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FEDERAL CONSTITUTION¹
December 11, 1957, as Amended to 1979

PART I

THE STATES RELIGION AND LAW OF THE
FEDERATION

1. The name, States and territories of the Federation.

(1) The Federation shall be known, in Malay and in English, by the name Malaysia.

(2) The States of the Federation shall be Johore, Kedah, Kelantan, Malacca, Negeri Sembilan, Pahang, Penang, Perak, Perlis, Sabah, Sarawak, Selangor, and Trengganu.

(3) Subject to Clause (4), the territories of each of the States mentioned in Clause (2) are the territories comprised therein immediately before Malaysia day.

(4) The territory of the State of Selangor shall exclude the Federal Territory established under the Constitution (Amendment) No. 2) Act, 1973.

2. Admissions of new territories into the Federation.

Parliament may by law:

(a) admit other States to the Federation;

(b) alter the boundaries of any State;

but a law altering the boundaries of a State shall not be passed without the consent of that State (expressed by a law made by the Legislature of that State) and of the Conference of Rulers.

3. Religion of the Federation.

(1) Islam is the religion of the Federation; but other religions may be practised in peace and harmony in any part of the Federation.

(2) In every State other than States not having a Ruler the position of the Ruler as the Head of the religion of Islam in his State in the manner and to the extent acknowledged and declared by the Constitution of that State, and, subject to that Constitution, all rights, privileges, prerogatives and powers enjoyed by him as Head of that religion, are unaffected and unimpaired; but in any acts, observances or ceremonies with respect to which the Conference of Rulers has agreed that they should extend to the Federation as a whole each of the other Rulers shall in his capacity of Head of the religion of Islam authorize the *Yang di-Pertuan Agong* to represent him.

(3) The Constitutions of the States of Malacca, Penang, Sabah and Sarawak shall each make provision for conferring on the *Yang di-Pertuan Agong* the position of Head of the religion of Islam in that State.

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(4) Nothing in this Article derogates from any other provision of this Constitution.

(5) Notwithstanding anything in this Constitution the *Yang di-Pertuan Agong* shall be the Head of the religion of Islam in the Federal Territory; and for this purpose Parliament may be law make provisions for regulating Islamic religious affairs and for constituting a Council to advise the *Yang di-Pertuan Agong* in matters relating to the religion of Islam.

4. Supreme law of Federation.

(1) This Constitution is the supreme law of the Federation and any law passed after Merdeka Day which is inconsistent with this Constitution shall, to the extent of the inconsistency, be void.

(2) The validity of any law shall not be questioned on the ground that

- (a) it imposes restrictions on the right mentioned in Article 9 (2) but does not relate to the matters mentioned therein; or
- (b) it imposes such restrictions as are mentioned in Article 10 (2) but those restrictions were not deemed necessary or expedient by Parliament for the purposes mentioned in that Article.

(3) The validity of any law made by Parliament or the Legislature of any State shall not be questioned on the ground that it makes provision with respect to any matter with respect to which Parliament or, as the case may be, the Legislature of the State has no power to make laws, except in proceedings for a declaration that the law is invalid on that ground or

- (a) if the law was made by Parliament, in proceedings between the Federation and one or more States;
- (b) if the law was made by the Legislature of a State, in proceedings between the Federation and that State.

(4) Proceedings for a declaration that a law is invalid on the ground mentioned in Clause (3) (not being proceedings falling within paragraph (a) or (b) of the Clause) shall not be commenced without the leave of a judge of the Federal Court; and the Federation shall be entitled to be a party to any such proceedings, and so shall any State that would or might be a party to proceedings brought for the same purpose under paragraph (a) or (b) of the Clause.

PART II

FUNDAMENTAL LIBERTIES

5. Liberty of the person.

(1) No person shall be deprived of his life or personal liberty save in accordance with law.

(2) Where complaint is made to a High Court or any judge thereof that a person is being unlawfully detained the court shall inquire into the complaint and, unless satisfied that the detention is lawful, shall order him to be produced before the court and release him.

(3) Where a person is arrested he shall be informed as soon as may be of the grounds of his arrest and shall be allowed to consult and be defended by a legal practitioner of his choice.

(4) Where a person is arrested and not released he shall without unreasonable delay, and in any case within twenty-four hours (excluding the time of any necessary journey) be produced before a magistrate and shall not be further detained in custody without the magistrate's authority:

Provided that this Clause shall not apply to the arrest or detention of any person under the existing law relating to restricted residence, and all the provisions of this Clause shall be deemed to have been an integral part of this Article as from Merdeka Day.

(5) Clauses (3) and (4) do not apply to an enemy alien.

6. Slavery and force labor prohibited.

(1) No person shall be held in slavery.

(2) All forms of forced labor are prohibited, but Parliament may by law provide for compulsory service for national purposes.

(3) Work incidental to the serving of a sentence of imprisonment imposed by a court of law shall not be taken to be forced labor within the meaning of this Article.

(4) Where by any written law the whole or any part of the functions of any public authority is to be carried on by another public authority, for the purpose of enabling those functions to be performed the employees of the first mentioned public authority shall be bound to serve the second mentioned public authority, and their service with the second mentioned public authority shall not be taken to be forced labor within the meaning of this Article, and no such employee shall be entitled to demand any right from either the first mentioned or the second mentioned public authority by reason of the transfer of his employment.

7. Protection against retrospective criminal laws and repeated trials.

(1) No person shall be punished for an act or omission which was not punishable by law when it was done or made, and no person shall suffer greater punishment for an offence than was prescribed by law at the time it was committed.

(2) A person who has been acquitted or convicted of an offence shall not be tried again for the same offence except where the conviction or acquittal has been quashed and a retrial ordered by a court superior to that by which he was acquitted or convicted.

8. (1) All persons are equal before the law and entitled to the equal protection of the law.

(2) Except as expressly authorized by this Constitution, there shall be no discrimination against citizens on the ground only of religion, race, descent or place of birth in any law or in the appointment to any office or employment under a public authority or in the administration of any law relating to the acquisition, holding or disposition of property of the establishing or carrying on of any trade, business, profession, vocation or employment.

(4) No public authority shall discriminate against any person on the ground

that he is resident or carrying on business in any part of the Federation outside the jurisdiction of the authority.

- (5) This Article does not invalidate or prohibit
- (a) any provision regulating personal law;
 - (b) any provision or practice restricting office, or employment connected with the affairs of any religion, or of an institution managed by a group professing any religion, to persons professing that religion;
 - (c) any provision for the protection, wellbeing or advancement of the aboriginal peoples of the Malay Peninsula (including the reservation of land) or the reservation to aborigines of a reasonable proportion of suitable positions in the public service;
 - (d) any provision prescribing residence in a State or part of a State as a qualification for election or appointment to any authority having jurisdiction only in that State or part, or for voting in such an election.
 - (e) any provision of a Constitution of a State, being or corresponding to a provision in force immediately before Merdeka Day;
 - (f) any provision restricting enlistment in the Malay Regiment to Malays.

9. Prohibition of banishment, and freedom of movement.

(1) No citizen shall be banished or excluded from the Federation.

(2) Subject to Clause (3), and to any law relating to the security of the Federation or any part thereof, public order, public health, or the punishment of offenders, every citizen has the right to move freely throughout the Federation and to reside in any part thereof.

(3) So long as under this Constitution any other State is in a special position as compared with the States of Malaya, Parliament may by law impose restrictions, as between that State and other States, on the rights conferred by Clause (2) in respect of movement and residence.

10. Freedom of speech, assembly and association.

(1) Subject to Clauses (2), (3) and (4)

- (a) every citizen has the right to freedom of speech and expression;
- (b) all citizens have the right to assemble peaceably and without arms;
- (c) all citizens have the right to form associations.

(2) Parliament may by law impose

- (a) on the rights conferred by paragraph (a) of Clause (1), such restrictions as it deems necessary or expedient in the interest of the security of the Federation or any part thereof, friendly relation with other countries, public order or morality and restrictions designed to protect the privileges of Parliament or of any Legislative Assembly or to Provide against contempt of court, defamation, or incitement to any offence;
- (b) on the right conferred by paragraph (b) of Clause (1), such restrictions as it deems necessary or expedient in the interest of the security of the Federation or any part thereof or public order;

(c) on the right conferred by paragraph (c) of Clause (1), such restrictions as it deems necessary or expedient in the interest of the security of the Federation or any part thereof, public order or morality.

(3) Restrictions on the right to form associations conferred by paragraph (c) of Clause (1) may also be imposed by any law relating to labor or education.

(4) In imposing restrictions in the interest of the security of the Federation or any part thereof or public order under Clause (2) (a), Parliament may pass laws prohibiting the questioning of any matter, right, status, position, privilege, sovereignty or prerogative established or protected by the provisions of Part III, Article 152, 153 or 181 otherwise than in relation to the implementation thereof as may be specified in such law.

11. Freedom of religion.

(1) Every person has the right to profess and practice his religion and, subject to Clause (4), to propagate it.

(2) No person shall be compelled to pay any tax the proceeds of which are specially allocated in whole or in part for the purposes of a religion other than his own.

(3) Every religious group has the right

(a) to manage its own religious affairs;

(b) to establish and maintain institutions for religious or charitable purposes; and

(c) to acquire and own property and hold and administer it in accordance with law.

(4) State law and in respect of the Federal Territory, federal law may control or restrict the propagation of any religious doctrine or belief among persons professing the religion of Islam.

(5) This Article does not authorize any act contrary to any general law relating to public order, public health or morality.

12. Rights in respect of education.

(1) Without prejudice to the generality of Article 8, there shall be no discrimination against any citizen on the ground only of religion, race, descent or place of birth

(a) in the administration of any educational institution maintained by a public authority, and, in particular, the admission of pupils or students or the payment of fees; or

(b) in providing out of the funds of a public authority financial aid for the maintenance or education of pupils or students in any educational institution (whether or not maintained by a public authority and whether within or outside the Federation).

(2) Every religious group has the right to establish and maintain institutions for the education of children in its own religion, and there shall be no discrimination on the ground only of religion in any law relating to such institutions or in the administration of any such law; but it shall be lawful for the Federation or a

State to establish or maintain or assist in establishing or maintaining Islamic institutions or provide or assist in providing instruction in the religion of Islam and incur such expenditure as may be necessary for the purpose.

(3) No person shall be required to receive instruction in or to take part in any ceremony or act of worship of a religion other than his own.

(4) For the purposes of Clause (3) the religion of a person under the age of eighteen years shall be decided by his parent or guardian.

13. Rights to property.

(1) No person shall be deprived of property save in accordance with law.

(2) No law shall provide for the compulsory acquisition or use of property without adequate compensation.

PART III

CITIZENSHIP

Chapter I. Acquisition of Citizenship

14. Citizenship by operation of law.

(1) Subject to the provisions of this Part, the following persons are citizens by operation of law, that is to say:

(a) every person born before Malaysia Day who is a citizen of the Federation by virtue of the provisions contained in Part I of the Second Schedule; and

(b) every person born on or after Malaysia Day and having any of the qualifications specified in Part II of the Second Schedule.

(c) *(Repealed)*.

(2) *(Repealed)*.

(3) *(Repealed)*.

15. Citizenship by registration (wives and children of citizens).

(1) Subject to Article 18, any married woman whose husband is a citizen is entitled, upon making application to the Federal Government, to be registered as a citizen if the marriage was subsisting and the husband a citizen at the beginning of October, 1962, or if she satisfies the Federal Government

(a) that she has resided in the Federation throughout the two years preceding the date of the application, and intends to do so permanently; and

(b) that she is of good character.

(2) Subject to Article 18, the Federal Government may cause any person under the age of twenty-one years of whose parents one at least is (or was at death) a citizen to be registered as a citizen upon application made to the Federal Government by his parent or guardian.

(3) Subject to Article 18, a person under the age of twenty-one years who was born before the beginning of October, 1962, and whose father is (or was at

his death) a citizen and was also a citizen at the beginning of that month (if then alive), is entitled upon application made to the Federal Government by his parent or guardian, to be registered as a citizen if the Federal Government is satisfied that he is ordinarily resident in the Federation and is of good character.

(4) For the purposes of Clause (1) residence before Malaysia Day in the territories comprised in the States of Sabah and Sarawak shall be treated as residence in the Federation.

(5) The reference in Clause (1) to a married woman is a reference to a woman whose marriage has been registered in accordance with any written law in force in the Federation, including any such law in force before Merdeka Day, or with any written law in force before Malaysia Day in the territories comprised in the States of Sabah and Sarawak:

Provided that this Clause shall not apply where the woman applies to be registered as a citizen before the beginning of September 1965, or such later date as may be fixed by order of the *Yang di-Pertuan Agong*, and is at the date of the application ordinarily resident in the States of Sabah and Sarawak.

(6) (*Repealed*).

15A. Special power to register children.

Subject to Article 18, the Federal Government may, in such special circumstances as it thinks fit, cause any person under the age of twenty-one years to be registered as a citizen.

16. Citizenship by registration (person born in the Federation before Merdeka day).

Subject to Article 18, any person of or over the age of eighteen years who was born in the Federation before Merdeka Day is entitled upon making application to the Federal Government, to be registered as a citizen if he satisfies the Federal Government

- (a) that he has resided in the Federation during the seven years immediately preceding the date of the application, for periods amounting in the aggregate to not less than five years;
- (b) that he intends to do so permanently;
- (c) that he is of good character; and
- (d) that he has an elementary knowledge of the Malay language.

16A. Citizenship by registration (persons resident in States of Sabah and Sarawak on Malaysia Day).

Subject to Article 18, any person of or over the age of eighteen years who is on Malaysia Day ordinarily resident in the State of Sabah or Sarawak is entitled, upon making application to the Federal Government before September, 1971, to be registered as a citizen if he satisfies the Federal Government

- (a) that he has resided before Malaysia Day in the territories comprised in those States and after Malaysia Day in the Federation for periods which amount in the aggregate to not less than seven years in the ten years immediately preceding the date of the application, and which include the twelve months immediately preceding that date;

- (b) that he intends to reside permanently in the Federation;
- (c) that he is of good character; and
- (d) except where the application is made before September, 1965, and the applicant has attained the age of forty-five years at the date of the application, that he has a sufficient knowledge of the Malay language or the English language or, in the case of an applicant ordinarily resident in Sarawak, the Malay language, the English language or any native language in current use in Sarawak.

17. (*Repealed*).

18. General provisions as to registration.

(1) No person of or over the age of eighteen years shall be registered as a citizen under this Constitution until he has taken the oath set out in the First Schedule.

(2) Except with the approval of the Federal Government, no person who has renounced or has been deprived of citizenship under this Constitution or who has renounced or has been deprived of federal citizenship or citizenship of the Federation before Merdeka Day under the Federation of Malaya Agreement, 1948, shall be registered as a citizen under this Constitution.

(3) A person registered as a citizen under this Constitution shall be a citizen by registration from the day on which he is so registered.

(4) (*Repealed*).

19. Citizenship by naturalization.

(1) Subject to Clause (9), the Federal Government may, upon application made by any person of or over the age of twenty-one years who is not a citizen, grant a certificate of naturalization to that person if satisfied

(a) that

(i) he has resided in the Federation for the required periods and intends, if the certificate is granted, to do so permanently;

(ii) (*Repealed*).

(b) that he is of good character; and

(c) that he has an adequate knowledge of the Malay language.

(2) Subject to Clause (9), the Federal Government may, in such special circumstances as it thinks fit, upon application made by any person of or over the age of twenty-one years who is not a citizen, grant a certificate of naturalization to that person if satisfied.

(a) that he has resided in the Federation for the required periods and intends, if the certificate is granted, to do so permanently;

(b) that he is of good character; and

(c) that he has an adequate knowledge of the Malay language.

(3) The periods of residence in the Federation or the relevant part of it which is required for the grant of a certificate of naturalization are periods which amount in the aggregate to not less than ten years in the twelve years immediately preceding the date of the application for the certificate, and which include the twelve months immediately preceding that date.

(4) For the purposes of Clauses (1) and (2) residence before Malaysia Day in the territories comprised in the State of Sabah and Sarawak shall be treated as residence in the Federation, and for purposes of Clause (2) residence in Singapore before Malaysia Day or with the approval of the Federal Government residence in Singapore after Malaysia Day shall be treated as residence in the Federation.

(5) A person to whom a certificate of naturalization is granted shall be a citizen by naturalization from the date on which the certificate is granted.

(6) *(Repealed)*.

(7) *(Repealed)*.

(8) *(Repealed)*.

(9) No certificate of naturalization shall be granted to any person until he has taken the oath set out in the First Schedule.

19A. *(Repealed)*.

20. *(Repealed)*.

21. *(Repealed)*.

22. Citizenship by incorporation of territory.

If any new territory is admitted to the Federation after Malaysia Day in pursuance of Article 2, Parliament may by law determine what persons are to be citizens by reason of their connection with that territory and the date or dates from which such persons are to be citizens.

Chapter 2. Termination of Citizenship

(1) Any citizen of or over the age of twenty-one years and of sound mind who is also or is about to become a citizen of another country may renounce his citizenship of the Federation by declaration registered by the Federal Government, and shall thereupon cease to be a citizen.

(2) A declaration made under this Article during any war in which the Federation is engaged shall not be registered except with the approval of the Federal Government.

(3) This Article applies to a woman under the age of twenty-one years who has been married as it applies to a person of or over that age.

24. Deprivation of citizenship on acquisition or exercise of foreign citizenship, etc.

(1) If the Federal Government is satisfied that any citizen has acquired by registration, naturalization or other voluntary and formal act (other than marriage) the citizenship of any country outside the Federation, the Federal Government may by order deprive that person of his citizenship.

(2) If the Federal Government is satisfied that any citizen has voluntarily claimed and exercised in any country outside the Federation any rights available to him under the law of that country, being rights accorded exclusively to its citizens, the Federal Government may by order deprive that person of his citizenship.

(3) *(Repealed)*.

(3A) Without prejudice to the generality of Clause (2), the exercise of a vote in any political election in a place outside the Federation shall be deemed to

be the voluntary claim and exercise of a right available under the law of that place; and for the purpose of Clause (2), and that Clause as applied as aforesaid, a person who, after such date as the *Yang di-Pertuan Agong* may by order appoint for the purposes of this Clause.

(a) applies to the authorities of a place outside the Federation for the issue or renewal of a passport; or

(b) uses a passport issued by such authorities as a travel document, shall be deemed voluntarily to claim and exercise a right available under the law of that place being a right accorded exclusively to the citizens of that place.

(4) If the Federal Government is satisfied that any woman who is a citizen by registration under Clause (1) or Article 15 has acquired the citizenship of any country outside the Federation by virtue of her marriage to a person who is not a citizen, the Federal Government may by order deprive her of her citizenship.

25. Deprivation of citizenship by registration under Article 16A or 17 or by naturalization.

(1) The Federal Government may by order deprive of his citizenship any person who is a citizen by registration under Article 16A or 17 or a citizen by naturalization if satisfied

(a) that he has shown himself by act or speech to be disloyal or disaffected towards the Federation;

(b) that he has, during any war in which the Federation is or was engaged, unlawfully traded or communicated with an enemy or been engaged in or associated with any business which to his knowledge was carried on in such manner as to assist an enemy in that war; or

(c) that he has, within the period of five years beginning with the date of the registration or the grant of the certificate, been sentenced in any country to imprisonment for a term of not less than twelve months or to a fine of not less than five thousand ringgit or the equivalent in the currency of that country, and has not received a free pardon in respect of the offence for which he was so sentenced.

(1A.) The Federal Government may by order deprive of his citizenship any person who is a citizen by registration under Article 16A or 17 or a citizen by naturalization if satisfied that without the Federal Government's approval, he has accepted, served in, or performed the duties of any office, post or employment under the Government of any country outside the Federation or any political sub-division thereof, or under any agency of such a Government, in any case where an oath, affirmation or declaration of allegiance is required in respect of the office, post or employment:

Provided that a person shall not be deprived of citizenship under this Clause by reason of anything done before the beginning of October, 1962, in relation to a foreign country, and before the beginning of January, 1977, in relation to a Commonwealth country, notwithstanding that he was at the time a citizen.

(2) The Federal Government may by order deprive of his citizenship any

person who is a citizen by registration under Article 16A or 17 or a citizen by naturalization if satisfied that he has been ordinarily resident in countries outside the Federation for a continuous period of five years and during that period has neither

- (a) been at any time in the service of the Federation or of an international organization of which the Federal Government was a member; nor
- (b) registered annually at a consulate of the Federation his intention to retain his citizenship:

Provided that this Clause shall not apply to any period of residence in any Commonwealth country before the beginning of January, 1977.

(3) *(Repealed)*.

26. Other provisions for deprivation of citizenship by registration or naturalization.

(1) The Federal Government may by order deprive of his citizenship any citizen by registration or by naturalization if satisfied that the registration or certificate of naturalization

- (a) was obtained by means of fraud, false representation or the concealment of any material fact: or
- (b) was effected or granted by mistake.

(2) The Federal Government may by order deprive of her citizenship any woman who is a citizen by registration under Clause (1) of Article 15 if satisfied that the marriage by virtue of which she was registered has been dissolved, otherwise than by death, within the period of two years beginning with the date of the marriage.

(3) *(Repealed)*.

(4) *(Repealed)*.

26A. Deprivation of citizenship of child of person losing citizenship.

Where a person has renounced his citizenship or been deprived thereof under Clause (1) of Article 24 or paragraph (a) of Clause (1) of Article 26, the Federal Government may by order deprive of his citizenship any child of that person under the age of twenty-one who has been registered as a citizen pursuant to this Constitution and was so registered as being the child of that person or of that person's wife or husband.

26B. General provisions as to loss of citizenship.

(1) Renunciation or deprivation of citizenship shall not discharge a person from liability in respect of anything done or omitted before he ceased to be a citizen.

(2) No person shall be deprived of citizenship under Article 25, 26 or 26A unless the Federal Government is satisfied that it is not conducive to the public good that he should continue to be a citizen; and no person shall be deprived of citizenship under Article 25, paragraph (b) of Clause (1) of Article 26, or Article 26A if the Federal Government is satisfied that as a result of the deprivation he would not be a citizen of any country.

27. Procedure for deprivation.

(1) Before making an order under Article 24, 25 or 26, the Federal Government shall give to the person against whom the order is proposed to be made notice in writing informing him of the ground on which the order is proposed to be made and of his right to have the case referred to a committee of inquiry under this Article.

(2) If any person to whom such notice is given applies to have the case referred as aforesaid the Federal Government shall, and in any other case the Federal Government may, refer the case to a committee of inquiry consisting of a chairman (being a person possessing judicial experience) and two other members appointed by that Government for the purpose.

(3) In the case of any such reference, the committee shall hold an inquiry in such manner as the Federal Government may direct, and submit its report to that Government; and the Federal Government shall have regard to the report in determining whether to make the order.

28. Application of Chapter 2 to certain citizens by operation of law.

(1) For the purposes of the foregoing provisions of this Chapter

(a) any person who before Merdeka Day became a federal citizen or a citizen of the Federation by registration as a citizen or in consequence of his registration as the subject of a Ruler, or by the grant of a certificate of citizenship, under any provision of the Federation of Malaya Agreement, 1948, or of any State law shall be treated as a citizen by registration and, if he was not born within the Federation, as a citizen by registration under Article 17.

(b) a woman who before that day became a federal citizen or a citizen of the Federation by registration as a citizen, or in consequence of her registration as the subject of a Ruler, under any provision of the said Agreement or of any State law authorizing the registration of women married to citizens of the Federation or to subjects of the Ruler shall be treated as a citizen by registration under Clause (1) of Article 15;

(c) any person who before that day was naturalized as a federal citizen of the Federation under the said Agreement or became a federal citizen or a citizen of the Federation in consequence of his naturalization as the subject of a Ruler under any State law shall (subject to Clause (2)) be treated as a citizen by naturalization,

and references in those provisions to the registration or naturalization of a citizen shall be construed accordingly.

(2) No person born within the Federation shall be liable by virtue of this Article to be deprived of citizenship under Article 25.

(3) A person who on Merdeka Day became a citizen by operation of law as having been citizen of the Federation immediately before that day shall not be deprived of citizenship under Clause (1) or (2) of Article 24 by reason of anything done on or before that day; but in the case of any such person Clause (2) of Article 25 shall apply equally in relation to a period of residence in foreign countries beginning on or after that day.

28A. Deprivation of citizenship of persons becoming citizens on Malaysia Day.

(1) (*Repealed*).

(2) For the purposes of Articles 24, 25, 26 and 26A a person who on Malaysia Day becomes a citizen by operation of law because immediately before that day he has the status of a citizen of the United Kingdom and Colonies shall be treated

(a) as a citizen by registration if he acquired that status by registration; and

(b) as a citizen by naturalization if he acquired that status by or in consequence of naturalization;

and references in those Articles to the registration or naturalization of a citizen shall be construed accordingly.

(3) Where a woman is under this Article to be treated as a citizen by registration, and the status in consequence of which she is to be so treated was acquired by her by virtue of marriage, then for purposes of Clause (4) of Article 24 and Clause (2) of Article 26 she shall be treated as a citizen by registration under Clause (1) of Article 15.

(4) Where a person born before Malaysia Day is under this Article to be treated as a citizen by registration by virtue of a connection with the State of Sabah or Sarawak and he was not born in the territories comprised in the States of Sabah and Sarawak Article 25 shall apply to him as if he were a citizen by registration under Article 16A or 17.

(5) Notwithstanding that a person is under this Article to be treated as a citizen by naturalization, he shall not be deprived of his citizenship under Article 25 if he were born before Malaysia Day in the territories comprised in the States of Sabah and Sarawak and is to be so treated by virtue of a status acquired by or in consequence of naturalization in those territories.

(6) Without prejudice to the foregoing Clauses, where on Malaysia Day a person becomes a citizen by operation of law in virtue of any status possessed by him immediately before that day, but he was liable in respect of things done before that day to be deprived of that status under the law relating thereto, then the Federal Government may by order deprive him of his citizenship, if proceedings for that purpose are begun before September, 1965; but Clause (2) of Article 26B and, subject to Clause (7), Article 27 shall apply to an order under this Clause as they apply to an order under Article 25.

(7) Where a person is liable to be deprived of citizenship under Clause (6) and proceedings had before Malaysia Day been begun to deprive him of the status in virtue of which he acquired his citizenship, those proceedings shall be treated as proceedings to deprive him of citizenship under that Clause, and shall be continued as such; but they shall be continued in accordance with the law relating to that status immediately before Malaysia Day, and the functions of the Federal Government in relation thereto shall be delegated to such authority of the State in question as the Federal Government may determine.

Chapter 3. Supplemental

29. Commonwealth citizenship.

(1) In accordance with the position of the Federation within the Commonwealth, every person who is a citizen of the Federation enjoys by virtue of that citizenship the status of a Commonwealth citizen in common with the citizens of other Commonwealth countries.

(2) Any existing law shall, except so far as Parliament otherwise provides, apply in relation to a citizen of the Republic of Ireland who is not also a Commonwealth citizen as it applies in relation to a Commonwealth citizen.

30. Certificates of citizenship.

(1) The Federal Government may, on the application of any person with respect to whose citizenship a doubt exists, whether of fact or of law, certify that that person is a citizen.

(2) A certificate issued under Clause (1) shall, unless it is proved that it was obtained by means of fraud, false representation or concealment of any material fact, be conclusive evidence that the person to whom it relates was a citizen on the date of the certificate, but without prejudice to any evidence that he was a citizen at an earlier date.

(3) For the purpose of determining whether a person was born a citizen of the Federation, any question whether he was born a citizen of another country shall be decided by the Federal Government, whose certificate thereon (unless proved to have been obtained by means of fraud, false representation or concealment of a material fact) shall be conclusive.

(4) (*Repealed*).

30A. (*Repealed*).

30B. (*Repealed*).

31. Application of Schedule 2.

Until Parliament otherwise provides, the supplementary provisions contained in Part III of the Second Schedule shall have effect for the purposes of this Part.

PART IV

THE FEDERATION

Chapter 1. The Supreme Head

32. Supreme Head of the Federation, and his Consort.

(1) There shall be a Supreme Head of the Federation, to be called the *Yang di-Pertuan Agong*, who shall take precedence over all persons in the Federation and shall not be liable to any proceedings whatsoever in any court.

(2) The Consort of the *Yang di-Pertuan Agong* (to be called the *Raja Permaisuri Agong*) shall take precedence next after the *Yang di-Pertuan Agong* over all other persons in the Federation.

(3) The *Yang di-Pertuan Agong* shall be elected by the Conference of Rulers for a term of five years, but may at any time resign his office by writing under his hand addressed to the Conference of Rulers or be removed from office

by the Conference of Rulers, and shall cease to hold office on ceasing to be a Ruler.

(4) The provisions of Parts I and III of the Third Schedule shall apply to the election and removal of the *Yang di-Pertuan Agong*.

33. Deputy Supreme Head of the Federation.

(1) There shall be a Deputy Supreme Head of the Federation (to be called the *Timbalan Yang di-Pertuan Agong*) who shall exercise the functions and have the privileges of the *Yang di-Pertuan Agong* and during any period during which the *Yang di-Pertuan Agong* is unable to exercise the functions of his office owing to illness, absence from the Federation or for any other cause, but the *Timbalan Yang di-Pertuan Agong* shall not exercise functions during any inability or absence of the *Yang di-Pertuan Agong* which is expected to be less than fifteen days, unless the *Timbalan Yang di-Pertuan Agong* is satisfied that it is necessary or expedient to exercise such functions.

(2) The *Timbalan Yang di-Pertuan Agong* shall be elected by the Conference of Rulers for a term of five years, or if elected during the term for which the *Yang di-Pertuan Agong* was elected, for the remainder of that term, but may at any time resign his office by writing under his hand addressed to the Conference of Rulers and shall cease to hold office on ceasing to be a Ruler.

(3) If during the term for which the *Timbalan Yang di-Pertuan Agong* was elected a vacancy occurs in the office of the *Yang di-Pertuan Agong* his term shall expire on the cessation of the vacancy.

(4) The provisions of Part II of the Third Schedule shall apply to the election of the *Timbalan Yang di-Pertuan Agong*.

(5) Parliament may by law provide for the exercise by a Ruler of the functions of the *Yang di-Pertuan Agong* in cases where those functions would under Clause (1) fall to be exercised by the *Timbalan Yang di-Pertuan Agong* but cannot be so exercised owing to a vacancy in the office of the *Timbalan Yang di-Pertuan Agong* or to his illness, absence from the Federation or to any other cause; but such a law shall not be passed without the consent of the Conference of Rulers.

34. Disabilities of *Yang di-Pertuan Agong*, etc.

(1) The *Yang di-Pertuan Agong* shall not exercise his functions as Ruler of his State except those of Head of the religion of Islam.

(2) The *Yang di-Pertuan Agong* shall not hold any appointment carrying any remuneration.

(3) The *Yang di-Pertuan Agong* shall not actively engage in any commercial enterprise.

(4) The *Yang di-Pertuan Agong* shall not receive any emoluments of any kind whatever payable or accruing to him as the Ruler of his State under the provision of the Constitution of that State or of any State law.

(5) The *Yang di-Pertuan Agong* shall not, without the consent of the Conference of Rulers, be absent from the Federation for more than fifteen days, except on a State visit to another country.

(6) Clauses (2) and (3) shall also apply to the *Raja Permaisuri Agong*.

(7) Where the *Timbalan Yang di-Pertuan Agong* or any other person authorized by law exercises the functions of the *Yang di-Pertuan Agong* for a period exceeding fifteen days Clauses (1) to (5) shall apply to him during that period as they apply to the *Yang di-Pertuan Agong*.

(8) Nothing in Clause (1) shall prevent the *Yang di-Pertuan Agong* exercising as Ruler of his State any power vested in him either along or in conjunction with any other authority

(a) to amend the Constitution of the State; or

(b) to appoint a Regent or member of a Council of Regency in the place of any Regent or member, as the case may be, who has died or has become incapable for any reason of performing the duties of the office of Regent or member of the Council of Regency respectively.

35. Civil List of the *Yang di-Pertuan Agong* and his Consort and remuneration of the *Timbalan Yang di-Pertuan Agong*.

(1) Parliament shall by law provide a Civil List of the *Yang di-Pertuan Agong* which shall include provision for an annuity to be paid to the *Raja Permaisuri Agong*, and shall be charged on the Consolidated Fund and shall not be diminished during the *Yang di-Pertuan Agong's* continuance in office.

(2) Parliament shall by law make provision for the remuneration of the *Timbalan Yang di-Pertuan Agong* or any other person authorised by law to exercise the functions of the *Yang di-Pertuan Agong* during any period during which he exercises those functions and the remuneration for which provision is made in pursuance of this Clause shall be charged on the Consolidated Fund.

36. Public Seal.

The *Yang di-Pertuan Agong* shall keep and use the Public Seal of the Federation.

37. Oath of office of *Yang di-Pertuan Agong*.

(1) The *Yang di-Pertuan Agong* shall before exercising his functions take and subscribe before the Conference of Rulers and in the presence of the Lord President of the Federal Court (or in his absence the next senior judge of the Federal Court available) the oath of office set out in Part I of the Fourth Schedule; and the oath shall be attested by two persons appointed for the purpose by the Conference of Rulers.

(2) The *Timbalan Yang di-Pertuan Agong* shall before exercising his functions, other than the functions exercisable for the purpose of convening the Conference of Rulers, take and subscribe before the Conference of Rulers and in the presence of the Lord President of the Federal Court (or in his absence the next senior judge of the Federal Court available) the oath of office set out in Part II of the Fourth Schedule.

(3) The said oaths, translated into English, are set out in Part III of the Fourth Schedule.

(4) Any law made under Article 33 (5) shall make provision corresponding (with the necessary modifications) to Clause (2).

Chapter 2. The Conference of Rulers

38. Conference of Rulers.

(1) There shall be a *Majlis Raja-Raja* (Conference of Rulers), which shall be constituted in accordance with the Fifth Schedule.

(2) The Conference of Rulers shall exercise its functions of

- (a) electing, in accordance with the provisions of the Third Schedule, the *Yang di-Pertuan Agong* and *Timbalan Yang di-Pertuan Agong*;
- (b) agreeing or disagreeing to the extension of any religious acts, observances or ceremonies to the Federation as a whole;
- (c) consenting or withholding consent to any law and making or giving advice on any appointment which under this Constitution requires the consent of the Conference or is to be made by or after consultation with the Conference,

and may deliberate on questions of national policy (for example changes in immigration policy) and any other matter that it thinks fit.

(3) When the Conference deliberates on matters of national policy the *Yang di-Pertuan Agong* shall be accompanied by the Prime Minister, and the other Rulers and the *Yang di-Pertua Yang di-Pertua Negeri* by their *Mentri-menteri Besar* or Chief Ministers; and the deliberations shall be among the functions exercised, by the *Yang di-Pertuan Agong* in accordance with the advice of the Cabinet, and by the other Rulers and the *Yang di-Pertua Yang di-Pertua Negeri* in accordance with the advice of their Executive Councils.

(4) No law directly affecting the privileges, position, honors or dignities of the Rulers shall be passed without the consent of the Conference of Rulers.

(5) The Conference of Rulers shall be consulted before any change in policy affecting administrative action under Article 153 is made.

(6) The members of the Conference of Rulers may act in their discretion in any proceedings relating to the following functions, that is to say

- (a) the election or removal from office of the *Yang di-Pertuan Agong* or the election of the *Timbalan Yang di-Pertuan Agong*;
- (b) the advising on any appointment;
- (c) the giving or withholding of consent to any law altering the boundaries of a State or affecting the privileges, position, honors or dignities of the Rulers; or
- (d) the agreeing or disagreeing to the extension of any religious acts, observances or ceremonies to the Federation as a whole.

Chapter 3. The Executive

39. Executive authority of Federation.

The executive authority of the Federation shall be vested in the *Yang di-Pertuan Agong* and exercisable, subject to the provisions of any federal law and of the Second Schedule, by him or by the Cabinet or any Minister authorised by the Cabinet, but Parliament may by law confer executive functions on other persons.

40. *Yang di-Pertuan Agong* to act on advice.

(1) In the exercise of his functions under this Constitution or federal law the *Yang di-Pertuan Agong* shall act in accordance with the advice of the Cabinet or of a Minister acting under the general authority of the Cabinet, except as otherwise provided by this Constitution; but shall be entitled at his request, to any information concerning the government of the Federation which is available to the Cabinet.

(2) The *Yang di-Pertuan Agong* may act in his discretion in the performance of the following functions, that is to say

- (a) the appointment of a Prime Minister;
- (b) the withholding of consent to a request for the dissolution of Parliament;
- (c) the requisition of a meeting of the Conference of Rulers concerned solely with the privileges, position, honors and dignities of Their Royal Highnesses, and any action at such a meeting.

and in any other case mentioned in this Constitution.

(3) Federal law may make provision for requiring the *Yang di-Pertuan Agong* to act after consultation with or on the recommendation of any person or body of persons other than the Cabinet in the exercise of any of his functions other than

- (a) functions exercisable in his discretion;
- (b) functions with respect to the exercise of which provision is made in any other Article.

41. Supreme command of armed forces.

The *Yang di-Pertuan Agong* shall be the Supreme Commander of the armed forces of the Federation.

42. Power of pardon, etc.

(1) The *Yang di-Pertuan Agong* has power to grant pardons, reprieves and respites in respect of all offences which have been tried by court-martial and all offences committed in the Federal Territory; and the Ruler or *Yang di-Pertua Negeri* of a State has power to grant pardons, reprieves and respites in respect of all other offences committed in his State.

(2) Subject to Clause (10), any power conferred by federal or State law to remit, suspend or commute sentences for any offence shall be exercisable by the *Yang di-Pertuan Agong* if the sentence was passed by a court-martial or by a civil court exercising jurisdiction in the Federal Territory and, in any other case, shall be exercisable by the Ruler or *Yang di-Pertua Negeri* of the State in which the offence was committed.

(3) Where an offence was committed wholly or partly outside the Federation or in more than one State or in circumstances which make it doubtful where it was committed, it shall be treated for the purpose of this Article as having been committed in the State in which it was tried. For the purpose of this Clause the Federal Territory shall be regarded as a State.

(4) The powers mentioned in this Article

- (a) are, so far as they are exercisable by the *Yang di-Pertuan Agong*, among functions with respect to which federal law may make provision under Article 40 (3);
- (b) shall, so far as they are exercisable by the Ruler or *Yang di-Pertua Negeri* of a State, be exercised on the advice of a Pardons Board constituted for that State in accordance with Clause (5).

(5) The Pardons Board constituted for each State shall consist of the Attorney General of the Federation, the Chief Minister of the State and not more than three other members, who shall be appointed by the Ruler or *Yang di-Pertua Negeri*; but the Attorney General may from time to time by instrument in writing delegate his functions as a member of the Board to any other person, and the Ruler or *Yang di-Pertua Negeri* may appoint any person to exercise temporarily the functions of any member of the Board appointed by him who is absent or unable to act.

(6) The members of a Pardons Board appointed by the Ruler or *Yang di-Pertua Negeri* shall be appointed for a term of three years and shall be eligible for re-appointment, but may at any time resign from the Board.

(7) A member of the Legislative Assembly of a State or of the House of Representatives shall not be appointed by the Ruler or *Yang di-Pertua Negeri* to be a member of a Pardons Board or to exercise temporarily the functions of such a member.

(8) The Pardons Board shall meet in the presence of the Ruler or *Yang di-Pertua Negeri* and he shall preside over it.

(9) Before tendering their advice on any matter a Pardons Board shall consider any written opinion which the Attorney General may have delivered thereon.

(10) Notwithstanding anything in this Article, the power to grant pardons, reprieves and respites in respect of, or to remit, suspend or commute sentences imposed by any Court established under any law regulating Islamic religious affairs in the State of Malacca, Penang, Sabah or Sarawak or the Federal Territory shall be exercisable by the *Yang di-Pertuan Agong* as Head of the religion of Islam in the State.

(11) For the purpose of this Article there shall be constituted a Pardons Board for the Federal Territory and the provisions of Clauses (5), (6), (7), (8) and (9) of this Article shall apply *mutatis mutandis* to the Pardons Board under this Clause except that reference to 'Ruler or *Yang di-Pertua Negeri*' shall be construed as reference to the *Yang di-Pertuan Agong* and reference to 'Chief Minister of the State' shall be construed as reference to the Minister responsible for the Federal Territory.

43. The Cabinet.

(1) The Yang di-Pertuan Agong shall appoint a *Juma'ah Menteri* (Cabinet of Ministers) to advise him in the exercise of his functions.

(2) The Cabinet shall be appointed as follows, that is to say

- (a) the *Yang di-Pertuan Agong* shall first appoint as *Perdana Menteri*

- (Prime Minister) to preside over the Cabinet a member of the House of Representatives who in his judgment is likely to command the confidence of the majority of the members of that House; and
- (b) he shall on the advice of the Prime Minister appoint other *Mentri* (Ministers) from among the members of either House of Parliament;

but if an appointment is made while Parliament is dissolved a person who was a member of the last House of Representatives may be appointed but shall not continue to hold office after the beginning of the next session of Parliament unless, if he has been appointed Prime Minister, he is a member of the new House of Representatives, and in any other case he is a member either of that House or of the Senate.

(3) The Cabinet shall be collectively responsible to Parliament.

(4) If the Prime Minister ceases to command the confidence of the Majority of the members of the House of Representatives, then, unless at his request the *Yang di-Pertuan Agong* dissolves Parliament, the Prime Minister shall tender the resignation of the Cabinet.

(5) Subject to Clause (4), Ministers other than the Prime Minister shall hold office during the pleasure of the *Yang di-Pertuan Agong*, unless the appointment of any Minister shall have been revoked by the *Yang di-Pertuan Agong* on the advice of the Prime Minister but any Minister may resign his office.

(6) Before a Minister exercises the functions of his office he shall take and subscribe in the presence of the *Yang di-Pertuan Agong* the oath of office and allegiance and the oath of secrecy set out in the Sixth Schedule.

(7) Notwithstanding anything in this Article, a person who is a citizen by naturalization or by registration under Article 17 shall not be appointed Prime Minister.

(8) If a member of the Legislative Assembly of a State is appointed a Minister he shall resign from the Assembly before exercising the functions of his office.

(9) Parliament shall by law make provision for the remuneration of members of the Cabinet.

43A. Deputy Ministers.

(1) The *Yang di-Pertuan Agong* may on the advice of the Prime Minister appoint Deputy Ministers from among the members of either House of Parliament; but if an appointment is made while Parliament is dissolved a person who was a member of the last House of Representatives may be appointed but shall not hold office after the beginning of the next session of Parliament unless he is a member either of that House or of the Senate.

(2) Deputy Ministers shall assist Ministers in the discharge of their duties and functions.

(3) The provisions of clauses (5), (6) and (8) of Article 43 shall apply to Deputy Ministers as they apply to Ministers.

(4) Parliament shall by law make provision for the remuneration of Deputy Ministers.

43B. Parliamentary Secretaries.

(1) The Prime Minister may appoint Parliamentary Secretaries from among the members of either House of Parliament; but if an appointment is made while Parliament is dissolved, a person who was a member of the last House of Representatives may be appointed, but shall not hold office after the beginning of the next session of Parliament unless he is a member either of that House or of the Senate.

(2) Parliamentary Secretaries shall assist Ministers and Deputy Ministers in the discharge of their duties and functions.

(3) A Parliamentary Secretary may at any time resign his office, and his appointment as such may be determined at any time by the Prime Minister.

(4) Before a Parliamentary Secretary exercises the functions of his office he shall take and subscribe in the presence of the Prime Minister the oath of secrecy set out in the Sixth Schedule.

(5) Parliament shall by law make provision for the remuneration of Parliamentary Secretaries.

43C. Political Secretaries.

(1) The Prime Minister may appoint such number of persons as he may think fit to be Political Secretaries.

(2) A person appointed as a Political Secretary by virtue of this Article

(a) need not be a member of either House of Parliament;

(b) may resign his office at any time;

(c) subject to paragraph (b), shall continue in office until such time as his appointment is determined by the Prime Minister.

(3) The provisions of Clause (4) of Article 43B shall apply to Political Secretaries as they apply to Parliamentary Secretaries.

(4) The duties and functions of Political Secretaries, and their remuneration, shall be determined by the Cabinet.

Chapter 4. Federal Legislature

44. Constitution of Parliament.

The legislative authority of the Federation shall be vested in a Parliament, which shall consist of the *Yang di-Pertuan Agong* and two *Majlis* (Houses of Parliament) to be known as the *Dewan Negara* (Senate) and the *Dewan Rakyat* (House of Representatives).

45. Composition of Senate.

(1) Subject to Clause (4), the Senate shall consist of elected and appointed members as follows

(a) two members for each State shall be elected in accordance with the Seventh Schedule; and

(b) thirty-two members shall be appointed by the *Yang di-Pertuan Agong*.

(2) The members to be appointed by the *Yang di-Pertuan Agong* shall be persons who in his opinion have rendered distinguished public service or have

achieved distinction in the professions, commerce, industry, agriculture, cultural activities or social service or are representative of racial minorities or are capable of representing the interests of aborigines.

(3) The term of office of a member of the Senate shall, subject to the provisions of the Seventh Schedule, be six years and shall not be affected by a dissolution of Parliament.

(4) Parliament may by law

- (a) increase to three the number of members to be elected for each State;
- (b) provide that the members to be elected for each State shall be so elected by the direct vote of the electors of that State.
- (c) decrease the number of appointed members or abolish appointed members.

46. Composition of House of Representatives.

(1) The House of Representatives shall consist of one hundred and fifty-four elected members.

(2) There shall be

- (a) one hundred and forty-nine members from the States in Malaysia as follows
 - (i) sixteen members from Johore;
 - (ii) thirteen members from Kedah;
 - (iii) twelve members from Kelantan;
 - (iv) four members from Malacca;
 - (v) six members from Negeri Sembilan;
 - (vi) eight members from Pahang;
 - (vii) nine members from Penang;
 - (viii) twenty-one members from Perak;
 - (ix) two members from Perlis;
 - (x) sixteen members from Sabah;
 - (xi) twenty-four members from Sarawak;
 - (xii) eleven members from Selangor;
 - (xiii) seven members from Trengganu; and
- (b) five members from the Federal Territory.

47. Qualifications for membership of Parliament.

Every citizen resident in the Federation is qualified to be a member

- (a) of the Senate, if he is not less than thirty years old;
- (b) of the House of Representatives, if he is not less than twenty-one years old,

unless he is disqualified for being a member by this Constitution or by any law made in pursuance of Article 48.

48. Disqualification for membership of Parliament.

(1) Subject to the provisions of this Article, a person is disqualified for being a member of either House of Parliament if

- (a) he is and has been found or declared to be of unsound mind; or
- (b) he is an undischarged bankrupt; or

- (c) he holds an office of profit; or
- (d) having been nominated for election to either House of Parliament or to the Legislative Assembly of a State, or having acted as election agent to a person so nominated, he has failed to lodge any return of election expenses required by law within the time and in the manner so required, or
- (e) he has been convicted of an offence by a court of law in the Federation (or, before Malaysia Day, in the territories comprised in the State of Sabah or Sarawak or in Singapore) and sentenced to imprisonment for a term of not less than one year or to a fine of not less than two thousand *ringgit* and has not received a free pardon; or
- (f) he has voluntarily acquired citizenship of, or exercised right of citizenship in, any country outside the Federation or has made a declaration of allegiance to any country outside the Federation.

(2) Federal law may impose, for such periods as may be specified thereby, disqualification for membership of either House of Parliament on persons committing offences in connection with elections; and any person who has been convicted of such an offence or has in proceedings relating to an election been proved guilty of an act constituting such an offence, shall be disqualified accordingly for the period so specified.

(3) The disqualification of a person under paragraph (d) or paragraph (e) of Clause (1) may be removed by the *Yang di-Pertuan Agong* and shall, if not so removed, cease at the end of the period of five years beginning with the date on which the return mentioned in the said paragraph (d) was required to be lodged, or, as the case may be, the date on which the person convicted as mentioned in the said paragraph (e) was released from custody or the date on which the fine mentioned in the said paragraph (e) was imposed on such person; and a person shall not be disqualified under paragraph (f) of Clause (1) by reason only of anything done by him before he became a citizen.

49. Provisions against double membership.

A person shall not at the same time be a member of both Houses of Parliament, nor be elected to the House of Representatives for more than one constituency or to the Senate for more than one State, nor be both an elected and an appointed member of the Senate.

50. Effect of disqualification and prohibition of nomination or appointment without consent.

(1) If a member of either House of Parliament becomes disqualified for membership of that House his seat shall become vacant.

(2) If a person disqualified for being a member of the House of Representatives is elected to that House or if a person disqualified for being a member of the Senate is elected or appointed to the Senate, or if an election or appointment to either House is contrary to Article 49, the election or appointment shall be void.

(3) (*Repealed*).

(4) A person cannot be validly nominated for election to membership of either House or appointed to the Senate without his consent.

51. Resignation of members.

A member of either House of Parliament may resign his membership by writing under his hand addressed, if he is a member of the Senate, to the President of the Senate, and if a member of the House of Representatives, to the Speaker of that House.

52. Absence of a member.

If a member of either House of Parliament is without the leave of the House absent from every sitting of the House for a period of six months the House may declare his seat vacant.

53. Decisions as to disqualification.

If any question arises whether a member of a House of Parliament has become disqualified for membership, the decision of that House shall be taken and shall be final:

Provided that this Article shall not be taken to prevent the practice of the House postponing a decision in order to allow for the taking or determination of any proceedings that may affect the decision (including proceedings for the removal of the disqualification).

54. Vacancies in Senate and casual vacancies.

(1) Save as provided under Clauses (2) and (3) whenever there is a vacancy among members of the Senate or a casual vacancy among members of the House of Representatives such vacancy or casual vacancy shall be filled within sixty days from the date on which it is established by the Election Commission that there is a vacancy, and an election shall be held or an appointment made accordingly;

Provided that failure to make any such appointment within the period specified in this Clause shall not invalidate any appointment made out of time:

Provided further, if a casual vacancy in the House of Representatives is established on a date within six months of the date Parliament shall, in accordance with clause (3) of Article 55, stand dissolved, such casual vacancy shall not be filled.

(2) Where a casual vacancy in the House of Representatives relates to a vacancy which shall be filled by a member from Sabah or Sarawak, such casual vacancy shall be filled within ninety days from the date on which it is established by the Election Commission that there is a vacancy and an election shall be held accordingly.

(3) Where a vacancy among members of the Senate relates to a vacancy which shall be filled by a member who shall be elected by a State in accordance with the Seventh Schedule, the provisions of Clause (1) shall not apply to the filling of such vacancy.

55. Summoning, prorogation and dissolution of Parliament.

(1) The *Yang di-Pertuan Agong* shall from time to time summon Parliament and shall not allow six months to elapse between the last sitting in one session and the date appointed for its first meeting in the next session.

(2) The *Yang di-Pertuan Agong* may prorogue or dissolve Parliament.

(3) Parliament unless sooner dissolved shall continue for five years from the date of its first meeting and shall then stand dissolved.

(4) Whenever Parliament is dissolved a general election shall be held within sixty days in the States of Malaya and ninety days in the States of Sabah and Sarawak from the date of the dissolution and Parliament shall be summoned to meet on a date not later than one hundred and twenty days from that date.

56. President and Deputy President of Senate.

(1) The Senate shall from time to time choose one of its members to be *Yang di-Pertua Dewan Negara* (President of the Senate) and one to be Deputy President of the Senate, and shall transact no business while the office of President is vacant other than the election of a President.

(2) A member holding office as President or Deputy President shall cease to hold his office on the expiry of the term for which he was elected or appointed a member or on otherwise ceasing to be a member of the Senate and may at any time resign his office.

(3) During any absence of the President from any sitting the Deputy President or, if he also is absent, such other member as may be determined by the rules of procedure of the Senate, shall act as President.

(4) If a member of the Legislative Assembly of a State is chosen to be President he shall resign from the Assembly before exercising the functions of his office.

57. Speaker and Deputy Speaker of the House of Representatives.

(1) The House of Representatives shall from time to time elect

(a) as *Yang di-Pertuan Dewan Rakyat* (Speaker), a person who either is a member of the House or is qualified for election as such a member, and

(b) as Deputy Speaker, a person who is a member of the House;

and the House shall transact no business while the office of Speaker is vacant other than the election of a Speaker.

(1A) Any person elected as Speaker who is not a member of the House of Representatives

(a) shall, before he enters upon the duties of his office, take and subscribe before the House the oath of office and allegiance set out in the Sixth Schedule, and

(b) shall, by virtue of holding his office, be a member of the House additional to the members elected pursuant to Article 46:

Provided that paragraph (b) shall not have effect for the purposes of any of the following provisions of this Constitution, that is to say, Articles 43, 43A, 43B, 50 to 52, 54 and 59; and no person shall be entitled by virtue of that paragraph to vote on any matter before the House.

(2) The Speaker may at any time resign his office by writing under his hand addressed to the Clerk of the House of Representatives, and shall vacate his office

(a) when the House first meets after a general election;

(b) on his ceasing to be a member of the House otherwise than by reason of a dissolution thereof or, if he is a member by virtue only of paragraph (b) of Clause (1A), on his ceasing to be qualified to be a member;

(c) if the House at any time so resolves.

(2A). The Deputy Speaker may at any time resign his office by writing under his hand addressed to the Clerk of the House of Representatives and shall vacate his office

(a) on his ceasing to be a member of the House;

(b) if the House at any time so resolves.

(3) During any absence of the Speaker from a sitting of the House of Representatives the Deputy Speaker or, if he also is absent, such other member as may be determined by the rules of procedure of the House, shall act as Speaker.

(4) If a member of the Legislative Assembly of a State is chosen to be Speaker he shall resign from the Assembly before exercising the functions of his office.

58. Remuneration of President, Deputy President, Speaker and Deputy Speaker.

Parliament shall by law provide for the remuneration of the President and Deputy President of the Senate and the Speaker and Deputy Speaker of the House of Representatives, and the remuneration so provided for the President of the Senate and the Speaker of the House of Representatives shall be charged on the Consolidated Fund.

59. Oaths by members.

(1) Every member of either House of Parliament shall before taking his seat take and subscribe before the person presiding in the House an oath in the form set out in the Sixth Schedule, but a member may before taking that oath take part in the election of a President of the Senate or Speaker of the House of Representatives.

(2) If a member has not taken his seat within three months from the date on which the House first sits after his election or such further time as the House may allow, his seat shall become vacant.

60. Address by the *Yang di-Pertuan Agong*.

The *Yang di-Pertuan Agong* may address either House of Parliament or both Houses jointly.

61. Special provisions as to Cabinet and Attorney General.

(1) In addition to his rights as a member of one of the Houses of Parliament every member of the Cabinet shall have the right to take part in the proceedings of the other House.

(2) Either House of Parliament may appoint as a member of any of its committees the Attorney General or any member of the Cabinet notwithstanding that he is not a member of that House.

(3) This Article does not authorize any person who is not a member of a House to vote in that House or any of its committees.

(4) In this Article 'member of the Cabinet' includes a Deputy Minister.

62. Parliamentary procedure.

(1) Subject to the provisions of this Constitution and of federal law, each House of Parliament shall regulate its own procedure.

(2) Each House may act notwithstanding any vacancy in its membership, and the presence or participation of any person not entitled thereto shall not invalidate any proceedings.

(3) Subject to Clause (4) and to Articles 89 (1) and 159 (3) and to sanctions 10 and 11 of the Thirteenth Schedule, each House shall, if not unanimous, take its decision by a simple majority of members voting; and the person presiding shall unless he is a member of the House by virtue only of paragraph (b) of Clause (1A) of Article 57 cast his vote whenever necessary to avoid an equality of votes, but shall not vote in any other case.

(4) In regulating its procedure each House may provide, as respects any decision relating to its proceedings, that it shall not be made except by a specified majority or by a specified number of votes.

(5) Members absent from a House shall not be allowed to vote.

63. Privileges of Parliament.

(1) The validity of any proceedings in either House of Parliament or any committee thereof shall not be questioned in any court.

(2) No person shall be liable to any proceedings in any court in respect of anything said or any vote given by him when taking part in any proceedings of either House of Parliament or any committee thereof.

(3) No person shall be liable to any proceedings in any court in respect of anything published by or under the authority of either House of Parliament.

(4) Clause (2) shall not apply to any person charged with an offence under the law passed by Parliament under Clause (4) of Article 10 or with an offence under the Sedition Act, 1948 as amended by the Emergency (Essential Powers) Ordinance No. 45, 1970.

64. Remuneration of members.

Parliament shall by law provide for the remuneration of members of each House.

65. Clerks of Senate and House of Representatives.

(1) There shall be a Clerk to the Senate and a Clerk to the House of Representatives.

(2) The Clerk to the Senate and the Clerk to the House of Representatives shall be appointed by the *Yang di-Pertuan Agong* and, subject to Clause (3), each shall hold office until he attains the age of sixty years or such other age as Parliament may by law provide, unless he sooner resigns his office:

Provided that this Clause shall not be taken to prevent the *Yang di-Pertuan Agong* from making the appointment from amongst the members of the public services to which Part X applies for such shorter period as he may deem fit, and this proviso shall be deemed to have been an integral part of this Article as from Merdeka Day.

(3) The Clerk to the Senate and the Clerk to the House of Representatives may be removed from office on the like grounds and in the like manner as a judge

of the Federal Court, except that the representation mentioned in Article 125 (3) shall be a representation made by the President of the Senate or, as the case may be, the Speaker of the House of Representatives.

(4) Except as otherwise expressly provided by this Article, the qualifications for appointment and conditions of service of the Clerk to the Senate and the Clerk to the House of Representatives, and of members of the staff of the Houses of Parliament, may be regulated by federal law.

(5) The Clerk to the Senate, the Clerk to the House of Representatives and members of the staff of Parliament are disqualified for being members of either House of Parliament or the Legislative Assembly of any State.

Chapter 5. Legislative procedure

66. Exercise of legislative power.

(1) The power of Parliament to make laws shall be exercised by Bills passed by both Houses (or, in the cases mentioned in Article 68, the House of Representatives) and assented to by the *Yang di-Pertuan Agong*.

(2) Subject to Article 67, a Bill may originate in either House.

(3) When a Bill has been passed by the House in which it originated it shall be sent to the other House; and it shall be presented to the *Yang di-Pertuan Agong* for his assent when it has been passed by the other House and agreement has been reached between the two Houses on any amendments made in it or when it is required to be so presented under Article 68.

(4) The *Yang di-Pertuan Agong* shall signify his assent to a Bill by causing the Public Seal to be affixed thereto, and after assenting to a Bill he shall cause it to be published as a law.

(5) A Bill shall become law on being assented to by the *Yang di-Pertuan Agong*, but no law shall come into force until it has been published, without prejudice, however, to the power of Parliament to postpone the operation of any law or to make laws with retrospective effect.

(6) Nothing in this Article or in Article 68 shall invalidate any law confirming an undertaking given by the Federal Government to the effect that a Bill to which the undertaking relates shall not be presented to the *Yang di-Pertuan Agong* for his assent except in accordance with the undertaking.

67. Restriction on introduction of Bills and moving of amendments involving taxation, expenditure, etc.

(1) A Bill or amendment making provision (whether directly or indirectly) for

- (a) imposing or increasing any tax or abolishing, reducing or remitting any existing tax, or
- (b) the borrowing of money, or the giving of any guarantee, by the Federation, or the amendment of the law relating to the financial obligations of the Federation;
- (c) the custody of the Consolidated Fund, the charging of any money on the Consolidated Fund or the abolition or alteration of any such charge;

- (d) the payment of moneys into the Consolidated Fund or the payment, issue or withdrawal from the Consolidated Fund of any moneys not charged thereon, or any increase in the amount of such a payment, issue or withdrawal;
- (e) the compounding or remission of any debt due to the Federation;
- (f) the assignment of a tax or fee or the making of a grant to any State;
- (g) the receipt of moneys on account of the Consolidated Fund or the custody or issue of such moneys or the audit of the accounts of the Federation of a State;

being provision as respects which the Minister charged with responsibility for finance signifies that it goes beyond what is incidental only and not of a substantial nature having regard to the purposes of the Bill or amendment shall not be introduced or moved except by a Minister, and a Bill making any such provision shall not be introduced in the Senate.

(2) A Bill or amendment shall not be deemed to make provision for any of the said matters by reason only that it provides

- (a) for the imposition or alteration of any fine or other pecuniary penalty or for the payment or demand of a licence fee or a fee or charge for any service rendered; or
- (b) for the imposition, alteration or regulation of any tax or rate by any local authority or body for local purposes.

68. Assent to Bills passed by House of Representatives only.

(1) Where a money Bill is passed by the House of Representatives and, having been sent to the Senate at least one month before the end of the session, is not passed by the Senate without amendment within a month, it shall be presented to the *Yang di-Pertuan Agong* for his assent unless the House of Representatives otherwise directs.

(2) Where

- (a) a Bill which is not a money Bill is passed by the House of Representatives and, having been sent to the Senate at least one month before the end of the session, is not passed by the Senate or is passed by the Senate with amendments to which the House of Representatives does not agree; and
- (b) in the following session (whether of the same Parliament or not) but not earlier than one year after it was first passed by the House of Representatives the same Bill, with no other alterations than those mentioned in Clause (3), is passed again by the House of Representatives and sent to the Senate at least one month before the end of the session and is not passed by the Senate or is passed by the Senate with amendments to which the House of Representatives does not agree.

the Bill shall, unless the House of Representatives otherwise directs, be presented to the *Yang di-Pertuan Agong* for his assent with such amendments, if any, as may have been agreed to by both Houses.

(3) The alterations referred to in Clause (2) are alterations certified by the Speaker of the House of Representatives to be necessary owing to the time which has elapsed since the Bill was passed in the earlier session or to represent amendments made in that session by the Senate.

(4) When a Bill is presented to the *Yang di-Pertuan Agong* in pursuance of this Article it shall bear a certificate of the Speaker of the House of Representatives that the provisions of this Article have been complied with, and that certificate shall be conclusive for all purposes and shall not be questioned in any court.

(5) This Article does not apply to any Bill for making any amendment to this Constitution, other than an amendment excepted from the provisions of Article 159 (3).

(6) In this Article 'money Bill' means a Bill which, containing in the opinion of the Speaker of the House of Representatives only provisions dealing with all of any of the following matters, that is to say

- (a) the matters mentioned in Article 67 (1) or the regulation of any tax;
- (b) the reduction of any such amount as is mentioned in paragraph (d) of Article 67 (1); and
- (c) any matter incidental to those matters or any of them, is certified by him as a money Bill.

Chapter 6. Capacity as respects property, contracts and suits

69. Capacity of Federation as respects property, contracts and suits.

(1) The Federation has power to acquire, hold and dispose of property of any kind and to make contracts.

(2) The Federation may sue and be sued.

PART V

THE STATES

70. Precedence of Rulers and *Yang di-Pertua Yang di-Pertua Negeri*.

(1) Subject to the precedence of the *Yang di-Pertuan Agong* and his consort, the Rulers and *Yang di-Pertua Yang di-Pertua Negeri* of the States shall take precedence over all other persons and each Ruler or *Yang di-Pertua Negeri* shall in his own State take precedence over the other Rulers and *Yang di-Pertua Yang di-Pertua Negeri*.

(2) Subject to Clause (1), the Rulers shall take precedence over the *Yang di-Pertua Yang di-Pertua Negeri* and, among themselves, in accordance with the dates on which they acceded as Rulers, and the *Yang di-Pertua Yang di-Pertua Negeri* shall take precedence among themselves in accordance with the dates on which they were appointed as *Yang di-Pertua Yang di-Pertua Negeri*; and if *Yang di-Pertua Yang di-Pertua Negeri* were appointed on the same day the older shall take precedence over the younger.

71. Federal guarantee of State Constitutions.

(1) The Federation shall guarantee the right of a Ruler of a State to succeed and to hold, enjoy and exercise the constitutional rights and privileges of Ruler of that State in accordance with the Constitution of that State; but any dispute as to the title to the succession as Ruler of any State shall be determined solely by such authorities and in such manner as may be provided by the Constitution of that State.

(2) Clause (1) shall, with the necessary modification, apply in relation to a Ruling Chief of *Negeri Sembilan* as it applies to the Ruler of a State.

(3) If it appears to Parliament that in any State any provision of this Constitution or of the Constitution of that State is being habitually disregarded Parliament may, notwithstanding anything in this Constitution, by law make provision for securing compliance with those provisions.

(4) If at any time the Constitution of any State does not contain the provisions set out in Part I of the Eighth Schedule, with or without the modifications allowed under Clause (5) (hereinafter referred to as 'the essential provisions') or provisions substantially to the same effect, or contains provisions inconsistent with the essential provisions, Parliament may, notwithstanding anything in this Constitution, by law make provision for giving effect in that State to the essential provisions or for removing the inconsistent provisions.

(5) The provisions set out in Part I of the Eight Schedule may be modified by substituting for section 2 or section 4 or both the provisions set out in Part II of that Schedule as an alternative thereto

(a) in the case of every State, until the dissolution of the second Legislative Assembly constituted in accordance with those provisions or those provisions so modified;

(b) in the case of Perlis, until such further time as the Legislative Assembly of that State may resolve and, as respects the provision set out in section 2 of that Schedule, indefinitely.

(6) A law made for a State in pursuance of this Article shall, unless sooner repealed by Parliament, cease to have effect on such day as a new legislative Assembly, constituted in that State after the passing of the law, may resolve.

(7) In relation to the State of Sabah or Sarawak

(a) Clause (5) shall not apply; but

(b) until the end of August, 1975, or such earlier date as the *Yang di-Pertuan Agong* with the concurrence of the *Yang di-Pertua Negeri* may by order direct, Clause (4) shall apply as if the reference to the modifications made by the Constitution of the State as in force on Malaysia Day.

(8) (*Repealed*).

72. Privileges of Legislative Assembly.

(1) The validity of any proceedings in the Legislative Assembly of any State shall not be questioned in any court.

(2) No person shall be liable to any proceedings in any court in respect of

anything said of any vote given by him when taking part in proceedings of the Legislative Assembly of any State or any committee thereof.

(3) No person shall be liable to any proceedings in any court in respect of anything published by or under the authority of the Legislative Assembly of any State.

(4) Clause (2) shall not apply to any person charged with an offence under the law passed by Parliament under Clause (4) of Article 10 or with an offence under the Sedition Act, 1948 as amended by the Emergency (Essential Powers) Ordinance No. 45, 1970.

PART VI

RELATIONS BETWEEN THE FEDERATION AND THE STATES

Chapter 1. Distribution of legislative powers

73. Extent of federal and State laws.

In exercising the legislative powers conferred on it by this Constitution

- (a) Parliament may make laws for the whole or any part of the Federation and laws having effect outside as well as within the Federation;
- (b) the Legislature of a State may make laws for the whole or any part of that State.

74. Subject matter of federal and State laws.

(1) Without prejudice to any power to make laws conferred on it by any other Article, Parliament may make laws with respect to any of the matters enumerated in the Federal List or the Concurrent List (that is to say, the First or Third List set out in the Ninth Schedule).

(2) Without prejudice to any power to make laws conferred on it by any other Article the Legislature of a State may make laws with respect to any of the matters enumerated in the State List (that is to say, the Second List set out in the Ninth Schedule) of the Concurrent List.

(3) The power to make laws conferred by this Article is exercisable subject to any conditions or restrictions imposed with respect to any particular matter by this Constitution.

(4) Where general as well as specific expressions are used in describing any of the matters enumerated in the Lists set out in the Ninth Schedule the generality of the former shall not be taken to be limited by the latter.

75. Inconsistencies between federal and State laws.

If any State law is inconsistent with a federal law, the federal law shall prevail and the State law shall, to the extent of the inconsistency, be void.

76. Power of Parliament to legislate for States in certain cases.

(1) Parliament may make laws with respect to any matter enumerated in the State List, but only as follows, that is to say:

- (a) for the purpose of implementing any treaty, agreement or convention between the Federation and any other country, or any decision of an international organization of which the Federation is a member; or
- (b) for the purpose of promoting uniformity of the laws of two or more States; or
- (c) if so requested by the Legislative Assembly of any State.

(2) No law shall be made in pursuance of paragraph (a) of Clause (1) with respect to any matters of Islamic law or the custom of the Malays or to any matters of native law or custom in the States of Sabah and Sarawak and no Bill for a law under that paragraph shall be introduced into either House of Parliament until the Government of any State concerned has been consulted.

(3) Subject to Clause (4), a law made in pursuance of paragraph (b) or paragraph (c) of Clause (1) shall not come into operation in any State until it has been adopted by a law made by the Legislature of that State, and shall then be deemed to be a State law and not a federal law, and may accordingly be amended or repealed by a law made by that Legislature.

(4) Parliament may, for the purpose only of ensuring uniformity of law and policy, make laws with respect to land tenure, the relations of landlord and tenant, registration of titles and deeds relating to land, transfer of land, mortgages, leases and charges in respect of land, easements and other rights and interests in land, compulsory acquisition of land, rating and valuation of land, and local government; and Clauses (1) (b) and (3) shall not apply to any law relating to any such matter.

76A. Power of Parliament to extend legislative powers of States.

(1) It is hereby declared that the power of Parliament to make laws with respect to a matter enumerated in the Federal List includes power to authorize the Legislatures of the States or any of them, subject to such conditions or restrictions (if any) as Parliament may impose, to make laws with respect to the whole or any part of that matter.

(2) Notwithstanding Article 75, a State law made under authority conferred by Act of Parliament as mentioned in Clause (1) may, if and to the extent that the Act so provides, amend or repeal (as regards the State in question) any federal law passed before that Act.

(2) Any matter with respect to which the Legislature of a State is for the time being authorized by Act of Parliament to make laws shall for purposes of Articles 79, 80 and 82 be treated as regards the State in question as if it were a matter enumerated in the Concurrent List.

77. Residual power of legislation.

The Legislature of a State shall have power to make laws with respect to any matter not enumerated in any of the Lists set out in the Ninth Schedule, not being a matter in respect of which Parliament has power to make laws.

78. Legislation restricting use of rivers.

In so far as any law made by Parliament or any regulation made in pursuance

of such a law restricts the rights of a State or its residents to the use for navigation or irrigation of any river wholly within that State it shall not have effect in that State unless it has been approved by a resolution of the Legislative Assembly of that State supported by a majority of the total number of its members.

79. Exercise of concurrent legislative powers.

(1) Where it appears to the presiding officer of either House of Parliament or of the Legislative Assembly of any State that a Bill or an amendment to a Bill proposes a change in the law relating to any of the matter enumerated in the Concurrent List, or to any of the matters enumerated in the State List with respect to which the Federation is exercising functions in accordance with Article 94, he shall certify the Bill or amendment for the purposes of this Article.

(2) A Bill or amendment certified under this Article shall not be proceeded with until four weeks have elapsed since its publication, unless the presiding officer, being satisfied that State Governments, or as the case may be, the Federal Government, have been consulted, allows it to be proceeded with on the ground of urgency.

Chapter 2. Distribution of Executive Powers

80. Distribution of executive powers.

(1) Subject to the following provisions of this Article the executive authority of the Federation extends to all matters with respect to which Parliament may make laws, and the executive authority of a State to all matters with respect to which the Legislature of that State may make laws.

(2) The executive authority of the Federation does not extend to any matter enumerated in the State List, except in so far as is provided in Articles 93 to 95, nor to any matter enumerated in the Concurrent List, except in so far as may be provided by federal or State law; and so far as federal or State law confers executive authority on the Federation with respect to any matter enumerated in the Concurrent List it may do so to the exclusion of the executive authority of the State.

(3) So far as a law made under Article 76 (4) makes provision for conferring executive authority on the Federation it shall not operate in any State unless approved by resolution of the Legislative Assembly of that State.

(4) Federal law may provide that the executive authority of a State shall extend to the administration of any specified provisions of federal law and may for that purpose confer powers and impose duties on any authority of the State.

(5) Subject to any provisions of federal or State law, arrangements may be made between the Federation and a State for the performance of any functions by the authorities of the one on behalf of the authorities of the other and such arrangements may provide for the making of payments in respect of any costs incurred under the arrangements.

(6) Where, in pursuance of Clause (4), any functions are conferred by federal law on any authority of a State the Federation shall make such payments to the State as may be agreed between the Federation and the State or as may in

default of agreement be determined by a tribunal appointed by the Lord President of the Federal Court.

81. Obligations of States towards Federation.

The executive authority of every State shall be so exercised

- (a) as to ensure compliance with any federal law applying to that State; and
- (b) as not to impede or prejudice the exercise of the executive authority of the Federation.

Chapter 3. Distribution of Financial Burdens

82. Financing of expenditure relating to matters on Concurrent List.

Where any law or executive action relating to any of the matters enumerated in the Concurrent List involves expenditure, such action shall be taken under this Constitution as will ensure that, unless otherwise agreed, the burden of that expenditure is borne

- (a) by the Federation, if the expenditure results either from federal commitments or from State commitments undertaken in accordance with federal policy and with the specific approval of the Federal Government;
- (b) by the State or States concerned, if the expenditure results from State commitments undertaken by the State or States on its or their own authority.

Chapter 4. Land

83. Acquisition of land for federal purposes.

(1) If the Federal Government is satisfied that land in a State, not being alienated land, is needed for federal purposes, that Government may, after consultation with the State Government, require the State Government, and it shall then be the duty of that Government, to cause to be made to the Federation, or to such public authority as the Federal Government may direct, such grant of the land as the Federal Government may direct:

Provided that the Federal Government shall not require the grant of any land reserved for a State purpose unless it is satisfied that it is in the national interest so to do.

(2) Where in accordance with Clause (1) the Federal Government requires the State Government to cause to be made a grant of land in perpetuity, the grant shall be made without restrictions as to the use of the land but shall be subject to the payment annually of an appropriate quit rent and the Federation shall pay to the State a premium equal to the market value for the grant; and where the Federal Government so requires the State Government to cause to be granted any other interest in land, the Federation shall pay to the State the just annual rent therefor and such premium, if any is required by the State Government, as may be just:

Provided that if the value of the land has been increased by means of any improvement made (otherwise than at the expense of the State) while the land was reserved

for federal purposes, the increase shall not be taken into consideration in determining the market value, rent or premium for the purposes of this Clause.

(3) Where a requirement is made under Clause (1) in respect of any land which, at the date of the requirement, was intended for any State purpose, then if

- (a) other land is acquired by the State for that purpose in substitution for the first-mentioned land; and
- (b) the cost of the land so acquired exceeds the amount paid by the Federation (otherwise than as rent) in accordance with Clause (2) in respect of the interest granted to the Federation,

the Federation shall pay to the State such sum as may be just in respect of the excess.

(4) Where a further grant is made in pursuance of this Article in respect of land and interest in which is vested in the Federation or any public authority, any sums payable by ways of premium under Clause (2) in respect of the further grant shall be reduced by an amount equal to the market value of any improvements made (otherwise than at the expense of the State) since that interest became vested as aforesaid.

(5) The foregoing provisions of this Article (except Clause (3)) shall apply in relation to alienated land as they apply in relation to land not being alienated land but subject to the following modifications:

- (a) in Clause (1), the words 'after consultation with the State Government' shall be omitted;
- (b) where a requirement is made under that Clause it shall be the duty of the State Government to cause to be acquired by agreement or compulsorily such interest in the land as may be necessary for complying with the requirement;
- (c) any expenses incurred by the State in or in connection with the acquisition of land in accordance with paragraph (b) shall be repaid by the Federation, except that if the acquisition is by agreement the Federation shall not, unless it is party to the agreement, be liable to pay more than it would have paid on a compulsory acquisition;
- (d) any sums paid by the Federation to the State in accordance with paragraph (c) shall be taken into consideration in determining for the purposes of Clause (2) the market value, the appropriate quit rent or the just annual rent, and shall be deducted from any premium to be paid by the Federation under that Clause.

(6) Where a grant is made to the Federation in pursuance of Clause (1) in respect of land which, or an interest in which, was acquired by the State Government at the expense of the Government of the Federation of Malaya before Merdeka Day, paragraph (d) of Clause (5) shall apply to the sums paid in respect of the acquisition by the Government of the Federation of Malaya as if they were sums paid by the Federation in accordance with paragraph (c) of Clause (5); and Clause (3) shall not apply to any such land.

(7) Nothing in this Article shall prevent the reservation of land in a State for federal purposes on such terms and conditions as may be agreed between the Federal Government and the Government of the State, or affect the power of the appropriate authority in a State to acquire in accordance with any law for the time being in force any alienated land for federal purposes without a requirement by the Federal Government under this Article.

84. Reversion to States of land held for federal purposes.

(1) Where any interest in land in a State vested in the Federation or a public authority for federal purposes ceases to be required for federal purposes, it shall revert to that State if the State Government agrees to pay to the Federation

(a) in a case where the land, or an interest therein was acquired by the State Government in pursuance of Clause (5) of Article 83, or was acquired by the State Government at the expense of the Government of the Federation of Malaya before Merdeka Day, an amount equal to the market value of the interest vested in the Federation or public authority;

(b) in any other case, at the option of the State Government, either

- (i) an amount equal to the market value of that interest; or
- (ii) an amount equal to the sums paid (otherwise than as rent) by the Federation, or by the Government of the Federation of Malaya before Merdeka Day, in respect of the grant of that interest, together with the market value of any improvements made (otherwise than at the expense of the State) to the land after that grant.

(2) Where any interest in land to which Clause (1) applies does not revert to the State in accordance with that Clause, the Federal Government or the public authority, as the case may be, may sell the interest on such terms and conditions as the Government or authority may think fit.

85. Release of land reserved for federal purposes.

(1) Where any land in a State which is reserved for any federal purposes ceases to be required for those purposes, the Federal Government shall offer to release the land to the State on condition that the State pays to the Federation

(a) the market value of any improvements made (otherwise than at the expense of the State) while the land was in use for federal purposes; and

(b) the amount, if any, paid by the Federation, or paid before Merdeka Day by the Government of the Federation of Malaya, in respect of the cost of acquisition of any interest in the land by the State Government;

and if the State Government accepts the offer the reservation shall cease.

(2) Where the State Government does not accept an offer made in accordance with Clause (1), then, unless by agreement between the Federal Government and the State Government the land is reserved for another federal purpose, the Federal Government may require the State Government, and it shall then be the

duty of that Government, to cause to be made to the Federation a grant of the land in perpetuity without restrictions as to the use of the land, but subject to the payment of a premium equal to the market value of the land reduced by the amounts which would have been payable to the Federation under Clause (1) if the said offer had been accepted, and to the payment annually of an appropriate quit rent; and where such a grant is made to the Federation, the Federal Government may sell and transfer or lease the land on such terms and conditions as it may think fit.

(3) Except as provided by this Article, land in a State which is reserved for federal purposes shall not cease to be so reserved, and all land so reserved shall be controlled and managed by or on behalf of the Federal Government.

86. Dispositions of land held for federal purposes.

(1) Where any interest in land is vested in the Federation, the Federation may, subject to Article 84 and to Clause (2) of this Article, dispose of that interest or any smaller interest in the land.

(2) Every such disposition of an interest in land shall be made conditional on the land being used for a federal purpose specified therein, and no such disposition shall be made to a person other than public authority except

(a) under and in accordance with provisions of federal law; or

(b) by an order of the *Yang di-Pertuan Agong* laid and approved in accordance with Clause (3);

Provided that nothing in this Clause shall apply to a disposition authorized by Article 84 or Article 85, or to a disposition by the Federation to any person for the purposes of the implementation of any treaty, agreement or convention with any other country, or to any person in his capacity as consular or diplomatic representative of any other country.

(3) An order of the *Yang di-Pertuan Agong* under paragraph (b) of Clause (2) shall be laid before both Houses of Parliament and shall not take effect until it is approved by resolution of each House.

(4) Except as provided by Article 84, no interest in land vested for federal purposes in a public authority, or vested in any other person by virtue of a disposition under this Article, shall be disposed of by that authority or person otherwise than to the Federation.

(5) Where any interest in land in a State is disposed of by or to the Federation or any public authority in pursuance of this Article or of Article 84 or 85, it shall be the duty of the Government of that State to register the transaction accordingly.

87. Determination of disputes as to land values.

(1) Where any dispute arises between the Federal Government and a State Government as to the making of any payment by or to the Federation under the foregoing Articles of this Chapter, or as to the amount of any such payment, the dispute shall be referred, at the instance either of the Federal Government or of the State Government, to the Lands Tribunal appointed in accordance with this Article.

(2) The Lands Tribunal shall consist of

- (a) a chairman, who shall be appointed by the Lord President of the Federal Court and who shall be, or have been, or be qualified to be a judge of the Federal Court or a High Court, or shall before Malaysia Day have been a judge of the Supreme Court;
- (b) a member who shall be appointed by the Federal Government; and
- (c) a member who shall be appointed by the State Government.

(3) The practice and procedure of the Lands Tribunal shall be regulated by rules of court framed by the Rules Committee or other authority having power under written law to make rules or orders regulating the practice and procedure of the Federal Court.

(4) An appeal shall lie from the Lands Tribunal to the Federal Court on any question of law.

88. Application of Articles 83 to 87 to States not having a Ruler.

In their application to any of the States not having a Ruler, Articles 83 to 87 shall have effect

- (a) subject to such adaptations (if any) as Parliament may by law provide, being adaptations required to secure that they apply (as nearly as practicable having regard to differences in the system of land tenure) in the same manner as they apply to other States; and
- (b) in the case of the States of Sabah and Sarawak with the omission in Article 83 of paragraph (a) of Clause (5).

89. Malay reservations.

(1) Any land in a State which immediately before Merdeka Day was a Malay reservation in accordance with the existing law may continue as a Malay reservation in accordance with that law until otherwise provided by an Enactment of the Legislature of that State, being an Enactment

- (a) passed by a majority of the total number of members of the Legislative Assembly and by the votes of not less than two-thirds of the members present and voting; and
- (b) approved by resolution of each House of Parliament passed by a majority of the total number of members of that House and by the votes of not less than two-thirds of the members voting.

(2) Any land in a State which is not for the time being a Malay reservation in accordance with the existing law and has not been developed or cultivated may be declared as a Malay reservation in accordance with that law:

Provided that

- (a) where any land in a State is declared a Malay reservation under this clause, an equal area of land in that State which has not been developed or cultivated shall be made available for general alienation; and
- (b) the total area of land in a State for the time being declared as a Malay reservation under this Clause shall not at any time exceed the total area of land in that State which has been made available for general alienation in pursuance of paragraph (a).

(3) Subject to Clause (4), the Government of any State may, in accordance with the existing law, declare as a Malay reservation

- (a) any land acquired by that Government by agreement for that purpose;
- (b) on the application of the proprietor, and with the consent of every person having a right or interest therein, any other land;
- (c) in a case where any land ceases to be a Malay reservation, any land of a similar character and of an area not exceeding the area of that land.

(4) Nothing in this Article shall authorize the declaration as a Malay reservation of any land which at the time of the declaration is owned or occupied by a person who is not a Malay or in or over which such a person has then any right or interest.

(5) Without prejudice to Clause (3), the Government of any State may, in accordance with law, acquire land for the settlement of Malays or other communities, and establish trusts for that purpose.

(6) In this Article 'Malay reservation' means land reserved for alienation to Malays or to natives of the State in which it lies; and 'Malay' includes any person who, under the law of the State in which he is resident, is treated as a Malay for the purposes of the reservation of land.

(7) Subject to Article 161A, this Article shall have effect notwithstanding any other provision) no land shall be retained or declared as a Malay reservation except as provided by this Article and Article 90.

90. Special provisions relating to customary land in Negeri Sembilan and Malacca, and Malay holdings in Trengganu.

(1) Nothing in this Constitution shall affect the validity of any restrictions imposed by law on the transfer or lease of customary land in the State of Negeri Sembilan or the State of Malacca, or of any interest in such land.

(2) Notwithstanding anything in this Constitution, the existing law in the State of Trengganu with respect to Malay holdings shall continue in force until otherwise provided by an Enactment of the Legislature of that State passed and approved as described in Clause (1) of Article 89.

(3) Any such Enactment of the Legislature of the State of Trengganu may make provision for Malay reservation corresponding with the existing law in force in any other State of a Ruler; and in that event the said Article 89 shall have effect in relation to Trengganu subject to the following modifications, that is to say

- (a) in Clause (1), for the reference to land which immediately before Merdeka Day was a Malay reservation in accordance with the existing law, there shall be substituted a reference to land which, immediately before the passing of the said Enactment, was a Malay holding; and
- (b) subject as aforesaid, any reference to the existing law shall be construed as a reference to the said Enactment.

91. The National Land Council.

(1) There shall be a National Land Council consisting of a Minister as chairman, one representative from each of the States, who shall be appointed by the Ruler or *Yang di-Pertua Negeri*, and such number of representatives of the Federal Government as that Government may appoint but, subject to Clause (5) of Article 95E, the number of representatives of the Federal Government shall not exceed ten.

(2) The chairman may vote on any question before the National Land Council but shall not have a casting vote.

(3) The National Land Council shall be summoned to meet by the chairman as often as he considers necessary but there shall be at least one meeting in every year.

(4) If the chairman or a representative of a State or of the Federal Government is unable to attend a meeting, the authority by whom he was appointed may appoint another person to take his place at that meeting.

(5) It shall be the duty of the National Land Council to formulate from time to time in consultation with the Federal Government, the State Governments and the National Finance Council a national policy for the promotion and control of the utilisation of land throughout the Federation for mining, agriculture, forestry or any other purpose, and for the administration of any laws relating thereto; and the Federal and State Governments shall follow the policy so formulated.

(6) The Federal Government or the Government of any State may consult the National Land Council in respect of any other matter relating to the utilization of land or in respect of any proposed legislation dealing with land or of the administration of any such law, and it shall be the duty of the National Land Council to advise that Government on any such matters.

Chapter 5. National Development

92. National development plan.

(1) If after a recommendation from an expert committee and after consultation with the National Finance Council, the National Land Council and the Government of any State concerned, the *Yang di-Pertuan Agong* is satisfied that it is conducive to the national interest that a development plan be put into operation in any area or areas in one or more of the States, the *Yang di-Pertuan Agong* may, after publishing the plan, proclaim the area or areas as a development area; and thereupon Parliament shall have power to give effect to the development plan or any part thereof, notwithstanding that any of the matters to which the plan relates are matters with respect to which, apart from this Article, only States would have power to make laws.

(2) Any Act passed in pursuance of this Article shall recite that it has been so passed and that the provisions of Clause (1) have been complied with; and Article 79 shall not apply to any Bill for such an Act or any amendment to such a Bill.

(3) In this Article, 'development plan' means a plan for the development, improvement, or conservation of the natural resources of a development area, the

exploitation of such resources, or the increase of means of employment in the area.

(4) Without prejudice to their power under any other Article to require any interest in land to be acquired or granted for federal purposes, the Federal government may from time to time require the reservation for the purposes of a development plan to such extent as they may specify, of any land in a development area which is not occupied by private persons; but any diminution, in consequence of the reservation, of the annual revenue received by a State shall be made good to the State by the Federation.

(5) All income received by the Federation through the operation of a development plan shall, subject to Clause (6), be applied

- (a) in the first instance, for the provision of capital and the meeting of working expenses for the development plan;
- (b) in the second instance, for the payment to the Federation of any expenditure, including expenditure under Clause (4), incurred by the Federation in operating the plan; and
- (c) as to the balance, for payments to the State in which the development area is situated or, if it is situated in two or more States, to those States in such proportions as the Federal Government may determine.

(6) If it is agreed between the Federal Government and the Government of any State which includes the whole or any part of the development area that any expenditure incurred in operating the development plan is to be met by the State, any expenditure so met shall be repaid to the State and the repayment shall rank *pari passu* with the repayment to the Federation of any expenditure incurred by the Federation.

(7) Parliament may repeal or amend any Act passed in pursuance of this Article, and for that purpose may make such incidental and consequential provisions as it may consider necessary.

(8) Nothing in this Article shall affect the power of Parliament or of the Legislature of any State

- (a) to impose such taxes or rates as it is authorized to impose under any other provision of this Constitution; or
- (b) to make from the Federal Consolidated Fund or the State Consolidated Fund, as the case may be, grants not repayable under Clause (5) or (6);

except that where, in pursuance of Clause (1), a rate is imposed on any property by federal law which, but for this Article, might have been imposed by State law, no rate of the same kind shall be imposed by State law for any period for which the rate imposed by federal law is payable.

**Chapter 6. Federal Surveys, Advice to States and
Inspection of State Activities**

93. Inquiries, surveys and statistics.

(1) The Federal Government may conduct such inquiries (whether by Commission or otherwise), authorize such surveys and collect and publish such statistics as it thinks fit, notwithstanding that such inquiries, surveys and collection and publication of statistics relate to a matter with regard to which the Legislature of a State may make laws.

(2) It shall be the duty of the Government of a State, and of all officers and authorities thereof, to assist the Federal Government in the execution of its powers under this Article; and for this purpose the Federal Government may give such directions as it may deem necessary.

94. Federal powers in respect of State subjects.

(1) The executive authority of the Federation extends to the conduct of research, the provision and maintenance of experimental and demonstration stations, the giving of advice and technical assistance to the Government of any State, and the provision of education, publicity, and demonstration for the inhabitants of any State, in respect of any of the matters with respect to which the Legislature of a State may make laws; and the agricultural and forestry officers of any State shall accept any professional advice given to the Government of that State under this Clause.

(2) Notwithstanding anything in this Constitution, the existing Departments of Agriculture, Commissioner of Lands, Forestry and Social Welfare may continue to exercise the functions exercised by them immediately before Merdeka Day.

(3) Nothing in this Constitution shall prevent the Federal Government from establishing Ministries or Departments of Government to exercise the functions of the Federal Government under Article 93 and this Article in relation to matters within the legislative authority of a State, and such matters may include soil conservation, local government and town and country planning.

95. Inspection of State activities.

(1) Subject to Clause (3), in exercising the executive authority of the Federation any officer authorized by the Federal Government may inspect any department or work of a State Government with a view to making a report thereon to the Federal Government.

(2) A report made under this Article shall, if the Federal government so direct, be communicated to the State Government and laid before the Legislative Assembly of the State.

(3) This Article does not authorize the inspection of any department or work dealing only with or carried on only with respect to matters within the exclusive legislative authority of a State.

Chapter 7. National Council for Local Government

95A. The National Council for Local Government

(1) There shall be a National Council for Local Government consisting of a Minister as chairman, one representative from each of the States, who shall be appointed by the Ruler or *Yang di-Pertua Negeri*, and such number of representatives of the Federal Government as that Government may appoint but, subject to Clause (5) of Article 95E, the number of representatives of the Federal Government shall not exceed ten.

(2) The chairman may vote on any question before the National Council for Local Government and shall have a casting vote.

(3) The National Council for Local Government shall be summoned to meet by the chairman as often as he considers necessary but there shall be at least one meeting in every year.

(4) If the chairman or a representative of a State or of the Federal Government is unable to attend a meeting, the authority by whom he was appointed may appoint another person to take his place at that meeting.

(5) It shall be the duty of the National Council for Local Government to formulate from time to time in consultation with the Federal Government and the State Governments a national policy for the promotion, development and control of local government throughout the Federation and for the administration of any laws relating thereto; and the Federal and State Government shall follow the policy so formulated.

(6) It shall also be the duty of the Federal Government and the Government of any State to consult the National Council for Local Government in respect of any proposed legislation dealing with local government and it shall be the duty of the National Council for Local Government to advise those Governments on any such matter.

(7) The Federal Government or the Government of any State may consult the National Council for Local Government in respect of any other matter relating to local government, and it shall be the duty of the National Council for Local Government to advise that Government on any such matter.

Chapter 8. Application to States of Sabah and Sarawak

95B. Modifications for States of Sabah and Sarawak of distribution of legislative powers.

(1) In the case of the States of Sabah and Sarawak

(a) the supplement to List II set out in the Ninth Schedule shall be deemed to form part of the State List, and the matter enumerated therein shall be deemed not to be included in the Federal List or Concurrent List; and

(b) the supplement to List III set out in the Ninth Schedule shall, subject to the State List, be deemed to form part of the Concurrent List, and the matters enumerated therein shall be deemed

not to be included in the Federal List (but not so as to affect the construction of the State List, where it refers to the Federal List).

(2) Where by virtue of Clause (1) an item is included in the Concurrent List for a State for a period only, the expiration or termination of that period shall not affect the continued operation of any State law passed by virtue of the item, save as provided by federal or State law.

(3) The Legislature of the State of Sabah or Sarawak may also make laws for imposing sales taxes, and any sales tax imposed by State law in the State of Sabah or Sarawak shall be deemed to be among the matters enumerated in the State List and not in the Federal List; but

- (a) there shall not in the charging or administration of a State sales tax be any discrimination between goods of the same description according to the place in which they originate; and
- (b) the charge for any federal sales tax shall be met out of sums collection from a person liable for that tax before the charge for a State sales tax.

95C. Power by order to extend legislative or executive powers of States.

(1) Subject to the provisions of any Act of Parliament passed after Malaysia Day, the *Yang di-Pertuan Agong* may by order make as respects any State any such provision as may be made by Act of Parliament

- (a) for authorizing the Legislature of the State to make laws as mentioned in Article 76A; or
- (b) for extending the executive authority of the State, and the powers of duties of any authority of the State, as mentioned in Clause (4) of Article 80.

(2) An order made by virtue of paragraph (a) of Clause (1) shall not authorize the Legislature of a State to amend or repeal an Act of Parliament passed after Malaysia Day, unless the Act so provides.

(3) Clause (3) of Article 76A and Clause (6) of Article 80 shall apply in relation to an order under paragraph (a) and paragraph (b) respectively of Clause (1) of this Article as they apply in relation to an Act of Parliament.

(4) Where an order under this Article is revoked by a later order, the later order may include provision for continuing in force (generally or to such extent or for such purposes as the order may specify) any State law passed by virtue of the earlier order of any subsidiary legislation made or thing done under any such State law, and from the coming into operation of the later order any State law thereby continued in force shall have effect as federal law:

Provided that no provision shall be continued in force by virtue of this Clause if or in so far as it could not have been made by Act of Parliament.

(5) Any order of the *Yang di-Pertuan Agong* under this Article shall be laid before each House of Parliament.

95D. Exclusion for States of Sabah and Sarawak of Parliament's power to pass uniform laws about land or local government.

In relation to the State of Sabah or Sarawak. Clause (4) of Article 76 shall not

apply, nor shall paragraph (b) of Clause (1) of that Article enable Parliament to make laws with respect to any of the matters mentioned in Clause (4) of that Article.

95E. Exclusion of States of Sabah and Sarawak from national plan for land utilization, local government, development, etc.

(1) In relation to the State of Sabah or Sarawak Articles 91, 92, 94 and 95A shall have effect subject to the following Clauses;

(2) Subject to Clause (5), under Article 91 and under Article 95A the State Government shall not be required to follow the policy formulated by the National Land Council or by the National Council for Local Government, as the case may be, but the representative of the State shall not be entitled to vote on questions before the Council.

(3) Under Article 92 no area in the State shall be proclaimed a development area for the purposes of any development plan without the concurrence of the *Yang di-Pertua Negeri*.

(4) Under Clause (1) of Article 94 (under which in respect of matters in the State List the Federation may conduct research, give advice and technical assistance, etc.) the agricultural and forestry officers of the State of Sabah or Sarawak shall consider, but shall not be required to accept, professional advice given to the Government of the State.

(5) Clause (2) shall cease to apply to a State

(a) as regards Article 91, if Parliament so provides with the concurrence of the *Yang di-Pertua Negeri*; and

(b) as regards Article 95A, if Parliament so provides with the concurrence of the Legislative Assembly;

but for each representative of the State of Sabah or Sarawak becoming entitled, by virtue of this Clause, to vote on questions before the National Land Council or National Council for Local Government, one shall be added to the maximum number of representatives of the Federal Government on that Council.

PART VII

FINANCIAL PROVISIONS

Chapter 1. General

96. No taxation unless authorized by law.

No tax or rate shall be levied by or for the purposes of the Federation except by or under the authority of federal law.

97. Consolidated Funds.

(1) All revenues and moneys howsoever raised or received by the Federation shall, subject to the provisions of this Constitution and of federal law, be paid into and form one fund, to be known as the Federal Consolidated Fund.

(2) All revenues and moneys howsoever raised or received by a State shall,

subject to Clause (3) and to any law, be paid into and form one fund, to be known as the Consolidated Fund of that State.

(3) If in accordance with State law or in respect of the Federal Territory, in accordance with federal law and *Zakat, Fitrah, Bait-ul-Mal*, or similar Islamic religious revenue is raised, it shall be paid into a separate fund and shall not be paid out except under the authority of State law or federal law, as the case may be.

(4) Unless the context otherwise requires, any reference in this Constitution to the Consolidated Fund shall be construed as a reference to the Federal Consolidated Fund.

98. Expenditure charged on Federal Consolidated Fund.

(1) There shall be charged on the Consolidated Fund, in addition to any grant, remuneration or other moneys so charged by any other Article or federal law

- (a) all pensions, compensation for loss of office and gratuities for which the Federation is liable;
- (b) all debt charges for which the Federation is liable; and
- (c) any moneys required to satisfy any judgment, decision or award against the Federation by any court or tribunal.

(2) In making payment of any grant to a State in accordance with the provisions of this Part, the Federation may deduct the amount of any debt charges payable to the Federation by the State and charged on the Consolidated Fund of that State.

(3) For the purposes of this Article debt charges include interest, sinking fund charges, the repayment or amortisation of debt, and all expenditure in connection with the raising of loans on the security of the Consolidated Fund and the service and redemption of debt created thereby.

99. Annual financial statement.

(1) The *Yang di-Pertuan Agong* shall, in respect of every financial year, cause to be laid before the House of Representatives a statement of the estimated receipts and expenditure of the Federation for that year, and, unless Parliament in respect of any year otherwise provides, that statement shall be so laid before the commencement of that year:

Provided that there may be separate statements of estimated receipts and estimated expenditure, and in that case it shall not be necessary for the statement of receipts to be so laid before the commencement of the year to which it relates.

(2) The estimates of expenditure shall show

- (a) the total sums required to meet expenditure charged on the Consolidated Fund; and
- (b) subject to Clause (3), the sums required to meet the expenditure for other purposes proposed to be met from the Consolidated Fund.

(3) The sums to be shown under paragraph (b) of Clause (2) do not include

- (a) sums representing the proceeds of any loan raised by the federation for specific purposes and appropriated for those purposes by the Act authorizing the raising of the loan;

- (b) sums representing any money or interest on money received by the Federation subject to a trust and to be applied in accordance with the terms of the trust;
- (c) sums representing any money held by the Federation which has been received or appropriated for the purpose of any trust fund established by or in accordance with federal law.

(4) The said statement shall also show, so far as is practicable, the assets and liabilities of the Federation at the end of the last completed financial year, the manner in which those assets are invested or held, and the general purposes in which those liabilities are outstanding.

100. Supply Bills.

The expenditure to be met from the Consolidated Fund but not charged thereon, other than expenditure to be met by such sums as are mentioned in Clause (3) of Article 99, shall be included in a Bill, to be known as a Supply Bill, providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

101. Supplementary and excess expenditure.

If in respect of any financial year it is found

- (a) that the amount appropriated by the Supply Act for any purpose is insufficient, or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Supply Act; or
- (b) that any moneys have been expended for any purpose in excess of the amount (if any) appropriated for that purpose by the Supply Act,

a supplementary estimate showing the sums required or spent shall be laid before the House of Representatives and the purposes of any such expenditure shall be included in a Supply Bill.

102. Power to authorize expenditure on account or for unspecified purposes.

Parliament shall have power in respect of any financial year

- (a) before the passing of the Supply Bill, to authorize by law expenditure for part of the year;
- (b) to authorize by law expenditure for the whole or part of the year otherwise than in accordance with Articles 99 to 101, if owing to the magnitude or indefinite character of any service or to circumstances of unusual urgency it appears to Parliament to be desirable to do so.

103. Contingencies Fund.

(1) Parliament may by law provide for the creation of a Contingencies Fund and for authorizing the Minister charged with responsibility for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exist, to make advances from the Contingencies Fund to meet that need.

(2) Where any advance is made in accordance with Clause (1), a supplementary estimate shall be presented and a Supply Bill introduced as soon as possible for the purpose of replacing the amount so advanced.

104. Withdrawal from Consolidated Fund.

(1) Subject to Clause (2), no moneys shall be withdrawn from the Consolidated Fund unless they are

- (a) charged on the Consolidated Fund; or
- (b) authorized to be issued by a supply Act; or
- (c) authorized to be issued under Article 102.

(2) Clause (1) does not apply to any such sums as are mentioned in Clause (3) of Article 99.

(3) No moneys shall be withdrawn from the Consolidated Fund except in the manner provided by federal law.

105. Auditor-General.

(1) There shall be an Auditor-General, who shall be appointed by the *Yang di-Pertuan Agong* on the advice of the Prime Minister and after consultation with the Conference of Rulers.

(2) A person who has held the office of Auditor-General shall be eligible for re-appointment but shall not be eligible for any other appointment in the service of the Federation or for any appointment in the service of a State.

(3) The Auditor-General may at any time resign his office but shall not be removed from office except on the like grounds and in the like manner as a judge of the Federal Court.

(4) Parliament shall by law provide for the remuneration of the Auditor-General, and the remuneration so provided shall be charged on the Consolidated Fund.

(5) The remuneration and other terms of office (including pension rights) of the Auditor-General shall not be altered to his disadvantage after his appointment.

(6) Subject to the provisions of this Article, the terms and conditions of service of the Auditor-General shall be determined by federal law and, subject to the provisions of federal law, by the *Yang di-Pertuan Agong*.

106. Powers and duties of Auditor-General.

(1) The accounts of the Federation and of the States shall be audited and reported on by the Auditor-General.

(2) The Auditor-General shall perform such other duties and exercise such powers in relation to the accounts of the Federation and of the States and to the accounts of other public authorities and of those bodies which are specified by order made by the *Yang di-Pertuan Agong*, as may be provided by federal law.

107. Reports of Auditor-General.

(1) The Auditor-General shall submit his reports to the *Yang di-Pertuan Agong*, who shall cause them to be laid before the House of Representatives.

(2) A copy of any such report relating to the accounts of a State, or to the accounts of any public authority exercising powers conferred by State law, shall be submitted to the Ruler or *Yang di-Perutua Negeri* of that State, who shall cause it to be laid before the Legislative Assembly.

108. National Finance Council.

(1) There shall be a National Finance Council consisting of the Prime

Minister, such other Ministers as the Prime Minister may designate, and one representative from each of the States, appointed by the Ruler or *Yang di-Pertua Negeri*.

(2) The National Finance Council shall be summoned to meet by the Prime Minister as often as he considers necessary and whenever the representatives of three or more States demand a meeting, but there shall be at least one meeting in every twelve months.

(3) At any meeting of the National Finance Council the Prime Minister may be represented by another Minister of the Federation, and the Prime Minister or, if he is not present, the Minister representing him, shall preside.

(4) It shall be the duty of the Federal Government to consult the National Finance Council in respect of

- (a) the making of grants by the Federation to the States;
- (b) the assignment to the States of the whole or any portion of the proceeds of any federal tax or fee;
- (c) the annual loan requirements of the Federation and the States and the exercise by the Federation and the States of their borrowing powers;
- (d) the making of loans to any of the States;
- (e) the making of development plans in accordance with Article 92;
- (f) the matters referred to in Item 7 (f) and (g) of the Federal List;
- (g) any proposal to introduce a Bill for such a law as is mentioned in Article 109 (2) or Article 110 (3) or (3A);
- (h) any other matter in respect of which this Constitution or federal law makes provision for consultation with the National Finance Council.

(5) The Federal Government may consult the National Finance Council in respect of any other matter, whether or not it involves questions of finance, and the Government of a State may consult the said Council in respect of any matter which affects the financial position of that State.

109. Grants to States.

(1) The Federation shall make to each State in respect of each financial year

- (a) a grant, to be known as a capitation grant, which shall be calculated in accordance with the provision of Part I of the Tenth Schedule;
- (b) a grant for the maintenance of State roads to be known as the State road grant, which shall be calculated in accordance with the provisions of Part II of that Schedule.

(2) Parliament may from time to time by law vary the rates of the capitation grant; but if the effect of any such law is to reduce the grant, provision shall be made in that law for securing that the amount of grant received by any State in respect of any financial year is not less than ninety per cent of the amount received by that State in the preceding financial year.

(3) Parliament may by law make grants for specific purposes to any of the States on such terms and conditions as may be provided by any such law.

(4) The amounts required for making the grants mentioned in the preceding provisions of this Article shall be charged on the Consolidated Fund.

(5) If, in accordance with Article 103, a Contingencies Fund is created, the power to make advances from that Fund for meeting an urgent and unforeseen need for expenditure shall include power to make such advances to a State for meeting such a need.

(6) The Federation shall pay into a fund, to be known as the State Reserve Fund

(a) (*Repealed*).

(b) In respect of every financial year such sum as the Federal Government may, after consultation with the National Finance Council, determine to be necessary;

and the Federation may from time to time, after consultation with the National Finance Council, make grants out of the State Reserve Fund to any State for the purposes of development or generally to supplement its revenues.

110. Assignment of taxes and fees to the States.

(1) Subject to Clause (2), each of the States shall receive all proceeds from the taxes, fees and other sources of revenue specified in Part III of the Tenth Schedule so far as collected, levied or raised within the State.

(2) Parliament may from time to time by law substitute for any source of revenue specified in sections 1, 3, 4, 5, 6, 7, 8, 12 or 14 of Part III of the Tenth Schedule or for any source of revenue so substituted, another source of revenue of substantially equal value.

(3) Each State shall receive, on such terms and conditions as may be provided by or under federal law, ten per cent or such greater amount as may be so provided of the export duty on tin produced in the State.

(3A) Parliament may by law provide that each State shall receive, on such terms and conditions as may be prescribed by or under federal law, such proportion as may be so prescribed of the export duty on minerals (other than tin) produced in the State.

In this Article minerals means mineral ores, metal and mineral oils.

(3B) Without prejudice to the power to impose conditions conferred by Clause (3) or (3A), Parliament may by law provide for prohibiting or restricting, in, or except in, such cases as may be provided by or under the law, the levying of royalties on or similar charges in respect of minerals (whether under a lease or other instrument or under any State enactment, and whether the instrument was made or the enactment passed before or after the coming into operation of this Clause).

(4) Without prejudice to the provisions of Clauses (1) to (3A), Parliament may by law

(a) assign to the States the whole or any portion of the proceeds of any tax or fee raised or levied by the Federation; and

(b) assign to the States the responsibility of collecting for State purposes any tax or fee authorized by federal law.

(5) The amounts receivable by the States under Clause (1), (2) or (4) shall not be paid into the Consolidated Fund; and the amounts receivable by the States under Clauses (3) and (3A) shall be charged on the Consolidated Fund.

111. Restriction on borrowing.

(1) The Federation shall not borrow except under the authority of federal law.

(2) A State shall not borrow except under the authority of State law, and State law shall not authorize a State to borrow except from the Federation or, for a period not exceeding five years, from a bank or other financial source approved for that purpose by the Federal Government, and subject to such conditions as may be specified by the Federal Government.

(3) A State shall not give any guarantee except under the authority of State law, and such guarantee shall not be given except with the approval of the Federal Government and subject to such conditions as may be specified by it.

112. Restriction on alterations in establishments of States.

(1) Subject to Clause (2), no State shall, without the approval of the Federation, make any addition to its establishment or the establishment of any of its departments, or alter the rates of established salaries and emoluments, if the effect of doing so would be to increase the liability of the Federation in respect of pensions, gratuities or other like allowances.

(2) This Article does not apply to

- (a) non-pensionable appointments the maximum salaries of which do not exceed four hundred ringgit per month or such other amount as may be fixed by order by the *Yang di-Pertuan Agong*;
- or
- (b) pensionable appointments the maximum salaries of which do not exceed one hundred *ringgit* per month or such other amount as may be fixed by order by the *Yang di-Pertuan Agong*.

Chapter 2. Application to States of Sabah and Sarawak

112A. State audits in States of Sabah and Sarawak.

(1) The Auditor-General shall submit his reports relating to the account of each of the States of Sabah and Sarawak, or to the accounts of any public authority exercising powers vested in it by the State law in either of those States, to the *Yang di-Pertuan Agong* (who shall cause them to be laid before the House of Representatives) and to the *Yang di-Pertua Negeri* of the State; and accordingly Clause (2) or Article 107 shall not apply to those reports.

(2) The *Yang di-Pertua Negeri* shall cause any such report submitted to him to be laid before the Legislative Assembly.

(3) The powers and duties of the Auditor-General in relation to the accounts mentioned in Clause (1) for any period ending before the year 1969 shall, in the State of Sabah or Sarawak, be exercised and discharged on his behalf by the senior officer of his department for the time being stationed in the State in question:

Provided that during the absence or incapacity of that officer, or a vacancy in his post, those powers and duties shall be exercised and discharged by the Auditor-General or such officer of his department as he may designate.

112B. Borrowing powers of States of Sabah and Sarawak.

Clause (2) of Article 111 shall not restrict the power of the State of Sabah or Sarawak to borrow under the authority of State law within the State, if the borrowing has the approval of the Central Bank for the time being of the Federation.

112C. Special grants and assignment of revenue to States of Sabah and Sarawak.

(1) Subject to the provisions of Article 112D and to any limitation expressed in the relevant section of the Tenth Schedule

(a) the Federation shall make to the States of Sabah and Sarawak in respect of each financial year the grants specified in Part IV of that Schedule; and

(b) each of those States shall receive all proceeds from the taxes, fees and dues specified in Part V of that Schedule, so far as collected, levied or raised within the State, or such part of those proceeds as is so specified.

(2) The amounts required for making the grants specified in the said Part IV, and the amounts receivable by the State of Sabah or Sarawak under section 3 or 4 of the said Part V, shall be charged on the Consolidated Fund; and the amounts otherwise receivable by a Borneo State under the said Part V shall not be paid into the Consolidated Fund.

(3) In Article 110, Clauses (3A) and (4) shall not apply to the State of Sabah or Sarawak.

(4) Subject to Clause (5) of Article 112D, in relation to the State of Sabah or Sarawak Clause (3B) or Article 110

(a) shall apply in relation to all minerals, including minerals oils; but

(b) shall not authorize Parliament to prohibit the levying of royalties that may be so levied in any case so that the State is not entitled to receive a royalty amounting to ten per cent *ad valorem* (calculated as for export duty).

112D. Reviews of special grants to States of Sabah and Sarawak.

(1) The grants specified in section 1 and subsection (1) of section 2 of Part IV of the Tenth Schedule, and any substituted or additional grant made by virtue of this Clause, shall at the intervals mentioned in Clause (4) be reviewed by the Government of the Federation and the States or State concerned, and if they agree on the alteration or abolition of any of those grants, or the making of another grant instead of or as well as those grants or any of them, the said Part IV and Clause (2) of Article 112C shall be modified by order of the *Yang di-Pertuan Agong* as may be necessary to give effect to the agreement:

Provided that on the first review the grant specified in subsection (2) of section 1 of the said Part IV shall not be brought into question except for the purpose of fixing the amounts for the ensuing five years.

(2) Any review under this Article shall take into account the financial

position of the Federal Government, as well as the needs of the States or State concerned, but (subject to that) shall endeavor to ensure that the State revenue is adequate to meet the cost of State services as they exist at the time of the review, with such provision for their expansion as appears reasonable.

(3) The period for which provision is to be made on a review shall be a period of five years or (except in the case of the first review) such longer period as may be agreed between the Federation and the States or State concerned; but any order under Clause (1) giving effect to the results of a review shall continue in force after the end of that period, except in so far as it is superseded by a further order under that Clause.

(4) A review under this Article shall not take place earlier than is reasonably necessary to secure that effect can be given to the results of the review from the end of the year 1968 or, in the case of a second or subsequent review, from the end of the period provided for by the preceding review; but, subject to that, reviews shall be held as regards both the States of Sabah and Sarawak for periods beginning with the year 1969 and with the year 1974, and thereafter as regards either of them at such time (during or after the period provided for on the preceding review) as the Government of the Federation or of the State may require.

(5) If on the occasion of any review under this Article the Government of the Federation give notice to the States or State concerned of their intention to vary any of the assignments of revenue under Part V of the Tenth Schedule (including any substituted or additional assignment made by virtue of this Clause), or to vary Clause (4) of Article 112C, the review shall take the variation into account, and provision shall be made by order of the *Yang di-Pertuan Agong* so as to give effect to the variation from the beginning of the period provided for on the review:

Provided that this Clause shall not apply to the assignments under sections 4, 7 and 8, and shall not apply to that under section 5 or 6 until the second review.

(6) If on any review the Federal Government and the Government of a State are unable to reach agreement on any matter, it shall be referred to an independent assessor, and his recommendations thereon shall be binding on the Governments concerned and shall be given effect as if they were the agreement of those governments.

(7) Clause (4) of Article 108 shall not apply to require the Federal Government to consult the National Finance Council in respect of matters arising under this Article.

(8) Any order of the *Yang di-Pertuan Agong* under this Article shall be laid before each House of Parliament.

112E. (Repealed).

PART VIII
ELECTIONS

113. Conduct of Elections.

(1) There shall be an Election Commission, to be constituted in accordance with Article 114, which, subject to the provisions of federal law, shall conduct elections to the House of Representatives and the Legislative Assemblies of the States and prepare and revise electoral rolls for such elections.

(2) The Election Commission shall, at intervals of not more than ten nor, subject to Clause (3), less than eight years, review the division of the Federation and the States into constituencies and recommend such changes therein as they may think necessary in order to comply with the provisions contained in the Thirteenth Schedule; and the reviews of constituencies for the purpose of elections to the Legislative Assemblies shall be undertaken at the same time as the reviews of constituencies for the purpose of elections to the House of Representatives.

(3) If the Election Commission are of opinion that in consequence of a law made under Article 2 it is necessary to undertake the reviews mentioned in Clause (2), they shall do so, whether or not eight years have elapsed since the last review under that Clause.

(4) Federal or State law may authorize the Election Commission to conduct elections other than those referred to in Clause (1).

(5) So far as may be necessary for the purposes of its functions under this Article the Election Commission may make rules, but any such rules shall have effect subject to the provisions of federal law.

(6) There shall be separate review under Clause (2) for the States of Malaysia and for each of the States of Sabah and Sarawak, and for the purposes of this Part the expression 'unit of review' shall mean, for federal constituencies, the area under review and, for State constituencies, the State.

(7) Subject to Clause (3), the period for the first reviews under Clause (2) for any unit of review shall be calculated from the first delimitation of constituencies for that unit under this Constitution or under the Malaysia Act.

(8) Notwithstanding Clause (7) of this Article the period for reviews under Clause (2) for the unit of review of the States of Malaya undertaken after the passing of the Constitution (Amendment) No. 2) Act, 1973 shall be calculated from the first delimitation of constituencies for that unit immediately following the passing of that Act.

114. Constitution of Election Commission.

(1) The Election Commission shall be appointed by the *Yang di-Pertuan Agong* after consultation with Conference Rulers, and shall consist of a chairman and three other members.

(2) In appointing members of the Election Commission the *Yang di-Pertuan Agong* shall have regard to the importance of securing an Election Commission which enjoys public confidence.

(3) A member of the Election Commission shall cease to hold office on attaining the age of sixty-five years or on becoming disqualified under Clause (4) and may at any time resign his office by writing under his hand addressed to the *Yang di-Pertuan Agong*, but shall not be removed from office except on the like grounds and in the like manner as a judge of the Federal Court.

(4) Notwithstanding anything in Clause (3), the *Yang di-Pertuan Agong* may by order remove from office any member of the Election Commission if such member

- (a) is an undischarged bankrupt; or
- (b) engages in any paid office or employment outside the duties of his office; or
- (c) is a member of either House of Parliament or of the Legislative Assembly of a State.

(5) Parliament shall by law provide for the remuneration of members of the Election Commission, and the remuneration so provided shall be charged on the Consolidated Fund.

(5A) Subject to the provisions of this Article, Parliament may by law provide for the terms of office of members of the Election commission other than their remuneration.

(6) The remuneration and other terms of office of a member of the Election Commission shall not be altered to his disadvantage after his appointment.

(7) Where, during any period, the chairman of the Election Commission has been granted leave of absence by the *Yang di-Pertuan Agong* or is unable, owing to his absence from the Federation, illness or any other cause, to discharge his functions, a member of the Election Commission may be appointed by the *Yang di-Pertuan Agong* to discharge the functions of the chairman during that period.

115. Assistance to Election Commission.

(1) The Election Commission may employ such number of persons, on such terms and subject to such conditions, as the Commission may with the approval of the *Yang di-Pertuan Agong* determine.

(2) All public authorities shall on the request of the Commission give the Commission such assistance in the discharge of its duties as may be practicable; and in exercising its functions of making recommendation for the delimitation of constituencies for the elections mentioned in Article 113 (1) the Commission shall seek the advice of two officers of the Federal Government with special knowledge of the topography of, and the distribution of the population in, the unit of review for federal elections, and those officers shall be elected for that purpose by the *Yang di-Pertuan Agong*.

116. Federal constituencies.

(1) For the election of members to the House of Representatives a unit of review shall be divided into constituencies in accordance with the provisions contained in the Thirteenth Schedule.

(2) The total number of constituencies shall be equal to the number of members, so that one member shall be elected for each constituency, and of that

total in the States of Malaya a number determined in accordance with the provisions contained in Article 46 and the Thirteenth Schedule and shall be allocated to each State.

(3) *(Repealed)*.

(4) *(Repealed)*.

(5) *(Repealed)*.

117. State constituencies.

For the election of members to the Legislative Assembly of a State the State shall be divided into as many constituencies as there are elected members, so that one member shall be elected for each constituency; and the division shall be made in accordance with the provisions contained in the Thirteenth Schedule.

118. Method of challenging election.

No election to the House of Representatives or to the Legislative Assembly of a State shall be called in question except by an election petition presented to the High Court having jurisdiction where the election was held.

118A. Method of questioning election petition of no return.

A petition complaining of no return to the House of Representatives shall be deemed to be an election petition and the High Court may make such order thereon as it may think fit for compelling a return to be made, but the failure to make a return within any period specified by Article 54 or 55 shall not be a ground for declaring that a member has not been duly elected.

119. Qualifications of electors.

(1) Every citizen who

(a) has attained the age of twenty-one years on the qualifying date; and

(b) is resident in a constituency on such qualifying date or, if not so resident, is an absent voter,

is entitled to vote in that constituency in any election to the House of Representatives or the Legislative Assembly unless he is disqualified under Clause (3) or under any law relating to offences committed in connection with elections; but no person shall in the same election vote in more than one constituency.

(2) If a person is in constituency by reason only of being a patient in an establishment maintained wholly or mainly for the reception and treatment of persons suffering from mental illness or mental defectiveness or of being detained in custody he shall for the purposes of Clause (1) be deemed not to be resident in that constituency.

(3) A person is disqualified for being an elector in any election to the House of Representatives or the Legislative Assembly if

(a) on the qualifying date he is detained as a person of unsound mind or is serving a sentence of imprisonment; or

(b) having before the qualifying date been convicted in any part of the Commonwealth of an offence and sentenced to death or imprisonment for a term exceeding twelve months, he remains liable on the qualifying date to suffer any punishment for that offence.

(4) In this Article 'qualifying date' means the date by reference to which the electoral rolls are prepared or revised, and 'absent voter' means in relation to any constituency any citizen who is registered as an absent voter in respect of that constituency under the provisions of any law relating to elections.

120. Direct elections to the Senate.

Where in accordance with Article 45 (4) provision is made by Parliament for the election of Senators by the direct vote of electors

- (a) the whole of a State shall form a single constituency and each elector shall have as many votes at any election to the Senate as there are seats to be filled in that election; and
- (b) the electoral rolls for elections to the House of Representatives shall also be the electoral rolls for elections to the Senate; and
- (c) Articles 118, 118A, and 119 shall apply in relation to elections to the Senate as they apply in relation to elections to the House of Representatives.

PART IX

THE JUDICIARY

121. Judicial power of the Federation.

(1) Subject to Clause (2), the judicial power of the Federation shall be vested in two High Courts of co-ordinate jurisdiction and status, namely

- (a) one in the States of Malaya, which shall be known as the High Court in Malaya and shall have its principal registry in Kuala Lumpur; and
- (b) one in the States of Sabah and Sarawak, which shall be known as the High Court in Borneo and shall have its principal registry at such place in the States of Sabah and Sarawak as the *Yang di-Pertuan Agong* may determine;
- (c) (*Repealed*);

and in such inferior courts as may be provided by federal law.

(2) The following jurisdiction shall be vested in a court which shall be known as the Federal Court and shall have its principal registry in Kuala Lumpur, that is to say

- (a) exclusive jurisdiction to determine appeals from decisions of a High Court or a judge thereof (except decisions of a High Court given by a registrar or other officer of the court and appealable under federal law to a judge of the Court); and
- (b) such original or consultative jurisdiction as is specified in Articles 128 and 130.

(3) Subject to any limitations imposed by or under federal law, any order, decree, judgment or process of the courts referred to in Clause (1) or of any judge thereof shall (so far as its nature permits) have full force and effect according to its

tenor throughout the Federation, and may be executed or enforced in any part of the Federation accordingly; and federal law may provide for courts in one part of the Federation or their officers to act in aid of courts in another part.

(4) In determining where the principal registry of the High Court in Borneo is to be, the *Yang di-Pertuan Agong* shall act on the advice of the Prime Minister, who shall consult the Chief Ministers of the States of Sabah and Sarawak and the Chief Justice of the High Court.

122. Constitution of Federal Court.

(1) The Federal Court shall consist of a president of the Court (to be styled 'the Lord President of the Federal Court'), of the Chief Justices of the High Courts and, until the *Yang di-Pertuan Agong* by order otherwise provides, of four other judges and such additional judges as may be appointed pursuant to Clause (1A).

(1A) Notwithstanding anything in this Constitution contained, the *Yang di-Pertuan Agong* acting on the advice of the Lord President of the Federal Court may appoint for such purposes or for such period of time as he may specify any person who has held high judicial office in Malaysia to be an additional judge of the Federal Court:

Provided that no such additional judge shall be ineligible to hold office by reason of having attained the age of sixty-five years.

(2) A judge of a High Court other than the Chief Justice may sit as a judge of the Federal Court where the Lord President considers that the interests of justice so require, and the judge shall be nominated for the purpose (as occasion requires) by the Lord President.

122A. Constitution of High Courts.

(1) Each of the High Courts shall consist of a Chief Justice and not less than four other judges; but the number of other judges shall not, until the *Yang di-Pertuan Agong* by order otherwise provides, exceed

- (a) in the High Court in Malaya, sixteen; and
- (b) in the High Court in Borneo, eight
- (c) (*Repealed*).

(2) Any person qualified for appointment as a judge of a High Court may sit as a judge of that court, if designated for the purpose (as occasion requires) in accordance with Article 122B.

(3) For the despatch of business of the High Court in Borneo in an area in which a judge of the court is not for the time being available to attend to business of the court, the *Yang di-Pertuan Agong* acting on the advice of the Lord President of the Federal Court, or for an area in either State the *Yang di-Pertua Negeri* of the State acting on the advice of the Chief Justice of the court, may by order appoint to be judicial commissioner in that area for such period or for such purposes as may be specified in the order an advocate or person professionally qualified to be admitted an advocate of the court.

(4) Subject to any limitations or conditions imposed by the order appointing him, a judicial commissioner shall have power, in the area for which he is

appointed, to perform such functions of a judge of the High Court in Borneo as appear to him to require to be performed without delay; and anything done by a judicial commissioner when acting in accordance with his appointment shall have the same validity and effect as if done by a judge of that court, and in respect thereof he shall have the same powers and enjoy the same immunities as if he had been a judge of that court.

(5) For the despatch of business of the High Court in Malaya, the *Yang di-Pertuan Agong* acting on the advice of the Lord President of the Federal Court, may by order appoint to be judicial commissioner for such period or such purposes as may be specified in the order any person qualified for appointment as a judge of a High Court; and the person so appointed shall have power to perform such functions of a judge of the High Court in Malaya as appear to him to require to be performed; and anything done by him when acting in accordance with his appointment shall have the same validity and effect as if done by a judge of that court, and in respect thereof he shall have the same powers and enjoy the same immunities as if he had been a judge of that court.

122B. Appointment of judges of Federal Court and of High Courts.

(1) The Lord President of the Federal Court, the Chief Justices of the High Courts and (subject to Article 122C) the other judges of the Federal Court and of the High Courts shall be appointed by the *Yang di-Pertuan Agong*, acting on the advice of the Prime Minister, after consulting the Conference of Rulers.

(2) Before tendering his advice as to the appointment under Clause (1) of a judge other than the Lord President of the Federal Court, the Prime Minister shall consult the Lord President.

(3) Before tendering his advice as to the appointment under Clause (1) of the Chief Justice of a High Court, the Prime Minister shall consult the Chief Justice of each of the High Courts and, if the appointment is to the High Court in Borneo, the Chief Minister of each of the States of Sabah and Sarawak.

(4) Before tendering his advice as to the appointment under Clause (1) of a judge other than the Lord President or a Chief Justice, the Prime Minister shall consult, if the appointment is to the Federal Court, the Chief Justice of each of the High Courts and, if the appointment is to one of the High Courts, the Chief Justice of that court.

(5) This Article shall apply to the designation of a person to sit as judge of a High Court under Article 122A (2) as it applies to the appointment of a judge of that court other than the Chief Justice.

122C. Transfer of judge of one High Court to another.

Article 122B shall not apply to the transfer to a High Court, otherwise than as Chief Justice, of a judge of another High Court other than the Chief Justice; and such a transfer may be made by the *Yang di-Pertuan Agong*, on the recommendation of the Lord President of the Federal Court, after consulting the Chief Justices of the two High Courts.

123. Qualifications of judges of Federal Court and of High Courts.

A person is qualified for appointment under Article 122B as a judge of the Federal Court or as a judge of any of the High Courts if

- (a) he is a citizen; and
- (b) for the ten years preceding his appointment he has been an advocate of those courts or any of them or a member of the judicial and legal service of the Federation or of the legal service of a State, or sometimes one and sometimes another.

124. Oath of office of judges.

(1) The Lord President of the Federal Court shall before exercising the functions of his office take and subscribe the oath of office and allegiance set out in the Sixth Schedule, and shall do so in the presence of the *Yang di-Pertuan Agong*.

(2) A judge of the Federal Court or a High Court, other than the Lord President of the Federal Court, shall before exercising the functions of a judge take and subscribe that oath in relation to his judicial duties in whatever office, and, having done so, shall not be required to take that oath again on appointment or transfer to another judicial office, not being that of Lord president.

(3) A person taking the oath on becoming Chief Justice of a High Court shall do so in the presence of the senior judge available of that High Court, unless he takes it in accordance with Clause (4) as a judge of the Federal Court.

(4) Subject to Clause (3), a person taking the oath on becoming a judge of the Federal Court shall do so in the presence of the Lord President or, in his absence, the next senior judge available of the Federal Court.

(5) A person taking the oath on becoming a judge of a High Court (but not Chief Justice) shall do so in the presence of the Chief Justice of that court or, in his absence, the next senior judge available of that Court.

125. Tenure of office and remuneration of judges of Federal Court.

(1) Subject to the provisions of Clauses (2) to (5), a judge of the Federal Court shall hold office until he attains the age of sixty-five years or such later time, not being later than six months after he attains that age, as the *Yang di-Pertuan Agong* may approve.

(2) A judge of the Federal Court may at any time resign his office by writing under his hand addressed to the *Yang di-Pertuan Agong* but shall not be removed from office except in accordance with the following provisions of this Article.

(3) If the Prime Minister, or the Lord President after consulting the Prime Minister, represents to the *Yang di-Pertuan Agong* that a judge of the Federal Court ought to be removed on the ground of misbehavior or of inability, from infirmity of body or mind or any other cause, properly to discharge the functions of his office, the *Yang di-Pertuan Agong* shall appoint a tribunal in accordance with Clause (4) and refer the representation to it; and may on the recommendation of the tribunal remove the judge from office.

(4) The said tribunal shall consist of not less than five persons who hold or have held office as judge of the Federal Court or a High Court, or have before Malaysia Day held office as judge of the Supreme Court or, if it appears to the *Yang di-Pertuan Agong* expedient to make such appointment, persons who hold

or have held equivalent office in any other part of the Commonwealth, and shall be presided over by the member first in the following order, namely, the Lord President of the Federal Court, the Chief Justices according to their precedence among themselves, and other members according to the order of their appointment to an office qualifying them for membership (the older coming before the younger of two members with appointments of the same date).

(5) Pending any reference and report under Clause (3) the *Yang di-Pertuan Agong* may on the recommendation of the Prime Minister and, in the case of any other judge after consulting the Lord President, suspend a judge of the Federal Court from the exercise of his functions.

(6) Parliament shall by law provide for the remuneration of the judges of the Federal Court, and the remuneration so provided shall be charged on the Consolidated Fund.

(6A) Subject to the provisions of this Article, Parliament may by law provide for the terms of office of the judges of the Federal Court other than their remuneration.

(7) The remuneration and other terms of office (including pension rights) of a judge of the Federal Court shall not be altered to his disadvantage after his appointment.

(8) Notwithstanding Clause (1), the validity of anything done by a judge of the Federal Court shall not be questioned on the ground that he had attained the age at which he was required to retire.

(9) This Article shall apply to a judge of a High Court as it applies to a judge of the Federal Court, except that the *Yang di-Pertuan Agong* before suspending under Clause (5) a judge of a High Court other than the Chief Justice shall consult the Chief Justice of that Court instead of the Lord President of the Federal Court.

(10) (*Repealed*).

125A. Exercise of powers of a judge of a High Court by the Lord President and judges of Federal Court, and of powers of a judge of the High Court in Borneo by judge of the High Court in Malaya, and vice versa.

(1) Notwithstanding anything contained in this Constitution it is hereby declared that

- (a) the Lord President of the Federal Court and a judge of the Federal Court may exercise all or any of the powers of a judge of a High Court; and
- (b) a judge of the High Court in Malaya may exercise all or any of the powers of a judge of the High Court in Borneo, and *vice versa*.

(2) The provisions of this Article shall be deemed to have been an integral part of this Constitution as from Malaysia Day.

126. Power of Federal Court and High Court to punish for contempt.

The Federal Court or a High Court shall have power to punish any contempt of itself.

127. Restriction on Parliamentary discussions of conduct of judge.

The conduct of a judge of the Federal Court or a High Court shall not be discussed in either House of Parliament except on a substantive motion of which notice has been given by not less than one quarter of the total number of members of that House, and shall not be discussed in the Legislative Assembly of any State.

128. Jurisdiction of Federal Court.

(1) The Federal Court shall, to the exclusion of any other court, having jurisdiction to determine in accordance with any rules of court regulating the exercise of such jurisdiction

(a) any question whether a law made by Parliament or by the Legislature of a State is invalid on the ground that it makes provision with respect to a matter with respect to which Parliament or, as the case may be, the Legislature of the State has no power to make laws; and

(b) disputes on any other question between States or between the Federation and any State.

(2) Without prejudice to any appellate jurisdiction of the Federal Court, where in any proceedings before another court a question arises as to the effect of any provision of this Constitution, the Federal Court shall have jurisdiction (subject to any rules of court regulating the exercise of that jurisdiction) to determine the question and remit the case to the other court to be disposed of in accordance with the determination.

(3) The jurisdiction of the Federal Court to determine appeals from a High Court or a judge thereof shall be such as may be provided by federal law.

129. *(Repealed)*.

130. Advisory jurisdiction of Federal Court.

The *Yang di-Pertuan Agong* may refer to the Federal Court for its opinion any question as to the effect of any provision of this Constitution which has arisen or appears to him likely to arise, and the Federal Court shall pronounce in open court its opinion on any question so referred to it.

131. Appeals from Federal court.

(1) The *Yang di-Pertuan Agong* may make arrangements with Her Majesty for the reference to the Judicial Committee of Her Majesty's Privy Council of appeals from the Federal Court; and, subject to the provisions of this Article, an appeal shall lie from that Court to the *Yang di-Pertuan Agong* in any case in which such an appeal is allowed by federal law, and in respect of which provision for reference to the said Committee is made by or under the enactments regulating the proceedings of the said Committee.

(2) *(Repealed)*.

(3) Any appeal under this Article shall be subject to such conditions as to leave or otherwise as may be prescribed by federal law or by or under the enactments regulating the proceedings of the Judicial Committee of Her Majesty's Privy Council.

(4) On receiving from Her Majesty's Government in the United Kingdom the report or recommendation of the said Committee in respect of an appeal under

this Article, the *Yang di-Pertuan Agong* shall make such order as may be necessary to give effect thereto.

131A. Provision for incapacity, etc., of Lord President or Chief Justice.

(1) Any provision made by federal law for the functions of the Lord President of the Federal Court to be performed, in the event of a vacancy in the office or of his inability to act, by another judge of the Federal Court may extend to his functions under this Constitution.

(2) Any provision made by federal law for the functions of the Chief Justice of a High Court to be performed, in the event of a vacancy in the office or of his inability to act, by another judge of that court may extend to his functions under this Constitution other than functions as judge of the Federal Court.

PART X

PUBLIC SERVICES

132. Public services.

(1) For the purposes of this Constitution, the public services are

- (a) the armed forces;
- (b) the judicial and legal service;
- (c) the general public service of the Federation;
- (d) the police force;
- (e) the railway service;
- (f) the joint public services mentioned in Article 133;
- (g) the public service of each State; and
- (h) the education service.

(2) Except as otherwise expressly provided by this Constitution, the qualifications for appointment and conditions of service of persons in the public services other than those mentioned in paragraph (g) of Clause (1) may be regulated by federal law and, subject to the provisions of any such law, by the *Yang di-Pertuan Agong*; and the qualifications for appointment and conditions of service of persons in the public service of any State may be regulated by State law and, subject to the provisions of any such law, by the Ruler or *Yang di-Pertua Negeri* of that State.

(2A) Except as expressly provided by this Constitution, every person who is a member of any of the services mentioned in paragraphs (a), (b), (c), (d), (e), (f) and (h) of Clause (1) holds office during the pleasure of the *Yang di-Pertuan Agong*, and, except as expressly provided by the Constitution of the State, every person who is a member of the public service of a State holds office during the pleasure of the Ruler or *Yang di-Pertua Negeri*.

(3) The public service shall not be taken to comprise

- (a) the office of any member of the administration in the Federation or a State; or
- (b) the office of President, Speaker, deputy President, Deputy

- Speaker or member of either House of Parliament or of the Legislative Assembly of a State; or
- (c) the office of judge of the Federal Court or a High Court; or
 - (d) the office of member of any Commission or Council established by this Constitution or any corresponding Commission or Council established by the Constitution of a State; or
 - (e) such diplomatic posts as the *Yang di-Pertuan Agong* may by order prescribe, being posts which but for the order would be posts in the general public service of the Federation.
- (4) References in this Part, except in Articles 136 and 147, to persons in the public service or to members of any of the public service shall not apply to
- (a) the Clerk to either House of Parliament or any member of the staff of Parliament; or
 - (b) the Attorney General or, if provisions for the manner of his appointment and removal from office is specifically included in the Constitution of the State, or if he is appointed otherwise than from among the members of the judicial and legal service or of the public service of the State; the legal adviser of any State; or
 - (c) a member of the personal staff of the *Yang di-Pertuan Agong* or of a Ruler or *Yang di-Pertua Negeri*; or
 - (d) in the case of Malacca and Penang, if provision is made by State law for their appointment
 - (i) the President of the Religious Affairs Department;
 - (ii) the Secretary of the Religious Affairs Department;
 - (iii) the Mufti;
 - (iv) the Kadi Besar; or
 - (v) a Kadi.

133. Joint service, etc.

(1) Joint services common to the Federation and one or more of the States or, at the request of the States concerned, to two or more States, may be established by federal law.

(2) Where a member of any of the public services is employed

- (a) partly for federal purposes and partly for State purposes, or
- (b) for the purposes of two or more States,

the proportion, if any, of his remuneration payable by the Federation and the State or States concerned, or as the case may be, by each of the State concerned, shall, subject to federal law, be determined by agreement or, in default of agreement, by the Commission whose jurisdiction extends to him.

134. Secondment of officers.

(1) The Federation may, at the request of a State, second any member of any of the services mentioned in paragraph (a), (b), (c), or (f) of Clause (1) of Article 132 to the service of that State; and a State may at the request of the Federation or of another State second any member of its own public service of the Federation or, as the case may be, of that other State.

(2) A person seconded under this Article shall remain a member of the service to which he belongs, but his remuneration shall be paid by the State to whose service he is seconded or, if he is seconded to the service of the Federation, by the Federation.

135. Restriction on dismissal and reduction in rank.

(1) No member of any of the services mentioned in paragraphs (b) to (h) of Clause (1) of Article 132 shall be dismissed or reduced in rank by an authority subordinate to that which, at the time of the dismissal or reduction, has power to appoint a member of that service of equal rank:

Provided that in its application to members of the services mentioned in paragraph (g) of Clause (1) of Article 132 this Clause shall not apply to any law which the legislature to any State, other than Penang and Malacca, may make to provide that all powers and functions of a Public Service Commission of such State, other than the power of first appointment to the permanent or pensionable establishment, be exercised by a Board appointed by the Ruler of such State:

And provided further that this Clause shall not apply to a case where a member of any of the services mentioned in this Clause is dismissed or reduced in rank by an authority in pursuance of a power delegated to it by a Commission to which this Part applies, and this proviso shall be deemed to have been an integral part of this Clause as from Merdeka Day.

(2) No member of such a service as aforesaid shall be dismissed or reduced in rank without being given a reasonable opportunity of being heard:

Provided that this Clause shall not apply to the following cases

- (a) where a member of such a service is dismissed or reduced in rank on the ground of conduct in respect of which a criminal charge has been proved against him; or
 - (b) where the authority empowered to dismiss or reduce in rank a member of such a service is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to carry out the requirements of this Clause; or
 - (c) where the *Yang di-Pertuan Agong*, or, in the case of a member of the public service of a State, the Ruler or *Yang di-Pertua Negeri* of that State, is satisfied that in the interests of the security of the Federation or any part thereof it is not expedient to carry out the requirements of this Clause; or
 - (d) where there has been made against a member of such a service any order of detention, supervision, restricted residence, banishment or deportation, or where there has been imposed on such a member any form of restriction or supervision by bond or otherwise, under any law relating to the security of the Federation or any part thereof, prevention of crime, preventive detention, restricted residence, banishment, immigration, or protection of women and girls.
- (3) No member of any of the services mentioned in paragraph (c), (f) or

(g) of Clause (1) of Article 132 shall, without the concurrence of the Judicial and Legal Service Commission, be dismissed or reduced in rank or suffer any other disciplinary measure for anything done or omitted by him in the exercise of a judicial function conferred on him by law.

136. Impartial treatment of federal employees.

All persons of whatever race in the same grade in the service of the Federation shall, subject to the terms and conditions of their employment, be treated impartially.

137. Armed Forces Council.

(1) There shall be an Armed Forces Council, which shall be responsible under the general authority of the *Yang di-Pertuan Agong* for the command, discipline and administration of, and all other matters relating to the armed forces, other than matters relating to their operational use.

(2) Clause (1) has effect subject to the provisions of any federal law, and any such law may provide for the vesting in the Armed Forces Council of any functions with respect to the armed forces.

(3) The Armed Forces Council shall consist of the following members, that is to say

- (a) the Minister for the time being charged with responsibility for defense, who shall be Chairman;
- (b) one member representing Their Royal Highnesses, who shall be appointed by the Conference of Rulers;
- (c) the Chief of the Armed Forces Staff who shall be appointed by the *Yang di-Pertuan Agong*;
- (d) a civilian member, being the person performing the duties of the office of Secretary General for Defence, who shall act as Secretary to the Council;
- (e) two senior staff officers of the Federation Armed Forces, appointed by the *Yang di-Pertuan Agong*;
- (f) a senior officer of the Federation Navy, appointed by the *Yang di-Pertuan Agong*;
- (g) a senior officer of the Federation Air Force, appointed by the *Yang di-Pertuan Agong*;
- (h) two, if any, additional members, whether military or civilian, appointed by the *Yang di-Pertuan Agong*.

(4) The Armed Forces Council may act notwithstanding a vacancy in its membership and may, subject to this Constitution and to federal law, provide for all or any of the following matters

- (a) the organization of its work and the manner in which its functions are to be performed, and the keeping of records and minutes;
- (b) the duties and responsibilities of the several members of the Council, including the delegation to any member of the Council of any of its powers or duties;
- (c) the consultation by the Council with persons other than its members;

- (d) the procedure to be followed by the Council in conducting its business (including the fixing of a quorum), the appointment, at its option, of a vice-chairman from among its members, and the functions of the vice-chairman;
- (e) any other matters for which the Council considers it necessary or expedient to provide for the better performance of its functions.

138. Judicial and Legal Service Commission.

(1) There shall be a Judicial and Legal Service of Commission, whose jurisdiction shall extend to all members of the judicial and legal service.

(2) The Judicial and Legal Service Commission shall consist of

- (a) the Chairman of the Public Services Commission, who shall be Chairman;
- (b) the Attorney General or, if the Attorney General is a member of Parliament or is appointed otherwise than from among members of the Judicial and Legal Service, the Solicitor General; and
- (c) one or more other members who shall be appointed by the *Yang di-Pertuan Agong*, after consultation with the Lord President of the Federal Court, from among persons who are or have been or are qualified to be a judge of the Federal court or a High Court or shall before Malaysia Day have been a judge of the Supreme Court.

(3) The person who is secretary to the Public Services Commission shall be secretary also to the Judicial and Legal Service Commission.

139. Public Services Commission.

(1) There shall be a Public Services Commission, whose jurisdiction shall, subject to Article 144, extend to all persons who are members of the services mentioned in paragraphs (c) and (f) of Clause (1) of Article 132, other than the Auditor-General, to members of the public services of the State of Malacca and the State of Penang, and, to the extent provided by Clause (2), to members of the public service of any other State.

(2) The Legislature of any State other than Malacca and Penang may by law extend the jurisdiction of the Public Services Commission to all or any persons in the public service of that State, but no such law shall take effect earlier than twelve months from the date of its passing; and if at any time there is not, in any such State in which no such law is in force, established and exercising its functions a State Public Service Commission, the jurisdiction of the Public Services Commission shall, if federal law so provides, extend to all members of the public service of that State.

(3) Any extension of the jurisdiction of the Public Service Commission made by the legislature of any State pursuant to Clause (2) may be revoked or modified by a law passed by the legislature of such State.

(4) Subject to Article 146B the Public Services Commission shall consist of the following members appointed by the *Yang di-Pertuan Agong* in his

discretion but after considering the advice of the Prime Minister and after consultation with the Conference of Rulers, that is to say, a chairman, a deputy chairman and not less than four nor more than twelve other members.

(5) Either the chairman or the deputy chairman shall be, and both may be, appointed from among persons who are, or have at any time within the period of five years immediately preceding the date of their first appointment been, members of any of the public services.

(6) A member of any of the public services appointed to be chairman or deputy chairman shall not be eligible for any further appointment in the service of the Federation other than as a member of a Commission to which this Part applies.

140. Police Force Commission.

(1) There shall be a Police Force Commission whose jurisdiction shall extend to all persons who are members of the police force and which, subject to the provisions of any existing law, shall be responsible for the appointment, confirmation, emplacement on the permanent or pensionable establishment, promotion, transfer and exercise of disciplinary control over members of the police force:

Provided that Parliament may by law provide for the exercise of such disciplinary control over all or any of the members of the police force in such manner and by such authority as may be provided in that law, and in that event, if the authority is other than the Commission, the disciplinary control exercisable by such authority shall not be exercised by the Commission; and no provision of such law shall be invalid on the ground of inconsistency with any provision of this Part.

(2) Federal law may provide for the exercise of other functions by the Police Force Commission.

(3) The Police Force Commission shall consist of the following members, that is to say

- (a) the Minister for the time being charged with responsibility for the police, who shall be Chairman;
- (b) the officer of police in general command of the police force;
- (c) the person performing the duties of the office of Secretary General to the Ministry under the Minister for the time being charged with responsibility for the police;
- (d) a member of the Public Services Commission appointed by the *Yang di-Pertuan Agong*;
- (e) not less than two nor more than six other members, appointed by the *Yang di-Pertuan Agong*.

(4) The *Yang di-Pertuan Agong* may designate as special posts the posts of Inspector-General of Police, Deputy Inspector-General of Police and any other posts in the police force which in his opinion are of similar or superior status; and the appointment to any posts so designated shall not be made in accordance with Clause (1) but shall be made by the *Yang di-Pertuan Agong* on the recommendation of the Police Force Commission.

(5) Before acting in accordance with Clause (4) on the recommendation of the Police Force Commission, the *Yang di-Pertuan Agong* shall consider the

advice of the Prime Minister, and may once refer the recommendation back to the Commission in order that it may be reconsidered.

(6) The Police Force Commission may provide for all or any of the following matters

- (a) the organization of its work and the manner in which its functions are to be performed, and the keeping of records and minutes;
- (b) the duties and responsibilities of the several members of the Commission, including the delegation to any member of the Commission or the police force or board of officers of such force of its powers or duties;
- (c) the consultation by the Commission with persons other than its members;
- (d) the procedure to be followed by the Commission in conducting its business (including the fixing of a quorum), the appointment, at its option, of a vice-chairman from among its members, and the functions of the vice-chairman;
- (e) any other matters for which the Commission considers it necessary or expedient to provide for the better performance of its functions.

(7) In this Article 'transfer' does not include transfer without change of rank within the police force.

141. Railway Service Commission.

(1) Subject to Clause (4), there shall be a Railway Service Commission, whose jurisdiction shall, subject to Article 144, extend to all persons who are members of the railway service.

(2) The Railway Service Commission shall consist of the following members appointed by the *Yang di-Pertuan Agong* in his discretion but after considering the advice of the Prime Minister and after consultation with the Conference of Rulers, that is to say, a chairman, a deputy chairman and not less than two nor more than six other members; and either the chairman or the deputy chairman shall be, and both may be, appointed from among persons who are, or have at any time within the period of five years immediately preceding the date of their first appointment been, members of any of the public services.

(3) One of the members of the Railway Service Commission shall be appointed from among the members of the Public Services Commission and two of the other members shall, if suitable persons having experience in railway service or railway administration are available, be appointed from among such persons.

(4) A member of any of the public services appointed to be chairman or deputy chairman shall not be eligible for any further appointment in the service of the Federation other than as a member of a Commission to which this Part applies.

(5) If the railway service ceases to be a public service of the Federation Parliament may by law abolish the Railway Service Commission.

141A. Education Service Commission.

(1) There shall be an Education Service Commission, whose jurisdiction shall, subject to Article 144, extend to all persons who are members of the service mentioned in paragraph (h) of Clause (1) of Article 132.

(2) The Education Service Commission shall consist of the following members appointed by the *Yang di-Pertuan Agong* in his discretion but after considering the advice of the Prime Minister and after consultation with the Conference of Rulers, that is to say, a Chairman and not less than four but not more than eight other members.

(3) A member of any of the public services appointed to be Chairman shall not be eligible for any further appointment in the service of the Federation other than as a member of a Commission to which this Part applies.

142. General provisions relating to Commissions.

(1) Subject to paragraph (a) of Clause (3) of Article 140, a member of either House of Parliament or of the Legislative Assembly of a State shall not be appointed to be a member of a Commission to which this Part applies.

(2) Subject to Clause (3), a person shall not be appointed to be a member of any of the Commissions to which this Part applies if he is, and shall not remain such a member if he becomes

- (a) a member of any of the public services;
- (b) an officer or employee of any local authority or of a body corporate or authority established by law for public purposes;
- (c) a member of a trade union or of a body or association affiliated to a trade union.

(3) Clause (2) does not apply to *ex-officio* members; and a member of any of the public services may be appointed to be and remain chairman or deputy chairman and, if he is on leave prior to retirement, he may be appointed to be another member, of any of the said Commissions.

(4) Where, during any period, a member of any of the said Commissions has been granted leave of absence by the *Yang di-Pertuan Agong* or is unable, owing to his absence from the Federation, illness or any other cause, to discharge his functions as a member, then

- (a) if he is an appointed member, the *Yang di-Pertuan Agong* may appoint to exercise his functions during that period any person who would be qualified to be appointed in his place, and the appointment of such a person shall be made in the same manner as that of the member whose functions he is to exercise;
- (b) if he is an *ex-officio* member, any person authorized under federal law to perform the functions of his office may during that period perform also his functions as a member of the Commission.

(5) A Commission to which this Part applies may act notwithstanding a vacancy in its membership, and no proceedings of such a Commission shall be invalidated by reason only that some person not entitled thereto has taken part in them.

(6) Before exercising his functions as a member of any of the said Commissions or under Clause (4) any person other than an *ex-officio* member shall take and subscribe before a judge of the Federal Court or of a High Court the oath of office and allegiance set out in the Sixth Schedule.

143. Conditions of service of members of Commissions.

(1) A member of a Commission to which this Part applies, other than an *ex-officio* member

- (a) shall be appointed for a term of five years or, if the *Yang di-Pertuan Agong*, acting in his discretion but after considering the advice of the Prime Minister, in a particular case so determines, for such shorter term as he may so determine;
- (b) may, unless disqualified, be reappointed from time to time; and
- (c) may at any time resign his office but shall not be removed from office except on the like grounds and in like manner as a judge of the Federal Court.

(2) Parliament shall by law provide for the remuneration of any member of the said Commission other than a member for whose remuneration as holder of any other office provision is made by federal law; and the remuneration so provided shall be charged on the Consolidated Fund.

(3) The remuneration and other terms of office of a member of a Commission to which this Part applies shall not be altered to his disadvantage after his appointment.

144. Functions of Service Commissions.

(1) Subject to the provisions of any existing law and to the provisions of this Constitution, it shall be the duty of a Commission to which this Part applies to appoint, confirm, emplace on the permanent or pensionable establishment, promote, transfer and exercise disciplinary control over members of the service or services to which its jurisdiction extends.

(2) Federal law may provide for the exercise of other functions by any such Commission.

(3) The *Yang di-Pertuan Agong* may designate as special posts any post held by the head or deputy head of a department or by an officer who in his opinion is of similar status and the appointment to any post so designated shall not be made in accordance with Clause (1) but shall be made by the *Yang di-Pertuan Agong* on the recommendation of the Commission whose jurisdiction extends to the service in which the post is held.

(4) The Ruler or *Yang di-Pertua Negeri* of a State may designate as special posts any posts in the public service of his State held by the head or deputy head of a department or by an officer who in his opinion is of similar status; and the appointment to any post so designated shall not be made in accordance with Clause (1) but shall be made by the Ruler or *Yang di-Pertua Negeri* on the recommendation of the Public Services Commission (or, if there is in the State a State Public Service Commission, on the recommendation of that Commission).

(5) Before acting, in accordance with Clause (3) or (4), on the recommendation of the Commission therein mentioned.

- (a) the *Yang di-Pertuan Agong* shall consider the advice of the Prime Minister; and
- (b) the Ruler or *Yang di-Pertua Negeri* shall consider the advice of the Chief Minister of his State,

and may once refer the recommendation back to the Commission in order that it may be reconsidered.

(5A) Save as provided in Clause (5B), federal law and, subject to the provisions any such law, regulations made by the *Yang di-Pertuan Agong* may, notwithstanding the provisions of Clause (1) of Article 135, provide for the exercise by any officer in a service to which the jurisdiction of a Commission to which this Part applies extends, or by any board of such officers, of any of the functions of the Commission under Clause (1):

Provided that

- (a) no such law or regulation may provide for the exercise by any such officer or board of officers of any power of first appointment to the permanent or pensionable establishment, or of any power of promotion (other than promotion to an acting appointment); and
 - (b) any person aggrieved by the exercise by any such officer or board of officers of any power of disciplinary control may appeal to the Commission within such time and in such manner as may be prescribed by any such law or regulations, and the Commission may make such order thereon as it may consider just.
- (5B) (i) Notwithstanding the provisions of Clause (1) of Article 135 and Article 139 and Article 141A, all the powers and functions of the Public Service Commission or the Education Service Commission established under Article 139 and Article 141A, other than the power of first appointment to the permanent or pensionable establishment, may be exercised by the board appointed by the *Yang di-Pertuan Agong*.
- (ii) Any person aggrieved by the exercise by the board of any of the aforesaid powers or functions may appeal to an Appeal Board appointed by the *Yang di-Pertuan Agong*.
- (iii) The *Yang di-Pertuan Agong* may by regulations provide for matters relating to the appointments of the members of, and the procedure to be followed by, the board or the Appeal Board under this Clause.
- (iv) Where the *Yang di-Pertuan Agong* has appointed the board under paragraph (1) of this Clause for the purpose of exercising any of the powers or functions referred to under that paragraph, such power or function shall so long as it remains a power or function to be exercised by the board, cease to be exercisable by the said Commission.
- (6) A Commission to which this Part applies may delegate to any officer

in a service to which its jurisdiction extends, or any board of such officers appointed by it, any of its functions under Clause (1) in respect of any grade of service, and that officer or board shall exercise those functions under the direction and the control of the Commission.

(6A) In respect of members of the general public service of the Federation who are employed in posts ancillary to the armed forces or any of them or to the police force, or in respect of any grade of member of that service who are so employed, functions of the Public Services Commission may, under Clause (5A) or (6) be made exercisable by an officer or board of officers of the armed forces or police force, as the case may be, as if he or they were members of the general public service of the Federation.

(7) In this Article 'transfer' does not include transfer without change of rank within a department of Government.

(8) A Commission to which this Part applies may, subject to the provisions of this Constitution and of federal law, make rules regulating its procedure and specifying the number of its members which are to constitute a quorum.

145. The Attorney General.

(1) The *Yang di-Pertuan Agong* shall, on the advice of the Prime Minister, appoint a person who is qualified to be a judge of the Federal Court to be the Attorney General for the Federation.

(2) It shall be the duty of the Attorney General to advise the *Yang di-Pertuan Agong* or the Cabinet or any Minister upon such legal matters, and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the *Yang di-Pertuan Agong* or the Cabinet, and to discharge the functions conferred on him by or under this Constitution or any other written law.

(3) The Attorney General shall have power, exercisable at his discretion, to institute, conduct or discontinue any proceedings for an offence, other than proceedings before a Syariah court, a native court or a court-martial.

(4) In the performance of his duties the Attorney General shall have the right of audience in, and shall take precedence over any other person appearing before, any court or tribunal in the Federation.

(5) Subject to Clause (6), the Attorney General shall hold office during the pleasure of the *Yang di-Pertuan Agong* and may at any time resign his office and, unless he is a member of the Cabinet, shall receive such remuneration as the *Yang di-Pertuan Agong* may determine.

(6) The person holding the office of Attorney General immediately prior to the coming into operation of this Article shall continue to hold the office on terms and conditions not less favorable than those applicable to him immediately before such coming into operation and shall not be removed from office except on the like grounds and in the like manner as a judge of the Federal Court.

146. Reports of Commissions.

(1) Each of the Commissions to which this Part applies shall make an annual report on its activities to the *Yang di-Pertuan Agong* and copies of those reports shall be laid before both Houses of Parliament.

(2) The Public Services Commission shall send a copy of every report made under this Article to the Ruler or *Yang di-Pertua Negeri* of each State to members of whose public service their jurisdiction extends, and the Ruler or *Yang di-Pertua Negeri* shall lay it before the Legislative Assembly.

146A. (Repealed).

146B. Branches in each the State of Sabah or Sarawak of Public Services Commission.

(1) In respect of members of the general public service of the Federation who are employed in a federal department in the State of Sabah or Sarawak the functions to be discharged by the Public Services Commission shall, so long as this Clause has effect, be discharged by a branch of that Commission established for the State.

(2) The branch of the Public Services Commission established for a State under Clause (1) shall consist of six members (of whom two shall be from amongst the members of the main body of the Public Services Commission) to be appointed by the *Yang di-Pertuan Agong* acting in his discretion but after considering the advice of the Prime Minister and after consultation with the Conference of Rulers.

(3) (Repealed).

(4) Such member of a branch of the Public Services Commission established under Clause (1) as may be designated by the Chairman of the Commission shall be chairman of the branch.

(5) The number of members of the Public Services Commission required by Clause (4) of Article 139 shall be the number of the members of the main body, exclusive of those who are members of a branch but not of the main body.

(6) Where a post in a federal department in the State of Sabah or Sarawak entails duties in or in respect of the other of those States, the branch of the Public Services Commission whose jurisdiction is to extend to that post shall be the branch for the State which the head of the department is normally stationed or, in any case of doubt or difficulty, whichever branch the Federal Government may determine.

(7) Notwithstanding Clause (2) of Article 134, so long as there is for the State of Sabah or Sarawak a branch of the Public Services Commission under this Article, the jurisdiction of the Public Services Commission shall extend (except as regards the exercise of disciplinary control over them) to members of the public service of the State who are seconded to the general public service of the Federation, other than members in or below such grade as the *Yang di-Pertuan Agong*, with the concurrence of the *Yang di-Pertua Negeri*, may direct; and for purpose of the Public Services Commission they shall be deemed (except as regards the exercise of disciplinary control over them) to be members of the general public service of the Federation.

(8) This Article shall have effect until the end of August, 1968, and thereafter it shall continue to have effect in relation to the State of Sabah or Sarawak until the Federal Government determines to the contrary.

146C. Supplementary provisions as to branches of Public Services Commission.

(1) If provision is made by federal law for establishing a joint service common to the Federation and to the State of Sabah or Sarawak, or to the States of Sabah and Sarawak with or without the Federation, and for conferring jurisdiction in respect of that service on the Public Services Commission, federal law may provide for functions of the Commission in relation to that service to be exercised by any branch for the time being established under Article 146B for the State or any of the States in question.

(2) In Article 142, paragraph (b) of Clause (4) and, in Article 143, Clause (2) shall have effect in relation to members of a branch of the Public Services Commission established under Article 146B as if the references to federal law included references to State law.

(3) Clause (8) of Article 144 shall apply to a branch of the Public Services Commission established under Article 146B as if it were a separate Commission to which this Part applies; but nothing in those Articles shall be taken to require such a branch to make a separate annual report under Article 146.

146D. Jurisdiction of Police Force Commission over seconded members of State service in States of Sabah and Sarawak.

Notwithstanding Clause (2) of Article 134, the jurisdiction of the Police Force Commission shall extend to members of the public service of the State of Sabah or Sarawak who are seconded to the police force; and for purposes of the Police Force Commission they shall be deemed to be members of the police force.

(2) (*Repealed*).

(3) (*Repealed*).

147. Protection of pension rights.

(1) The law applicable to any pension, gratuity or other like allowance (in this Article referred to as an 'award') granted to a member of any of the public services, or to his widow, children, dependent or personal representatives, shall be that in force on the relevant day or any later law not less favorable to the person to whom the award is made.

(2) For the purposes of this Article the relevant day is

(a) in relation to an award made before Merdeka Day, the date on which the award was made;

(b) in relation to an award made after Merdeka Day to or in respect of any person who was a member of any of the public services before Merdeka Day, the thirtieth day of August, nineteen hundred and fifty-seven;

(c) in relation to an award made to or in respect of any person who first became a member of any of the public services on or after Merdeka Day, the date on which he first became such a member.

(3) For the purposes of this Article, where the law applicable to an award depends on the option of the person to whom it is made, the law for which he opts shall be taken to be more favorable to him than any other law for which he might have opted.

148. Interpretation of Part X.

(1) References in this Constitution to a Commission to which this Part applies are, unless the context otherwise requires, references to any of the Commissions established under Articles 138 to 141A.

(2) In this Part 'ex officio member' includes a Minister and a judge of the Federal Court or of a High Court and 'State Public Service Commission' means, in relation to any State, a Commission exercising functions in respect of members of the public service of the State and corresponding in status and jurisdiction to the Public Services Commission.

PART XI

SPECIAL POWERS AGAINST SUBVERSION, AND
EMERGENCY POWERS

149. Legislation against subversion.

(1) If an Act of Parliament recites that action has been taken or threatened by any substantial body of person, whether inside or outside the Federation

- (a) to cause, or to cause a substantial number of citizen to fear, organized violence against persons or property; or
- (b) to excite disaffection against the *Yang di-Pertuan Agong* or any Government in the Federation; or
- (c) to promote feelings of ill-will and hostility between different races or other classes of the population likely to cause violence; or
- (d) to procure the alteration, otherwise than by lawful means, of anything by law established; or
- (e) which is prejudicial to the security of the Federation or any part thereof,

any provision of that law designed to stop or prevent that action is valid notwithstanding that it is inconsistent with any of the provisions of Article 5, 9 or 10, or would apart from this Article be outside the legislative power of Parliament; and Article 79 shall not apply to a Bill for such an Act or any amendment to such a Bill.

(2) A law containing such a recital as is mentioned in Clause (1) shall, if not sooner repealed, cease to have effect if resolutions are passed by both Houses of Parliament annulling such law, but without prejudice to anything previously done by virtue thereof or to the power of Parliament to make a new law under this Article.

150. Proclamation of emergency.

(1) If the *Yang di-Pertuan Agong* is satisfied that a grave emergency exists whereby the security or economic life of the Federation or of any part thereof is threatened, he may issue a Proclamation of Emergency.

(2) If a Proclamation of Emergency is issued when Parliament is not

sitting, the *Yang di-Pertuan Agong* shall summon Parliament as soon as may be practicable, and may, until both Houses of Parliament are sitting, promulgate ordinances having the force of law, if satisfied that immediate action is required.

(3) A Proclamation of Emergency and any ordinance promulgated under Clause (2) shall be laid before both Houses of Parliament and, if not sooner revoked, shall cease to have effect if resolutions are passed by both Houses annulling such Proclamation or ordinance, but without prejudice to anything previously done by virtue thereof or to the power of the *Yang di-Pertuan Agong* to issue a new Proclamation under Clause (1) or promulgate any ordinance under Clause (2).

(4) While a Proclamation of Emergency is in force the executive authority of the Federation shall, notwithstanding anything in this Constitution, extend to any matter within the legislative authority of a State and to the giving of directions to the Government of a State or to any officer or authority thereof.

(5) Subject to Clause (6A), while a Proclamation of Emergency is in force, Parliament may, notwithstanding anything in this Constitution, make laws with respect to any matter, if it appears to Parliament that the law is required by reason of the emergency; and Article 79 shall not apply to a Bill for such a law or an amendment to such a Bill, nor shall any provision of this Constitution or of any written law which requires any consent or concurrence to the passing of a law or any consultation with respect thereto, or which restricts the coming into force of a law after it is passed or the presentation of a bill to the *Yang di-Pertuan Agong* for his assent.

(6) Subject to Clause (6A), no provision of any ordinance promulgated under this Article, and no provision of any Act of Parliament which is passed while a Proclamation of any Emergency is in force and which declares that the law appears to Parliament to be required by reason of the emergency, shall be invalid on the ground of inconsistency with any provision of this Constitution.

(6A) Clause (5) shall not extend the powers of Parliament with respect to any matter of Islamic law or the custom of the Malays, or with respect to any matter of native law or custom in the State of Sabah or Sarawak, nor shall Clause (6) validate any provision inconsistent with the provisions of this Constitution relating to any such matter or relating to religion, citizenship, or language.

(7) At the expiration of a period of six months beginning with the date on which a Proclamation of Emergency ceases to be in force, any ordinance promulgated in pursuance of the Proclamation and, to the extent that it could not have been validly made but for this Article, any law made while the Proclamation was in force, shall cease to have effect except as to things done or omitted to be done before the expiration of that period.

151. Restrictions on preventive detention.

(1) Where any law or ordinance made or promulgated in pursuance of this Part provides for preventive detention

(a) the authority on whose order any person is detained under that

law or ordinance shall, as soon as may be, inform him of the grounds for his detention and, subject to Clause (3), the allegations of fact on which the order is based, and shall give him the opportunity of making representations against the order as soon as may be;

- (b) no citizen shall continue to be detained under that law or ordinance unless an advisory board constituted as mentioned in Clause (2) has considered any representations made by him paragraph (a) and made recommendations thereon to the *Yang di-Pertuan Agong* within three months of receiving such representations, or within such longer period as the *Yang di-Pertuan Agong* may allow.

(2) An advisory board constituted for the purpose of this Article shall consist of a Chairman, who shall be appointed by the *Yang di-Pertuan Agong* and who shall be or have been, or be qualified to be, a judge of the Federal Court or a High Court, or shall before Malaysia day have been a judge of the Supreme Court, and two other members, who shall be appointed by the *Yang di-Pertuan Agong* after consultation with the Lord President of the Federal Court.

(3) This Article does not require any authority to disclose facts whose disclosure would in its opinion be against the national interest.

PART XII

GENERAL AND MISCELLANEOUS

152. National language.

(1) The national language shall be the Malay language and shall be in such script as Parliament may by law provide:

Provided that

- (a) no person shall be prohibited or prevented from using (otherwise than for official purposes), or from teaching or learning, any other language; and
- (b) nothing in this Clause shall prejudice the right of the Federal Government or of any State Government to preserve and sustain the use and study of the language of any other community in the Federation.

(2) Notwithstanding the provisions of Clause (1), for a period of ten years after Merdeka Day, and thereafter until Parliament otherwise provides, the English language may be used in both Houses of Parliament, in the Legislative Assembly of every State, and for all other official purposes.

(3) Notwithstanding the provisions of Clause (1), for a period of ten years after Merdeka Day, and thereafter until Parliament otherwise provides, the authoritative texts

- (a) of all Bills to be introduced or amendments thereto to be moved in either House of Parliament, and

(b) of all Acts of Parliament and all subsidiary legislation issued by the Federal Government, shall be in the English language.

(4) Notwithstanding the provisions of Clause (1), for a period of ten year after Merdeka Day, and thereafter until Parliament otherwise provides, all proceedings in the Federal Court or a High Court shall be in the English language:

Provided that, if the Court and counsel on both sides agree, evidence taken in the language spoken by the witness need not be translated into or recorded in English.

(5) Notwithstanding the provisions of Clause (1), until Parliament otherwise provides, all proceedings in subordinate courts, other than the taking of evidence, shall be in the English language.

(6) In this Article, 'official purpose' means any purpose of the Government, whether Federal or State, and includes any purpose of a public authority.

153. Reservation of quotas in respect of services, permits, etc., for Malays and natives of any of the States of Sabah and Sarawak.

(1) It shall be the responsibility of the *Yang di-Pertuan Agong* to safeguard the special position of the Malays and natives of any of the States of Sabah and Sarawak and the legitimate interests of other communities in accordance with the provisions of this Article.

(2) Notwithstanding anything in this Constitution, but subject to the provisions of Article 40 and of this Article, the *Yang di-Pertuan Agong* shall exercise his functions under this Constitution and federal law in such manner as may be necessary to safeguard the special position of the Malays and natives of any of the States of Sabah and Sarawak and to ensure the reservation for Malays and natives of any of the States of Sabah and Sarawak of such proportion as he may deem reasonable of positions in the public service (other than the public service of a State) and of scholarships, exhibitions and other similar educational or training privileges or special facilities given or accorded by the Federal Government and, when any permit or licence for the operation of any trade or business is required by federal law, then, subject to the provisions of that law and this Article, of such permits and licences.

(3) The *Yang di-Pertuan Agong* may, in order to ensure in accordance with Clause (2) the reservation to Malays and natives of any of the States of Sabah and Sarawak of positions in the public service and of scholarships, exhibitions and other educational or training privileges or special facilities, give such general directions as may be required for that purpose to any Commission to which Part X applies or to any authority charged with responsibility for the grant of such scholarships, exhibitions or other educational or training privileges or special facilities; and the Commission or authority shall duly comply with the directions.

(4) In exercising his functions under this Constitution and federal law in accordance with Clauses (1) to (3) the *Yang di-Pertuan Agong* shall not deprive any person of any public office held by him or of the continuance of any scholarship, exhibition or other educational or training privileges or special facilities enjoyed by him.

(5) This Article does not derogate from the provisions of Article 136.

(6) Where by existing federal law a permit or licence is required for the operation of any trade or business the *Yang di-Pertuan Agong* may exercise his functions under that law in such manner, or give such general directions to any authority charged under that law with the grant of such permits or licences, as may be required to ensure the reservation of such proportion of such permits or licences for Malays and natives of any of the States of Sabah and Sarawak as the *Yang di-Pertuan Agong* may deem reasonable; and the authority shall duly comply with the directions.

(7) Nothing in this Article shall operate to deprive or authorize the deprivation of any person of any right, privilege, permit or licence accrued to or enjoyed or held by him or to authorize a refusal to renew to any person any such permit or licence or a refusal to grant to the heirs, successors or assigns of a person any permit or licence when the renewal or grant might reasonably be expected in the ordinary course of events.

(8) Notwithstanding anything in this Constitution, where by any federal law any permit or licence is required for the operation of any trade or business, the law may provide for the reservation of a proportion of such permits or licences for Malays and natives of any of the States of Sabah and Sarawak; but no such law shall for the purpose of ensuring such a reservation

(a) deprive or authorize the deprivation of any person of any right, privilege, permit or licence accrued to or enjoyed or held by him; or

(b) authorize a refusal to renew to any person any such permit or licence or a refusal to grant to the heirs, successors or assigns of any person any permit or licence when the renewal or grant might in accordance with the other provisions of the law reasonably be expected in the ordinary course of events, or prevent any person from transferring together with his business any transferable licence to operate that business: or

(c) where no permit or licence was previously required for the operation of the trade or business, authorize a refusal to grant a permit or licence to any person for the operation of any trade or business which immediately before the coming into force of the law he had been *bona fide* carrying on, or authorize a refusal subsequently to renew to any such person any permit or licence, or a refusal to grant to the heirs, successors or assigns of any such person any such permit or licence when the renewal or grant might in accordance with the other provisions of that law reasonably be expected in the ordinary course of events.

(8A) Notwithstanding anything in this Constitution, where in any University, College and other educational institution providing education after Malaysian Certificate of Education or its equivalent, the number of places offered by the authority responsible for the management of the University, College or such

educational institution to candidates for any course of study is less than the number of candidates qualified for such places, it shall be lawful for the *Yang di-Pertuan Agong* by virtue of this Article to give such directions to the authority as may be required to ensure the reservation of such proportion of such places for Malays and natives of any of the States of Sabah and Sarawak as the *Yang di-Pertuan Agong* may deem reasonable; and the authority shall duly comply with the directions.

(9) Nothing in this Article shall empower Parliament to restrict business or trade solely for the purpose of reservations for Malays and natives of any of the States of Sabah and Sarawak.

(9A) In this Article the expression 'natives' in relation to the State of Sabah or Sarawak shall have the meaning assigned to it in Article 161A.

(10) The Constitution of the State of any Ruler may make provision corresponding (with the necessary modifications) to the provisions of this Article.

154. The federal capital.

(1) Until Parliament otherwise determines, the municipality of Kuala Lumpur shall be the federal capital.

(2) Notwithstanding anything in Part VI, Parliament shall have exclusive power to make laws with respect to the boundaries of the federal capital.

(3) (*Repealed*).

155. Commonwealth reciprocity.

(1) Where the law in force in any other part of the Commonwealth confers upon citizens of the Federation any right or privilege it shall be lawful, notwithstanding anything in this Constitution, for Parliament to confer a similar right or privilege upon citizens of that part of the Commonwealth who are not citizens of the Federation.

(2) The reference in Clause (1) to citizens of a part of the Commonwealth shall be construed, in relation to the United Kingdom or to any other part of the Commonwealth not being a Commonwealth country or a territory administered by the Government of a Commonwealth country other than the United Kingdom, as a reference to citizens of the United Kingdom and Colonies.

(3) This Article applies in relation to the Republic of Ireland as it applies in relation to a Commonwealth country.

156. Contributions in aid of rates in respect of federal and State property.

Where lands, buildings or hereditaments are occupied for public purposes by or on behalf of the Federation, a State or a public authority, the Federation, State or public authority shall not be liable to pay local rates in respect thereof but shall in aid of those rates make such contributions in respect thereof as may be agreed between the Federation, State or public authority, as the case may be, and the authority levying the rates or as may in default of agreement be determined by a tribunal consisting of the chairman of the Lands Tribunal established under Article 87, who shall preside, and two other members of whom each of the parties concerned shall appoint one.

157. Delegation of State functions to another State.

Subject to any provisions of State law, arrangement may be made between any

two States for the performance of any functions by the authorities of the one on behalf of the authorities of the other, and such arrangements may provide for the making of payments in respect of any costs incurred under the arrangements.

158. Arrangements with Brunei.

(1) Nothing in this Constitution shall be taken to prohibit the making or continuance of arrangements whereby

- (a) departments, authorities or services are maintained by the Federal Government in common with the Government of Brunei; or
- (b) the Federal Government or any officer or authority thereof acts as agent for the Government of Brunei; or
- (c) any part of the executive authority of the Federation is exercised, with the consent of the Federal Government by any officer or authority of the Government of Brunei.

(2) *(Repealed)*.

159. Amendment of the Constitution.

(1) Subject to the following provisions of this Article and to Article 161E the provisions of this Constitution may be amended by federal law.

(2) *(Repealed)*.

(3) A Bill for making any amendment to the Constitution (other than an amendment excepted from the provisions of this Clause) and a Bill for making any amendment to a law passed under Clause (4) of Article 10 shall not be passed in either House of Parliament unless it has been supported on Second and Third Readings by the votes of not less than two-thirds of the total number of members of that House.

(4) The following amendments are excepted from the provisions of Clause (3), that is to say:

- (a) any amendment to Part III of the Second or to the Sixth or Seventh Schedule;
- (b) any amendment incidental to or consequential on the exercise of any power to make law conferred on Parliament by any provision of this Constitution other than Articles 74 and 76;
- (bb) subject to Article 161E any amendment made for or in connection with the admission of any State to the Federation or its association with the States thereof, or any modification made as to the application of this Constitution to a State previously so admitted or associated;
- (c) any amendment consequential on an amendment made under paragraph (a).

(5) A law making an amendment to Clause (4) of Article 10, any law passed thereunder, the provisions of Part III, Article 38, 63 (4), 70, 71 (1), 72 (4), 152 or 153 or to this Clause shall not be passed without the consent of the Conference of Rulers.

(6) In this Article 'amendment' includes addition and repeal; and in this Article and in Article 2 (a) 'State' includes any territory.

159A. Operations of transitional provisions of Malaysia Act.

The provisions of Part IV of the Malaysia Act (which contains temporary and transitional provisions in connection with the operation of that Act) shall have effect as if embodied in this Constitution, and shall have effect notwithstanding anything in this Constitution as amended by that Act; and the provisions of this Constitution, and in particular Clause (1) of Article 4 and Articles 159 and 161E shall have effect in relation thereto accordingly).

160. Interpretation.

(1) The Interpretation and General Clauses Ordinance, 1984, as in force immediately before Merdeka Day shall, to the extent specified in the Eleventh Schedule, apply for the interpretation of this Constitution as it applies for the interpretation of any written law within the meaning of that Ordinance, but with the substitution of references to the *Yang di-Pertuan Agong* for references to the High Commissioner.

(2) In this Constitution, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say

‘Aborigine’ means an aborigine of the Malay Peninsula;

‘Act of Parliament’ means a law made by Parliament;

‘Attorney General’ means the Attorney General of the Federation;

‘Borrow’ includes the raising of money by the grant of annuities or by entering into any arrangement requiring the payment before the due date of any taxes, rates, royalties, fees or any other payments or by entering into any agreement whereby the Government has to repay or refund any benefits that it has enjoyed under that agreement, and ‘loan’ shall be construed accordingly;

‘Casual vacancy’ means a vacancy arising in the House of Representatives or a Legislative Assembly otherwise than by a dissolution of Parliament or of the Assembly;

‘Chief Minister’ and ‘*Mentri Besar*’ both mean the president, by whatever style known, of the Executive Council in a State;

‘Citizen’ means a citizen of the Federation;

‘Civil List’ means the provision made for the maintenance of the *Yang di-Pertuan Agong*, his Consort, a Ruler or *Yang di-Pertua Negeri* out of public funds;

‘Commonwealth country’ means any country recognized by the *Yang di-Pertuan Agong* to be a Commonwealth country; and ‘part of the Commonwealth’ means any Commonwealth country, any colony, protectorate or protected state or any other territory administered by the Government of any Commonwealth country;

‘Concurrent List’ means the Third List set out in the Ninth Schedule;

‘Debt’ includes any liability in respect of any obligation to repay capital sums by way of annuities and any liability under any guarantee, and ‘debt charges’ shall be construed accordingly;

‘Elector’ means a person who is entitled to vote in an election to the House of Representatives of the Legislative Assembly of a State;

‘Enactment’, where the expression occurs in the Eighth Schedule, means a law made by the Legislature of a State;

‘Executive Council’ means the Cabinet or other body, however called, which in the Government of a State corresponds, whether or not the members of it are Ministers, to the Cabinet of Ministers in the Government of the Federation (and in particular includes the Supreme Council in Sarawak);

‘Existing law’ means any law in operation in the Federation or any part thereof immediately before Merdeka Day;

‘Federal law’ means

(a) any existing law relating to a matter with respect to which Parliament has power to make laws, being a law continued in operation under Part XIII, and

(b) any Act of Parliament;

‘Federal List’ means the First List set out in the Ninth Schedule;

‘Federal purposes’ includes the purposes of the Federation in connection with matters enumerated in the Concurrent List and with any other matters with respect to which Parliament has power to make laws otherwise than by virtue of Article 76;

‘Foreign country’ does not include any part of the Commonwealth or the Republic of Ireland;

‘Law’ includes written law, the common law in so far as it is in operation in the Federation of any part thereof, and any custom or usage having the force of law in the Federation or any part thereof;

‘Legislative Assembly’ means the representative assembly, however called, in the Legislature of a State (and in particular includes the Council *Negri* in Sarawak), but except in the Eighth Schedule includes also a Legislative Council, however called;

‘Legislature’, in relation to a State, means the authority having power under the Constitution of that State to make laws for the State;

‘Malay’ means a person who professes the religion of Islam, habitually speaks the Malay language, conforms to Malay custom and

(a) was before Merdeka Day born in the Federation or in Singapore or born of parents one of whom was born in the Federation or in Singapore, or is on that day domiciled in the Federation or in Singapore; or

(b) is the issue of such a person;

‘Member of the administration’ means, in relation to the Federation, a person holding office as Minister, Deputy Minister, Parliamentary Secretary or Political Secretary and, in relation to a State, a person holding a corresponding office in the State or holding office as member (other than an official member) of the Executive Council;

‘Merdeka Day’ means the thirty-first day of August, nineteen hundred and fifty-seven;

‘Office of profit’ means any whole time office in any of the public services, and includes

(a) the office of any judge of the Federal Court or of a High Court; and

(b) the office of Auditor-General; and

(c) the office of a member of the election Commission, of a member (other

that an ex officio member) of a Commission to which Part X applies, or of a member (other than an ex officio member) of any corresponding Commission established by the Constitution of a State; and

(d) any other office not specified in Clause (3) of Article 132 which may be declared by Act of Parliament to be an office of profit;

‘Pension rights’ includes superannuation rights and provident fund rights;

‘Public authority’ means the *Yang di-Pertuan Agong*, the Ruler or *Yang di-Pertua Negeri* of a State, the Federal Government, the Government of a State, a local authority, a statutory authority exercising powers vested in it by federal or State law, any court or tribunal other than the Federal Court and High Courts, or any officer or authority appointed by or acting on behalf of any of those persons, courts, tribunals or authorities;

‘Remuneration’ includes salary or wages, allowances, pension rights, free or subsidized housing, free or subsidized transport, and other privileges capable of being valued in money;

‘Ruler’

(a) in relation to *Negri Sembilan*, means the *Yang di-Pertuan Besar* acting on behalf of himself and the Ruling Chiefs in accordance with the Constitution of that State; and

(b) in the case of any State, includes, except in Article 181 (2) and the Third and Fifth Schedules, any person who in accordance with the Constitution of that State exercises the functions of the Ruler;

‘State’ means a State of the Federation;

‘State law’ means

(a) any existing law relating to a matter with respect to which the Legislature of a State has power to make law, being a law continued in operation under Part XIII; and

(b) a law made by the Legislature of a State;

‘State List’ means the Second List set out in the Ninth Schedule;

‘State purposes’ includes, in relation to any State, the purposes of the State in connection with matters enumerated in the Concurrent List and with any other matters with respect to which the Legislature of the State has power to make laws;

‘Tax’ includes an impost or a duty but does not include a rate levied for local purposes or a fee for services rendered;

‘The Federation’ means the Federation established under the Federation of Malaya Agreement, 1957;

‘Written law’ includes this Constitution and the Constitution of any state;

‘*Yang di-Pertua Negeri*’ means the Head of State in a State not having a Ruler.

(3) Unless the context otherwise requires, any reference in this Constitution to a specified Part, Article or Schedule is a reference to that Part or Article of, or that Schedule to, this Constitution any reference to a specified chapter, clause, section or paragraph is a reference to that chapter of the Part, that clause of the Article, that section of the Schedule, or that paragraph of the clause or section, in

which the reference occurs; and any reference to a group of Articles, sections or divisions of Articles or sections shall be construed as including both the first and the last member of the group referred to.

(4) Where under this Constitution a person is required to take and subscribe an oath he shall be permitted, if he so desires, to comply with that requirement by making and subscribing an affirmation.

(5) References in this Constitution to the Federation and its States and to the territories of the Federation or any of its States, and to any officer holding office under the Federation or any authority or body in or for the Federation shall be construed

(a) in relation to any time after the coming into operation of the Federation of Malaya Agreement, 1948, and before Merdeka Day, as references to the Federation established under that Agreement, and the States and Settlements comprising it and to the territories of that Federation or any of the States and Settlements comprising it, and to the corresponding officer holding office thereunder or the corresponding authority or body in or for that Federation:

(b) in relation to any time before the coming into operation of the said Agreement (so far as the context admits) as references to such of the countries, territories, offices, authorities or bodies for the construction of references to which provision was made by Clause 135 (2) of the said Agreement, as may be appropriate.

(6) References in this Constitution to any period shall be construed, so far as the context admits, as including references to a period beginning before Merdeka Day.

(7) References in this Constitution to the Federation of Malaya Agreement, 1948, shall be construed, except where the context otherwise requires, as references to that Agreement as in force immediately before Merdeka Day.

PART XII A

ADDITIONAL PROTECTIONS FOR STATES OF SABAH AND SARAWAK

161. Use of English and of native languages in States of Sabah and Sarawak.

(1) No Act of Parliament terminating or restricting the use of the English language for any of the purposes mentioned in Clauses (2) to (5) of Article 152 shall come into operation as regards the use of the English language in any case mentioned in Clause (2) of this Article until ten years after Malaysia Day.

(2) Clause (1) applies

(a) to the use of the English language in either House of Parliament by a member for or from the State of Sabah or Sarawak; and

(b) to the use of the English language for proceedings in the High

Court in Borneo or in a subordinate court in the State of Sabah or Sarawak, or for such proceedings in the Federal Court as are mentioned in Clause (4); and

- (c) to the use of the English language in the State of Sabah or Sarawak in the Legislative Assembly or for other official purposes (including the official purposes of the Federal Government).

(3) Without prejudice to Clause (1), no such Act of Parliament as is there mentioned shall come into operation as regards the use of the English language for proceedings in the High Court in Borneo or for such proceedings in the Federal Court as are mentioned in Clause (4), until the Act or the relevant provision of it has been approved by enactments of the Legislatures of the States of Sabah and Sarawak; and no such Act shall come into operation as regards the use of the English language in the State of Sabah or Sarawak in any other case mentioned in paragraph (b) or (c) of Clause (2), until the Act or the relevant provision of it has been approved by an enactment of the Legislature of that State.

(4) The proceedings in the Federal Court referred to in Clauses (2) and (3) are any proceedings on appeal from the High Court in Borneo or a judge thereof, and any proceedings under Clause (2) of Article 128 for the determination of a question which has arisen in proceedings before the High Court in Borneo or a subordinate court in the State of Sabah or Sarawak.

(5) Notwithstanding anything in Article 152, in the State of Sabah or Sarawak a native language in current use in the State may be used in native courts or for any code of native law and custom, and in the case of Sarawak, until otherwise provided by enactment of the Legislature, may be used by a member addressing the Legislative Assembly or any committee thereof.

161A. Special position of natives of States of Sabah and Sarawak.

(1) (*Repealed*); (2) (*Repealed*); (3) (*Repealed*).

(4) The Constitutions of the States of Sabah and Sarawak may make provision corresponding (with the necessary modifications) to Article 153.

(5) Article 89 shall not apply to the State of Sabah or Sarawak, and Article 8 shall not invalidate or prohibit any provision of State law in the State of Sabah or Sarawak for the reservation of land for natives of the State or for alienation to them, or for giving them preferential treatment as regards the alienation of land by the State.

(6) In this Article 'native' means

(a) in relation to Sarawak, a person who is a citizen and either belongs to one of the races specified in Clause (7) as indigenous to the State or is of mixed blood deriving exclusively from those races; and

(b) in relation to Sabah, a person who is a citizen, is the child or grandchild of a person of a race indigenous to Sabah, and was born (whether on or after Malaysia Day or not) either in Sabah or to a father domiciled in Sabah at the time of the birth.

(7) The races to be treated for the purposes of the definition of 'native' in

Clause (6) as indigenous to Sarawak are the Bukitans, Bisayahs, Dusuns, Sea Dayaks, Land Dayaks, Kadayans, Kalabits, Kayans, Kenyahs (including Sabups and Sipengs), Kajangs (including Sekapans, Kejamans, Lahanans, Punans, Tanjongs and Kanowits), Lugats, Lisums, Malays, Melanos, Muruts, Penans, Sians, Tagals, Tabuns and Ukits.

161B. Restriction on extension to non-residents of right to practise before courts in States of Sabah and Sarawak.

(1) In so far as any provision made by or under an Act of Parliament, by removing or altering a residence qualification, confers a right to practise before a court in the States of Sabah and Sarawak or either of them on persons not previously having the right, that provision shall not come into operation until adopted in the States or State in question by an enactment of the Legislature.

(2) This Article shall apply to the right to practise before the Federal Court when sitting in the States of Sabah and Sarawak and entertaining proceedings on appeal from the High Court in Borneo or a judge thereof or proceedings under Clause (2) of Article 128 for the determination of a question which has arisen in proceedings before the High Court in Borneo or a subordinate court in the State of Sabah or Sarawak.

161C. (Repealed); 161D. (Repealed).

161E. Safeguards for constitutional position of States of Sabah and Sarawak.

(1) As from the passing of the Malaysia Act no amendment to the Constitution made in connection with the admission to the Federation of the State of Sabah or Sarawak shall be excepted from Clause (3) of Article 159 by Clause (4) (*bb*) of that Article; nor shall any modification made as to the application of the Constitution to the State of Sabah or Sarawak be so excepted unless the modification is such as to equate or assimilate the position of that State under the Constitution to the position of the States of Malaya.

(2) No amendment shall be made to the Constitution without the concurrence of the *Yang di-Pertua Negeri* of the State of Sabah or Sarawak or each of the States of Sabah and Sarawak concerned, if the amendment is such as to affect the operation of the Constitution as regards any of the following matters:

- (a) the right of persons born before Malaysia Day to citizenship by reason of a connection with the State, and (except to the extent that different provision is made by the Constitution as in force on Malaysia Day) the equal treatment, as regards their own citizenship and that of others, of persons born or resident in the State and of persons born or resident in the States of Malaya;
- (b) the constitution and jurisdiction of the High Court in Borneo and the appointment, removal and suspension of judges of that court;
- (c) the matters with respect to which the Legislature of the State may (or Parliament may not) make laws, and the executive authority of the State in those matters, and (so far as related

thereto) the financial arrangements between the Federation and the State;

- (d) religion in the State, the use in the State or in Parliament of any language and the special treatment of native of the State;
- (e) the allocation to the State, in any Parliament summoned to meet before the end of August, 1970, of a quota of members of the House of Representatives not less, in proportion to the total allocated to the other States which are members of the Federation on Malaysia Day, than the quota allocated to the State on that day.

(3) No amendment to the Constitution which affects its operation as regards the quota of members of the House of Representatives allocated to the State of Sabah or Sarawak shall be treated for purposes of Clause (1) as equating or assimilating the position of that State to the position of the States of Malaya.

(4) In relation to any rights and powers conferred by federal law on the Government of the State of Sabah or Sarawak as regards entry into the State and residence in the State and matters connected therewith (whether or not the law is passed before Malaysia Day) Clause (2) shall apply, except in so far as the law provides to the contrary, as if the law had been embodied in the Constitution and those rights and powers had been included among the matters mentioned in paragraphs (a) to (e) of that Clause.

(5) In this Article 'amendment' includes addition and repeal.

161F, 161G, 161H, (Repealed).

PART XIII

TEMPORARY AND TRANSITIONAL PROVISIONS

162. Existing laws.

(1) Subject to the following provisions of this Article and Article 163, the existing laws shall, until repealed by the authority having power to do so under this Constitution, continue in force on and after Merdeka Day, with such modifications as may be made therein under this Article and subject to any amendments made by federal or State law.

(2) Where any State law amends or repeals an existing law made by the Legislature of a State, nothing in Article 75 shall invalidate the amendment or repeal by reason only that the existing law, relating to a matter with regard to which Parliament as well as the Legislature of a State has power to make laws, is federal law as defined by Article 160.

(3) References in any existing law to the Federation established by the Federation of Malaya Agreement, 1948, and its territories, and to any officer holding office under that Federation or to any authority or body constituted in or for that Federation (including any references falling to be construed as such references by virtue of Clause 135 of the said Agreement) shall be construed, in

relation to any time on and after Merdeka Day, as references to the Federation (that is to say, the Federation established under the Federation of Malaya Agreement, 1957) and its territories and to the corresponding officer, authority or body respectively; and the *Yang di-Pertuan Agong* may by order declare what officer, authority or body is to be taken for the purposes of this Clause to correspond to any officer, authority or body referred to in any existing law.

(4) *(Repealed)*.

(5) Any order made under Clause (4) may be amended or repealed by the authority having power to make laws with respect to the matter to which the order relates.

(6) Any court or tribunal applying the provision of any existing law which has not been modified on or after Merdeka Day under this Article or otherwise may apply it with such modifications as may be necessary to bring it into accord with the provisions of this Constitution.

(7) In this Article 'modification' includes amendment, adaptation and repeal.

163, 164, 165. *(Repealed)*.

166. Succession to property.

(1), (2), *(Repealed)*.

(3) Any land vested in the State of Malacca or the State of Penang which immediately before Merdeka Day was occupied or used by the Federation Government or Her Majesty's Government or by any public authority for purposes which in accordance with the provisions of this Constitution become federal purposes shall on and after that day be occupied, used, controlled and managed by the Federal Government or, as the case may be, the said public authority, so long as it is required for federal purposes and

(a) shall not be disposed of or used for any purposes other than federal purposes without the consent of the Federal Government, and

(b) shall not be used for federal purposes different from the purposes for which it was used immediately before Merdeka Day without the consent of the Government of the State.

(4), (5), (6), (7) *(Repealed)*.

(8) Any property which was, immediately before Merdeka Day, liable to escheat to Her Majesty in respect of the Government of Malacca or the Government of Penang shall on that day be liable to escheat to the State of Malacca or the State of Penang, as the case may be.

167. Rights, liabilities and obligations.

(1), (2), (3), (4), (5) *(Repealed)*.

(6) The Attorney General shall, on the application of any party interested in any legal proceedings, other than proceedings between the Federation and a State, certify whether any right, liability or obligation is by virtue of this Article a right, liability or obligation of the Federation or of a State named in the certificate, and any such certificate shall for the purposes of those proceedings be final and

binding on all courts, but shall not operate to prejudice the rights and obligations of the Federation and any State as between themselves.

(7) The Federation shall make the like annual payments as fell to be made before Merdeka Day under Article II of the Treaty made on the sixth day of May, eighteen hundred and sixty-nine, between Her Majesty of the one part and the King of Siam of the other part relative to the State of Kedah.

168. (Repealed).

169. International agreements, etc., made before Merdeka Day.

For the purposes of Article 76 (1)

- (a) any treaty, agreement or convention entered into before Merdeka Day between Her Majesty or her predecessors or the Government of the United Kingdom on behalf of the Federation or any part thereof and another country shall be deemed to be a treaty, agreement or convention between the Federation and that other country;
- (b) any decision taken by an international organization and accepted before Merdeka Day by the Government of the United Kingdom on behalf of the Federation or any part thereof shall be deemed to be a decision of an international organization of which the Federation is a member;
- (c) in relation to the States of Sabah and Sarawak paragraphs (a) and (b) shall apply with the substitution of references to Malaysia Day for the references to Merdeka Day and of references to the territories comprised in those States or any of them for the references to the Federation or any part thereof.

170, 171, 172, 173, 174 (Repealed).

175. Director of Audit to be first Auditor-General.

The person holding office as Director of Audit immediately before Merdeka Day shall, as from that day hold office as Auditor-General on terms and conditions not less favorable than those applicable to him immediately before Merdeka Day.

176. Transfer of officers.

(1) Subject to the provisions of this Constitution and any existing law, all persons serving in connection with the affairs of the Federation immediately before Merdeka Day shall continue to have the same powers and to exercise the same functions on Merdeka Day on the same terms and conditions as were applicable to them immediately before that day.

(2) This Article does not apply to the High Commissioner or the Chief Secretary.

177. Waiver or postponement of oath of office where appointment continues under this Part.

A person who, under any provisions of this Part, holds office under the Federation by virtue of having been the holder of a corresponding office immediately before Merdeka Day may, until Parliament otherwise provides, perform his functions without taking the oath required in the case of other holders of that office.

178. Remuneration after Merdeka Day.

Until Parliament otherwise provides, the remuneration payable to the persons holding the offices of Prime Minister and other Ministers shall be the same as was payable, immediately before Merdeka Day, to the Chief Minister and other Ministers of the Federation respectively.

179. Contributions in respect of joint services.

Any agreement in force immediately before Merdeka Day relating to the proportion of the remuneration payable by the Federation and any State in respect of any such employment as is mentioned in Article 133 (2) shall continue in force until superseded by a new agreement or federal law.

180. Preservation of pensions, etc.

(1) The Tenth Schedule to the Federation of Malaya Agreement, 1948, shall continue in force on and after Merdeka Day, but with the modification that any reference therein to the High Commissioner shall be construed as a reference to the *Yang di-Pertuan Agong*.

(2) The said Schedule shall for the purposes of this Constitution be deemed to be federal law and may, subject to the provisions of Article 147, be amended and repealed accordingly.

(3) In its application to any law made under Clause (2) Article 147 shall have effect as if references therein to an award included compensation.

PART XIV

SAVING FOR RULERS' SOVEREIGNTY, ETC.

181. Saving for Ruler's sovereignty, etc.

(1) Subject to the provisions of this Constitution, the sovereignty, prerogatives, powers and jurisdiction of the Ruler and the prerogatives, powers and jurisdiction of the Ruling Chiefs of Negri Sembilan within their respective territories as hitherto had and enjoyed shall remain unaffected.

(2) No proceedings whatsoever shall be brought in a court against the Ruler of a State in his personal capacity.

SCHEDULES

(Not reproduced)

