central or specialised hospitals or medical institutions intended to serve more than one State or Settlement; prevention of disease; quarantine; mosquitoes, anti-malarial measures; manufacture, preparation and sale of drugs, food and drink. | 97. In so far as it is considered by the Legislative Council to be appropriate for executive authority to be exercised by the State or Settlement. |
| 98. Registration of births and deaths. | 98. - |
| 99. Vagrants and decrepits. | 99. The whole. |
| 100. Compulsory acquisition of land. | 100. The whole. |
| 101. Land legislation to the extent of ensuring common policy and a common system of | 101. - |

(1)

administration, but having regard to customary tenures and usage and other necessary variations in any State or Settlement; conveyancing and law of property; registration of Titles and registration of Deeds; mortgage and changes interest restriction.

(2)

102. Malay reservations to the extent of ensuring common policy.

102. The whole.

Matters with respect to which the Legislative Council has power to pass laws.

Extent to which each State or Settlement Government is to have executive authority under such laws, unless matters of policy common to two or more States or Settlements are involved.

103. Inland waters, watersheds, water supplies, water storage, water power, irrigation and canals, drainage and embankments, control of silt and riparian rights, but only to the extent of ensuring a common policy and a common system of administration.

103. The whole.

104. Works, lands and buildings vested in, held or reserved for the

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purposes of the Federation and not being naval, military, air force or defence works.

(2)

105. Agriculture and control of agricultural pests to the extent of ensuring common policy and a common system of administration.

105. The whole.

106. Maritime and estuarine fishing and fisheries, excluding turtles.

106. In so far it is considered by the Legislative Council to be appropriate for executive authority to be exercised by the State or Settlement.

107. Forests, to the extent of ensuring common policy and a common system of administration.

107. The whole.

108. Animal husbandry to the extent of ensuring common policy and a common system of administration.

108. The whole.

109. Prevention of cruelty to animals.

109. The whole.

110. Veterinary; diseases of animals; animal quarantine.

110. In so far as it is considered by the Legislative Council to be appropriate for executive authority to be exercised by the State or

| (1) | (2) |
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| | Settlement. |
| 111. Auctioneers; auction sales; appraisers. | 111. The whole. |
| 112. Co-operative societies. | 112. - |
| 113. Copyright; inventions; designs; trade-marks; trade names; merchandise marks. | 113. - |
| 114. Development of industries, where development under Federal control is declared by Federal law to be expedient in the public interest. | 114. - |
| 115. Economic survey. | 115. - |
| 116. Electricity; gas and gasworks. | 116. Gas and gasworks. |
| 117. Food control. | 117. - |
| 118. Imports and exports into and from the Federation. | 118. - |
| 119. Laws relating to agricultural, mineral and industrial production, sale, regulation and supervision. | 119. - |

| (1) | (2) |
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| Matters with respect to which the Legislative Council has power to pass laws. | Extent to which each State or Settlement Government is to have executive authority under such laws, unless matters of policy common to two or more States or Settlements are involved. |
| 120. Mining, minerals and mineral ores, petroleum and oils; purchase, sale, import and export of minerals, mineral ores, petroleum and oils; smelting; disclosure of smelters stocks. | 120. - |
| 121. Pawnbrokers; second-hand dealers; money-lenders and money-lending. | 121. Second-hand dealers. |
| 122. Petroleum and other liquids and substances declared by Federal laws to be dangerously inflammable, so far as regards possession, storage and transport. | 122. - |
| 123. Price control. | 123. - |
| 124. Trade and commerce; registration of businesses. | 124. - |
| 125. Weights and measures. | 125. The whole. |

| (1) | (2) |
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| 126. Merchant shipping; collisions at sea; salvage; pilots and pilotage. | 126. - |
| 127. Maritime shipping and navigation, including shipping and navigation on tidal waters; admiralty jurisdiction; admiralty transports; admiralty waters; territorial waters; foreshores; wrecks; flotsam and jetsam. | 127. - |
| 128. Ports and harbours; constitution and powers of port and harbour Authorities. | 128. - |
| 129. Lighthouses, including lightships, beacons and other provision for the safety of shipping and aircraft; Imperial light dues. | 129. - |
| 130. Banking. | 130. - |
| 131. Corporation tax. | 131. - |
| 132. Currency, coinage; legal tender; counterfeit coin and notes. | 132. - |
| 133. Customs duties, including export duties. | 133. - |
| 134. Duties of excise. | 134. - |

| (1) | (2) |
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| 135. Death duties and duties in respect of succession to property. | 135. - |
| 136. Government loans security. | 136. - |
| 137. Exchange control. | 137. - |
| 138. Public debt of the Federation; municipal loans; general loans and inscribed stock; treasury bills; saving certificates; Government trustee securities. | 138. - |
| 139. Post office Saving Bank. | 139. - |
| 140. Stamp duties. | 140. - |
| 141. Taxes on the capital value of the assets of individuals and companies; taxes on the capital of companies. | 141. - |
| 142. Taxes on income. | 142. - |
| 143. Taxes and fees in respect of any of matters in this List. | 143. - |
| 144. Offences against laws with respect to any of the matters in this List. | 144. - |

SCHEDULE B

The following are the amendments made by our Constitutional Proposals in Schedule A to the Second Schedule of the Report of the Working Committee in which are laid down the matters with respect to which the Federal Legislature has power to pass laws, and the extent to which the government of the territories included in the Federation have executive authority:-

- A. Section 17 (2) : Add the words "in Council" after the word "Ruler".
- B. Section 43 (1) : Add the words "of aliens" after the word "banishment".
- C. Section 45 (1) : Delete the words "Control of".
- D. Section 56 (2) : Delete the whole.
- E. Section 64 (2) : Delete the whole.
- F. Section 75 (1) : Delete the words "To the extent of ensuring uniformity of legislation".
- G. Section 77 (1) : Delete the words "Boy Scouts...and similar" and insert the word "Youth".
- H. Section 79 (1) : Delete the word "Malay".
- I. Section 119 (2) : Delete the whole.
- J. Section 121 (2) : Delete the word "pawnbrokers".
- K. Section 134 (2) : Delete the whole.

KING'S HOUSE
KUALA LUMPUR
MALAYAN UNION.

4th October, 1947.

Dear Bourdillion,

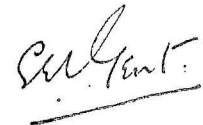
You will have seen or heard reports of a Constitution for Malaya drafted by the local Combination of left-wing groups comprising the All Malaya Council of Joint Action and a Malay Nationalist party organisation called PUTERA for short. This Combination drew up some 3 months ago two separate and conflicting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

As none of these series has been sent to this Government at any stage, although the organising

Secretary, a Singapore Eurasian communist, sent to the Public Relations Officer, Singapore, a copy of the Stage 2 scheme, we have relied on our confidential sources of supply to get the others. It may be that there is no final AMCJA-PUTERA scheme, but that they are still pulling a draft about during to an inability to reconcile their different interests.

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

Yours sincerely,



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

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Note: These are comments on A.M.C.J.A-Putera Published Scheme.

**COMMENTS ON THE PROPOSALS OF THE A.M.C.J.A-
PUTERA (here referred to as A-P) ON CITIZENSHIP**

A-P make great play over the fact that citizenship in the government Proposals will not be a nationality and take credit to themselves for proposing a form of citizenship which is a nationality and which involves the discarding of any other nationality which the citizen may passess.

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

Apart from these considerations do the A-P leaders really voice the opinion of those, who, they claim, support them? The bulk of A.M.C.J.A adherents, it is claimed, come from the P.M.F.T.U.

Now the real views of the P.M.F.T.U. may be gauged from the response of the "Perak People's Association" to the invitation to give their views on citizenship to the Citizenship Proposal Committee in 1946. The "Perak People's Association" claiming to represent 69 Association and Guilds throughout Perak (all of which were affiliated to the P.M.F.T.U. or to the M. C.P.) gave its view that "any foreigner (including British, Chinese, Indians and others) resident in the Malayan Union or Singapore and who acquires Malayan Union citizenship..... may at the same time preserve his or her

original national citizenship". And again "Foreign resident in the Malayan Union... should be recognised as legitimate citizens of the Union. But however, each and every foreign resident has his or her own national concept, especially the oversea Chinese. We, therefore, welcome the opinion that a dual citizenship should be granted to all foreign residents in the Union".

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

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

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

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

Section 3 of the proposals provides in effect that any person born in Malaya becomes a citizen automatically and that any such person of the age

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

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

Chapter three of the A-P proposal is headed "Right and Duties of Citizens". The framers do not consider it irrelevant to introduce under that heading matters such as a minimum wage level for all wage and salary earners, the right of every worker to vacation leave, the right to strike etc.

CONFIDENTIAL

A-P PROPOSALS FEDERAL LEGISLATIVE ASSEMBLY (Section 24)

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

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

The Malays are given the "privilege" of having 55% of the seats in

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

COUNCIL OF RACES (Section 26)

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

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

reconsideration by the Assembly is passed, after formal assent has been given, it becomes law.

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

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

In practice the power of this Council to protect the country against discriminatory legislation by the Assembly would be negligible for it is the Assembly that would elect the members of the Council. In other words the Council would be a creature of the Assembly and would be "coloured" in any way that the Assembly liked. Then, the framers of the proposals would introduce still further racial complications by admitting Arabs and Jews to seats on the Council. And the Jews having a population of some hundred would have an equal voting strength with the Malays who have a population of some two and a half million. The Malays on the Council could be hopelessly outvoted on every issue coming before the Council. The farmers of the proposals evidently visualised the abolition of the Council after nine years. The mention of this period is significant: it synchronizes with the period during which the Malays would be allowed 55% of the seats in the

Assembly. After that period, with indiscriminate immigration, and the indiscriminate conferring of citizenship, the Malays would be submerged by other races. The creation of the Council can only be regarded as an attempt at giving a sop to the Malays. And what a sop! Two seats in an ineffectual Council of eighteen.

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

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

(Sgd.) W. Linehan.

23.9.47