

# CONSTITUTIONAL PROPOSALS FOR MALAYA.

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**Report of the Working Committee appointed  
by a Conference of His Excellency the  
Governor of the Malayan Union, Their  
Highnesses the Rulers of the Malay States  
and the Representatives of the United  
Malays National Organisation.**

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*Revised up to the 19th of December, 1946.*

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TO HIS EXCELLENCY SIR GERARD EDWARD JAMES GENT, K.C.M.G.,  
D.S.O., O.B.E., M.C., GOVERNOR OF THE MALAYAN UNION, AND THEIR  
HIGHNESSES THE RULERS OF THE MALAY STATES.

YOUR EXCELLENCY AND YOUR HIGHNESSES,

We were appointed on the 25th July, 1946, by agreement between Your Excellency, Your Highnesses and the representatives of the United Malays National Organisation, with the concurrence of His Excellency the Governor-General, to be a Working Committee to examine the constitutional proposals put forward by Your Highnesses and the United Malays National Organisation and to work out in detail, for Your Excellency and Your Highnesses to examine and criticise, fresh constitutional arrangements in the form of a provisional scheme which would be acceptable to Malay opinion, and which would provide a more efficient administration and form the basis of future political and constitutional developments.

Your Committee was constituted as follows:

REPRESENTING THE GOVERNMENT.

Mr. A. T. Newbould, C.M.G., M.C., E.D., M.C.S. (Chief Secretary).  
Mr. K. K. O'Connor, M.C. (Attorney-General).  
Mr. W. D. Godsall, M.C.S. (Financial Secretary).  
Dr. W. Linehan, M.C.S.  
Mr. A. Williams, M.C.S.

REPRESENTING YOUR HIGHNESSES.

Raja Kamaralzaman bin Raja Mansur, M.C.S., Raja Keehil Tengah, Perak.  
Dato Hamzah bin Abdullah, Orang Kaya Mentri, Selangor.  
Haji Muhammad Sheriff bin Osman, C.B.E., Secretary to Government, Kedah.  
Dato Nik Ahmed Kamil bin Mahmud, D.K., S.P.M.K., Dato Sri Setia Raja, Kelantan.

REPRESENTING THE UNITED MALAYS NATIONAL ORGANISATION.

Dato Onn bin Jaafar, D.P.M.J.  
Dato Abdul Rahman bin Muhammad Yasin, S.P.M.J.

SECRETARY TO THE COMMITTEE.

Mr. D. C. Watherston, M.C.S.

In addition the Committee's meetings were attended by:

Sir Ralph Hone, K.B.E., M.C., T.D., K.C. (Observer for H.E. the Governor-General).  
Sir Theodore Adams, C.M.G. (Adviser to Your Highnesses).  
Dato B. St. J. Braddell, D.P.M.J. (Legal Adviser to the United Malays National Organisation).

The Committee met for the first time on the 6th August, 1946, and sat until 16th of August. We then went into recess over the Hari Raya holidays and met again on the 6th of September. Our discussions continued until the 28th of September, when another recess was taken to enable the Malay representatives to consult their principals. The Committee met again on the 11th of October and completed its discussions on the 1st of November. After a short adjournment to enable full consideration to be given to the committee's recommendations as a whole, we met for our final session on the 11th of November. The report was signed on the 18th of November.

## CHAPTER I. INTRODUCTORY.

### CONSTITUTIONAL AND POLITICAL DEVELOPMENTS UP TO 1941.

1. In order that our recommendations may be seen in proper perspective, it will be convenient to describe briefly the organisation of government in Malaya before the war, the reason for the decision of His Majesty's Government to create a Malayan Union, and the subsequent events leading up to the appointment of this Committee.

2. Until the Japanese occupation the territories with which we are concerned fell into three groups:

- (a) the Settlements of Penang (including Province Wellesley) and Malacca, forming part of the Straits Settlements;
- (b) the Federated Malay States of Perak, Selangor, Negri Sembilan and Pahang;
- (c) the Unfederated Malay States of Johore, Kedah, Kelantan, Trengganu and Perlis.

3. The Straits Settlements, as a Crown Colony, were under direct British administration with a Governor and an Executive and Legislative Council.

4. *Federated Malay States, 1874-1895.* In the Malay States, British authority rested upon Agreements concluded with the Rulers at varying dates from 1874 onwards. Although not identical, these Agreements preserved the sovereignty of the Ruler in his State, and bound him to accept the advice of a British officer on all matters of general administration in his State except matters relating to the Muhammadan religion and Malay custom. During the early days in the four Federated States the vital need for revenue to develop communications and to provide essential social services, coupled with the lack of qualified Malays, compelled the Residents to take administrative control into their own hands. But, as anyone who has read the diaries of Sir Hugh Low will realise, there was a very close contact between the British officer on the one side and the Ruler and Chiefs and the peasants on the other which ensured that the interests of the people received full attention.

5. *Federated Malay States, 1895-1927.* The Federation Agreement of 1895, unfortunately, did not define the respective functions of the Federal and State Governments. While in the succeeding decade this had but little ill effect, the rapid development of the country, and more especially of the rubber industry, from 1906 onwards, resulted in a steady transfer of many of the powers, previously exercised in the States by the Residents and State Councils, to a central authority which was not in close touch with the Rulers. This unified control undoubtedly stimulated the process of material development and, in the resulting general prosperity, the steady trend of authority away from the States seems to have gone largely unnoticed, although protests were made from time to time by some of the Rulers. A Federal Council was established under an Agreement signed in 1909, which, in some respects, placed on a formal footing, for the first time, the transfer to the Federal Government of certain powers which had, until then, belonged *de jure* but not *de facto* to the States.

6. *Federated Malay States, 1927-1941.* The next change was made in 1927 when, by an Agreement signed by the High Commissioner and the four Rulers of the Federated Malay States, the Federal Council was reconstituted. The Rulers withdrew from active participation in the work of the Council: the Unofficial Membership was enlarged to make it more representative in character: and the legislative and financial authority of the Council was outlined. No further change in the constitutional arrangements was made until the reforms associated with the name of Sir Cecil Clementi were introduced as the result of a request from the four Rulers. The main features of these reforms were:

- (a) the division of Federal and State functions which the Federation Agreement of 1895 had failed to make, and the transfer of a number of departments to State control;
- (b) the abolition of the post of Chief Secretary, and the transfer of his statutory and administrative powers to the States in matters transferred to State control, and to the High Commissioner in matters which were to remain Federal;
- (c) the strengthening of the State Councils by broadening the basis of representation through the addition of further Chinese, European and Indian unofficial members.

The control of broad policy and of finance remained in the hands of the Federal Government, which voted each year block grants to each of the States to meet the deficit on their budgets. Within the limits of these grants and the standing financial

instructions, the States were, however, free to allocate their expenditure as they pleased. General policy was controlled by the High Commissioner who retained the power of giving advice through the Residents. The effect of these changes in the States was impressive. The newly constituted State Councils, with their increased responsibilities, tackled the problem of local administration with a degree of energy and interest which they had previously had no opportunity to display. Concern with the welfare of the rural population, hitherto to a large extent neglected, revived and increased. The realisation of responsibility stimulated initiative and, while, up to 1941, executive authority in fact still remained largely in the hands of the Residents, there was a real development of the idea of self-government within the limits of policy decided by the High Commissioner. Thus, the freedom from the stringent control of the over-centralised Government of the nineteen-twenties was fully justified. The co-operation of Malay, Indian, Chinese and British members on the State Councils promoted that mutual understanding of each other's day to day problems, which is an essential foundation for successful government.

7. *Unfederated Malay States, 1885-1947.* The Unfederated States in the North—Kedah, Kelantan, Trengganu and Perlis—came under British protection in 1909, when Siam transferred to Britain her rights over those territories and, under a series of Agreements, a British Adviser was appointed to each State. He had no executive powers. The fifth of the Unfederated States, Johore, had confided the control of its foreign affairs to the care of Great Britain by a Treaty of 1885, but it was not until 1914 that an agreement was concluded with the Sultan under which a British officer was appointed as General Adviser.

In the Unfederated States the executive authority rested with the local State Government, exercised by Malay officials of whom the Mentri Besar, or Chief Minister, was the Head. The Sultan and the State Council, the meetings of which the Adviser attended, passed and enacted all legislation, including the annual supply bill based on estimates prepared by the State financial authority. The Adviser, in close touch with the Ruler and the State officers, was able to assist in the solution of day to day problems of administration, and to keep the High Commissioner fully informed of proposals and policies and so enable the latter to exercise the measure of control vested in him by the fact that the States were Protected States. There was a friendly co-operation between the State administration and the Adviser, which made it unnecessary for the ultimate power of "advice" to be exercised. The value of the system was widely appreciated and accelerated the development of constitutional Government to a much greater extent than did the gradual assumption of direct control by the British in the F.M.S. With the developments occurring in the Federated States before them, the Governments of the Unfederated Malay States set out instinctively to preserve, as far as they could, the Malay way of life and the considerable degree of self-government which they had. Contending that the Federation was disregarding Malay interests, the Unfederated Malay States became increasingly opposed to entry into the Federation. From the time when these States came under British Protection they continued to develop their administration and to train young men in Europe and elsewhere to fill responsible posts in the Government service while the necessity of broadening representation on legislative and other Councils was kept in mind. It had been the hope of His Majesty's Government that the contrasting forms of administration in the Federated and Unfederated States might be assimilated to the point at which a wider Federation embracing them all would be acceptable as an important, and indeed necessary, step towards the ultimate achievement of self-government for the territories as a whole.

8. *Governor and High Commissioner.* The single co-ordinating authority for policy and administration for the whole of Malaya was therefore the Governor of the Straits Settlements in his dual capacity of Governor of the Straits Settlements and High Commissioner for the Malay States. He was in direct charge of the administration of the Straits Settlements; he exercised his authority in the Federated Malay States through the British Resident in each of the four States and through the Federal Secretary in Kuala Lumpur; and in the Unfederated Malay States he acted through the Adviser in each State.

9. *Period of Enemy Occupation.* This was the position in 1942 when the Japanese occupied Malaya. For free discussion, natural development and self-reliance the enemy substituted the rule of compulsion and force. During the years of enemy occupation under the iron rule of a ruthless military power, there emerged a deeper appreciation of fundamental values, which had been obscured during the peaceful and prosperous era that went before. These years of Japanese rule emphasised that the British in Malaya had had the welfare of Malaya at heart, had taught people the value of their own institutions, and had awakened, particularly amongst Malays, a new incipient feeling of independence and unity transcending State boundaries. This period also aroused and exacerbated racial feelings. The sudden and complete

collapse of Japan, without a military campaign on the soil of Malaya, the extreme shortages of supplies of all kinds, more especially foodstuffs, and of transport, the serious disorder accompanied by looting and violence which was rife in many parts of the country owing to the withdrawal of effective control by the Japanese before the arrival of British troops, all had the effect of concentrating the minds of the public on the immediately pressing problems of the day. Locally long-term problems were relegated to the background, but His Majesty's Government had already prepared a comprehensive constitutional scheme for the future.

#### THE CREATION OF THE MALAYAN UNION.

10. *Reasons for the Malayan Union Policy.* The constitutional scheme referred to in the last paragraph was the proposal to create the Malayan Union. The reasons for this proposal were set out in the White Paper "Malayan Union and Singapore" (Cmd. 6724) presented to Parliament in January, 1946, and had previously been outlined by the Secretary of State for the Colonies in Parliament on October 10th, 1945. They were that the system of government needed to be simplified in view of the increasing complexity of modern administrative, economic and social developments, and that progress in the direction of responsible self-government would be hampered unless the pre-war system was reformed. In short, it was considered that a closer integration of the many separate political units was required, with the reservation that Singapore, as a centre of entrepot trade on a large scale and as possessing economic and social interests as distinct from those of the mainland, required separate treatment, at least for the time being. The proposals were, therefore, that the nine Malay States and the two Settlements of Penang and Malacca should be combined as a single territory to be known as the Malayan Union.

11. *Citizenship.* As an essential part of this policy, it was stated that His Majesty's Government proposed to create a common form of citizenship for all those who regard Malaya as their real home and as the object of their loyalty. Such people should have the opportunity of a due share in the country's political and cultural institutions.

12. *Successive Steps to Implement Malayan Union Policy.* As a first step towards implementing this policy, Sir Harold MacMichael arrived in Malaya in October, 1945, as the Special Representative of His Majesty's Government and concluded formal Agreements with Your Highnesses under which full power and jurisdiction were conferred on His Majesty in each of the Malay States. The next step was the repeal of the Straits Settlements Act, 1866, by the Straits Settlements (Repeal) Act, 1946, which provided that the Settlements should cease to be a single Colony and that they should on and after a day to be specified, be divided into such territories as His Majesty might direct. This enabled the Settlement of Singapore to be created as a separate Colony, and the Settlements of Penang and Malacca to be combined with the Malay States by the Malayan Union Order in Council, 1946. This was the third and last of the steps needed to bring the new arrangements into force. The day fixed for the new constitution to become effective was the 1st of April, 1946, and the military administration which had been in control since the re-occupation of the country in September, 1945, handed over to the Civil Government on that date.

13. *Constitutional Arrangements under the Malayan Union Policy.* The effect of the Malayan Union Order in Council, 1946, was to establish a Constitution, which would, had it ever been brought into force in its entirety, have consisted of:

- (i) a Governor;
- (ii) an Executive Council;
- (iii) a Legislative Council consisting of the Governor as President and *ex-officio*, official and unofficial, members to a total of 42.

Legislative Council members were to be appointed by the Governor and there was to be a balance between officials and unofficials, the Governor having a casting vote. There was also to be, in each State and Settlement, a State Council or Settlement Council, with power to legislate on matters of a purely local nature in the State or Settlement or on matters in respect to which legislative powers had been delegated to it by the Legislative Council. Each State and Settlement Council was to consist of the Resident Commissioner as Chairman and such *ex-officio*, nominated Official and nominated Unofficial, Members, as might be prescribed by local legislation. There was also to have been a Central Council of Sultans with advisory functions, and a Sultan's Advisory Council in each State which was to have certain advisory powers and also power to legislate on matters of Muhammadan Religion. In fact this Constitution has never been fully brought into force, and the territories are at present governed, under transitional provisions, by the Governor advised by an Advisory Council. The Malayan Union Order in Council, 1946, vested in His Majesty, for the purposes of the government of the Malayan Union, certain Straits Settlements property and also all property, including land, which had previously been vested in Your Highnesses for the purposes of the government of the Malay States.

## APPOINTMENT OF THE WORKING COMMITTEE.

14. *Malay Opposition to Malayan Union Policy.* Opposition to the Malayan Union policy both from Your Highnesses and Your Highnesses' subjects grew rapidly during the early months of this year after the publication of the White Paper referred to above. Malays throughout the country expressed their deep concern over the fundamental changes in the policy which was being implemented without that degree of local consultation to which they considered themselves entitled. Their arguments were directed not so much at the idea of closer integration of the Malay States, but at the form and manner in which the proposals had been presented and at the loss of rights, prerogatives and powers of Your Highnesses and the destruction of Malay rule as it had been immediately prior to the Japanese invasion. They contended that the result of the creation of the Malayan Union was to convert the Malay States into a Crown Colony for all practical purposes except that of nationality. This opposition was reflected in the debates in the House of Commons in March and culminated in the abstention of the Malays from the work of Councils established by the Malayan Union Order in Council. Discussions between His Excellency the Governor-General, Your Excellency, Your Highnesses and the United Malays National Organisation, made it clear that the principal point at issue was the view of Your Highnesses and of Your Highnesses' Malay subjects that no alternative to the Malayan Union would be acceptable which denied to Your Highnesses power in your own States as Constitutional Rulers of those States and which risked the individuality of the States being lost in the large body in which they were to be merged. The Secretary of State felt that any proposals should allow for the progressive constitutional development of the country, with a strong central government and a common form of citizenship for all those who had made Malaya their real home and the object of their loyalty. He suggested that the question of how any new constitutional arrangements should be brought into force, including the possibility of entering into new agreements altering the position set up by the MacMichael Agreements, should be put on one side without prejudice to the discussions which he hoped would take place.

15. *Preparation of Proposals by Your Highnesses and the United Malays National Organisation.* In response to this suggestion Your Highnesses and the United Malays National Organisation prepared a rough draft of proposals which were handed to Your Excellency by His Highness the Sultan of Perak at the meeting at King's House, Kuala Lumpur, on the 24th of July, and, as already mentioned in the Foreword, this Committee was appointed on the following day.

## CHAPTER II.

GENERAL REVIEW OF THE SCOPE OF THE COMMITTEE'S WORK  
AND SUMMARY OF RECOMMENDATIONS.

16. Throughout our discussions, the Committee kept in view, as a guiding principle, the remarks of His Excellency the Governor-General at a meeting on the 24th of July in which he said that we should examine Your Highnesses' proposals in detail and submit agreed views, if possible, for both sides to examine and criticise. His Excellency had added that "the Working Committee would be non-committal", and this freedom has been most valuable to us. It has permitted both sides, from start to finish, to speak fully, frankly and without reserve.

## GENERAL PRINCIPLES FOLLOWED BY THE COMMITTEE.

17. There were certain general principles, based on the proposals of Your Highnesses and the United Malays National Organisation referred to in paragraph 15, which formed the subject of the conversations between Your Excellency and Your Highnesses on the 24th and 25th of July, and these we have taken as the basis of our discussions. These principles were:

- (a) that there should be a strong Central Government so as to ensure economical and effective administration of all matters of importance to the welfare and progress of the country as a whole;
- (b) that the individuality of each of the Malay States and of the Settlements should be clearly expressed and maintained;
- (c) that the new arrangements should, on a long view, offer the means and prospects of development in the direction of ultimate self-government;
- (d) that, with a view to the establishment of broad-based institutions which would be necessary if principle (c) is ultimately to become effective, a common form of citizenship should be introduced which would enable political rights to be extended to all those who regard Malaya as their real home and as the object of their loyalty;
- (e) that, as these States are Malay States ruled by Your Highnesses, the subjects of Your Highnesses have no alternative allegiance or other country which they can regard as their homeland, and they occupy a special position and possess rights which must be safeguarded.

## PRINCIPAL MATTERS CONSIDERED BY THE COMMITTEE.

18. Bearing in mind the general principles stated in the last paragraph, it was clear that the first task to be undertaken by the Committee should be the allocation of legislative and executive powers between the Central Government and State and Settlement authorities. To this the Committee devoted considerable time. The Committee subsequently addressed itself in turn to the following questions:

- (a) the extent to which executive authority under federal legislation, including rule-making powers, should be delegated by the Central Government to States and Settlements;
- (b) citizenship;
- (c) finance;
- (d) the composition of the Federal Executive and Legislative Councils;
- (e) the composition of State Executive Councils and Councils of State in the Malay States;
- (f) the establishment of a Conference of Rulers and functions of the Conference;
- (g) the method of appointment of Judges and other judicial and legal officers.

## FEDERATION AGREEMENT.

19. Your Highnesses made it very clear that whatever form of Government was to be established in the Malay States should not have its sole basis in jurisdiction conferred by the MacMichael Treaties, but should be established by an Agreement signed on behalf of His Majesty and Your Highnesses after the withdrawal of those treaties. Indeed, the proposals put forward by Your Highnesses and the United Malays National Organisation for the creation of a Federal Government postulate a Constitution established by agreement and the proposals of the Committee are therefore based on the assumption that, whatever may be its final form, effect will be given to the new constitution by an Order in Council and by an Agreement of this nature. At the meeting at King's House on the 25th of July, His Highness the Yang di-Pertuan Besar of Negri Sembilan suggested, and Your Excellency agreed, that it would be a useful step for the Working Committee to embody its proposals in a legal document. Once,



therefore, the preliminary issues on points of principle had been resolved, we turned our attention to the form which the Agreement should take. The Committee is most grateful to its legal members who formed themselves into a drafting sub-committee and undertook the work of preparing the draft Federation Agreement which is attached to this report as Appendix A.

#### JOINT DELEGATION OF POWERS OF HIS MAJESTY AND YOUR HIGHNESSES TO THE HIGH COMMISSIONER.

20. A discussion of the details of the draft Agreement is contained in Chapter VIII of this Report. There is, however, one point of principle which underlies many of the arrangements proposed in the Agreement and which is of such importance that it should be mentioned in the forefront of our Report. The Federation will be established by the mutual act of His Majesty the King and Your Highnesses, and 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 principle of joint delegation of powers runs through the whole Agreement and is inherent in the proposals which we make in this Report. It is the most convenient method of effectively exercising central powers throughout the Federation whilst maintaining the constitutional position of His Majesty and Your Highnesses as the contracting parties to the Agreement. An instance of this is the appointment of the Chief Justice and the Judges of the Supreme Court which, we recommend, should be effected by the High Commissioner, for and on behalf of His Majesty and of Your Highnesses, by Letters Patent under the Public Seal of the Federation.

#### MODEL STATE AGREEMENT.

21. In addition to the draft Federation Agreement, a form of model State Agreement has been drafted and is annexed to this Report as Appendix B. It is suggested that this should serve as a model for the separate State Agreements which, under the proposals put forward in this Report, would be signed by each of Your Highnesses in replacement of existing State Agreements. The model State Agreement provides, as heretofore, that His Majesty shall have complete control of all the external affairs of the State and of all questions of defence, and provides for the appointment of a British Adviser whose advice will be accepted on all matters connected with a government of the State other than matters relating to the Muslim Religion and the Custom of the Malays. New features incorporated in the model are provisions for the grant and promulgation by Your Highnesses, where necessary, of written Constitutions, and for the establishment in each State of a State Executive Council and Council of State. The details of the model State Agreement are dealt with in Chapter IX.

#### METHOD OF BRINGING NEW CONSTITUTIONAL ARRANGEMENTS INTO FORCE.

22. A matter of first importance which was thoroughly explored by the legal sub-committee of this Committee was the method by which the new constitutional arrangements should be brought into force. We have already said, in paragraph 19, that Your Highnesses and the United Malays National Organisation had made it clear that, whatever form of government was to be established in Malaya, it should be established by an Agreement signed on behalf of His Majesty and by or on behalf of Your Highnesses and not merely by an Order in Council made by His Majesty under the Foreign Jurisdiction Act, 1890. In discussion in the Committee the representatives of Your Highnesses and of the United Malays National Organisation reiterated their opposition to the establishment of the new Constitution by a unilateral act of His Majesty under the Foreign Jurisdiction Act. Indeed, the whole conception underlying the new arrangements is not that of the grant of a constitution by unilateral action, but rather that of a partnership resulting in a Federation of Settlements and States, the terms of the partnership being embodied in a Federation Agreement made between His Majesty and Your Highnesses as contracting parties.

#### JURISDICTION OF HIS MAJESTY.

23. It was, however, pointed out in the legal sub-committee of the Committee that something more than an Agreement was required to give legal force to future laws and to preserve the legal force of existing laws. It therefore became necessary to endeavour to obtain agreement as to where the jurisdiction to make laws now lay. Here difficulty was encountered in that, while it was recognised on all sides that His Majesty had unquestioned jurisdiction to make laws by Order in Council for regulating the internal affairs of the Settlements of Malacca and Penang, and had jurisdiction to make laws by Order in Council regulating the external affairs and defence of all the territories to be comprised in the Federation, His Majesty's jurisdiction to make Orders in Council regulating the purely internal affairs of the Malay States rested upon the MacMichael Agreements whose validity was not admitted by the representatives of the United Malays National Organisation.

## PROCEDURE RECOMMENDED.

24. After considerable discussion in the legal sub-committee, a procedure was propounded which, while enabling each side to maintain its position, would combine the legal force of both sides behind the new Constitution. In brief, the suggested procedure amounts to this, that His Majesty should be pleased to revoke the Malayan Union Order in Council, 1946, and to substitute for it an Order in Council which would provide laws and institutions of Government for the Settlements and expressly give legal force to the provisions of the Federation Agreement in the Settlements and in the States, that His Majesty should also enter into new State Agreements with Your Highnesses which would supersede the MacMichael Agreements and that, thereupon, Your Highnesses should convene your Councils of State and enact laws ratifying the State Agreements and the Federation Agreement, and declaring the Federation Agreement and the appropriate State Agreement to be in full force in your respective States. These various steps would all take place in the appropriate order upon a day to be appointed by the Order in Council, referred to as "the appointed day". The proposals, if carried into effect, will secure that the new Constitution shall have behind it the combined legal force of an Order of Council and of State Enactments; in short, the maximum legal sanction obtainable.

## TITLE OF THE NEW FEDERATION.

25. Considerable discussion took place on the question of an appropriate title for the new Federation of Malay States and Settlements and the following alternatives were put forward:

(a) *Malayan Federal Union.*

The principal argument in favour of this title was that it connoted a steady advance towards a greater degree of unity for the good of the whole country, and that the constitutional organisation proposed partook more of the nature of a Federal Union, as known in the constitution of other States, than of a Federation. The objections were that this title would not put the necessary emphasis on the sovereignty of each individual part of the territory and that, when translated into Malay, "Federal Union", involved contradictory terms. Other titles could also connote a steady advance towards a greater degree of unity. Finally, any title including the word "Union" would be most distasteful to, and suspect by Malays.

(b) *Malayan Federation.*

This proposal was suggested as being the most suitable if *Malayan Federal Union* was to be finally rejected. It was, however, opposed by the Malay representatives on the ground that "Malayans" had come to mean people who had some association with Malaya, but did not include Malays, and that Malays took the strongest objection to being called or referred to as Malaysians. There was the further difficulty that the expression "Malayan Federation" could not be translated into Malay. This alternative, too, was consequently discarded as unacceptable.

(c) *Federation of Malaya.*

This alternative, which is a strict translation of the Malay title "Persekutuan Tanah Melayu" and is preferred by the Malay representatives, was found to be generally acceptable and we recommend that it should be adopted.

## ADMISSION OF OTHER TERRITORIES TO THE FEDERATION.

26. The Committee bore in mind the fact that it may be desirable, at some future date, to extend the Federation to admit territories not at present included in it, and we have inserted a provision (proviso to clause 3) reserving to His Majesty and Your Highnesses the power, by mutual agreement, to admit other territories from time to time.

## OUTLINE OF COMMITTEE'S PROPOSALS.

27. Before proceeding to a detailed examination of the deliberations of the Committee it will be desirable to indicate the basic changes in the present constitutional arrangements of these territories which we propose, and, thereafter, to anticipate our more detailed recommendations by giving a brief outline of our proposals. For departures from the Malayan Union constitution which we suggest are basic. For constitutional arrangements founded upon jurisdiction granted by the MacMichael Treaties we propose to substitute a scheme carefully negotiated after lengthy deliberation: in lieu of a constitutional plan which transferred full power and jurisdiction in the Malay States to His Majesty, we propose the restoration of sovereignty to the Malay Rulers in the internal affairs of the Malay States: instead of an Order in Council declaring a Union which has been regarded as unacceptable by the largest community

in these territories, we propose a Federation based upon mutual agreement and a partnership of British Settlements with Malay States. In framing our proposals we have been mindful of the limits of our reference. We have provided for a strong central government, while maintaining adequate powers and functions in the States and Settlements: we have suggested the establishment of institutions which will, in due course, train and fit the inhabitants of these territories for self-government: and we have endeavoured to make provision for a common citizenship which will be open to those, and only to those, who regard Malaya as their real home and the object of their loyalty. We have noted and appreciate the announcements to the effect that, before final conclusions are reached, there will be consultations with representatives of all those who fulfil this test.

28. In brief, our proposals are as follow:

- (a) that there be established a Federation, to be called the Federation of Malaya, consisting of the nine Malay States of Johore, Kedah, Kelantan, Negri Sembilan, Pahang, Perak, Perlis, Selangor and Trengganu and the Settlements of Malacca and Penang;
- (b) that this Federation be established by a Federation Agreement, to be entered into by a representative of His Majesty and by Your Highnesses, after the conclusion of the State Agreements next mentioned;
- (c) that His Majesty, if His Majesty be so pleased, should enter into new State Agreements with each of Your Highnesses, superseding all previous Agreements (except those scheduled, such, for instance, as boundary Agreements) and restoring to Your Highnesses internal sovereignty in your respective States, and that His Majesty be pleased to revoke the Malayan Union Order in Council, 1946;
- (d) that the State Agreements and the Federation Agreement should expressly preserve His Majesty's jurisdiction to regulate all matters of defence and the external affairs of the Malay States; and maintain intact the power of advising Your Highnesses on all matters of government other than those relating to the Muslim Religion and the Custom of the Malays;
- (e) that the Federation Agreement should provide for
  - (i) a High Commissioner to be appointed by His Majesty;
  - (ii) a Federal Executive Council;
  - (iii) a Federal Legislative Council consisting of the High Commissioner as President and forty-eight members with a strong representation of the States and Settlements and an unofficial majority;
  - (iv) a State Executive Council in each State, and a Council of State with legislative powers;
  - (v) a Settlement Council in each Settlement with legislative and administrative powers;
  - (vi) a Conference of Rulers, to consult with each other and with the High Commissioner on matters of State and Federal concern;
  - (vii) a Supreme Court of the Federation and Subordinate Courts; and
  - (viii) Federal citizenship.

29. We also suggest that State Constitutions should in due course be promulgated by Your Highnesses. Such State Constitutions would accord with the Federation Agreement and cover matters not dealt with by that Agreement and would vary as required by the differing needs of the various States. It is suggested that the Settlement Councils should be established by Order made by His Majesty in Council.

30. The executive authority in the Federation and in the Settlements will be in the High Commissioner. The executive authority in each State, subject to certain special responsibilities of the High Commissioner, will be in the Ruler of that State.

31. The legislative powers of the Federal Legislative Council are defined in the Second Schedule to the Federation Agreement. The list is comprehensive. Residual powers of legislation will be with the Councils of State and the Settlement Councils, who may also have legislative powers delegated to them by the Federal Legislative Council.

32. A Part of the Federation Agreement deals with Finance and provides, amongst other things, for certain sources of revenue to be available to States and Settlements and for the remainder to be Federal. The allocation of expenditure between the Federation and the States and Settlements is worked out, and provision is made from block grants from the Federation to States and Settlements to enable them to meet their expenditure.

## CHAPTER III.

## LEGISLATION AND EXECUTIVE AUTHORITY.

33. *Federal Legislative List.* It has already been said (in paragraph 18) that the definition of the powers of the Central Legislature was the first task which we undertook. The two lists attached to the proposals of Your Highnesses and of the United Malays National Organisation were based on the Federal Legislative List and the Concurrent Legislative List under the Government of India Act and we went through these, item by item. We continually kept before us the first two of the general principles in paragraph 17, namely, the importance of establishing a strong Central Government and, subject to that condition, the maintenance of the individuality of the Malay States and, as a necessary corollary, of the Settlements. This has led us to recommend that the Federal Legislature should have power to legislate on all matters of policy or administration which are common to the States and Settlements generally. The list as agreed, which appears as the Second Schedule to the draft Federation Agreement in Appendix A to this Report, is consequently long and includes, after amendment to fit the different circumstances of Malaya, nearly all the subjects in both the Indian Federal and Concurrent Legislative Lists. The list is, in fact, so comprehensive that we did not consider that any useful purpose would be served by adopting the Indian system of concurrent legislation on certain subjects by the Central and local Legislatures, or by drawing up a list of subjects on which the State and Settlement Governments would have powers to legislate. We accordingly recommend that all residual legislative powers should lie with the State and Settlement Governments respectively, subject to the power to amend the Federal Legislative List by the inclusion of additional items.

34. *Additional Powers of Legislative Council.* We have included in the draft Federation Agreement a provision to the effect that the Legislative Council, upon being requested to do so by at least two State or Settlement Councils, should have power to pass legislation on subjects outside the range of the Federal Legislative List. The advantage of this proposal is that it will facilitate uniformity in legislation in the different States and Settlements. Once such legislation has been passed it may be adopted by States or Settlements, other than those which had originally asked for it, by resolution of the State or Settlement Council concerned.

35. *Amendment of the Federal Legislative List.* As regards the contents of the Federal Legislative List, it was realised that, no matter how careful the Committee might be in drawing it up, it would be impossible to foresee every type of new legislation which might be required in the future. It was, therefore, considered that some simpler and more expeditious means of amending the List was desirable than that of a formal supplemental agreement between the contracting parties. The merits were accordingly discussed of several proposals to effect this object, and it was finally agreed to recommend that alterations to the Federal Legislative List should be made by the mutual consent of Your Highnesses on the one hand and the High Commissioner (on behalf of His Majesty) on the other, and should be effected by Proclamation of the High Commissioner to be notified in the *Gazette*.

36. *Delegation of Executive Authority to State and Settlement Governments.* In recommending that the powers of the Federal Legislature shall cover such a wide field, we realise that there will be included in that field matters which the Committee are agreed are properly the concern of the State and Settlement authorities. This has been done deliberately in order to ensure that there may be uniformity of legislation—and so of policy and administration—throughout the Federation. At the same time we are convinced, not only that administrative control in these matters should be in the hands of the States and Settlements on general grounds of policy, but that this arrangement will make for greater efficiency. For this reason the Committee recommends that provision should be made in Federal legislation for sufficient devolution of powers to permit State and Settlement Governments to make rules and regulations in appropriate cases. The extent to which we consider that executive authority should be so delegated is indicated in the second column of the Federal Legislative List (the Second Schedule to Appendix A). The precise line of division between the executive authority to be exercised by the Federal Government, and by State and Settlement Governments, will be a matter to be laid down in each case by legislation, and will be for discussion when the legislation is drafted and brought before the Federal Legislature for enactment.

37. *Examples of Delegation of Executive Authority to States and Settlements.* A number of examples of the type of arrangements we have in mind could be quoted, but two will be sufficient for the purpose of illustration:

(a) Education is a subject where it is essential that there should be a common policy throughout the Federation, and where the system of administration should conform to a single pattern. It has therefore been included in the Federal Legislative List. But the detailed arrangements for education are of intimate concern to the State authorities and are a matter in which they have shewn great interest in the past. The administration and control of the State and Settlement Governments will not extend to higher education, to colleges for the training of teachers, or to certain other institutions of which not more than one or two are required for the whole country. But we recommend that, within the framework of the common policy and the common system of administration laid down in Federal legislation, the State and Settlement Governments should have complete control over the day-to-day administration of primary and secondary schools, and over trade schools within their respective areas.

(b) A second example is that of Public Health. Here again certain standards must be laid down by the Federal Government, but the arrangements for carrying out the general policy in each State and Settlement can and should in our opinion be left to the local governments, the regulations being based on model regulations prepared by the Federal Government.

38. *No Rigid Division of Duties between State and Settlement Officers and Federal Officers.* We should be misunderstood if it were thought that we are recommending that there should be any rigid division of duties between Federal and State officers when they are acting in an executive capacity. Where we have recommended that executive authority should rest with the Federal Government, rather than with the State and Settlement Governments, we contemplate that in practice the work will frequently be carried out by State or Settlement officers acting as the agents of the Federal Government: for example, in the case of the Co-operative Societies Department, we recommend that the States and Settlements should be associated with the work to the greatest possible extent.

## CHAPTER IV.

## FINANCE AND BUDGETS.

39. *Pooling of Assets and Liabilities.* On the basis of a memorandum by the Financial Secretary, the Committee was able, after a short discussion, to reach agreement that the assets and liabilities of all the States and Settlements constituting the Federation, and of the Malayan Union, should be pooled and remain with the Federation. In the case of the Settlements, their share of the assets and liabilities of the Straits Settlements has yet to be ascertained. In reply to a request from the Malay representatives on the Committee for some form of rough balance sheet which would give an approximate indication of the contributions being made by each member State and Settlement to the new Federation's finances, it was explained by the Financial Secretary that this would be exceedingly difficult to determine. It could not in any case be done for a considerable time, as it was not yet known what expenditure would be charged to Malayan funds for the period of military administration, nor had any records been kept as to how this expenditure should be distributed between the various States and Settlements. The Committee accepted the statement that the preparation of a balance sheet was not a feasible proposition, but we recommend that Government should agree that, when any State or Settlement puts forward claims for large capital expenditure on rehabilitation, the assets which that State or Settlement has thrown into the common pool, and the absence of any loan liabilities (where this is the case), should always be given due consideration.

40. *Allocation of Revenue between the Federal Government and State and Settlement Governments.* The Committee then turned its attention to the division of revenue between the Federal Government and State and Settlement Governments, and considered a further memorandum by the Financial Secretary. The only head on which any material discussion arose was Excise Duties. The representatives of Your Highnesses put forward the view that these duties should be credited to State and not Federal revenue. After an explanation had been given by the Financial Secretary that it would be unsound to permit one State to vary the excise duty on articles manufactured for sale throughout Malaya, we were able to reach agreement that excise revenue generally should be Federal, but that the matter might be reconsidered at a later date. It was also agreed that the All Malaya (Currency Surplus) Fund should be shared among States and Settlements as part of their revenues and should not be treated as Federal revenue. This is in accordance with the practice in the Federated Malay States prior to the Japanese occupation. A list of the items of revenue which we agreed to recommend should go to States and Settlements appears as the Third Schedule to the draft Federation Agreement at Appendix A to this Report. We recommend that other revenues should be Federal.

41. *Allocation of Heads of Expenditure between the Federal Government and State and Settlement Governments.* Having settled the division of the revenue, we next considered which heads of expenditure should appear in the State and Settlement estimates. After discussion, it was decided to recommend that there should be two lists, one for Federal and one for State and Settlement expenditure. The lists in the form ultimately agreed form Parts I and II of the Fourth Schedule to the draft Agreement at Appendix A. It will be seen that, in those departments where we have recommended that the expenditure on Services in the State or Settlement should appear in the State and Settlement estimates, we have, nevertheless, included headquarters expenditure and provision for research in the Federal list.

42. *Recommendations Regarding Certain Departments.* The Co-operative Societies Department, the Fisheries and Social Welfare Departments and the Department of Industry and Commerce have been included in the Federal List, but we recommend that the question of their transfer to States and Settlements should be considered at a suitable opportunity in the future. Other points about individual departments to which we would draw attention are the following:

(a) *Education.* We were agreed that the Malay Colleges, Kuala Kangsar and Kuala Lumpur, the colleges for training teachers, the Technical College, and Institutes for Higher Education should be Federal Institutions.

(b) *Electrical.* The proposals for the introduction of a grid system of distribution were regarded as decisive in favour of the Department being included in the Federal List. It was mentioned that the eventual intention was that the Department should be run on commercial lines with independent finances.

(c) *Marine.* We recommend that the general principle on which Marine expenditure should be divided should be that local services should appear in State and Settlement estimates, and services in relation to merchant shipping (lighthouses, for example) should be Federal.

(d) *Industry and Commerce.* We recommend that existing State schemes and the financial provision for them should remain the responsibility of State Governments. An example is the Director, Rural Industries Development, Kedah, for whom provision is made at present in the Agricultural Department's estimates.

43. *State and Settlement Budgets.* The arrangements which we contemplate for balancing the State and Settlement budgets are in general the same as those in force in the Federated Malay States before the war. The deficit in a State or Settlement budget would be met by a block grant from the Federal Government for which provision would be made in the Federation Appropriation Bill. This ensures a measure of control by the Federal Legislature over expenditure throughout the Federation. It is also proposed that the pre-war practice, whereby important items of new expenditure are only inserted in State budgets after consultation with the Financial Secretary of the Federation, should be embodied in General Orders, the first draft of which is included in the Fifth Schedule to the Agreement. It will be observed that provision is made in Clause 127 of the Agreement that no substantial amendment to these General Orders may be made without consultation with the Executive Councils of the States and the Governments of the Settlements.

44. The limits, however, above which consultation with the Financial Secretary is necessary before expenditure can be entered in State and Settlement estimates have been considerably raised by comparison with pre-war Federated Malay States practice and, as regards the figure of \$900 per annum mentioned in the General Orders A and B in the Fifth Schedule, we recommend that, if salary scales are at any time revised in an upward direction, this figure should be proportionately increased. A further amendment of pre-war practice in the direction of decentralisation will be found in Clause 119 (2) (c), which contemplates that the Federal Government shall place at the disposal of the States and Settlements, in addition to the block grants referred to in paragraph 43 above, lump sums, which may, subject to the General Orders referred to above, be spent at the discretion of the State and Settlement Councils, either on unforeseen services or to supplement existing votes. Subject to the availability of funds it is recommended that these amounts should take the form of a percentage of the annually recurrent expenditure of States and Settlements so calculated as to produce, under normal financial conditions, sums of the order of \$100,000 per annum in the case of the larger territories and proportionately smaller sums in the case of the smaller territories. This provision will enable States and Settlements to meet small items of urgent expenditure without reference to the Federal Legislative Council, and thereby promote the despatch of public business.

45. *Date of Coming into Force of Financial Provisions of Federation Agreement.* In view of the fact that, on the day appointed for the coming into force of the provisions of this Agreement, there will be no State or Settlement budgets in operation, it is proposed that the existing system of finance should be continued until the 31st of December, 1947, under the authority of the Malayan Union Appropriation Law for 1947. This will enable separate Federal and State and Settlement budgets for 1948 to be prepared and Appropriation Laws passed with a view to bringing the other financial provisions of the Agreement into force on the 1st of January, 1948. It is therefore stated in Clause 1 of the draft Agreement that the operation of Clauses 116, 117, 123, 124, 125 and 126 shall be suspended until the 1st of January, 1948.

CHAPTER V.  
CONSTITUTION OF COUNCILS.

A.—LEGISLATIVE COUNCIL.

46. An agreed solution on the constitution of the Legislative Council was reached only after long discussion. The Malay representatives on the Committee put forward, in the first instance, tentative proposals which formed the germ of our ultimate recommendations. Before proceeding to discuss details there were two points of principle on which the Committee wished to clear its mind. These were, firstly, the question of an unofficial majority on the Council, and, secondly, the method of ensuring that the special interests of the State and Settlement Governments, as component parts of the Federation, should be safeguarded through adequate representation.

47. *Unofficial Majority.* Misgivings were expressed by one member on the Government side as to the wisdom of starting with an unofficial majority on the Legislative Council. Accordingly the recommendations which follow as to the composition of the Council are, as regards that member, subject to that reservation. A majority of the Committee, however, agreed to recommend that the time was ripe for this step to be taken. The outcome of our discussions on the second point led us to the conclusion that there should be a third category of members of the Legislative Council, consisting of representatives of the State and Settlement Governments, who would not, in the Legislative Council, have the status of Officials. The Council would thus be made up of:

- (i) Official Members;
- (ii) Representatives of State and Settlement Governments having the status of Unofficial Members; and
- (iii) Unofficial Members;

and we considered these in turn.

(i).—OFFICIAL MEMBERS.

48. We agreed that the High Commissioner should be the President and that the usual practice should be followed of having, as *ex officio* members, the three principal officers of Government, namely, the Chief Secretary, the Attorney-General and the Financial Secretary, and that there should, in addition, be a number of Nominated Official Members. Some discussion took place whether the General Officer Commanding-in-Chief, or equivalent officer of either of the other Services, should have a seat on the Legislative Council, as so little of the work will be of a military character. We hold no strong views on this point. Assuming that the General Officer Commanding-in-Chief is to be a member of the Council, we considered whether he should be included as a fourth *ex officio* member, but we agreed that this was not advisable, as a change in military arrangements might result in his headquarters being moved, say, to Singapore, when it might no longer be appropriate for him to be a member of Council. We recommend, therefore, that, if the senior officer of His Majesty's Services in the Federation is to be a member, he should be one of the Nominated Official Members of the Legislative Council.

49. Bearing in mind that we had already accepted the principle that there should be no official majority on the Council, the Committee took the view that the nominated officials should consist only of

- (a) officers filling appointments which made their presence on the Council essential to the efficient despatch of normal business;
- (b) officers possessing special experience or ability who could be expected to make an active and valuable contribution to the Council's deliberations.

50. In the first of these categories we recommend the inclusion of the following:

- Senior Officer of His Majesty's Services (subject to paragraph 48 above);
- Economic Adviser
- Secretary for Chinese Affairs
- Commissioner for Labour
- Director of Education
- Director of Medical Services.

51. In the second category, the British Advisers in the Malay States clearly have a high claim on grounds of long and varied administrative experience. There is the practical objection that, if they were all appointed, they would swell the number of official members to such a degree that the number of unofficial members would have to be correspondingly increased, and the Council as a whole would be disproportionately large. We reached the conclusion that, while it was not desirable that all nine British Advisers should be appointed, the Council would be the poorer if it was to be



deprived of the experience of them all. We recommend that two of the seats for Official Members should be reserved for two British Advisers to be nominated by the High Commissioner.

52. There remained certain Federal Heads of Departments, other than those already mentioned in paragraph 50, whom the Committee consider might be valuable members of Council.

These are :

Commissioner of Lands  
 Director of Agriculture  
 Director of Public Works  
 Chief Social Welfare Officer.

We recommend that three of the four officers filling these posts should be selected for appointment to the Council.

53. Our recommendations in regard to the Official Members of the Council can be summarised as follows :

(a) Three *ex officio* Members—

Chief Secretary  
 Attorney-General  
 Financial Secretary.

(b) Eleven Nominated Official Members who would normally include the following eight:

Senior Officer of His Majesty's Services (subject to paragraph 48 above)  
 Economic Adviser  
 Two British Advisers from the Malay States to be selected by the High Commissioner  
 Secretary for Chinese Affairs  
 Commissioner for Labour  
 Director of Education  
 Director of Medical Services,  
 and the remaining three would be selected from the following :  
 Commissioner of Lands  
 Director of Agriculture  
 Director of Public Works  
 Chief Social Welfare Officer.

We recommend further that provision should be made for any Government officer to attend the meetings of the Council when his presence would assist the Council's business.

(ii).—REPRESENTATIVES OF STATE AND SETTLEMENT COUNCILS.

54. The adequate representation of the constituent Governments of the Federation on the Legislative Council, so that their special interests may be given due weight by the Federal Government, seems to us to be of the greatest importance and we recommend that there should be one such representative from each State and Settlement. In the Malay States the representative would naturally be the President of the State Council, that is to say, the Menteri Besar. This arrangement would have the dual advantage of giving these officers an interest and participation in the wider sphere of Federal affairs, and of bringing them into close association with Federal officers, an important consideration in view of their State position and function. We consider that this should materially assist in creating and preserving the best possible relations between the Federal and State Governments, and in removing possible sources of friction before they can develop into serious differences of opinion.

55. In the Settlements we recommend that the representative on the Legislative Council should be selected by the Settlement Council from among its own members. This Committee contained no representative from the Settlements, and consequently has not felt justified in making any suggestions as to the composition of the Settlement Councils, but, whatever their composition, we recommend that their representatives on the Legislative Council should not be the Resident Commissioners but should be unofficials, in order to secure the special position of these representatives referred to in the next paragraph.

56. The function of the eleven representatives of the State and Settlement Councils will be to speak and vote in whatever way they consider is in the best interests of the Federation, and they should not be under any obligation to govern their actions in the Legislative Council by instructions from the Federal Government. We have therefore included them, in the summarised recommendations in paragraph 65,

in the category of Unofficial, rather than of Official Members. This has been done primarily to emphasise that they are not part of the official bloc. They may be expected in practice to take up a middle position independent both of the Official and of the Unofficial parties.

57. The question of the precedence of these members was considered. In the Council of State the British Adviser will take precedence after the President, but the two British Advisers who are members of the Legislative Council would normally, as Official Members, take precedence before the Presidents of the Councils of State, including the two Presidents from their own States. A suggestion was put forward that special provision should be made for the Presidents to take precedence before the Nominated Official Members but it was felt that it was of greater importance to preserve their status as Unofficials. We recommend, therefore, that the Presidents of the Councils of State should take precedence of other Unofficial Members and that, outside meetings of the Legislative Council, they should, at Federal functions, rank immediately after the *ex officio* members. The Presidents of the Settlement Councils should also, at Federal functions, rank similarly to the Presidents of the Councils of State.

(iii).—UNOFFICIAL MEMBERS.

58. It was only after long discussion that we were able to agree on recommendations which appeared to us to provide for proper representation of the general public on the Legislative Council. Our main difficulty lay in attempting to reconcile the two objectives of providing for the representation of certain well-defined non-racial interests, and at the same time, ensuring that the various racial communities should be adequately represented in Council. On general grounds we wished as far as possible to avoid racial representation as such, but this factor could not be altogether excluded. We have on the other hand found it possible to make recommendations for some representation on a functional rather than on a racial basis.

59. The Committee did not start its discussions with any fixed idea as to numbers, but approached the problem from the opposite angle by considering what interests should be represented. Closely linked to this was the question of the extent to which these interests could nominate their own representatives through existing bodies, such as Trade Unions and Chambers of Commerce. The Committee was 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, with which the Committee has been primarily concerned. Nomination by representative associations appeared to us to offer a means of escape from nomination in every case by the High Commissioner, and to be a definite step forward on the road to eventual self-Government.

60. We reached the conclusion that the interests which might appropriately be represented through existing bodies were the following:

Labour  
Planting  
Mining  
Commerce.

Turning then to the racial distribution of representatives of these interests the Committee was forced to take into account the fact that it would be difficult, for example, to secure a joint nomination from the various Chambers of Commerce of a single representative. In such cases not only do racial factors come into play, but the interests of the various sections of trade are not always the same. Our final conclusions were that a total of 9 seats should be allocated to these four interests on the following basis:

Representative of:	European.	Chinese.	Indian.	Total.
Labour	...	1	1	2
Planting	1	1	—	2
Mining	1	1	—	2
Commerce	1	1	1	3
				9

and we recommend accordingly.

61. The Committee next considered what other interests should be represented and agreed that three additional seats should be reserved for:

(a) a representative of educational and cultural interests, who could come from any community. We thought that, at a later date, the possibility of this seat being filled by a representative of the University College of Malaya, and, still later, of the University when it is founded, deserved consideration;

- (b) a representative of the Eurasian community;
- (c) a member to be nominated, at the High Commissioner's discretion, from any community. The intention behind this proposal is to make possible the appointment of any outstanding member of the public who would not otherwise have found a place on the Council, or to provide for the representation of any interests which would not otherwise be adequately represented, such as, for example, the interests of persons who are not Federal citizens.

62. In paragraph 58 we stated that it was impossible to exclude entirely representation on a racial basis, but that representation on a functional basis was, to some extent, possible. Having first considered the extent of representation on a functional basis, we found that Labour, Planting, Mining and Commerce would probably be represented by four Chinese, three Europeans and two Indians. To represent the general interest of Malays we are convinced that nine representatives are required and we recommend that this be the number to be nominated. We recommend that names of suitable Malays should be put forward by the Malay Associations in each area, through the United Malays National Organisation, and by any other Malay body which the High Commissioner may think fit to consult, for submission to the High Commissioner, who would be at liberty to appoint such of them as he considered to be most suitable.

63. In order to grant Chinese interests some additional representation we recommend that one Chinese in each of the Settlements should be nominated by the High Commissioner.

64. Our final conclusions as to the Unofficial Members of the Legislative Council can be summarised as follows:

Representatives of:	
Labour ...	2
Planting ...	2
Mining ...	2
Commerce ...	3
Malays ...	9
Settlements ...	2
Eurasian community ...	1
Educational and cultural interests ...	1
Unallocated ...	1
	<hr/> 23

This would give a racial distribution of:

Malays ...	9
Chinese (Labour, Planting, Mining, Commerce, Penang, Malacca) ...	6
Europeans (Planting, Mining, Commerce) ...	3
Indians (Labour, Commerce) ...	2
Eurasians ...	1
From any community:	
Educational and cultural interest ...	1
Unallocated ...	1
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(iv).—SUMMARY OF RECOMMENDATIONS FOR LEGISLATIVE COUNCIL.

65. Our recommendations for the whole Council (subject to the reservation by one member mentioned in paragraph 47) are, therefore, as follows:

A. Officials—	
Ex Officio ...	3
Nominated ...	11
	<hr/> 14
B. Unofficials—	
Presidents of State Councils and representatives from Settlement Councils ...	11
Others ...	23
	<hr/> 34

presided over by the High Commissioner. The total membership of 48 is slightly larger than the figure of 42 suggested in the Malayan Union Order in Council, but we consider it would be impossible to evolve a smaller body which would give the wide representation necessary. In any case we do not regard a Council of 48 Members to represent a population of at least 5 million as being unduly large.

66. We recommend that the Unofficial Members of the Legislative Council should be Federal citizens, but that it should be possible for exceptions to be made in favour of British subjects who may be nominated to represent commercial, planting, mining, or educational interests, or who may be selected for the unallocated seat or as a representative of a Settlement Council and who have not resided in the Federation sufficiently long to qualify for Citizenship.

#### B.—FEDERAL EXECUTIVE COUNCIL.

67. The Executive Council is a body of peculiar trust and responsibility to which the High Commissioner refers the major problems of Government and which shares with him his special responsibilities. We feel that his selection of members should be left unfettered, and we do not propose to make detailed recommendations as we have done in the case of the Legislative Council. Ideally the Council should be as small as possible but we reached the conclusion that there would not be scope for the adequate representation of State and Settlement, as well as Federal, interests if the membership was restricted to any smaller body than the following:

- (a) three *ex officio* Members—the Chief Secretary, the Attorney-General and the Financial Secretary;
- (b) not more than four Nominated Official Members, of whom one should be the Senior Officer of His Majesty's Services;
- (c) not more than five Nominated Unofficials.

Provision for this membership has been included in the draft Federation Agreement (Clause 28) but it should be recorded that, after the Committee had agreed on this recommendation, the possibility of reducing the number of Nominated Official Members to two was discussed at a later meeting. The proposal, apart from its attractiveness by reason of its reducing the size of the Council, was preferred by the representatives of the United Malays National Organisation on the grounds that the Council would then be equally balanced as between officials and unofficials. The general consensus of opinion, however, was against the reduction as it would leave only one seat to which the High Commissioner would be free to appoint a Government officer, the other being reserved for the Senior Officer of His Majesty's Services. The view was held by Your Highnesses' representatives that one of the British Advisers should be on the Federal Executive Council in view of the wide administrative experience which these officers have. Moreover, a strong case could be made out for one or more of the following officers to be appointed:

- Commissioner for Labour
- Secretary for Chinese Affairs
- Director of Education
- Director of Medical Services.

We feel therefore that the High Commissioner should be free to appoint up to four Nominated Official Members (including the Senior Officer of His Majesty's Services), if he so desires.

68. While the selection of the Unofficial Members of the Executive Council will be a matter for the High Commissioner, we assume that there will be adequate representation of the Malays in view of their special position. We recommend that not less than two Malays should be included among these Unofficial Members.

69. We recommend that the *quorum* should be four.

#### C.—MISCELLANEOUS.

70. *Malay Government Officers to be Eligible to Sit on Councils as Unofficials.*  
We have recommended that there should be nine Malays among the Unofficial Members on the Legislative Council (paragraph 62), and have suggested that there should be not less than two Malays on the Executive Council, also among the Unofficial Members (paragraph 68). We realise that the great majority of the Malays who at present could fill these appointments, with benefit to the Government and with acceptance by the Malay people, are Government officers and would, under normal practice, be disqualified for selection. This is no new problem, and

special arrangements were made in the Federated Malay States, before the war, for such Malay Government Officers to sit on the Federal Council as Unofficial Members with the liberty of speech and action in Council which goes with such membership. We recommend that similar arrangements should be made again, in order that Government may not be deprived of the best advice on matters affecting the Malays.

71. *Freedom of Speech of Official Members in Legislative Council.* Not unconnected with the admission as Unofficial Members of the Legislative Council of Malay Government Officers, is the general question whether Official Members of the Council, and the representatives of State and Settlement Councils, are free to speak and vote as they please. We would say at once that we recommend that the nine Presidents of the State Councils, and the two representatives of Settlement Councils, should have complete freedom in this respect, in order that they may act in the best interests of their respective States and Settlements as component parts of the Federation. It is for consideration whether the same freedom can be extended to Official Members. It seems to us, however, that considerable advantage would be derived from a relaxation of the traditional practice that an Official Member can speak only on matters directly connected with the office which he is holding at the time. Many senior officers—and this is likely to apply particularly to the two British Advisers whom we have recommended should be members of Legislative Council—have had long and varied experience of Malaya and could make valuable contributions to debate. We understand that the Secretary of State has approved a proposal from a Colonial territory in East Africa that Official Members of Legislative Council, provided that they give previous notice to the Governor of the general tenor of the remarks which they propose to make, should be free to say what they please, although their votes on important measures still have to be cast for the Government, whatever their private views. We recommend that this limited freedom for Official Members should be introduced into the Legislative Council of the new Federation.

72. *Freedom of Speech and of Vote of Official Members in Councils of State and Settlement Councils.* With regard to the State and Settlement Councils, we invite attention to Clause 52 in the Johore Constitution. We recommend that a clause on these lines should be included in Constitutions of other States, and of the Settlements, providing that all Members, both Official and Unofficial, should be free to speak and vote as they please. The Clause is as follows:

“LII. In all Meetings and at all times during the Meetings of the Council of State, all Members shall have the same and equal rights and powers with one another, that is, each shall have a vote which he may make use of in either supporting or opposing a question under consideration but it is not obligatory that any Member of the Council of State should make use of his vote except it is his own wish, and whatever the decision of the majority of votes may be that shall be accepted and submitted to the Sovereign.”

73. *Official Language of Councils.* We recommend that the official language of the various Councils should be as follows:

- (a) English for the Federal Executive Council and the Legislative Council provided that, with the consent of the Chairman or of the President, as the case may be, any Member may speak in Malay;
- (b) Malay for Councils of State and the State Executive Councils in the Malay States, provided that any member may, with the consent of the President, address the Council in English.

The recommendation in favour of English for the Legislative Council was not reached without discussion. The Malay members of the Committee wished it to be placed on record that they regarded it as anomalous that the use of Malay, the language of the country, should not be permitted. The great disadvantage of having a two official languages was emphasised, more particularly the impossibility of holding a real debate, and the very much greater length of proceedings in consequence of the delays and difficulties of interpretation, both of which would make the Council a far less efficient body, and detract from its value. The question of an official language, or official languages, for Settlement Councils was not considered for the reason that no representatives were present.

74. *Procedure for Changing Composition of Federal Executive Council and Legislative Council.* We realise that the composition which we have recommended for the Federal Executive Council, and even more so for the Legislative Council, may well require modification in the light of experience.

There is provision in the Federation Agreement that changes in the composition of the Legislative Council may be made by a Bill introduced into that Council with the prior consent of His Majesty and the Conference of Rulers.

## CHAPTER VI.

## CONFERENCE OF RULERS.

75. *Need for Establishment of a Conference of Rulers.* The Committee has always appreciated the necessity of Your Highnesses being kept in constant touch with the important problems which affect the Federation. For this purpose we desired to make provision for regular meetings between Your Highnesses and the High Commissioner. After careful discussion in the Committee, we have come to the conclusion that these purposes will be best served by setting up a permanent organisation by which Your Highnesses could receive regularly important documents, and thus be kept in touch with the problems as they arise, and have the opportunity for mutual deliberation and discussion. We suggest that there should be a Conference of Rulers, with a permanent secretary of its own, through whom the High Commissioner would forward documents for Your Highnesses' information, and who would also be the Keeper of the Rulers' Seal. The class of subject which we consider should be brought to Your Highnesses' notice should include:

- (a) Bills which are to be brought before the Legislative Council (before publication in the *Gazette*, unless they are of such urgency that their introduction into the Council cannot be delayed);
- (b) Federal policy on immigration;
- (c) New salary schemes or major amendments to existing salary schemes of Federal Public Officers;
- (d) Draft schemes for the creation or major reorganisation of any department of the Federal Government.

Your Highnesses would thus have an opportunity of considering individually any such Bills or proposals and, in the case of any objection of moment, bringing the matter before the Conference itself and later, if the Conference so desires, at a meeting of the Conference of Rulers with the High Commissioner. As Your Highnesses are doubtless aware, a mass of important and urgent legislation will have to be drafted and passed during the next few years. It will, of course, always be possible for Your Highnesses to consider any legislation to which there may be any objection or doubt and to recommend amendments which may be thought desirable. It is hoped that only when important points of principle are involved will such legislation be delayed by postponing it to a discussion in Conference.

76. *Exchange of Information between the High Commissioner and the Rulers.* At meetings between Your Highnesses and the High Commissioner, which we consider should take place not less than three times a year, the scope of discussions should be as wide as possible, and we submit that it should be a charge on Your Highnesses and on the High Commissioner to keep each other informed of all matters which are likely to be conducive or detrimental to the welfare of Your Highnesses' States, and on the High Commissioner to explain to Your Highnesses the policy of the Federal Government on matters of importance.

77. *Attendance of Malay Advisers at Meetings of Conference.* Although we consider that membership of the Conference of Rulers should be confined to Your Highnesses, we are of the opinion that Your Highnesses will find it convenient to bring a Malay Adviser to meetings of the Conference. We feel sure that Your Highnesses will welcome such an arrangement which will give Your Highnesses the benefit of the judgment and experience of State Officers. It would be open to the High Commissioner to call, to these meetings of the Conference of Rulers with the High Commissioner, any Government officer who would be of assistance in the deliberations.

78. *Assent to Bills.* We have drawn attention in paragraph 20 of this Report to the fundamental principle of the constitutional arrangements which we propose, namely, that all authority in the internal affairs of the Federation shall be derived from a joint delegation; that is to say, from His Majesty in respect of the Malay States, from Penang and Malacca, and from Your Highnesses in respect of the Malay States. It follows that Your Highnesses' assent, in addition to that of His Majesty, will be required to all Bills passed by the Federal Legislature. The procedure for expressing this assent presented at first sight no easy means of settlement. Experience in the Federated Malay States, where there were only four Rulers, leads us to fear that the process of obtaining the signatures of nine Rulers on all Bills would be administratively cumbersome. It was suggested to us that a possible method of resolving the difficulty would be by the institution of a Rulers' Seal, which would be affixed to Bills in the presence of a Standing Committee consisting of two of Your Highnesses, selected from time to time by Your Highnesses, who would sign as witnesses to the sealing of the Bill. The Federation Agreement includes provision accordingly.

## CHAPTER VII.

## CITIZENSHIP.

79. The problem of finding an agreed solution to the question of Citizenship was, without exception, the most difficult and delicate that the Committee had to face. The Malay Members made it clear at the outset that they found difficulty in entering upon discussions at all in view of the statements which had been made on the subject by the Secretary of State and which seemed to them to leave little room for negotiation. It was, however, pointed out to them that the criterion adopted by the Secretary of State, namely, that "political rights in the Malayan Union should be extended to those who regard Malaya as their real home and as the object of their loyalty" was a reasonable criterion and it was open to the Committee to discuss the categories of persons who should be included within the scope of this statement. With this assurance, the Malay members agreed that they would be prepared to continue discussions. They handed in a written statement of their attitude, which reads as follows:

"The deep resentment felt by the Malay population throughout the Malay States has been aroused by two main factors—

(a) objection to the transfer of jurisdiction to His Majesty and to the creation of the Malayan Union, and

(b) particularly the creation of the status of Malayan Union citizens.

But in view of the statement made by the Secretary of State for the Colonies that the door is still wide open to discussion on the question of what categories of persons would come within the scope of the suggested citizenship, and of the earlier statement by the Parliamentary Under Secretary of State for the Colonies that "political rights in the Malayan Union should be extended to those who regard Malaya as their real home and as the object of their loyalty", and on the clear understanding that the Secretary of State has accepted the principle that the special position of the Malays shall be safeguarded, we put forward the attached memorandum as a basis for discussion."

80. *Special Position of the Malays.* In approaching the subject of Citizenship, it must be remembered that there is a very real fear on the part of the Malays that they may steadily become submerged in a country in which (except for the aborigines) they are the indigenous people, unless the categories of persons admissible to citizenship are confined to those who look to Malaya alone as their homeland. The Malays live in a country in which they, owing to the influx of foreign immigrants, are already numerically inferior. It is important to emphasise that the Malays have no alternative homeland, whilst the remainder of the population, with few exceptions, retain in varying degree a connection with their country of origin and, in very many cases, regard that country and not Malaya as the primary object of their loyalty and affection. In these circumstances, the insistence by the Malay members of the Committee on a strict interpretation of the Secretary of State's statement that citizenship should be extended only to those who "regard Malaya as their real home and as the object of their loyalty" was considered by the Committee as a whole to be justified.

81. *Meaning of Citizenship.* 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. It is an addition to, and not a subtraction from, nationality and 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. It was not possible at present to lay down precisely what these privileges or obligations would be.

82. *Designation of Citizen.* On the question of title the Committee considered that if, as proposed, the new Federation is given the title of "Federation of Malaya", the full designation of a citizen of the country would appropriately be "Citizen of the Federation of Malaya", which, for everyday purposes, could be shortened to "Federal Citizen".

83. *Classes of Persons to be Admitted to Citizenship.* The first problem to be faced was the question of categories of people who should be admitted to citizenship. The Committee divided these into two main classes:

- (i) persons who should acquire citizenship by operation of law, that is to say, automatically; and
- (ii) persons who should acquire citizenship by application.



The first class to be discussed was that of persons who should acquire citizenship automatically. Under this head it is clear that the subjects of the Rulers of any State should acquire citizenship without any qualification as they satisfy the two conditions to which we have drawn attention, that is to say, they regard Malaya as their real home and the object of their loyalty. Apart from the subjects of the Rulers, it is very difficult to define a category which would not embrace within it a number of people who would not satisfy these two conditions. There are, in the Settlements of Penang and Malacca, a number of persons, including Malays, who have been resident in those Settlements for a considerable time and who look on Malaya as their real home. These should be eligible for citizenship. But any category, which included British subjects born in the Settlements without further qualifications, would embrace a number of people whose sojourn was transient and who had not yet shewn, by their length of residence, that they had determined to settle in Malaya and to make their real home here. It was, therefore, considered necessary to add a term of residence, namely fifteen years, to the category of British subjects born in the Settlements, in order to include only those persons who should properly be admitted.

84. *British Subjects Born in the States or Settlements.* There are also, throughout the territories with which we are concerned, a number of British subjects who have been born either in the States or in the Settlements. The Committee considered that such members only of this class as could be reckoned as being settled in Malaya should be admitted automatically to citizenship. It appeared that the easiest method of defining this class would be by limiting it to British subjects, born in a State or Settlement, whose father either had himself been born in one of the States or Settlements, or had resided in the Federation for fifteen years.

85. *Second Generation of Persons Born in Malaya.* The next category which the Committee recommends for inclusion is the second generation of people born in Malaya. In this case the Committee considered that, by insisting on both parents being born in Malaya, it could be assured that the real home of these persons was in Malaya. This would justify admission automatically.

86. *Children Whose Fathers are Citizens at the Time of Their Birth.* A further category is the children whose fathers are citizens at the time of their birth. The inclusion of this category is important, as it should become possible to instil a sense of citizenship into the youth of the country and to teach it loyalty to Malaya. Such children will be descended from persons who have shewn, by being citizens themselves, that they have made Malaya their real home, and it can be hoped that their children will do likewise and will regard Malaya as the object of their loyalty.

87. *Acquisition of Citizenship upon Application.* So far, the Committee had discussed the class eligible for automatic admission to citizenship. We then turned to the question of the class for admission to citizenship by application. We considered that persons possessing the following qualifications should be eligible to acquire the status of citizenship upon application. The qualifications are:

- (a) (i) birth in one of the Malay States or Settlements and residence in the territory for ten out of the fifteen years preceding the application, or
- (ii) residence in the territory for fifteen out of the twenty years preceding the application, and
- (b) good character, and
- (c) an adequate knowledge of the Malay or English language;

provided that, on approval of the application, the applicant must make a Declaration of Permanent Settlement and take a Citizenship Oath. The forms of Declaration of Permanent Settlement and of the Citizenship Oath on which the Committee agreed are set out as Forms VII and VIII of the First Schedule to the draft Federation Agreement (Appendix A to this Report). The Committee feels that the period of residence, together with the Declaration of Permanent Settlement and the Citizenship Oath, required for persons in this class, will indicate that the person making the application for citizenship has really identified himself with Malaya and may be said to have made his real home here and to regard Malaya as the object of his loyalty.

88. *Language Qualification.* Considerable discussion took place on the standard to be adopted for the language qualification. We were informed that "adequate knowledge" was an expression used in the British Nationality and Status of Aliens Acts and that the practice in the United Kingdom was to interpret it in relation to the applicant's station in life. For this reason, there was considerable advantage in the qualification being so worded as to allow of some elasticity. On the other hand, it was urged that the circumstances of Malaya made it more than usually important

that there should be a common means of expression and that all Federal Citizens should be able to read and write either Malay or English. We were able to agree that that should be the eventual aim, but the imposition of such a standard from the start would disqualify a number of older people who were, on other grounds, the type of person whom the Committee would wish to see admitted to citizenship. No unanimous conclusion was reached, but a majority of the Committee took the view that, in the case of persons who claim a knowledge of the Malay rather than the English language, there should be a period of two years during which an ability to speak Malay with reasonable proficiency should be accepted as sufficient. This would allow time for the registration of those persons who could not pass a written test. After that period, an ability to speak Malay and to read and write the language in the Jawi or Rumi script with reasonable proficiency should be required. Some members of the Committee considered that the period of two years was too short in which to require so high a standard, and an alternative suggestion was made that the standard be left to be prescribed by regulations, which could be varied from time to time.

89. *Oaths.* Keeping in mind again the principle that citizenship is not nationality, we concluded that oaths of allegiance would be out of place and that it would be better to provide a simple oath or affirmation of faithful service as a citizen, and of loyalty to the Federation and obedience to the lawfully constituted authorities therein.

90. *Definition of "Subjects of the Rulers."* Some points arose in the course of the discussions on citizenship which should be recorded. The expression "subjects of the Rulers" is one which will require definition whatever proposals are adopted. The framing of such a definition has caused difficulty in the past, as it has been the practice, for example, for certain Indonesians to be regarded as subjects of Your Highnesses, while the great majority of the Chinese, even of those born and permanently resident in a Malay State, do not so regard themselves unless they become naturalised. After careful consideration, we recommend that the expression "subject of His Highness the Ruler" should mean:

- (i) any person who belongs to an aboriginal tribe resident in that State; or
- (ii) any Malay born in that State or born of a father who is a subject of the Ruler of that State; or
- (iii) any person naturalised as a subject of that Ruler under any law for the time being in force;

and that the word "Malay" should mean a person who

- (a) habitually speaks the Malay language; and
- (b) professes the Muslim religion; and
- (c) conforms to Malay custom.

91. *Computation of Period of Residence.* Another point to which reference should be made is that, in computing any period of residence, it is necessary to make certain conditions. We have, therefore, provided that any period or periods of absence from the Federation for the purpose of education, and any temporary absence from the Federation not inconsistent with essential continuity of residence therein, shall be included in computing any period of residence.

92. *Loss of Citizenship.* The Committee has also included provision for the loss of citizenship by absence from the Federation for a period of seven years or upwards or for conduct incompatible with the obligations of a citizen, and also for the revocation of Certificates of Citizenship which have been obtained either by false representation or fraud or where the person to whom the Certificate has been granted has shewn himself to be disaffected or disloyal to the Government of the Federation. The High Commissioner has been given powers to revoke a Certificate of Citizenship when he is satisfied that the person to whom the Certificate was granted has traded or communicated with the enemy during any war in which His Majesty's Dominions or has been sentenced by any Court in the Federation or His Majesty's Dominions to imprisonment for not less than twelve months, or remains a subject of a State at war with His Majesty. In cases of revocation the holder of the Certificate will be given an opportunity of being heard by a committee of enquiry presided over by a person of legal or judicial experience. There is also provision for the voluntary divestment of citizenship.

93. *Immigration.* It is clear that the question of citizenship is very much interlocked with the control of immigration. The Malay members of the Committee have emphasized the fact that their acceptance of the proposals for citizenship is contingent on a strict control over immigration. It is obvious that to open the door to anyone who wishes to enter Malaya in search of work or trade would in a very few years upset the balance between Malays and other races. To the Malays this is, literally, vital. The Malays, therefore, are convinced that in the shaping and subsequent control of Federal policy on immigration they must have a full share. They contend that Federal policy on this subject should be referred to the Rulers, not only for their consultation, but for their agreement. The Committee was impressed with the force of this argument and, in consequence, inserted a sub-clause to Clause 75 of the draft Agreement, which provides that it shall be a particular duty of the High Commissioner to consult the Conference of Rulers from time to time upon the immigration policy of the Federal Government, and in particular when any major change in such policy is contemplated. In cases where there is objection by a majority of Your Highnesses, and agreement between Your Highnesses and the High Commissioner cannot be reached, the point of difference should be referred for decision to the Secretary of State.

94. *Ex-enemy Nationals.* The Committee gave some consideration to the question whether ex-enemy nationals should be admitted to citizenship and we recommend that they should be debarred from acquisition of citizenship by operation of law, but should be eligible to apply if otherwise qualified.

## CHAPTER VIII.

## DRAFT FEDERATION AGREEMENT.

95. We have already referred in paragraph 19 of this Report to the declarations made by Your Highnesses that, whatever form of government is to be established in Malaya, it should be established by an Agreement signed on behalf of His Majesty and by Your Highnesses. The recommendations which we have made in earlier chapters have therefore been incorporated by the legal sub-committee in a draft Agreement which is attached as Appendix A. We propose here to explain such points in the draft as may not be self-evident.

## PREAMBLE.

96. There are no particular points to which we wish to draw attention other than those mentioned in Chapter II.

## PART I.—ESTABLISHMENT OF THE FEDERATION.

97. *Amendments to the Federation Agreement.* With certain exceptions, amendments to the Federation Agreement will be effected by Ordinance passed by the Federal Legislative Council. It is, however, provided that no Bill for the amendment of the Federation Agreement (except a Bill for amendment of its transitional provisions) shall be introduced into the Legislative Council without the prior consent of His Majesty and of the Conference of Rulers. There are certain clauses of the Federation Agreement in relation to which intervention by the Legislative Council would be inappropriate, such, for instance, as the clauses dealing with the appointment and functions of the High Commissioner, the Royal Instructions, or the Conference of Rulers. Such clauses, if they require amendment, will be amended by Proclamation of the High Commissioner in terms previously agreed upon by His Majesty and the Conference of Rulers. Amendment of certain financial provisions will require prior consultation with State and Settlement Councils as well as with the Legislative Council. Following a common practice, amendments to the transitional provisions of the Federation Agreement may be made by Federal Ordinance without prior consent of His Majesty or of the Conference of Rulers.

## PART II.—THE HIGH COMMISSIONER.

98. The matters which the Committee had to consider in regard to His Majesty's Representative in the Federation were largely of a formal nature, relating to the method of appointment of the High Commissioner, the taking of oaths, the succession to government owing to vacancy, or during incapacity, or absence from the Federation, the use of the Public Seal, and finally, His Majesty's Instructions. As to these matters there was no disagreement, and it was decided to follow common forms as far as possible in making the necessary provisions in the draft Agreement.

99. There were, however, several other matters of importance which occasioned much discussion:

- (a) the exercise of the prerogative of pardon and mercy;
- (b) the power of giving advice to Your Highnesses; and
- (c) disciplinary powers in respect of Public Officers.

100. *Prerogative of Pardon and Mercy.* In regard to the prerogative of pardon and mercy, the first proposal put before us for consideration was that, in the case of offences against Federal Ordinances, it should be exercised by the High Commissioner on a joint delegation to him of the prerogatives of His Majesty and Your Highnesses. As we have pointed out in paragraph 20 of this Report, the principle of joint delegation of powers is a convenient method of effectively exercising central powers throughout the Federation, whilst maintaining the constitutional position of His Majesty and Your Highnesses. We were, however, informed that there were grave objections to

this proposal on the grounds that Your Highnesses are not permitted, under Muslim law, to delegate this prerogative. Reference was made to the Islamic authorities in Kedah and Johore, and the following pronouncements were received in reply:

*From Kedah.*—"It is not permissible nor is it legal under Islamic law for the Sultan to delegate to any person, who does not profess the religion of Islam, any prerogative particularly appertaining to the Sultan. It is not permissible to carry out any death sentence without the sanction of the Sultan."

*From Johore.*—"The power to confirm a death sentence is the exclusive power of an Islamic Ruler and this cannot be delegated to any person not professing the religion of Islam."

A further reference was made on the question whether these pronouncements applied equally to non-Muslim as well as Muslim cases, and the following reply was received from the Islamic authorities in Kedah:

"The Religion of Islam prohibits a Muslim Ruler from delegating to a non-Muslim his power of pardon in a case where (a) the murderer and the deceased are both non-Muslim and (b) the murderer is non-Muslim and the deceased a Muslim. Because of this prohibition the power is preserved to the Sultan."

On the basis of these pronouncements and bearing in mind that before the war this prerogative lay with Your Highnesses, or with some of Your Highnesses in Council, we have provided, in Clause 15 of the Federation Agreement, for the prerogative of pardon and mercy to be exercised in the Malay States by Your Highnesses in State Executive Council. In the Settlements it will be exercised by the High Commissioner on behalf of His Majesty.

101. *Power of Advice.* The power of giving advice to Your Highnesses, which, under the terms of past Agreements, rested with the British Residents or Advisers, was an important factor in the relationship between Your Highnesses and the Protecting Power, although it was very seldom exercised. We propose that the power of advice shall be retained in the new State Agreements. We also consider it appropriate that, in Federal matters, advice shall be tendered to Your Highnesses direct by the High Commissioner rather than through each of the British Advisers, and we have included in the draft Federation Agreement a clause to cover this (Clause 8).

102. *Disciplinary Powers in Respect of Public Officers.* In connection with the power of dismissal, suspension and other disciplinary action affecting Public Officers, it was fully realised that Your Highnesses will wish to have control over officers in the service of the States. Although this principle is clear and beyond dispute, it was not easy to find a formula which was acceptable to all the members of the Committee, the reasons being that many Federal officers serving in the States will, during such service, be treated as State officers and be borne on the State estimates. Long consideration was given to this question and our views can best be expressed by classifying Public Officers in three categories, namely:

- (a) officers who are clearly officers in a State service and who will be under no obligation to serve outside that State;
- (b) officers who are clearly officers in a Settlement service and who will be under no obligation to serve outside that Settlement;
- (c) officers who will be liable, at the will of the Federal Government, to serve in any part of the Federation, yet who may during their service in a particular State or Settlement, be borne on the establishment of that State or Settlement.

As to officers in categories (a) and (b) we do not think that any difficulty should arise. Disciplinary action against them will be taken by the Ruler of the State to which the officer belongs, or by the High Commissioner if he belongs to a Settlement, in both cases in accordance with the laws and General Orders of the Government in force, and, where applicable, in accordance with the Regulations for His Majesty's Colonial Service. The difficulty arises in respect of the officers in category (c), and

as to them we recommend that the powers of taking disciplinary action should be vested in the High Commissioner, but with the proviso that, where the officer concerned is, at the date of the occurrence which gives rise to the necessity for taking disciplinary action, borne on the establishment of a Malay State, the concurrence of the Ruler of that State should first be obtained.

#### PART III.—FEDERAL EXECUTIVE AUTHORITY.

103. The delegation of executive authority under Federal Legislation to States and Settlements in all appropriate cases has been recommended in paragraph 86 of this Report. If our recommendations are accepted, executive power will fall into two divisions, namely:

- (a) executive power exercisable within the sphere of the Federal Laws but which is to be delegated to the State and Settlement Governments;
- (b) executive power exercisable within the sphere of Federal Laws, and which is to be retained by the Federal Government.

104. *Delegation of Executive Authority under Federal Laws to State and Settlement Governments.* With regard to (a), i.e., the exercise by the State and Settlement Governments of delegated executive authority under Federal Laws, the Committee recognised that certain safeguards will be necessary if the general principle of a strong Central Government is to be maintained. It was accordingly agreed, firstly, that the delegation of executive authority should not be construed as in any way restricting or impairing the authority of Federal Heads of Departments in dealing with their subordinate officers in the States and Settlements in all technical matters; and, secondly, that in matters such as local Government, Town Planning, etc., the delegation of full executive power would not preclude the Federal Government from appointing Federal officers to advise State and Settlement Governments if this should be found necessary or desirable.

105. *Executive Authority of the Federal Government.* In considering (b), the Committee drew on the provisions of the Government of India Act, 1935, in preparing clauses, in the draft Federation Agreement, to govern the method by which federal executive power will be exercised by the Federal Government. Accordingly we have made provision in the draft Agreement on the following lines:

(a) Firstly, that all such authority will be vested in the High Commissioner and, except where it is otherwise specifically provided by any law for the time being in force, or by any rule or direction made or given by the High Commissioner, will be exercised in his name (Clause 20).

(b) Secondly, that such authority will normally be exercised by the High Commissioner, either directly or through officers or subordinate authorities to be designated by him personally or in Federal laws; but that he may, in his discretion, entrust it also to a State or Settlement Government or its officers. When such authority is to be entrusted to a State Government the consent of the Ruler should be obtained (Clauses 17 and 18).

(c) Thirdly, that the High Commissioner has certain special responsibilities and should have power to ensure that nothing is done, in a State or Settlement, which may impair the efficient exercise of Federal Executive authority throughout the Federation in regard to these responsibilities. We have defined these special responsibilities and have provided that, in discharging them, the High Commissioner may give appropriate directions to the Government of any State or Settlement (Clause 19). These special responsibilities are set out in the next following paragraph of this Report.

(d) Finally, a provision to the effect that the Federal Government should have power to obtain land anywhere in the Federation for any purpose falling within the Federal Legislative powers (Clause 21).

106. *Special Responsibilities of the High Commissioner.* The special responsibilities of the High Commissioner to which we have referred in the foregoing paragraph and in paragraph 50 would include the protection of the right of any Malay State or any Settlement, and of the rights, powers and dignity of Their Highnesses the Rulers, the prevention of any grave menace to the peace or tranquillity of the Federation or any Malay State or Settlement comprised therein, and the safeguarding of the financial stability and credit of the Federal Government and of the special position of the Malays, and of the legitimate interests of minorities.

## PART IV.—LEGISLATIVE COUNCIL.

107. Our recommendations for the constitution of the Legislative Council are contained in paragraphs 46 to 66 of this Report; and in paragraphs 70 and 74 we have made additional recommendations that Malay Government officers should be eligible for appointment as Unofficial Members of the Council, and that it should be possible to make changes in the constitution of the Council without the necessity for a formal supplemental Agreement. Provision has not, however, been made for the seat of an Unofficial Member to fall vacant on his being appointed to an office of emolument under the Federal Government, owing to the special arrangements which we have recommended for Malay Government officers. Should the necessity arise, we suggest that any offer of appointment made by the Government to an Unofficial Member should stipulate, as a condition of acceptance, his resignation from the Council or, if it is a temporary office to which he is being appointed, that he should not sit or vote in the Council so long as he continues to hold that office.

108. The legislative powers of the Legislative Council form the subject of discussion and recommendations in Chapter III of this Report. Provision is made in Clause 52 of the Federation Agreement for the adoption, with such modifications as may be necessary, of English common law, the maxims of equity and suitable statute law.

## PART V.—LEGISLATION AND PROCEDURE IN LEGISLATIVE COUNCIL.

109. The provisions in this Part generally follow the usual form, but certain clauses of the Federation Agreement call for comment or explanation.

110. *Clause 55. Reserved Powers.* In the case of a Bill, passed by the Legislative Council or by a Council of State, which was regarded as detrimental to the public interest, it might be necessary to advise Your Highnesses, or His Highness the Ruler of the State concerned in the case of a Bill passed by a Council of State, not to assent. The occasion might equally well arise when a Bill or motion, which the Government regarded as essential, was not passed owing to the opposition of the Unofficial Members of Council. A provision in the usual form has, therefore, been included for the High Commissioner to declare that such Bill or motion shall have effect as if it had been passed by the Council. A similar provision has been included in Clause 105 of the Federation Agreement to enable Your Highnesses to pass a Bill or a motion which the Council of State has not passed.

111. *Clause 58. Disallowance.* It appears to some members of the Committee to be inconsistent with the general principle of partnership, on which our proposals are based, that His Majesty should have the power to disallow laws, which have been passed by the Legislative Council and to which Your Highnesses as well as the High Commissioner have assented. On the other hand we realise that His Majesty should retain power to disallow the assent of the High Commissioner, and we propose therefore that His Majesty's power should be limited to the disallowance of the High Commissioner's assent, rather than it should extend to the disallowance of the law itself.

112. *Clause 66.* Our recommendations as to the official language of Councils are contained in paragraph 75 of this Report.

113. *Clause 69. Elected Members.* We are unanimously of the opinion that it would be premature to introduce elections to the Legislative Council for the present, but we have included in the draft Federation Agreement a clause declaring that His Majesty and Your Highnesses intend, in due course, to provide for the election of members to the Legislative Council, and we strongly recommend that this declaration be made.

114. *Clause 70. Validity of Federal Ordinances not to be questioned.* This clause is important and will, amongst other things, prevent any question arising whether a Federal Ordinance is *ultra vires* as not coming under any of the heads in the Federal Legislative List (the Second Schedule to Appendix A).

## PART VI.—CONFERENCE OF RULERS.

115. This Part of the Federation Agreement provides for the Conference of Rulers whose establishment we have recommended in Chapter VI of this Report, where the functions of the Conference are fully explained.

## PART VII.—COURTS.

116. *Scope of this Part.* The Committee discussed, at some length, the appropriate authority for appointing the Chief Justice and Judges of the Supreme Court of the Federation, and had the benefit of the views of the Chief Justice on this question. The Malay representatives were strongly of the opinion that Your Highnesses' position should be recognised as the fount of justice in the Malay States, and that all judicial officers should therefore derive their authority from Your Highnesses. On the other hand it was essential that, for the Settlements of Penang and Malacca, the Chief Justice and Judges should derive their authority from His Majesty. On the basis of the general principle already mentioned in paragraph 20 of this Report, we were able to agree that such appointments should be made by the High Commissioner on a joint delegation to him of the powers of His Majesty and Your Highnesses. Under the same joint delegation of powers, the High Commissioner would appoint a Registrar and the Assistant Registrars of the Supreme Court.

117. Some of the Malay members of the Committee referred to one or two unfortunate instances which had occurred before the war where Judges, without previous experience of Malaya, had weakened confidence in the Courts by actions which an officer with experience of Malaya would not have taken. Provision has been made, in the draft Agreement [Clause 88 (8)], for the Ruler of a State to be consulted before a Judge is appointed to reside in that State. A knowledge of local customs and conditions is so essential to the administration of justice, that we recommend that, where possible, a Judge new to Malaya should serve some months in Kuala Lumpur where he would, under the advice of the Chief Justice, have an opportunity of gaining this experience.

## PART VIII.—LAW OFFICERS.

118. There are no special points in this part of the draft Agreement to which attention need be drawn, apart from the question of titles. On being assured that the title of Attorney-General was widely used not only in Colonies, but in Protectorates, Protected States and Mandated Territories, and that it in no way connoted the status of a Colony, the Malay members of the Committee agreed to its adoption in place of the former title of Legal Adviser, which was in use both in the Federated and Unfederated Malay States. We further recommend that the title Federal Counsel should be adopted in place of Crown Counsel now in use in the Malayan Union.

## PART IX.—MALAY STATES.

119. *Scope of this Part.* This Part of the Federation Agreement is intended to provide the skeleton of the organisation of the State Governments, the full details, including such matters as the membership of Councils, being laid down in the State Constitutions. These we recommend, where not already granted, should be granted by Your Highnesses in accordance with Clause 9 of the model State Agreement at Appendix B to this Report. It is provided in that clause that each State Constitution shall not conflict with the provisions of the State Agreement for that State, or with the Federation Agreement. Conditions in the different States vary widely and it was considered impossible to produce one standard form applicable to all States. Ample scope should be allowed for the details, such as representation on Councils, to vary to correspond with each State's needs. We recommend that the State Executive Councils should be presided over by His Highness the Ruler of the State and should include five *ex officio* members, that is to say the Mentri Besar, the British Adviser, the Legal Adviser, the State Secretary and the State Financial Officer and such other Official and Unofficial Members as may be prescribed in the Constitution of the State. The Councils of State should also include the same five officers, with the Mentri Besar as President and the other four as *ex officio* members. Such other membership as is thought appropriate for the Councils would be left to be laid down in the State Constitutions. Some thought has already been given to this question in respect of some of the Malay States, but proposals have not yet been matured sufficiently to present them in concrete form. The Mentri Besar, as President of the Council of State, would have a seat on the Legislative Council (see paragraph 54 of this Report).

120. It will be seen that the organisation which we envisage at each State headquarters conforms more closely to the pattern in force in the Unfederated States before the war, than to that in force in the Federated States. In the latter, as we have shown in Chapter I of this Report, the executive authority still rested *de facto* with the British Resident and his staff in spite of the changes which had been made through the decentralisation policy. In our opinion, the object of associating the people more closely with the executive and administrative machinery



of Government has greater hope of realisation if the system formerly in force in the Unfederated States is adopted. The British Adviser will then take his place as an Adviser only, and the executive authority will lie with the State Government, headed by the Mentri Besar and the State Secretary, both of whom will be appointed by the Ruler. In this way, also, will the people of the country learn how to take a greater share in government and so be led along the road to self-government.

121. *Clause 106. Laws How to be Styled.* For convenience in distinguishing between legislation passed by the Legislative Council and that passed by the Councils of State and Settlement Councils, we recommend that the former should be styled "Ordinances" and the latter "Enactments".

122. *Clause 113. Elections.* As in the case of the Legislative Council, we do not consider that elections to the Councils of State are practicable for the present but we recommend that Your Highnesses should make formal declaration that it is Your Highnesses' intention to make provision for them in due course, and we have included such a declaration in the draft Federation Agreement.

#### PART X.—SETTLEMENTS.

123. Our recommendations for representation of the Settlement Councils and of the Settlements on the Legislative Council are in paragraphs 55 and 63 of this Report. We felt justified in making these recommendations, even though the Committee contained no representatives from Penang and Malacca, because it was necessary for our purpose to be definitive on the subject of the composition of the Legislative Council. We cannot feel justified, however, in making recommendations as to the composition of the Settlement Councils which must be a matter for discussion between the Government and representative unofficials in the Settlements themselves. The detailed arrangements will be matters to be laid down by Order in Council in due course, and they will have to conform to the provisions of the Federation Agreement.

#### PART XI.—FINANCE.

124. These clauses carry into effect the recommendations which we have made in Chapter IV of this Report and no special explanation is required.

#### PART XII.—CITIZENSHIP.

125. The difficulties encountered by the Committee in our discussions on citizenship are fully recorded in Chapter VII of this Report.

#### PART XIII.—TRANSITIONAL.

126. *Objects of the Transitional Provisions.* In framing the transitional clauses of the draft Federation Agreement, the Committee drew freely upon the provisions of the Malayan Union Order in Council, 1946. The main objects of the transitional provisions may be summarised as follows:

- (1) to enable Councils to operate at the earliest convenient time after the new arrangements have been inaugurated;
- (2) to provide for the continuance of existing laws;
- (3) to provide for the continuance in office of public officers;
- (4) to preserve the validity and future operation of acts lawfully done before the new arrangements are brought into force;
- (5) to provide for the continuance of pending legal proceedings;
- (6) to re-allocate and re-vest property and to provide for the transfer of assets and liabilities;
- (7) to provide for the continuance of the machinery set up by the Malayan Union Order in Council, 1946, for the apportionment of property belonging to the former Colony of the Straits Settlements between those parts of that Colony which will be included in the Federation (namely the Settlements of Penang and Malacca) and those which will not;
- (8) to provide for the continuance of Government contracts; and
- (9) to vest the Railways in the Chief Secretary as a corporation sole to hold for the purposes of the Federal Government.

We now discuss these objects in order.

127. *Membership of Councils.* Regarding the Councils, it is to be expected that the machinery for registering Federal citizens may not be in full operation immediately upon the inauguration of the new Constitution. We have, therefore, provided that it shall be sufficient, in the case of those persons who do not acquire Federal Citizenship by operation of law, if the first Members of the Councils possess the qualifications prescribed for citizenship and undertake to apply for citizenship as soon as it is possible to do so. The Committee considered the advisability of making provision for an interim period when government could be carried on with an Advisory Council; but decided against this plan. It was thought that it would be preferable, if such a course proved necessary, to delay the introduction of the new constitutional arrangements for a little while rather than to resort to another period of interim rule.

128. *Continuance of Existing Laws.* We have made arrangements for the continuance of the existing laws, with such modifications as may be necessary to adapt them to the constitutional arrangements. We have also provided for the validity and future operation of lawful acts done prior to the appointed day and for the carrying on of proceedings pending in the Courts. These are necessary provisions and call for no special comment.

129. *Immovable Property.* The question of the transfer, re-allocation and vesting of property is one to which the Committee has devoted considerable time. The provisions of Malayan Union Order in Council, 1946, which vested in His Majesty, for the purposes of the Government of the Malayan Union, State land which had previously been vested in each of Your Highnesses for purposes of the Government of Your Highnesses' respective States, aroused deep resentment among the Malays. It is our aim to provide for the re-vesting of such land in Your Highnesses while, at the same time, making provision for the continued vesting in His Majesty of Crown land in the Settlements and for the proper allocation and vesting of any land which may have been acquired by the Government of the Malayan Union. The drafting of the necessary provisions has presented the legal sub-committee with a difficult task. Immovable property has been divided into three categories, namely, Malay States immovable property, Straits Settlements immovable property, and Malayan Union immovable property. Under Clause 144 of the draft Federation Agreement Malay States immovable property, as there defined, which was by virtue of section 92 of the Malayan Union Order in Council, 1946, vested in His Majesty for the purposes of the Government of the Malayan Union, will, to the extent that it will be required after the appointed day for the purposes of the Government of any Malay State, be re-vested in the Ruler of that State for the purposes of the Government of that State. Settlements immovable property, as defined, will remain vested in His Majesty for the purposes of the Government of the Settlement concerned, and Malayan Union immovable property, as defined, will be vested in His Majesty or in the appropriate Ruler of any Malay State or in the appropriate officer of the Government of the Federation, as the case may require, for the purposes of the Government of the Federation. Special provision has been made for the Railways. The Committee is agreed, and recommends that the Railways should be under Federal control, and we have provided that all railway property and assets should be vested in the Chief Secretary for the purposes of the Federal Government. We suggest that the name of the Railway should be the Federal Railway of Malaya.

130. *Movable Property.* With regard to movable property, the Committee recognises that the financial stability and credit of the Federation will be the particular responsibility of the Federal Government and that a very large measure of control by the Federal Government will be essential in financial matters. The Federal Government is to assume nearly all the financial liabilities of previous Governments in these territories. We have, therefore, considered it right that such property as we have defined as "financial assets" (Clause 145) should be transferred to the Federation, but with a saving provision that, where any such asset will be required for the purpose of any State or Settlement Government, the High Commissioner in Council will have power to transfer such asset to the State or Settlement Government concerned. As to the more tangible forms of movable property (among which we might instance vehicles, furniture, and the like), we are of the opinion that this property should, as far as it can be identified, be re-vested in or returned to the State or Settlement Government concerned with no unnecessary delay or formality. In order to achieve this, we recommend, and have made provision accordingly (Clause 145) that all such property shall in the first instance be vested in the Chief Secretary for the purposes of the Federal, State or Settlement Government as the case may be. In some cases, doubts will arise as to the proper allocation of the property and, to deal with these doubts, we have provided that Your Excellency and Your Highnesses should, from time to time, appoint Apportionment Committees whose decisions will be put into effect by the Chief Secretary.

## PART XIV.—MISCELLANEOUS.

131. *Interpretation of Federal Agreement.* Clause 158, setting up machinery for the interpretation of the Constitution, is of some importance. We considered various alternatives including interpretation by the Courts. The only precedent in Malaya itself to which we could turn was that of Johore, where the body entrusted with the interpretation of the Constitution is the Council of State. The corresponding body in the Federation would be the Legislative Council, but this can be ruled out of consideration at once on the grounds of the unwieldy size of the Council alone. A second possibility would be to give the necessary powers to the Federal Executive Council. This was not accepted on the grounds that Your Highnesses, who will be parties to the Agreement, would have no say in its interpretation. In order to provide that both parties to the Agreement should have equal representation, our final conclusion was that there should be an Interpretation Tribunal of three, consisting of the Chief Justice or, if he is unable to act, a Judge of the Supreme Court nominated by him, as Chairman, and two other members, one to be appointed by the High Commissioner and one by the Conference of Rulers and we recommend accordingly.

132. The remaining Clauses in this Part are self-explanatory.

## CHAPTER IX.

## STATE AGREEMENTS.

133. *New State Agreements.* The signing of a new Agreement by each of Your Highnesses with His Majesty forms an integral part of our proposals and, in paragraph 24 of this Report, we have recommended that these State Agreements, as also the new Federation Agreement, should be executed and remain in escrow until the "appointed day", when the new constitution is brought into force. There are certain points in the Model State Agreement (Appendix B) which require explanation and these are dealt with in the succeeding paragraphs.

134. *External Affairs and Defence.* (Clause 8). This clause gives His Majesty complete control over external affairs and all matters connected with defence. The same wording is used in Clause 4 of the draft Federation Agreement (Appendix A).

135. *Power of Advice.* (Clause 4). This clause retains the power of advice on all matters connected with the government of the State, other than matters relating to the Muslim Religion and the Custom of the Malays.

136. *State Constitutions.* (Clause 9). We consider that the early promulgation of Constitutions by each of Your Highnesses is a matter of great importance, and we welcomed the expression of this view by Your Highnesses and by the United Malays National Organisation in the proposals which formed the basis of our discussions. We are, of course, aware that a Constitution for the State of Johore was originally promulgated as long ago as 1896, and that Trengganu has possessed a Constitution since 1911, and we are convinced that the promulgation of Constitutions in the other States will not only be an earnest of Your Highnesses' purpose to rule as constitutional sovereigns but will be a substantial step forward on the road towards self-government.

137. The matters to be laid down in the State Constitutions would, amongst other things, include the following:

- (a) the constitution of the State Executive Council;
- (b) the constitution of the Council of State; and
- (c) legislation and procedure in the Council of State.

138. We have drawn attention to the necessity, if our recommendations are approved, for the Councils of State to meet on the "appointed day" to ratify the State Agreements which Your Highnesses will have signed. It will consequently also be necessary for the State Constitutions to have been drawn up, at least in respect of heads (a) and (b) above, before the "appointed day". In cases where it may prove impossible for the complete Constitutions to be ready in time, we recommend that they should be issued in Parts. This would enable the essential Parts to be promulgated in advance of the remainder.

139. Matters concerning the Muslim Religion and the Custom of the Malays will remain, as under former Agreements, outside the scope of any advice which may be given to Your Highnesses under the terms of the new Agreements, which we recommend should be concluded between His Majesty and Your Highnesses. It will therefore be for Your Highnesses to decide whether any form of Malay Council should be established to advise Your Highnesses on these questions, and we make no recommendations on this point beyond suggesting that the appropriate place for the composition and functions of any such Council to be laid down is in the State Constitutions. As their functions would be advisory and not legislative, we recommend, at the suggestion of the Malay members of the Committee, that, as in the past, any legislation on these matters should come before the Council of State for deliberation and enactment in the same way as legislation on other subjects.

140. *State Executive Council.* (Clause 10). As part of the advance to constitutional rule there is considerable force in Your Highnesses' proposal that you should be assisted by an Executive Body. It was held by some members of the Committee that the title "State Executive Council" might not be appropriate and might cause confusion with the Federal Executive Council. Several alternative titles were considered, but the Malay representatives were of the opinion that the functions of the Council were correctly expressed by "State Executive Council", and we recommend that this title should be accepted.

141. *Councils of State.* In accordance with the wishes of the Malay members it is recommended that the title "Council of State", as in the Johore Constitution, should be adopted in place of the title "State Council".

142. *Transfers of Officers to State Posts.* (Clause 11). The proposal that Your Highnesses should be consulted before any officer is transferred to a post borne on the State Estimates will restore the practice which was previously in force. Your Highnesses, however, would probably not wish to be consulted in every case. We recommend that it should be left to each of Your Highnesses to issue Your Highnesses' own directions in the matter.

143. *Education and Training of Malays.* (Clause 13). We recommend that the State Government should take special steps to provide for and encourage the education and training of Malays, so that they may take their full part in the Government Service and in the general life of the country.

## CHAPTER X.

## GENERAL MATTERS NOT FALLING WITHIN THE CONSTITUTIONAL FRAMEWORK.

144. The Committee's discussions, ranging as they did over the whole organisation of Government, included a number of matters, closely related to the constitutional proposals, but not requiring to be embodied in the draft Federation Agreement or the model State Agreement. This Report would not be complete if it did not contain the recommendations on these questions which the Committee wish to bring to the notice of Your Excellency and Your Highnesses.

## ADVISORY BOARDS.

145. The proposal that Advisory Boards, composed of representatives from the State and Settlement Councils and of some Unofficials, should be attached to all the important Federal Departments was made by the Malay members of the Committee, and was put forward with the intention of creating a closer link between the States and Settlements and Federal officers, and of ensuring that the interests of the States and Settlements, in departmental matters, should be fully presented to Federal Heads of Departments. The proposal was welcomed by the Committee and the general view was that Advisory Boards would perform a valuable function, not only at Federal Headquarters but also, in the case of some Departments, at State and Settlement Headquarters as well. It was thought to be especially desirable that there should be close liaison between Federal Heads of Departments and the State Advisory Boards and that they, or their Deputies, should attend meetings of the Boards in each State or Settlement at least once a year.

146. The Committee, accordingly, recommend the appointment of Departmental Advisory Boards consisting of representatives from State and Settlement Councils, with the Federal Head of Department as Chairman and such other members as the Board may co-opt. We consider that the duty of these Boards should be to advise the Federal Head of Department on all matters, other than technical, which are the concern of his Department, and that it should be the duty of the Head of Department to furnish information required by members of the Boards. The Board should be given an opportunity to consider the whole expenditure of the Department. Minutes of the meetings should be sent to the High Commissioner and to the State Secretary of each State and to the Resident Commissioner in each Settlement. The Departments for which we suggest that Advisory Boards might be set up at Federal Headquarters are the following:

- Agriculture
- Drainage and Irrigation
- Education
- Electrical
- Fisheries
- Forests
- Medical and Health
- Public Works Department (including Town Planning)
- Road Transport
- Telecommunications
- Industry and Commerce
- Veterinary.

We also recommend that State and Settlement Advisory Boards should be established for such Departments as may prove appropriate, and that the Director of the Department, or his Deputy, should attend meetings of these Boards in each State or Settlement at least once a year to discuss matters of local concern.

147. Considerable discussion took place on the particular case of the Road Transport Department. After considering the views of the Commissioner for Road and Settlement Licensing Boards, with executive as well as advisory powers, should be established for the Road Transport Department, and that the Commissioner should be informed of all proposals coming before the Boards and his views given full weight. The Commissioner should be required to refer to the appropriate Board or Boards for its views on any proposals for transport services affecting that State or Settlement. Although we make no specific recommendation, we consider that a Federal Licensing Board may be required, although possibly not in the immediate future.

148. In the case of the Education Department, we understand that the Director has in mind the eventual establishment not only of Advisory Boards or Committees at Federal, State and Settlement Headquarters, with sub-committees for each of the various branches of vernacular education, but also of a local committee for each school. These local committees already exist in a number of cases and those attached to Trade Schools have been particularly successful. We are very much in favour of this development. On the analogy of the Malay College, Kuala Kangsar, for which a Board of Governors has been in existence for some years before the war, we recommend that a similar Board, representative of all the States and Settlements, should be appointed for the Sultan Idris Training College and for the Malay Women's Training College, Malacca.

#### GRADING OF THE POSTS OF BRITISH ADVISERS.

149. The Malay members of the Committee expressed the opinion that the posts of Resident Commissioners and British Advisers, with the exception of the British Adviser, Perlis, should be of Staff rank and desired that the emoluments of the appointments should correspond to those in force in 1941. We recommend accordingly.

#### MATTERS ON WHICH THEIR HIGHNESSES THE RULERS SHOULD BE CONSULTED.

150. Apart from those matters on which, under the terms of the proposed Agreement, it will be obligatory that Your Highnesses' consent should be obtained, we recommend that it should be an invariable rule that Your Highnesses should be consulted on the design of currency notes and coins, stamps and the Public Seal of the Federation.

#### DISTRICT JUDGES.

151. During the course of our discussions on the procedure for the appointment of Judges of the Supreme Court and other judicial officers, the Malay members of the Committee levelled strong criticism at the newly instituted system of District Judges.

152. In conclusion we wish to place on record the excellent work of our Secretary, Mr. D. C. Watherston, M.C.S., who throughout the whole of the proceedings of the Committee has, in a most efficient manner, kept clear and accurate records of our meetings and under great pressure of work has, not only produced them punctually, but has supervised the duplication and distribution of the great number of documents involved. This has entailed heavy and detailed work and we wish to express our sense of gratitude for his unflinching cheerfulness and assistance. We would also like to mention the very hard work performed by the secretarial staff which has involved very late hours and work over week-ends and on holidays.

153. The Committee was assisted in its work by three gentlemen to whom special reference must be made. Sir Ralph Hone attended as Observer on behalf of His Excellency the Governor-General and also most kindly assisted the Legal Subcommittee in its work of preparing the drafts. In Sir Theodore Adams as the Adviser to the Rulers we had an officer whose extensive experience and knowledge of Malaya has been of the greatest value to the work of the Committee. To Dato Roland Braddell, the Legal Adviser to the United Malays National Organisation, fell much of the preparatory drafting and in addition he devoted considerable time to work on the Legal Subcommittee in its preparation of the Draft Federal and State Agreements. To these three gentlemen the Committee owes a deep debt of gratitude which it wishes to place on record. Their help and assistance in discussions in Committee were most valuable.

A. T. NEWBOULT

RAJA KAMARALZAMAN

K. K. O'CONNOR

HAMZAH

W. D. GODSALL

M. SHERIFF

W. LINEHAN

N. A. KAMIL

A. WILLIAMS

ONN JAAFAR

A. RAHMAN BIN MOHD. YASIN

APPENDICES.

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A.—DRAFT FEDERATION AGREEMENT AND SCHEDULES.

B.—MODEL STATE AGREEMENT.



## APPENDIX A.

## DRAFT FEDERATION AGREEMENT.

References to sources are as under:

G.I.A.	=	Government of India Act, 1935.
M.U.O.	=	Malayan Union Order in Council, 1946.
Ins.	=	Instructions to Governor of Singapore, 1946.
M. & G.	=	Maxwell and Gibson's Treaties and Engagements.
B.N. & S.A. Act	=	British Nationalities and Status of Aliens Act.

## FEDERATION AGREEMENT, 194 .

AGREEMENT MADE BETWEEN A.B., etc., etc., on behalf of His MAJESTY and His Highness IBRAHIM ibni Almarhum Sultan ABU BAKAR, D.K., S.P.M.J., G.C.M.G., K.B.E., (Mil.), G.B.E., G.C.O.C. (I), Sultan of the State and Territory of JOHORE, His Highness ABU BAKAR RI'AYATU'D-DIN AL-MUADZAM SHAH ibni Almarhum ALMUTASIM BILLAH ABDULLAH, K.C.M.G., Sultan of the State of PAHANG, His Highness TUANKU ABDUL RAHMAN ibni Almarhum TUANKU MUHAMMAD, K.C.M.G., the Yang di-pertuan Besar, and the Ruling Chiefs of the Territories which form the State known as the NEGRI SEMBILAN, His Highness Paduka Sri Sultan ABDUL AZIZ ALMUTASIM BILLAH SHAH, K.C.M.G., K.B.E., Sultan of the State of PERAK, His Highness HISAMMUDDIN ALAM SHAH ibni Almarhum Sultan ALA'IDIN SULAIMAN SHAH, K.C.M.G., Sultan of the State of SELANGOR, His Highness TUNKU BADLISHAH ibni Almarhum Sultan ABDUL HAMID HALIMSHAH, K.B.E., G.M.G., Sultan of the State of KEDAH, His Highness SYED PUTRA ibni Almarhum SYED HASSAN AL'JAMALULLIL, the Raja of PERLIS, His Highness TENGKU IBRAHIM ibni Almarhum Sultan MOHAMED IV, D.K., S.P.M.K., S.J.M.K., G.M.G., Sultan of the State of KELANTAN, and His Highness Sultan ISMAIL ibni Almarhum Sultan ZAINAL ABIDIN, Sultan of the State of TRENGGANU (hereinafter called collectively "Their Highnesses the Rulers") for Themselves and Their Successors:

WHEREAS it has been represented to His Majesty that fresh arrangements should be made for the peace, order and good government of the Malay States of Johore, Pahang, Negri Sembilan, Perak, Selangor, Kedah, Perlis, Kelantan and Trengganu, the Settlement of Penang and the Settlement of Malacca:

AND WHEREAS His Majesty in token of the friendship He bears towards Their Highnesses, the subjects of Their Highnesses, and the inhabitants of the Malay States, has been pleased to make fresh arrangements as aforesaid to take effect on such day as His Majesty may, by Order in Council, appoint (hereinafter called "the appointed day"):

AND WHEREAS His Majesty has further been pleased before the signing of this Agreement to enter into a fresh Agreement with each of Their Highnesses the Rulers for the purpose of ensuring that power and jurisdiction shall be exercised by Their several Highnesses in their several States and it is in each of such Agreements provided that it shall come into operation on the appointed day:

AND WHEREAS it seems expedient to His Majesty and to Their Highnesses the Rulers that the Malay States, the Settlement of Penang and the Settlement of Malacca should be formed into a Federation with a strong central government and that there should be a common form of citizenship in the said Federation to be extended to all those who regard the said Federation or any part of it as their real home and the object of their loyalty:

Now, THEREFORE, it is agreed and declared as follows:

## PART I.

## ESTABLISHMENT OF THE FEDERATION.

Short title and commencement.

1. (1) This Agreement may be cited as the Federation of Malaya Agreement, 1946, and shall come into operation on the appointed day immediately after the revocation of the Malayan Union Order in Council, 1946:

Provided that Clauses 116, 117, 123, 124, 125 and 126 shall come into operation on the first day of January, 1948.

(2) The appointed day shall be notified in the Malayan Union Government *Gazette* after which the said *Gazette* shall cease to be published and there shall be published in its place the *Gazette* of the Federation of Malaya.

Interpretation.  
[c.f. M.U.O.  
s. 2 (1).]

2. (1) In this Agreement, unless the context otherwise requires—  
“the Attorney-General” means the Attorney-General for the Federation referred to in Clause 88 of this Agreement;

“the Chief Justice” means the Chief Justice of the Supreme Court;

“Conference of Rulers” means the Majlis Raja Raja Negri Malaya constituted under Clause 72 of this Agreement;

“Constitution of the State” with reference to any State means such constitution as may have been enacted or granted by the Ruler of that State either before the date of the execution of this Agreement or after that date, whether before, on or after the appointed day, and includes any amendment duly made thereto;

“Council of State” means the Majlis Mesbuarat Negri of a Malay State established pursuant to Clause 101 of this Agreement;

“the existing laws” means the common law, doctrines of equity and all Acts of Parliament, Orders in Council other than the Malayan Union Order in Council, 1946, Enactments of the Legislature of the Federated Malay States, Enactments of the Legislature of any Malay State, Ordinances of the Legislature of the Colony of the Straits Settlements, Ordinances of the Legislature of the Malayan Union, Proclamations issued by the High Commissioner of the Malay States or by the Ruler of any of the Malay States or by the Governor of the Straits Settlements or by the Governor of the Malayan Union or by, or under the authority of, the Supreme Allied Commander, South East Asia (other than the Proclamation establishing the British Military Administration and delegating powers thereunder) and all Rules, Regulations and By-laws made thereunder and all other enactments and instruments having the force of law in any of the territories comprised in the Federation immediately prior to the appointed day;

“Federal Citizen” means a Citizen of the Federation by virtue of the provisions of Clause 128 or Clause 129 of this Agreement;

“Federal Government” means the Government of the Federation;

“Federal Ordinance” means a law made under Part V of this Agreement;  
“Federal public office” means an office of emolument under the Federal Government; and “Federal public officer” means the holder of any such office;

“the Federation” means the Federation of Malaya established under Clause 3 of this Agreement;

“the *Gazette*” means the official *Gazette* of the Federation;

“the High Commissioner” means the High Commissioner for the time being of the Federation and includes any officer for the time being administering the Government thereof, and, to the extent that a Deputy to the High Commissioner is authorised to act, that Deputy;

“the High Commissioner in Council” means the High Commissioner acting after consultation with the Federal Executive Council established under this Agreement, but not necessarily in accordance with the advice of such Council, nor necessarily in such Council assembled;

“His Highness the Ruler” means such one of Their Highnesses the Rulers as the circumstances may require and includes his Successors and, in the case of Negri Sembilan, the Ruling Chiefs and their Successors and, in the case of a regency in any Malay State, the Regent or a Member of a Council of Regency assigned in accordance with the provisions of Clause 72 of this Agreement;

“His Highness the Ruler in Council” and “Ruler in Council” mean His Highness the Ruler acting after consultation with the State Executive Council, but not necessarily in accordance with the advice of such Council, nor necessarily in such Council assembled;

"Their Highnesses the Rulers" means Their Highnesses the Rulers for the time being of the Malay States;

"Hukum Shara'" means the body of law known in English as Muhammadan Law; "the Legislative Council" means the Legislative Council for the Federation established under Clause 37 of this Agreement;

"Malay State" means such one of the Malay States as the circumstances may require and includes all dependencies, islands and places, which on the first day of December, 1941, were administered as part thereof, and the territorial waters adjacent thereto;

"Malay States" means the States of Johore, Pahang, Negri Sembilan, Perak, Selangor, Kedah, Perlis, Kelantan and Trengganu and all dependencies, islands and places which, on the first day of December, 1941, were administered as part thereof, and the territorial waters adjacent thereto, and "Malay State" means such one of the Malay States as the circumstances may require;

"meeting" means any sitting or sittings of a Council constituted under this Agreement commencing when the Council first meets after being summoned at any time and terminating when the Council is adjourned *sine die* or at the conclusion of a session without adjournment;

"Mentri Besar" means the chief Minister and senior executive officer in a Malay State;

"prescribed" means prescribed by or in pursuance of any law, rule or regulation made under this Agreement;

"property" includes all property movable or immovable and all estates, interests, easements and rights, whether equitable or legal, in, to or out of property, and things in action and rights to revenue, taxes, duties and other dues; and "vested" in relation to property includes rights to property which are future or contingent and rights in reversion and remainder;

"the Public Seal" means the Public Seal of the Federation and includes the official stamp mentioned in sub-clause (2) of Clause 12 of this Agreement;

"the Ruling Chiefs" means the Undang of Sungei Ujong, the Undang of Jelebu, the Undang of Johol, the Undang of Rembau and the Tunku Besar of Tampin;

"Secretary of State" means one of His Majesty's Principal Secretaries of State;

"session" means the sittings of any Council constituted under this Agreement commencing when the Council first meets after being so constituted or after its prorogation or dissolution at any time, and terminating when the Council is prorogued or is dissolved without having been prorogued;

"Settlement Council" means the Council established for a Settlement pursuant to the provisions of Clause 114 of this Agreement;

"the Settlements" means the Settlements of Penang and Malacca; and "Settlement" means either of them as the circumstances may require;

"the Settlement of Penang" and "the Settlement of Malacca" include all islands and places heretofore administered as part of those Settlements and the territorial waters adjacent thereto;

"State" means a Malay State;

"State Executive Council" means the Council established for a State pursuant to Clause 93 of this Agreement;

"State officer" means the holder of an office of emolument under the Government of a State;

"the Supreme Court" means the Supreme Court of the Federation constituted under Clause 81 of this Agreement.

(2) Any reference to property vested in any person or authority shall be construed [c.f. M.U.O. as including a reference to any property in the possession or under the control, or held s. 92 (1) (iii).] for the benefit of that person or authority; and any direction that property shall be vested in any person or authority shall likewise be construed as a direction, as the case may require, that the possession or control of the property shall be transferred to, or that the property shall be held for the benefit of, that person or authority.

(3) For the purposes of this Agreement, when reference is made to a Ruler of [c.f. M.U.O. any Malay State or to any public officer by the term designating his office, such s. 2 (2).] reference means the Ruler for the time being of the State concerned or the officer for the time being lawfully discharging the functions of that office, as the case may be.

[c.f. M.U.O.  
s. 2 (3).]

(4) (a) For the purposes of this Agreement, a person shall not be deemed to hold an office of emolument under the Federal Government by reason only that he is in receipt of a pension or other like allowance in respect of service under the Federal Government or the Government of a State or Settlement.

(b) If it shall be declared by the High Commissioner by notification published in the *Gazette* that an office shall not be an office of emolument under the Federal Government or any State or Settlement Government for all or any purposes of this Agreement, this Agreement shall have effect accordingly.

[c.f. M.U.O.  
s. 2 (4).]

(5) The Interpretation Act, 1889, shall apply for the interpretation of this Agreement as it applies for the interpretation of an Act of Parliament:

Provided that provision may be made by Federal Ordinance for the substitution in this sub-clause for the reference to the Interpretation Act, 1889, of a reference to any like Federal Ordinance for the time being in force.

(6) Wherever general words or expressions are used in any item in the Second Schedule to this Agreement

(a) their generality shall not be restricted by the use, in the same item, of specific words or expressions; and

(b) their construction shall not be restricted to things *ejusdem generis* with other words or expressions used in the same item;

but each word or expression shall be construed in its usual sense.

Establishment of  
the Federation of  
Malaya.  
(c.f. M.U.O. s. 3.)

3. There shall be established a Federation comprising the Malay States, the Settlement of Penang and the Settlement of Malacca, to be known as the Federation of Malaya, or in Malay "Persekutuan Tanah Melayu":

Provided that His Majesty and Their Highnesses the Rulers reserve to themselves the power by mutual agreement from time to time to admit within the Federation any other territory or territories if they shall see fit.

Protection and  
external affairs of  
the Federation.  
(c.f. Trengganu  
Agreement, 1910,  
Article III,  
M. & G., p. 112.)

4. His Majesty shall have complete control of the defence and of all the external affairs of the Federation and undertakes to protect the Malay States from external hostile attacks and, for this and other similar purposes, His Majesty's Forces and persons authorised by or on behalf of His Majesty's Government shall at all times be allowed free access to the Malay States and to employ all necessary means of opposing such attacks.

Muslim Religion  
and Custom of the  
Malays.

5. Except as provided in Clauses 104 and 105 of this Agreement, nothing in this Agreement (including the Schedules thereto) shall apply in any Malay State to matters relating to the Muslim Religion or the Custom of the Malays:

Provided that provision may be made by Federal Ordinance for enabling any Court of Justice to ascertain the Hukum Shara', or the Custom of the Malays, concerning any matter before it.

Power to amend  
Federation  
Agreement.

6. (1) This Agreement, except the provisions thereof mentioned in sub-clauses (2) and (8) of this Clause, may, from time to time, be amended by Federal Ordinance:

Provided that no Bill for the amendment of any of the provisions of this Agreement, except those of Part XIII thereof, shall be introduced into the Legislative Council without the prior approval of His Majesty and the Conference of Rulers.

(2) The provisions of Clauses 7 to 11 (inclusive), 13, 23, 69, Part VI and Clause 159 of this Agreement and the provisions of the Second Schedule thereto may be amended by Proclamation issued by the High Commissioner in terms previously agreed upon by His Majesty and the Conference of Rulers.

(3) The provisions of the Third and Fourth Schedules to this Agreement may be amended by Proclamation issued by the High Commissioner after consultation with the Legislative Council and with the Settlement Councils, and with the assent of Their Highnesses the Rulers after consultation by each of them with his Council of State.

(4) Any amendment under this clause may be by way of variation, addition or revocation.

(5) Any Proclamation under this clause shall come into operation on publication in the *Gazette* or on such other date as may be specified in the Proclamation.

## PART II.

## THE HIGH COMMISSIONER.

7. There shall be a High Commissioner in and for the Federation and High Commissioner appointments to the said office shall be made by Commission under His Majesty's (M.U.O. s. 4.) Sign Manual and Signet.

8. Their Highnesses the Rulers undertake to accept the advice of the High Rulers to accept Commissioner in all matters connected with the government of the Federation save Commission and advice. as excepted in Clause 5 of this Agreement : (c.f. Treaty of Federation, 1895, Cl. 4, M. & G., p. 71.)

Provided that nothing in this clause shall in any way prejudice the right of any M. & G., if Their Highnesses to address His Majesty through a Secretary of State, of Their Highnesses so desire.

9. Every person appointed to fill the office of High Commissioner shall, before Publication of entering on any of the duties of his office, cause the Commission appointing him Commission and to be High Commissioner to be read and published at the seat of the Federal taking of Oaths. Government, in the presence of the Chief Justice or, in his absence, of some other (M.U.O. s. 6.) Judge of the Supreme Court, and of such Members of the Federal Executive Council as can conveniently attend, and shall take before them the Oath of Allegiance and the Oath for the due execution of the office of High Commissioner in the forms set out in the First Schedule to this Agreement, which Oaths the Chief Justice or such other Judge as aforesaid shall administer.

10. (1) Whenever the office of High Commissioner becomes vacant, or the High Succession to Commissioner is absent from the Federation, or the High Commissioner is from any Government. cause prevented from or incapable of performing the duties of his office, then such (M.U.O. s. 7.) person as His Majesty may under His Sign Manual and Signet appoint or, if there be no such person in the Federation so appointed and capable of discharging the duties of administration, the Senior Member of the Federal Executive Council then in the Federation and so capable shall, during His Majesty's pleasure, administer the Federal Government and so capable shall, in manner in this Agreement prescribed, the Oaths directed by this Agreement to be taken by the High Commissioner: and thereupon such person or Member shall, subject, if he is so appointed as aforesaid, to the terms of his appointment, do, during His Majesty's pleasure, all things that belong to the office of High Commissioner as provided in this Agreement :

Provided that the High Commissioner or any other person or Member as aforesaid shall not be regarded as absent from the Federation or prevented from or incapable of performing the duties of his office for the purposes of this Agreement during his passage from one part of the Federation to another or during a visit to the Colony of Singapore or when there is a subsisting appointment of a Deputy under the next succeeding clause of this Agreement.

(2) Any such person as aforesaid shall not continue to administer the Government after the High Commissioner or some other person having a prior right to administer the same has notified him that he is about to assume or resume the administration.

11. (1) Whenever the High Commissioner has occasion to be absent from the Appointment of Deputy to High Commissioner. seat of the Federal Government but not from the Federation or to be absent from (M.U.O. s. 8.) the Federation for a period which he has reason to believe will be of short duration, or whenever by reason of illness which he has reason to believe will be of short duration he considers it desirable so to do, he may, by Instrument under the Public Seal, appoint any person in the Federation to be his Deputy during such absence or illness, and in that capacity to exercise and perform for and on behalf of the High Commissioner during such absence or illness all such functions of the High Commissioner as shall be specified in such Instrument.

(2) By the appointment of a Deputy as aforesaid the power and authority of the High Commissioner shall not be abridged, altered, or in any way affected otherwise than as His Majesty may at any time hereafter think proper to direct, and every such Deputy shall conform to and observe all such instructions as the High Commissioner shall from time to time address to him for his guidance.

(3) Any appointment under this clause may at any time be revoked by the High Commissioner or by a Secretary of State and, in case of absence as aforesaid, shall cease and determine upon the return of the High Commissioner to the seat of the Federal Government or to the Federation, as the case may be.

12. (1) The High Commissioner shall keep and use the Public Seal of the Public Seal. Federation for sealing all things whatsoever that shall pass the said Seal. (M.U.O. s. 9.)

(2) Until a Public Seal shall be provided for the Federation, an official stamp bearing the inscription "Federation of Malaya. Public Seal." may be used as the Public Seal.

## Royal Instructions.

13. His Majesty may from time to time give to the High Commissioner Instructions either under His Majesty's Sign Manual and Signet, or through a Secretary of State, for the due performance, or the proper exercise, of the powers, duties and rights of the High Commissioner under, and in conformity with, this Agreement; but no law made under this Agreement shall be void or inoperative by reason of anything contained in such Instructions.

Public Officers. 14. Subject to the provisions of this Agreement and of any law for the time being in force in the Federation and to any instructions from time to time given to him by His Majesty through a Secretary of State, the High Commissioner

(a) may constitute public offices the conditions of appointment to which involve a liability to serve in more than one State or Settlement, and may appoint persons to such offices; and

(b) may, for cause shown to his satisfaction, dismiss or suspend from the exercise of his office any person holding any such office, or may take, in relation to any such person, such other disciplinary action as may seem to him desirable; provided that if any such person is borne on the establishment of a Malay State, the High Commissioner shall, before taking action under this paragraph, obtain the concurrence of His Highness the Ruler of that State.

## Pardon.

(c.f. M.U.O. s. 12.) 15. (1) When any offence has been committed for which the offender may be tried within either of the Settlements, the High Commissioner may, as he shall see occasion, in His Majesty's name and on His Majesty's behalf, grant a pardon to any accomplice in such offence who shall give such information as shall lead to the conviction of the principal offender, or any one of such offenders if more than one; and further may grant to any offender convicted of any such offence in any Court within either of the Settlements a pardon, either free or subject to lawful conditions, or any respite, either indefinite or for such period as the High Commissioner may think fit, of the execution of any sentence passed on such offender, and may remit the whole or any part of such sentence or of any penalties or forfeitures otherwise lawfully due.

(2) When any offence has been committed for which the offender may be tried within any Malay State, His Highness the Ruler of the State concerned may, as he shall see occasion, grant a pardon to any accomplice in such offence who shall give such information as shall lead to the conviction of the principal offender, or any one of such offenders if more than one; and further may grant to any offender convicted of any such offence in any Court within the State a pardon, either free or subject to lawful conditions, or any respite, either indefinite or for such period as His Highness the Ruler may think fit, of the execution of any sentence passed on such offender, and may remit the whole or any part of such sentence or of any penalties or forfeitures otherwise lawfully due.

## PART III.

## FEDERAL EXECUTIVE AUTHORITY.

## THE HIGH COMMISSIONER.

Extent of executive authority.  
(G.I.A. s. 8.)

16. Subject to the provisions of this Agreement, the executive authority of the Federation extends to matters with respect to which the Legislative Council has power to pass laws as defined in the Second Schedule to this Agreement, but subject to the reservations set out in the second column of that Schedule.

Exercise of executive authority.  
(G.I.A. s. 7.)

17. The executive authority of the Federation shall be exercised by the High Commissioner either directly or through officers subordinate to him, but nothing in this clause shall prevent the Legislative Council from conferring functions upon subordinate authorities within the powers given to it by this Agreement.

Delegation of executive authority.  
[G.I.A. s. 124 (1).]

18. Notwithstanding anything in this Agreement, the High Commissioner may entrust, either conditionally or unconditionally, to the Government of any Malay State with the consent of His Highness the Ruler of that State, or to the Government of a Settlement, or to their respective officers, functions in relation to any matter to which the executive authority of the Federation extends.

19. (1) In the exercise of his executive authority, the High Commissioner shall have the following special responsibilities, that is to say:

- (a) the protection of the rights of any Malay State or any Settlement and of the rights, powers and dignity of Their Highnesses the Rulers;
- (b) the prevention of any grave menace to the peace or tranquility of the Federation or any Malay State or Settlement comprised therein;
- (c) the safeguarding of the financial stability and credit of the Federal Government;
- (d) the safeguarding of the special position of the Malays and of the legitimate interests of other communities;
- (e) the securing to, and to the dependents of, members of the Federal public service, any of their rights and the safeguarding of their legitimate interests;
- (f) the securing that the due discharge of his functions with respect to matters concerning which he is by or under this Agreement or by or under any Federal Ordinance required to act in his discretion, or to exercise his individual judgment, is not prejudiced or impeded by any course or action taken with respect to any other matter.

(2) For the purpose of discharging such responsibilities the executive authority of the High Commissioner shall include the power to give appropriate directions to the Government of any Malay State or of any Settlement.

20. (1) All executive action of the Federal Government shall be expressed to be taken in the name of the High Commissioner, unless otherwise provided by any law for the time being in force, or by any rule to be made, or direction to be given, by the High Commissioner.

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

21. The High Commissioner may, if he deems it necessary in the interests of the Federation that any land in a Malay State or Settlement should be acquired or reserved for any purpose connected with a matter with respect to which the Legislative Council has power to pass laws, require the appropriate authority in the State or Settlement to acquire in a Malay State any alienated land or in a Settlement any land other than Crown land on behalf and at the expense of the Federation in accordance with the law for the time being in force dealing with the acquisition of land for public purposes, or to reserve, grant or lease any State or Crown land for the use of the Federation.

#### FEDERAL EXECUTIVE COUNCIL.

22. There shall be an Executive Council for the Federation to aid and advise the High Commissioner in the exercise of his functions.

23. The Federal Executive Council shall consist of three *ex officio* Members, together with not more than four Members (hereinafter called Official Members) who hold office of emolument under the Federal Government or under the Crown, to be appointed by the High Commissioner either by office or by name, and not more than five Members (who shall be called Unofficial Members) not holding office of emolument under any Government in the Federation, to be appointed by the High Commissioner by Instrument under the Public Seal:

Provided that the High Commissioner may appoint as an Unofficial Member any person holding office of emolument as aforesaid whom he considers suitable for such appointment.

24. Except for the purpose of enabling this clause to be complied with, no Oath Member shall sit or vote in the Federal Executive Council until he shall have taken and subscribed before the High Commissioner, or some person authorised by the High Commissioner in that behalf, the Federal Executive Council's Oath in the form set out in the First Schedule to this Agreement.

Special responsibilities of High Commissioner.  
(G.I.A. s. 12.)

Executive action to be taken in name of High Commissioner.  
(G.I.A. s. 17.)

Acquisition of land for Federal purposes  
(G.I.A. s. 127.)

Establishment of Executive Council.  
(G.I.A. s. 9.)

Members of Executive Council.  
(Ins. Cl. 3.)

(M.U.O. s. 95.)

25. (1) Subject to the provisions of this Agreement, every Official or Unofficial Member of the Federal Executive Council shall hold his seat in Council for three years from the date of the Instrument by which he is appointed or until such earlier date as may be provided by that Instrument unless previously thereto his seat shall become vacant under the provisions of this Agreement:

Provided that if any person is appointed to be a Temporary Member of the Council and his temporary appointment is immediately followed by his definitive appointment, the said period of three years shall be reckoned from the date of the Instrument by which he is temporarily appointed.

(2) The seat of a Member of the Federal Executive Council shall become vacant

- (a) upon his death; or
- (b) if, being an Official Member, he shall cease to hold office of emolument under the Federal Government; or
- (c) if, being a person not holding office of emolument under the Federal Government at the date of his appointment to the Federal Executive Council, he shall be appointed permanently to any such office; or
- (d) if he shall by writing under his hand addressed to the High Commissioner resign his seat on the Federal Executive Council; or
- (e) if he shall be absent from the Federation without written permission from the High Commissioner:

Provided that a Member shall not be deemed to be absent from the Federation for the purposes of this paragraph by reason only of absence for a period not exceeding one month.

(3) Any person vacating a seat as a Member of the Federal Executive Council may, if qualified, be again appointed from time to time.

(4) If an Unofficial Member not holding office of emolument under the Federal Government at the date of his appointment to the Federal Executive Council be appointed temporarily to any office of emolument under the Federal Government or to act in any such office, he shall not sit as an Unofficial Member of the Federal Executive Council so long as he continues to hold or act in that office.

(5) The High Commissioner may, by Instrument under the Public Seal, suspend any Official or Unofficial Member from the exercise of his functions as a Member of the Federal Executive Council; and every such suspension shall forthwith be reported by the High Commissioner to His Majesty through a Secretary of State and to Their Highnesses the Rulers.

(6) Every such suspension shall remain in force unless and until it shall be removed by the High Commissioner by Instrument under the Public Seal, or by His Majesty through a Secretary of State, or the person suspended ceases to be a Member of the Federal Executive Council.

(7) The High Commissioner may, by Instrument under the Public Seal, declare any Official or Unofficial Member to be incapable of discharging his functions as a Member of the Federal Executive Council, and thereupon such Member shall not sit or vote in the Council until he is declared in manner aforesaid to be again capable of discharging his said functions.

26. (1) Whenever there shall be a vacancy in the number of persons sitting in the Federal Executive Council by reason of the fact that

- (a) an *ex officio* or Official Member is administering the Federal Government; or
- (b) one person is lawfully discharging the functions of more than one of the three officers specified in Clause 23 of this Agreement; or
- (c) no person is lawfully discharging the functions of one of those officers; or
- (d) a Member is suspended from the exercise of his functions as a Member; or
- (e) the seat of a Member is vacant for any cause; or
- (f) a Member is unable to sit or vote in the Council in consequence of a declaration by the High Commissioner, as provided in sub-clause (7) of Clause 25 of this Agreement, that he is incapable of discharging his functions as a Member; or
- (g) a Member is absent from the Federation; or
- (h) an Unofficial Member not holding office of emolument under the Federal Government at the date of his appointment to the Federal Executive Council has been appointed temporarily to be or to act as an Official Member;

a person may be appointed a Temporary Member for the period of such vacancy.



(2) The said person shall be appointed by the High Commissioner by Instrument under the Public Seal and

(a) in the case of a vacancy in the number of persons sitting in the Federal Executive Council as *ex officio* or Official Members, shall be a person qualified for appointment as an Official Member; and

(b) in the case of a vacancy in the number of persons sitting in the Federal Executive Council as Unofficial Members, shall be a person qualified for appointment as an Unofficial Member.

(3) Every person so appointed shall, as long as his appointment shall subsist, be to all intents and purposes

(a) in the case of a vacancy in the number of persons sitting in the Federal Executive Council as *ex officio* Members or as Official Members, an Official Member;

(b) in the case of a vacancy in the number of persons sitting in the Federal Executive Council as Unofficial Members, an Unofficial Member;

and subject to the provisions of this clause, the provisions of Clause 25 of this Agreement shall apply accordingly:

Provided that, in the case of a vacancy in the number of persons sitting in the Council as *ex officio* Members, the person so appointed shall not be regarded as an Official Member in computing the number of such persons for purposes of Clause 23 of this Agreement.

(4) Any such temporary appointment may (without prejudice to anything done by virtue thereof) be revoked by the High Commissioner by Instrument under the Public Seal.

(5) A temporary appointment under this clause shall cease to have effect on notification by the High Commissioner to the person appointed of the revocation of his appointment or on supersession of the appointment by the definitive appointment of a person to fill the vacancy, or when the vacancy shall otherwise cease to exist.

27. The Members of the Federal Executive Council shall take precedence as Precedence of members.  
(Ins. Cl. 6.)

follows:  
First, the *ex officio* Members in the order in which they are specified in Clause 23 of this Agreement;

Secondly, the Official Members appointed under Clause 23 of this Agreement according to the priority of their appointments as Official Members, or, if appointed on the same day, in such order as may be assigned by the High Commissioner;

Thirdly, the Official Members temporarily appointed under Clause 26 of this Agreement in such order as may be assigned by the High Commissioner;

Fourthly, the Unofficial Members in order according to the dates when they were first appointed to be Members, or Temporary Members, as the case may be, of the Federal Executive Council, and, in the case of more than one appointment on the same day, in such order as may be assigned by the High Commissioner:

Provided that, where a Member is re-appointed to fill a vacancy caused by the termination of his own term of office, the date from which he has been continuously a Member of the Council (any interval between such termination and re-appointment being disregarded) shall be regarded as the date of his appointment for the purpose of this clause.

28. (1) The Federal Executive Council shall not be summoned except by the Summoning and authority of the High Commissioner.  
quorum.  
(Ins. Cl. 7.)

(2) The Federal Executive Council shall not be disqualified for the transaction of business by reason of any vacancy among the Members; but no business except that of adjournment shall be transacted if objection is taken by any Member present that there are less than four Members present besides the High Commissioner or Member presiding.

29. The High Commissioner shall, so far as is practicable, attend and preside High Commissioner at all meetings of the Federal Executive Council, and, in his absence, such Member to preside. as the High Commissioner may appoint, or, in the absence of such Member or if no Member be so appointed, the Senior Member of the Council actually present shall preside.  
(Ins. Cl. 8.)

30. The High Commissioner shall consult with the Federal Executive Council in the execution of all powers and authorities conferred upon him, except in cases (a) which are of such a nature that, in his judgment, His Majesty's Service or the public interest would sustain material prejudice by consulting the Council thereupon; or

(b) in which the matters to be decided shall be too unimportant to require their advice; or

(c) in which the matters are too urgent to admit of their advice being given by the time within which it may be necessary for him to act; provided that in this last case he shall, as soon as practicable, communicate to the Council the measures which he shall have adopted with the reasons therefor.

31. The High Commissioner shall alone be entitled to submit questions to the Federal Executive Council; but if the High Commissioner decline to submit any question to the Council when requested in writing by any Member so to do, it shall be competent to such Member to require that there be recorded upon the Minutes his written application together with the answer returned by the High Commissioner thereto.

32. (1) The High Commissioner may act in opposition to the advice given to him by Members of the Federal Executive Council, if in any case it shall in his judgment be right so to do; but in any such case he shall, at the first convenient opportunity, fully report the matter to His Majesty through a Secretary of State with the reasons for his action.

(2) In every such case it shall be competent to any Member of the Council to require that there be recorded upon the Minutes any advice or opinion that he may give upon the question and the grounds therefor.

33. The High Commissioner shall forthwith communicate to the Federal Executive Council His Majesty's Instructions received pursuant to Clause 13 of this Agreement, and all such other Instructions of His Majesty as from time to time His Majesty shall direct or the High Commissioner shall find convenient for His Majesty's Service or in the public interest to impart to them.

34. (1) Minutes shall be kept of all the proceedings of the Federal Executive Council.

(2) At every ordinary meeting of the Council the Minutes of the last preceding meeting shall be confirmed, with or without amendment as the case may require, before proceeding to the despatch of any other business.

35. The official language of the Federal Executive Council shall be English; provided that, with the consent of the High Commissioner or presiding Member, any Member may speak in Malay.

36. [*Deleted on revision.*]

#### PART IV.

##### LEGISLATIVE COUNCIL.

37. (1) There shall be established a Legislative Council in and for the Federation constituted in accordance with the provisions of this Agreement.

(2) The Legislative Council shall consist of the High Commissioner as President, three *ex officio* Members, eleven Official Members and thirty-four Unofficial Members.

38. The *ex officio* Members shall be the Chief Secretary, the Attorney-General and the Financial Secretary.

39. The Official Members shall be persons holding office of emolument under the Federal Government or under the Crown and shall be appointed by the High Commissioner, either by office or by name, by Instrument under the Public Seal.

40. Subject to the provisions of Clause 41 of this Agreement, the High Commissioner shall appoint as Unofficial Members of the Legislative Council:

- (a) the President for the time being of the Council of State in each Malay State;
- (b) a representative of the Settlement Council in each Settlement, to be selected from among themselves by the Members of such Council;
- (c) twenty-three other Unofficial Members.

Unofficial Members.

41. (1) The Unofficial Members shall be persons not holding any office of Qualifications and emolument under any Government in the Federation and shall be Federal citizens method of appointment of the age of twenty-one years or upwards who, the High Commissioner is satisfied, Unofficial are able to speak and (unless incapacitated by blindness or other physical cause) Members. to read and write the English language with a degree of proficiency sufficient to enable them to take an active part in the proceedings of the Council.

Provided that the High Commissioner may, for cause shown to his satisfaction, (c.f. M.U.O. appoint a British subject who is not a Federal citizen to be an Unofficial Member s. 19.) of the Legislative Council;

Provided also that the High Commissioner may appoint as an Unofficial Member any person holding office of emolument as aforesaid whom he considers suitable for such appointment.

(2) Unofficial Members shall be appointed by the High Commissioner by Instrument under the Public Seal.

42. No person shall be capable of being appointed an Official or Unofficial Disqualification Member of the Legislative Council or, having been appointed, shall sit and vote for Membership, therein, who at the time of his appointment— (M.U.O. s. 20.)

(a) is a person found or declared to be of unsound mind under any law in force in the Federation or any part thereof; or

(b) has, in any part of His Majesty's dominions or in any territory under His Majesty's protection, been sentenced to death or to imprisonment (by whatever name called) for a term exceeding six months and has not either suffered the punishment to which he was sentenced or such other punishment as may by competent authority have been substituted therefor or received a free pardon; or

(c) is an undischarged bankrupt under any law in force in any part of His Majesty's dominions or in any territory under His Majesty's protection; or

(d) is a party to, or a member of a firm or a director or manager of a company which is a party to, any subsisting contract with the Federal Government, for or on account of the public service, or is otherwise to his knowledge interested in any such contract, and shall not have disclosed to the High Commissioner the nature of such contract and his interest, or the interest of any such firm or company, therein.

43. (1) Subject to the provisions of this Agreement, every Official Member or Tenure of Office Unofficial Member of the Legislative Council shall cease to be a Member at the end of Official and of three years from the date of the Instrument by which he is appointed, or at such Unofficial earlier date as may be provided by such Instrument, or previously, if his seat shall Members. (M.U.O. s. 21.) become vacant under the provisions of this Agreement.

(2) If a person is appointed a Temporary Member of the Legislative Council in accordance with the provisions of Clause 44 of this Agreement and such appointment is immediately followed by his definitive appointment as a Member, the said period of three years shall be reckoned from the date of his appointment as a Temporary Member.

(3) The seat of a Member of the Legislative Council (other than an *ex officio* Member) shall become vacant

(a) upon his death; or

(b) if he shall, without the leave of the High Commissioner, be absent from two consecutive meetings of the Council; or

(c) if

(i) he shall cease to be a Federal citizen; or

(ii) being appointed under the first proviso to sub-clause (1) of Clause 41 of this Agreement, he shall cease to be a British subject; or

(iii) being a Federal citizen, he shall do any voluntary act which shall be declared by the High Commissioner to be incompatible with his loyalty to the Federation; or

(iv) being a British subject or a subject of His Highness the Ruler of any Malay State, he shall take any oath or make any declaration of allegiance, obedience or adherence to any foreign Power or State, or shall do, concur in or adopt any act done with the intention that he shall become a subject or citizen of any foreign Power or State; or

(d) if he shall be declared a bankrupt under any law in force in any part of His Majesty's dominions or in any territory under His Majesty's protection; or

- (e) if in any part of His Majesty's dominions or in any territory under His Majesty's protection, he shall be sentenced to death, or imprisonment (by whatever name called) for a term exceeding six months; or
- (f) if he shall be found or declared to be of unsound mind under any law in force in the Federation or any territory comprised therein; or
- (g) if he shall, by writing under his hand addressed to the High Commissioner, resign his seat in the Council; or
- (h) if, being an Official Member, he shall cease to hold office of emolument under the Federal Government; or
- (i) if, being a President of a Council of State, he shall cease to hold that office; or
- (j) if, being a representative of a Settlement Council, such Council is dissolved, or if for any reason he ceases to be a member of such Council; or
- (k) if, being an Unofficial Member, he shall, without the approval of the High Commissioner, become a party to, or if any firm in which he is a partner, or any company of which he is a director or manager, shall become a party to, or if he shall be otherwise interested in, any contract with the Federal Government for or on account of the public service and shall not, before the making of the contract, have disclosed to the High Commissioner the nature of such contract and his interest or the interest of any such firm or company therein; or
- (l) if, being an Unofficial Member, not holding office of emolument under the Federal Government at the date of his appointment to the Legislative Council, he shall be appointed permanently to any such office.
- (4) Any person vacating a seat as a Member of the Legislative Council may, if qualified, be again appointed as a Member from time to time.
- (5) The High-Commissioner may, by Instrument under the Public Seal, declare any Official or Unofficial Member to be incapable of discharging his functions as a Member of the Council, and thereupon such Member shall not sit or vote in the Council until he is declared, in manner aforesaid, to be again capable of discharging his said functions.
- (6) The High Commissioner may, by Instrument under the Public Seal, suspend any Official or Unofficial Member from the exercise of his functions as a Member of the Council; and every such suspension shall forthwith be reported to His Majesty through a Secretary of State, and to Their Highnesses the Rulers.
- (7) Such suspension shall remain in force unless and until it shall be removed by the High Commissioner by Instrument under the Public Seal or the person suspended ceases to be a Member of the Legislative Council.
- (8) All questions which may arise as to the right of any person to be or remain an Official or Unofficial Member shall be referred to and decided by the High Commissioner in Council whose decision shall be final and shall not be called in question in any Court in the Federation.

Temporary  
Appointments.  
(M.U.O. s. 22.)

44. (1) Whenever there shall be a vacancy in the number of persons sitting in the Legislative Council as *ex officio* Members, or Official Members, or Unofficial Members, by reason of the fact that
- (a) an *ex officio* Member is administering the Government of the Federation; or
- (b) one person is lawfully discharging the functions of more than one of the three officers specified in Clause 38 of this Agreement; or
- (c) no person is lawfully discharging the functions of one of those officers; or
- (d) an Official Member is lawfully discharging the functions of one of those officers; or
- (e) the seat of an Official or Unofficial Member is vacant for any cause; or
- (f) an Official or Unofficial Member is unable to sit or vote in the Council in consequence of a declaration by the High Commissioner, as provided in sub-clause (5) of Clause 43 of this Agreement, that he is incapable of discharging his functions as a Member; or
- (g) an Official or Unofficial Member is suspended from the exercise of his functions as a Member; or
- (h) a Member is absent from the Federation; or
- (i) An Unofficial Member not holding office of emolument under the Federal Government at the date of his appointment to the Legislative Council has been appointed temporarily to be or to act as an Official Member;
- the High Commissioner may, by Instrument under the Public Seal, appoint a person to be a Temporary Member for the period of such vacancy.

(2) If the vacancy is in the number of persons sitting in the Council as *ex officio* Members or Official Members, the person appointed shall be a person qualified for appointment as an Official Member; and if the vacancy is in the number of persons sitting in the Council as Unofficial Members, the person appointed shall be a person qualified for appointment as an Unofficial Member.

(3) Every person appointed to be a Temporary Member under this clause shall, as long as his appointment shall subsist, be to all intents and purposes

(a) in the case of a vacancy in the number of persons sitting in the Council as *ex officio* Members or Official Members, an Official Member;

(b) in the case of a vacancy in the number of persons sitting in the Council as Unofficial Members, an Unofficial Member;

and, subject to the provisions of this clause, the provisions of Clause 43 of this Agreement shall apply accordingly:

Provided that, in the case of a vacancy in the number of persons sitting in the Council as *ex officio* Members, the person so appointed shall not be regarded as an Official Member in computing the number of such Members for the purposes of sub-clause (2) of Clause 37 of this Agreement.

(4) Such temporary appointment may (without prejudice to anything done by virtue thereof) be revoked by the High Commissioner by Instrument under the Public Seal.

(5) A temporary appointment under this clause shall cease to have effect on notification by the High Commissioner to the person appointed of the revocation of his appointment, or on supersession of the appointment by the definitive appointment of a person to fill the vacancy, or when the vacancy shall otherwise cease to exist.

(6) If the President of the Council of State in any Malay State or the representative of any Settlement Council shall be prevented through illness or other sufficient cause from attending any meeting of the Legislative Council, the High Commissioner may appoint in his place, for the purpose of attending that meeting, such other member of the Council of State in the Malay State as His Highness the Ruler of that State may select; or, as the case may be, such other Member of the Settlement Council as may be selected by the Resident Commissioner in that Settlement.

45. (1) The High Commissioner may summon to any meeting of the Legislative Council any person holding public office under the Federal Government, notwithstanding that such person may not be a Member of the Council, when, in the opinion of the High Commissioner, the business before the Council renders the presence of such person desirable.

(2) Any person so summoned shall be entitled to take part in the proceedings of the Council relating to the business in respect of which he is summoned as if he were a Member of the Council, except that he shall not have the right to vote in the Council.

46. The High Commissioner, if present, shall preside at meetings of the High Commissioner Legislative Council, and, in his absence, such Member as the High Commissioner may in writing appoint or, in the absence of such Member, or if no Member be so appointed, the Senior Member of the Council actually present shall preside.

47. No business except that of adjournment shall be transacted by the Legislative Council if objection is taken by any Member present that there are less than one quarter of the Members present besides the High Commissioner or other Member presiding.

48. After the High Commissioner, the Members of the Legislative Council shall take precedence as follows:

First, the *ex officio* Members in the order in which they are mentioned in Clause 38 of this Agreement;

Secondly, the Official Members appointed under Clause 39 of this Agreement, in the order assigned by the High Commissioner;

Thirdly, Official Members temporarily appointed under Clause 44 of this Agreement, according to the priority of their appointments or, if appointed on the same day, in the order assigned by the High Commissioner;

Fourthly, Official Members temporarily appointed under Clause 44 of this Agreement, according to the priority of their appointments or, if appointed on the same day, in the order assigned by the High Commissioner;

Precedence of Members.  
(M.U.O. s. 25.)

(M.U.O. s. 24.)

(M.U.O. s. 25.)

(M.U.O. s. 26.)

Fourthly, the Unofficial Members appointed under paragraphs (a) and (b) of Clause 40 of this Agreement according to the priority of their appointments as such, or, if appointed on the same day, in the order assigned by the High Commissioner;

Fifthly, the Unofficial Members appointed under paragraph (c) of Clause 40 of this Agreement according to the priority of their appointments as such, or, if appointed on the same day, in the order assigned by the High Commissioner;

Sixthly, the Unofficial Members temporarily appointed under Clause 44 of this Agreement according to the priority of their appointments or, if appointed on the same day, in the order assigned by the High Commissioner:

Provided that when a Member is re-appointed to fill a vacancy caused by the termination of his own term of office, the date from which he has been continuously a Member of the Council (any interval between such termination and re-appointment being disregarded) shall be regarded as the date of his appointment for the purposes of this clause.

#### PART V.

#### LEGISLATION AND PROCEDURE IN LEGISLATIVE COUNCIL.

General power to make laws.  
(M.U.O. s. 27.)

49. Subject to the provisions of this Agreement it shall be lawful for the High Commissioner and Their Highnesses the Rulers, with the advice and consent of the Legislative Council, to make laws for the peace, order and good government of the Federation with respect to the matters set out in the Second Schedule to this Agreement and subject to any qualifications therein.

50. [*Deleted on revision.*]

Power to legislate for two or more States or Settlements by consent.  
(c.f. G.I.A. s. 103.)

51. (1) Whenever resolutions are passed by any two or more of the Councils of State and Settlement Councils to the effect that it is expedient for the sake of uniformity that any matter not included in the first column of the Second Schedule to this Agreement should be regulated in their respective States and Settlements by a Federal Ordinance, it shall be lawful for such an Ordinance to be enacted in accordance with the terms of such resolutions.

(2) Every such Ordinance, upon coming into operation as provided in Clause 57, but subject to Clause 58, of this Agreement, shall have effect within such States and Settlements, and may be brought into effect in any other State or Settlement (with any necessary adaptations) by a resolution of the Council of State or Settlement Council thereof, to be published in the *Gazette*, and shall come into effect upon the date of publication unless some other date be specified in the resolution.

(3) Unless otherwise provided in such resolutions, no such Ordinance shall confer any executive power or authority upon the Federal Government.

Adoption of English Law.

52. The power of the Legislative Council to make Federal Ordinances shall extend to the adoption within the Federation of so much as shall seem expedient of the common law and mercantile law of England and of the rules of equity as administered in England, and to the adoption within the Federation of any Act of Parliament with such modifications as shall seem necessary to suit the needs and circumstances of the Federation.

Words of enactment of Ordinances.

53. All laws passed by the Legislative Council shall be styled "Ordinances" and the words of enactment shall be "Enacted by the High Commissioner of the Federation of Malaya and Their Highnesses the Rulers of the Malay States with the advice and consent of the Legislative Council".

Provided that in the case of any law having effect by virtue of a declaration made by the High Commissioner under Clause 55 of this Agreement, the words of enactment shall be "Enacted by the High Commissioner of the Federation of Malaya in accordance with Clause 55 of the Federation Agreement 19

54. [*Deleted on revision.*]

55. (1) If the High Commissioner shall consider that it is expedient in the interests of public order, public faith or good government that any Bill introduced, or any motion proposed for decision in the Legislative Council shall have effect, then if the Council fail to pass such a Bill or motion within such time and in such form as the High Commissioner may think reasonable and expedient, the High Commissioner, at any time in his discretion, may, notwithstanding any provision of this Agreement, or of any Standing Rules or Orders of the Legislative Council, declare that such Bill or motion shall have effect as if it had been passed by the Legislative Council, either in the form in which it was so introduced or proposed or with such amendments as the High Commissioner shall think fit which have been moved or proposed in the Legislative Council or in any Committee thereof; and thereupon the said Bill or Motion shall have effect as if it had been so passed, and, in the case of any such Bill, the proviso to Clause 53 of this Agreement and the provisions of this Agreement relating to assent to Bills and to the disallowance of assent to laws shall apply accordingly.

(2) In this clause the expressions "public order, public faith or good government" shall, without prejudice to their generality, include the following:

- (a) the responsibility of the Federation as a component part of His Majesty's dominions in the case of the Settlement of Penang and the Settlement of Malacca, and as territory under the protection of His Majesty in the case of the Malay States, including foreign relations and relations with other parts of the British Empire;
- (b) all questions relating to defence, including provision, construction, maintenance and use of defence works and areas and communications;
- (c) subjects upon which, in the opinion of the High Commissioner, it is necessary to secure uniformity in legislation between the Federation and the Colony of Singapore; and
- (d) all matters pertaining to the creation or abolition of any Federal public office and to the appointment, salary or other conditions of service of any Federal public officer or officers.

(3) The High Commissioner shall forthwith report to Their Highnesses the Rulers and to a Secretary of State every case in which the High Commissioner shall make such declaration as is mentioned in sub-clause (1) of this clause and the reason therefor.

(4) If any Member of the Legislative Council objects to any declaration made under this clause, he may, within seven days of the making thereof, submit to the High Commissioner a statement in writing of his reasons for so objecting, and copies of such statement shall be forwarded by the High Commissioner as soon as practicable to Their Highnesses the Rulers and to a Secretary of State.

(5) Any such declaration, other than a declaration relating to a Bill, may be revoked by a Secretary of State and the High Commissioner shall notify such revocation in the *Gazette*; and from the date of such notification any motion which shall have had effect by virtue of the declaration revoked shall cease to have effect and the provisions of sub-section (2) of section 38 of the Interpretation Act, 1889, shall apply to such revocation as they apply to the repeal of an Act of Parliament.

56. Every Bill other than a private Bill, shall, save in case of urgency to be certified in writing by the High Commissioner, be published for general information in the *Gazette* at least fourteen days prior to its introduction into the Legislative Council.

57. (1) Subject to the provisions of Clause 55 of this Agreement, no Bill shall become a law until it has received the assent of Their Highnesses the Rulers and either the assent of the High Commissioner in His Majesty's name and on His Majesty's behalf, or the assent of His Majesty given through a Secretary of State.

(2) The assent of Their Highnesses the Rulers to any Bill shall be expressed as provided in Clause 79 of this Agreement.

(3) When a Bill is presented to the High Commissioner for his assent, he shall, according to his discretion but subject to the provisions of this Agreement and of any Instructions addressed to him under His Majesty's Sign Manual and Signet or through a Secretary of State, declare that he assents or refuses to assent thereto, or that he reserves the Bill for the signification of His Majesty's pleasure.

(4) When the High Commissioner assents to any Bill his assent shall be expressed by his causing the Public Seal to be affixed thereto and by signing his name upon such Bill in token of his assent.

(5) A law assented to by the High Commissioner and Their Highnesses the Rulers shall be published in the *Gazette* and shall come into operation on the date of such publication, or, if it shall be enacted either in the law or in some other enactment (including any enactment in force at the commencement of this Agreement) that it shall come into operation on some other date, on that date.

(6) When a Bill has been reserved for the signification of His Majesty's pleasure and His Majesty shall have given his assent thereto through a Secretary of State, the Bill shall become law as soon as Their Highnesses the Rulers shall have assented thereto and the High Commissioner shall have signified His Majesty's assent thereto by Proclamation in the *Gazette*. Every such law shall come into operation on the date of such Proclamation, or if it shall be enacted either in the law or in some other enactment (including any enactment in force at the commencement of this Agreement) that it shall come into operation at some other date, on that date.

Disallowance of  
High Commission-  
er's assent.  
(*c.f.* M.U.O. s. 31.)

58. (1) The assent of the High Commissioner to any law may be disallowed by His Majesty through a Secretary of State for reasons which shall be notified to Their Highnesses the Rulers by the High Commissioner, and, thereupon, Their Highnesses the Rulers may, after consideration of such reasons, withdraw their assent to that law.

(2) Whenever the assent of the High Commissioner has been disallowed by His Majesty, the High Commissioner shall cause notice of such disallowance, together with notice of any withdrawal of assent to the law by Their Highnesses the Rulers, to be published in the *Gazette*.

(3) Upon such publication every such law shall cease to have effect and, thereafter, any enactment repealed or amended by such law shall have effect as if such law had not been made; but, save as aforesaid, the provisions of sub-section (2) of section 38 of the Interpretation Act, 1989, shall apply as if such law were an enactment repealed by an Act of Parliament.

Private Bills.  
(Ins. Cl. 16.)

59. Except as otherwise therein provided, a Federal Ordinance, not being a Federal Government measure, intended to affect or benefit some particular person, association, or corporate body, shall not affect the rights of His Majesty, His Heirs and Successors, or the rights of Their Highnesses the Rulers, and Their Successors, or the rights of any body politic or corporate, or of any other person.

Standing Rules and  
Orders.  
(M.U.O. s. 33.)

60. Subject to the provisions of this Agreement, the Legislative Council may, from time to time, make, amend and revoke Standing Rules and Orders for the regulation and orderly conduct of its own proceedings and the conduct of business and for the passing, intituling and numbering of Bills, and for the presentation thereof to the High Commissioner and Their Highnesses the Rulers for their assent.

Voting.  
(M.U.O. s. 28.)

61. (1) Save as otherwise provided in this Agreement, all questions proposed for decision in the Legislative Council shall be determined by a majority of the votes of the Members present and voting.

(2) The High Commissioner shall not have an original vote, but, if upon any question the votes shall be equally divided, he shall have a casting vote.

(3) In the absence of the High Commissioner, the Member presiding shall have an original vote and also, if upon any question the votes shall be equally divided, a casting vote.

Introduction of  
Bills.  
(M.U.O. s. 35.)

62. Subject to the provisions of this Agreement and of the Standing Rules and Orders of the Legislative Council, any Member of the Council may introduce any Bill or propose any motion for debate in, or may present any petition to, the Council, and the same shall be debated and disposed of according to the Standing Rules and Orders:

Provided that, except with the recommendation or consent of the High Commissioner signified thereto, the Council shall not proceed upon any Bill, or amendment, motion or petition, which, in the opinion of the High Commissioner or of the presiding Member, would

(a) dispose of, or charge any public revenue or public funds of the Federation, or revoke or alter any disposition thereof or charge thereon, or impose, alter or repeal any rate, tax or duty; or

(b) suspend the Standing Rules and Orders of the Council or any of them.

Sessions of Legis-  
lative Council.  
(M.U.O. s. 36.)

63. (1) The sessions of the Legislative Council shall be held at such times and places as the High Commissioner shall from time to time by Proclamation in the *Gazette* appoint.



(2) There shall be a Session of the Council once at least in every year, so that a period of twelve months shall not intervene between the last sitting in one Session and the first sitting in the next Session.

64. The High Commissioner with the assent of Their Highnesses the Rulers Prorogation may at any time, by proclamation in the *Gazette*, prorogue the Legislative Council. (M.U.O. s. 37.)

65. (1) Minutes shall be kept of all the proceedings of the Legislative Council. Minutes. (Ins. Cl. 15.)

(2) At every meeting of the Council the Minutes of the last preceding meeting shall be confirmed, with or without amendment as the case may require, before proceeding to the despatch of any other business.

(3) Twice in each year a full transcript of all Minutes of the Legislative Council for the preceding half-year shall be transmitted to His Majesty through a Secretary of State and a full transcript of the confirmed Minutes of each meeting of the Council shall be transmitted by the Clerk of the Council to each of Their Highnesses the Rulers.

66. The official language of the Legislative Council shall be English; provided Official Language that, with the consent of the High Commissioner or the presiding member, any (M.U.O. s. 34.) Member may speak in Malay.

67. Except for the purpose of enabling this clause to be complied with, no Legislative Council Member shall sit or vote in the Legislative Council until he shall have taken and subscribed before the High Commissioner, or some person authorised by the High Commissioner, the Legislative Councillor's Oath in the form set out in the First Schedule to this Agreement.

68. [*Deleted on revision.*]

69. His Majesty and Their Highnesses the Rulers declare that it is Their Intention to intention in due course to cause to be introduced into the Legislative Council legislation provide for providing for the election of Members to that Council. Elected Members.

70. It shall not be competent for any Court of Justice to question, or to entertain Validity of any proceedings which question, on any ground whatsoever, the validity of any law Ordinances which has been passed, or has effect as if it had been passed, by the Legislative not to be Council and has received the assent of Their Highnesses the Rulers and the assent questioned. of the High Commissioner or of His Majesty.

## PART VI.

### MAJLIS RAJA RAJA NEGRI MELAYU OR CONFERENCE OF RULERS.

71. There shall be established a Majlis Raja Raja Negri Melayu to be called Conference of Rulers. Rulers.

72. (1) The Conference of Rulers shall consist of Their Highnesses the Rulers: Membership. (c.f. M.U.O. s. 39.)  
Provided that

(i) during a Regency in any Malay State the Regent or, if there be a Council of Regency, such Member of that Council as the Council of Regency may assign, shall be a Member of the Conference of Rulers in place of His Highness the Ruler of that State;

(ii) if any of Their Highnesses the Rulers shall be prevented by ill-health or any other cause whatsoever from attending any meeting of the Conference, his place shall be taken by the Heir Apparent or, if there be no Heir Apparent, by such person as His Highness may empower to represent him.

(2) A Malay adviser to each of Their Highnesses the Rulers shall attend at every meeting of the Conference of Rulers.

73. (1) The Conference of Rulers shall possess and shall use a Mohar Besar Rulers' Seal. that shall pass the said seal.

(2) Until the Rulers' Seal shall be provided, an official stamp bearing the inscription "Mohar Besar Raja Raja Negri Melayu" in the Jawi script may be used as the Rulers' Seal.

(3) The Rulers' Seal shall be kept for safe custody by a Malay Officer, to be called Penyimpan Mohar Besar Raja Raja Negri Melayu, and in English the Keeper of the Rulers' Seal, who shall be appointed, with the concurrence of the High Commissioner, by Their Highnesses the Rulers and who shall hold office at the pleasure of Their Highnesses.

(4) The Keeper of the Rulers' Seal or his deputy shall take the Seal to any place where it may be required.

(5) The Keeper of the Rulers' Seal shall be stationed at the seat of the Federal Government.

#### Meetings.

74. (1) The Conference of Rulers shall meet whenever necessary under the chairmanship of such one of Their Highnesses as the Conference may select.

(2) The Conference of Rulers shall meet the High Commissioner at least three times during each year.

(3) Whenever the High Commissioner thinks it expedient, he may direct any Federal public officer or any British Adviser to attend with him at any such meeting as is mentioned in sub-clause (2) of this clause.

#### Functions of the Conference.

75. (1) Save in cases which, in the opinion of the High Commissioner are cases of urgency or involve only formal amendment of a Federal Ordinance, the High Commissioner shall, before its publication in the *Gazette*, cause to be sent, as soon as conveniently may be, to each of Their Highnesses the Rulers every Bill which it is intended to bring before the Legislative Council.

(2) Every new draft salary scheme or major amendment to an existing salary scheme of Federal public officers and every draft scheme for the creation or major reorganization of any department of the Federal Government shall be sent to Their Highnesses the Rulers and may be discussed in the Conference of Rulers if desired.

(3) It shall be the particular duty of the High Commissioner to consult the Conference of Rulers from time to time, upon the immigration policy of the Federal Government and, in particular, when any major change in such policy is contemplated, and if such policy or change in policy is objected to by a majority of Their Highnesses the Rulers and agreement between such majority and the High Commissioner cannot be reached, the point of difference shall be referred for the decision of a Secretary of State.

(4) It shall be the duty of the High Commissioner to explain from time to time to Their Highnesses the Rulers the policy, either in general or in particular as he thinks expedient, of the Federal Government on matters of importance to the Malay States and to ascertain the opinions and views of Their Highnesses the Rulers thereon for his consideration.

(5) It shall be the particular charge of each of Their Highnesses the Rulers from time to time to inform the High Commissioner of all matters which in the opinion of that Ruler are conducive to the welfare of his State as a whole and to inform the High Commissioner of all matters which in the opinion of that Ruler are detrimental to the welfare of his State as a whole and the High Commissioner may ascertain the opinions and views of the Conference upon such matters for his consideration.

#### Secretary of the Conference.

76. The Keeper of the Rulers' Seal shall act as the Secretary of the Conference of Rulers.

#### Standing Rules and Orders. (c.f. M.U.O. s. 66.)

77. Subject to the provisions of this Agreement, the Conference of Rulers may, from time to time, make, amend, and revoke Standing Rules and Orders for the general conduct of the business of the Conference, for the place or places where, and the dates on which, the Conference shall meet, for the safe custody and affixing of the Rulers' Seal, for the keeping of the Minutes of the proceedings of the Conference, and for such other matters whatsoever in connection with the business or procedure of the Conference as to it may seem fit.

#### Standing Committee of the Conference.

78. (1) The Conference of Rulers shall, in each year, appoint two of Their Highnesses the Rulers to be a Standing Committee of the Conference to hold office for twelve months from the date of appointment.

(2) Their Highnesses the Rulers may appoint one of themselves in the place of any member of the Standing Committee dying, resigning or becoming incapacitated from performing his functions, during his term of office.

79. (1) It shall be the duty of the Standing Committee to express the assent of Signification of Their Highnesses the Rulers to any Bill passed or having effect as if it had been Rulers' Assent. passed by the Legislative Council or to any Instrument or to any other matter in writing whatsoever in all cases in which such assent is required by this Agreement or by any law for the time being in force.

(2) Such assent shall be expressed by the two members of the Standing Committee causing the Keeper of the Rulers' Seal to affix, in the presence of the said members, upon such Bill or Instrument or other matter in writing, as the case may be, the Rulers' Seal below the words "Their Highnesses the Rulers of the Malay States assent hereto" and by adding under the words "Witnesses to the affixing of the Rulers' Seal" the signature of each of them in the presence of the other.

(3) Any copy appearing in the *Gazette* of such Bill or Instrument or other matter in writing, as the case may be, purporting to have been so sealed and witnessed shall be evidence for all purposes without question whatsoever that Their Highnesses the Rulers did in fact assent to such Bill or Instrument or other matter in writing, as the case may be.

80. [*Deleted on revision.*]

## PART VII.

### COURTS.

81. (1) There shall be in and for the Federation a Court of unlimited civil and Supreme Court, criminal jurisdiction to be called the Supreme Court of the Federation of Malaya. (M.U.O. s. 14.)

(2) The Supreme Court shall be a Court of Record and shall consist of a High Court and a Court of Appeal.

(3) There shall be a Chief Justice of the Supreme Court and as many Judges as may from time to time be required.

(4) Subject to the provisions of Clause 82 of this Agreement, the Chief Justice and Judges of the Supreme Court shall be appointed by the High Commissioner for and on behalf of His Majesty and of Their Highnesses the Rulers of the Malay States, by Letters Patent under the Public Seal.

(5) The constitution, powers and procedure of the Supreme Court and provisions relating to appeals therefrom to His Majesty in Council (subject to such rules and regulations as may, from time to time, be prescribed by Order of His Majesty in Council) and provisions relating to the qualifications, order of precedence, duties and powers of Judges and appointment of temporary Judges, may, subject to the provisions of this Agreement, be prescribed by Federal Ordinance.

82. The Chief Justice, Judges and temporary Judges of the Supreme Court of First Chief Justice the Malayan Union holding office on the appointed day shall be the first Chief Justice, and Judges of the first Judges and the first temporary Judges of the Supreme Court of the Federation.

83. (1) Arrangements for the duties and places of residence of the Judges shall be Duties and made by the Chief Justice with the concurrence of the High Commissioner, but so Residence of Chief Justice and that the Chief Justice shall ordinarily reside at Kuala Lumpur. Judges.

(2) The Judges of the Supreme Court of the Malayan Union who are stationed Enactment s. 6 at any place within the Malayan Union on the appointed day shall be the first (v).] resident Judges under this clause.

(3) Thereafter no Judge of the Supreme Court shall be appointed to reside in any Malay State unless His Highness the Ruler of that State shall first have been consulted.

84. (1) The High Commissioner, with the concurrence of the Chief Justice, shall Registrar and Assistant Registrar of the Supreme Court, who shall ordinarily be resident in Kuala Lumpur, and such Assistant Registrars as he may think necessary.

(2) The jurisdiction, powers and duties of such Registrar and Assistant Registrars may, subject to the provisions of this Agreement, be prescribed by laws made under this Agreement.

(3) The Registrar and Assistant Registrars of the Supreme Court of the Malayan Union holding office on the appointed day shall be the first Registrar and Assistant Registrars of the Supreme Court of the Federation.

Subordinate  
Courts. (M. U. O.  
s. 15.)

85. (1) Subject to the provisions of sub-clause (2) of this clause, Courts subordinate to the Supreme Court and Courts of special jurisdiction may be constituted in the Federation by laws made under this Agreement and provision may be made by such laws for the hearing and determining of appeals from any such Court by the Supreme Court or otherwise.

(2) All Courts which on the appointed day were subordinate to the Supreme Court of the Malayan Union or were Courts of special jurisdiction within the Malayan Union shall be the first subordinate Courts and Courts of special jurisdiction respectively under this Agreement in the Federation.

District  
and  
Magistrates.

86. (1) The District Judges, Magistrates and other officers presiding over subordinate Courts or Courts of special jurisdiction in the Malayan Union on the appointed day shall be the first District Judges, Magistrates or presiding officers, as the case may be, of the subordinate Courts and Courts of special jurisdiction in the Federation.

(2) Thereafter, the District Judges, Magistrates and other officers presiding over subordinate Court or Courts of special jurisdiction under this Agreement shall be appointed in manner prescribed by any law for the time being in force.

Appeals to His  
Majesty in  
Council.

87. (1) Their Highnesses the Rulers severally hereby request His Majesty to receive appeals to His Majesty in Council from the Supreme Court and do hereby severally, in respect of each of their States, confer upon His Majesty power and jurisdiction so to do, which power and jurisdiction His Majesty hereby accepts.

[F.M.S. Appeals  
O. in C. 1906 and  
1912 (S.E. & O.  
1912, p. 1492);  
Johore Appeals O.  
in C. 1921 (S. R.  
& O. 1921 p. 1502.)]  
(*c.f.* Courts  
Ordinance S.S.  
Cap. 10, s. 30.)

(2) Nothing in any law made under this Agreement shall affect the full and unqualified exercise of His Majesty's pleasure in receiving or rejecting appeals to His Majesty in Council or otherwise howsoever.

## PART VIII.

### LAW OFFICERS.

Attorney-General.  
(*c.f.* G.I.A. s. 16.)

88. (1) There shall be an Attorney-General for the Federation who shall be a person qualified to be appointed a Judge of the Supreme Court and who shall, subject to sub-clause (4) of this clause, be appointed by the High Commissioner for and on behalf of His Majesty and of Their Highnesses the Rulers by Instrument under the Public Seal.

(2) It shall be the duty of the Attorney-General to perform such duties and exercise such powers as may be imposed or conferred upon him by this Agreement and by any law for the time being in force, to give advice to the Federal Government upon such legal matters, and to perform such other duties of a legal character, as may be referred or assigned to him by the High Commissioner.

(3) In the performance of his duties the Attorney-General shall have the right of audience, and shall take precedence over all other Counsel, in all Courts in the Federation whether Federal, State or Settlement Courts.

(4) The Attorney-General of the Malayan Union holding office on the appointed day shall be the first Attorney-General for the Federation.

Solicitor-General  
and Federal  
Counsel.

89. (1) The Attorney-General shall have subordinate to him a Solicitor-General and so many Federal Counsel and other officers as shall to the High Commissioner seem necessary from time to time.

(2) The Solicitor-General shall be appointed by the High Commissioner for and on behalf of His Majesty and Their Highnesses the Rulers by notification in the *Gazette*.

(3) From the number of such Federal Counsel the High Commissioner shall appoint Legal Advisers in the Malay States and in the Settlements:

Provided that the appointment of a Legal Adviser in a Malay State shall be made with the concurrence of His Highness the Ruler of that State.

(4) In the performance of their duties, the Solicitor-General and the Federal Counsel shall have the right of audience, and shall take precedence over all other Counsel, other than the Attorney-General, in all Courts in the Federation and the Solicitor-General shall take precedence over any Federal Counsel.

(5) The Solicitor-General and the Crown Counsel for the Malayan Union holding office on the appointed day shall respectively be the first Solicitor-General and Federal Counsel for the Federation.

## PART IX.

### MALAY STATES.

#### EXECUTIVE AUTHORITY.

90. Subject to the provisions of this Agreement, the executive authority in each Malay State shall extend to all matters save those with respect to which the executive authority Legislative Council has power to pass laws as defined in the Second Schedule to this Agreement but shall include the matters set out in the second column of that Schedule, subject to the qualifications expressed in that column and to the reservation in the heading *terreto*.

91. The executive authority in each Malay State shall be exercised by His Exercise of Highness the Ruler of that State either directly or through State officers, but nothing herein shall prevent the Council of State from conferring functions upon subordinate authorities within the powers given to it by this Agreement. (c.f. Cl. 17.)

92. All executive action of the Government of each Malay State shall be expressed to be taken in the name of His Highness the Ruler of that State. to be in the name of the Ruler. (c.f. Cl. 20.)

#### MAJLIS MESHUARAT KERAJAAN OR STATE EXECUTIVE COUNCIL.

93. There shall be in and for each Malay State a Majlis Meshuarat Kerajaan, State Executive to be called in English State Executive Council, to aid and advise His Highness the Ruler of that State in the exercise of his executive functions. (c.f. Cl. 22.)

94. (1) The State Executive Council in each Malay State shall consist of at least Membership, five *ex officio* Members, that is to say, the Mentri Besar, the British Adviser, the appointment and State Secretary, the Legal Adviser and the State Financial Officer and such other Members, if any, whether holding office of emolument under the Federal Government (c.f. Cl. 23.) or the State Government or not, as may be prescribed in the Constitution of the State.

(2) Subject to the provisions of this Agreement, the State Executive Council in each Malay State shall have such rights, privileges, powers and duties as shall be prescribed in the Constitution of that State, and the Members of each such Council shall hold office and shall be appointed and take precedence as shall be provided in such Constitution.

95. Except for the purpose of enabling this clause to be complied with, no State Executive Member shall sit or vote in any State Executive Council until he shall have taken Councilor's Oath. and subscribed before His Highness the Ruler of the State, or some person authorised by His Highness in that behalf, the State Executive Councilor's Oath in the form set out in the First Schedule to this Agreement.

96. A State Executive Council shall not be summoned except by command of Summoning. His Highness the Ruler of the State. (c.f. Cl. 28.)

97. His Highness the Ruler of each Malay State shall, so far as is practicable, Ruler to preside. attend and preside at all meetings of the State Executive Council and, in his absence, any Member appointed by Him in writing or, in the absence of such Member, or if no such appointment shall be made, the Senior Member of the Council actually present shall preside.

Consultation with  
State Executive  
Council.  
(c.f. Cl. 30.)

98. His Highness the Ruler of each Malay State shall consult with the State Executive Council in the execution of all his powers and authorities except in cases (a) which are of such a nature that, in his judgment, the service of His Majesty or of His Highness the Ruler, or the public interest, would sustain material prejudice by consulting the Council thereupon; or

(b) in which the matter to be decided shall be too unimportant to require their advice; or

(c) in which the matters are too urgent to admit of their advice being given by the time within which it may be necessary for him to act; provided that in this last case, he shall, as soon as practicable, cause to be communicated to the Council the measures which he shall have adopted with the reasons therefor.

Ruler or State  
Secretary to  
propose questions.  
(c.f. Cl. 31.)

99. His Highness the Ruler of each Malay State and the State Secretary shall alone be entitled to submit questions to the State Executive Council of that State, but if the State Secretary declines to submit any question to the Council when requested in writing by any Member so to do, it shall be competent to such Member to require that there be recorded upon the Minutes his written application together with the answer returned by the State Secretary thereto.

Ruler may act in  
opposition to State  
Executive Council.  
(c.f. Cl. 32.)

100. (1) His Highness the Ruler of each Malay State may act in opposition to the advice given to him by Members of the State Executive Council, if in any case it shall in his judgment be right so to do, but in any such case he shall record fully in writing, for inclusion in the Minutes, the grounds and reasons for his decision.

(2) In every such case it shall be competent to any Member of the Council to require that there be recorded upon the Minutes any advice or opinion that he may give upon the question and the grounds therefor.

Councils of State.

#### MAJLIS MESHUARAT NEGRI OR COUNCIL OF STATE.

101. There shall be in and for each Malay State a Majlis Meshuarat Negri, to be called in English Council of State.

Membership  
appointment and  
tenure of office.

102. (1) Each Council of State shall consist of the Mentri Besar as President, at least four *ex officio* Members, that is to say, the British Adviser, the State Secretary, the Legal Adviser and the State Financial Officer and such other Members, whether holding office of emolument under the Federal Government or the State Government or not, as may be prescribed by the Constitution of the State.

(2) Subject to the provisions of this Agreement, the Council of State in each Malay State shall have such rights, privileges, powers and duties as shall be prescribed in the Constitution of that State, and the Members of each such Council shall hold office and shall be appointed and take precedence as shall be provided in such Constitution.

Qualifications for  
Membership.  
(c.f. M.U.O. s. 55.)

103. (1) Subject to the provisions of this Agreement, any person who is of the age of twenty-one years or upwards and who is a subject of His Highness the Ruler of the Malay State concerned or who is a Federal Citizen or, in cases where His Highness the Ruler shall think it desirable, a British subject, shall be qualified to be appointed to be a Member of a Council of State and no other person shall be so qualified or shall sit or vote in such Council as a Member thereof.

(2) For the purposes of this clause, the expression "subject of His Highness the Ruler" has the meaning assigned to it by paragraph (a) of sub-clause (3) of Clause 128 of this Agreement.

Legislative powers.  
(M.U.O. s. 49.)

104. (1) Subject to the provisions of this Agreement, it shall be lawful in each Malay State for the Council of State to pass laws on

(a) any subject, including the Muslim religion or the Custom of the Malays, other than those in respect to which the Legislative Council has power, under Clause 49 of this Agreement, to pass laws; or

(b) any subject in respect to which the Legislative Council has delegated powers of legislation to such Council of State.

(2) Any law passed by a Council of State shall be void so far as it is repugnant to any law passed by the Legislative Council or to any Proclamation, rule, regulation, by-law, order or other instrument lawfully made thereunder.

105. (1) If His Highness the Ruler of a Malay State shall consider that it is Ruler's reserved expedient in the interests of public order, public faith or good government in his powers, State that any Bill introduced, or any motion proposed for decision in the Council (c.f. Cl. 55.) of State established in that State, shall have effect, then if the said Council fail to pass such a Bill or motion, within such time and in such form as His Highness may think reasonable and expedient, he may at any time in his discretion, notwithstanding any provisions of this Agreement or of any Standing Rules or Orders of the said Council, declare that such Bill or motion shall have effect as if it had been passed by the Council, either in the form in which it was so introduced or proposed or with such amendments as he shall think fit which have been moved or proposed in the Council or in any Committee thereof, and thereupon the said Bill or motion shall have effect as if it had been so passed, and, in the case of any such Bill, the provisions of sub-clause (2) of Clause 106 of this Agreement relating to assent shall apply accordingly.

(2) In this section the expressions "public order, public faith or good government" shall, without prejudice to their generality, include the following:

- (a) all matters affecting the Muslim religion and the Custom of the Malays; and
- (b) all matters pertaining to the creation or abolition of any public office and to the appointment, salary or other conditions of service of any public officer or officers.

106. (1) All laws passed by a Council of State shall be styled "Enactments" Assent to Bills. and the words of enactment may be prescribed in the Constitution of the State. (c.f. Cl. 57.)

(2) No Bill passed by a Council of State shall become law until His Highness the Ruler of the State concerned shall have given his assent thereto and shall have affixed the State Seal thereto and signed the same in token of assent.

(3) When a Bill is presented to His Highness the Ruler, he shall declare that he assents or refuses to assent thereto.

(4) A law assented to by His Highness the Ruler shall be published in the *Gazette* and shall come into operation on the date of such publication, or, if it shall be enacted either in the law or in some other enactment (including any enactment in force at the commencement of this Agreement) that it shall come into operation on some other date, on that date.

107. (1) The Mentri Besar in each Malay State may invite to any meeting of the Attendance of Council of State any person, notwithstanding that such person may not be a Member persons other than of the Council, when, in the opinion of the Mentri Besar, the business before the Members. Council renders the presence of such person desirable. (c.f. M.U.O. s. 52.)

(2) Any person so invited shall be entitled to take part in the proceedings of the Council relating to the business in respect of which he is invited as if he were a Member of the Council, except that he shall not have the right to vote in the Council.

108. The Mentri Besar of each Malay State shall, if present, preside at meetings President of of the Council of State and, in his absence, the State Secretary, or, if the State Council of State. Secretary shall also be absent, the Senior Member present shall preside. (c.f. M.U.O. s. 60.)

109. Subject to the provisions of this Agreement, a Council of State may, from Standing Rules time to time, make, amend and revoke Standing Rules and Orders for the regulation and Orders. and orderly conduct of its own proceedings and the conduct of business and for the (M.U.O. s. 66.) passing, intituling and numbering of Bills, and for the presentation thereof to His Highness the Ruler, for his assent, but no such Rules or Orders shall have effect unless and until they shall have been approved by His Highness the Ruler.

110. Subject to the provisions of this Agreement and of the Standing Rules Introduction of and Orders of the Council, any Member of a Council of State may introduce any Bill Bills. or propose any motion for debate in, or may present a petition to, the Council, and (M.U.O. s. 69.) the same shall be debated and disposed of according to the Standing Rules and Orders:

Provided that, except with the recommendation or consent of the Mentri Besar signified thereto, the Council shall not proceed upon any Bill, amendment, motion or petition, which, in the opinion of the Mentri Besar or of the presiding Member, would

- (a) dispose of any public revenue or public funds of the State, or revoke or alter any disposition thereof or impose, alter, or repeal any rate, tax or duty; or
- (b) suspend the Standing Rules and Orders of the Council or any of them.

Sessions of  
Council.  
(M.U.O. s. 70.)

111. (1) The sessions of each Council of State shall be held at such times and places as the Mentri Besar shall from time to time appoint.

(2) There shall be a session of the Council once at least in every year, so that a period of twelve months shall not intervene between the last sitting in one session and the first sitting in the next session.

Oath.  
(M.U.O. s. 95.)

112. Except for the purpose of enabling this section to be complied with, no Member shall sit or vote in any Council of State until he shall, if a subject of His Highness the Ruler of that State, have taken such Oath as may be prescribed in the Constitution of the State and, in any other case, shall have taken the Oath of Office for Members of a Council of State in the form set out in the First Schedule to this Agreement. Such Oath shall be taken and subscribed before the Mentri Besar or presiding Member of the Council.

Election of  
Members.

113. His Highness the Ruler of each Malay State declares that He intends, in due course, to make provision for the election of Members to the Council of State in his State.

## PART X.

### SETTLEMENTS.

Provision for  
inclusion of the  
Settlements in the  
Federation and  
for their adminis-  
tration.

114. (1) The Settlements shall, on and after the appointed day, be administered in conjunction with the Malay States as component parts of the Federation in conformity with the provisions of this Agreement in such manner as His Majesty may, by Order in Council, from time to time, prescribe.

(2) There shall be a Settlement Council in each of the Settlements constituted in such manner and with such powers and functions as His Majesty may, by Order in Council, from time to time, prescribe.

## PART XI.

### FINANCIAL.

Power to raise  
loans and borrow.

115. On and after the appointed day, the power to raise loans and borrow monies for the purposes of the Federation or any territories comprised therein shall be exercisable by the Federal Government.

Revenues of the  
Federation, States  
and Settlements.

116. (1) The revenues of the Governments of the Malay States and of the Settlements shall be derived from the sources set out in the Third Schedule to this Agreement and from sums to be allocated to each of them by the Legislative Council as hereinafter provided.

(2) All other revenues of whatsoever nature derived from any source within the Federation or any territory comprised therein or from any source outside the Federation shall be the revenues of the Federal Government.

(3) Nothing in this clause shall apply to any revenue arising from *Zakat*, *Fitrakah*, *Beit-ul-Mal* or similar Muslim religious revenue, notwithstanding that such revenue may be levied under a State Enactment.

Expenditure of  
the Federation,  
States and Settle-  
ments.

117. (1) Expenditure in relation to any of the matters set out in Part I of the Fourth Schedule to this Agreement, shall be met from the revenues of the Federation.

(2) Expenditure in each Malay State and each Settlement in relation to any of the matters set out in Part II of the said Schedule, shall be met from the revenues of the Malay State or Settlement concerned.

Preparation of  
State and Settle-  
ment estimates.

118. In each financial year it shall be the duty of the State Executive Council in each Malay State and of the Government of each Settlement to prepare estimates of the revenue and expenditure of that State or Settlement, as the case may be, for the next ensuing year and to transmit the same to the High Commissioner so as to reach him before the first day of September or such other day as the High Commissioner may appoint.



119. (1) The High Commissioner shall, in each financial year, cause to be laid before the Legislative Council in the month of November, a statement of the estimated revenue and expenditure for the next ensuing year and shall, so far as is practicable, show therein the assets and liabilities of the Federation as they are estimated to be at the end of the current year and the manner in which such assets are invested or held, as the case may be, and the general heads in respect to which such liabilities are outstanding.

(2) The estimates of expenditure shall show separately

- (a) the sums required to meet expenditure to be charged upon the revenues of the Federation;
- (b) the sums, if any, required to meet other expenditure proposed to be made from the revenues of the Federation;
- (c) the allocation of lump sums to each Malay State and each Settlement required for local expenditure therein, including amounts, to be determined by the High Commissioner, which shall be available for expenditure on such unforeseen services as the Council of State of any Malay State or the Settlement Council of any Settlement may, by resolution, approve.

120. (1) The necessary estimated expenditure in each year shall be provided for by an annual Federal Supply Ordinance.

(2) Any additional expenditure which may become necessary in any financial year, including any expenditure arising under the provisions of Clause 123 of this Agreement shall be provided for by Federal Supplementary Supply Ordinance.

121. Whenever the sum allocated to any Malay State or any Settlement by Revision if the Legislative Council is less than the sum applied for to meet the estimated expenditure of that State or Settlement, the estimates submitted by the Executive Council or the Government of each Settlement shall be revised accordingly.

122. (1) The President of each Council of State and Settlement Council shall cause to be laid before that Council the estimates as prepared under the provisions of Clause 118, or as revised under the provisions of Clause 121 of this Agreement, as the case may require.

(2) The necessary estimated expenditure for each State and Settlement shall, in each year, be provided for by an annual Supply Enactment.

123. If, in any financial year, further expenditure which cannot be met out of the revenue of any Malay State or any Settlement shall become necessary, the Council of State or Settlement Council, as the case may be, shall pass a Resolution showing such sums as it may think necessary to be expended and the purposes for which such sums are to be expended and shall cause the same to be transmitted to the High Commissioner who shall make to the Legislative Council such recommendations thereon as he thinks fit, and the Legislative Council may allocate to such State or Settlement such lump sum as it thinks fit, in addition to the sum already allocated to that State or Settlement under the provisions of paragraph (c) of sub-clause (2) of Clause 119 of this Agreement.

124. Any additional expenditure which shall become necessary in any Malay State or Settlement, in any financial year, including any expenditure approved by resolution, from the amount provided for unforeseen services under paragraph (c) of sub-clause (2) of Clause 119 of this Agreement, shall be provided for by State or Settlement Supplementary Supply Enactments.

125. Any balance of revenue in excess of expenditure in any Malay State or Settlement at the end of a financial year shall accrue to the Federal Government.

126. The accounts of the Governments of the Malay States and the Settlements shall be audited by the Federal Audit Department at the expense of the Federal Government.

127. (1) The High Commissioner may, from time to time, make, amend and revoke General Orders for giving effect to the provisions of this Part of this Agreement and, without prejudice to the generality of the foregoing, may make General Orders providing for

- (a) the preparation and transmission of estimates and the form and contents thereof and such other matters in connection with estimates as he may consider expedient;
- (b) the limits of the financial powers of the States and items of special expenditure;

over expenditure  
in State or  
Settlement.

of the Federal  
Audit.

- (c) State establishments and appropriation of established salaries;
- (d) transfers between heads and sub-heads in estimates; and
- (e) the allocation to States and Settlements of sums for expenditure on unforeseen services.

(2) All General Orders made under the provisions of this clause shall be binding upon the Governments of the Malay States and the Settlements.

(3) The first General Orders to be made under this clause shall be in the form set out in the Fifth Schedule to this Agreement.

(4) No revocation or substantial amendment of the General Orders set out in the Fifth Schedule to this Agreement shall be made without prior consultation with the State Executive Councils and the Governments of the Settlements.

## PART XII.

### FEDERAL CITIZENSHIP.

#### ACQUISITION OF FEDERAL CITIZENSHIP BY OPERATION OF LAW.

Acquisition of Federal Citizen-ship by operation of law.

128. (1) On and after the appointed day, the following persons shall be Federal Citizens:

- (a) any subject, whether born before, on or after the appointed day, of His Highness the Ruler of any State;
- (b) any British subject born in either of the Settlements whether before, on or after the appointed day who is permanently resident in either of the Settlements;
- (c) any British subject born before, on or after the appointed day, in any of the territories now to be comprised in the Federation whose father, either
  - (i) was himself born in any of the territories now to be comprised in the Federation; or
  - (ii) has resided in any of such territories for a continuous period of not less than fifteen years;
- (d) any other person born before, on or after the appointed day, in any of the territories now to be comprised in the Federation, both of whose parents were born in and have been resident in any one or more of such territories for a continuous period of not less than fifteen years; and,
- (e) any person whose father is, at the date of that person's birth, a Federal Citizen:

(c.f. B.N. and S.A. Act, 1943, s. 3.)

Provided that, where any person is born after the death of his father, he shall be deemed to be a Federal Citizen if his father at the time of his death was a Federal Citizen.

(2) Notwithstanding the provisions of sub-clause (1) of this clause, no person shall become a Federal Citizen on the appointed day who has been absent from the territories now to be comprised in the Federation for a period of seven years or upwards immediately prior to the appointed day, unless the High Commissioner certifies that such person has maintained substantial connection with any of such territories during such period.

(3) For the purposes of this clause:

- (a) the expression "subject of His Highness the Ruler" of any State means any person who
  - (i) belongs to an aboriginal tribe resident in that State; or
  - (ii) is a Malay born in that State or born elsewhere of a father who was, at the time of the birth of such person, a subject of the Ruler of that State; or
  - (iii) is a person naturalised as a subject of that Ruler under any law for the time being in force;

- (b) the word "Malay" means a person who
- (i) habitually speaks the Malay language; and
  - (ii) professes the Muslim religion; and
  - (iii) conforms to Malay custom;
- (c) a person is deemed to be "permanently resident" in either of the Settlements who has completed a continuous period of fifteen years residence therein, whether such period be completed before, on or after the appointed day;
- (d) the word "continuous" in relation to a period of residence shall not be construed as excluding such periods of absence as are not inconsistent with essential continuity of residence;
- (e) the words "father" and "parents" mean respectively father and parents, by blood, but not by adoption, of children whether legitimate or illegitimate.

#### ACQUISITION OF FEDERAL CITIZENSHIP BY APPLICATION.

129. (1) Subject to the provisions of this clause, the High Commissioner may Acquisition of grant a Certificate of Citizenship conferring the status of a Federal Citizen on any Federal Citizenship person who makes application therefor in the prescribed form and satisfies the High by application Commissioner:

- (a) that either
- (i) he was born in any of the territories now to be comprised in the Federation and has been resident in any one or more of such territories for ten out of the fifteen years preceding his application; or
  - (ii) he has been resident in any one or more of such territories for fifteen years out of the twenty years immediately preceding his application;
- and
- (b) that he is of good character; and
  - (c) that he has an adequate knowledge of the Malay or English language; and
  - (d) that he has made a Declaration of Permanent Settlement in the form set out in the First Schedule to this Agreement; and
  - (e) that, if his application is approved, he is willing to take the Citizenship Oath in the form set out in the First Schedule to this Agreement.

(2) Except in the case of minor children falling within sub-clause (3) or sub-clause (4) of this clause, a Certificate of Citizenship granted under this clause shall not be given to the applicant or take effect until the applicant has taken the Citizenship Oath.

(3) If a person obtains a Certificate of Citizenship under this section, the High Commissioner may, if he thinks fit, on the application of that person, also grant at the same time a Certificate of Citizenship in respect of any minor child of that person born before the date of the grant of the Certificate and ordinarily resident with such person in the Federation.

(4) Where a person who has applied for a Certificate of Citizenship dies before the Certificate is granted to him, the High Commissioner may declare that any minor child, whose name has been included in the application, shall be deemed to be a Federal Citizen in like manner as if the person applying for the Citizenship had survived and his application had been granted, and a Certificate of Citizenship may thereupon be issued in respect of such child.

(5) For the purposes of this clause:

"adequate knowledge" of the Malay language means

- (i) in the case of a person who applies for Federal Citizenship within a period of two years from the commencement of this Agreement, ability to speak that language with reasonable proficiency; and
- (ii) in the case of any other person, ability to speak that language and, unless prevented by blindness or other physical cause, read and write it, in the Jawi or Rumi script, with reasonable proficiency.

## LOSS OF FEDERAL CITIZENSHIP.

Loss of Citizenship.  
[c.] B.N.  
and S.A. Act,  
1914, s. 7 (2) (d).]

130. (1) Where any person who is a Federal Citizen by virtue of the provisions of paragraph (b), (c), (d) or (e) of sub-clause (1) of Clause 128 or by virtue of Clause 129 of this Agreement, has absented himself from the Federation for a continuous period of five years or upwards, and is not certified by the High Commissioner to have maintained substantial connection with the Federation during that period, such person shall cease to be a Federal Citizen:

Provided that

(a) this clause shall not apply to absence for purposes of education; and  
(b) if any such person resumes residence within the Federation, he may apply to the High Commissioner, in the prescribed manner and subject to the prescribed conditions, for a Certificate of Citizenship and the High Commissioner may, in his discretion, grant or refuse the same.

(2) If any person who is a Federal Citizen by virtue of the provisions of Clause 128 of this Agreement shall do any voluntary act which the High Commissioner in Council is satisfied is incompatible with his loyalty to the Federation, the High Commissioner in Council may declare that he shall cease to be a Federal Citizen from the date of such order:

Provided that the provisions of sub-clauses (3), (4) and (5) of Clause 131 of this Agreement (which relate to the holding of an inquiry before an order is made) shall apply to the making of an order under this clause as they apply to the making of an order under that clause, and the person against whom the order is to be made shall be entitled to be present and to be represented by Counsel at the whole of any such inquiry.

(3) The minor children of any person who ceases to be a Federal Citizen under this clause shall not, by reason of such ceasing, cease to be Federal Citizens, unless the High Commissioner shall so direct.

Revocation of  
Certificate of  
Citizenship.  
(B.N. and S.A.  
Act, 1914, s. 7 and  
7A.)

131. (1) Where the High Commissioner in Council is satisfied that a Certificate of Citizenship granted by him has been obtained by false representation or fraud, or by concealment of material circumstances, or that the person to whom the Certificate is granted has shown himself by act or speech to be disaffected or disloyal to the Government of the Federation or any lawfully constituted Authority therein, the High Commissioner in Council shall by order revoke the Certificate.

(2) Without prejudice to the foregoing provisions, the High Commissioner in Council shall, by order, revoke a Certificate of Citizenship granted by him in any case in which he is satisfied that the person to whom the Certificate was granted

(a) has, during any war in which His Majesty is engaged after the appointed day, unlawfully traded or communicated with the enemy or with the subject of an enemy state, or been engaged in, or associated with, any business which is to his knowledge carried on in such manner as to assist the enemy in such war; or

(b) has been sentenced by any Court in the Federation or in His Majesty's dominions or in any territory under His Majesty's protection, to imprisonment, by whatever name called, for a term of not less than twelve months, or to a fine of not less than one thousand dollars; or  
(c) remains, according to the law of a state at war with His Majesty, a subject of that state; or

(d) has done any voluntary act which is incompatible with his loyalty to the Federation;

and that (in any case) the continuance of the Certificate is not conducive to the public good.

(3) Before making an order under this clause, the High Commissioner in Council shall, by notice given to or sent to the last-known address of the holder of the Certificate, give him an opportunity of claiming that the case be referred for inquiry and, if the holder so claims in accordance with the notice, the High Commissioner shall refer the case for inquiry accordingly.

(4) An inquiry under this section shall be held by a committee of inquiry constituted for the purpose by the High Commissioner in Council, presided over by a person who has had legal or judicial experience, and shall be conducted in such manner as may be prescribed or as the High Commissioner in Council may direct:

Provided that any such inquiry may, if the High Commissioner in Council thinks fit, instead of being held as aforesaid, be held by the Supreme Court, and the practice and procedure on any inquiry so held shall be regulated by rules of Court.

(5) A committee appointed under this clause shall have all such powers, rights, and privileges as are vested in the Supreme Court or in any Judge thereof on the occasion of any action, in respect of the following matters:

- (a) enforcing the attendance of witnesses and examining them on oath, affirmation, or otherwise, and the issue of a commission or a request to examine witnesses abroad; and
- (b) compelling the production of documents; and
- (c) punishing persons guilty of contempt;

and a summons signed by one or more members of the committee may be substituted for and shall be equivalent to any formal process capable of being issued in any action for enforcing the attendance of witnesses and compelling the production of documents.

(6) Any holder of a Certificate of Citizenship whose case is referred to a committee of inquiry as aforesaid shall be entitled to be present and be represented by Counsel at the whole of the inquiry.

(7) Where a Certificate of Citizenship granted to any person is revoked, the minor children of that person in respect of whom Certificates were granted by the High Commissioner in Council on the application of that person, shall not by reason thereof cease to be Federal Citizens, unless the High Commissioner in Council shall revoke their Certificates.

(8) Where the High Commissioner in Council revokes a Certificate of Citizenship, the revocation shall have effect from such date as the High Commissioner in Council may direct, and thereupon the Certificate shall be given up and cancelled and any person refusing or neglecting to give up his Certificate or the Certificate of any minor child which has been revoked and is in his possession shall be liable to a fine not exceeding one thousand dollars.

182. (1) Any Federal Citizen may at any time make a declaration in the prescribed manner divesting himself of his Federal Citizenship. Voluntary divestment of Citizenship (B.N. and S.A. Act, 1914,

(2) A declaration of divestment of Citizenship shall be of no effect until it is registered in the prescribed manner and, upon registration, the person making the declaration shall cease to be a Federal Citizen. the s. 14 and B.N. and S.A. Act, 1943, s. 7.)

183. Where any Federal Citizen ceases to be a Federal Citizen, he shall not thereby be discharged from any obligation, duty or liability incurred as such Citizen before he ceases to be a Federal Citizen. obligations incurred before loss of Citizenship. (B.N. & S.A. Act, 1914, s. 16.)

#### SUPPLEMENTARY PROVISIONS.

184. No person who is, or at his birth becomes, a subject or citizen of any Enemy state which was at war with His Majesty during the late war shall be qualified to become a Federal Citizen by operation of law under Clause 128 of this Part of this Agreement, but any such person may be admitted to Federal Citizenship by application under Clause 129.

185. (1) Birth on board a ship registered in any territory now to be comprised in the Federation shall be deemed to be birth in such territory. Birth on ship. (B.N. and S.A. Act, 1914, s. 1.)

(2) A person born on a foreign ship shall not be deemed to have been born in territory now to be comprised in the Federation by reason only of the fact that the ship was in the territorial waters of such territory or of the Federation at the time of his birth.

186. (1) Any declaration made under this Part of this Agreement may be proved in any legal proceeding by the production of the original declaration or of any copy thereof certified to be a true copy by any public officer having custody of the original, and the production of the declaration or copy shall be evidence of the person therein named as declarant having made the declaration at the date therein mentioned. Evidence. (c.f. B.N. and S.A. Act, 1914, ss. 20, 21 and 22.)

(2) A Certificate of Citizenship or naturalisation may be proved in any legal proceeding by the production of the original Certificate or of any copy thereof certified to be a true copy by the public officer having custody of the counterpart of the original.

(3) Entries in any register made in pursuance of this Part of this Agreement may be proved by copies certified in such manner as may be prescribed, and such copies of any such entries shall be evidence of any matters therein mentioned.

Regulations.  
(B.N. and S.A.  
Act, 1914, s. 19.)

137. The High Commissioner in Council may make regulations generally for giving effect to the objects of this Part of this Agreement, and, without prejudice to the generality of the foregoing words, may make regulations in respect of any of the following matters:

- (a) the procedure to be followed by persons applying for Federal Citizenship under Clause 129 or proviso (b) to sub-clause (1) of Clause 130 of this Agreement; the evidence to be required from such persons as to their qualifications for Citizenship; the persons before whom Declarations of Permanent Settlement and Citizenship Oaths may be made; the form of Certificates of Citizenship and the persons by whom such Certificates may be signed on the High Commissioner's behalf; and the procedure to be followed in the revocation of such Certificates;
- (b) the registration of Federal Citizens;
- (c) the form and registration of declarations of divestment of Citizenship and the persons before whom such declarations may be made;
- (d) the recording of counterparts of all documents issued under this Part of this Agreement;
- (e) the persons by whom certified copies of oaths taken, and declarations made, and counterparts of documents issued, under this Part of this Agreement may be given;
- (f) the imposition and collection of any fees in respect of any of the foregoing matters.

### PART XIII.

#### TRANSITIONAL.

Qualifications for membership of first Councils.

138. (1) Wherever in this Agreement it is provided that Federal Citizenship shall be a qualification for membership of any Council established under this Agreement, it shall be sufficient if the first Members of any such Council either are Federal Citizens under Clause 128 of this Agreement or possess qualifications for Federal Citizenship as specified in Clause 129 of this Agreement and undertake in writing to make application for Federal Citizenship as soon as it becomes possible so to do.

(2) In this clause, "first Members" means Members appointed on or within twelve months after the appointed day.

Continuance of existing laws. (M.U.O. s. 87.)

139. (1) Subject to the provisions of this Agreement, the existing laws shall, except in so far as the same shall, in their application to the Federation or to any territory comprised therein, be repealed, amended or otherwise affected by or under any Act of Parliament, Order of His Majesty in Council or any law made under the provisions of this Agreement, continue to have effect in the Federation or, as the case may be, in that territory, but shall be construed subject to such modifications and adaptations as may be necessary to bring them into conformity with the provisions of this Agreement.

(2) Without prejudice to the generality of the foregoing sub-clause, the existing laws shall, except as aforesaid, in their application to any territory comprised in the Federation, be construed, when the context admits, subject to the following modifications:

- (a) references to the Colony of the Straits Settlements shall be construed as referring (but not exclusively) to the Settlement of Penang and the Settlement of Malacca;
- (b) references to the Federated Malay States shall be construed as references to the States of Negri Sembilan, Pahang, Perak and Selangor;
- (c) references to the Malayan Union shall be construed as references to the Federation or the territories comprised therein, as the case may require;
- (d) references to the Governor of the Malayan Union or to the Governor of the Colony of the Straits Settlements or to the High Commissioner of the Malay States shall be construed as references to the High Commissioner of the Federation;
- (e) references to the Governor in Council of the Malayan Union or to the Governor in Council of the Colony of the Straits Settlements shall be construed as references to the High Commissioner in Council;

- (f) references to His Highness the Ruler, by whatever name called, of any Malay State, or to that Ruler in Council shall be construed as references to His Highness the Ruler of that State or, as the case may be, to His Highness the Ruler in Council;
- (g) references to the Chief Secretary, Federal Secretary or Colonial Secretary shall be construed as references to the Chief Secretary of the Federation;
- (h) references to the British Resident, British Adviser or General Adviser, or to the Resident Commissioner in any Malay State, or to the Resident Councillor or Resident Commissioner in either of the Settlements, shall be construed as references to the British Adviser in that State or to the Resident Commissioner in that Settlement, as the case may be;
- (i) references to any officer of, or authority or body constituted in or for, the Federated Malay States, any Malay State, the Colony of the Straits Settlements, or the Malaysian Union shall be construed as references to the corresponding officer of, or authority or body constituted in or for the Federation, or any Malay State or Settlement, as the case may require, and, for removal of doubt, the High Commissioner in Council may, from time to time, by Order declare who is the corresponding officer of, or authority or body constituted in or for the Federation, Malay State or Settlement as the case may be; and
- (j) references to the Chief Justice or to any Court, Judge or Magistrate of the Malaysian Union or of the Straits Settlements or of the Federated Malay States or of any of the Malay States shall be construed as references to the Chief Justice or to the corresponding Court, Judge or Magistrate of the Federation, Malay State or Settlement, as the case may require.
- (3) The High Commissioner in Council may, if he thinks fit, by Order, provide that, as from such date as may be specified in the Order, any existing law, other than an Act of Parliament or Order of His Majesty in Council, shall, until repealed or amended by a competent legislature or other competent authority, have effect subject to such adaptations and modifications as appear to the High Commissioner to be necessary or expedient for bringing the provisions of that law into accord with the provisions of this Agreement.

140. (1) The Chief Secretary and the Financial Secretary of the Malaysian Union First public office holding office on the appointed day shall be the first Chief Secretary and Financial in the Federal Secretary respectively for the Federation.

(2) The Resident Commissioner in each Malay State holding office on the appointed day shall be the first British Adviser in that State.

(3) The Resident Commissioner holding office in each Settlement on the appointed day shall be the first Resident Commissioner under this Agreement for that Settlement.

(4) Subject to such modifications as may be necessary to conform to this Agreement, the persons holding public or statutory office in the Malaysian Union on the appointed day shall be the first persons to hold corresponding office under this Agreement in the Federation or in any State or Settlement as the case may require:

Provided that nothing herein shall prevent the reorganisation of any department of Government.

(5) The High Commissioner may, from time to time by Order in the *Gazette* declare what are the corresponding offices in the Federation or in any State or Settlement, within the meaning of sub-clause (4) of this clause.

141. Subject to the express provisions of this Agreement, nothing in this Validity of Agreement shall affect the validity or future operation of any lawful act done in any previous acts. territory now comprised in the Federation by any person or authority before the (M.U.O. s. 88. appointed day.

142. All proceedings commenced before the appointed day in any Court of Pending proce Justice in, or having jurisdiction in any territory now comprised in the Federation ings. may be carried on in like manner, as nearly as may be, as if this Agreement had (M.U.O. s. 89. not been made, but in the corresponding Court in the Federation, and any such proceeding may be amended as may appear necessary or proper in order to bring it into conformity with the provisions of this Agreement.

Crimes committed and causes of action arising prior to the appointed day. (M.U.O. s. 90.)

143. Courts constituted in or for the Federation shall have, within their respective powers, jurisdiction with respect to all offences and causes of action committed or arising before the appointed day for which the accused might have been tried, or proceedings might have been had, within any of the Malay States or within either of the Settlements under the law in force in the said State or in the Straits Settlements or either of the Settlements before the appointed day, and such jurisdiction shall be exercised in conformity with the law in force in the State or Settlement concerned at the date when the offence was committed or the cause of action arose and in accordance, as nearly as may be, with the procedure in force in Courts constituted under this Agreement.

Transfer of immovable property.

144. (1) In this clause

(a) "Malay States immovable property" means immovable property which immediately before the appointed day was, by virtue of section 92 of the Malay Union Order in Council, 1946, vested in His Majesty or in the appropriate officer of the Government of the Malay Union for any of the purposes of the Government of the Malay Union which, immediately after the appointed day, will, under the provisions of this Agreement, be a purpose of the Government of any Malay State;

(b) "Settlements immovable property" means immovable property which, immediately before the appointed day, was vested in His Majesty or the appropriate officer of the Government of the Malay Union, as the case may be, for any of the purposes of the Government of the Malay Union which, immediately after the appointed day, will, under the provisions of this Agreement, be a purpose of the Government of the Settlements or either of them;

(c) "Malayan Union immovable property" means all immovable property, other than Malay States immovable property and Settlements immovable property, which, immediately before the appointed day, was vested in His Majesty, or the appropriate officer of the Government of the Malay Union, for the purposes of the Government of the Malay Union.

(2) As from the appointed day, all Malay States immovable property shall be re-vested in His Highness the Ruler of the Malay State in whom the same was vested immediately before the first day of April, 1946, or, as the case may require, in the Government or in the appropriate officer of the Government of that State, for the purposes of the Government of that State.

(3) As from the appointed day, all Settlements immovable property shall be vested in His Majesty or, as the case may require, in the appropriate officer of the Government of either of the Settlements, for the purposes of the Government of that Settlement.

(4) As from the appointed day, all Malayan Union immovable property shall be vested in His Majesty or in the appropriate Ruler of any Malay State or in the appropriate officer of the Government of the Federation, as the case may require, for the purposes of the Government of the Federation.

Transfer of movable property.

145. (1) In this clause "financial assets" includes monies, currency notes, bank balances, investments, securities, bullion and specie, negotiable instruments, postage stamps, postal and money orders, things in action and rights to revenue, taxes, duties, fees and other dues.

(2) All financial assets which, immediately before the appointed day, were, by virtue of the provisions of the Malay Union Order in Council, 1946, vested in His Majesty or in the appropriate officer of the Government of the Malay Union for the purposes of that Government shall, as from the appointed day, vest in the High Commissioner for the purposes of the Federal Government:

Provided that the High Commissioner in Council may, after the appointed day, arrange for the transfer of any financial asset which will, after the appointed day, be required for any of the purposes of any State Government or Settlement Government, to that Government or to an appropriate officer or person for any of the purposes of that Government.

(3) All other movable property which, immediately before the appointed day, was, by virtue of Section 92 of the Malay Union Order in Council, 1946, vested in His Majesty or in the appropriate officer of the Government of the Malay Union shall, as from the appointed day, vest in the Chief Secretary for the purposes of the Federal, State or Settlement Governments, to be apportioned to and among such Governments or to appropriate officers or other persons in manner hereinafter prescribed.



(4) The High Commissioner and Their Highnesses the Rulers may, from time to time, appoint Committees, to be called Apportionment Committees,

(a) to apportion, in case of doubt, between the Federal Government and the Government of any State or Settlement, property vested in the Chief Secretary under sub-clause (3) of this Clause, to the intent that property required for the purposes of the Federal Government shall be apportioned to that Government and that property required for the purposes of any State or Settlement Government shall be apportioned to that Government; or

(b) to apportion, in case of doubt, such property to such appropriate officer or person for such purposes as the case may require.

(5) The Chief Secretary shall cause effect to be given to the decisions of the Apportionment Committees mentioned in sub-clause (4) of this clause.

146. The provisions of sub-sections (4) and (5) of section 92 of the Malayan Straits Settlements Union Order in Council, 1946 (which provide for apportionment between the Malayan (M.U.O. s. 92 (4)) Union and other territories of Straits Settlements property) shall continue to have effect after the appointed day as if they were set out in this Agreement, but shall (5.) have effect as if references to the Malayan Union and to the Governor thereof were references to the Federation and to the High Commissioner respectively.

147. (1) The High Commissioner may make such vesting or other orders as may be necessary for carrying into effect the provisions of Clause 144, 145, or 146 of this Agreement, and, for any such purpose, may appoint and empower persons to transfer Vesting Orders. (M.U.O. s. 92 (5).) property.

(2) The High Commissioner in Council may make regulations for determining, in case of doubt, the person or body in whom property affected by Clauses 144, 145 or 146 of this Agreement shall be vested and generally for giving effect to those clauses or any of them, and may, by Order, exclude any particular property from the operation of those clauses or any of them, or declare, for the removal of doubt, whether and in what manner any particular property is affected thereby.

148. Property transferred pursuant to the provisions of Clause 144 or Clause 145 of this Agreement shall thereafter be held and dealt with in conformity with the provisions of this Agreement. (M.U.O. s. 92 (7).) transferred to be dealt with in conformity with Agreement.

149. Notwithstanding anything contained in this Part of this Agreement, the Malayan Railway. undertakings formerly known as the Federated Malay States Railways and the Johore State Railway, and now known as the Malayan Railway, and all their assets of whatever kind shall, as from the appointed day, vest in the Chief Secretary for the purposes of the Federal Government.

150. (1) Subject to the provisions of Clause 151 of this Agreement, all liabilities Transfer of deemed, by virtue of section 93 of the Malayan Union Order in Council, 1946, and liabilities. (M.U.O. s. 93.) section 6 of the Malayan Union Indemnity and Validating Ordinance, 1946, + have been incurred by or on behalf of the Government of the Malayan Union, and all liabilities incurred by or on behalf of that Government, prior to the appointed day, shall, as from the appointed day, be deemed to be liabilities incurred by or on behalf of the Federation. No. 1 of 1946.

(2) It shall be lawful for the High Commissioner, with the agreement of the Legislative Council, signified by resolution, and with the approval of a Secretary of State, to make, vary, rescind and carry into effect, arrangements with the Governor of any territory formerly included in the Straits Settlements but not included in the Federation for the payment, to the Government of that territory from the funds of the Federal Government, of contribution towards the sums necessary to defray such of the liabilities of the Government of the Straits Settlements as shall have been transferred, by any Order in Council or otherwise, to the Government of that territory :

Provided that:

(a) such contributions shall be proportionate to the share of such liabilities which, a Secretary of State is satisfied, is properly attributable to the Settlement of Penang and the Settlement of Malacca; and

(b) the provisions of sub-clause (1) of Clause 55 of this Agreement shall apply to this sub-clause.

(3) Claims in respect of liabilities deemed by virtue of this clause to have been incurred by or on behalf of the Federal Government which might have been enforced against the Government of the Malayan Union under the provisions of sub-section (5) of section 98 of the Malayan Union Order in Council, 1946, or against any officer of that Government in his official capacity or against any department of that Government may be enforced, in such manner as may be prescribed by laws for the time being in force, against the Federal Government or the appropriate officer of the Federal Government, as the case may be.

(4) The High Commissioner in Council may make regulations for determining in any case of doubt the person or body by or against whom claims may be enforced under this clause and generally for giving effect thereto.

Continuance of  
contracts.  
(c.f. M.U.  
Ordinance No. 1  
of 1946 s. 6.)

151. (1) Contracts duly entered into before the appointed day by or on behalf of the Government of the Malayan Union, and contracts entered into by the British Military Administration for which the Government of the Malayan Union is liable, and contracts entered into on behalf of the Government of any Malay State or Settlement, shall, as from the appointed day, be deemed to have been entered into by or on behalf of the Federal Government or by or on behalf of the Government of the Malay State or Settlement as the case may be, and, to the extent that they remain unperformed, shall continue in full force and effect as if the Federal Government or the Government of the Malay State or Settlement, as the case may be, had been the contracting party.

(2) For the removal of doubts, the High Commissioner in Council, may, by Order, declare whether any particular contract or class of contracts referred to in sub-clause (1) of this clause shall be deemed to have been entered into by or on behalf of the Federal Government or by or on behalf of the Government of a Malay State or Settlement.

152. [*Deleted on revision.*]

#### PART XIV.

#### MISCELLANEOUS.

Affirmation in lieu  
of oath. (M.U.O. s. 95.)

153. In any case in which an oath is required by this Agreement to be taken, any person authorised by law to make an affirmation instead of taking an oath in legal proceedings may make an affirmation in like terms instead of the said oath.

Unqualified  
persons sitting or  
voting. (M.U.O. s. 97.)

154. (1) Any person who—  
(a) having been appointed or elected a member of any Council constituted under this Agreement, but not having been, at the time of such appointment or election, qualified to be so appointed or elected shall sit or vote in such Council; or

(b) shall sit or vote in such Council after his seat therein has become vacant or he has become disqualified from sitting or voting therein; knowing, or having reasonable grounds for knowing that he was disqualified, or that his seat has become vacant, as the case may be, shall be liable to a penalty not exceeding two hundred dollars for every day upon which he so sits or votes.

(2) The said penalty shall be recoverable by action in the Supreme Court at the suit of the Attorney-General or the Legal Adviser in any State.

Vacancies not to  
disqualify. (M.U.O. s. 98.)

155. No Council constituted under this Agreement shall be disqualified from the transaction of business by reason of any vacancy among the Members, or by reason of the sitting or voting therein of any unqualified or disqualified person.

Retrospective  
effect of laws,  
rules and regula-  
tions. (M.U.O. s. 99.)

156. For the avoidance of doubts it is hereby declared that any law, Proclamation, rule or regulation made under this Agreement may be made to operate retrospectively to any date.

Impartial  
treatment.

157. All persons of whatsoever race in the same grade in the service of the Federal Government shall, subject to the terms and conditions of their employment, be treated impartially.

158. (1) Except as otherwise provided in this Agreement or in any law to be Interpretation of made thereunder, the power to interpret this Agreement and every provision thereof the Federation shall be exclusively exercisable by the Interpretation Tribunal hereinafter mentioned [c/. Cl. 43 (8).] whose decisions as to the meaning, interpretation, construction or effect of any such provision shall be binding upon the parties to this Agreement and upon all other persons and shall not be called in question in any Court.

(2) The Interpretation Tribunal shall consist of the Chief Justice or, if in any case he be unable to act, a Judge of the Supreme Court to be appointed by him, as Chairman, and two other Members, one to be appointed by the High Commissioner and one by Their Highnesses the Rulers as and when occasion shall arise.

(3) If any question involving the meaning, interpretation, construction or effect of any of the provisions of this Agreement shall arise in the course of any proceedings in a Court, the Court shall (unless such question shall previously have been decided by the Interpretation Tribunal) refer such question for the decision of the Interpretation Tribunal and, upon receipt of such decision, shall proceed to determine the matter before it in accordance therewith.

(4) The decision of a majority of the Interpretation Tribunal upon any question referred to it under this clause shall be deemed to be a decision of the Tribunal.

(5) The High Commissioner, with the consent of Their Highnesses the Rulers, may from time to time make amend and revoke rules regulating the procedure to be followed in referring and determining questions under this clause.

159. Nothing in this Agreement shall affect the power of His Majesty or the Power reserved to Imperial Parliament to make laws from time to time relating to the defence or His Majesty. external affairs of the Federation, or shall affect His Majesty's sovereignty and jurisdiction in and over the Settlements. (M.U.O. s. 10L.)

## THE FIRST SCHEDULE.

### FORMS.

#### FORM I.

#### OATH OF ALLEGIANCE.

(Clause 9.)

I,....., do swear that I will be (M.U.O. First Schedule.)

faithful and bear true allegiance to His Majesty KING GEORGE VI, His Heirs and Successors, according to Law. \*So help me God.

#### FORM II.

#### OATH FOR THE DUE EXECUTION OF THE OFFICE OF HIGH COMMISSIONER.

(Clause 9.)

I,....., do swear that I will (M.U.O. First Schedule.) well and truly execute the office of High Commissioner. \*So help me God.

\* These words may be varied according to the religious beliefs of the person concerned.

## FORM III.

## FEDERAL EXECUTIVE COUNCILLOR'S OATH.

(Clause 24.)

I,....., being chosen and admitted of the Federal Executive Council, do swear that I will be true and faithful to the Federation of Malaya and that I will, to the best of my judgment at all times when thereto required, freely give my counsel and advice to the High Commissioner, or to the Deputy to the High Commissioner or the officer administering the Government of the Federation of Malaya for the time being, for the good management of the public affairs of the Federation: that I will not directly or indirectly reveal such matters as shall be communicated to me or debated in Council and committed to my secrecy, but that I will in all things be a true and faithful Councillor. \*So help me God.

[c./ Citizenship Oath and S.S. Promissory Oaths Ordinance, Cap. 77, s. 2 (4).]

To  
do  
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Of  
of

## FORM IV.

## LEGISLATIVE COUNCILLOR'S OATH.

(Clause 67.)

I,....., do swear that I will well and truly serve in the Office of Member of the Legislative Council of the Federation of Malaya. \*So help me God.

[c./ F.M.S. Federal Councillor's Oath.]

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## FORM V.

## STATE EXECUTIVE COUNCILLOR'S OATH.

(Clause 95.)

I,....., being chosen and admitted of the Majlis Meshuarat Kerajaan or State Executive Council of the State of.....do swear that I will, to the best of my judgment at all times when thereto required, freely give my counsel and advice to His Highness the Ruler, for the good management of the public affairs of the said State: that I will not directly or indirectly reveal such matters as shall be communicated to me or debated in Council and committed to my secrecy, but that I will in all things be a true and faithful Councillor. \*So help me God.

[c./ S.S. Promissory Oaths Ordinance, Cap. 77, s. 2 (4).]

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\* These words may be varied according to the religious beliefs of the person concerned.



FORM VIII.  
THE CITIZENSHIP OATH.  
(Clause 129.)

I, A.B., of.....do swear  
that I will be a true and faithful Citizen of the Federation of Malaya and will give  
due obedience to all lawful Authorities constituted in the Federation. \*So help me  
God.

Sworn and subscribed by the above-  
named.....  
at.....in the  
State of.....  
Settlement.....  
on the.....day of.....  
19.....

(Signature of the person  
taking the oath.)

Before me,

.....  
(Signature of Commissioner or other  
Officer before whom the oath is taken  
affirmation is made).

CERTIFICATE BY ATTESTING OFFICER.

I, C.D., of.....do hereby  
certify that, prior to his taking the above oath I fully explained  
making the above affirmation, I caused to be fully explained  
its meaning and purport to the above-named A.B., in the Malay language and that  
English  
he acknowledged that he understood the same.

.....  
(Signature and title of Attesting Officer).

\* These words may be varied according to the religious beliefs of the person concerned.

[N.B.—It is intended eventually to classify the subjects in the Second Schedule under appropriate sub-headings.]

### THE SECOND SCHEDULE.

(Clauses 16, 49 and 90.)

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

(1)

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

(2)

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.

- |   |   |
|---|---|
| <p>1. All matters relating to defence including:</p> <p>(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;</p> <p>(b) naval, military and air force or defence works; military and protected areas;</p> <p>(c) naval, military and air force manoeuvres;</p> <p>(d) central intelligence bureau;</p> <p>(e) preventive detention for reasons of State connected with defence;</p> <p>(f) defence contribution.</p> <p>2. External affairs including:</p> <p>(a) the implementing of treaties, conventions and agreements with other countries or international organizations;</p> <p>(b) obligations of the Federation in relation to the British Empire and any part thereof;</p> <p>(c) extradition and fugitive offenders; prisoners' removal.</p> <p>3. Actionable wrongs.</p> <p>4. Actions <i>in rem</i> and personal actions.</p> <p>5. Arbitration.</p> <p>6. Ascertainment in a Malay State of Muhammadan Law and the Custom of the Malays; Muhammadan Law and the Custom of the Malays in the Settlements.</p> <p>7. Bankruptcy and insolvency.</p> <p>8. Civil law and Procedure.</p> <p>9. Companies and corporations.</p> <p>10. Contracts, including partnership, agency, contracts of carriage and other special forms of contract.</p> <p>11. Criminal law generally, except offences against Enactments of any State or Settlement.</p> | <p>1. —</p> <p>2. —</p> <p>3. —</p> <p>4. —</p> <p>5. —</p> <p>6. —</p> <p>7. —</p> <p>8. —</p> <p>9. —</p> <p>10. —</p> <p>11. —</p> |
|---|---|

(1)

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

12. Criminal procedure.

13. Delegation of Federal powers.
14. Easements.
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.
16. Equity: trusts and trustees: equitable relief: specific relief.

17. Establishment, jurisdiction and powers of all Courts, excluding Muslim religious Courts.

18. Evidence.
19. Factors.
20. Hire purchase.
21. Indemnity.
22. Inns and innkeepers.
23. Interpretation and general clauses: official titles.
24. Landlord and tenant; rent restriction.
25. Law of highways.
26. Law of insurance.
27. Lien.
28. Limitation.
29. Marriage and divorce; legitimacy; age of majority; infants and minors; adoption.
30. Married women's property.
31. Master and servant.
32. Mercantile law generally.
33. Negotiable instruments, including cheques, bills of exchange, promissory notes and other like instruments.
34. Oaths and affirmations; statutory declarations.
35. Passing off; slander of title; slander of goods.

(2)

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. Prerogative of pardon and mercy in cases tried in a Malay State to be exercised by the Ruler in Council with legal advice from the Attorney-General's Department.

13. —
14. —
15. —
16. —
17. The appointment of District Judges and Magistrates in any State to be by the Ruler of that State.

18. —
19. —
20. —
21. —
22. —
23. —
24. Rent restriction.
25. —
26. —
27. —
28. —
29. Registration of marriages and of adoption.
30. —
31. —
32. —
33. —
34. —
35. —



(1)

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

36. Public Trustee.
37. Reciprocal enforcement of judgments and orders.
38. Statute law revision.
39. Suits by and against the Federal Government; Crown suits.
40. Suretyship and guarantee.
41. Transfer, hypothecation and mortgage of movable property; bills of sale; registration of documents; powers of attorney.
42. Wills, intestacy and succession; probate; administration; distribution of estates of deceased persons; escheat; *bona vacantia*.
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); naturalisation; passports; passengers' restriction; pilgrimage to places outside the Federation.
44. Arms and firearms; ammunition.
45. Control of societies.
46. Explosives.
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.
48. Newspapers, books, printing presses; publishers and publications.
49. Official secrets.
50. Peace, order and good government of the Federation with regard to any of the matters set out in this List.
51. Registration of residents.
52. Theatres; dramatic performances; cinemas and cinematograph films; censorship; places of public amusement.
53. Federal Public Services, including the Malayan and Federal Establishments and Federal Public Services Commission; Public Authorities protection.
54. Pensions, including widows and orphans pensions; retiring allowances and gratuities.
55. Census.

(2)

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. —
37. —
38. —
39. —
40. —
41. —
42. —
43. Restricted residence. In case of banishment from a Malay State, the Ruler of the Malay State in which the person to be banished ordinarily resides should be associated with the actual banishment order.
44. —
45. —
46. —
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. —
49. —
50. —
51. —
52. The whole, except censorship.
53. —
54. —
55. —

(1)

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

56. Commissions of Enquiry.

57. Corrupt practices, including corrupt practices at any Federal, State, Settlement or Municipal elections.

58. Elections to the Federal Legislature.

59. Factories; dangerous and obnoxious trades.

60. Legal, medical and other professions; dentists; pharmacists; nurses; dressers and midwives.

61. Machinery; boilers.

62. Privileges and powers of the Federal Legislature and Members thereof.

63. Protection of women and girls; protection of children; *mui tsai*.

64. Protection of aborigines.

65. Public and Bank holidays.

66. Standard time.

67. Statistics.

68. Superannuation; pensions; provident and benevolent funds.

69. Trade Unions; industrial and labour disputes.

70. Unemployment insurance.

71. Unauthorised use of arms and armorial bearings, flags, emblems, uniforms, Orders and decorations.

72. Welfare of labour; conditions of labour; employers' liability and workmen's compensation; health insurance including invalidity pensions; old age pensions.

(2)

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. 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.

57. —

58. —

59. 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.

60. Registration of midwives.

61. —

62. —

63. —

64. The whole.

65. To declare public holidays within the State or Settlement.

66. —

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.

68. —

69. —

70. —

71. —

72. —

(1)

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

73. Boarding houses and lodging houses.
74. Hindu Endowment Boards.
75. Municipal Corporations, Improvement Trusts, Town Boards, Rural Boards and other local Authorities, including elections to such bodies, to the extent of ensuring uniformity of legislation.
76. Town planning and housing to the extent of ensuring uniformity of legislation.
77. Boy Scouts, Girl Guides, and similar organisations.
78. Charities and charitable Institutions.
79. Primary, secondary and trade school education to the extent of ensuring a common policy and a common system of administration; higher education; technical education; training of teachers; registration of schools; Federal educational institutions; Malay translation bureau.

(2)

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. The whole.
74. —
75. The whole.
76. The whole.
77. —
78. State or Settlement charities and charitable institutions.
79. Primary, secondary and trade school education excluded; measures designed to ensure a common policy and a common system of administration; State and Settlement scholarships; State and Settlement educational endowments.
80. —
81. —
82. —
83. —
84. The whole.
85. —
86. The whole, except the prescription of standards of maturity.
87. —
80. Ethnology, anthropology and archaeology so as to ensure the promotion of science on proper lines; scientific societies.
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.
82. Libraries, museums, memorials and similar institutions controlled or financed by the Federation.
83. Meteorology.
84. Protection of ancient and historical monuments and archaeological sites and remains; treasure trove.
85. Surveys, including land, marine, aerial, geological, botanical and zoological surveys; boundaries and survey maps.
86. Wild life preservation.
87. Aircraft and air navigation; the provision of aerodromes: the regulation and organisation of air traffic and of aerodromes.

(1)

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

88. Carriage of passengers and goods by land, water or air.

89. Posts and telegraphs, including telephones, wireless, broadcasting and other like forms of communication.

90. Railways.

91. Roads, bridges and ferries declared to be federal by the High Commissioner after consultation with the Federal Public Works Board.

92. Road transport; road traffic; mechanically propelled vehicles.

93. Adulteration of foodstuffs and other goods.

94. Lepers and Leper Institutions.

95. Lunacy and mental deficiency, including places for the reception or treatment of lunatics and mental deficient.

96. Poisons and deleterious drugs.

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.

98. Registration of births and deaths.

99. Vagrants and decrepits.

100. Compulsory acquisition of land.

101. Land legislation to the extent of ensuring common policy and a common system of 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 charges interest restriction.

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

(2)

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. Restriction and regulation of carriage by riverine traffic and by vehicles other than mechanically propelled vehicles.

89. —

90. —

91. —

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.

93. The whole.

94. —

95. —

96. —

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. —

99. The whole.

100. The whole.

101. The whole.

102. The whole.

(1)

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

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.
104. Works, lands and buildings vested in, held or reserved for the purposes of the Federation and not being naval, military, air force or defence works.
105. Agriculture and control of agricultural pests to the extent of ensuring common policy and a common system of administration.
106. Maritime and estuarine fishing and fisheries, excluding turtles.

107. Forests, to the extent of ensuring common policy and a common system of administration.
108. Animal husbandry to the extent of ensuring common policy and a common system of administration.
109. Prevention of cruelty to animals.
110. Veterinary; diseases of animals; animal quarantine.

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

(2)

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. The whole.
104. —
105. The whole.
106. 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.
107. The whole.
108. The whole.
109. The whole.
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 Settlement.
111. The whole.
112. —
113. —
114. —
115. —
116. Gas and gasworks.
117. —
118. —
119. 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.

(1)

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

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.
121. Pawnbrokers; second-hand dealers; money-lenders and money-lending.
122. Petroleum and other liquids and substances declared by Federal laws to be dangerously inflammable, so far as regards possession, storage and transport.
123. Price control.
124. Trade and commerce; registration of businesses.
125. Weights and measures.
126. Merchant shipping; collisions at sea; salvage; pilots and pilotage.
127. Maritime shipping and navigation, including shipping and navigation on tidal waters; admiralty jurisdiction; admiralty transports; admiralty waters; territorial waters; fore-shores; wrecks; flotsam and jetsam.
128. Ports and harbours; constitution and powers of port and harbour Authorities.
129. Lighthouses, including lightships, beacons and other provision for the safety of shipping and aircraft; Imperial light dues.
130. Banking.
131. Corporation tax.
132. Currency; coinage; legal tender; counterfeit coin and notes.
133. Customs duties, including export duties.
134. Duties of excise.
135. Death duties and duties in respect of succession to property.
136. Government loans security.
137. Exchange control.
138. Public debt of the Federation; municipal loans; general loan and inscribed stock; treasury bills; saving certificates; Government trustee securities.
139. Post Office Saving Bank.
140. Stamp duties.
141. Taxes on the capital value of the assets of individuals and companies; taxes on the capital of companies.
142. Taxes on income.
143. Taxes and fees in respect of any of the matters in this List.
144. Offences against laws with respect to any of the matters in this List.

(2)

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. —
121. Pawnbrokers; second-hand dealers.
122. —
123. —
124. —
125. The whole.
126. —
127. —
128. —
129. —
130. —
131. —
132. —
133. —
134. Toddy shops; manufacture and sale of toddy.
135. —
136. —
137. —
138. —
139. —
140. —
141. —
142. —
143. —
144. —

THE THIRD SCHEDULE.

(Clause 116.)

SOURCES OF REVENUE OF STATES AND SETTLEMENTS.

1. Revenue from Toddy Shops.
2. Revenue from Lands, Mines and Forests.
3. Revenue from Licenses other than those connected with mechanically propelled vehicles, electrical installations and registration of businesses.
4. Entertainments Duty.
5. Fees in State and Settlement Courts.
6. Fees and Receipts in respect of Specific State and Settlement Services.
7. Municipal Revenue.
8. Receipts in respect of Water Supplies including Water Rates.
9. Rents on State and Settlement property.
10. Interest on State and Settlement Balances.
11. Receipts from Land Sales and Sales of State and Settlement Property.
12. Fines and Forfeitures in State and Settlement Courts.
13. Share of profit from the All Malaya (Currency Surplus) Fund.

THE FOURTH SCHEDULE.

(Clause 117.)

ALLOCATION OF EXPENDITURE.

PART I.

HEADS OF EXPENDITURE TO BE MET FROM REVENUES OF THE FEDERATION.

1. Public Debt.
2. Pensions, etc.
3. High Commissioner.
4. Federal Secretariat.
5. Civil Service. (Federal posts).
6. Agriculture (Headquarters and Research, etc.).
7. Audit.
8. Broadcasting.
9. Chinese Affairs.
10. Civil Aviation.
11. Clerical Service (Federal posts).
12. Co-operative Societies Department.
13. Custodian of Enemy Property.
14. Customs and Excise.
15. Drainage and Irrigation (Headquarters, etc.).
16. Education (Headquarters, Federal Institutions, etc.).

## THE FOURTH SCHEDULE—(cont.)

17. Electricity.
18. Estate Duty.
19. Exchange Control.
20. Fire Services (Headquarters).
21. Fisheries.
22. Food Control and Supplies.
23. Food Production.
24. Forests (Headquarters and Research).
25. Geological Survey.
26. Immigration.
27. Inland Revenue.
28. Judicial (Supreme Court).
29. Labour.
30. Legal.
31. Malayan Establishment Office.
32. Malayan Security Bureau.
33. Marine.
34. Medical and Health (Headquarters, Research, Federal Institutions, etc.).
35. Military and Defence.
36. Mines (Headquarters).
37. Miscellaneous.
38. Museums and Libraries.
39. Public Trustee.
40. Official Assignee and Registrar of Companies.
41. Police.
42. Postal Services.
43. Price Control.
44. Printing.
45. Prisons.
46. Public Works (Headquarters and Federal Works, etc.).
47. Public Relations.
48. Railways.
49. Social Welfare.
50. Survey.
51. Telecommunications.
52. Town Planning.
53. Trade and Industry.
54. Road Transport.
55. Treasury.
56. Veterinary (Headquarters, Research, etc.).
57. Statistics.
58. Any other Department constituted a Federal Department.
59. Purchase of Land for Federal purposes.

*Note.*—The heads in which "etc." is used will be further defined.



## PART II.

HEADS OF EXPENDITURE TO BE MET FROM REVENUES OF STATE  
OR SETTLEMENT.

1. Political Pensions and Compassionate Allowances.
2. Rulers and Chiefs.
3. Agriculture (State and Settlement Services).
4. British Advisers, Resident Commissioners and Civil Servants.
5. Clerical Service (State and Settlement Posts).
6. District and Land Offices and Registrars of Titles.
7. Drainage and Irrigation (Staff and Works in States or Settlements).
8. Education (State and Settlement Services).
9. Fire Brigades.
10. Forests (State and Settlement Services).
11. Game.
12. Government Gardens and Plantations.
13. Judicial (Subordinate Courts).
14. Marine.
15. Medical and Health (State and Settlement Services).
16. Mines (State and Settlement Services).
17. Miscellaneous.
18. Public Works (Staff and Works in States and Settlements on State or Settlement Services).
19. Purchase of Land for State or Settlement purposes.
20. Town Boards.
21. State and Settlement Treasuries.
22. Veterinary (State and Settlement Services).
23. Mentri Besar and State Secretariats; Settlement Secretariats.
24. Religious Affairs and Courts.
25. Any Other Department constituted to be a State or Settlement Department.

## FIFTH SCHEDULE.

(Clause 127.)

## A.—ANNUAL ESTIMATES.

Unless the Financial Secretary shall first have been consulted and, in case of disagreement with him, unless the High Commissioner shall first have approved, no new Head of Expenditure or provision for any new item of special expenditure the total cost of which exceeds \$25,000 or partial provision for any new item of special expenditure in respect of which provision of further money in a subsequent financial year will be necessary, shall be entered in the Annual Estimates forwarded to the High Commissioner by the State Executive Councils and Governments of the Settlements under Clause 118 of the Agreement.

2. Unless the Financial Secretary shall first have been consulted and, in case of disagreement with him, unless the High Commissioner shall first have approved, no addition to the establishment of any State or Settlement may be made nor may the appropriation of the established salaries of any department be altered either as regards the number of appointments or the rates of salaries and emoluments, except in the following cases:

- (1) Muslim religious officers, Orang Kaya, Penghulu, Penggawa, and Assistant Penghulu;
- (2) Non-pensionable appointments;
- (3) Pensionable appointments the maximum salaries of which do not exceed \$900 per annum;
- (4) Where the appropriation of the salaries of a department is altered by a normal promotion under an approved salary scheme.

#### B.—SUPPLEMENTARY ESTIMATES.

Where the provision required is an addition to the State or Settlement estimates which is balanced by equivalent savings and will not cause expenditure in excess of the total sum allocated to the State in the Federal Supply Ordinance, an estimate of the supplementary expenditure will be submitted for the approval of the Council of State or Settlement Council, as the case may be, or a duly constituted committee thereof, and may be approved subject to the following reservations:

- (a) that no new head of expenditure may be created in the State or Settlement estimates from such savings without the approval of the Legislative Council or a duly authorised Committee thereof;
- (b) that no new item of special expenditure, the total estimated cost of which exceeds \$25,000, may be sanctioned without the approval of the Legislative Council, or a duly authorised committee thereof, nor, without similar approval, may partial provision be made for any new item of special expenditure for the completion of which the provision of new money in a subsequent financial year will have to be made;
- (c) that, except with the approval of the Legislative Council or a duly authorised committee thereof, no addition to the fixed establishment of the State or Settlement may be made nor may the appropriation of established salaries of any department be altered, either as regards the number of appointments or the rates of salary and emolument, except in the following cases:
  - (1) Muslim religious officers, Orang Kaya, Penghulu, Penggawa, Assistant Penghulu;
  - (2) non-pensionable appointments;
  - (3) pensionable appointments the maximum salaries of which do not exceed \$900 per annum;
  - (4) where the appropriation of the salaries of a department is altered by a normal promotion under an approved salary scheme.

#### C.—ALLOCATIONS TO STATES AND SETTLEMENTS FOR EXPENDITURE ON UNFORESEEN SERVICES.

The amounts to be determined by the High Commissioner and allocated for unforeseen services in each Malay State and each Settlement under the provisions of Clause 119 (2) (c) of the Federation Agreement, 1946, shall, under normal financial conditions in the Federation, be such percentage of the annually recurrent expenditure of the Malay State or Settlement as will produce an amount of \$100,000 in the case of the Malay State or Settlement whose annually recurrent expenditure for the ensuing year is the largest; and such percentage, when so calculated, shall be applied to all other States or Settlements, differences not exceeding \$10,000 in annually recurrent expenditure being ignored.

The expression "normal financial conditions in the Federation" means conditions in which the estimated revenue of the Federation in the year in question exceeds the estimated cost of all Federal annually recurrent votes and ordinary special expenditure, inclusive of block grants to States and Settlements, by a sum of not less than two million dollars.

## APPENDIX B.

## MODEL STATE AGREEMENT.

## AGREEMENT MADE BETWEEN A.B., ETC., ETC., ON BEHALF OF HIS MAJESTY AND HIS HIGHNESS

\*

for Himself and His

## Successors:

WHEREAS it has been represented to His Majesty that fresh arrangements should be made for the peace, order and good government of the State of :

AND WHEREAS His Majesty in token of the friendship which he bears towards His Highness, the subjects of His Highness, and the inhabitants of the State of has been pleased to make fresh arrangements to take effect on such day as His Majesty may by Order in Council appoint (hereinafter called "the appointed day"):

AND WHEREAS mutual agreements subsist between His Majesty and His Highness the

AND WHEREAS it is expedient to provide for the constitutional development of the State of under the protection of His Majesty and for its future government:

Now, THEREFORE, it is agreed and declared as follows:

1. This Agreement may be cited as the Agreement, 194 , and shall come into operation on the appointed day, which day shall be notified in the *Malayan Union Gazette* together with a copy of this Agreement. Short title and commencement.

2. In this Agreement:

Interpretation.

"Enactment" means any law enacted by His Highness with the advice and consent of a Council of State constituted under paragraph (b) of Clause 10 of this Agreement;

"Federal Government" means the Government of the Federation;

"the Federation" means the Federation of Malaya to be called in Malay "Persekutuan Tanah Melayu", which is to be established on the appointed day;

"Federation Agreement" means the Agreement which is to be made between His Majesty and Their Highnesses the Rulers of the Malay States of Johore, Pahang, Negri Sembilan, Perak, Selangor, Kedah, Perlis, Kelantan and Trengganu for the establishment of the Federation;

"the High Commissioner" means the High Commissioner for the Federation;

"His Highness" means the Sultan of and His Successors;

"His Highness in Council" means His Highness acting after consultation with the State Executive Council to be constituted by and under this Agreement, but not necessarily in accordance with the advice of such Council nor necessarily in such Council assembled;

"Secretary of State" means one of His Majesty's Principal Secretaries of State.

3. (1) His Majesty shall have complete control of the defence and of all the Protection and external affairs of the State of and His Majesty undertakes to protect the external affairs of Government and State of and all its dependencies from external hostile attacks and for this and other similar purposes His Majesty's Forces and persons authorised by or on behalf of His Majesty's Government shall at all times be allowed free access to the State of and to employ all necessary means of opposing such attacks. (Trengganu, M. & G., p. 112; Johore, M. & G., p. 135; Federation Draft Cl. 4.)

(2) His Highness undertakes that, without the knowledge and consent of His Majesty's Government, he will not make any treaty, enter into any engagement, deal in or correspond on political matters with, or send envoys to, any foreign State. (Trengganu, M. & G., p. 115; Johore, M. & G., p. 115.)

4. His Highness undertakes to receive and provide a suitable residence for a British Adviser other than matters relating to the Muslim Religion and the Custom of the Malays, and undertakes to accept such advice; provided that nothing in this clause shall in any way prejudice the right of His Highness to address the High Commissioner or His Majesty, through a Secretary of State, if His Highness so desires. British Adviser (Kedah, M. & G., p. 104; Federation Draft, Cl. 5.)

\* Note.—Variations will be required for Negri Sembilan.

Cost of British Adviser.  
(Kedah M. & G., p. 104; Johore M. & G., p. 136.)  
Appointment of British Adviser.  
(Kedah M. & G., p. 102.)  
Federal officers.

5. The cost of the British Adviser with his establishment shall be determined by the High Commissioner and shall be a charge on the revenues of the State of

6. His Highness shall be consulted before any officer whom it is proposed to send as British Adviser is actually appointed.

7. His Highness undertakes to receive within his State such officers of the Federal Government as that Government may require and to permit such officers to exercise such lawful authority and powers and to perform such lawful functions as may be necessary for the purposes of the Federal Government.

When Federal officers may perform State functions.

8. Any officer of the Federal Government may, with the concurrence of the High Commissioner, perform within the State of such State duties and may exercise such State powers as may be imposed or conferred upon him by His Highness in Council or by Enactment.

State Constitution.

9. His Highness undertakes to govern the State of subject to the provisions of a written Constitution which shall be in conformity with the provisions of this Agreement and of the Federation Agreement and which shall be granted and promulgated by His Highness as soon as conveniently may be either in whole or, if His Highness thinks expedient, in Parts from time to time.

Councils to be constituted.

10. In pursuance of the undertaking contained in Clause 9 of this Agreement and in conformity with the provisions of the Federation Agreement His Highness undertakes forthwith to constitute

(a) a Majlis Meshuarat Kerajaan, to be called in English State Executive Council;

(b) a Majlis Meshuarat Negri, to be called in English Council of State.

His Highness to be consulted before posting of officers by High Commissioner to posts borne on State estimates.

11. His Highness, unless he shall otherwise direct, shall be consulted before any officer is posted by or on the authority of the High Commissioner to any post borne on the State Estimates.

Impartial treatment.  
(Kedah M. & G., p. 103; Johore M. & G., p. 135.)

12. All persons of whatsoever race in the same grade in the service of the State of shall, subject to the terms and conditions of their employment, be treated impartially.

Education and training of Malays.

13. His Highness desires and His Majesty agrees that it shall be a particular charge upon the Government of the State of to provide for and encourage the education and training of the Malay inhabitants of the State of so as to fit them to take a full share in the economic progress, social welfare and government of the State and of the Federation.

Subsisting Agreements.

14. (1) The Treaties and Agreements mentioned in the first column of the Schedule to this Agreement shall continue in force to the extent mentioned in the second column of the said Schedule.

(2) Save as aforesaid, all Treaties and Agreements now in force shall cease to have effect.

SCHEDULE.