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C.P.(56) 47

COPY NO. 5121st February, 1956

CABINET

FEDERATION OF MALAYAMemorandum by the Secretary of State for the Colonies

I attach at Annex A a copy of the agreed Report of the Conference on Constitutional Advance in Malaya, and at Annex B an extract from the Report of the General Purposes Committee of the Conference, as approved by the Conference in Plenary Session, containing material relating to the proposed Constitutional Commission which was not included in the Report of the Conference as a whole. The Report of the Conference contains a number of typographical and other minor errors which have been corrected for publication of the Report as a White Paper in, I hope, the next two to three weeks. I do not expect my colleagues to read these two documents in full, and I therefore also attach at Annex C notes upon those recommendations of the Conference to which I think it necessary expressly to draw their attention.

2. The Conference was undoubtedly a success. Its Report deals with all the issues which we set out to settle; and the conclusions and recommendations upon them are comprehensive and free from ambiguity. Agreement was reached on all points within the limits authorised by the Cabinet on 17th January (C.M.(56) 4th Conclusions, Minute 3). These agreements are far-reaching, but we had all recognised beforehand that it was right to go a long way in order to obtain an amicable settlement, and they include satisfactory safeguards for all our vital interests. The business of the Conference was throughout conducted in an atmosphere of goodwill and I have no doubt that the Malayan Delegation has returned to the Federation with feelings of genuine cordiality towards Her Majesty's Government and the British people. In a farewell letter to me Tunku Abdul Rahman, the Chief Minister, wrote:-

"We feel, as we return, that there has been laid down a most excellent basis for the continued improvement of relations between the United Kingdom and a self-governing Malaya within the Commonwealth and for increased friendship and understanding between our two peoples. I can assure you of my personal co-operation and support on all matters agreed upon".

It is, above all, upon this goodwill and co-operation that we must in future depend for the security of British and Commonwealth interests in the Federation of Malaya.

3. I have already sent the High Commissioner a despatch asking him to convey the Report of the Conference to Their Highnesses the Rulers and to ask them to express their views upon it. The Conference of Rulers

is to meet for this purpose on Tuesday, 28th February. Since the Report was unanimously agreed by the entire Delegation, including the representatives of the Rulers, I expect Their Highnesses to endorse it. I have told the High Commissioner that I hope before 28th February to inform him by telegram of the views of Her Majesty's Government upon the Report; and I have said that, should Her Majesty's Government approve its recommendations, I would propose, if those recommendations are also approved by the Conference of Rulers, to submit them to The Queen for Her Majesty's approval.

4. I therefore ask my colleagues to approve the Report of the Conference, including the proposals for the Constitutional Commission contained in the Report of the General Purposes Committee of the Conference. As I have said above, those conclusions and recommendations to which I think it necessary expressly to draw my colleagues' attention are set out in Annex C.

A. L-B.

Colonial Office, S.W.1.

21st February, 1956.

## ANNEX A

REPORT OF THE FEDERATION OF MALAYA

CONSTITUTIONAL CONFERENCE

HELD IN LONDON

IN

JANUARY AND FEBRUARY, 1956

REPORT BY THE FEDERATION OF MALAYA CONSTITUTIONAL CONFERENCEHeld in London in January and February, 1956I. INTRODUCTION

The constitution of the Federation of Malaya was set out in the Federation of Malaya Agreement, 1948, made between His late Majesty King George VI and Their Highnesses the Rulers of the Malay States. The preamble to the Agreement recorded their desire that progress should be made towards eventual self-government, and envisaged that, as a first step to that end, legislation should be introduced as soon as circumstances and local conditions permitted for the election of members to the several legislatures (i.e. the Federal Legislative Council and the State and Settlement Councils). Unfortunately, within a few months from the signing of that Agreement, the communists started their armed attack on the civil population and the fabric of government in the Federation. This delayed the introduction of the elections contemplated in the Agreement, although it was possible in 1951 to introduce, under the "Membership system", some devolution of authority by giving unofficial members of the Executive Council responsibility for certain Departments and subjects. It was not until 1953 that the improvement in the security situation made it possible to introduce the measures necessary to put in hand elections to the Federal Legislative Council and to the State and Settlement Legislatures. While these measures were under consideration the Alliance\* pressed for an effective majority of elected members in the Legislative Council; and in 1954 a number of their representatives, led by Tunku Abdul Rahman visited London and urged their views upon the then Secretary of State for the Colonies.

2. In the Federal elections, which took place in July, 1955, the Alliance secured 51 out of the 52 seats for elected members in the Legislative Council. Both before and after the elections the Alliance made clear its desire for further constitutional advance at an early stage, and when the Secretary of State for the Colonies visited the Federation in August, 1955, he held discussions with Their Highnesses the Rulers and with the new Alliance Ministers on the next steps to be taken in the direction of self-government for the Federation. As a result of these discussions it was agreed that a Conference should be held in London early in 1956 to discuss the future relations which should exist between Her Majesty's Government, Their Highnesses the Rulers and the Government of the Federation, and certain fundamental issues such as defence and internal security, finance and economic development and the future of the public services. It was also agreed in principle between Her Majesty's Government, Their Highnesses the Rulers and the Government of the Federation that a Commission should be appointed to review the constitution of the Federation, and that the terms of reference, composition and timing of this Commission should be discussed at the Conference and recommendations made thereon to Her Majesty the Queen and the Conference of Rulers.

II. THE CONFERENCE

3. The Conference accordingly met in London from 18th January to 6th February, 1956. It was attended by a Delegation from the Federation of Malaya consisting of four representatives of Their Highnesses the Rulers and the Chief Minister and three other Alliance Ministers. In addition, the High Commissioner for the Federation of Malaya, accompanied by some of his senior advisers, was in attendance. A list of those taking part is contained at Appendix A.

4. In opening the Conference the Secretary of State for the Colonies, The Rt. Hon. Alan Lennox-Boyd, said that it was almost exactly eight years since the Federation Agreement was signed. The Conference was agreed on the direction of the progress which it wanted to make; this was to secure the early establishment of a fully self-governing and independent Federation of Malaya within the Commonwealth on the basis of parliamentary institutions. This was not only a political problem, but also an administrative task of some magnitude and complexity.

\* The Alliance is composed of the United Malays' National Organisation (UMNO), the Malayan Chinese Association (MCA), and the Malayan Indian Congress (MIC).

He assured the Federation Delegation that in the constitutional and other development which lay ahead it would always be the desire of Her Majesty's Government to co-operate with the Federation Government in building a stable country.

5. In reply, the Chief Minister of the Federation of Malaya put forward the proposals which the Malayan Delegation desired the Conference to consider with special reference to the financial position, internal defence and security, the public services and the Constitutional Commission. The Conference agreed that these proposals should form the basis of its work and agreed to set up Committees to undertake detailed examination of the problems involved.
6. Our conclusions, which are set out below, are subject to approval by Her Majesty's Government in the United Kingdom and the Conference of Rulers. Effect can be given to some of our recommendations by administrative action, but others involve legislation, including in some cases amendment to the Federation Agreement and other constitutional instruments.

### III. DEFENCE AND INTERNAL SECURITY

7. Throughout our discussion of the problems of defence and internal security we have drawn a distinction between two stages of constitutional development in the Federation of Malaya; the interim period before full self-government, during which Her Majesty's Government in the United Kingdom will continue to exercise certain important responsibilities in respect of the Federation; and the final stage of full self-government and independence within the Commonwealth. We have so framed our proposals for the interim period that, as well as reflecting the distribution of responsibility between Her Majesty's Government in the United Kingdom and Malayan Ministers during that period, they will be capable of being continued into the stage of full self-government with the minimum of administrative and other disturbance. Our object has been to reconcile the factors of continuity and efficiency on the one hand, with recognition of the evolving political facts of the situation on the other.

#### (a) The Interim Period

8. We agree that the member of the Government responsible in the Executive and Legislative Councils for matters of internal defence and security should, in place of the Secretary for Defence, be a Malayan Minister who should be styled Minister for Internal Defence and Security. We agree also that Her Majesty's Government through the High Commissioner should retain during the interim period full responsibility for external defence; and we consider that it would be appropriate that the High Commissioner should himself bring to Executive Council for advice or information matters relating to external defence and that the Chief Secretary should answer for these matters in Legislative Council.
9. The requirements of internal defence and security in the interim period need to be considered in two aspects; the arrangements for handling operations during the remainder of the Emergency and the transfer of the administration of the local internal security forces, which should be put in hand forthwith.

#### Emergency Operations

10. With regard to the remainder of the period of Emergency we agree that it is consistent with the present stage of political development of the Federation that there should be some change in the arrangements for concerting the operations of the armed forces, the police and the several civil departments and agencies involved. To this end we agree that the present Committee of which the Director of Operations is Chairman should be replaced by an Emergency Operations Council, with the Minister for Internal Defence and Security as Chairman and including the Director of Operations among its members. The forces required for the prosecution of the Emergency would remain under the operational command of the Director of Operations and would be used to aid the civil authorities in giving effect to directions of the Emergency Operations Council made in pursuance of policy as laid down from time to time in Executive Council. The Emergency Operations Council, like the post of Director of Operations itself, will be temporary and is not expected to outlast the Emergency. We recognise, however, that continuing arrangements will be required, also in the context of general policy as determined in Executive Council, for countering the threat of communist subversion.

Administration of the Armed Forces of the Federation: a Federation Armed Forces Council

11. We agree that steps should be taken to enable the Federation armed forces to be administratively self-contained. At present their administration is integrated with that of the United Kingdom forces, and is largely carried out by Headquarters Malaya on behalf of the Federation Government. The process of setting up self-contained administrative machinery for the Federation forces must take time, but meanwhile there should be set up forthwith on a statutory basis a Federation Armed Forces Council, which would be a permanent body, quite distinct from the Emergency Operations Council discussed in paragraph 10. The process of building up the necessary administrative substructure will be carried out under the aegis and direction of this body.

12. The functions of the Council and the distribution of responsibilities to its individual members will broadly correspond to the practice obtaining in the Army and Air Councils in the United Kingdom. The membership of the Council will at first be:-

The Minister for Internal Defence and Security - Chairman;

A representative of Their Highnesses the Rulers;

The General Officer Commanding the Federation Army (who would be seconded by Her Majesty's Government in the United Kingdom, and be appointed by and be responsible to the Federation Government);

Two other professional members corresponding to the United Kingdom Adjutant-General (who deals with personnel matters) and Quartermaster-General (who deals with stores and equipment);

The senior civil servant in the Ministry of Internal Defence and Security.

A representative of Headquarters Malaya will be available to attend when required so long as the Federation army is dependent on administrative support from Headquarters Malaya. We consider that this Council should handle administrative questions concerning the existing and future Federation Naval and Air Forces as well as Army matters.

13. In the light of the provisions and practice in the United Kingdom regarding the handling of Service matters, we consider that the following principles are applicable to the Federation:-

- (i) the armed forces are forces of the State (as represented by the Head of State) and are raised and maintained by the Head of State in accordance with legislative authority;
- (ii) so far as the armed forces themselves are concerned, their affairs will be regulated by the Armed Forces Council and not by any individual;
- (iii) so far as the Executive and Legislative Councils are concerned, the Minister, as Chairman of the Armed Forces Council, will be responsible for the administration of the armed forces;
- (iv) subject to the Minister's general responsibility to the Head of State, on whose authority all appointments are made, personnel matters will in practice be dealt with, up to a certain level, by the professional member of the Armed Forces Council corresponding to the Adjutant-General in the United Kingdom, and beyond that level, in relation to very senior posts, by consultation between the Head of State, the Minister and the senior Service advisers of the Government;
- (v) the Armed Forces Council, in accordance with United Kingdom practice, will not direct the operational use of the armed forces. Policy decisions governing the use of the forces will be taken in Executive Council.

The Position of UK and Commonwealth Armed Forces in the Federation

14. We recognise that in the interim period Her Majesty's Government in the United Kingdom will continue to have direct responsibility for the external defence and external relations of the Federation, and that they will therefore retain in the Federation the forces which they consider necessary for the external defence of the territory and for the fulfilment of their Commonwealth and international obligations. To this end they will require in the Federation the facilities needed for the maintenance of those forces, which include the Commonwealth Strategic Reserve.

15. We agree that provision should be made for consultation between Her Majesty's Government and the Government of the Federation on matters arising from the stationing of United Kingdom and Commonwealth forces in the Federation. This should take the form of an understanding that, except in circumstances when immediate action would be essential, e.g. in war or a serious emergency, the Federation Government should be informed in advance of any proposed substantial changes in the size or character of the United Kingdom and Commonwealth forces in the Federation, and given an effective opportunity of making such representations as they wished. We recognise that in the discharge of their responsibility Her Majesty's Government will be bound to consider their arrangements for the defence of Malaya against the background of general defence policy, and cannot therefore undertake to make their dispositions subject to the approval of the Federation Government, whose views will however receive the fullest consideration.

External Defence Committee

16. To facilitate the handling of such matters, and to prepare the way for the time when, on the advent of full self-government, responsibility for external defence passes to the Federation Government, we agree that there shall be set up a Committee to discuss and advise on questions relating to the external defence of the Federation. The Chairman of this Committee should, in view of Her Majesty's Government's responsibility for external defence, be the High Commissioner, and its membership should include the Minister for Internal Defence and Security; the Chief Secretary and a number of other Ministers; the General Officer and Air Officer Commanding United Kingdom forces; and the senior civil servant responsible to the High Commissioner for matters of external defence. The Committee will be a temporary body, designed to meet a need peculiar to the interim period.

The Police Force

17. We agree that the needs of the interim period are to maintain the force at a high level of operational efficiency, particularly for the rest of the Emergency; to prepare the way for a smooth run-down of the force to normal proportions thereafter; to establish a system of administration (especially on the personnel side) suitable for continuance into the stage of full self-government and independence within the Commonwealth; and to allow due scope for a policy of Malayanisation without damage to the efficiency and morale of the force as a whole.

18. As regards operations, during the remainder of the Emergency elements of the force will form part of the resources available under the general direction of the Emergency Operations Council (see paragraph 10 above). In normal times the force will be largely self-directing, under its own professional head, since its duties are for the most part laid down by statute.

19. Operations apart, we distinguish two categories of questions affecting the police: general problems of the structure, size, organisation, powers, duties and remuneration of the force; and personnel problems, such as appointments, promotions and discipline. We recognise that the former are questions of policy and require settlement in Executive Council or by the Head of State.

20. Personnel matters, however, so far as individual members of the force are concerned, are administrative in character. Later in this Report we make recommendations in respect of the administration of personnel matters in the public service generally; these include the establishment of a Public Service Commission. There are, however, special considerations affecting the police force, and we therefore recommend that at an appropriate time there should be



established a separate Police Service Commission to deal with appointments, promotions and discipline in the higher ranks of the force; the Commission should be set up on a statutory basis and should have executive authority. Its functions and membership are set out in Appendix C.

21. In preparation for the setting up of a Police Service Commission with executive powers we agree that there should be instituted for the police, as soon as the necessary administrative arrangements can be made, a body parallel to the present Appointments and Promotions Board which has for some years operated for other branches of the public service; it should be set up by administrative action and should have the same advisory functions. Use might be made of the facilities, and to some extent the membership, of the present Board, always bearing in mind the special needs of the police service. By this means valuable experience could be obtained and time would be afforded for the police force itself to gain confidence in this new machinery before personnel matters become the province of a Commission with executive powers.

22. We make no specific recommendations on the exact date on which the Police Service Commission should be set up. This should be considered in due course by the Federation Government in consultation with its professional advisers, in the light of the circumstances of the Emergency then prevailing. There are, however, strong grounds in favour of synchronising action with that taken for the rest of the public service.

23. In accordance with the recommendations which we have made later in this report for dealing with premature retirement, the compensation scheme applicable to the public service as a whole should be applied to the police force as soon as the Police Service Commission is set up.

24. We considered the question of the Malayanisation of the police force, to the extent that it was possible to do so in advance of the findings of the Committee which is now at work on the problem in Malaya. In general we agree that for the purposes of the police force such a policy should be effected:-

- (a) by controlling entry into the force, according to present practice;
- (b) as regards personnel already in the force, by observing the normal service principles for promotion and by relying for increased opportunities for promotion of Malayan Officers on the operation of the scheme for premature retirement set out later in the report.

(b) Full Self-Government and Independence within the Commonwealth

25. In the final stage a fully self-governing Federation of Malaya will be responsible for external defence as for all other functions of government. We have agreed, however, that at that time there shall be an agreement between Her Majesty's Government in the United Kingdom and the Government of a fully self-governing Federation making provision for defence requirements and mutual assistance in defence matters.

Defence and Mutual Assistance Treaty

26. The Government of the Federation of Malaya will afford to Her Majesty's Government in the United Kingdom the right to maintain in the Federation the forces necessary for the fulfilment of Commonwealth and international obligations; and Her Majesty's Government in the United Kingdom will undertake to assist the Government of the Federation in the external defence of its territory. Her Majesty's Government in the United Kingdom will continue to be afforded facilities needed in the Federation for the maintenance and support of these forces; they will include the Commonwealth Strategic Reserve, which would remain in the Federation. Provision will be made for consultation by Her Majesty's Government with the Federation Government in regard to the exercise of their rights under the Treaty.

27. We agree that the details of this Treaty should be studied and worked out by a Working Party in the Federation to be set up as soon as possible consisting of a number of representatives of Her Majesty's Government on the one hand and the same number of representatives of the Conference of Rulers and the Federation Government on the other. We consider that the Commissioner General for the

United Kingdom in South East Asia should be Chairman, and that the Australian and New Zealand Governments should be invited to nominate observers at its meetings. The Terms of Reference of the Working Party are set out at Appendix D.

#### IV. FINANCIAL AND ECONOMIC MATTERS

28. On the subject of the machinery of Government relating to the administration of financial and economic affairs, we agree that the responsibility for all financial matters, including foreign exchange, at present discharged by the Financial Secretary, should be transferred at once to a Malayan Minister of Finance. We recognise that, during the interim period, the United Kingdom will possess a continuing interest in the mechanism of financial control in the Federation in order to be satisfied that the expenditure of money made available from United Kingdom funds is properly controlled, but we are satisfied that there are no objections on financial grounds to this proposal. We are also agreed that a Ministry of Commerce and Industry should be set up to take over some of the functions at present exercised by the Minister for Economic Affairs, which title would lapse.
29. We recognise that ultimate responsibility for policy will rest with the Executive Council, and we welcome the proposal to establish, under the chairmanship of the Chief Minister, an Economic Committee of the Executive Council, charged with the responsibility of coordinating economic policy and determining priorities, in the belief that such a Committee will greatly assist and strengthen the work of government.
30. We had a full and frank discussion of the Federation's position in the Sterling Area. The Malayan Delegation indicated that it was the view of their Government that membership of the Sterling Area was to the common advantage of the Federation and the other members and that it was their intention to remain in it after attaining full self-government. There was general recognition by the United Kingdom representatives of the importance of the Federation's contribution to the strength of the Sterling Area through the direct earnings of dollars from rubber and tin.
31. We discussed the question of responsibility for the Federation's foreign exchange policy with particular reference to dollar imports. We recognise that the existing arrangements for consultation between the Government of the Federation and Her Majesty's Government have on the whole worked well in practice. There was a general discussion on the common problems of the Sterling Area and it was agreed that, so long as the problem of the balance of payments of the area as a whole remained, it would be necessary for the Government of the Federation to continue to exercise restraint in its dollar expenditure in conformity with the policy generally followed by the Sterling Area. We agree that the responsibility for applying this policy in the Federation rests with the Federation Government and that the Federation Government will continue to consult with Her Majesty's Government so that it can act in full knowledge of Sterling Area problems and the United Kingdom can be fully informed of the special problems of the Federation.
32. In view of the Federation's participation in the Sterling Area and the importance of its trade to the Area's strength, it was agreed that the Federation Government must be able to assure the people of the Federation that the voice of their elected representatives would be heard in matters of Sterling Area policy. We agreed that, in order to achieve this, it was desirable that arrangements should be made for the Government of the Federation to send a delegate to all future meetings of Commonwealth Finance Ministers on a basis which would enable him to have full freedom of expression and full discretion at such Conferences in all matters which fall within the responsibility of the Federation Government. The Federation Delegation agreed not to press the matter of the precise constitutional status of the Federation's delegate at such Conferences further at the present time, but it was agreed that the Federation Government would be entitled to raise it again should occasion arise later.
33. We recognise the important part which overseas capital must continue to play in the economic and social development of Malaya. In this connection we think it desirable to draw attention to the statement in the Alliance Manifesto that it is their policy to attract overseas capital to Malaya. This was given more detailed expression in the High Commissioner's statement in the

Legislative Council on the 30th November, 1955, in which he stated that the Federation Government looked with confidence to the establishment of happy relationships and a full sense of partnership between a fully self-governing Malaya and overseas industry and enterprise genuinely interested in the development on sound lines of the country's productive resources. To this end it was, and would remain, their policy to encourage overseas investment, industry and enterprise to look to Malaya with every assurance of fair and considerate treatment and without fear of discrimination. The relevant extract from the High Commissioner's address is contained at Appendix F.

34. Regarding the future financial relationship between the United Kingdom and the Federation of Malaya, we agree that it is most important that the Federation should go forward to full self-government in circumstances which will give a fair assurance of its future financial stability. In this context, we recognise fully the vitally important position of the Federation in the world-wide struggle against communism and the fact that operations in the military sphere must be backed by a sound and vigorous programme of economic and social development.

35. During the interim period Her Majesty's Government will be prepared to help the Federation should it become clear that, having regard to the necessity for the Federation Government to make provision for an expanded programme of economic and social development and to the need to maintain reserves at the right level as a precaution against possible fluctuations in the prices of rubber and tin before the Federation's rubber replanting schemes bear fruit, there is a need for financial assistance from the United Kingdom towards the cost of the Emergency. To this end we agree that a meeting should be held as soon as possible between the United Kingdom and Federation Governments with a view to determining the necessity for such assistance.

36. It is recognised that the attainment of full self-government implies the principle of financial self-sufficiency. Nevertheless, Her Majesty's Government recognise the common interest of both Governments in bringing the Emergency to an end. For this reason, if the Emergency has not been brought to an end by the time that full self-government and independence within the Commonwealth is attained, Her Majesty's Government will still be prepared to consider with the Federation Government whether the financial needs of the Federation would justify special assistance from Her Majesty's Government towards meeting the cost of the Emergency over and above the substantial assistance which will continue to be given through the forces and services provided by the United Kingdom to sustain the fight against the Communist terrorists.

37. In any event, substantial help will still be available from the United Kingdom after the attainment of full self-government within the Commonwealth, as follows:-

- (i) Apart from their continuing commitments in the Federation in respect of its external defence, Her Majesty's Government will maintain their undertaking to finance certain capital costs of expansion of the Federation Armed Forces in an agreed programme;
- (ii) Her Majesty's Government will at all times be ready to examine sympathetically with the Federation its borrowing needs on the London market in connection with its development plans;
- (iii) If, at the time when the Federation attains full self-government within the Commonwealth, there is any unspent balance of allocations made to the Federation under the Colonial Development and Welfare Acts, the approval of Parliament will be sought to enable an amount equivalent to any such balance to be made available to the Federation for development expenditure;
- (iv) Her Majesty's Government will stand by their undertaking to provide assistance, subject to the approval of Parliament in the form of a loan to the Federation to enable it to finance its contribution to the Tin Buffer Stock should it be unable to obtain the necessary loan finance from any other suitable source.

38. We accept the thesis that in a self-governing country the public service must be solely under the authority of the government of that country and that there can be no question of any external control. In these circumstances, we wish to place on record certain principles which we consider should guide any government in exercising control of its public service.
39. An efficient and contented public service is an essential foundation of good government. This may be said to apply at all stages of constitutional development and it is of particular importance during a time of rapid political change. Ministers must be able to rely on receiving informed and impartial advice from experienced officials before reaching policy decisions. They must equally be able to rely on their officials to see that their policy decisions, once taken, are carried out with loyalty, speed and efficiency.
40. The first essential for ensuring an efficient administration is that the political impartiality of the public service should be recognised and safeguarded. Experience has shown that this is best secured by recognising the service as a corporate body owing its allegiance to the Head of State and so retaining its continuous existence irrespective of changes in the political complexion of the government of the day. The public service is necessarily and rightly subject to ministerial direction and control in the determination and execution of government policy, but in order to do their job effectively public servants must feel free to tender advice to Ministers, without fear or favour, according to their conscience and to their view of the merits of a case. Whether or not that advice is taken is entirely for Ministers to decide but, once decisions have been taken, it is the undoubted duty of the public servant to give his prompt and wholehearted co-operation in carrying them out. The essential role of the public service would be gravely impaired if its members had any cause to feel that their personal position or prospects might be affected as a result of the advice which they felt it their duty to give. In order to discharge their role effectively, public servants should know that their service conditions and prospects are not subject to political or personal influence of any kind. This is not least in the interests of Ministers and politicians themselves.
41. A public service is rightly regarded as a profession holding out prospects of a career covering the working life of its members. One of the most essential ingredients of a contented and efficient service is that promotions policy should be regulated in accordance with publicly recognised professional principles. The Service must feel confident that promotions will be determined impartially on the basis of official qualifications, experience and merit. Any departure from these principles which might suggest that promotions were in any way subject to political or other outside influence, or that extraneous considerations were being taken into account which were designed to give special preference to particular individuals or sections in the Service, would be certain to undermine Service morale.
42. Similarly, a reasonable security of tenure and an absolute freedom from the arbitrary application of disciplinary provisions are essential foundations of a public service. Without them, a service would fail to attract and retain sufficient officers of the requisite calibre and Ministers would not be able to depend on receiving frank and objective advice. Disciplinary provisions, including the power to dismiss an officer on grounds of misconduct or gross inefficiency are, of course, necessary in any service but it is generally accepted that these provisions should be applied with complete impartiality and in accordance with established service principles and procedures, and should be recognised by the Service as a whole to be both fair and fairly exercised.
43. The most generally accepted method of ensuring the observance of the foregoing principles is by the establishment of an independent Public Service Commission. There is already a Public Service Appointments and Promotions Board in the Federation of Malaya, and the establishment of a Public Service Commission is under consideration. We agree that the Commission should be established as soon as possible and that provision should be made for it in the Federation Agreement.

Details will have to be worked out in the Federation, but we agree that the following principles should be observed:-

- (a) it is of vital importance that the Public Service Commission should be independent and free from political influence;
- (b) the members of the Public Service Commission should be appointed by the High Commissioner, in his discretion, after consultation with the Chief Minister;
- (c) taking advantage of experience elsewhere, care should be taken in delineating the respective functions of the Public Service Commission and those of government in relation to the public service, the broad principle being that the government and legislature are necessarily responsible for fixing establishments and terms of employment while the Public Service Commission is charged with the internal administration of the service as a professional body and with the responsibility for public service matters including appointments, promotions and the application, when necessary, of disciplinary provisions in respect of members of the public service;
- (d) members should be carefully chosen to be widely representative but should be men capable of working as a team and not speaking merely for sectional interest;
- (e) The Chairman should be a person who will command the respect both of government and of the Service and should be given the authority and standing necessary to establish the Commission as an important and respected national institution.

45. We have agreed that the Public Service Commission should exercise its responsibilities in respect of all branches of the service other than the Judiciary and the Police. We have agreed to the establishment of a Judicial Service Commission (Appendix B) and a Police Service Commission (Appendix C). The confirmation scheme outlined later in the Report will apply to the Judiciary as well as to other branches of the public service.
46. In view of the political development of the Federation, the Public Service Commission should be given executive powers as soon as it is established. By "executive powers" we mean that the High Commissioner would act on the Commission's recommendations, although, in the light of experience elsewhere, we think it would be prudent for him to have the right to refer back, once and once only, any recommendation which in his view required further consideration.
47. It will inevitably take some time to set up the Public Service Commission as an independent statutory body. We agree that it should be formally established as from the 1st July, 1957, but that, meanwhile, in order that they may gain experience, the Chairman and members should be designated and should take over in an advisory capacity the responsibilities of the existing Promotions and Appointments Board, with terms of reference, extended as necessary, to cover the subjects which will be dealt with by the Public Service Commission.
48. We consider that if their conditions of service are protected by the establishment of a Public Service Commission and it is made clear that traditional service principles will be maintained, a large proportion of overseas officers will wish to remain in the Federation and to continue to give loyal and devoted service to the country. We recognise, however, that the new circumstances brought about by constitutional change fundamentally vary the conditions under which a large section of the public service was recruited and that such officers have a right to be given the opportunity to leave the service on appropriate terms.
49. Before we elaborate our proposals on this point we think it may be helpful to define certain of the terms which we use in the following paragraphs.

"Entitled Officer" means an officer in receipt of expatriation pay who is serving (otherwise than on contract or agreement for a specified period) in a public office in the Federation of Malaya. The expression should also be taken to include any locally-domiciled officer holding his appointment by approval of the Secretary of State for the Colonies who can show to the satisfaction of the Secretary of State that he has reasonable grounds for anxiety over the future of his career in the public service.

"Earned pension" means the pension or reduced pension and gratuity which an entitled officer would be eligible to receive under existing Pensions Regulations but not subject to the usual ten-year period of qualifying service.

"Additional allowance" means a supplementary pension calculated at a specified rate additional to earned pension.

"Lump-sum compensation" means the payment of a sum of money as compensation for the loss sustained by an officer on the premature termination of his career.

50. We recognise two clearly defined phases. Phase I is the situation as at present. We agree that the assumption of office by the Alliance Government in August, 1955, coupled with the break-up of the Malayan Establishment in July, 1954, constituted a major change in the conditions of service of overseas officers. We do not consider that this change in conditions is sufficiently radical to warrant payment of an additional allowance or lump-sum compensation to any officers who now wish to leave the Federation Service, but we do consider that it justifies their being allowed to go on accrued pension. We have therefore agreed that a Phase I scheme should be introduced at once and that under it an entitled officer should be allowed to retire at any time after reasonable notice and with the permission of the High Commissioner, acting in his discretion, and that such permission should not be withheld unless proceedings for the officer's dismissal are being taken or are about to be taken.
51. Phase II will begin when the Public Service Commission is established with executive powers. Since this will involve a radical change in the conditions of service of the public service we agree that at that point a full lump-sum compensation scheme for loss of career should be brought into operation.
52. We have not considered it to be part of our task to attempt to draw up this scheme in detail. Not only would this not be possible in the absence of certain actuarial information but we consider that, once the principles of such a scheme have been accepted by the Federation Government, details should be worked out in the Federation in consultation with the representatives of the Staff Associations concerned. For this reason we do not wish to comment on the various points of detail which we discussed with the representatives of the Staff Associations whom we invited to give evidence during the Conference, but we consider that negotiations between the Federation Government and the Staff Associations concerned should begin at once.
53. We agree that the compensation scheme should provide that on retirement an entitled officer should receive his earned pension plus at his option either an additional allowance or lump-sum compensation. The amount of lump-sum compensation will have to be worked out actuarially having regard to certain factors such as age and, possibly, length of service, but the scheme should contain a provision whereby officers whose services it is particularly desired to retain in the Federation Service will be able during a specified period (e.g. four years) to "freeze" their entitlement to lump-sum compensation at the point in the actuarial table which is most advantageous to them during that period. We agree that the Government should also give consideration to other inducements which might be offered to officers whose services it is particularly desired to retain, in addition to the normal compensation.
54. We have agreed that the right to retire on compensation should be exercisable at their option by all entitled officers on giving due notice.
55. We have given careful consideration to the question whether, after Phase II has started, the Federation Government should be able to require officers to retire, at its discretion, or whether the compensation scheme should be entirely voluntary.

We have agreed that if officers are given the right to retire at will, it is logical that government should have the right to require officers to retire. But there is a risk that if in practice the Government makes it clear that it intends to exercise that right, many valuable officers will opt to go. Whatever inducements the Government may offer to certain officers to stay, all officers will feel that sooner or later their services may be dispensed with and many of the best, who can most easily obtain other attractive employment, are likely to leave as soon as possible. To insist on the right to dispense with the services of pensionable officers would also weaken the effect both of the other assurances which we have agreed be given regarding service conditions, promotion and discipline and of any scheme of inducement allowance. Malayanisation need not be prejudiced because, whatever assurances are given, many entitled officers are certain to opt to retire under the provisions of a compensation scheme immediately it is introduced. Others will do so later. Normal retirements on grounds of age will continue. Other officers are likely to be transferred to other territories and the Secretary of State for the Colonies will do his best to transfer any officer at the request of the Federation Government. Meanwhile, no new overseas officers will be recruited on pensionable terms unless the Federation Government specifically so request, and the existing powers to dispense with the services of officers on abolition of office or on such grounds as gross inefficiency and misconduct will remain. The practical problem which might arise is not whether there will be full scope for Malayanisation but whether it will be possible to retain and recruit enough qualified officers to provide the Federation Government with the efficient, experienced and stable administration which it will need for carrying out its policies during the coming vital years.

57. While it is recognised that a feeling of insecurity will tend to make valuable officers leave the Federation earlier than they might otherwise have done, we consider that the adoption of the scheme outlined in the next paragraph should go far to mitigate this disadvantage.

58. After consideration of various alternatives, we have agreed on the following plan:

- (i) The Public Service Commission will be established with executive powers and a compensation scheme will be introduced with effect from the 1st July, 1957.
- (ii) The Federation Government will assure the public service that until the compensation scheme is introduced no officer will have his services dispensed with except in accordance with traditional service principles.
- (iii) During the period between the presentation of the report of the Malayanisation Committee and the 1st July, 1957, every entitled expatriate officer will be given the opportunity to say whether he wishes to be retained in the Service after the 1st July, 1957. If he states that he does, his case will be considered and he will be informed of the minimum period during which he may expect, subject to health and efficiency, to be retained. The periods will naturally vary according to the relevant circumstances, e.g. the staffing position in the officer's Department, including the availability of suitably qualified local officers, the officer's age and so forth. In some cases it will no doubt be possible to assure officers of employment up to normal retiring age; in others a term of years may be stated, with or without the possibility of further extension at the end of that term if the officer then wishes it. In other cases, it might not be possible to give the officer any assurance.

(iv) It follows that the Government will not exercise the right, except on traditional service principles, to retire any entitled officer during any period for which he had been promised employment; but the officer's right to retire (subject to due notice) under the compensation scheme will remain unaffected.

59. We have agreed that officers of Her Majesty's Oversea Civil Service and Judiciary who remain in the Federation Service shall retain their eligibility to be considered by the Secretary of State for transfer to other territories on the understanding that:-

- (a) the Secretary of State will not offer such officers transfers without prior consultation with the Federation Government; and
- (b) the Federation Government for its part will not unreasonably withhold its consent to such transfers.

We further agree that, in order to facilitate the transfer of officers to posts which, in view of the high level of salaries in the Federation, might be less well paid than an officer's existing post, consideration should be given to a scheme whereby an officer would receive a lump sum payment to compensate him for any drop in pensionable emoluments on transfer.

60. It was suggested by the Staff Associations that the abolition of certain senior posts as the result of decisions taken by the Conference would affect promotion prospects and would therefore constitute a further change in their conditions of service sufficient to warrant the immediate introduction of some measure of compensation available to the public service as a whole. We are unable to accept this contention. The Federation Government possesses and must continue to possess the right, common to all governments, to abolish posts which are no longer required. So long as only a limited number of specified posts are to be abolished, we do not consider that this, in itself, would constitute a major change in the conditions of service of overseas officers but, in order to avoid unsettling the service by opening the door to the arbitrary abolition of an unlimited number of posts, and in accordance with the proposals in paragraph 58, we have agreed that the only posts to be abolished as a result of decisions taken by the Conference are those of the British Advisers and the Financial Secretary. No further pensionable posts will be abolished, except on clear grounds of redundancy, at least until the 1st July, 1957. Consideration will be given to applying to the holders of posts to be abolished now any compensation terms finally agreed for the service as a whole instead of existing abolition of office terms.

61. The Federation Government are very conscious of the difficult problem of filling those vacancies for which local officers are not yet available but for which they will become available in a few years' time. The Malayan Delegation have expressed the hope that arrangements can be made by Her Majesty's Government for the creation of a central pool from which overseas officers could be made available to fill these posts on secondment terms for so long as they may be required.

FINAL SECTION OF DRAFT REPORT BY THE  
FEDERATION OF MALAYA CONSTITUTIONAL CONFERENCE,  
TOGETHER WITH RELATED APPENDIX D.

VI. CONSTITUTIONAL CHANGES

62. We have arrived at certain constitutional understandings affecting the position of the High Commissioner and Executive Council, the composition of the Executive and Legislative Councils and the withdrawal of the British Advisers. Those affecting the position of the High Commissioner and Executive Council require amendment of Clauses 31 and 32 of the Federation Agreement, and agreed amended versions of these Clauses are set out at Appendix E.

63. With regard to the composition of the Executive and Legislative Councils, we have agreed that Clause 23 of the Federation Agreement shall be amended to make provision for the office of Chief Minister and to provide that the members of



Executive Council other than the Chief Secretary and the Attorney-General shall be appointed by the High Commissioner after consultation with the Chief Minister.

64. We have also agreed on the following ministerial changes:-

(i) There will be an unofficial appointed as Minister of Finance and the Financial Secretary will cease to be a member of the Executive and Legislative Councils. There will be an additional Nominated Member to take the place of the Financial Secretary in the Legislative Council, thus increasing the number of Nominated Members from seven to eight, on the understanding that the additional seat will be used for the same purpose and appointment to it made in the same manner as apply to the other Nominated Members.

(ii) There will be a Minister for Commerce and Industry, who will be an unofficial, unless the Chief Minister should wish the post to be filled by an official, and he will take the place of the Minister for Economic Affairs.

(iii) An unofficial Minister for Internal Defence and Security will become responsible for these matters in Executive and Legislative Councils and the Secretary for Defence will cease to be a member of either Council.

65. The Chief Secretary will be responsible for matters relating to the public service, for the administrative work involved in the constitutional changes which will be taking place and for external affairs.

66. Any Executive Council Papers on external defence will be submitted by the High Commissioner, who will have a senior official to work to him on that subject. The Chief Secretary will speak in the Legislative Council on external defence and will be a member of the External Defence Committee.

67. For the sake of greater flexibility in forming the Executive Council, the minimum number of Appointed Members will be altered from 12 to 10.

68. As a result of the changes recommended above, Clauses 23 and 36 of the Federation Agreement will need to be amended. These amendments, together with others consequential changes in Parts III and IV of the Federation Agreement, are also set out in Appendix E.

69. We have considered the timing of these changes and have agreed that, where no amendment of the Federation Agreement or other legislation is required, they should be made as soon as possible after our recommendations have been approved by Her Majesty's Government and the Conference of Rulers. We also agree that the proposed changes in the Executive Council and Legislative Council should be made as soon as the Federation Agreement can be amended to permit of them. Until these amendments have been made the composition of these Councils will remain unaltered.

70. The Conference considered the request of the Malayan Delegation for the withdrawal of the British Advisers. It was explained that the collective view of Their Highnesses the Rulers was that the time had come when the British Advisers should be withdrawn. Her Majesty's Government do not wish to oppose this view.

71. We have agreed in principle that, subject to the concurrence of Their Highnesses the Rulers, the British Advisers will be withdrawn. This will involve amendment of the State Agreements, and consequential amendments to the State Constitutions and the Federation Agreement. Subject to the agreement of the Rulers it is desirable that all the State Agreements shall be amended at the same time, but provision will be made to enable the amendments to come into force on different dates.

72. The date for withdrawal of each of the British Advisers will be agreed by the High Commissioner and each individual Ruler in the light of the circumstances in each case, though it is understood, subject to the agreement of the Ruler concerned, that the withdrawal will be completed within about a year.
73. In accordance with the agreements set out earlier in this Report, provision should be made in the Federation Agreement for:-
- (a) an independent Public Service Commission with executive authority;
  - (b) an independent Judicial Service Commission with executive authority;
  - (c) an independent Police Service Commission with executive authority;
  - (d) a compensation scheme for loss of career;
  - (e) the Federation Armed Forces Council.

In respect of each of the Commissions detailed provisions not appropriate for inclusion in the Federation Agreement itself should be made by regulation or rule. We think that such regulations or rules should be made by the Commission concerned and approved by the Executive Council.

#### Constitutional Commission

74. We have agreed upon recommendations for the composition and terms of reference of an independent Constitutional Commission and that this Commission should be appointed as soon as possible. In accordance with previously accepted procedure, these recommendations are being submitted to Her Majesty the Queen and to the Conference of Rulers. The final decisions will be published later.
75. We have further agreed that, in view of the Malayan Delegation's desire that full self-government and independence within the Commonwealth should be proclaimed by August, 1957, if possible, a constitution so providing shall be introduced at the earliest possible date consistent with the importance of the task before the Constitutional Commission and that every effort will be made by Her Majesty's Government and the Federation Government to achieve this by the time proposed.

Signed, this eighth day of February, 1956:-

Alan Lennox-Boyd

Bukit Gantang

T. A. Rahman

John Hare

Abdul Aziz

H. S. Lee

N. A. Kamil

Ismail A. Rahman

Donald MacGillivray

Seth bin Sa'aid

Abdul Razak

D. A. Scott, Secretary-General

Lancaster House,  
London, S.W.1.

8th February, 1956.

APPENDIX ALIST OF THOSE TAKING PART IN THE CONFERENCEDELEGATESFEDERATION OF MALAYARepresentatives of Their Highnesses the Rulers

The Hon. Datoh/Panglima Bukit Gantang,  
Datoh Haji Abdul Wahab bin Toh Muda  
Abdul Aziz

Mentri Besar  
of Perak

The Hon. Enche Abdul Aziz  
bin Haji Abdul Majid

Mentri Besar  
of Selangor

Dato Nik Ahmed Kamil bin Haji Mahmood, D.K.,  
S.P.M.K., P.Y.G.P., C.B.E.

Former Mentri Besar of  
Kelanton and Member of  
Executive Council for  
Local Government,  
Housing and Town  
Planning

The Hon. Dato Mohamed Seth bin  
Mahamed Sa'aid, S.P.M.J., P.I.S.,

Deputy Mentri Besar  
of Johore

En the Abdul Kadir

Secretary to Delegation

Alliance Ministers

The Hon. Yang Teramat Mulia  
Tunku Abdul Rahman Putra ibni  
Almarhum Sultan  
Abdul Hamid Halim Shah

Chief Minister and  
Minister for Home  
Affairs

The Hon. Col. H. S. Lee, C.B.E., J.P.

Minister of Transport

The Hon. Dr. Ismail bin Dato Abdul Rahman

Minister of Natural  
Resources

The Hon. Dato Abdul Razak bin Dato Hussein

Minister for Education

Mr. T. H. Tan

Secretary to Delegation

UNITED KINGDOM

The Rt. Hon. Alan Lennox-Boyd, M.P.

Secretary of State for  
the Colonies

The Rt. Hon. John Hare, M.P.

Minister of State for  
Colonial Affairs

Sir Charles Jeffries, K.C.M.G., O.B.E.

Deputy Under-Secretary  
of State,  
Colonial Office

Sir Hilton Poynton, K.C.M.G.

Deputy Under-Secretary  
of State,  
Colonial Office

Sir John Martin, K.C.M.G., C.B., C.V.O.

Assistant Under-  
Secretary of State,  
Colonial Office

ADVISERSFEDERATION OF MALAYA

Lord Ogmores

Mr. C. J. Thomas

Mr. O. A. Spencer

Financial Secretary

Minister for Economic Affairs

UNITED KINGDOM

Sir Richard Powell, K.B.E., C.B., C.M.G.

Deputy Secretary,  
Ministry of Defence

Major-General W. G. Stirling, C.B.E., D.S.O.

Principal Staff Officer to  
Chairman, Chiefs of Staff  
Committee

Mr. E. Melville, C.M.G.

Assistant Under-Secretary of  
State, Colonial Office

Mr. A. R. Thomas, C.M.G.

Assistant Under-Secretary of  
State, Colonial Office

Mr. C. Y. Carstairs, C.M.G.

Assistant Under-Secretary of  
State, Colonial Office

Mr. A. M. MacKintosh

Assistant Secretary,  
Colonial Office

Mr. A. D. Peck

Assistant Secretary, Treasury

Mr. R. C. C. Hunt

Assistant Secretary,  
Commonwealth Relations Office

Mr. A. I. M. Cary

Assistant Secretary,  
Ministry of Defence

and other advisers

LEGAL ADVISERS

Sir Kenneth Roberts-Wray, K.C.M.G.

Mr. A. R. Rushford

HIGH COMMISSIONER FOR FEDERATION OF MALAYA AND ADVISERS

Sir Donald MacGillivray, K.C.M.G., M.B.E.

High Commissioner for the  
Federation of Malaya

Sir David Watherston, K.B.E., C.M.G.

Chief Secretary,  
Federation of Malaya

Mr. M. J. P. Hogan, C.M.G.

Chief Justice of Hong-Kong  
(late Attorney-General of the  
Federation of Malaya)PRESS OFFICER

Mr. R. W. Francis

SECRETARIAT

Mr. D. A. Scott, Cabinet Office

Mr. J. N. A. Armitage-Smith, Colonial Office

Mr. J. D. Hennings, Colonial Office

Mr. J. T. A. Howard-Drake, Colonial Office

Mr. R. W. Newsam, Colonial Office

JUDICIAL SERVICE COMMISSION

We agree that a Judicial Service Commission, having functions appropriate to the special circumstances of the Judiciary, shall be set up by the same kind of constitutional or legislative provision as that applying to the Public Service Commission.

2. Having regard to the high constitutional importance of maintaining the independence of the Judiciary, the Judicial Service Commission should be composed mainly of judges, though there would be no objection to including a retired judge provided he was not a member of the Executive. The Commission could with advantage also include the Chairman of the Public Service Commission.
3. We therefore agree that the Judicial Service Commission in the Federation of Malaya should consist of the Chief Justice as Chairman, the senior Puisne Judge, the Chairman of the Public Service Commission, and one or more other persons nominated by the Chief Justice, each of whom shall be either a judge or a retired judge who is not a member of the Executive.

APPENDIX CPOLICE SERVICE COMMISSION

We agree that a Police Service Commission shall be set up by the same kind of constitutional or legislative provision as that applying to the Public Service Commission.

2. The Commission will be appointed by the High Commissioner in his discretion, after consultation with the responsible Minister, as follows:-
  - (i) as Chairman, for a specific term of years, an independent person of high standing who has taken no recent active part in politics;
  - (ii) as members, persons of no pronounced political affiliations;
  - (iii) one or more persons possessing legal qualifications, to be appointed after consultation with the Chief Justice.
3. The functions of the Commission will be:-
  - (a) to deal with the appointments and promotions of members of the police force of the rank of Inspector and above, save only that the appointment of the Commissioner and Deputy Commissioners of Police will be a matter for the High Commissioner in his discretion after consultation with the Minister responsible.
  - (b) to deal with serious breaches of discipline by gazetted officers.
  - (c) to deal with disciplinary appeals where a right of appeal exists against the decision of the Commissioner of Police.
4. The disciplinary functions of the Commission will be without prejudice to any right of appeal to the Head of State which may be prescribed.
5. The Commission will work on general instructions contained in the instrument establishing it, supplemented in detail by regulations laid down from time to time by the Commission with the approval of the High Commissioner in Executive Council.

APPENDIX DTERMS OF REFERENCE OF WORKING PARTY ON  
TREATY OF DEFENCE AND MUTUAL SECURITY

"To consider and make recommendations on the detailed provisions of a Treaty of Defence and Mutual Assistance between Her Majesty's Government in the United Kingdom and the Government of an independent Federation of Malaya, bearing in mind the following general principles:-

The Federation Government

- (a) will afford to Her Majesty's Government in the United Kingdom the right to maintain in the Federation the forces necessary for the fulfilment of Commonwealth and international obligations;
- (b) will continue to afford to Her Majesty's Government facilities needed in the Federation for the maintenance and support of these forces, which would include the Commonwealth Strategic Reserve;

Her Majesty's Government in the United Kingdom

- (c) will undertake to assist the Federation Government in the external defence of its territory.
- (d) will consult the Federation Government in regard to the exercise of their rights under the Treaty."



APPENDIX EAMENDMENTS TO THE FEDERATION AGREEMENTRevised Clause 31

"31. The High Commissioner shall be entitled, and any member of the Federal Executive Council shall, in respect of matters within his responsibility, also be entitled, to submit questions to the Federal Executive Council. Such member shall, when submitting such question, give notice thereof to the High Commissioner."

Revised Clause 32

- "32. (1) The High Commissioner shall, subject to the provisions of this Clause, act in accordance with the advice of the Federal Executive Council.
- (2) If in any case the High Commissioner considers it expedient in the interests of public order, public faith or good government of the Federation that he should not act in accordance with the advice given to him by the Federal Executive Council, then, subject to the provisions of sub-clause (3) of this Clause, he may act otherwise than in accordance with their advice.
- (3) (a) Before acting otherwise than in accordance with the advice given to him by the Federal Executive Council on any matter, under sub-clause (2) of this Clause, the High Commissioner shall seek the views of the Chief Minister.
- (b) If the Chief Minister so requests, the High Commissioner shall refer the matter to the Secretary of State, and shall transmit to the Secretary of State any communication that the Chief Minister may wish to make thereon, and in that event the High Commissioner shall not act otherwise than in accordance with the advice given to him by the Federal Executive Council without the prior approval of the Secretary of State:

Provided that if in the opinion of the High Commissioner the interests of public order, public faith or good government of the Federation are such that the matter is too urgent to permit the obtaining of the prior approval of the Secretary of State he may act otherwise than in accordance with the advice given to him by the Federal Executive Council without such approval, in which case he shall transmit to the Secretary of State at the first opportunity a report of the matter, giving the reasons for his action, and any views the Chief Minister may wish to express thereon.

- (4) Nothing in this Clause shall apply to matters relating to external defence and external affairs.
- (5) In this Clause the expression "public order, public faith or good government of the Federation" shall, without prejudice to its generality, include the matters specified in sub-clause (1) of Clause 19 of this Agreement."

Revised Clause 23

- "23. (1) The members of the Federal Executive Council shall be -
- (a) Two ex officio Members, that is to say, the Chief Secretary and the Attorney General; and
- (b) Such Appointed Members as may be appointed under sub-clause (2) of this Clause;
- (2) (a) There shall be such number of Appointed Members, not being less than ten or more than twenty-four, as the High Commissioner shall think fit, who shall be appointed by the High Commissioner by Instrument under the Public Seal.
- (b) Of the Appointed Members, one shall be styled the Chief Minister, and the High Commissioner shall consult the Chief Minister before appointing the remaining Appointed Members."

Other Amendments to Parts III and IVClause 26, sub-clause (1)(c):

Delete: "more than one of the three officers specified in Clause 23."

Substitute: "both the officers specified in sub-clause (1) of Clause 23."

Clause 36, sub-clause (2):

Delete: "three"

Substitute: "two"

Delete: "thirty two"

Substitute: "thirty three"

Clause 37:

Delete and substitute: "The ex officio Members shall be the Chief Secretary and the Attorney General."

Clause 39, sub-clause (1)(c):

Delete: "seven Members"

Substitute: "eight Members"

Clause 43, sub-clause (1)(a), second line:

Delete: "more than one of the three officers"

Substitute: "both the officers"

APPENDIX FOVERSEAS INVESTMENTEXTRACT FROM THE ADDRESS OF HIS EXCELLENCY THE HIGH COMMISSIONERDELIVERED TO THE FEDERAL LEGISLATIVE COUNCIL ONNOVEMBER 30TH, 1955

"....I am glad to say that Malaya has always enjoyed a good reputation in the past as a reliable and creditworthy borrower, and to affirm that it is, and will remain, the policy of the present Government to maintain that reputation."

"While I am discussing such issues...there is another matter to which I should refer, and that is the role of overseas capital and private enterprise in the present and future development of the country. It is common knowledge that external capital and private enterprise have played a conspicuous part in the development of the Malayan economy, and it is no less than my duty at the present time of change and evolution in our political and constitutional affairs to make it clear that the Federation Government willingly recognises the contribution which overseas capital and enterprise have so made...to the economic and social well-being of the country as a whole."

"It is also the view of the Federation Government - and I would remind you that I speak today on behalf of the Government as now constituted - that such capital and enterprise have no less an important role to play in a new and independent Malaya of the future. It is therefore, and will remain, the policy of the Government to accord such industry and enterprise fair and considerate treatment; to foster an atmosphere in which the overseas investor who is genuinely concerned with the development on sound lines of the country's productive resources can invest and conduct undertakings in this country without fear of discrimination or unfairness; and, last but not least, to continue the present policy whereby the overseas investor can, after payment of local taxes and obligations, remit to his country, within the framework of ordinary and reasonable Exchange Control requirements, funds for the payment of dividends and for the repatriation of his capital."

"In return, the new Government looks with confidence to those overseas enterprises which work in this country to identify themselves closely with the interests, aspirations and sentiments of the new and self-governing Malaya of the future; that is, to take example, by training young Malaysians for technical and managerial posts; by re-investing in this country a reasonable proportion of profits earned in years of prosperity; and, finally, by transferring to Malaya whenever possible the effective seat of direction of undertakings whose sole or principal seat of activity is in this country...."

ANNEX BExtract from the Report of the General Purposes Committee  
of the ConferenceCONSTITUTIONAL COMMISSION

The Committee considered the establishment, composition and terms of reference of a Constitutional Commission in the light of the proposals submitted by the Malayan Delegation.

The Committee recommend -

(18) In view of the Malayan Delegation's desire that independence and full self-government within the Commonwealth should be proclaimed by August, 1957, if possible, a constitution so providing should be introduced at the earliest possible date consistent with the importance of the task before the Constitutional Commission and every effort should be made by Her Majesty's Government and the Federation Government to achieve this by the time proposed. A paragraph to this effect should be inserted in the Report of the Conference.

(19) The Constitutional Commission should be a small body selected by the Secretary of State for the Colonies in agreement with the Conference of Rulers and the Alliance Ministers. It should have a United Kingdom Chairman and in addition to the Chairman one member from each of the following Commonwealth countries:-

Australia, Canada, India, Pakistan and the  
United Kingdom.

(20) The Secretary of State should be invited to approach the Governments concerned requesting them to put forward the names of suitable persons.

(21) The Constitutional Commission should be appointed in the name of Her Majesty The Queen and Their Highnesses the Rulers.

(22) The terms of reference of the Constitutional Commission should be as follows:-

"To examine the present constitutional arrangements throughout the Federation of Malaya, taking into account the positions and dignities of Her Majesty The Queen and of Their Highnesses the Rulers: and

To make recommendations for a federal form of constitution for the whole country as a single, independent, self-governing unit within the Commonwealth based on Parliamentary democracy with a bi-cameral legislature, which would include provision for:-

- (i) the establishment of a strong central government with the States and Settlements enjoying a measure of autonomy (the question of the residual legislative power to be examined by, and to be the subject of recommendations by, the Commission) and with machinery for consultation between the central government and the States and Settlements on certain financial matters to be specified in the Constituion;
- (ii) the safeguarding of the position and prestige of Their Highnesses as constitutional Rulers of their respective States;
- (iii) a constitutional Yang di-Fertuan Besar (Head of State) for the Federation to be chosen from among Their Highnesses the Rulers;
- (iv) a common nationality for the whole of the Federation;
- (v) the safeguarding of the special position of the Malays and the legitimate interests of other communities. "

ANNEX CNOTES ON THE MAIN CONCLUSIONS AND  
RECOMMENDATIONS OF THE CONFERENCEI. GENERAL

As a result of the Conference, constitutional development in the Federation of Malaya over the next few years will pass through two phases. The first phase, which the Report of the Conference refers to as "the interim period", is that before the Federation attains full self-government within the Commonwealth. The second phase is that following the attainment of full self-government within the Commonwealth. It will be convenient to deal with the conclusions and recommendations of the Conference under these two heads.

II. THE INTERIM PERIOD(1) The High Commissioner's Powers (Annex A, Appendix C, paragraph 32).(a) The Reserved Legislative Power

This remains unchanged.

(b) The Reserved Executive Power

The High Commissioner will in future act on the advice of the Executive Council unless he considers it expedient in the interest of public order, public faith or good government to reject their advice. Before acting contrary to their advice he must obtain the prior approval of the Secretary of State, and give the Chief Minister an opportunity to make representations to the Secretary of State, unless he considers that the interests of public order, public faith or good government are too urgent, in which case he may act against the advice of the Executive Council without any prior approval. These arrangements do not apply to matters relating to external defence and external affairs, in which the High Commissioner will retain complete discretion.

(2) Defence and Internal Security (Annex A, paragraphs 7-24).(a) Defence

Responsibility for external defence will remain entirely with the High Commissioner, but in order to prepare for the assumption by the Federation Government of responsibility for external defence, there will during the interim period be an External Defence Committee, including Malayan Ministers, with the High Commissioner as Chairman, to discuss matters relating to the external defence of the Federation. It will have no executive powers and will be purely advisory to the High Commissioner.

(b) Internal Security

A Malayan Minister for Internal Defence and Security will assume responsibility for the administration of the police force and the Federation armed forces. So long as the Emergency continues, operational command

of the police force and the Federation armed forces will remain with the Director of Operations. The present Director of Operations Committee will, however, be replaced by an Emergency Operations Council, with the Minister for Internal Defence and Security as Chairman and the Director of Operations among its members. A Police Service Commission will be set up to deal with appointments, promotions and discipline in the higher ranks of the police force. It will be completely free from political influence. For the administration of the Federation armed forces there will be set up, under the Chairmanship of the Minister for Internal Defence and Security, a Federation Armed Forces Council modelled upon the Army and Air Councils in the United Kingdom.

(3) Financial and Economic Matters (Annex A, paragraphs 28-37).

(a) Minister of Finance

The Financial Secretary, at present a member of Her Majesty's Oversea Civil Service, will be replaced by a Malayan Minister of Finance.

(b) Exchange Control

The Federation Government will continue to regulate its dollar expenditure in general conformity with the policy followed by the Sterling Area and in consultation with Her Majesty's Government.

(c) Financial Assistance

This will continue on the same lines as at present.

(4) The Public Service (Annex A, paragraphs 38-61).

(a) Public Service Commission

A Public Service Commission with executive authority will be set up from 1st July, 1957, to deal with appointments, promotions and discipline in the Public Service. It will be independent and free from political influence. Before that date the present Public Service Appointments and Promotions Board will remain advisory to the High Commissioner.

(b) Compensation Scheme

A scheme will be introduced in two phases. Until 1st July, 1957, members of Her Majesty's Oversea Civil Service will be permitted to retire on earned pension even if they have not served for the ten years normally required for pension purposes. After that date they will be free to retire when they will and entitled to lump-sum compensation in addition to their earned pension. It will also then be open to the Federation Government to dispense with an oversea officer's services on payment of the due compensation and pension. The scheme contains various other elements, but those are its main lines.

(5) Constitutional Changes (Annex A, paragraphs 62-73).

(a) The High Commissioner's Powers

See (1) above.

(b) The Executive Council

The Financial Secretary will be replaced by a Malayan Minister of Finance (see (3)(a) above). The Secretary for Defence will disappear and matters of external defence will be handled by the High Commissioner himself, matters of internal security being handled by the new Minister for Internal Defence and Security. The Minister for Economic Affairs (at present a member of Her Majesty's Oversea Civil Service) will be replaced by a Minister for Commerce and Industry, who may be either an unofficial or an official. The Chief Secretary and Attorney-General will continue to remain members of Her Majesty's Oversea Civil Service and to have seats in the Council.

(c) The Legislative Council

There will be no significant change except in consequence of the changes noted in (b) above.

(d) The British Advisers

The British Advisers to the Rulers will be withdrawn within about a year's time. Their functions have already been overtaken by constitutional change and they no longer have an essential part to play in the administration of the Federation. There was therefore no good ground for opposition to the collective view of Their Highnesses the Rulers and Alliance Ministers that the British Advisers should be withdrawn.

III. CONSTITUTIONAL COMMISSION (Annex B, paragraphs 18-22).(1) Composition

The proposed composition of the Commission is set out in Annex B. The Lord Chancellor very kindly agreed that Lord Reid should be invited to be Chairman and he has accepted. The United Kingdom member seems likely to be Sir Ivor Jennings, Master of Trinity Hall, Cambridge. The Governments of the other Commonwealth countries concerned are being approached through our High Commissioners with requests to suggest suitable members.

(2) Terms of Reference

The terms of reference are set out in Annex B.

There was some difficulty with the Malayan Delegation about the position of Her Majesty the Queen in relation to the British Settlements of Penang and Malacca, but the Conference ultimately recorded a clear understanding that nothing in the terms of reference should be taken to prejudice the recommendations of the Commission on this matter. It was also clearly understood by the Conference that (iv) of the terms of reference will not preclude the Commission from recommending that British subjects and subjects of the Rulers should retain their status as such even if they acquire the proposed common nationality for the whole of the Federation.

(3) Timing

It was agreed that the Commission should be set up as soon as possible and that every effort should be made to avoid delay in the introduction of full self-government. The Alliance had committed themselves



so deeply over the date of August, 1957, in this connection that it simply had to be accepted as the aim. The Malayan Delegation explicitly recognised, however, that this aim was almost certainly unattainable, and that it was very unlikely that full self-government could be introduced before the spring of 1958 at the earliest. Tunku Abdul Rahman firmly stated that he and his colleagues would - and could successfully - defend any delay beyond August, 1957. The composition of the Commission should help in avoiding any criticism on grounds of delay.

#### IV. FULL SELF-GOVERNMENT

##### (1) Defence and Internal Security

###### (a) Defence

A Working Party under the Chairmanship of the Commissioner-General for the United Kingdom in South East Asia will be set up as soon as possible to prepare a treaty of defence and mutual assistance between Her Majesty's Government and the Federation Government. It was agreed that the Australian and New Zealand Governments should be invited to nominate observers at its meetings. Its terms of reference are:-

"To consider and make recommendations on the detailed provisions of a Treaty of Defence and Mutual Assistance between Her Majesty's Government in the United Kingdom and the Government of an independent Federation of Malaya, bearing in mind the following general principles:-

###### The Federation Government

- (a) will afford to Her Majesty's Government in the United Kingdom the right to maintain in the Federation the forces necessary for the fulfilment of Commonwealth and international obligations:
- (b) will continue to afford to Her Majesty's Government facilities needed in the Federation for the maintenance and support of these forces, which would include the Commonwealth Strategic Reserve:

###### Her Majesty's Government in the United Kingdom

- (c) will undertake to assist the Federation Government in the external defence of its territory:
- (d) will consult the Federation Government in regard to the exercise of their rights under the Treaty".

The intention is that the Treaty should be signed when full self-government is introduced. The agreement reached in the Conference meets in full the requirements which we had set ourselves beforehand.

###### (b) Internal Security

It was agreed that, even after the attainment of full self-government, it would be essential that the present effective security intelligence machine should retain its efficiency, and also that, in view

of its importance in the field of external defence as well as of internal security, its working would remain a matter of joint concern to Her Majesty's Government and to the Federation Government. (The Conference decided not to include in its published Report its agreed conclusions and recommendations on security intelligence. They are contained in the Report of the Defence and Internal Security Committee of the Conference).

(2) Financial and Economic Matters

(a) Financial Assistance

It was recognised that the attainment of full self-government implied the principle of financial self-sufficiency, but it was agreed that certain particular measures of financial assistance by Her Majesty's Government would continue to be available to the Federation Government even after full self-government had been attained, and that, if the Emergency had not by then been brought to an end, Her Majesty's Government would still be prepared to consider with the Federation Government whether the financial needs of the Federation would justify special assistance from Her Majesty's Government towards meeting the cost of the Emergency over and above the substantial assistance which will continue to be given through the forces and services provided by the United Kingdom to sustain the fight against the communist terrorists.

(b) Overseas Investment

The Conference recorded the repeated assurance by the Malayan Delegation that it would remain the policy of the Federation Government to encourage overseas investment, industry and enterprise to look to Malaya with every assurance of fair and considerate treatment and without fear of discrimination. This included continuation of the present policy whereby the overseas investor could, after payment of local taxes and obligations, remit to his country, within the framework of ordinary and reasonable exchange control requirements, funds for the payment of dividends and for the repatriation of his capital.

(3) The Public Service

The arrangements for a Public Service Commission and a lump-sum compensation scheme set out in II(4) above will remain in operation.

(4) The Constitution

The constitutional pattern proposed for a fully self-governing Federation of Malaya will emerge from the work of the Constitutional Commission described in III above.