

Report of the
Commission of Enquiry,
North Borneo and Sarawak,
1962

Knebworth House,
Knebworth, Herts.
21st June, 1962.

The Right Hon. Harold Macmillan, M.P.,
Admiralty House,
Whitehall,
London, S.W.1.

Sir,

I beg to refer to your letter of the 3rd February, 1962, confirming, with the concurrence of the Prime Minister of the Federation of Malaya, my appointment as Chairman of a Commission of Enquiry to visit Sarawak and North Borneo and setting out the **Terms of Reference**.

I have the honour to submit herewith a Report signed by myself and the four members of the Commission, together with a signed copy for transmission to the Prime Minister of the Federation of Malaya.

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

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COMPOSITION OF THE COMMISSION

The Right Hon. Lord Cobbold	Chairman
Sir Anthony Abell, K.C.M.G.	} Nominated by the Government of the United Kingdom
Sir David Watherston, K.B.E., C.M.G.		
Dato Wong Pow Nee, P.M.N.	} Nominated by the Government of the Federation of Malaya
Enche Muhammad Ghazali bin Shafie		

TERMS OF REFERENCE*

"Having regard to the expressed agreement of the Governments of the United Kingdom and the Federation of Malaya that the inclusion of North Borneo and Sarawak (together with other territories) in the proposed Federation of Malaysia is a desirable aim in the interests of the peoples of the territories concerned—

- (a) to ascertain the views of the peoples of North Borneo and Sarawak on this question; and
- (b) in the light of their assessment of these views, to make recommendations."

* As set out in Annex A of Cmnd. 1563.

INTRODUCTION

1. The idea of a political association between Malaya, Singapore and the three Borneo territories of North Borneo, Sarawak and Brunei has been discussed for many years.

2. On the 27th May, 1961, the Prime Minister of the Federation of Malaya, Tunku Abdul Rahman, in a speech at a Press luncheon in Singapore, spoke favourably about the practical possibility of such an association. Tunku Abdul Rahman's constructive proposals were welcomed by the British Government, and it was announced on the 13th October that he had accepted an invitation to come to London in November 1961 for discussions with the object of reaching an understanding on the broad issues and to prepare the way for consultation with the Borneo territories without which no commitment could be entered into.

3. In the meantime, on the 23rd August, 1961, broad agreement had been reached in principle between the Prime Ministers of the Federation of Malaya and Singapore for a merger of the two territories. A Memorandum setting out Heads of Agreement for the proposed merger was published as a Singapore White Paper* on the 15th November, 1961.

4. The London discussions were held from the 20th–22nd November, 1961, and a Joint Statement by the British and Malayan Governments was issued on the 23rd November, 1961.† An extract from the text of the Joint Statement is reproduced below:

“ In a series of meetings in London this week British and Malayan Ministers examined the proposal to create a ‘ Federation of Malaysia ’ which would embrace the Federation of Malaya, Singapore, North Borneo, Sarawak and Brunei.

2. In the light of a full study of the problem which has been going on for some months, the British and Malayan Governments are convinced that this is a desirable aim.

3. The Ministers took note with satisfaction of the Heads of Agreement recently negotiated between the Governments of Malaya and Singapore for the merging of the State of Singapore with the Federation.

4. Before coming to any final decision it is necessary to ascertain the views of the peoples of North Borneo and Sarawak. It has accordingly been decided to set up a Commission to carry out this task and to make recommendations. The Commission will be composed of a Chairman and four members, two nominated by the British Government and two by the Malayan Government. In the light of the Commission's report the two Governments will decide what further steps should be taken. (The terms of reference of the Commission are attached at Annex A.‡)

* Published in Singapore as Cmnd. 33 of 1961.

† Published in the United Kingdom as a White Paper (Cmnd. 1563).

‡ See page vi.

5. At the same time the views of the Sultan of Brunei are being sought.

6. In regard to defence matters it was decided that, in the event of the formation of the proposed Federation of Malaysia, the existing Defence Agreement between Britain and Malaya should be extended to embrace the other territories concerned. It was, however, agreed that the Government of the Federation of Malaysia will afford to the Government of the United Kingdom the right to continue to maintain bases at Singapore for the purpose of assisting in the defence of Malaysia, and for Commonwealth defence and for the preservation of peace in South-East Asia. (The text of the arrangements agreed is attached at Annex B. *)

HAROLD MACMILLAN
ABDUL RAHMAN."

The appointment of the Chairman and members of the Commission was announced by the British and Malayan Governments on the 16th January, 1962. Great Public interest had been aroused by Tunku Abdul Rahman's statement in May, and the Governments of North Borneo and Sarawak issued papers† explaining the purpose of the Commission and setting out the idea of Malaysia in simple terms in order to assist people to understand the issues on which their views would be sought. There had been much discussion on the subject in the local Press which continued throughout our visit. The setting up of the Malaysia Solidarity Consultative Committee following a Commonwealth Parliamentary Association Regional Conference in Singapore in July 1961 also resulted in useful unofficial exchanges of views between representatives from Malaya, Singapore, North Borneo and Sarawak (including unofficial members of the Legislative Council and Council Negri), together with observers from Brunei. A copy of the committee's "Memorandum on Malaysia"‡, dated 3rd February, 1962, was submitted for consideration by the Commission.

5. The Chairman and British members of the Commission met the Malayan members in Singapore on the 18th February, and the whole Commission arrived at Kuching by air on the 19th February. We held our first full meeting the same afternoon, and began hearings in Kuching on the following day. Prior to our arrival, the Governments of North Borneo and Sarawak had made preparatory arrangements for our travel and accommodation in the two territories. Our Secretary had also visited Kuching and Jesselton during the preceding week.

6. All persons who wished to submit written memoranda to the Commission were invited to do so. In response to this invitation we received some 2,200 letters and memoranda (nearly 600 in North Borneo and over 1,600 in Sarawak) from town boards, district councils, associations of many kinds, political parties, chambers of commerce, trade unions, religious leaders, members of executive and legislative councils, native chiefs and community leaders, and large numbers of individual members of the public. From these memoranda we obtained much valuable material and assistance.

* Not reproduced.

† "North Borneo and Malaysia", Jesselton, February 1962; "Malaysia and Sarawak", Kuching, January 1962 (reproduced in Appendix E.)

‡ Reproduced in Appendix F.

7. An open invitation to appear before the Commission was extended to all persons who wished to give oral evidence. We are glad to be able to record that full advantage was taken of this invitation and that as a result we were able to meet and talk with large numbers of representative individuals and bodies, many of whom had submitted written memoranda which we were able to discuss with them. The willingness of the public to come forward and state their views quietly and responsibly was almost everywhere impressive and gratifying. Our itinerary (Appendix A) had been so planned that representatives from every District in each Territory had an opportunity to meet the Commission at selected District centres. We thus held 50 hearings at 35 different centres (20 centres in Sarawak and 15 in North Borneo).

8. Over 4,000 persons appeared before us in some 690 groups which varied in size from 1 to over 50. Most groups appointed one or more of their number to act as spokesman, and we took pains to ensure as far as possible that anyone else who wished to state a different view, or to contribute additional points, was given full opportunity to do so. All our hearings were conducted in private. Assurances were given that evidence and memoranda submitted to us would be treated as confidential to the Commission: where views are attributed in this Report to particular organisations or bodies, they had already been made known in the Press by the organisations or bodies themselves.

9. During our tour we paid an informal courtesy call on His Highness the Sultan of Brunei, who graciously received us with his principal Ministers.

CHAPTER I

ENQUIRY IN SARAWAK

Section A,—Background

10. Sarawak occupies the north-western part of Borneo and is bordered on the east and south by Indonesian Kalimantan, and on the north by Brunei and North Borneo. The country is 47,500 square miles in area (compare North Borneo 29,388 square miles, and Malaya 50,700 square miles), three-quarters of it covered by tropical evergreen rain forest. Behind a coastal fringe of mangrove and nipah palm, there is a belt of swamp forest, in some places extending far inland. Beyond this lies rugged hill country and the complex mountain ranges and forested ravines along the Indonesian border. Large muddy rivers and a maze of tributary streams and channels flow north-westwards into the South China Sea and form the principal means of communication. Large areas of Sarawak are practically uninhabited (overall density: 15 per square mile) and nearly a quarter of the population is concentrated on about 3 per cent. of the total land area in the Kuching and Serian District. Only 6 per cent. of the country is under settled cultivation, and a further 18 per cent. under shifting cultivation. The climate is hot, wet and humid. The economy depends on agriculture, forestry and fisheries; the principal exports by value being rubber, timber, pepper and sago.

11. Evidence of human activity in Sarawak dates from prehistoric times, but its growth as an integral State began with the landing of James Brooke in 1839 and his installation as Rajah in 1841. Under the Brooke family the frontiers of Sarawak were extended many times until the country is now over 20 times its original size.

12. Sarawak became a Crown Colony in 1946 when it was ceded to Britain by the third Rajah. In 1941, just before the Japanese occupation, the Rajah introduced a new Constitution of which the "Nine Cardinal Principles of the Rule of the English Rajahs"* formed part. The present Constitution, which replaced that of 1941, incorporates the Nine Cardinal Principles and provides for the appointment of a Governor and Commander-in-Chief, a Supreme Council (the executive council), and a Council Negri (the legislature). The Council Negri consists of 24 elected members, 14 *ex officio* members, 4 nominated members and 1 standing member who was appointed for life before cession. The Supreme Council consists of 5 elected members elected by Council Negri, 3 *ex officio* members, and 2 nominated members. There is a well-established system of Electoral Colleges and Sub-Electoral Colleges under which members are elected to Council Negri by Divisional, Municipal and Urban District Councils.

* See Appendix C.

Section B.—Arrangements for Commission's Visit

13. Arrangements had been made, before our arrival, for the members of the Commission to visit all five Divisions of Sarawak. The Commission held sittings in all but one of the Districts and saw representatives from the other. Details of the itinerary are contained in Appendix A and it is sufficient to record here that hearings were held at 20 different places over a total period of four weeks. This involved us in an extensive programme of travelling by air, river and road. Although it was not possible for us to reach the remoter areas, the flight to Long Akah on the Baram River and the journey by the M.V. *Zahora* up the Rejang River provided an opportunity for us to see something of conditions in the interior and to visit some longhouses.

14. Apart from one mishap caused by the weather, which did not seriously interfere with our programme, the arrangements went smoothly throughout. We recognise, however, that the Sarawak Government had provided us with the best and most rapid means of transport, including chartered aircraft and the use of the Governor's and other launches and river craft, and that it would not otherwise have been possible to carry out such a comprehensive tour in such a relatively short space of time. This question of difficulty of communications in Sarawak is an important one and one which in our opinion has a definite bearing on the problem which we were asked to examine.

15. The Sarawak Government's Paper on Malaysia had been published early in January some six weeks before we arrived in Kuching. It had been translated into the major local languages, and instructions had been issued to Residents and to District Officers that it should be distributed as widely as possible and every effort made to ensure that the implications of the proposals were understood. We were much impressed with the energy with which these instructions must have been carried out. The task was no easy one. Away from the towns, we have already drawn attention to the slow means of transport and to the distances to be covered, but there was the further difficulty that a high proportion of the people in the interior are illiterate and that it takes time and perseverance to explain a complex subject to them. Inevitably there were some areas where knowledge of the Paper was slight; but with only a few weeks available between the issue of the Paper and the arrival of the Commission, it was remarkable, judging from the evidence given to us, how much had been achieved.

16. In the towns, the problem was a different one. The atmosphere since the idea of a Federation of Malaysia had first been mooted in May 1961 had been conducive to the intensification of political discussion and greater awakening of political consciousness. The task of the Government's administrative staff was not so much to foster discussion of the proposals for a Federation of Malaysia as to endeavour to see that the public was not misled.

Section C.—Political Developments and Racial Relations

17. Before proceeding with more detailed consideration of our findings, it may be useful to draw attention to a few of the more salient features of the situation as we have found it in Sarawak.

18. A most fundamental question in the multi-racial society of Sarawak is that of race relations. In recent years relations between the different communities have been excellent and Sarawak has clearly had the good fortune of being a very happy country. It is true that under a colonial administration, where power manifestly rests not with any one racial group but with the colonial Power which is held in regard for its efficiency and impartiality, the harmony of racial relations on the surface may tend to conceal latent friction. So long as the reins of power are firmly in the colonial administration's hands there is little conflict of interests between the indigenous people on the one hand, and the immigrant races, in this case the Chinese, on the other, who are on the whole satisfied to go their separate ways.

19. However, this state of affairs could only last as long as political power remains with the colonial authority. We saw in Sarawak the conflict arising when a transfer of power is contemplated in some form and the indigenous people become aware of the prospect of having to share political power with the immigrant races at a time when they feel themselves still economically backward.

20. Uneasiness was felt at the time after the first elections when the first political party, the Sarawak United Peoples Party (S.U.P.P.) was formed with predominantly Chinese leadership. Taken as a signal for the beginning of the bid for power by the non-natives at a time when the natives felt themselves not yet in a position to compete, this set in motion the strain in race relations springing from the imbalance in economic power. The emotional identification by races became intensified as a result of fear of, and the desire for protection against, the domination of the other race groups. For this reason the Party Negara (Panas) and later the Sarawak National Party (S.N.P.) with native leadership came into being followed by the formation of Barisan Anak Jati Sarawak (Barjasa) and its proposal to enter into an alliance with S.N.P. The present proposals for a Malaysian Federation and the prospect of independence within the Federation have served to accentuate these developments. We, therefore, fully understood the reasons for the alignment of political forces along racial lines. Nevertheless, it is a matter of the gravest concern.

21. The position in Sarawak is further exacerbated by the fact that the present Government in Malaya, which would clearly be an important force in a new Federation of Malaysia, is anti-Communist. In the absence of some project like Malaysia, the Chinese, with their rapidly increasing population and their long start over other races in education, could expect, when independence came, to be in an unassailable position in Sarawak. This, in turn, could put the Communists, with their highly developed organisation to work on the fears and frustrations of the great body of non-Communist Chinese, in an equally unassailable position. The Malaysia proposals would interfere with this development. Communist elements have therefore worked ceaselessly to exaggerate the fears which the Chinese community as a whole and members of other communities have of Malay domination and to make capital out of every possible issue, e.g., special position for the natives, citizenship, national language and religion. They have also worked on the emotions of a large body of younger Chinese, who have been educated in Chinese schools, who are strongly nationalistic and who have feelings of frustration and anxiety about their prospects. The activities and the methods adopted by the extreme Left-wing

groups, the hard core of which consists of the younger Chinese, have antagonised the other communities and indeed many Chinese and have drawn the attention of the country as a whole to the possibility of communal friction, which is being deliberately fanned by Communist elements.

22. The attitude of the indigenous population on the one hand and of the immigrant race, on the other, to the concept of the Head of State is an interesting reflection of the communal conflict to which we have drawn attention above. The constitutional niceties of the concept may not be fully understood by many sections, except the more politically sophisticated, of a population which has been accustomed in the last 120 years to a Head of State, a Rajah or a Governor, who wielded executive powers. There is therefore a confusion in the popular mind between the functions of a constitutional Head of State and those of the officer who actually wields executive authority. There is no confusion of mind, however, about the transfer of authority in the new Federation from the British Government to the peoples of the territories, and the Head of State has become a symbol of this transfer of power. The native races therefore have insisted that the Head of State should be a native, reflecting their concept of the return of the power of government from the British Government to themselves, and the immigrant races have likewise insisted that anyone born in Sarawak should be eligible for the office, reflecting their concept of the transfer of power from the British Government to the people of Sarawak. The native population's insistence on a native being the Head of State stems in the main from the anxiety to utilise what they believe are the political powers of the office to correct the imbalance of economic power between themselves and the immigrant races. It is clear also that in the minds of both the natives and the non-natives of Sarawak the office of the Head of State or Governor or whatever other title it may be given, carries with it a prestige which is an important consideration in the context of race relations. At the same time both the natives and the non-natives are fully aware that the administrative machinery must continue to depend upon British officials for the proper and efficient discharge of its responsibilities.

23. In the above paragraphs we have considered the question of relations between the Chinese and the natives. While on the subject of race relations, mention must also be made of the relations between the Malays and the other indigenous people. Although there are no ideological overtones here, we have found that the prospect of Malaysia is viewed by non-Malay natives in certain parts of the country within the framework of their unhappy recollection of Brunei domination in the past, which is regarded as Malay domination, and of their fear of its return with the new Federation. The suggested name of Malaysia for the new Federation, and of Malay as the national language and Islam as the national religion, have tended to emphasise these misgivings.

24. We have been conscious of these political forces which are at present active in Sarawak and are most anxious to emphasise that the new constitutional arrangements should be designed not only in full awareness of these factors but also with the deliberate intention of removing the fundamental causes of these disharmonies in so far as they can be removed by constitutional arrangements. The indigenous peoples and the Chinese are both an integral part of the population of Sarawak; both have played their part in the past and both have their

part to play in the future; it is essential that they should live and work in harmony. If these things can be achieved, the intensification of political consciousness arising out of the Malaysia proposals will in the long run prove beneficial. Although some kind of association between the Federation of Malaya and the Borneo territories has long been discussed, the degree of interest taken in Sarawak, both by supporters and by opponents of the present proposals, has been a most encouraging indication of their concern regarding their political future. In this connexion, the deliberations of the Malaysia Solidarity Consultative Committee," representing the opinion of informed and responsible sections of the population of Sarawak, have made a most useful contribution.

Section D.—General Observations on Evidence

25. We have noted earlier the high esteem in which the colonial administration is held in Sarawak. Generous tributes were paid by all communities to the impartiality of colonial administrators and to the progress which has been made since the war. In a multi-racial society the quality of impartiality, and the belief in such impartiality, is exceedingly important. The present officials, moreover, have an intimate knowledge of the people and of the requirements and possibilities of the country. For these reasons, the wish was expressed to us from almost every quarter that any new arrangements should not cause an exodus of the present officials, but should rather encourage them to remain in service in Sarawak until their places can be taken by the local people with the necessary qualifications.

26. We were made aware of the high respect and affection in which Her Majesty The Queen is held, more especially among native populations in the interior. There was genuine gratification that the Commonwealth links would be maintained with Malaysia.

27. On a number of occasions during our tour, we were reminded of the "Nine Cardinal Principles of the Rule of the English Rajahs". These Principles which had long been observed were enacted by the then Rajah of Sarawak in 1941, and since the cession of the territory to the Crown, have been enshrined in the First Schedule to the Sarawak (Constitution) Order-in-Council, 1956. They are reproduced in Appendix C. The eighth of these Principles, to which our attention was most frequently drawn, reads as follows:

"That the goal of self-government shall always be kept in mind, that the people of Sarawak shall be entrusted in due course with the governance of themselves, and that continuous efforts shall be made to hasten the reaching of this goal by educating them in the obligations, the responsibilities and the privileges of citizenship."

The argument was used by those who opposed the Malaysia proposals that it would be inconsistent with the British Government's obligation to agree to a scheme which did not first grant independence to Sarawak. The Malaysia proposals are regarded in some quarters as an indication that the British Government are no longer prepared to shoulder their responsibilities or honour their commitments. We should record, however, that some of the native population, who at the time of cession had found assurance in these Principles,

* See Appendix F.

were at pains to explain to us that they would not wish them to stand in the way of the achievement of Malaysia.

28. We have found that a very large number of the supporters of Malaysia were influenced by their admiration for the Malayan Prime Minister and his colleagues for their firm leadership and their imaginative policies in rural development. In particular those who had visited the Federation of Malaya were much impressed by the economic and social progress which they had found there and they were anxious that Sarawak should enjoy similar progress within Malaysia. We might, in parenthesis, draw attention to the unfortunate repercussions which may follow if these hopes are not realised.

29. The firm opposition of the present Malayan Government to Communist designs has also won the admiration of many people of all races. They are increasingly aware of the threat of Communist subversion and infiltration to which we have drawn attention. As transfer of political power in due course is inevitable, they see advantage in independence within a larger community.

30. At the same time the ideological position of the present leadership in the Federation is also an important factor in the opposition to Malaysia. We have drawn attention earlier to the threat which Malaysia poses for those Chinese who are emotionally or ideologically inclined to China, and to the sedulous efforts of Communist elements to foster opposition among this group and among the Chinese population generally.

31. Another important factor, giving rise in some cases to opposition and in other cases to doubt, is a dislike of change and a fear of the unknown. The present administration is well liked, considerable economic and social progress has been made, and law and order is maintained. Many people among the native populations see no need for the Malaysian proposals and would prefer things to go on as they are. The same is true of a large section of the Chinese business community.

32. Last but not least, a major strand in the opposition to Malaysia lies in the demand for independence, after the achievement of which there was general readiness to consider the possibility of Malaysia. This expression of opinion merits serious consideration. It springs from a genuine fear of discrimination after Malaysia, a feeling among the Chinese that their status would be reduced to that of "second-class citizens" and among the natives that their customary laws and practices would be affected. Similarly, there is concern that Malaysia would entail migration from the other territories of the new Federation, and also that such safeguards as may be given could be removed at a later stage by the Central Government. Assurances were therefore sought on these points. If their misgivings and reservations are met, many of those (both Chinese and native) who are now hostile or doubtful might well come round to support Malaysia.

33. We have found near-unanimous agreement on some points among those who favour Malaysia; on other points, among all the native populations whether or not strong supporters of Malaysia; and on other points again, among all races except in those groups who were not prepared to discuss Malaysia at all.

34. Those who favour Malaysia expressed a general desire —

- (a) that the formation of Malaysia should be brought about as soon as possible. This arises from a feeling that the present proposals have set in train an intensification of political activity which requires a clear indication of Sarawak's constitutional future as soon as possible. At the same time it is felt that the formation of Malaysia is urgently necessary to combat the increasing threat of Communist subversion and to accelerate efforts to improve the economic future of the natives. Delay might indicate that a disproportionate weight was being given to the views of the opponents of Malaysia;
- (b) that the new Federation should have a strong Central Government which could deal effectively, in particular, with matters relating to external relations, defence, internal security and economic development.

35. Groups from all native populations expressed a general desire—

- (a) that special privileges should be given to the natives. They were extremely anxious that their position in the new Federation should be analogous to that of the Malays in the present Constitution of the Federation of Malaya. There was general agreement that economic development should be accelerated and increased attention paid to education, with particular reference to the needs of the natives;
- (b) that land, forestry and agriculture should be subjects to be controlled by the State Government. Great emphasis was also laid on the need to safeguard customary rights and practices.

36. Groups of all races, other than outright opponents of Malaysia, expressed a general desire, in addition to the point already mentioned about the retention of British officers—

- (a) That immigration into Sarawak from other territories of the proposed Federation should be under the control of the State authorities. This springs from the fear that, on the establishment of Malaysia, the people of Malaya and Singapore in particular would migrate in large numbers to Sarawak to take advantage of land and opportunities available, to the detriment of the people of Sarawak themselves. Coupled with this general anxiety, there is particular concern about the possible entry of undesirable elements from outside;
- (b) that there should be no rapid change in the administrative arrangements affecting the daily life of the people, or in such matters as taxation.

37. Regarding the Head of Sarawak State, to which reference has been made earlier, there was some conflict between the indigenous people on the one hand, and the Chinese on the other: each group was, nevertheless, near-unanimous in its views. The natives have insisted that only natives should be eligible to be Head of State, while the non-natives have expressed with equal emphasis their desire that the office should be open to anyone born in Sarawak.

38. On a number of other points there were differences of opinion—

- (a) Some elements favour the arrangement that the Head of State of Sarawak should also be eligible to be the Head of the Federation of Malaysia, while others, a smaller element, favour a popularly elected Head of the Federation.
- (b) There were differences in attitude towards the acceptance of Islam as the national religion for Malaysia as a whole, and towards its particular application to Sarawak.
- (c) There were similar differences in attitude towards Malay as the national language for Malaysia as a whole and towards its application to Sarawak; and also as to official language or languages for Sarawak.
- (d) There was conflict regarding the Constitutional allocation of the legislative powers between the Federal and the State Governments in the new Federation, to which is related the question of a formula for representation in the new Federal Parliament.

39. These points of agreement and disagreement are further discussed later.

Section E.—Summary of Evidence from Various Racial Groups and Political Parties

40. In this section we record the evidence submitted to us by the various racial groups and political parties. We have found this a convenient method of setting out the evidence, and it is noteworthy that the great majority of groups which appeared before us were composed of people of the same race. But an over-emphasis, as much as a denial, of the communal element in the affairs of Sarawak would be unfortunate and misleading. There should not be too rigid or final identification of particular communal groups with particular attitudes towards Malaysia. The analysis by races should therefore be read fully with the general observations set out above. It should also be noted that in this section we lay considerable emphasis (as did witnesses themselves) on the various qualifications and conditions which were put up for our consideration by supporters and opponents of Malaysia alike, as well as by those who had not entirely made up their minds. It was to the particular matter which they wished to see covered that witnesses called our attention, rather than to the reasons for which they favoured the scheme. The fact that, in the following pages, much space is devoted to conditions and reservations reflects the anxiety of witnesses and of ourselves that every point raised should have full consideration. It should not obscure the fact that, among very many groups of supporters who appeared before us, there was great enthusiasm for early realisation of Malaysia.

41. The *Ibans* form the largest single group of the population and by far the largest native group. They are primarily country people and few take to town life. Although they are to be found throughout the country, nearly 75 per cent. of their total number live in the Second and Third Divisions.

42. Probably the most important single centre of the Ibans is at Kapit in the Third Division. A conference (or “aum”) of 51 elected Chiefs (Pengarahs and Penghulus) had been held there on the 15th February, 1962, to discuss the proposals for a Federation of Malaysia set out in the Sarawak Government's Paper. The conference reached general agreement that the scheme should be

supported, subject to certain conditions, and their resolutions (which had been published in the Press) were formally presented to us when the Commission visited Kapit on the 19th March. The resolutions were the following:

- “ 1. The Head of the State of Sarawak to be a native of Sarawak.
2. The Head of each State in the Federation of Malaysia to be eligible in due course to be the Mead of the Federation of Malaysia.
3. Adat Lama (traditional custom) to remain under the control of the Government of the State of Sarawak as it has until to-day.
4. Land to be under the control of the State.
5. English to remain the official language of the State of Sarawak and to continue to be one of the official languages of Malaysia.
6. Freedom of religious worship.
7. There is to be adequate representation for Sarawak in the Federal Government.
8. British officers to remain until replaced by properly qualified local people. Natives to have a fair share of Government employment.
9. Sarawak natives to enjoy the same status and privileges as Malays in Malaya.
10. Education to be a Federal subject and to be equalised throughout Malaysia as soon as possible. Sarawak natives to have a fair share of overseas scholarships.
11. Immigration to remain under the control of the State of Sarawak.
12. Powers reserved in the Constitution to a State may not be changed without the agreement of the State.
13. Development in Sarawak to be accelerated.”

43. This was an expression of opinion to which we attached very great weight. The 51 Chiefs at the conference together were said to represent some 112,000 Ibans out of a total population of nearly 238,000 and many delegations of Ibans who came before us at different centres in the Third Division confirmed that they supported the Kapit Resolutions. In a small number of cases a demand was made that they should either be accepted without alteration or that any changes should be made only after there had been opportunity for further discussion with the Iban people.

44. While the great majority of the Ibans in the Third Division who were in favour of the Malaysia plan took their stand on the Kapit Resolutions, there were some groups who gave their full support to the scheme on the basis of the recommendations in the report of the Malaysia Solidarity Consultative Committee.

45. In many places, more especially in the more remote areas and in areas where the Ibans form a proportionately smaller section of the population, a feeling of general uncertainty was apparent. It was represented to us by Ibans and others who had given the matter careful thought, that the Kapit Resolutions had to be considered against a background of implicit trust in the British Government. Hitherto, the Ibans had been looking forward to the self-government which had been promised to them, and the principal reason why

they were ready, on conditions, to accept the Malaysia proposals, despite their uncertainties, was because they were confident that the British Government would not recommend the scheme if it was not going to be beneficial to them.

46. Some of the younger men in predominantly Iban areas were less ready than their chiefs to accept the proposals, even on conditions, and a number were definitely opposed to it. We were reminded that the second of Brunei rule in Borneo in past centuries was far from encouraging and fears were expressed that the relative backwardness and inexperience of the Ibans might be used to their disadvantage by the more advanced and sophisticated Malays. They wanted to be treated by the Malays as brothers, but not as younger brothers. They were opposed to the idea that Sarawak should be treated as only one of 15 States in a Federation of Malaysia; they maintained that this would give her too small a voice in the new Federation's affairs. There was fear too that a large proportion of Sarawak's revenue would be handed over to the Federal Government without a corresponding return in the shape of services to the people of Sarawak.

47. The question of the right to withdraw from the new Federation was raised with us at Kapit and elsewhere. It was suggested to us that in certain circumstances there should be such a right at least for a period of five years, and that this should be specifically stated in the Federal Constitution. Some felt that this was a desirable provision in a new venture about which they felt some doubts. Others suggested that it should apply only in certain circumstances such as:

- (a) a change of regime in Kuala Lumpur;
- (b) a change in the Federal Constitution which had not been accepted by Sarawak.

48. One group from the Baram River hotly opposed the creation of a Federation of Malaysia but recognised that the decision might go against them. They insisted that, if this was so, certain conditions should be met. These were much the same as those set out in the Kapit Resolutions, but went further in some respects and the group was not prepared to discuss any modification of them.

49. The Second Division Ibans were not represented at the Kapit "Aum" but most of the many groups whom we saw supported the idea of Malaysia, though they asked for safeguards. These differed little from those which had been suggested by Ibans in the Third Division but in some respects were rather more specific. The following points were raised, many of them repeatedly:

- (a) The Head of State in Sarawak. Some groups expressed a wish that he should be elected by the people. Some would like him to have the title of Rajah and to be an Iban. In either case, it was held that he should be eligible, with the Heads of other States in the new Federation, for the post of Head of the Federation. One or two groups asked that, during the initial period, a British Governor should be retained.
- (b) The Head of the Federation. Some Ibans asked that he should be given the title of President as the title Yang di-Pertuan Agong is Malay, and is not acceptable.

- (c) Sarawak's representation in the Federal Parliament. A number of groups asked that this should be worked out on a combined population and area basis and that, within the number of seats allocated to Sarawak in the House of Representatives, the Ibans should have equal representation with the Malays and the Chinese.
- (d) National language. There was some difference of opinion. Some groups suggested that there should be no national language, others wanted it to be Iban. Still others were willing to have Malay or Iban.
- (e) Official language. There was agreement among many groups that English should be retained either indefinitely or for at least 15 years as the official language, not only in Sarawak but in the new Federation as well. Some groups wished Iban as well as English to be an official language.
- (f) Medium of instruction in schools. English should be retained as the medium of instruction, but Iban should be taught as a subject.
- (g) Religion. Much emphasis was placed on the need for freedom of religion as there is at present, *i.e.*, freedom to profess, practice and propagate any religion. There was a general feeling that Sarawak should be a secular State and the suggestion was made that if Muslims were given assistance from Federal funds, other religions—Christianity was specially mentioned—should enjoy similar treatment.
- (h) Name of the new Federation. There was dislike of the name "Malaysia" and hope that some other name could be devised. Many alternatives were suggested.
- (i) Armed forces. The Ibans are anxious to have a fair chance of service in the Federation's armed forces.
- (j) A number of groups wanted to be sure that they could have a separate Sarawak State flag—some mentioned the old Rajah's flag—a State anthem and a National Day.

50. As in the case of the Third Division, the Iban groups in the Second Division who supported the Malaysia plan included some who did so on the basis set out in the report of the Malaysia Solidarity Consultative Committee. They were, in most cases, members of Party Negara.

51. A considerable number of groups were uncertain what attitude to adopt towards Malaysia. There were perhaps more of these in the Second Division than in the Third. There were some too who presented the standard S.U.P.P. demands with which we deal in paragraphs 79–85. One letter suggested that the Brooke regime should be restored before Malaysia is considered.

52. Finally, the view was expressed to us by Ibans in many centres that it was of great importance that a decision on Malaysia should be reached as soon as possible. Political activity had been stimulated to an alarming degree during recent months by the Malaysia proposals and many Ibans were afraid that there might be violence not only between different races but between Ibans who supported the Malaysia plan and those who opposed it.

53. The Malays form the next largest native group after the Ibans. Rather over half of the total number live in the First Division, chiefly in the neighbourhood of Kuching, and in the rest of the country they live mainly in down-river areas or near the towns. They all adhere to the Muslim religion.

54. Almost without exception the Malays who appeared before the Commission, or who sent their views to us in writing, were wholly in favour of the creation of a Federation of Malaysia. A large proportion of them supported the recommendations made by the Malaysia Solidarity Consultative Committee. The points to which Malay opinion attached most importance were the following:

- (a) The Head of State should be a native of Sarawak. While most of the groups accepted the position that the Head of State could never become the Head of the Federation, one group was emphatic that the Head of State for Sarawak should be put on a level with the Rulers of the States in Malaya and so be eligible to be elected as Head of the Federation.
- (b) Customary land and other native rights should be protected.
- (c) Immigration from other parts of the new Federation should be strictly controlled by the Sarawak State Government.
- (d) The special privileges in favour of Malaya in the present Constitution of the Federation of Malaya should be extended to the natives of Sarawak. Several groups asked that these special privileges should be under the control of the Head of State in Sarawak.
- (e) The legitimate rights of non-natives should be respected.
- (f) Malay should be adopted as the national language and its use should be encouraged in the Legislature: but it should be permissible for other languages, e.g., English or Iban, to be used. English should be retained as one of the official languages at least for a number of years.
- (g) There were differing views on the question of the medium of instruction in schools. Most Malay groups wished English to continue to be used as the medium of instruction in schools but we received written representations from one group asking that a time limit of 10 years should be set for the transition from English to Malay. The same group wished Malay to be made a compulsory subject in all schools immediately.
- (h) "Borneanisation" of the Public Services should be accelerated but the present expatriate Government officers should remain until natives of Sarawak have had the education and training to take over from them. If necessary, further expatriate staff should be obtained on contract to bridge any gap before sufficient natives were available.
- (i) Education facilities for natives should be improved to the standard provided for Malays by the Government of Malaya and should include free primary, and also, if possible, free secondary education. Natives should be given preference in the award of scholarships for higher education. The Federal Government should be responsible for education at all levels.

- (j) Islam should be the national religion, but there should be freedom for other religions.
- (k) Rural development should be accelerated—as it has been in the Federation of Malaya—so that the general standard of living could be raised as soon as possible.

55. Some of the more thoughtful groups of Malays said that they were convinced that in present circumstances the creation of a Federation of Malaysia would give Sarawak the best possible guarantee of effectively combating the dangers of Communism and possible predatory designs of other countries in the area. They asked that opportunities should be provided for Sarawak natives to be recruited in the armed forces.

56. Emphasis was placed too on the importance of speed, on the grounds that political parties with Communist affiliations or leanings would be making every effort, against the true interests of Sarawak, to induce the people—more especially the illiterate—to oppose the plan. A few persons mentioned, as a possible target date, the 31st August, 1962, being the fifth anniversary of Merdeka in the Federation of Malaya, but they gave no evidence of having given serious thought to the legal and constitutional difficulties of moving so fast.

57. In the Fifth Division, the attitude of the Malays was affected by the desire of some of them to be reunited with Brunei. More than one group of Malays, including some younger men, opposed the creation of a Federation of Malaysia for this reason. Some said that they wished first to have a Federation of the three Borneo territories, and claimed that the whole of Sarawak and North Borneo had formerly been part of the Sultan of Brunei's dominions and should be returned to His Highness. Only then should the possibility of a merger with Malaya be considered.

58. Although not the next largest group in point of numbers, it will be convenient to deal next with the *Melanaus*, as their attitude towards the Malaysia proposals is almost identical with that of the Malays. The Melanaus live in kampongs mainly in the coastal areas of the Third and Fourth Divisions and just over 70 per cent of them are Muslims.

59. The views of many of the groups whom we saw were clearly influenced by the hope that the coming of Malaysia would bring them benefits and privileges, for example free primary education, a larger number of scholarships and places in the Public Service and opportunities in trade, which are not available to them now. Some of them recognised that special privileges for natives should continue only until the natives have had time, through education and training, to be able to compete on equal terms with the other races. They suggested a term of 20 years after which the privileges should be abolished.

60. The Melanaus' support of the proposal to create a Federation of Malaysia was subject to the same conditions as are set out in paragraph 54 dealing with the Malays. Indeed in many cases Malays and Melanaus came together to see us in a single delegation. In one respect only was there any divergence of view: most non-Muslim Melanaus were opposed to a State religion for Sarawak.

61. The *Land Dayaks* live almost entirely in the First Division of the country. In relation to their numbers (57,619) not many came forward to give

us their views, but we saw some groups of Land Dayaks in each of the four districts which we visited in the First Division and we were able to obtain more information about their attitude towards Malaysia from other reliable sources.

62. Some of the Land Dayaks whom we saw were members of Party Negara and gave their support to the proposals set out in the report of the Malaysia Solidarity Consultative Committee; others appeared as members of S.U.P.P. delegations and opposed the Malaysia plan.

63. But our impression generally of Land Dayaks' opinion was that they had less understanding of the Malaysia proposals than the other major native communities in Sarawak. They wish to be given more time to consider a scheme which they recognise is of great importance to them and to the future of Sarawak as a whole. They know that they are educationally backward and that they cannot at present hold their own; but they can also see that the rising generation is getting an education which was not available to them when they were young, so that the position of their community should improve within a foreseeable space of time.

64. All this, combined with an innate dislike of change and a distrust of new ideas, leads the majority of the Land Dayaks to wish to remain under British guardianship for at least a number of years longer. They pointed out that Sarawak was their only home and that they wanted to run no risks that it might be destroyed by others, as they feared it would be if people came in from outside. They did not think they were ready for independence but, if it had to come, they wanted Sarawak to become independent on its own and to remain in the Commonwealth.

65. Another important factor in Land Dayak thinking on the Malaysia scheme is the recollection—handed down from earlier generations—of rule by Brunei and Kuching Malays. This arouses antipathy to any proposals which might involve the return of Malay hegemony in any form and leads them to view Malaysia (particularly under that name) at best with considerable reserve.

66. While this was the general attitude, there were some exceptions among the more thoughtful of the Land Dayaks who appeared before us. These had studied the Government Paper and agreed that the idea of Malaysia was a good one, but asked that matters should not be hurried. Particular points in which interest was shown were the position of the Head of State who, it was asked should be eligible for election to the position of Head of the Federation; the safeguarding of customary land rights; and the strict control of immigration.

67. The *Kenyah* and *Kayan* peoples total just under 16,000 persons and they live in the Third and Fourth Divisions. The majority live in the middle and upper reaches of the Baram River.

68. The views expressed to us by these peoples were that they did not want independence and that they relied on the British to continue to provide the help and guidance which they felt they still badly needed. They did not understand the Malaysia Plan and could not avoid the impression that the British, who had ruled them so well, were preparing to desert them. They wanted the British to stay until they were able to look after themselves. We were referred to the petition which had been addressed to Her Majesty The Queen in 1959, to

which a reply had been sent giving an assurance that it was implicit in the Eighth of the Cardinal Principles that Her Majesty's Government would not surrender final responsibility for the development of Sarawak until they were satisfied that the people as a whole were able to play their full part in the government of the country, and that in pursuing this goal sight would not be lost of the best interests and desires of the indigenous communities.

69. There were 7,200 *Kedayans* in Sarawak at the time of the 1960 census and they live in the Fourth and Fifth Divisions. The majority are Muslims and their attitude towards Malaysia differed little from that of the Malays. They were concerned that local customs should be safeguarded.

70. There were only 5,200 *Muruts* in Sarawak at the 1960 census. They live in the Fifth Division (there are much larger numbers over the border in Indonesia and in North Borneo). Their attitude to Malaysia was that they were very happy and peaceful as they were and, although they could see the advantage of belonging to a larger and stronger unit, they felt that they needed more time to think the matter over in view of its very great importance for their future. They very much feared the effects of the British leaving Sarawak. A large proportion of the Muruts in Sarawak are fervent Evangelical Christians and emphasis was laid on the importance not only of freedom of worship but of freedom to propagate their faith.

71. There are approximately 2,800 *Bisayahs* living in the Fifth Division. Few representatives were seen by the Commission. Some were members of S.U.P.P., some of a Malay youth organisation, and no clear racial attitude towards the Malaysia proposals was apparent.

72. There are rather over 2,000 *Kelabits* living in the uplands in the extreme interior of the Fourth and Fifth Divisions. Until an air strip was put in last year, the journey up river to reach them took two to three weeks. Their representatives paid tribute to the great progress which had been made since the cession of Sarawak to Britain in 1946. They had discussed the Malaysia proposals fully and had reached the conclusion that they were not yet ready for them. Their attitude was identical with that of the Kenyahs and Kayans.

73. No groups representing the *Punans*, a nomadic race in the far interior, appeared before the Commission, although one or two Punans appeared as individual members of other groups.

74. The *Chinese* are the next largest community in Sarawak after the Ibans and it is probable that within a few years they will become the largest. At the time of the 1960 census, the quite remarkable figure of over 50 per cent of the Chinese population was under the age of fifteen and this is bound to create an acute employment problem in a few years' time, particularly among those whose education has been solely in Chinese-medium schools. The Chinese live largely in the towns where they are shopkeepers, artisans, clerks and labourers, and in the environs of towns where they are market gardeners and small holders. A number are growers of rubber and pepper. About 80 per cent of the total number of Chinese in the country were born in Sarawak and, of the remaining 20 per cent a high proportion have been settled in Sarawak for many years.

75. The bulk of the evidence submitted to us from Chinese sources did not favour Malaysia. Numerically a very high proportion of the Chinese who actually appeared before us came in groups putting S.U.P.P. views which we record later.

76. In comparison with North Borneo, fewer Chinese associations or individuals in Sarawak submitted evidence which did not closely follow party lines. We attribute this partly to a feeling that they might be wasting their time and that decisions had already been taken, but even more to fears that the submission of evidence to us might expose them to retaliation and intimidation by extreme Left-wing elements. We therefore felt it necessary in arriving at the general considerations set out earlier in this Chapter to rely to some extent on indirect enquiry and individual contacts.

77. The main points put to us from Chinese sources other than those appearing in S.U.P.P. groups or expressing similar views were the following. In some cases they were put to us as reasons for opposition to Malaysia: in others as matters which, if Malaysia came into being, it was hoped would receive earnest consideration.

(a) *Citizenship*

The Chinese feel acutely about this. Their anxieties derive above all from a fear that, even if they and their forebears had been born in Sarawak, they would under Malaysia become second-class citizens with a status inferior to that of the indigenous races. They are anxious that future citizenship law should make no change in the current arrangements under which—

- (i) all persons born in Sarawak are automatically citizens (at present of the United Kingdom and Colonies) without any residential qualifications; and
- (ii) persons who have resided in Sarawak for a total of 5 years (including the last 12 months continuously) out of the 8 years immediately preceding the date of application are eligible to apply for naturalisation.

(b) *Special Privileges for Natives*

Similarly, whilst they raise no objection to the continuation of the existing rights of the natives of Sarawak in such matters as land, they strongly oppose the introduction of any formal provisions in the Constitution in favour of the indigenous races. It was pointed out to us that the Malays are a minority in the Federation of Malaya while the natives form a majority of the population of Sarawak. Some Chinese were ready to recognise that there was a need to take special measures to accelerate the progress of the native races, but argued that this should be done for a limited period as a matter of Government policy and not by the insertion of provisions in the Constitution.

(c) *Position of Sarawak in Relation to the Federal Government*

A number of the Chinese whom we saw urged that it was not right that Sarawak should be merely one State in a Federation of 15 States. Her size alone justified more favourable treatment. Requests were

82. The party's platform on the subject of the Malaysia proposals, as presented by the delegation from the party's headquarters, was such as to deserve careful and sympathetic examination. Many members of the party delegations throughout the country were responsible persons, presenting serious views to which we have given due weight. But at a very early stage we had evidence that a large section of the party's supporters had other motives for its opposition to Malaysia. It is clear to us that, although the origin and leadership of the party are in no way Communist, there has recently been a high degree of Communist infiltration and influence in the party. It was equally clear that the Communist elements have worked on two other elements which form the main components of the party—those Chinese who are fearful that Malaysia would reduce their status in Sarawak in comparison with other races, and the younger Chinese who are educated, nationalistic, and suffer from a sense of frustration.

83. Some of the party's delegations were aggressive; in other delegations the spokesman was sometimes unable to answer the Commission's questions and sometimes unwilling or afraid to do so. On such occasions it was usually possible to pick out another member of the delegation who was watching carefully what the spokesman said. In a number of instances, delegations consisting almost entirely of Chinese were headed by a spokesman of another race and we could only assume that this was done to convey the impression that the delegation was multi-racial. One argument which some of the more aggressive delegations advanced was that conditions in Malaya were thoroughly bad; that there was much unemployment and that daily wages were far below those current in Sarawak. They said that they had read this information in Chinese newspapers.

84. We should refer here to the signature campaign which was a prominent feature of the party's programme. We were presented by the headquarters' delegation and by the party's branch delegations, at nearly every place we visited, with one or more volumes of signatures and thumbprints of persons who, it was claimed, were opposed to the Malaysia plan and supported the party's stand. The thumbprints vastly outnumbered the signatures and the total number of both from the whole of Sarawak amounted to over 112,000. Without extensive official enquiries, which did not seem to us desirable or likely to be conclusive, we were not able to verify these signature or thumbprints, nor to check that the same thumbprints were not impressed on the document more than once or that they were all of them of adults. It is perhaps sufficient to draw attention to the ease with which illiterate persons may be induced to place their thumbprints on a piece of paper without being aware of its contents. The very number of thumbprints and signatures alone, when considered in relation to the population of Sarawak, led us to be very doubtful of their value in view of the weight of opinion in favour of the Malaysia proposals which has been described elsewhere in this Chapter. Moreover from enquiries which we made in many responsible quarters, we derived the impression that the methods by which this signature campaign had been conducted included misrepresentation of the question being asked and a degree of intimidation. For these various reasons we have unanimously concluded that we should not be wise to attach undue importance to these columns of signatures and thumbprints as a true expression of public opinion on the issues before us.

85. Before concluding this section, and to avoid any possible misapprehension, we should make it clear that we do not in any way question the sincerity of very many thinking people, both Chinese and others, who opposed the Malaysia plan when appearing before us as members of S.U.P.P. delegations. It would be quite wrong to describe all these people as Communist or as being knowingly under Communist influence, and we had much sympathy with those who took exception to being so described.

Party Negara (PANAS)

86. This party was formed in April 1960. Its total membership towards the end of February 1962 was stated to be 52,795 of which Malays and Ibans provided approximately 20,000 each and Land Dayaks another 10,000. The party claimed to have established 65 branches and sub-branches throughout the State, and party delegations did in fact appear before us at a number of places.

87. The party's attitude towards Malaysia is based on the recommendation in the report of the Malaysia Solidarity Consultative Committee that Sarawak, North Borneo and Brunei should each become States in the present Federation which would include in addition the 11 States in the present Federation of Malaya and the State of Singapore. It recognises that Sarawak is not yet ready for independence on her own but welcomes the opportunity to gain independence as part of a strong Federation, particularly in view of the cultural, economic and historical ties that exist between Sarawak and Malaya. The party agrees generally with the reservations contained in the M.S.C.C. report. Points which were particularly emphasised to us were the following:

- (a) The party is not confident that Sarawak can remain non-Communist, either by itself or as part of a Borneo Federation. They consider that the only safeguard against Communism is a Malaysian Federation.
- (b) Special privileges should be written into the Constitution to give indigenous peoples of Sarawak the opportunity to raise their standard of living to that of the other communities. These special privileges should be the same as those available to Malays under the present Constitution of Malaya, but the party recognises that the privileges need not necessarily continue in perpetuity. They do not wish to alienate the sympathies of the Chinese population of the country.
- (c) The Borneanisation of the Public Services should be accelerated, but the British officers should remain until they can be replaced by properly qualified local people. It is thought that this would be a gradual process which would not have been completed even in 10 years.
- (d) The Head of State of Sarawak should be a native of the country, but the party did not expect that he would be eligible to become the Yang di-Pertuan Agong for the new Federation.
- (e) The party holds the view that strict control of immigration into Sarawak was vital. Not only should immigration from Malaya and Singapore be controlled, but also from the other territories in Borneo. One of the party's delegations asked that the head of the Immigration Department should be a native of Sarawak.

- (f) There was a need for speed in implementing the Malaysia plan in order to allay the present widespread uncertainty which was giving rise to increasing inter-racial tension.

Sarawak National Party

88. This party was formed in 1961 by Ibans in the Second Division, and its influence up to the time of the Commission's visit had not penetrated to any appreciable extent to the other Divisions. The membership claimed was then 46,000, predominantly Iban. It is, of course, difficult to judge but our impression, based on the evidence we heard and on information from reliable sources, leads us to think that the active membership probably falls substantially short of this figure.

89. Despite initial misgivings, the party has come down firmly in favour of Malaysia which it now considers to be a "vital necessity", for the reasons that it recognises that Sarawak cannot stand alone, and that Malaysia will bring greater prosperity and will provide protection against the threat of Communism.

90. The main points which the party has asked shall be considered in drawing up a plan for a Federation of Malaysia are the following:

(a) Head of State

To be called Rajah; to be from one of the indigenous races; and to be elected by the people of Sarawak.

(b) Head of the Federation

Each Head of State in the new Federation to be eligible for nomination in rotation as Head of the Federation.

(c) Boundaries

No alteration of boundaries of any State, especially between Sarawak, Brunei and North Borneo.

(d) Customary and Land Rights

Preservation of both to remain a State responsibility.

(e) Language

Malay to be accepted as the national language in Malaysia but Iban to be one of the secondary languages. English to remain the official language not only in Sarawak but also in the new Federation for at least 15 years. English also to remain the medium of instruction in schools, provided that the study of other languages is not prevented.

(f) Expatriate Officers

To remain until suitable people from Sarawak can replace them.

(g) State Powers

Adequate constitutional safeguards to ensure that State powers are not changed without the agreement of the State.

(h) Immigration

To be under State control.

(i) Employment and Scholarships

The indigenous peoples to enjoy the same privileges as the Malays in Malaya, including a fair share of Government employment and of overseas training and scholarships. Preferential treatment for indigenous peoples should not, however, be made "hard and fast".

(j) Religion

The Constitution of the new Federation to guarantee freedom of conscience and the right to profess, practice and propagate any religion freely.

(k) Armed Services

Each State to be permitted to make a fair contribution of manpower to the armed services of Malaysia.

91. On all other matters, the party supports the recommendations made in the report of the Malaysia Solidarity Consultative Committee.

92. Finally, the party regards it as most important that a clause should be included at the beginning of the Constitution that any State that finds it not acceptable shall have the right to withdraw from the Federation.

Barisan Ra'ayat Jati Sarawak (BARJASA)

93. This party was formed only a short while before the arrival of the Commission in Sarawak. It is composed of Malays, Ibans, Land Dayaks and Chinese, but it was difficult to assess the extent to which it was attracting substantial support. Its headquarters, and its principal source of strength at the time of our visit, was in Kuching.

94. The party is in full support of the proposal to create a Federation of Malaysia and with most of the recommendations in the report of the Malaysia Solidarity Consultative Committee. Particular points made by the party are the following:

(a) Head of State

The party considers that he should be a person who is indigenous to Sarawak and that he should be styled the Yang di-Pertuan Negara. The party does not consider it appropriate that a Sultan or Rajah should be appointed for the purpose of making the Head of State in Sarawak eligible for appointment as Head of the Federation.

(b) Chief Minister

While agreeing with the recommendation of the M.S.C.C. that the Chief Minister must be someone who has the support of the State Legislature, the party considers that, if Malaysia comes into being before the next General Election in Sarawak, the votes of the official as well as the unofficial members of the Council should be taken into account in deciding this question.

(c) General Election

The party considers that the existing system of indirect elections should continue at least until the next General Election.

(d) Representation in the Federal Parliament

The party wishes Sarawak to be given at least 17 seats in the House of Representatives. For the Senate, they agree with the present arrangements in Malaya under which each State elects two members.

(e) Language

Malay is accepted as the National Language, but the party considers that English should be used for official purposes in Sarawak for at least 15 years from the day on which Malaysia comes into existence. The party considers too that the present policy of the Sarawak Government on the use of English as a medium of instruction in secondary schools should not be changed without the concurrence of the State Legislature.

(f) Migration

The party consider it essential that control of migration into Sarawak should be vested in the State.

(g) Federal Citizenship

The party agrees with the views of the M.S.C.C. on this subject, but does not wish a test of permanent residence to be applied to a person who is indigenous to Sarawak.

(h) Special Privileges

These should be granted to the indigenous peoples in Sarawak as they are to the Malays in Malaya but, as the latter are more advanced than the natives in Sarawak, the party considers that the ratio of scholarship awards for Sarawak should be seven for natives to every one for non-natives; and that the same ratio should apply to the public services. The indigenous peoples should also be given special treatment in the economic field, and assistance, including financial assistance, to encourage them to enter into business. These special privileges should, however, continue for a limited period and the party suggests 20 years. The party makes clear its opposition to any suggestion that non-natives should be deprived of their vested rights.

(i) Armed Forces

The party wished these to be confined to natives as a safeguard against infiltration by Communists and their agents.

CHAPTER 2

ENQUIRY IN NORTH BORNEO

Section A.—Background

95. North Borneo is bordered on the south-west by Sarawak and on the south-east by Indonesian Kalimantan. From Jesselton, the capital, it is 1,000 miles to Singapore and 1,200 miles to Hong Kong. The country is smaller than Sarawak (29,388 square miles, or roughly the size of Ireland) and more compact, though mountainous and densely forested. Mount Kinabalu (13,455 feet) can be seen from many parts of the Colony. Great rivers flow

from the mountains, the largest towards the east coast. The coast is indented, with many offshore islands, and we saw busy deep water harbours at Jesselton, Sandakan, Tawau, Kudat and Labuan. Wide stretches of grassland are found in the interior plains. Over 40 per cent. of the population is concentrated in the west coast agricultural belt where the land is clearer and more fertile and communications are easier. The interior plains are less populous, whilst the east coast, comprising over half the country, has large areas of uninhabited rain forest behind a few coastal centres of population and economic activity such as Sandakan and Tawau. As in Sarawak, the basis of the economy is agriculture, forestry and fisheries; the principal exports being timber, rubber and copra.

96. The country's finances have improved rapidly during the last few years. This has made it possible to embark on a development plan which includes a number of major new roads. These will open up new areas where the soil is known to be excellent for such crops as wet rice, oil palms, cocoa, abaca and rubber. The atmosphere in North Borneo is an exhilarating one. Production of the main export crops of timber, rubber and copra has been expanding rapidly and there is full employment. Indeed, the industries on the east coast in the Tawau and Sandakan Residencies attract immigrant labourers in large numbers from Indonesia and to a lesser extent from the Philippines. The chief towns have been rebuilt on imaginative lines since the destruction at the end of the war with Japan, and the country as a whole is looking forward to a bright and prosperous future.

97. North Borneo was governed by the British North Borneo (Chartered) Company from 1881 until 1942 when it fell to the Japanese. In 1946, the territory became, with Eabuan, the new Crown Colony of North Borneo. The Government is administered by a Governor and Commander-in-Chief appointed by the Crown. The Constitutional Instruments provide for Executive and Legislative Councils, both presided over by the Governor. Recently an unofficial majority was introduced into the Legislative Council, which now consists of the Governor as President, 4 *ex officio* Members, 3 official Members and 18 nominated (unofficial) Members. Unofficial Members are at present appointed by the Governor after considering recommendations by Local Authorities and other bodies. The Executive Council consists of the Governor as President, 4 *ex officio* Members, 2 official Members, and 6 unofficial Members.

Section B.—Arrangements for Commission's Visit

98. As in the case of Sarawak, the Government of North Borneo had arranged before our arrival for the Commission to make an extensive tour covering most of the Districts in all four Residencies in the Colony. The itinerary is contained in Appendix A. We held hearings altogether in 15 different places over a total period of just under four weeks. On one occasion (on Friday, 13th April) the weather prevented us from landing at Ranau where we were due to hold hearings, but the people concerned were brought to Jesselton to see us two days later. This was the only engagement during the whole of our tour of Borneo that we failed to keep. Where it was impossible for us to travel ourselves to some of the remote districts, arrangements were made for representatives from those districts to come into one of the centres which was on our programme.

99. We were given every facility by the North Borneo Government to make what inevitably was a strenuous exercise as little tiring as possible. We travelled

nearly everywhere by chartered aircraft but we made full use too of the North Borneo Railway. Only on two days did we travel by road, and on one by launch and motor boat.

100. The Government Paper on "North Borneo and Malaysia"* was published at the end of January 1962, a few weeks later than the publication of a similar Paper by the Government of Sarawak. Although the Government did everything possible to have the Paper distributed widely and speedily, it appeared to us that there was insufficient time before the Commission's arrival for a careful study to be made by every section of the population regarding the implications of the Malaysia proposals for North Borneo.

Section C.—General Observations

101. Both on our first visit to the main centres and on our second visit to the rest of the territories, our tour in North Borneo followed immediately on our tour in Sarawak. We were therefore always conscious of the similarities and dissimilarities between the two territories. We have found it often convenient in this Chapter to refer back to the previous Chapter. We have felt that this method not only avoids unnecessary repetition but is also helpful in giving a general picture of the attitude to Malaysia in the two territories. The paragraphs which follow should therefore be read with Section C and D of Chapter I.

102. A newcomer to the territories is struck by the fact that there is surprisingly little "come and go" between the two territories themselves. This is doubtless due largely to the difficulty of communications and to the low level of import and export between the two territories. Contact between the territories is increasing with developing air services, with common political interests, with an integrated judiciary and progress in integrating other public services, and with the formation of a free trade area. In their relations with the outside world there are many similarities and some dissimilarities. In both territories Malay is the nearest approach to a "lingua franca", Islam is the religion of around a third of the population, and there are the cultural and historical links of the Malayan Archipelago. The commercial interests of North Borneo, however, particularly in the flourishing Chinese business communities of Sandakan and Tawau, lie more with Honk Kong and eastwards than with Singapore. Moreover the indigenous races in the two territories are different, although there are naturally some races living on both sides of the boundary.

103. In North Borneo, as in Sarawak, we were greatly impressed with the background of friendly race relations which clearly has existed in the past and which to a large degree still exists to-day. As we have said earlier, this atmosphere of racial harmony is very precious in a multi-racial country and **one** which **must** at all costs be preserved if the country is to have a happy and prosperous future. We should like here to draw attention to a most encouraging development. We refer to the process of assimilation by **inter-marriage** and social contacts generally which has been **taking** place in the interior between the Chinese and the **Dusun** or Kadazan peoples. While the offspring of such marriages may require special attention in the constitutional definition of "native", we are much heartened by this development.

* Reproduced in Appendix E.

104. We have drawn attention to the disturbance to race relations in Sarawak arising at the time of the first elections, which marked the earliest moves towards a transfer of power from the British Government to the people. The subsequent bid for power, as reflected in the formation of political parties, was intensified by the proposals for Malaysia. In North Borneo, on the other hand, the struggle for power had not yet begun, as there had been no elections or any other suggestion of a transfer of power until the Malaysia proposals were put forward. Only recently have plans been made for election to District Councils and Town Boards, with the intention that this will lead to a system of indirect election, on the Sarawak pattern, to the Legislative Council.

105. The conflict of opinion after the Malaysia proposals were put forward follows broadly similar lines to that in Sarawak with the important and fortunate difference that it has not been bedevilled by the intervention of Communist influence.

106. In North Borneo, as in Sarawak, a major strand in the opposition to Malaysia among the Chinese lies in genuine fear of discrimination, which they believe would be practised on them, affecting their education, language and culture generally, and reducing them to the status of what is popularly known as "second-class citizens". These anxieties are honestly held and should receive serious consideration. At the same time, there is fear among the Chinese business community that Malaysia would involve a new and heavier tax structure. At present also, as a racial group, the Chinese enjoy educational, economic and commercial superiority over the indigenous population. They are wary of the prospect that, with Malaysia, they might suffer from competition with Singapore or from discriminatory arrangements made in the process of correcting the present imbalance of economic status between themselves and the indigenous people.

107. There exists, too, though not to the same extent, the sense of frustration among younger Chinese to which we have called attention in the Chapter on Sarawak. Educated in Chinese schools, ambitious and often with emotional inclinations to China, they foresee few outlets for their abilities and fear that Malaysia would prejudice such prospects as they now have.

108. With these factors and with the intensification of political activity, it must be recognised that, whilst Communist influence has not yet made itself felt to any extent, there exists fertile material on which Communist infiltration could work in the same way as it is already working in Sarawak. The Communist danger cannot be excluded for the future.

109. It is in fact the hope that Governmental action would help to correct the present imbalance of economic status between the Chinese and themselves which constitutes a strong argument among many indigenous people in favour of Malaysia and of its early realisation. In the face of the inevitable prospect that at some time they would have to share political power with the Chinese, they are extremely anxious that they should be able to compete on an equal footing in the economic and commercial fields. There was therefore a unanimous demand by the indigenous people that their position under Malaysia should be analogous to that of the Malays under the present Malayan Constitution.

Equally, there was great emphasis on the need for an even more vigorous programme in rural development and in education and great interest in the achievements of Malaya in these directions.

110. At the same time there is general awareness among the leaders of the principal political parties, many native leaders and not a few Chinese, that an independent North Borneo on its own would be threatened both internally by disruptive tendencies of racial conflict and externally by her more powerful neighbours.

111. We are bound to record that, even more perhaps than in Sarawak, there are large sections of the population in the interior who have no real appreciation of the Malaysia proposals. This is partly due to the late publication of the North Borneo Government Paper, partly to the difficulties of communication, and partly to the general level of political consciousness. To these people, any change is necessarily to be looked upon with great suspicion. They are happy under the present colonial administration, they have a high regard for the efficiency and impartiality of the British officers, and they entertain high hopes of progress under their present Government. Their predominating desire therefore is that there should be no radical change in the present way of life. There is a definite fear that any change may bring about a deterioration of conditions.

112. We have found near-unanimity on some points, and differences on others, on lines identical with those in Sarawak set out in paragraphs 33-38 of Chapter 1, and for the same reasons. Thus those who support Malaysia agree that Federation should come quickly and should have a strong Central Government to deal in particular with external relations, defence, internal security and economic development. All native populations agree that they should be given analogous treatment to that of the Malays in Malaya, that land, forestry and agriculture should be controlled by the State Government, and that customary rights and practices should be safeguarded. Groups of all races agree that immigration from other parts of the Federation should be controlled by the State Government, that British officers should be encouraged to stay on, and that there should be no rapid change in administrative arrangements affecting the daily life of the people. There is the same unanimous approach by the indigenous people on the one hand and the Chinese on the other to the question of a Head of State for North Borneo. There are the same differences on such matters as the Head of the Federation of Malaysia, national religion, national and official languages, and allocation of powers between Federation and State.

113. The differences of opinion in North Borneo do not, however, follow quite such marked divisions between each indigenous group, whose attitudes may therefore be considered together. The position and attitude of the Chinese call for separate consideration.

Section D.—Summary of Evidence from Indigenous and Chinese Populations and Political Parties

Indigenous Peoples

114. The indigenous races in North Borneo together make up a total of 306,498 out of a total population of 454,421 at the time of the 1860 census. The

Dusuns (or Kadazans) are numerically the largest group with 145,229, followed by the Bajaus (59,710), the Bruneis (23,450), and the Muruts (22,138). More detailed figures are in Appendix B. We have already stated that many indigenous people are averse to any change because of their lack of knowledge of the proposal and their satisfaction with the present way of life. This general feeling of uneasiness was particularly emphasised by Murut groups in the Interior Residency. At the same time there was often readiness to agree to the Malaysia proposals, although they were not fully understood, on the grounds that they would not be recommended by the British Government if the true interests of the people of North Borneo were to be jeopardised thereby.

115. These remarks should not be taken as any adverse comment on the quality of native leadership, for which we have a high appreciation. Although elections have not been held in North Borneo, it is clear to us from the leadership at present shown in the various District Councils and Town Boards, in the Legislative and Executive Councils and at the deliberations of the Malaysia Solidarity Consultative Committee, that the present leaders represent native interests with ability and responsibility. Difficulty is admittedly experienced in finding candidates among the indigenous people of the necessary calibre for appointment to the more responsible posts in Government service: but there are gratifying signs that increasing experience and the extensive training schemes now under way will help to remedy this position in a few years' time. Although among much of the indigenous population there is evident satisfaction with the present way of life and suspicion of change, there is increasing recognition among many of their leaders, who are better able to understand the wider aspects of these questions, that it is not possible for the present arrangements to continue for much longer. They are aware that in a few years at the most and possibly even sooner, other countries in East and South-East Asia might cast envious eyes on a prosperous country such as North Borneo with its rich undeveloped resources and small (but rapidly growing) population; the fact that it was still a Colony of the United Kingdom would provide an excuse for assuming a cloak of respectability in proposing to "liberate" its inhabitants from the "shackles of imperialism". Some of the leaders of the political parties are much concerned about this possibility and, after careful thought and despite initial misgivings, have reached the conclusion that the prospect of gaining independence through becoming a partner in a Federation of Malaysia is North Borneo's best hope for the future. In most cases, however, they are insistent on the necessity of obtaining certain assurances and safeguards.

116. Particular reference must be made to the Muslim section of the indigenous peoples. At the time of the 1960 census as many as 172,324 or about 38 per cent. of the population of North Borneo were Muslims. The largest group are the Bajaus (over 59,000) who are virtually all Muslims. Next come the Bruneis (about 23,000), and other smaller communities such as the Bisayas, the Sulus and the Orang Sungei. The total of 172,324 also includes the great bulk of 24,000 Indonesian immigrant labourers. Of the other indigenous races, only some 10,000 out of over 145,000 Dusuns are Muslims and the number of Muruts who are Muslims is negligible.

117. To this substantial Muslim minority there was a decided attraction in the idea of joining up with the Federation of Malaya, where Islam is already the national religion. The attraction was even greater when it was realised that there was a prospect that more would be done in the way of improving the position in society of the indigenous peoples. We found that there was almost complete unanimity of support among these communities for Malaysia, and in most cases they expressed agreement with the recommendations made in the report of the Malaysia Solidarity Consultative Committee (see Appendix F). A point which was frequently mentioned to us by representatives of these communities was that a Federation of Malaysia would provide protection against the menace of Communism. One or two groups expressed a desire to be reunited with Brunei.

118. The safeguards which were suggested to us varied considerably in importance. In setting them out below, we shall endeavour to indicate the degree of importance which was attached to each of them and the extent to which they represented the views of substantial sections of the indigenous population. The suggestion was sometimes made that safeguards should be symbolised, following tradition, by a stone monument as lasting reminder of the assurances given.

(a) Head of State

Whenever this matter was raised by delegations of indigenous peoples, the request was made that the Head of State should be a " Bumiputera " (or native). Much less frequently, the appointment of Chief Minister was mentioned, and it was clear that there was some confusion of mind regarding the division of functions between these two posts. While some groups asked that the Chief Minister too should be a native, others were ready to agree that he might come from any race, provided that he was a citizen.

(b) Head of Federation

On the question of the eligibility of the Head of State for the post of Head of the Federation, few opinions were expressed. Some were ready to accept a situation where the Yang di-Pertuan Agong would continue to be elected from among the Rulers of the States in Malaya, so that the Head of State in North Borneo could never be eligible; some considered that their Head of State should also be eligible.

(c) Immigration

There was a general demand that immigration from other parts of the Federation should be controlled by the State Governments.

(d) Religion

The request came from the Muslims that Islam should be the national religion, as in the Federation of Malaya. There was everywhere agreement, however, that there should be no restrictions on complete freedom for other religions.

On the other hand representations were made by many persons of other religious faiths that, as Muslims were in a minority in North Borneo,

there was no case for forcing Islam on the country as the religion of the State; nor should Islam be the national religion in the new Federation. Some of the non-Muslim groups expressed the anxieties which we had already heard in Sarawak about possible preference for Muslims over non-Muslims.

(e) *Status of North Borneo in Malaysia*

Many groups who appeared before us displayed great anxiety that North Borneo should be adequately represented in the Federal Parliament and that, in this and in other respects, she should not be treated as equivalent in status to one of the States in the present Federation of Malaya, for example, Penang or Malacca. The point was made that North Borneo's size alone justified special treatment and that the much greater distance between the Borneo territories and Kuala Lumpur also had a bearing on the matter. A number of persons expressed the view that the new Federation should consist of five units—the Federation of Malaya, Singapore, Sarawak, Brunei and North Borneo—and not 15 units as would be the case if the Federation of Malaya disappeared as such, and was regarded as 11 separate States which would each join the new Federation on equal terms with the four new units. The reason for this attitude was clearly a fear that North Borneo's interests might be overlooked or given too little weight.

(f) *Federal Subjects*

For somewhat similar reasons, a number of groups proposed that a limited number of subjects only should be "federalised", at least in the initial stages. Some suggested that external affairs and defence only should be Federal subjects in the first instance, together with those aspects of internal security which were necessarily allied to external affairs. At the same time there were many who held high expectations of the practical benefits which Malaysia would bring, such as free education and accelerated rural development; they wished to see a strong Central Government which would be in a position to carry out these schemes as soon as possible.

Still others recognised the advantages to be gained from the federalisation of a number of subjects in due course, but were anxious that the change should be a gradual one. The desire for careful consideration, during a transitional period, before any subject was made Federal, was undoubtedly influenced too by the fear that the immediate transfer of authority over such subjects as education and health services would be likely to carry with it the necessity for contributions from North Borneo in the form of heavier taxation.

(g) *Language*

Among the indigenous peoples there was a general acceptance of the proposition that Malay, which is already the lingua franca of North Borneo, should become the national language. This was combined, however, with the strong request that English should continue to be recognised as an official language, and that the Government's present policy regarding the use of English as a medium of instructions should

be continued. Some groups asked that other native languages should be given official status so that they could be used in the future elected Councils.

(h) Special Privileges for Natives

There was unanimous agreement among native groups that, in addition to the customary rights over land and to certain other existing privileges, the special position accorded to Malays under the Federation of Malaya Constitution should be extended to the indigenous peoples in North Borneo to enable them to obtain educational and other qualifications, or to gain experience in business, in order to compete on equal terms with the other races in the country.

In a few cases it was proposed that the special privileges should continue for a limited period of years only.

(i) Amendments of the Constitution and the Possibility of Secession

Some groups expressed concern at the possibility that after a Federation of Malaysia had been established, the Constitution might be amended by the Federal Parliament in Kuala Lumpur to North Borneo's disadvantage and without her consent. These views were sometimes put forward in conjunction with those already referred to in (e) above as justification for specially favourable treatment over representation in the Federal Parliament.

A number of groups considered that, during an initial period (usually put at 3-5 years), North Borneo should be at liberty to withdraw from the new Federation if her elected representatives became convinced by experience that the arrangements were not in her long-term interest.

The Chinese

119. It is desirable to consider the Chinese separately, first because their position in North Borneo to-day is different in law from that of the indigenous peoples. Certain privileges are already reserved for natives, for example in regard to land, and special measures have been taken in recent years to ensure that better facilities are available for the education of natives, including priority for scholarships overseas. The Chinese have supported the need for these measures in view of the general backwardness of the indigenous peoples.

120. A second reason for dealing separately with the Chinese is that their attitude towards the Malaysia proposals is influenced by the fear that their position as non-natives will be further subordinated to that of the indigenous peoples, particularly in regard to citizenship, entry in to the Government services and in the commercial field.

121. The total number of Chinese in North Borneo was 104,542 at the time of the 1960 census. They form the second largest racial community, the Dusuns being the largest, and make up 23 per cent. of the total population. The rate of increase over the nine years since the previous census in 1951 has been as high as 40.6 per cent. and none of this is due to immigration. At the time of the 1960 census approximately 46 per cent. of the Chinese were under the age of 15, and 77 per cent. of the total were born in North Borneo.

122. The general attitude of the Chinese in North Borneo towards the proposals for the creation of a Federation of Malaysia was very similar to the attitude of the Chinese in Sarawak; but with the important difference that there was no sign in North Borneo of the extreme views which were expressed to us in Sarawak in opposition to the scheme by some of the delegations from the Sarawak United Peoples Party which were undoubtedly influenced by Communists. Generally, the views held by the great majority of the many intelligent and responsible Chinese who came to see us were that Malaysia was a desirable aim, but that it was premature. Many felt that the British Government would be failing to carry out their obligations if they forced North Borneo into a Federation of this kind before she had reached the stage when her own elected representatives could decide the issue.

123. Many Chinese were, however, realistic enough to recognise that external factors might make it impossible for the present colonial system of administration to continue—perhaps for a number of years—until North Borneo could be granted self-government. It was therefore necessary to regard the early establishment of a Federation of Malaysia as a distinct possibility. They asked that, in this event, their views on the following matters should be given careful consideration before any final decision was taken.

(a) *Head of State*

The request was made that this post should be open to any local citizen of North Borneo and should be filled by election, not by appointment by the Yang di-Pertuan Agong.

(b) *Head of Federation*

A number of Chinese told us that they did not regard it as satisfactory that the Head of State in North Borneo should never be eligible for the position of Head of the Federation.

(c) *Immigration*

The Chinese took the same stand as the indigenous peoples on the necessity of control by the State Government.

(d) *Religion*

There was a universal request from Chinese for complete freedom of religion, as at present. Some groups also expressed the opinion that not only should there be no State religion in North Borneo, but that Islam should not be the national religion of a Federation of Malaysia. In general the views of the Chinese on the question of religion were the same as those of the indigenous peoples, other than Muslims, which are recorded in paragraph 118 (d) of this Chapter.

(e) *Status of North Borneo in Malaysia*

There was little difference between the views expressed to us by the Chinese on this subject and those of the indigenous peoples (see paragraph 118 (e) above). They were concerned that North Borneo should be in a position to exert effective influence on the Federal Government in Kuala Lumpur.

On the specific question of representation in the Federal Senate, some groups proposed that North Borneo should have more than the two seats allotted to each State under the present Constitution of the Federation of Malaya. Some asked for as many as eight seats.

(f) Federal Subjects

The general view among the Chinese was that Malaysia should be a "loose" federation and that the only Federal subjects should be external affairs, defence and internal security. Many Chinese wished to be assured that Malaysia would not bring any increases in taxation and wanted North Borneo to retain control of her own finances, apart from an agreed annual contribution to the Federal Government towards the cost of services provided by that Government.

(g) Language

The view most frequently expressed to us by Chinese was that there was no objection to the acceptance of Malay as one of the national languages in North Borneo, but that English should also be recognised as a national language. Some Chinese, however, were of the opinion that there should be no national language.

On the question of official language, there was a general request that English should be an official language for all time. Some asked that, for purposes of debate and discussion in Councils, other languages, in addition to English and Malay, should be recognised as official languages—for example, Mandarin and Kadazan.

Some Chinese groups referred to and supported the Government's policy of converting all schools to English-medium instruction and were opposed to any change to Malay-medium instruction for children whose home language was not Malay.

(h) Special Privileges for Natives

The view of responsible Chinese was that there are sound reasons for granting special privileges to the indigenous peoples, especially in the fields of education and overseas scholarships. They are less disposed to agree to special treatment over business licences. In most cases, however, the Chinese considered that such privileges should be temporary only and subject to review from time to time, and that they should be granted as a matter of administration by the Government of North Borneo. They objected strongly to their being incorporated in the Constitution, with the implication that they were there for all time, and to the authority for giving directions in regard to special privileges being the Yang di-Pertuan Agong.

(i) Amendments to the Constitution and the Possibility of Secession

The views of the Chinese were identical with those of some indigenous groups which have already been recorded in paragraph 118 (i) of this Chapter. Various suggestions were made as to how North Borneo could be secured against amendments of the Federal Constitution which were not in her interests. In the case of the State Constitution,

it was proposed that a two-thirds (some said four-fifths) majority should be required for amendments. A further point made was that where there was a conflict between the Federal and State Constitutions, the State Constitution should prevail.

Many Chinese proposed that there should be a trial period during which North Borneo would be free to decide to leave the new Federation if she wished.

(j) *Citizenship*

This is a matter on which the Chinese in North Borneo, as in Sarawak, feel very strongly indeed. They do not always understand fully the situation in Malaya and entertain various fears of discrimination against the Chinese in the acquisition of Federal citizenship. There was also the question of a test in the national language; if that is to be Malay without the option of English, such a condition would not be acceptable.

A request was made to us by many groups of Chinese that the conditions for the acquisition of citizenship which at present apply in North Borneo should not be changed for persons who are already in the country at the date of establishment of the new Federation. No similar request was made on behalf of persons who might be admitted to the country after that date.

Political Parties

124. In the following paragraphs we set out the views of the main political parties which appeared before us or sent us written memoranda.

United National Kadazan Organisation (U.N.K.O.)

125. The United National Kadazan Organisation was formed in August 1961 and was based on earlier Kadazan Associations. At the time of our visit it was claimed that a total of 60 branches had been established or were in the process of being established. The great majority of these are in the West Coast and Interior Residencies, where the party undoubtedly commands substantial support among the non-Muslim native population, especially perhaps in the areas within easy reach of Jesselton. The membership of the party is estimated at 20,000.

126. The party's attitude towards the Malaysia proposals has undergone a considerable change since it was first formed, but the earlier fears and misgivings have steadily been dissipated and the party now fully supports the proposals, subject to the acceptance of a number of safeguards which it considers to be of great importance to the Kadazan people. The president of the party was elected chairman of the Malaysia Solidarity Consultative Committee (see Introduction, paragraph 4) and, although satisfied with the assurances given by representatives of the Federation of Malaya Government who were members of that Committee, and in full support of the recommendations made in the Committee's report, the party felt it desirable to restate its case in favour of Malaysia in full to the Commission. The main arguments put forward were:

- (a) For the Kadazans there can be no other guarantee for their future than for North Borneo to obtain independence by joining Malaysia.

Self-government first would mean that the heirs, when the British leave, would be the Chinese owing to their educational and economic superiority. This in turn could lead to domination by Communism.

- (b) The best security for the future of all the former and the present British territories in South-East Asia lies in their getting together to form Malaysia, a strong viable unit which can play a real part in Commonwealth defence.
- (c) Only through Malaysia, with a happy multi-racial country like Malaya supplying proof that communalism can be solved, can the racial problems of the Borneo territories also be solved. The extension of special privileges to the native peoples will give them a chance of catching up with their more advanced Chinese brothers. The Chinese too, if they have a real loyalty to the countries of their adoption, will find that their greatest chance of security is in Malaysia.
- (d) Unless Malaysia comes about, there may well be a claim to the Borneo territories from elsewhere.
- (e) The extension to the Borneo territories of the vigorous work on rural development in Malaya will help the natives to find a new spirit to work for themselves and their country.

127. The more important of the safeguards and recommendations which the party would like to see adopted, in addition to the recommendations of the Malaysia Solidarity Consultative Committee, are the following:

(a) *Religion*

A clear statement should be made in the new Constitution that although Islam may be the religion of the Federation, it will not be forced on North Borneo as the religion of the State.

(b) *Language*

Malay is acceptable as the national language, but English should be used as an official language without any time limit. In Kadazan areas, Kadazan should be taught in the schools.

(c) *Special privileges*

The many Kadazans of mixed blood should be eligible for the special privileges to which the indigenous peoples will be entitled if the recommendations of the Malaysia Solidarity Consultative Committee are accepted.

Customary rights to land and Kadazan customs, traditions and culture should be fully respected and protected.

(d) *Immigration*

To be under State control.

(e) *Representation in Federal Parliament*

This should be much larger than any of the States in the present Federation of Malaya and much larger than Singapore.

In the Senate, North Borneo should have eight members.

(f) *Taxation*

Changes to bring about parity with the other States in Malaysia should be made gradually.

(g) *British officers*

Everything possible should be done to encourage British officers to remain in North Borneo after Malaysia, until the indigenous peoples are qualified to take their place.

United Sabah National Organisation (U.S.N.O.)

128. This party is open to all races but depends for its strength on the Muslim community. One estimate of the membership of the party was 21,000 but the party headquarters claimed a membership of 60,000.

129. The party is a strong supporter of Malaysia particularly as a defence against Communist encroachment. The following points were emphasised:

- (i) The national language should be Malay.
- (ii) The Head of State and Chief Minister should be natives.
- (iii) North Borneo should be known officially as "Sabah" after the creation of the Federation of Malaysia.

130. The party supports the recommendations made by the M.S.C.C.

131. Other points made by U.S.N.O. groups in various parts of the country were: The protection of the British should not be withdrawn and British officers should remain until local men can be trained to take their places. The State religion should be Islam and more Islamic schools were required. There should be no change in the Constitution of the Federation unless with the overwhelming agreement of the people. More vigorous plans for the education of natives and for rural development were required. The special position of Malays in the Constitution of the Federation of Malaya should be accorded to the natives of North Borneo in the Constitution of Malaysia.

The National Pasok Momogun Organisation or National True Sons of the Soil Association

132. This party, predominantly composed of non-Muslim Dusuns, was formed in Keningau in opposition to U.N.K.O. It has an estimated membership of 10,600. The party draws most of its support from the Keningau and Tenom areas. It is not possible to give any accurate figures of membership, particularly since a struggle for the leadership of the party has led to a splinter group being formed. There appeared to us to be little difference in the point of view put forward by the two leaders.

133. The party's attitude to Malaysia is that while appreciating the merits of the concept, they feel that the people of North Borneo are politically too immature to make a proper contribution to such a Federation. They ask that the British Government should continue the process of education of the people and development of the country. When North Borneo has gained its independence it will be in a better position to make a decision on this matter. In the meantime the British Government should concentrate the resources of the

country on a more vigorous programme of education and do more to train the political leaders of the future.

The Democratic Party

134. The party is open to all races and is supported in the main by small traders, wharf labourers and transport workers and operators in the Jesselton and Tenom areas. One estimate of the membership was 2,120 but the party claimed a membership of between 22,000 and 24,000.

135. The party considers that North Borneo should be independent before she is asked to consider the proposals for Malaysia. The following points were made to the Commission.

- (1) There is no religion (or language) common to the people of Borneo; therefore there should be no State or Federal religion. The people preferred English to Malay as the national language.
- (2) There is a strong desire for self-government.
- (3) Close ties with Malaya and Singapore were necessary but should be developed slowly.
- (4) Any conception other than a Confederation of Sovereign and Autonomous States would be abhorrent to the aspirations of the people of Borneo.
- (5) There are 40,000 Sino-Dusuns in North Borneo whose status requires clarification. They are regarded as Dusuns in the rural areas and as Chinese in the towns.

The United Party

136. This party has emerged from a multi-racial organisation formed by Chinese businessmen in Sandakan. The party commands a great deal of support among the Chinese in Sandakan and of many influential Chinese business men and landowners throughout North Borneo. The estimated membership of the party is 11,400. The policies of the party are supported by the Borneo *Times*, a daily newspaper which has a Chinese edition.

137. The party opposes the Malaysia plan on the ground that the proposal is premature and should not be considered until North Borneo has gained her independence. The party considers that North Borneo should have self-government in 1963 and that thereafter it is a matter for the people to decide whether or not they wish to enter an association with Malaya, Singapore and the other Borneo territories.

138. The party submitted a comprehensive and carefully drawn up memorandum which set out their views and then went on to criticise in detail the recommendations of the M.S.C.C. Report with an examination of its implications. The Memorandum also contained a statement of the terms on which the United Party would, after North Borneo had achieved self-government, be willing to consider an association with Malaya, Singapore and the other Borneo territories.

Liberal Party

139. This party was in process of formation when the Commission visited

Sandakan. No figures of membership were available but we were informed that the party was multi-racial.

140. The party is against Malaysia and feared that a closer association between North Borneo and Singapore and Malaya would increase the risk of Communist infiltration. The party preferred to see a merger of the three Borneo territories, the United Nations develop the natural resources of the countries, and Britain and the United States of America protect them from the Communists or any outside threat. The party spokesman feared that there would be no independence through Malaysia but rather that the Borneo territories would become a dependency of Malaya.

CHAPTER 3

ASSESSMENT OF EVIDENCE

141. The arguments for participation by North Borneo and Sarawak in a Federation of Malaysia are well set out in the official Papers published by the Governments of the two territories (see Appendix E). The case for and against participation has been widely debated in the respective territories at meetings, in newspapers and in such forums as the Conference of the Malaysia Solidarity Consultative Committee. Indeed on a less formal level, Malaysia has been a major topic of conversation in the bazaars, clubs and coffee houses, homes and longhouses throughout the two territories. All this has contributed in no small measure towards an understanding of the Malaysia proposals.

142. The tasks set out in our Terms of Reference were to ascertain the views of the peoples of these territories and to submit our recommendations. We have therefore attempted to the best of our ability to seek the opinions of the peoples of these two territories regarding the proposals for a Federation of Malaysia. This has been no easy task. We have given indications earlier that for a number of reasons opinions tend to run on racial and communal lines. Even on the basis of communal interests there are often various shades of opinion concerning a single subject on which there is general agreement in principle. Furthermore, it was not unusual for groups appearing before us to make exaggerated claims, sometimes bordering on the fantastic, of the number of their supporters.

143. In assessing the opinion of the peoples of North Borneo and Sarawak we have only been able to arrive at an approximation. We do not wish to make any guarantee that it may not change in one direction or the other in the future. Making allowance for all the difficulties and for our inability to reach every part of these large territories, we have arrived at a general consensus of opinion with reasonable confidence, based on individual and representative evidence presented before us.

144. Although, in such circumstances, individual judgment is bound to vary in emphasis, the Commission as a whole endorse, as a general approximation not far wide of the mark, the following assessment which is made by the Chairman. About one-third of the population in each territory strongly favours early realisation of Malaysia without too much concern about terms and conditions. Another third, many of them favourable to the Malaysia project,

ask, with varying degrees of emphasis, for conditions and safeguards varying in nature and extent: the warmth of support among this category would be markedly influenced by a **firm** expression of opinion by Governments that the detailed arrangements eventually agreed upon are in the best interests of the territories. The remaining third is divided between those who insist on independence before Malaysia is considered and those who would strongly prefer to see British rule continue for some years to come. If the conditions and reservations which they have put forward could be substantially met, the second category referred to above would generally support the proposals. Moreover once a firm decision was taken quite a number of the third category would be likely to abandon their opposition and decide to make the best of a doubtful job. There will remain a hard core, vocal and politically active, which will oppose Malaysia on any terms unless it is preceded by independence and self-government: this hard core might amount to near 20 per cent. of the population of Sarawak and somewhat less in North Borneo.

CHAPTER 4

RECOMMENDATIONS

145. We have reached a considerable measure of agreement on the appropriate basis for entry of the Borneo territories into a Federation of Malaysia. There is, however, a fundamental divergence on the question of phasing, as to whether the Federation should be formed in one stage or in two stages. This divergence of opinion involves a different approach to a number of subjects, on many of which there may nevertheless be a high degree of unanimity. It has therefore been found convenient to set out the arguments and recommendations on these subjects separately.

146. There are certain general matters not affected by this divergence of opinion on some of which views are unanimous and on others, to some extent, divergent.

147. We have therefore divided this Chapter into four sections:

A.—Recommendations on certain general matters.

B.—Recommendations by Sir Anthony Abell and Sir David Watherston.

C.—Recommendations by Dato Wong Pow Nee and Enche Muhammad Ghazali bin Shafie.

D.—Summary of Recommendations in Sections B and C, and Comments, by the Chairman.

Section A.—Recommendations on Certain General Matters

148. We make the following general recommendations, which are unanimous except where otherwise stated:

(a) A decision of principle about the future of the territories should be taken by Governments as soon as possible.

(b) Many witnesses who appeared before us argued that an entirely new Federal Constitution should be drawn up. But we are satisfied that the complications of jettisoning the existing Constitution of the

Federation of Malaya and drawing up an entirely new Federal Constitution are such as to make this proposal impracticable. We have examined the Federation of Malaya Constitution and have concluded that it could be taken as a basis for the purpose of the creation of Malaysia. With the necessary amendments to the Constitution, we envisage the entry of the two Borneo territories as States within the Federation. With their admission, the Federation of Malaya would cease to exist as a political entity, and would be succeeded by the Federation of Malaysia. There would continue to be a strong Central Government, with the States enjoying a measure of autonomy and retaining their individual identity. In view of the special circumstances which apply to the Borneo territories, autonomy and safeguards should be given in certain matters which are not enjoyed by the other States. We are anxious in this connexion that some form of guarantee should be provided whereby no amendment, modification or withdrawal of whatever special powers of safeguards may be given can be made by the Central Government without the positive concurrence of the Government of the State concerned. We feel strongly that appropriate provisions should be made in the Constitution to ensure that the special safeguards for the interests of Sarawak and North Borneo, as territories in the new Federation, are maintained. We would, at the same time, wish to reiterate the principle that the power of amending the Constitution of each State belongs exclusively to the people in the State.

We therefore recommend that the existing Constitution of the Federation of Malaya should be taken as the basis of the Constitution of the new Federation with such amendments and safeguards as may be necessary. We also recommend that no amendment, modification or withdrawal of any special safeguard granted should be made by the Central Government without the positive concurrence of the Government of the State concerned.

(c) Head of the Federation

We encountered strong feelings among some communities that the Heads of Sarawak and North Borneo States should be eligible for appointment as Head of the Federation. Whilst we sympathise with this feeling, we see no way of meeting it without undue disturbance to the existing arrangements in Malaya. We therefore limit ourselves to recording the point.

(d) Name of the Federation

We encountered some opposition to the name "Malaysia", particularly from a number of non-Muslim elements of the population in Sarawak. This opposition stems from the same cause as the anxieties about Religion, Language and the Head of Federation, with which we deal elsewhere in this Section. They all reflect the fears held by the non-Malays and non-Muslims that the effect of Malaysia will be to put them in a position inferior to that of the Malays and Muslims. We cannot see, however, that any other name would be appropriate in view of the geographical-historical relevance of the name of Malaysia and its

wide current usage. We believe, moreover, that in fact objections to the name would not persist for long. We recommend, however, that the word "Malaysia" should be generally incorporated into the Malay language: at present it is widely translated into Malay as "Melayu Raya".

(e) *Religion*

Feeling on this point ran much stronger. There are differences of opinion among the Commission.

(i) *Views of the Chairman and British members*

The non-Muslim communities are most insistent that there should be complete religious freedom as to worship, education, and propagation, in the Borneo territories.

We recommend the insertion in the State Constitution of a specific provision to this effect.

There remain the provisions in the existing Federal Constitution of Malaya that Islam is the national religion and that certain public expenditure may be incurred for Islamic purposes. All Muslim communities would welcome the provision that Islam should be the national religion of the Federation. But even with guarantees of freedom of religion for the Borneo States, we have met with strong resistance from many non-Muslim communities to the idea that these Federal provisions should apply to the Borneo territories. We consider that this is a matter for the peoples of the Borneo territories (which have a non-Muslim majority) to decide for themselves at a later stage when fully elected representative bodies have been constituted. We recommend therefore that the Federal provisions should not be extended to the Borneo territories in the meantime.

(ii) *Views of Malayan members*

We think that all Muslim communities would welcome a provision that Islam should be the national religion of the Federation. Amongst the non-Muslim who appeared before us there was a substantial number who would not object to the present practice in the Federation of Malaya, as they are satisfied with the provisions for fundamental liberties and freedom of religion in the Malayan Constitution. There were, however, a number of non-Muslims who were most anxious that there should be no national religion for the Federation; a great many of them, however, would be prepared to consider that Islam might be made the national religion provided that it should not be the religion of their particular State.

Taking these points fully into consideration, we are agreed that Islam should be the national religion for the Federation. We are satisfied that the proposal in no way jeopardises freedom of religion in the Federation, which in effect would be secular.

There remain, however, some objections to the provisions in the existing Constitution of the Federation of Malaya that certain public expenditure may be incurred for Islamic purposes. We feel unable to make any positive recommendation in this respect as this resistance, though strong, is small and any recommendation for a Constitutional provision to meet this objection will do violence to the present provisions in the Malayan Constitution which the weight of opinion does not require. We therefore limit ourselves to recording the point.

(f) *Language*

(i) *National language*

The Constitution of the Federation of Malaya provides that Malay is the national language. Objection is felt in some quarters to the idea that this provision should apply to the Borneo territories and the British members of the Commission consider that this is a matter for the peoples of the Borneo territories to decide for themselves when fully elected representative bodies have been constituted. The Chairman and the Malayan members feel that, as in fact Malay already approached more nearly than any other language to a "lingua franca" in Borneo, this point need not give any offence to the non-Malay population, and that no derogation from the Federal provision is necessary.

(ii) *Official languages*

With regard to official languages, a majority of opinion favours Malay and English as official languages without any time limit in the Borneo States. The Chairman and the British members recommend that a provision to this effect be made in the Constitution.

The Malayan members feel that from consideration of Malaysia taken as a whole, such a provision as a permanent feature cannot be readily acceptable without doing undue violence to the existing provisions of the Constitution of the Federation of Malaya. They recommend, therefore, that provision should be made which, while not affecting the position of Malay as the national language for the Federation of Malaysia, would ensure the continuance of English as an official language in the Borneo territories along with Malay for a period of 10 years after the establishment of Malaysia and to continue thereafter until such time as the Central Government in consultation with the State Government of the territory concerned provides otherwise. The Central Government should not institute any move without prior consultation with the State Government.

(iii) With regard to the languages for debates and discussions in the State Assemblies of the Borneo territories, the Malayan members recommend that these be in Malay, English or any of

the indigenous languages at present in use in the respective Assemblies, for a period of 10 years after the establishment of Malaysia and thereafter until such time as the Central Government in consultation with the State Government of the territory concerned provides that only the national language may be used. The Central Government should not institute any move without prior consultation with the State Government. The Chairman and British members recommend that this provision should remain in force without time limit, until and unless the State Government decide otherwise.

(g) Immigration

It has been widely represented to the Commission by all races and communities in North Borneo and Sarawak that the small population of the two territories in relation to their size makes it essential to provide them with protection against unrestricted movement of people from other parts of the Federation. We have no doubt that this is a legitimate and essential requirement. We think, however, that control over immigration into any part of Malaysia from outside should rest with the Central Government, subject to the proviso that such entry into Sarawak or North Borneo should also require the approval of the State Government concerned. The Federal Government should guarantee the unrestricted entry for purposes of employment of persons recruited by the State Government, except on grounds of security.

In relation to the question of entry from any other Malaysian territory into Sarawak or North Borneo, we recommend that it should be subject to the control of the respective States. The free movement of persons in the service of the Central Government such as Federal officials, should, however, be guaranteed by the State Government.

The Federal Government will have a clear interest in the movement of, for example, persons known to be subversive. The State Government will be well aware of security aspects and will be able to take this into account in controlling entry into their States.

We consider that the present Visitor's Permit valid for three months should be retained in order to encourage exchange of visits among the peoples of Malaysia and the creation of a Malaysian sense of national unity. We would recommend also that there should be no restrictions on movement from the Borneo territories into Malaya.

We are aware that the provision relating to the restricted freedom of movement of citizens would conflict with the fundamental liberties as guaranteed under the Constitution, but in view of the very special nature of the situation, we strongly recommend that appropriate constitutional provision be made to facilitate such arrangement.

(h) Right to Secede

A number of witnesses suggested that there should be a trial period with a right to secede from the Federation after a stated number of years. We believe that inclusion of a secession clause would mean a continuation throughout the trial period of political and perhaps racial

divisions. We feel that if it is decided to create a Federation, the decision should be made wholeheartedly and without reservations. We do not recommend inclusion of a secession clause.

(i) *Borneanisation of the public services* should proceed as quickly as possible.

(j) Every effort should be made to *encourage British officers to remain in the service* until their places can be taken by qualified people from the Borneo territories.

(k) *Citizenship*

We have already made it clear in Chapters 1 and 2 that this is a matter to which the Chinese communities in both Sarawak and North Borneo attach such importance that it influences the attitude of many of them towards the Malaysia proposals as a whole. They fear that the arrangements under the pre-Merdeka Constitution of the Federation of Malaya might be applied to them.

At present persons of any race born in either of the two territories are automatically citizens of the United Kingdom and Colonies; and aliens, regardless of race, who have resided in either territory throughout the 12 months preceding their applications and also have resided there or in the United Kingdom or one of its other dependencies for four years out of the seven preceding that 12 months and intend to continue such residence are eligible to apply to the Governor for naturalisation as citizens of the United Kingdom and Colonies. Additional requirements are evidence of good character and a sufficient knowledge of the English language or a language recognised in the territory as being on an equality with the English language. In practice Malay has been accepted.

Although the great majority of the Chinese in both Sarawak and North Borneo have either been born in one or other territory or have resided there for a substantial number of years, only a small proportion of those who were not born locally have in fact applied for citizenship. It is necessary to secure sponsors; some expense is involved; and there has up to now been no particular advantage in becoming a citizen. Moreover, many Chinese might not have been able to pass a language test in any language other than their own. It was on behalf of this considerable body of non-citizens that requests were made to us that the qualifications for citizenship in Sarawak and North Borneo after Malaysia comes into being should remain the same, or approximately the same, as those now in force for citizenship of the United Kingdom and Colonies. There was readiness in some cases to agree to a rather longer qualifying period of residence such as seven or eight years instead of five.

We have considerable sympathy with these requests, although we believe that the fears of the Chinese are usually based on a misunderstanding of the present position in Malaya.

Our attention has been drawn to the memorandum setting out the Heads of Agreement for a merger between the Federation of Malaya and Singapore (Singapore Command Paper No. 33 of 1961) in which

it has been agreed that a Singapore citizenship will be retained which will automatically carry with it nationality of the new Federation of Malaysia. We have considered whether on this analogy there is a case for creating a separate citizenship for the Borneo territories which would carry with it nationality of Malaysia. We have found no special reason to suggest such a separate citizenship for the Borneo territories. There is no local legislation on citizenship at present in either Sarawak or North Borneo—as there is in Singapore—and we believe that the recommendations that we make below will meet the more important of the points which have been made to us.

We recommend as follows:

- (i) A citizen of the United Kingdom and Colonies born in Sarawak or North Borneo or naturalised in either territory before the date on which Malaysia comes into effect should by operation of law become a citizen of the Federation of Malaysia. We include in this category persons who were born in either of the territories before the dates on which they became British colonies. There is, however, one qualification that needs to be made. Some persons in this category might have severed all connexion with Borneo and the other territories that will form Malaysia. There needs to be evidence of permanent residence and we accordingly recommend that a person in this category shall be deemed to be permanently resident in a territory if he has resided in either territory (or partly in the one and partly in the other) for a continuous period of five years immediately before the formation of Malaysia. We consider it important that there should be the minimum of formality in establishing such permanent residence. We recommend further that periods of absence should not be regarded as a break in continuous residence.
- (ii) A person resident in Sarawak or North Borneo on the date on which Malaysia comes into being should be eligible to apply for registration as a citizen of Malaysia at any time during the first eight years after that date if:
 - (a) he has resided before Malaysia in either territory (or partly the one and partly the other) or after Malaysia in any of the territories of the Federation for periods amounting to 8 out of the 12 years preceding his application and which include the 12 months immediately preceding his application;
 - (b) he intends to reside permanently in the Federation; and
 - (c) he is of good character.

For the purposes of such an application a person should be deemed to be of good character in the circumstances provided in Article 18 (4) of the Constitution of the Federation

of Malaya, *i.e.*, unless he has during the three preceding years been convicted of a criminal offence for which he has been sentenced to death or imprisonment for twelve months or more and in respect of which he has not received a free pardon.

Again, as with the previous category, we consider that the formalities for obtaining citizenship should be reduced to the minimum so that as few difficulties as possible are put in the way of people who have made their homes in the Borneo territories and who wish to remain in Malaysia as citizens. During the period of the application of these arrangements we recommend that the existing provision in Sarawak and North Borneo regarding a language test should apply. We also recommend that there should be a waiver for a limited period of the language test in respect of persons above a certain age.

We also recommend that such an applicant should take the citizenship oath in the form prescribed in the existing Constitution of the Federation of Malaya.

We further recommend that if a person obtains a certificate of citizenship under this arrangement it should be possible for him to apply, at the same time that he obtains his own certificate, for the grant of a certificate of citizenship in respect of any of his minor children born before that date and ordinarily resident with him in Malaysia.

- (iii) Subject to the above points, we recommend that after Malaysia the existing provisions of the Constitution of the Federation of Malaya relating to the acquisition and termination of citizenship should apply *mutatis mutandis*.

This will mean, *inter alia*, that all persons born in the Borneo territories after Malaysia will be citizens of Malaysia by operation of law, provided that one of their parents is a citizen, or is a permanent resident of the Federation. If our recommendation is approved, we regard it as important that adequate publicity should be given to this point in order to dispel the doubts that were frequently expressed to us about the position of the non-natives.

- (iv) The citizenship provisions which we have recommended above should be subject to the special guarantee that we have recommended in paragraph 148 (b) of this report.

Section B.—Recommendations by Sir Anthony Abell and Sir David Watherston

149. We would make it clear at the outset that, on the basis of the assessment of opinion in the territories which is recorded in earlier chapters of this report, we have reached the conclusion that, on appropriate conditions, Malaysia is an attractive and workable project, and would be advantageous to all parties concerned.

150. Before coming to this conclusion, we have felt it our duty to consider whether it offers to the Borneo territories a better future than other possible solutions, such as indefinite continuation of British rule, early independence on their own, or the creation of an independent Federation of the Borneo territories by themselves. We are convinced that, provided it can be achieved with due regard to the special position of these two territories, to the racial complications, to the physical distance from Kuala Lumpur and to their political immaturity as compared with Malaya and Singapore, the Malaysia project offers Sarawak and North Borneo better prospects of security and prosperity than any other solution in view. Opponents of Malaysia have often alleged to us that the project has been devised merely to help in dealing with the Malaya-Singapore situation, and that North Borneo and Sarawak are being treated as political pawns. This view is particularly strong in some quarters in North Borneo, where traditional links of trade have been more with Hong Kong, Japan and Australia than with Singapore or Malaya. This argument goes on to say that the Borneo territories have been comparatively free of Communism and that a link-up with Malaya and Singapore would involve them unnecessarily in struggles between Communists and anti-Communists. This view seems to us to disregard the impact which a change of regime in Singapore would inevitably have on Sarawak immediately, and on North Borneo very shortly thereafter. It does not lead us to modify our opinion that, both on economic and on security grounds, a successful realisation of Malaysia would be to the advantage of the two territories.

151. We recommend that a decision of principle on the Malaysia project should be taken as soon as possible by the British and Malayan Governments, subject to debate, and support by a majority of unofficial members, in the Sarawak and North Borneo Legislatures. Once this decision of principle has been reached, we consider that a first step should be taken within 12 months at the most, and that this step should comprise the creation of a Federation of Malaysia. For the reasons set out in the following paragraphs we recommend, however, that the full realisation of Malaysia should be achieved in two distinct phases. We recognise and endorse the desirability of moving forward as quickly as possible but we feel that there is a definite need for a transitional period during the early part of which there would be as little change as possible and which would allow time for the complicated machinery of federation to be worked out to the best advantage both of the Borneo territories themselves and of the Federal Government. We believe that the proposals that we put forward would go a long way towards reassuring the opponents and critics of Malaysia in the Borneo territories, and would enhance the possibilities of bringing the different races together in a constructive partnership with the other parts of Malaysia, without in any way prejudicing the final achievement of a strong and single-minded Federation. Our reasons for recommending a transitional period are based on our strong conviction on the following points.

- (a) We feel that Her Majesty's Government have very clear obligations towards the peoples of the two territories, both general and, in Sarawak, deriving particularly from the Cardinal Principles (Appendix C) and the reply to the Petition to Her Majesty The Queen referred to in paragraph 68, to ensure that the political institutions of the territories can be carried to a stage where the people are able to play a full part in their own Government.

(b) Neither in Sarawak nor in North Borneo has the stage yet been reached where unofficials have been given even semi-Ministerial responsibilities. We understand that it is the intention to introduce a " Member " system at a reasonably early date in Sarawak, but that it is not thought that this can be done quite so soon in North Borneo. We were much encouraged by the signs of growing political consciousness and political leadership in both territories but there has been little opportunity up to the present of gaining political experience and responsibility. We consider that the necessary steps towards the appointment of a Chief Minister and the introduction of a State Ministerial system should be taken at as early a date as practicable in both territories; but we hold strongly the view that, for this important advance in the Constitution of the two territories to take place at one and the same time as the appointment of a constitutional Head of State and all the changes and adjustments, both emotional and political, involved in the transfer of sovereignty and the transfer of many of the State Governments' present powers to a Federal Government in Kuala Lumpur, would seriously overtax the administration and would create a sense of general bewilderment and a feeling of insecurity.

(c) Not only is the idea of a popularly elected Government still strange to large sections of the populations of the two territories, but so also is the concept of a constitutional Head of State; the native peoples in particular are accustomed to a Governor who governs. Any weakening in the next few years, either real or apparent, in authority at Kuching or Jesselton would involve serious security risks. We have referred elsewhere to the regrettable growth of racial discord. Until this has been given time to subside we believe that it would be difficult for a Head of State to be selected in either territory who would command the loyalty and respect of the great majority of all races and be capable of discharging such a delicate and invidious task.

(d) We attach overriding importance to the maintenance of efficient administration and law and order during the years immediately ahead. Any lack of stability at this time would greatly increase the difficulties of the new Federation. It is absolutely essential (and this is common ground among all members of the Commission and among an overwhelming majority of witnesses) that the services of expatriate officers should be retained for a period of years. We would emphasise that the departure of a substantial proportion of these officers soon after Malaysia comes into being would not merely involve an acceptance of lower standards but would almost certainly mean a breakdown of normal administration. Any solution therefore which does not lead to the retention of a large proportion of expatriate officers would, in our judgment, be doomed to failure on this account alone. In saying this we do not mean to imply that, once Malaysia is a going concern and these officers have gained first-hand knowledge of the invigorating atmosphere in, and the remarkable progress which has been made by the Federation of Malaya since independence, many of them will not be very willing to serve

for a number of years under the Government of the new Federation and to give it their whole-hearted loyalty.

152. The considerations in the preceding paragraph lead us to the view that, during the transitional period which we have recommended, the general pattern should be the following:

- (a) Responsibility for External Affairs, Defence and the anti-subversive aspects of Internal Security should be transferred at once to the Federal Government.
- (b) Representatives of Sarawak and North Borneo should sit in the Federal Parliament and should be elected by the respective legislatures from among their own unofficial members. The election of a person to the Federal Parliament should not entail the vacation of his seat in the Legislature of his territory. It might be thought reasonable for the two territories to have smaller representations in the Federal Parliament during the transitional period than their full quota under the final arrangements. On this latter point we are in agreement with our Malayan colleagues, as we have indicated in paragraphs 165 and 166 below.
- (c) The Head of State in each territory should have executive powers similar to those at present exercised by the two Governors. We recommend further that the title of Governor should not be changed, particularly as it will presumably continue to be used for the Head of State after the transitional period comes to an end.
- (d) The Governors should be advised as at present by Executive (or Supreme) Councils and should take the chair at meetings of these Councils. Chief Ministers should be appointed as soon as practicable and a Ministerial system introduced to cover subjects in the State legislative list. Federal subjects should remain the responsibility of officials. In particular, the Chief Secretary, Attorney-General, and Financial Secretary should remain as *ex officio* members of the Executive Councils and of the Legislatures in both territories until the end of the transitional period.
- (e) An electoral system for the Legislative Council in North Borneo should be introduced as soon as possible. We consider too that there will be a need to increase the number of unofficial members of the Legislatures of both territories in order to meet the additional duties that members will be called upon to undertake. Some officials will have to be retained in the legislatures until Federal subjects are handed over. We recommend that Speakers should be appointed at an early date.
- (f) As soon as possible after a decision has been taken to create a Federation of Malaysia, a Joint Committee should be appointed composed of representatives of the Federal Government and of the State Governments of Sarawak and North Borneo, with an independent Chairman to be agreed between the three Governments. The task of this Committee

would be to make recommendations to the three Governments as to the timing and manner of the integration into the Federal system of existing laws and practices, and of those Departments in the Borneo territories which are to become Federal. A particular concern of the Committee would be the question of the special safeguards for the Borneo territories which we have recommended in paragraph 148 (b) of this report should be incorporated into the Constitution of the new Federation. We recommend that, in addition to senior officials of the Governments, one or more unofficials from each of the Borneo territories should be appointed to this Joint Committee.

Under the general supervision of this Committee we recommend that there should be such Joint Working Parties as are found to be necessary to examine certain fields in detail. We visualise that formal Working Parties will be required at least to consider the judicial, educational and economic fields, and the public services; and there will certainly be others. In those cases where separate Working Parties are needed for each territory, there should be equal representation of the Federal Government and of the State Government concerned.

The Joint Committee and the Working Parties should give the highest priority to their task so that it can be completed and the new arrangements introduced with the least possible delay.

- (g) There should be close co-operation during the transitional period between the Federal Government and the Governments of the Borneo territories on all matters affecting their joint interests. In view of its importance, the Federal Government should be closely associated from the start with rural development. We have recommended in paragraph 170 the setting-up of a Development Board.
- (h) The basis of employment of the expatriate staff during the transitional period should remain unchanged. At the end of the period, a compensation scheme should be introduced which we recommend should be as generous as possible and should be so devised as to give these officers the maximum encouragement to stay on for a further period if required.
- (i) We recommend that the transitional period should be for five years from the date of the creation of the new Federation but that this period should be adjustable to a minimum of three years or a maximum of seven years. During this period the State Government should make appropriate financial contributions to the cost of services transferred to the Federal Government. The basis on which these contributions are computed would have to be varied from time to time if, as is to be expected during this stage, the Joint Committee and Working Parties referred to in sub-paragraph (f) above recommend that a State Department could be transferred to the Federal Government. The expatriate staff of such a Department should, however, remain a State responsibility for the duration of the transitional period for the reasons set out in sub-paragraph (h) above.

153. Having described the main features of the arrangements which we recommend for the transitional period, it remains to consider constitutional proposals which would provide the framework within which these arrangements could operate smoothly and could move forward progressively towards the full realisation of Malaysia. We recommend that on the creation of Malaysia, the United Kingdom should by Agreement surrender sovereignty over the two territories, which would be admitted as States of the new Federation. At this stage agreement would be reached as to the ultimate division of powers between the Federal Government and the Governments of the two States and we have made certain recommendations on the subject in paragraph 167 below. The Federal Government would at once assume responsibility for Defence, External Affairs and Internal Security (anti-subversive aspects). By Agreement, powers and functions in respect of all other matters that are ultimately to be allocated to the Federal List or the Concurrent List would be delegated to the new States for a specified period of from three to seven years. During this transitional period the new States would by Agreement between the United Kingdom and the Federation be administered by a Governor to be appointed by His Majesty the Yang di-Pertuan Agong, on the joint nomination of His Majesty and of Her Majesty The Queen, under transitional State Constitutions. These Constitutions would allow for rapid progress towards a full Ministerial system of responsible government with a constitutional Head of State, and would be replaced at the end of the transitional period by permanent Constitutions on the lines of those provided for Penang and Malacca.

154. Turning now to the shape of long-term arrangements after the transitional period, we consider that the aim should be to strike a balance in the common interest between two conflicting requirements. On the one hand, the Federal Parliament must have sufficient powers to ensure alignment of policies in matters essential to the creation and maintenance of a real and strong Federation. On the other hand, the Borneo territories should be enabled to maintain their separate identities within the Federation. Racial and other problems in the two territories are quite different from those in Malaya, and distances are so great as to make day-to-day administration from the Federal centre impracticable and undesirable.

155. Whatever the division of formal and legal powers between Federation and State, the practical administration of Federal subjects must largely be carried out on the spot. We recommend that the Joint Committee, whose appointment we have suggested in paragraph 152 (f), should consider the desirability of regionalising the more important of the Federal posts and services in the Borneo territories. We believe that there may be a strong case for certain Federal Departments having a regional head in Borneo with sufficient authority to deal with local problems. In this connexion a suggestion has been made to us that in due course the Federal Government should appoint a Minister for Borneo affairs with a general responsibility for Federal subjects in the two territories on the analogy of the Secretary of State for Scotland; this suggestion seems to us to merit serious consideration.

156. Many witnesses have insisted that the Borneo territories should not join just as two States of the new Federation but in some way which would give more recognition to their identities and to their comparative size. We agree that it is

important that the identity and prestige of Sarawak and North Borneo should be maintained but we consider that this would be achieved by maintaining a high degree of local administration and by allotting to them a quota of seats in the Federal Parliament which takes into account their size as well as their population.

157. There are one or two matters which we feel require special mention, either because we hold divergent views from our colleagues or because they are of special significance to the Borneo territories and are referred to in the record of evidence.

Head of State

158. We recommend that the Head of State should be appointed by the Head of the Federation acting in his discretion but after consultation with the Chief Minister of the State. His constitutional position should, we consider, be the same as that of the Governors of Penang and Malacca. In view of the strength of the opinions expressed to us in the Borneo territories, we consider it is desirable that the first Head of State after the transitional period should be a member of the indigenous races. We feel that thereafter this matter should be decided by the State Legislatures.

The Judiciary

159. The distance between Borneo and Malaya leads us to believe that it would be wise to maintain for the Borneo territories a separate High Court presided over by its own Chief Justice, and we would recommend that appeals from this Court should lie to a Federal Supreme Court. It might be advantageous if Judges of the Malayan High Court could be made available to sit as Judges of the Borneo High Court as and when required and *vice versa*. We have recommended the appointment of a Working Party to examine the details of new arrangements which would be necessary, including the method of appointment and removal of Judges in the Borneo territories, consequent on the new Federation. We cannot exclude the possibility that Brunei may be interested in this Working Party.

Special Position of Indigenous Races

160. As we have recorded earlier, native witnesses in both Sarawak and North Borneo asked that, in the matter of special privileges and opportunities, they should be put in a position analogous to that of the Malays in the Federation of Malaya. The Chinese, while opposing any suggestion that this privileged position should be written into the Constitution, agreed that in practice the native races should be given, at least for a period of years until they reached a more competitive level, the favoured treatment which they have in fact enjoyed under the Colonial Government.

161. We find this a difficult problem and various differing views have been expressed in our discussions of it. One of us feels that Malaysia as a whole would be better without constitutional provisions of this kind and that in so far as the Borneo territories are concerned, they are in contradiction with the policy of equal opportunity for all races, which has been the basis of British policy since the war, and that they are not in the best interests of racial harmony or of the natives themselves, who would more easily be spurred to competitive

effort without constitutional preferences. We believe that better opportunities rather than privileges are required by the indigenous people of the Borneo territories.

162. The other British member considers that in the light of the existing provisions relating to Malays in Malaya, the native races in the Borneo territories could not be given less favourable treatment, and recommends therefore that they should be given analogous treatment to the Malays in Malaya, provided it is understood that these provisions are not a permanent feature of the Federal Constitution.

163. If a decision is taken that the provisions in the existing Federation of Malaya's Constitution in this regard should apply to the natives of Borneo, we recommend that the question should be reviewed after 10 years in the light of the progress made by the native races. We further recommend that the provisions should apply to those citizens who are regarded as natives within the meaning of the Interpretation (Definition of Native) Ordinance of North Borneo (see Appendix D) and in the case of Sarawak those who are regarded as natives within the meaning of Section 3 of the Interpretation Ordinance, 1953 (see Appendix D). We recommend that the Ordinances in the two territories should be examined with the object of bringing them into line. It is to be noted that the provisions in the existing Federation of Malaya Constitution apply to Federal matters only unless State Legislatures decide to adopt similar provisions for State matters. We recommend that the same distinction should apply in respect of the Borneo territories.

164. We agree with our Malayan colleagues that an Advisory Board, as recommended by them in paragraph 190 (h), will be required to advise on the interpretation and administration of this complex and thorny subject.

Representation in Federal Parliament

165. We have mentioned in earlier Chapters the strong desire everywhere expressed that the representation of the Borneo territories in the Federal Parliament should take account not only of their populations but also of their size and potentialities. We strongly recommend that these desires should be met.

166. We concur in the proposals made by our Malayan colleagues in paragraph 190 (g).

Allocation of Functions between Federation and State

167. While specific powers will be exercised by the Federation the residual powers will remain with the State and, subject to general observations made earlier in this Chapter and to the particular observations which follow, we feel that the division of subjects between the Federal, State and Concurrent Lists in the existing Constitution of the Federation of Malaya would provide a reasonable basis.

- (a) We particularly recommend that in such matters as land, agriculture, forestry and local customs and usage, power should clearly rest with the State Governments.

- (b) Education will be a controversial question for which we have recommended appointment of a Working Party. It may prove convenient to treat primary education separately from higher education for a number of years. We feel that if Federation is to be meaningful, the final objective should be federal policy and local administration. We suggest that in the initial stage some flexibility should be maintained so that the most sensible division between Federal and State functions can be devised in practice. In view of the strength of the evidence in favour of the continued use of English as the medium of instruction in schools, we do not recommend any change in the policy of the Governments in this respect.
- (c) Similarly the overriding control of Finance should, in our view, lie with the Federation in the long term. But here again it will be necessary to proceed gradually and in the light of experience. Immediate alignment of taxation would cause extreme difficulty and resentment, though the objectors to Federation would do well to realise that taxation in Sarawak and North Borneo would increase sharply in future years without Federation, and much more sharply if the territories were to achieve independence on their own.

For the longer term we entirely concur in the proposals made by our Malayan colleagues in paragraphs 216 to 217. We suggest that in any final arrangement room should be left for Sarawak and North Borneo to borrow on their own credit and that sufficient revenues should be left in State hands to assure the service of such borrowings.

(d) *Tariffs*

Here again progress would have to be gradual in order to avoid constant disturbances, but alignment of the tariff structure throughout the Federation should be the final objective and a Joint Working Party should be set up as early as possible to study ways and means.

(e) Shipping and Navigation: Ports and Harbours

Shipping and navigation on the high seas and in tidal and inland waters, and ports and harbours, are of great importance to the Borneo territories, particularly to Sarawak. Whilst we agree that in general these matters should remain on the Federal List, we think that there is a case for distinguishing between large port and harbour works on the one hand, and jetties and smaller installations on the other, and we consider that the latter would be more appropriate to the Concurrent List. Where the dividing line should be drawn is a matter for an expert Working Party.

(f) Fisheries (Maritime and Estuarine Fishing and Fisheries, excluding Turtles)

We consider that fisheries are appropriate to the Concurrent List. On the one hand international complications sometimes arise which are the concern of the Federal Government; on the other hand there is the need to ensure that day-to-day administration is on a local basis and that traditional fishing grounds and local rights are fully protected, and this is properly the concern of the State Government.

(g) Labour and Social Security

We think that some degree of concurrence may be appropriate as regards legislation affecting trade unions and labour disputes in the case of territories such as North Borneo and Sarawak, which are so far from the Federal centre. Similar considerations apply in the case of charities and charitable institutions, where responsibility for day-to-day administration is very much a local matter and should clearly remain so.

(h) Welfare of Aborigines

We consider that the inclusion of this item in the Federal List would not be appropriate in the case of North Borneo and Sarawak.

Public Services

168.—(i) One effect of the transfer of a number of subjects to a Federal list and of the transfer of the departments dealing with those subjects from the State Governments to the Federal Government, will be that the officers of the Borneo services in those departments will come under the control of the Federal Government. We recommend that such officers should not become transferable to other parts of the new Federation without their consent nor should the terms and conditions of the Federal service be applied to them, unless they opt to join that service and accept liability for transfer throughout Malaysia.

Further, the promotion prospects of officers in this category within the area of their original service should not be prejudiced.

(ii) In addition to the purely Federal services there are in the present Federation of Malaya certain joint services common to the Federation and one or more of the States. These include the senior staffs of such departments as the Agricultural, Forestry and Veterinary Departments, which will remain State Departments in the Borneo territories after Malaysia comes into being.

We recommend that officers of the Sarawak and North Borneo Governments in these departments who possess the necessary qualifications should be considered, if they so desire, for admission to the appropriate joint service provided that they accept liability for transfer throughout Malaysia.

(iii) Officers in the Federal and joint services in the Borneo territories, should, subject to the views of the Working Party whose appointment we recommend in sub-paragraph (vii) below, come under the jurisdiction of the appropriate Federal Service Commission. We recommend, however, that these Federal Service Commissions should make special arrangements for the exercise of their functions in the Borneo territories. We regard it as essential that persons from the Borneo territories, including senior officers of the Federal services serving in Borneo with their first-hand knowledge of the people and of local conditions, should be associated as closely as possible with the Commission's work. It is important too that there should be close liaison between the Federal Service Commissions, and the Public Service Commission or Commissions in the Borneo territories, possibly by one or more persons being members of both Federal and State Commissions.

(iv) A public Service Commission has already been set up in Sarawak, so far without executive powers. We recommend the early establishment of a

similar Commission in North Borneo or—an alternative we prefer—that a single Commission should be established for the Borneo territories which would be given executive powers at the end of the transitional period.

(v) One matter which will require consideration at an early date will be whether or not the quota system for recruitment to certain Federal Public Services should be applied in Borneo as it is in Malaya. We consider that this should first be referred to the Advisory Board whose appointment we have recommended in paragraph 164 of this report. We suggest that persons recruited to Federal services after Malaysia comes into being should accept liability for service anywhere in the territories comprising the new Federation.

(vi) We recommend that the Federal services in the Borneo territories should be staffed as far as possible by persons recruited in Borneo, even if this means that, at any rate for a time, the full qualifications normally required in Malaya for candidates for each grade of the service cannot always be insisted upon. We would hope, however, that as time goes on and officers now in service retire, there will be opportunities for officers in the more senior grades, if they so desire, to be transferred to appointments elsewhere in Malaysia either on promotion or to gain wider experience.

(vii) We recommend that a Working Party should be set up at as early a date as possible after a decision on Malaysia has been reached by the United Kingdom and Malaya Governments to consider staff matters generally and the form of liaison desirable on this subject in the relations between the Federal centre and the Borneo territories. Uniformity in salaries, conditions of service and qualifications will take time, but should be regarded as a desirable objective.

(viii) We stress once again how essential it is to encourage British officers to continue in service during the next period.

(ix) Some major departments are already handicapped by staff shortages. We recommend that determined efforts should be made to fill these vacancies and that if necessary the contract terms offered should be reviewed.

169. Both in Sarawak and North Borneo the Commission were able to meet delegations from the associations and unions which represent the majority of officers in the senior and junior branches of Government service. We were very impressed and encouraged by the responsible attitude of these delegations; although primarily interested in the future of the Government staff this did not conceal their real concern for the future welfare of the people of the Borneo territories.

170. One of the main attractions of the Malaysia proposals to the rural population of Sarawak and North Borneo is the vigorous programme of rural development in Malaya which has been given much publicity and has been seen and admired by the many people who have undertaken sponsored visits to Malaya. We are in agreement with the views of our Malayan colleagues in this matter (paragraph 220–228), and we recommend that a Development Board should be set up in both territories as soon as possible after Malaysia is formed with representation of the Federal and State Governments. These Boards should provide a focus for the continuation of the very valuable help which is being given in many fields by the Commonwealth Governments, by the Colonial Development Corporation, through the Colombo Plan and by various international organisations.

**Section C.—Recommendations made by Dato Wong Pow Nee and
Enche M. Ghazali bin Shafie**

171. The Commission's assessment of the state of opinion in the Borneo territories about Malaysia has been recorded in Chapter III.

172. The conditions and safeguards asked for by persons in the second category referred to in paragraph 144 therein relate mainly to privileges of natives and the protection of legitimate interests of others, citizenship, assurance on religious freedom, appointment of Heads of their respective States, and their eligibility to be the Supreme Head of State in Malaysia, national and official languages, immigration control, representation in Parliament, accelerated programmes in economic, particularly, rural development and in education, and assurances on State rights. Everyone in this category expressed the wish that the expatriate officers now serving in Sarawak and North Borneo should be retained until they, the Borneo people, could undertake the responsibilities of administration. This reflects their trust in the present British officials, whose advocacy of any plan for Malaysia would help to instil confidence in the future.

173. Support for Malaysia was very clearly expressed in North Borneo by the United Sabah National Organisation (U.S.N.O.) and the United National Kadazan Organisation (U.N.K.O.) who command the support of the majority of the natives, including those of mixed parentage, and some of the non-natives. In Sarawak, the Party Negara (Panas), Barisan Anak Jati Sarawak (Barjasa) and the Sarawak National Party (S.N.P.) have come out very strongly in favour of Malaysia. Besides these groups, other organised non-political groups like the Barisan Pemuda of Sarawak and native and Muslim Associations both in North Borneo and Sarawak have indicated their support of the idea. Individual groups from the interior and representatives of such groups as those which passed the Kapit Resolutions all have signified their acceptance of the concept of closer association in Malaysia. A large number of delegations from organised representatives of local governments also came out in favour of Malaysia.

174. We would also wish to draw particular attention here to the Malaysia Solidarity Consultative Committee (M.S.C.C.) which had gone very thoroughly into the subject and submitted its recommendations to us. We observed that nearly every aspect of the proposal was discussed by the Committee, which unanimously declared their acceptance of and support for Malaysia, and the vital necessity for its early realisation.

175. Some comments were made during the hearings of the Commission regarding the M.S.C.C., which was said to be non-representational in character. It was suggested that their views should accordingly be disregarded. We find it difficult to accept this suggestion. Most of the participants were leaders in their own right either as leaders of political parties or as the accepted heads of their respective communities. The fact of their membership of the State Legislatures and in some cases, also of the Executive Council or the Supreme Council of the respective territories, reminded us that the Governments concerned have placed high value in respect of their judgment and ability of their influence and leadership. Their opinions, therefore, demand serious consideration.

176. Turning to the elements which are in opposition to Malaysia, attention has already been drawn in Chapter I to the attitude of the Sarawak United People's Party (S.U.P.P.) in Sarawak, the United Party, the Pasok Momogun and its splinter group, the Democratic Party, and the Liberal Party of North Borneo. Among the non-political groups, a large number of Chinese Chambers of Commerce, Clan Associations, Alumni Associations in both territories have come out against Malaysia. Their opposition springs mainly from the demand for independence, after the achievement of which, there was general readiness among some to consider the possibility of closer association with the Malayan and other Borneo territories.

177. The only organisation of any consequence with predominantly native support in opposition to Malaysia either in Sarawak or North Borneo is the Pasok Momogun of North Borneo, which advocated in line with the other organisations in opposition to Malaysia that independence should first be gained before consideration of any wider federation. In this particular instance, however, we have reason to believe that its opposition springs basically from a fear of domination by the Federation of Malaya and that the party would be more receptive to the idea of Malaysia if these fears can be set at rest.

178. Many other groups and individuals, usually from the more remote areas, have also expressed their misgivings on these lines. They feel that they are being rushed into some adventure, of whose outcome they are uncertain. Fear is the dominating factor among them—fear of Malay domination, fear of Muslim subjugation because of the proposal that Islam should be the official religion of the Federation of Malaysia, fear of being swamped by people from Malaya and Singapore who would deprive them of the land and opportunities in Government and other enterprises, fear of the threat to their language and cultures and so on. These are genuine and understandable fears. Bitter memories of their experience of civil and internecine strife, and of the unhappy relationship which they had with the former Brunei Administration have served to accentuate these fears. They are furthermore satisfied with the present colonial administration, and entertain expectations of more progress in the future.

179. In the course of the interviews with them, we found their candour most refreshing and we were deeply impressed by the trust they showed for the present colonial administration. Nevertheless, they are not categorically opposed to Malaysia; they are merely puzzled and afraid. We feel therefore that if their apprehensions for the future could be allayed by positive assurances, and their misapprehensions of the scheme removed by patient explanations and tangible demonstrations, the bulk of these people would find it possible to withdraw their objections. We have no doubt that any lingering misgivings which they may have could be removed if the colonial administration could unequivocally commend the Malaysia proposals to them.

180. We are therefore left with the body of resistance to Malaysia which though small in number is extremely vociferous and active in character. This opposition springs either from an ideological identification with the Communist cause, or an emotional identification with Chinese chauvinism, or from an ardent belief in independence on their own on the basis of an ultra-nationalism in the narrowest sense. Our estimation of their views, which we considered

with great care must therefore be made within the framework of their basic attitudes.

181. The challenge posed by these different elements of opposition require different responses. We are confident that, if the response is satisfactory, the ultra-nationalists would realise that Malaysia is not contrary to their convictions and the chauvinists would reconcile themselves to the new structure. It would be an error of the gravest kind if these two strands of opposition, which require appropriate responses, were considered and treated together with the opposition of the Communist elements.

182. The Commission received evidence from a number of people, including officials of these two territories, to the effect that while a Federation of Malaysia is an excellent concept, it is premature and would be more acceptable and more successful if it were delayed for some years, the intervening period being devoted to active preparation for federation and to the development of a complete electoral and ministerial system. They advanced the arguments that the political and electoral systems in these territories are immature and that any other solution would fall short of the British Government's obligations in Sarawak as laid down in the Cardinal Principles and the reply given to the petition addressed to Her Majesty The Queen in 1959.

183. We accepted these submissions with the greatest respect for the spirit and sincerity with which they were made, but on the basis of our observations and study during our tour, we cannot find ourselves in agreement with these sentiments as it pre-supposes a lack of leadership of the necessary calibre among the people of the territories concerned.

184. We, on the other hand, were impressed with the quality of leadership shown both in Sarawak and North Borneo. In Sarawak there have already been elections and the Council Negri includes members elected by the people by a system of electoral college. Political parties are playing a vital role in the lives of most of the people. In North Borneo there has been an awakening of political consciousness in the most heartening manner since the proposals for Malaysia were enunciated. One of the most significant developments in these territories is the emergence of political leaders of high calibre with the growth of political parties. These are men of good sense and responsibility with high regards for the principles of democracy and freedom, whatever their views may be regarding Malaysia. We have no doubts that with the prospect of elections and political advancement in Malaysia, these trends will become even more intensified. Their relative inexperience in working a system of government within the framework of the Federation should not, in our view, be an insurmountable factor.

185. We are therefore convinced that the present leadership both in Sarawak and North Borneo is in a position to guide and lead their peoples not only towards responsible Government but also self-Government within Malaysia.

186. Indications have been given earlier to explain why the majority of the natives of North Borneo and Sarawak support the realisation of Malaysia as early as possible. It may be summarised here that they are motivated by the need to assure the security of the country as a whole from Communist subversion and to bring about accelerated progress in economic development, education,

as well as better opportunities for participation in the political and commercial life of the country. We give further consideration to the question of economic development later in this Chapter. The non-natives who support the idea of Malaysia advanced the argument that, in the context of the present world situation, Malaysia offers the best possible solution to their problems. They are fearful that the Communists would find more fruitful grounds for exploitation if they remain in their present status. They are also aware from the experience of the Federation of Malaya that Malaysia would not jeopardise their legitimate interests.

187. Both natives and non-natives who support Malaysia have stressed to us that Malaysia must come about as quickly as possible since feelings were already running high between groups opposing and those supporting Malaysia. They feared the danger of racial conflict if there was unnecessary delay regarding the establishment of Malaysia.

188. We are in complete sympathy with this feeling and share their fears about the possibility of racial strife. We are also convinced that any delay would expose these territories and their people to dangerously disruptive influences both internally and from outside. We feel most strongly therefore that the transfer of sovereignty must take place within the next 12 months.

189. The view of the Commission has been recorded in Section A above that the Federation of Malaya Constitution could be taken as a basis for the purpose of the creation of Malaysia. The Federation of Malaya is the result of the formation of the Malay Protected States and the Settlements of Penang and Malacca into an independent Federation of States within the Commonwealth. The Commission's recommendations that North Borneo and Sarawak should be admitted as constituent States of the new Federation would in our view serve as a major political advancement for these territories. They will then be the constituent parts of a sovereign nation which derives its independence from the status of its constituent parts.

190. We turn now to a consideration of the constitutional provisions for the Federation of Malaysia under the following categories:

(a) Name of the Federation

Our views are already indicated in Section A of this Chapter.

(b) Head of the Federation

Our views are already indicated in Section A of this Chapter.

(c) National and Official Language

Our views are already indicated in Section A of this Chapter.

(d) National Religion

Our views are already indicated in Section A of this Chapter.

(e) Citizenship

Our views are already indicated in Section A of this Chapter.

(f) Right to Secede

Our views are already indicated in Section A of this Chapter.

(g) Representation in Federal Parliament

Earlier Chapters have recorded the strong desire everywhere expressed

that the representation of the Borneo territories in the Government should take account not only of their populations but also of their size and potentialities. We strongly recommend that these should be met.

The combined population of the territories is some 17.5 per cent. of the population of the present Federation of Malaya and Singapore (14 per cent. of the combined population of Malaya and Singapore (the population of Brunei accounting for about a further 1 per cent. of the latter figure)). The combined area of the two territories is approximately one and a half times the size of Malaya (to which proportion the accession to the Federation of Singapore or Brunei would make very little difference).

We do not wish to recommend any precise formula for the allocation to the Borneo territories of seats in the Federal House of Representatives. We feel that this should be left to the Election Commission the membership of which should, we recommend, be increased by addition of a representative from the Borneo territories. We hope that in fixing their quota of seats the Election Commission will take account not only of the population of the territories but also of their area, their distance from the centre, and the difficulty of internal communications.

If, as we have recommended, the general request of the Borneo people is met that the people of Malaya and Singapore should not be allowed unfettered entry into their territories lest their way of life be unduly disturbed, we recommend that only those citizens who are normally resident in their territories should be allowed to vote and stand for elections in their respective territories for the Federal as well as the State Legislatures. Conversely, we consider that citizens who are normally resident in either of the Borneo territories should likewise be prevented from voting and standing for elections in any Federal or State elections outside their respective territories.

We recommend that, in the initial stage, and until a more complete electoral system is introduced, election to the Federal House of Representatives should be by the State Legislatures from among their own unofficial members.

We recommend that the number of unofficial members of the State Legislatures should be increased, in order to meet the additional duties which members will be called upon to undertake.

We recommend that representation of the Borneo territories in the Senate should also take account of other factors than population. We feel that it would be difficult to allot more than the normal two seats for election by each State Legislature, and we therefore recommend the addition of, say, eight (four to be appointed from each territory) to the number of members appointed by His Majesty the Yang di-Pertuan Agong from persons who have achieved distinction or who are representative of racial minorities.

(h) Special Position of Indigenous Races

As recorded in earlier Chapters, native witnesses have unanimously asked that the native races of Sarawak and North Borneo should be put

in a position analogous to the Malays in the Federation of Malaya. This demand springs from their feeling that they should be able to enjoy the concomitant privileges and opportunities which the Federal Constitution affords to the Malays, and that any treatment of them different from the Malays would be anomalous.

The great majority were emphatic that this position should be written into the Constitution. The Chinese, with equal unanimity, have opposed the suggestion that this privileged position should be written into the Constitution, though the great majority have agreed that in practice the native races should be given, at least for a period of years until they reach a more competitive level, the favoured treatment which they have in fact enjoyed under the colonial governments.

We have found this an exacting problem. We have given the matter our serious attention and we are agreed that the native races in the Borneo territories cannot be placed in a position any other than analogous to that of the Malays in the Constitution of the Federation of Malaya as both are generally regarded as the native groups in their respective countries. On this basis, it would be inconsistent and anomalous that the special position of the native races in Borneo should not likewise be written into the Constitution or once written that it should be subject to review separately from any review of the position of the Malays as a whole. This provision does not imply, of course, that the constitutional definition of a Malay in the present Malayan Constitution should apply to the native races of the Borneo territories.

We recognise that the subject would be more complicated in a new Federation than in the existing Federation of Malaya. In the new Federation it would not only be necessary to consider relations between the natives and the non-natives but also to hold a balance between the different native races in the Borneo territories, and at the same time between the native races as a whole in the Borneo territories and the Malays in Malaya.

This special position of the native races, more particularly as it relates to special treatment in the matter of permits and licences in trade and business, would need very careful handling. We recommend that an Advisory Board, including representatives of the principal races, should be appointed in each territory, to advise on its interpretation and administration.

We recommend that the provisions should apply to those citizens who are regarded as natives within the meaning of the Interpretation (Definition of Native) Ordinance of North Borneo (see Appendix D), and in the case of Sarawak those citizens who are regarded as natives within the meaning of Section 3 of the Interpretation Ordinance, 1953 (see Appendix D.) We recommend for consideration that the Ordinance in the two territories should be reviewed with the object of bringing them into line for this purpose and we suggest that it might be advantageous to widen slightly the application so as to include certain other categories.

It is noted that the provisions in the existing Federation Constitution apply to Federal subjects only unless State Legislatures decide to adopt similar provisions for State subjects. We recommend that the same distinction should apply in respect of the Borneo territories.

(i) *Constitutional Safeguards for Sarawak and North Borneo*

Our views are already indicated in Section A of this Chapter.

191. In our present proposal the executive authority in each State shall be the Head of the State appointed by His Majesty the Yang di-Pertuan Agong after consultation with the Chief Minister. In the exercise of his functions, except those relating to his discretionary powers, he shall act only in accordance with the advice of a Council of Ministers or Executive Council or Supreme Council, whatever the name may be, which is answerable to the State Legislature. The Head of State should be independent of any control from the Central authority, as are the present Rulers and Governors in the Federation of Malaya, with similar status and functions. There has been some suggestion that for North Borneo and Sarawak, the respective Head of each State should be elected. We think that it is sufficient if he owes his appointment indirectly to election, as is the case to-day in the Federation, where the Governor is appointed by His Majesty the Yang di-Pertuan Agong for a period of years, and the appointment may be terminable after a resolution by a two-thirds majority of the State Legislature concerned. Although we have some reservations regarding the appropriateness of the designation of Governor for the Head of the State in view of the possible confusion of his status and powers with that of the present Governor, we feel that any other designation, such as Yang di-Pertua Negeri or Yang di-Pertua Besar, may create an unfavourable impression that his position is not similar to that of the present Governor of Penang or Malacca.

192. In view of the present status of the two territories, some transitional arrangement will have to be devised for the appointment of the first Heads of these States on their admission as States within the Federation. It will not be possible to have a Chief Minister duly appointed without the existence of a Head of State. We have considered several formulae. On balance, however, the most attractive and practical arrangement to overcome the difficulty is for the first Head of State to be appointed by His Majesty the Yang di-Pertuan Agong, on the joint nomination of Her Majesty The Queen and His Majesty, for a period of not less than two years, during which the provision in the State Constitution regarding appointment to the office should not apply.

193. It has already been noted in paragraphs 22 and 122 that the native population who are in favour of Malaysia have insisted that the Head of the State should be a native, reflecting their concept of the return of the power of Government from Her Majesty's Government to themselves and their anxiety to utilise what they believe are the political powers of the office to correct the imbalance of economic power between themselves and the immigrant races. We have considered this demand carefully. It would appear to us that a realisation that the office of the Head of State carries with it only constitutional position and an assurance of other means to improve their economic position within the country would reconcile the natives to the idea that it should be possible for someone other than a native to be eligible for the office.

194. Each State would also have a Chief Minister appointed by the Head of the State from among members of the State Legislature who commands the confidence of the House. Regarding representation in the State Legislature, while we feel that elections should be introduced as soon as possible, we are of the opinion that the present electoral college system should be maintained in Sarawak and that this system should also be introduced into North Borneo so that there would be as smooth a transition as possible from the present position to a fully-elected Legislature. We have already recommended in paragraph 190 (g) above that the number of unofficial members in the State Legislature should be increased on Malaysia to meet the additional responsibilities. Until there is a fully-elected Legislature we recommend that the State Secretary, the State Legal Adviser and the State Financial Officer should be *ex officio* Members of both the State Legislature and the State Executive Council, or the Supreme Council as the case may be.

195. The State would have its own Constitution and the Government would enjoy autonomy in those matters provided for in the IXth Schedule of the Federal Constitution and in such other matters as may be specially retained in the particular State concerned arising from the recommendations made in the following paragraphs. While specific powers will be exercised by the Federation, the residual powers will remain with the State.

196. We now consider the Federal, State and current legislative responsibilities on the basis of the present Constitution of the Federation of Malaya. In order to realise a strong, stable and united Federation and to meet the special circumstances of the entry of the Borneo territories to form the new Federation of Malaysia, we feel that the Central Government should exercise authority in the matters enumerated in the IXth Schedule subject to the following reservations and comments.

(a) Immigration

Our views are already indicated in Section A of this Chapter.

(b) Shipping and Navigation: Ports and Harbours

We recognise the importance to the Borneo territories, particularly Sarawak, of shipping and navigation of the High Seas and in tidal and inland waters, and of ports and harbours. While we recommend that in general these matters should be in the Federal List, we feel that a case may be made for distinguishing between large port and harbour works on the one hand, and jetties and smaller installations relating to river transport on the other, which latter we consider would be more appropriate to the Concurrent List. The detailed arrangements for this may well be an appropriate subject for examination by an expert Working Party.

(c) Fisheries (Maritime and Estuarine Fishing and Fisheries Excluding Turtles)

We are agreed that fisheries (as defined above) should be in the Federal List. We would emphasise, however, that nothing should be done to prejudice the exclusive rights enjoyed at present by the fishermen from the Borneo territories in their traditional fishing grounds.

(d) Education

We are agreed that education should be a Federal matter. There is need, however, for a detailed examination of the problems connected with the integration of the educational systems and policies of the two territories and of the Federation of Malaya, for which we recommend the setting of a Working Party (Education). Details of this Working Party are considered in paragraph 230 below.

197. We have already expressed the view that Sarawak and North Borneo should be admitted as States as early as possible within the next 12 months. We believe that a mere blue-print however clear and firm the decision may be to put it into effect in full at some future date would only provide the opportunity for disruptive elements, both internally and from outside, to render the scheme abortive. It will not be appropriate furthermore for the Central Government to assume responsibility for any matter concerning the territories until a transfer of sovereignty has been made.

198. We have made certain observations and recommendations regarding State, Federal and concurrent responsibilities, on the basis of the present Constitution of the Federation of Malaya. On the basis of these separate responsibilities it is essential that with the transfer of sovereignty, the legislative and executive authority in Federal matters should also be simultaneously transferred.

199. We think that such a step is vital for the purpose of creating a complete, strong and single-minded Federation. A graduated constitutional and legal transfer of powers would only provide an opportunity for protracted delays as a result either of reluctance on the part of the State Government to transfer some of its powers or of the Central Government to assume the necessary responsibilities. The door will then be left open for destructive elements to impede the creation of a strong central authority by exploiting differences among various races and creating frictions between the Central Government and the States.

200. It would be an extraordinarily cumbersome process if both the State Government and the Central Government have to refer to their respective legislatures each time that a transfer of responsibility is to be effected. In any case, the subjects which are of immediate, everyday concern to the people, such as land, adat, agriculture, forestry, local government and other services of a local character, all remain in the State list.

201. The majority of the people in Borneo have expressed their desire for Malaysia and if they are not to be frustrated and disillusioned regarding those matters on which they have placed such emphasis, for example, progressive economic development, increased attention to education, upliftment of rural standard of living, and so on, the Central Government should from the outset be made to feel responsible for these matters and should be provided with the opportunity and the means to meet these rising expectations. This is particularly important in the immediate years after Malaysia. Such an arrangement would also avoid the difficult problem of having to work out some provisional devices to ensure proper and adequate representation and financial contribution from these States commensurate with each transfer of power as it takes place.

We are convinced, therefore, on the evidence of our findings and of the hopes and expectations which the Malaysia proposals have aroused that any other scheme would not meet with the wishes of the people.

202. We are of course aware of the possible dangers of a complete breakdown in the machinery of administration if immediate and precipitous steps are taken to transfer the Federal functions to the Central authority simultaneously with the legal transfer of powers. It is most important that there should be a transitional period during which arrangements for the transfer of functions should be worked out carefully and gradually. We therefore strongly recommend that the Central Government having been legally and Constitutionally vested with the Federal powers simultaneously with the transfer of sovereignty, should immediately delegate to the Chief Minister of the respective States the exercise of as many executive functions as may be necessary for the maintenance of good administration. Whether by separate legislation or by using the relevant Articles in the Constitution, provision should be made to enable the respective State authorities to execute certain functions for the administration of specified Federal laws.

203. We would also most emphatically urge that there should be a general continuance of existing State laws which would become Federal laws on Federal matters after Malaysia, until repealed, amended or modified by the Central Authority, notwithstanding any conflict with the provisions of the Constitution. Thus, during the transitional period, nothing in the administration would change for purposes of ordinary business. The same laws would continue to apply and the same officials would continue to carry out the executive functions.

204. At least three subjects however must be excluded from such an arrangement namely, External Affairs, Defence and Internal Security. These are subjects of great importance in order to ensure a strong Central Government.

205. These transitional arrangements should continue for as long as it is considered necessary in order to avoid any breakdown in the administrative machinery. We recommend therefore that a Joint Working Party (Administration) for each of the States should be appointed, if possible, before the entry of those States into the Federation, comprising an equal number of officials nominated by the State Government concerned and the Central Government respectively, and a Chairman to be agreed upon by the two Governments, for the purpose of examining and making recommendations on the manner and timing of the integration into the Federal system of the laws and practices relating to those subjects included in the Federal List. This Joint Working Party for each State should not be concerned with financial, fiscal and economic subjects or with the integration of educational policies or with those matters relating to the judicial and legal departments since these merit separate attention.

206. In view of the remoteness of the Borneo territories from the Federal Centre we recommend that the Federal posts and services in these territories should be regionalised. When necessary and possible each Federal department should have a regional head in Borneo with sufficient authority to deal with local problems. We would advise that the titles of heads of departments should not be changed immediately and that suitable titles for these regional heads should be coined. It must be clear, however, that the control of the

Federal Public Service throughout the Federation of Malaysia should remain with the appropriate Federal Service Commission which will have jurisdiction over all officers in services which become Federal services on Malaysia day. We would strongly urge that the appropriate Federal Service Commission should take steps to enable the exercise of any of its functions in the Borneo region by a Borneo officer of the Federal service or a Board composed of a representative of the Commission concerned and some Borneo officers of the service to which its jurisdiction extends. Internal control recruitment and promotion of Federal officers within the region should be carried out by such a Board.

207. We have dealt with the question of the transfer of powers and the need for the gradual transfer of functions from the State Government to the Central Government in Federal matters. The relationship between State Governments and a Central Government often give rise to various difficulties which require patient and careful adjustments. We have no reason to expect that they will be fewer or less difficult in this instance, but we are confident that on the basis of our recommendations and with a reasonable approach by all concerned these difficulties can in time be overcome. We would like however to make one or two observations which might be helpful not only for the purpose of meeting immediate requirements but also as a long-term and permanent arrangement.

208. As a result of the transfer of powers, certain officers connected with the subjects transferred to the Federal List will be regarded as Federal officers and their posts would likewise become Federal posts. This implies that their scheme of service and the regulations governing their employment will be subject to Federal arrangements. We feel, however, that an officer so affected should not be made transferable to any other part of the Federation without his consent nor should his terms and conditions of service be affected unless he decides to opt for the terms of the general Federal service. His promotion prospects within the area of his original service should likewise not be prejudiced as a result of Malaysia.

209. Although it should, of course, be the ultimate aim that there should be uniformity in terms and conditions of service, we recognise that to subject the Federal posts in Sarawak and North Borneo to any general Federal arrangements immediately on Malaysia would present certain problems. For example, certain conditions regarding the recruitment of officers to the Federal Public Service for the existing Federation, such as the application of a quota system, may not be appropriate in the case of the Federal Public Service in Borneo. We think, therefore, that subject to any recommendation of the Advisory Board regarding the special position of the indigenous people which we recommended above (paragraph 190(h)) and of the Joint Working Party (Administration), regarding the existing qualifications for appointment and conditions of service of officers who would become Federal officers in Borneo territories, the present practice should continue.

210. In the case of the uniformed services, we think that nothing should be done until after a suitable period to standardise their uniforms with the rest of the Federation and that in any case this should only be done if considered absolutely necessary. We regard this as particularly important in relation to the Police Force.

Federal Public Service throughout the Federation of Malaysia should remain with the appropriate Federal Service Commission which will have jurisdiction over all officers in services which become Federal services on Malaysia day. We would strongly urge that the appropriate Federal Service Commission should take steps to enable the exercise of any of its functions in the Borneo region by a Borneo officer of the Federal service or a Board composed of a representative of the Commission concerned and some Borneo officers of the service to which its jurisdiction extends. Internal control recruitment and promotion of Federal officers within the region should be carried out by such a Board.

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211. Occasions may arise, perhaps not during the early stages but at some future date, when it would be possible for Federal officers to be transferred from one State to another either within the Borneo region or throughout Malaysia. We would like to make an observation here that in such a situation the receiving State Government should be allowed to request for confidential reports of the officers concerned before deciding whether or not to accept them. We are aware that there is a convention of consultation in the Federation of Malaya between the Federal and State Governments. This should likewise be extended to the new States of Malaysia.

212. We have not dealt with the position of the State Civil Service because this does not raise new issues. We would, however, venture to suggest that the Borneo States should not find it too difficult to co-operate with each other with regard to the sharing of employment of a State officer, *e.g.*, Agricultural Officer. The principle we advocate is that wherever necessary such a practice may be adopted and the cost of employing such officers borne on a proportionate basis.

213. We would now like to turn our attention to the legal and judicial services, for which we feel that regional arrangements should also be applied. There should be one Supreme Court for the Federation of Malaysia with unlimited jurisdiction, appellate and original, throughout the Federation and in cases between the constituent States and between any one of the constituent States and the Central Government. There should be a High Court in the Borneo region with unlimited original jurisdiction in all matters arising in the area except those reserved for the Supreme Court. The High Court should also be a Court of Appeal. The domicile of the Supreme Court should be in the Federal capital but we think that its meeting elsewhere in the Federation whenever convenient would be well received. We also feel that it should be the aim to establish a uniform system of Magistrate Courts of different grades.

214. The legal and judicial services should come under the jurisdiction of a Commission, with the Chief Justice of Malaysia as the Chairman. We do not think that the Commission should deal with the appointment of Judges, who should be appointed in accordance with the provisions of the Constitution of the Federation. Posting to individual territories, subject to our observations in paragraph 211 above, should be made by the Chief Justice of Malaysia in the case of judicial officers and by the Federal Attorney-General in the case of legal officers.

215. Obviously we are not in a position nor are we competent to go further into the details of the arrangements which may be necessary. But we have ventured to express our views because of our awareness of the need for paying special attention to these problems. We would therefore recommend that a Joint Working Party (Judicial) be set up with representatives of the two Borneo territories on the one hand and representatives of the Central Government on the other, equal in number and a Chairman to be agreed upon by the three Governments. We cannot at the same time exclude the possibility that Brunei may be interested in this Working Party. It would be its task to examine and recommend the manner and timing of the integration of the legal and judicial services into the Federal system. We would also urge that, subject to the recommendations of the Advisory Board on the special position of the indigenous **people** (paragraph 190(h)) and of this Joint Working Party, the

existing practice regarding recruitment, terms and conditions of service should continue.

216. In view of our recommendation that Sarawak and North Borneo should be admitted as States in the new Federation (although with certain variations regarding their autonomy as against the other States), it follows that on financial matters the new States would be subject to the same arrangements as are applicable at present to the existing 11 States. It cannot be over-emphasised that in order that the Central Government should remain strong and able to bear its responsibilities, it should be vested with the necessary powers which can be applied effectively and promptly to ensure the maintenance of a sound and stable economy. However, in view of the novel situation in which these Borneo territories would find themselves as States in Malaysia, we think that certain unequivocal assurances and safeguards must be given by the Central Government. While it is accepted that those services which are transferred to the Central Authority would cease to be financed by the State Government, although administered by it during the transitional period, there must inevitably arise a feeling that much of the revenue earned at present by the State would be retained by the central Treasury.

217. State Governments are assigned revenue proceeds as specified in Part III of the Xth Schedule of the Constitution. These sources may be inadequate to meet the expenditure of the various State services which the Borneo territories would have to maintain and which they want to improve. In view of their remoteness from the Federal capital, these territories may feel that their requirements would not be fully understood and sympathetically considered. We strongly urge therefore that a formula should be worked out whereby the new States would be assured of an annual grant such that the total revenue of the State after the addition of this grant would generally meet its total expenditure. The formula so devised should be flexible enough to take account not only of the need to maintain existing services but also of changing situations and thereby ensure provision for expansion and development in time to come. Some arrangement should also be made which could assure the Borneo territories that such of their establishment requirements as may need the concurrence or assistance of the Central Authority would be met as expeditiously as possible.

218. We would also like to consider the question of the power of the State to borrow. We think that the present arrangement existing in the Federation of Malaya is adequate. In general terms, the practice at present is that the State Governments may borrow with the approval of the Central Government. We are of the opinion that there should be some co-ordination of borrowing plans and efforts by the constituent States of the Federation. Such co-ordination will avoid competition between States in the loan markets in regard to terms and at the same time enable the Central Government to have overall responsibility so that it will not unwittingly have the responsibility of rescuing a State which may be in difficulty at a later stage with regard to repayment of its loans.

219. We have advocated in paragraph 203 that the existing State laws of **North Borneo and Sarawak** should be inherited by the **Central Government** and regarded as Federal laws during the transitional period. It should be clearly understood however that during this period existing Federal laws and practices

relating to taxation, trade and tariffs will not apply to these States. The exercise of functions in these fields may similarly be delegated to the Chief Minister. Procedures should be worked out whereby common tariffs and changes in tax structure would be introduced by gradual stages allowing for adjustments of the various differences in order to avoid any difficulties and undesirable consequences during the transitional process.

220. We therefore recommend that a Joint Working Party (Economic) should be set up for each of the new States with the task of examining in detail and of making recommendations as soon as possible regarding the timing and manner of the integration into the Federal system of the laws and practices relating to taxation, trade, tariff and other economic and financial matters in the States concerned. We suggest that the Joint Working Party for each State should consist of three members nominated by the Central Government and three members by the State Government concerned and a Chairman to be agreed upon by both the Central and the State Governments.

221. Great expectations have been engendered among the rural populations by the publicity given to rural development in Malaya, through sponsored visits to Malaya and otherwise. By the great majority of the population, who are little concerned with the developments of world politics, Malaysia will be judged by whether or not it delivers the goods in the form of rural improvements, schools, and medical and other social services. It is essential that, from its inception, Malaysia should offer, and be seen to offer, definite advances in these fields. It will be no less important to step up rapidly training schemes for young men and women for professional, technical and administrative posts, with the objective that the standard of technical skills may be raised and a firm basis provided for accelerated economic growth.

222. We recognise that Districts, Residencies and Divisions, and the States concerned in the Borneo territories should have the power to decide in the initial level the aims and the best methods of development in accordance with local needs within the framework of the national goal. We also recognise that it should be the responsibility of the Central Authority to formulate and implement an over-all and integrated development programme in the interest of national unity, utilising such resources as are available in the most efficient way. Such a programme may sometimes be beyond the resources of a single State and may cut right across boundaries of individual States. However, we are agreed that the Central Authority should not be allowed a completely free hand in this matter, which might give rise to frictions.

223. We therefore do not envisage for the Borneo territories, at least during the early stages, centralised planning in the strictest sense of the word. We would wish to see much of the present **organisational** pattern in North Borneo and Sarawak continue. We would also wish to see these local plans co-ordinated and collated in a Development Plan for Malaysia enjoying advice and assistance in finance as well as technical experience from the Central Authority.

224. We have stressed the need for co-ordination because we firmly believe that the co-ordination of the development programme of the States is necessary to avoid any inconsistency and competition which may lead to wasteful use of resources. Some States should not lag behind others in economic and social

development and we urge that the Central Authority should see to it that there will be an equalising of opportunities for development in all States, particularly in North Borneo and Sarawak, and that they will be well provided with the necessary resources and technical knowledge.

225. In the field of industrial development, we are of the opinion that increased opportunities should also be given to these new territories of Malaysia and that every effort should be made to reduce any effect which the free play of economic forces may have of widening the gap between these States and the other more industrially advanced States of Malaysia. In this respect we would strongly recommend that there should be joint consultation between the Central Authority and the States concerned on industrial location to ensure that development will be well co-ordinated and distributed. Such co-ordination, we feel, is also vital in the efforts to attract foreign investments.

226. We are pleased to note in North Borneo and Sarawak that valuable help is being given in many fields by other Commonwealth Governments, by the Colonial Development Corporation and by such international organisations as the United Nations Specialised Agencies and the Colombo Plan. We also understand that there are non-Governmental bodies which are involved in providing technical assistance in these territories. We are most anxious that the flow of such assistance should not in any way be reduced by reason of the change of status of the two territories. We hope that the independent status of these States within Malaysia would facilitate a greater measure of assistance from Governmental and non-Governmental sources alike, and that the Central Government would see to it that the assistance and co-operation given would be channelled in their direction.

227. In the light of the objectives outlined above, to which we attach the greatest importance, we recommend that the Joint Working Party (Economic) should examine the subject in detail and devise appropriate measures by which they may be realised.

228. Before we conclude, we would wish to stress the importance of the contributions which British sources have made to the development of these territories and the necessity for the continuance of such financial and technical assistance. We would urge most strongly therefore that Her Majesty's Government and the Federation Government should arrive at some arrangement whereby North Borneo and Sarawak would continue to benefit from these sources. This may well be a subject which could appropriately be examined by the Working Party (Economic) referred to above.

229. We encountered strong feelings among the people of the Borneo territories that they should be given priority in education in Malaysia, primary, secondary and high level, and that the aim should be a parity of educational facilities and opportunities for them with the rest of the Federation. There was also a strong feeling that the present policy in education in each territory relating to the teaching of English and English as the medium of instruction should be retained.

230. We are agreed that education should be a Federal matter. This is particularly important in view of the progress in education which the Borneo territories expect with their entry into Malaysia. We think therefore that special

attention must be given to the question of Federal scholarships and other educational training schemes both at home and abroad for the benefit of the people of these territories. Care should also be taken to ensure that the dialects of the indigenous people are preserved and that measures are introduced to enable the teachings of these dialects. At the same time we are anxious that due heed must be paid to the wishes of the people of these territories regarding the policies to be adopted. These many and complex problems would require close and detailed examination and we recommend therefore that a Joint Working Party (Education) should be formed for each of the territories to examine and make recommendations on the problems of integration of the educational systems and policies. Each Joint Working Party should be comprised of the representatives of the State Government and the Central Government equal in number and a Chairman to be agreed by both Governments. The problems connected with the administrative arrangements regarding recruitment, postings, terms and conditions of officers in the Educational Service should perhaps be left for the consideration of the Joint Working Party (Administration)

231. We would like to make some observations regarding the position of the present expatriate officials, including technical and professional officers in these territories after Malaysia. We have noted the high regard in which these officers are held and the unanimous expression of views that they should be encouraged to stay until they can be replaced by the local people. We are aware of the dangers that the administrative machinery and the various plans for development would suffer very considerably with the immediate departure of any substantial number of these officers. While we see no objection to the recruitment of officers from overseas to replace any vacancies which may arise out of the retirement of the present expatriate officers, we are reluctant to advocate the secondment of officers from Malaya or Singapore, unless there is a very definite request from the Governments of these territories.

232. In the course of the Commission's interviews, we have been encouraged by the responsible and reasonable attitude which expatriate members of the Public Services in Borneo have taken towards the Malaysia proposals. Their concern with any change in the terms and conditions of their service arising from the transfer of sovereignty with Malaysia is understandable and we note with satisfaction their willingness to consider serving in these territories provided satisfactory terms can be agreed upon, irrespective of the constitutional arrangements which may be devised.

233. In order to meet the concern of the present members of the Civil Service about their future we have attempted to provide for interim arrangement and for regionalisation. However, we recognise that we are not in a position to go further into the ways and means about terms and conditions which would retain the services of these officers. We would therefore strongly urge that Her Majesty's Government and the Federation Government should direct their attention specially to this problem, with a view to encouraging the officers to remain in service in Borneo.

234. These are characteristics of the new Federation and of its constituent States, in particular, Sarawak and North Borneo, which we recommend. Fully mindful of the responsibilities placed upon us and in the light of our experience

both before and after independence in our own country, we are confident that Sarawak and North Borneo are now ready to assume their new responsibilities and take their places as States within the Federation of Malaysia. We are equally convinced that the political and administrative arrangements which we advocate for these territories are fair to all concerned and the most practicable in existing circumstances.

**Section D.—Summary of Recommendations in Sections B and C,
and Comments, by the Chairman**

235. In Section A of this Chapter recommendations have been made on certain general matters. On some of them there is unanimity, and on others there is some divergence of opinion which can only be resolved by Governments.

236. For reasons explained in paragraph 145 it has been necessary to set out other proposals separately, in Sections B and C above respectively. Owing to the different views taken in the Commission about the phasing of the creation of Malaysia, many of these proposals are seen by the British members of the Commission as objectives which should be progressively worked towards, and where possible introduced, during a transitional period, whereas they are seen by the Malayan members as recommendations which should start to take effect immediately on the creation of Malaysia. Subject to this qualification, there is unanimity or near-unanimity in the Commission on most of these recommendations, which I summarise below:

(a) On five matters, to which great importance was attached in the bulk of evidence submitted, the recommendations (though to avoid unnecessary duplication they do not always appear in detail in both Sections B and C above) were in fact drafted and agreed, subject to the qualifications stated, by the Commission as a whole:

(i) *Representation in Federal Parliament*

Representation of the Borneo territories in the Federal Parliament should take account not only of their populations but also of their size and potentialities.

(ii) *Special Position of the Indigenous Races*

The native races in the Borneo territories should be placed in a position analogous to that of the Malays in the Constitution of the Federation of Malaya. An Advisory Board should be set up, including representatives of the principal races, to advise on the interpretation and administration of these provisions. The Malayan members feel that the provisions for the special position of indigenous races should not be subject to review separately from any review of the position of the Malays as a whole. The British members, with whom I agree, feel that the provisions should be reviewed not later than 10 years after they come into force. One British member is opposed to any constitutional provision in this matter.

(iii) *Development*

Special and urgent attention should be given to development in the fields of rural improvement, education, medical and other

social services, and training of candidates for administrative and technical posts. The Malayan members see the proposals on development as an integral part of their whole approach. The British members concur generally in these proposals and suggest that, if their recommendation for a transitional period is accepted, development boards should be set up at the outset.

(iv) *Land, Agriculture and Forestry, and Native Customs and Usage* should be under the sole control of the State Government.

(v) At least in the early years, there should be no change in *administrative arrangements in so far as they affect the ordinary lives of the people*.

(b) On a number of other matters dealt with in Sections B and C there was full discussion in the Commission and general agreement, subject only to the method of approach and to certain minor divergences.

(i) *The Judiciary*

A separate High Court should be maintained in the Borneo territories and a Federal Supreme Court should have appellate jurisdiction throughout the Federation. A number of more specific recommendations are made on this subject by the Malayan members: the British members have preferred to leave most of the details to the proposed Working Party.

(ii) *Head of State*

Somewhat divergent recommendations are made, reflecting the different approach on the question of phasing. It is unanimously recommended that in the first instance the appointment should be made by His Majesty the Yang di-Pertuan Agong on the joint nomination of Her Majesty The Queen and His Majesty.

(iii) *Public Services*

Near-unanimous recommendations are made, with some divergences reflecting the different approach on the question of phasing.

(iv) *Federal Constitution*

The *division* in the New Constitution between Federal, State and Concurrent lists should broadly follow the lines of the existing Constitution of the Federation of Malaya. Amendments should be made to the list in the case of Shipping and Navigation, and Fisheries. The British members, with whom I agree, advocate that special consideration should be given to the question of Labour and Social Security, and that the provision regarding Welfare of Aborigines should not apply to the Borneo territories.

(v) *Finance, Tariffs and Trade*

These matters should be on the Federal list, but integration of Federal and State practice should take place gradually and after careful study by a Working Party. Detailed arrangements

are proposed by the Malayan members, with which the British members generally concur.

(vi) *Education*

Education should be on the Federal list, but integration of Federal and State practice should take place gradually after careful study by a Working Party. The British members with whom I agree, stress the importance of maintaining existing policies regarding the use of English as a medium of instruction.

(vii) *Regionalisation*

The Federal services in the Borneo territories should be regionalised and officers should be appointed in the territories with sufficient authority to deal with local matters. I add a personal recommendation that, when expatriate officers are no longer needed for these posts, they should normally be filled by officers from the Borneo territories.

237. The British and Malayan members have both concluded that, on the lines of their respective approaches, a Federation of Malaysia is an attractive and workable project and is in the best interests of the Borneo territories. On the assumption that Singapore also joins in the Federation, I strongly endorse this view, adding that the inclusion of the Borneo territories would also be to the advantage of the other participants in the Federation. It is a necessary condition that, from the outset, Malaysia should be regarded by all concerned as an association of partners, combining in the common interest to create a new nation but retaining their own individualities. If any idea were to take root that Malaysia would involve a "take-over" of the Borneo territories by the Federation of Malaya and the submersion of the individualities of North Borneo and Sarawak, Malaysia would not, in my judgment, be generally acceptable or successful. I recommend that, in forthcoming negotiations, Governments should pay close attention to this point, both in its psychological and in its practical aspects.

238. The principal difference of approach between the British and Malayan members of the Commission, as set out in Sections B and C above, relates to the phasing of arrangements for the new Federation. I consider that a transitional period is most desirable. I agree generally with the arguments and recommendations set out in Section B, though I feel that the precise constitutional and other arrangements to govern a transitional period, and in particular the arrangements relating to Internal Security, must be matters for discussion between Governments. I urge most strongly that any arrangements made for the early years after Federation should provide for continuity of administration in the Borneo territories and should not result in any weakening, either real or apparent, of authority in Kuching and Jesselton.

239. We were not required by our Terms of Reference to discuss these matters with the Government of the Federation of Malaya or to consider them in relation to the general situation in the area. I therefore recommend that the Governments concerned should discuss these matters as soon as possible in the light of the findings in this report and of the views expressed in the Report about

the special problems of the years immediately following Federation. I regard it as vital that Governments should reach an early decision of principle, subject to debate in, and approval by, the legislative chambers in North Borneo and Sarawak.

240. I strongly endorse the recommendations that consultative machinery, including joint working parties, should be set up as soon as possible after a decision is taken to proceed with the Malaysia project, in order to work out the details of integration of the Borneo territories into a new Federation.

241. Finally, I underline what has been said in earlier Chapters about the gratifying way in which the peoples of the territories came forward to make their views about Malaysia known to the Commission. Apart from a few groups in Sarawak which took a somewhat aggressive attitude and were, as could be clearly recognised, under Communist influence, groups of all races and of every shade of opinion expressed their support, their opposition, or their doubts in a reasoned, thoughtful and constructive way.

CHAPTER V

OTHER MATTERS

242. We should not regard Federation of the Borneo territories as an alternative which would offer prospects as attractive as Malaysia. Nevertheless we should see every advantage in closer association within a Malaysian Federation between the Borneo territories. Progress is already being made in several fields, including Customs and tariffs. Closer association will be an advantage in itself and will also give useful experience for alignment of policy and practice in the wider Federation.

243. We recognise that great efforts have already been made in the short time available to explain the Malaysia proposals to the public. When this Report is published and when Governments have taken decisions of principle, these efforts will need to be redoubled. We suggest that every possible step should be taken to spread information as widely as possible through Press and Radio, and, most important of all, that extensive touring should be undertaken by Government officers in the native areas which they know best, at the risk of some interruption for a few months to the normal work of Government.

244. We should not wish to conclude this report without making an appeal to the leaders of public and political life in North Borneo and Sarawak, very many of whom we had the pleasure of meeting during our tour. These have for many years been countries blessed with great harmony in racial and personal relations. In recent months, partly because of the natural development of political parties, but more particularly because of the controversy arising from the somewhat sudden introduction of the Malaysia proposals, this harmony has been disturbed and there are unwelcome signs of division on racial lines, going so far as to prejudice long-standing personal friendships. Whatever decision may be taken about Malaysia, Sarawak and North Borneo cannot afford to allow these divisions to continue or to widen. We suggest to the leaders of public and political life that they could make no greater contribution to the future of the territories than by joining in a determination to arrest these tendencies and to re-establish the racial harmony which has distinguished the territories for so long.

CHAPTER VI

THANKS AND ACKNOWLEDGMENTS

245. We have referred in earlier chapters to the arrangements made for us by the Governments of North Borneo and Sarawak. We should however like to add our personal thanks to the Governors and to the officers of the two Governments both in the Secretariats and in the several Residencies and Divisions, from whom we received great kindness and invaluable help.

246. In particular we record our gratitude to Mr. D. C. Walker, for his work in connexion with our Sarawak tour, to Mr. Yao Ping Hua, who accompanied us on most of our tour in Sarawak and helped us in very many ways, and to Mr. H. George, our liaison officer in North Borneo, whose arrangements were a model of forethought and efficiency. Our thanks are also due to our interpreters, and we should like to mention especially, in addition to Mr. Yao, Mr. Abdul Karim, our principal Malay interpreter in Sarawak, Mr. Ho Yu Lin, our principal Chinese interpreter in North Borneo, and Miss Raiting B.T.E. Sunggak, a very talented interpreter in Malay and Murut.

247. We also express our appreciation of the services of Mr. J. C. McPetrie, C.M.G., O.B.E., who advised us on a number of legal and constitutional points, of our shorthand-typists, Miss Patrick and Mrs. Pugh in Borneo and Miss Kamberian, who worked at high pressure on the preparation of the report, and Miss Hazell in England, and of many members of the staff of the Colonial Office for help in various ways.

248. Finally, we offer our very sincere thanks to our Secretary, Mr. I. H. Harris, whose devoted services and tireless efficiency, often in difficult and unusual circumstances, have won our unanimous admiration.

COBBOLD

A. ABELL

WONG POW NEE

D. C. WATHERSTON

GHAZALI SHAFIE

I. H. HARRIS
Secretary.

Knebworth House,
21st June, 1962.

APPENDIX A

COMMISSION'S ITINERARY

	Travelling	Hearings held at
<i>February</i>		
19	Singapore-Kuching(air)	—
20	—	Kuching
21	—	Kuching
22	Kuching-Bau-Kuching (road) ...	(a) Bau (b) Kuching
23	Kuching-Sematan-Kuching (air)...	Sematan
24	Kuching-Serian-Kuching (road)	Serian
Sunday 25	Kuching-Jesselton (air)	—
26	—	Jesselton
27	—	Jesselton
28	Jesselton-Sandakan (air)	Jesselton
<i>March</i>		
1	—	Sandakan
2	—	Sandakan
3	Sandakan-Jesselton(air)	—
Sunday 4	—	—
5	—	Jesselton
6	Jesselton-Tuaran-Jesselton (road) ...	Tuaran
8	Hari-Raya public holiday	—
9	Jesselton-Lawas-Limbang(air and rivet)	Lawas Limbang
10	—	—
Sunday 11	Limbang-Brunei-Miri (river and air) ...	—
12	—	Miri
13	(Commission divides)	
	(1) Miri-Long Akah (air)	(1) Long Akah
	(2) Miri-Marudi-Miri (air)	(2) Marudi
14	(1) Long Akah-Marudi-Miri (outboard and air)	(1) —
	(2) Miri-Bintulu-Sibu (air)	(2) Bintulu
15	(1) Miri-Mukah-Sibu (air)	(1) Mukah
	(2) —	(2) —
16	—	Sibu
17	Sibu-Kanowit (launch)	Sibu
Sunday 18	Kanowit-Kapit (launch)	—
19	—	Kapit
20	Kapit-Kanowit (launch)	Kanowit
21	Kanowit-Sibu (launch)	Kanowit
22	Sibu-Binatang-Sarikei (launch) ...	Binatang
23	Sarikei-Saratok (launch)	Sarikei
24	Saratok-Kabong (launch) ...	Saratok

	Travelling	Hearings held at
Sunday 25	—	—
26	Kabong-Tanjong Assam-Betong-Simanggang (launch, outboard, jeep track, and launch)	Betong
27	—	Simanggang
28	Simanggang-Engkilili-Simanggang (outboard and launch)	Engkilili
29	Simanggang-Kuching (air)	Simanggang
30	—	—
31	—	Kuching
April		
Sunday 1	—	—
2	Kuching-Jesselton (air)	—
3	Jesselton-Papar-Beaufort (rail)	(Commission divides) (1) Papar (2) Beaufort
April		
4	Beaufort-Tenom (rail)	Beaufort
5	Tenom-Keningau (road)	Tenom
6	—	Keningau
7	Keningau-Jesselton (air)	Keningau
Sunday 8	—	—
9	Jesselton-Tawau (air)	Tawau
10	—	—
11	Tawau-Lahad Datu-Sandakan (air)	(Commission divides) (1) Tawau (2) Lahad Datu
12	(Commission divides) (1) Sandakan-Labuk River-Sandakanf (launch and outboard) (2) Sandakan-Kinabatangan River-Sandakan (outboard and launch)	(1) Kolapis and Kg. Tungud (2) Saukau
13	Sandakan-(Ranau)-Jesselton (air)	—
14	Jesselton-Kota Belud-Jesselton (air)	Kota Belud
Sunday 15	—	Jesselton (Ranau representatives)
16	Jesselton-Kudat-Jesselton (air)	Kudat
17	(Commission divides) (1) Jesselton-Singapore (air) (2) Jesselton-Labuan (air)	(1) Jesselton (2) Labuan
18	(2) Labuan-Singapore (air)	—

APPENDIX B
CENSUS ABSTRACT*

Table I.—TOTAL POPULATION BY COMMUNITY AND SUB-GROUP

NORTH BORNEO		SARAWAK	
All communities ...	454,421	All communities ...	744,529
<i>Dusun</i>	145,229	Malay	129,300
<i>Murut</i>	22,138	Melanau	44,661
Bajau	59,710	Sea <i>Dayak</i>	237,741
Bajau... ..	55,779	<i>Land Dayak</i>	57,619
Ilanun	3,931	Other indigenous ...	37,931
Other indigenous ...	79,421	Bisayah	2,803
Brunei	23,450	Kedayan	7,207
Kedayan	7,871	Kayan	7,899
Orang Sunge	15,112	Kenyah	8,093
Bisayah	10,053	Kelabit	2,040
Sulu	11,080	Murut	5,214
Tidong	4,417	Punan	4,669
Sino-Native	7,438	Other indigenous ...	6
Chinese	104,542	Chinese	229,154
Hakka	57,338	Cantonese	17,432
Cantonese	15,251	Foochow	70,125
Hokkien	11,924	Hakka	70,221
Tsichow	5,991	Henghua	8,278
Hailam (Hainanese) ...	5,270	Hokkien	28,304
Other Chinese	8,768	Hailam (Hainanese) ...	5,717
European	1,896	Tsichow	21,952
European	1,124	Other Chinese	7,125
Eurasian	772	European	1,631
Others	41,485	European	1,093
Native of Sarawak ...	1,911	Eurasian	538
Malay	1,645	Others	6,492
Cocos Islander	1,909	Indian, Pakistani,	
Indonesian	24,784	Ceylonese	2,355
Indian, Pakistani,		Indonesian	3,241
Ceylonese	3,180	Others	896
Natives of Philippines	7,473		
Others	583		

* Abstracted from "Report on the Census of Population taken on 10th August, 1960" (North Borneo), and "Report on the Census of Population taken on 15th June, 1960" (Sarawak).

Table 2.—PERCENTAGE INCREASE IN POPULATION, 1951-60

NORTH BORNEO				SARAWAK			
				<i>Per cent. increase</i>			
All communities			36.0	All communities			36.3
Dusun			23.2	Malay			32.7
Murut			18.2	Melanau			25.6
Bajau			33.5	Sea Dayak			24.9
Other indigenous			28.7	Land Dayak			36.6
Chinese			40.6	Other indigenous			27.0
				Chinese			57.9

Table 3.—TOTAL POPULATION BY AGE

	NORTH BORNEO	SARAWAK
Total population	454,421	744,529
Total under 15	197,826	331,096
Total under 20	231,518	397,576

Table 4.—RELIGIOUS PERSUASIONS OF THE POPULATION AS RECORDED AT THE CENSUS OF 1960

	NORTH BORNEO		SARAWAK	
	Number	Percentage of total population	Number	Percentage of total population
Christian	75,247	16.6	117,755	15.8
Muslim	172,324	37.9	174,123	23.4
Other	206,850	45.5	452,651	60.8
Total	454,421	100.0	744,529	100.0

Table 5.—LITERACY OF POPULATION AGED 10 YEARS AND OVER

A.—North Borneo.

	Literate	Illiterate
Total population aged 10 years and over	72,919	227,739
Dusuns aged 10 years and over	9,671	86,545
Muruts aged 10 years and over	1,504	14,452
Bajaus aged 10 years and over	2,810	31,978
Other indigenous aged 10 years and over	8,819	41,443
Chinese aged 10 years and over	38,158	30,691
Others (including Europeans) aged 10 years and over ...	11,957	19,630

B.—Sarawak

	Literate	Illiterate
Total population aged 10 years and over	124,420	367,903
Malays aged 10 years and over	20,989	64,514
Melanaus aged 10 years and over	5,471	25,186
Sea Dayaks aged 10 years and over	11,549	151,344
Land Dayaks aged 10 years and over	3,883	32,858
Other indigenous aged 10 years and over	2,827	22,684
Chinese aged 10 years and over	77,198	68,349
Others (including Europeans) aged 10 years and over ...	2,503	2,968

* Defined for the purposes of the Census as ability to read and write a letter.

Table 6.—EDUCATION

A.—Secondary and University Education by Communities: Position in 1960 of Population aged 10 Years and Over

Community	NORTH BORNEO			SARAWAK			
	Numbers completed full secondary	Numbers completed training college	Numbers completed university or technical college	Community	Numbers completed full secondary	Numbers completed training college	Numbers completed university or technical college
Dusun ...	37	38	2	Malay ...	104	64	7
Murut ...	1	2	—	Melanau ...	5	9	1
Bajau ...	10	28	—	Sea Dayak	47	42	—
Other indigenous	44	45	—	Land Dayak	16	24	1
Chinese ...	1,178	101	115	Other indigenous	3	7	—
European and others	1,048	103	187	Chinese ...	2,107	184	205
				European and others	547	64	334
All communities	2,318	317	304	All communities	2,829	394	548

B.—Total Population Aged 10 Years or Over who are not Receiving, or Have not Received, any Education

	Ages 10-19	Ages 20-29	Ages 30 and over
North Borneo	611 per 1,000	724 per 1,000	822 per 1,000
Sarawak	525 per 1,000	729 per 1,000	861 per 1,000

APPENDIX C

CARDINAL PRINCIPLES OF THE RULE OF THE ENGLISH RAJAHS*

1. That Sarawak is the heritage of Our Subjects and is held in trust by Ourselves for them.
2. That social and educational services shall be developed and improved and the standard of living of the people of Sarawak shall steadily be raised.
3. That never shall any person or persons be granted rights inconsistent with those of the people of this country or be in any way permitted to exploit Our Subjects or those who have sought Our protection and care.
4. That justice shall be easily obtainable and that the Rajah and every public servant shall be freely accessible to the public.
5. That freedom of expression both in speech and writing shall be permitted and encouraged and that everyone shall be entitled to worship as he pleases.
6. That public servants shall ever remember that they are but the servants of the people on whose goodwill and co-operation they are entirely dependent.
7. That so far as may be Our Subjects of whatever race or creed shall be freely and impartially admitted to offices in Our Service, the duties of which they may be qualified by their education, ability and integrity duly to discharge.
8. That the goal of self-government shall always be kept in mind, that the people of Sarawak shall be entrusted in due course with the governance of themselves, and that continuous efforts shall be made to hasten the reaching of this goal by educating them in the obligations, the responsibilities, and the privileges of citizenship.
9. That the general policy of Our Predecessors and Ourselves whereby the various races of the State have been enabled to live in happiness and harmony together shall be adhered to by Our Successors and Our Servants and all who may follow them hereafter.

* The Cardinal Principles are set out in the First Schedule to the Sarawak (Constitution) Order in Council, 1956. They originally formed part of the Preamble to Order No. C-21 (Constitution), 1941, enacted by the Rajah of Sarawak.

APPENDIX D

LEGAL MEANING OF THE TERM "NATIVE"

1. SARAWAK (Extract from the Interpretation Ordinance, 1953)

"... 'native' means a British subject of any race which is now considered to be indigenous to Sarawak as set out in the Schedule:

* * *

SCHEDULE
(Section 3)

Races which are now considered to be indigenous to Sarawak and therefore natives within the meaning of this Ordinance:

- Bukitans
- Bisayahs
- Dusuns
- Dayaks (Sea)
- Dayaks (Land)
- 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
- Ukits

And any admixture of the above with each other.

2. NORTH BORNEO (Extract from the Interpretation (Definition of Native) Ordinance, 1952, as amended by the Interpretation (Definition of Native) (Amendment) Ordinance, 1958)

...

2.—(1) Wherever the word 'native', used as a substantive, occurs in any written law in force at the commencement of this Ordinance, other than the Ordinances set out in the Schedule to this Ordinance, or in any written law coming into force after the commencement of this Ordinance, unless expressly otherwise enacted therein, it shall mean either—

- (a) any person both of whose parents are or were members of a people indigenous to the Colony; or
- (b) any person ordinarily resident in the Colony and being and living as a member of a native community, one at least of whose parents or ancestors is or was a native within the meaning of paragraph (a) hereof; or

- (c) any person who is ordinarily resident in the Colony, is a member of the Suluk, Kagayan, Simonol, Sibutu or Ubian people or of a people indigenous to the Colony of Sarawak or the State of Brunei, has lived as and been a member of a native community for a continuous period of three years preceding the date of his claim to be a native, has borne a good character throughout that period and whose stay in the Colony is not limited under any of the provisions of the Immigration Ordinance;

Provided that if one of such person's parents is or was a member of any such people and either lives or if deceased is buried or reputed to be buried in the Colony, then the qualifying period shall be reduced to two years.

- (d) any person who is ordinarily resident in the Colony, is a member of a people indigenous to Indonesia or the Malay group of islands in the Philippine Archipelago or the Federation of Malaya or the Colony of Singapore, has lived as and been a member of a native community for continuous period of five years immediately preceding the date of his claim to be a native, has borne a good character throughout that period and whose stay in the Colony is not limited under any of the provisions of the Immigration Ordinance.

No claim by any person to be a native by virtue of the provisions of paragraphs (b), (c) or (d) hereof shall be recognised as valid unless supported by an appropriate declaration made by a Native Court under Section 3."

APPENDIX E

NORTH BORNEO AND SARAWAK GOVERNMENT PAPERS

I.—“NORTH BORNEO AND MALAYSIA” PUBLISHED BY AUTHORITY OF THE GOVERNMENT OF NORTH BORNEO. JESSELTON, FEBRUARY 1962.

The British and Malayan Governments have agreed that the creation of a “Federation of Malaysia”, embracing the 11 States of Malaya, Singapore, North Borneo, Sarawak and Brunei is a desirable aim. They have not gone beyond this. Before coming to any final decision the two Governments agreed that it would be necessary to ascertain the views of the peoples of North Borneo and Sarawak and decided to set up a Commission of Enquiry to carry out this task and to make recommendations. Within the next few weeks the Commission will be visiting North Borneo for the specific purpose of finding out opinion in this country by an enquiry on the spot. Opportunity will be afforded for all shades of opinion to have their say. It is, indeed, in everyone's interest to take advantage of this opportunity, as it will be in the light of what the Commission recommends that the final decision will be taken. The people of North Borneo should now think carefully about the future of this country so that they will be ready to express considered views to the Commission when it comes.

2. The declared aim of the British Government is to grant independence to all its Colonial territories as soon as they are ready for it. Hitherto this has been thought of simply as independence for North Borneo standing by itself, or, more recently, in association with Sarawak. But two stark political facts must be faced. These are:

- (1) The very real threat that Communism is presenting to South-East Asia. If any one territory in the Malaysia region should succumb to Communist domination it would only be a matter of time before the others would be placed in serious jeopardy of a similar fate. United, these territories would be in an immeasurably stronger position to contain and repel Communism.
- (2) The tide of opinion in the world to-day is running strongly against Colonialism. Independence is accordingly likely to come sooner rather than later than has hitherto been anticipated. But the world into which an independent North Borneo would be plunged is a turbulent and predatory one, and there could only be a precarious future for North Borneo on its own, or even in association with Sarawak.

3. Against this background, it is the view of the British Government that, provided satisfactory terms of merger can be worked out, the plan for Malaysia offers the best chance of fulfilling its responsibility to guide the Borneo territories to self-government in conditions that will secure them against dangers from any quarter. This is the overriding political argument in favour of North Borneo and Sarawak joining Malaysia. The British Government is firmly of the opinion that from the standpoint of economic development and in general of the future welfare and happiness of their peoples the best hope of the Borneo territories lies in their forming part of a larger unit. Economically as well as politically, small countries are rapidly becoming out of place in the strenuous conditions of the modern world. Where nations are concerned, combination creates a unit that is much more powerful, more effective, more efficient and more capable of making life better for its members than the sum total of their individual strengths would ever suggest. By itself, or even in association with Sarawak, North Borneo would find it very expensive to exist as an independent territory, and its voice in the councils of the world would be small. The peoples of Malaya and Borneo have cultural, economic and historical ties which make them fit naturally together as a group. Malaysia offers for them all the prospect of sharing in the destiny of what the British Government believes will be a great, prosperous and stable independent State within the Commonwealth.

4. Within recent weeks there has been strong criticism, much of it analytical and constructive, in sectors of the local English and Chinese Press of the concept of Malaysia on the basis of North Borneo joining the Federation of Malaya as a State under the present Constitution of the Federation. As was made clear at the last meeting of the Legislative Council in December, the Commission of Enquiry is not committed to any detailed terms of merger already proposed, and there is no question of its

acting as a rubber stamp for a decision already taken. In fact, as indicated above, no decision has yet been taken beyond that Malaysia is a desirable aim. Furthermore, Tunku Abdul Rahman, the Prime Minister of the Federation of Malaya, has given a number of assurances that his original proposal that the Borneo territories should enter Malaysia as States equal in status with the existing States of the Federation of Malaya does not represent his final word on the subject. For example, in his speech to the Federal Parliament on the 16th October, he stated that “in our future constitutional arrangements the Borneo people can have a big say in matters on which they feel very strongly, such as immigration, customs, Borneanisation, and control of their State franchise rights”. In conversation with members of the North Borneo delegation to the Malaysia Solidarity Consultative Committee he has made it abundantly clear that he has no wish to interfere in the internal affairs of North Borneo and is willing to consider sympathetically any proposals for the management by the people of this country of their own internal affairs.

5. There is clearly, therefore, room for manoeuvre in determining the extent of powers to be vested in the Central Government of the proposed new Federation of Malaysia. However, when considering what form these future constitutional arrangements should take, it is reasonable to take the Constitution of the present Federation of Malaya as a basis from which to start.

6. The present Federation of Malaya comprises 11 States, each of which has its own State Constitution and Government with certain powers reserved to it, the principal of which are control over local government, land, agriculture, forestry and State public works. The Federal Government controls external affairs, defence, internal security, civil and criminal law and the administration of justice, Federal finance, trade, communications, education, health, labour, co-operatives and Federal public works, to mention the most important. There is also a list of subjects on which both Federal and State Governments can legislate but the Federal law prevails if it conflicts with any State law. The list includes social welfare, scholarships, town and country planning, protection of wild life, sanitation, drainage and irrigation. The residual power of legislation rests with the State, *i.e.*, the State retains the power to make laws with respect to any subject not specifically allocated to the Federal Government. Each State has its own Ruler or Governor or Head of State, and its own State public service. In short, the Constitution provides for a strong Central Government where the great preponderance of power rests, and which, in view of its wide responsibility, spends about three-quarters of the total revenues.

7. Assuming that the concept of Malaysia is accepted, the crux of the problem, which it will be the task of the Commission of Enquiry to solve, is to devise terms acceptable both to the Malayan Government and to the peoples of North Borneo and Sarawak for the entry of these two territories into a new Federation of Malaysia. In any event, substantial amendments to the Constitution of the present Federation of Malaya will be necessary to provide for the merger with Singapore, the terms of which have already been broadly agreed between the Governments of the Federation of Malaya and Singapore.

8. It is necessary, therefore, for the people of North Borneo to consider what powers they are prepared to concede in order to bring Malaysia into being. It is understandable that there should be widespread apprehension lest, in practice, Malaysia would mean that the people of North Borneo would have far less control over their own affairs than they exercise already, and that North Borneo would be relegated to the position of a relatively powerless province of a strong Central Government situated 1,000 miles away. It is natural, therefore, that the first instinct of the people of North Borneo should be to require a much greater measure of local self-government than is afforded to the States of the present Federation of Malaya. To press this too far, however, might not, in the long run, be in the best interests of North Borneo. It is fundamental to the concept of Malaysia that the Federal Government should be endowed with substantial powers; without them it will have no real or enduring strength and will fail in its purposes as indicated in paragraph 3 above.

9. It will be generally conceded that the Federal Government must exercise control over external affairs, defence and internal security. North Borneo would thereby have through the Federation representation abroad, participation in the armed forces

of the Federation (which in due course would no doubt contain units from North Borneo) and overall Federal authority for the maintenance of law and order. There is, moreover, likely to be little argument regarding the transfer to the Federal Government of control over the Judiciary, which is at present operating as a combined Judiciary for the three Borneo territories, and such departments as Geological Survey, Audit, Health, Posts and Telegraphs, Marine and Civil Aviation (subject to safeguards for regional interests). Far less easy of solution are the subjects at present controlled by the Federal Government of the Federation of Malaya in respect of which there is strong feeling in North Borneo that safeguards need to be imposed and a wide measure of local autonomy assured. These subjects include religion, language, finance, the public service, education, citizenship, immigration and land development. It will be perhaps the most difficult part of the task of the Commission of Enquiry to make recommendations which would reconcile local needs and wishes with what the Malayan Government is prepared to concede. But there is no reason to suppose that the task is insuperable, for, as a demonstration of the sincerity of his intention to interfere as little as possible with the internal affairs of the Borneo territories, Tunku Abdul Rahman has already agreed that immigration to North Borneo from the other States of Malaysia should be a matter over which the North Borneo State Government should maintain control, and the door is clearly not closed to proposals in regard to other subjects. It would, indeed, be against the long-term interest of the Malayan Government to insist on excessive control against the wishes of the peoples of the Borneo territories, which would over the course of the years build up resentment and discontent leading to a repetition within Malaysia of the internal stresses and strains which in recent years have become apparent within the framework of Indonesia, and, more recently still, have culminated in the secession of Syria from the United Arab Republic. It may well be found that, on closer examination, the gap between opposing conceptions is not as wide as might at first sight appear. For example, in practice, many aspects of the present education policy in North Borneo are broadly similar to their counterparts in Malaya, and, while acceptance of education as a Federal subject without strong safeguards clearly presents difficulty, it is hoped that the Commission will be able to hammer out an acceptable solution. Similarly, Malay is the national language of the present Federation of Malaya and it is the "lingua franca" of the Borneo territories. In Malaya English is the main medium of education and is taught in all schools. The Constitution of the Federation of Malaya provides that for 10 years from Merdeka Day and thereafter until Parliament otherwise provides, the English language may be used for official purposes. It has been explained that this period of 10 years or longer applies only to existing States of the Federation. A longer period could be applied to new States of the Federation of Malaysia if desired. The acceptance of Malay as the national language would not prevent the use, teaching, or learning of any other language nor would it prejudice the right of any State of the Federation of Malaysia to preserve and sustain the use and study of other languages. The question of language, like that of the other matters listed earlier in this paragraph, is one that will no doubt engage the close attention of the Commission.

10. The deliberations of the Consultative Committee have done much to clarify the position of religion in Malaysia. Islam is the official religion of the Federation of Malaya. Although Malaysia would have Islam as the official religion of the enlarged Federation no hindrance would be placed on the practice of other religions. Complete freedom of religion would be guaranteed in the Federal Constitution. North Borneo, which at present has no established religion, would not be required to accept Islam as its State religion.

11. There has been much concern locally at the prospect of North Borneo losing control of the greater part of its revenues and expenditure and of the rate of economic development being retarded rather than accelerated. The finances and economic aspects of the incorporation of North Borneo into a Federation of Malaysia are complex and will require expert examination beyond the scope of this publication. Just as North Borneo and Sarawak, however, have recently thought it advantageous to conclude a free trade area agreement, so may a larger common market provided by Malaysia be expected to help to produce some economic advantages to all parts of the area. Since Merdeka there has been very extensive capital development in Malaya, which would no doubt continue in Malaysia and from which North Borneo would

benefit. Malaya is at present engaged in carrying out an intensive and rapid programme of rural development which, with adaptations, seems well suited to the needs of North Borneo and is indeed based on principles similar to those which are being followed here. Development in the Federation of Malaya is a joint subject (*i.e.*, shared by the Federation and the States) and each State has its own development board. With independence, grants from Britain under the Colonial Development and Welfare Act would cease. Britain has, however, been ready to give financial assistance when this has been shown to be necessary to, other Commonwealth territories after independence, and there is no reason to suppose she would not be willing to consider the case of North Borneo in the same way. Aid under the Colombo Plan would continue to be forthcoming as at present. Aid from other sources such as the International Bank of Development and Reconstruction, would still be available for North Borneo as part of the independent Federation of Malaysia. The local and international standing of the currency of North Borneo (the Malayan dollar) rests on the combined strength and viability of all the territories which would make up the Federation of Malaysia, and would not be impaired by their entering into a permanent association.

12. The probability of increased taxation in the event of North Borneo joining Malaysia has also been a target for criticism. But on reflection this will be seen to be a probable corollary of independence, whether or not North Borneo enters Malaysia and, if she should attain independence on her own, or simply in association with Sarawak, the cost of paying for her own defence and representation abroad would be proportionately heavier. Irrespective of whether Malaysia is brought into being or not, there is a growing demand for improved social services, communications, and development in the rural areas which is not to be denied and must inevitably lead to an increased burden of national and local taxation.

13. Of all the matters that will fall to be considered by the Commission of Enquiry perhaps the most crucial for the future well-being of the country is that of the Public Service. In the present Federation of Malaya there are two civil services, the Federal and the State. That there should be apprehension locally lest Malaysia should lead to Malaysians taking over the best appointments in the North Borneo Public Service is understandable; but it has been made clear that these fears are not justified and, while control over the Federal Service would naturally rest with the new Federal Government, in all Federal Service appointments made to the Borneo territories the people of Borneo would be given priority. There would also be opportunities for Borneo Federal officers to serve in other parts of Malaysia and in external affairs posts overseas. It is clearly to the advantage of all that there should not be any breakdown in services caused by staff dislocations, and present serving officers would carry on in their posts. The progress of Borneanisation of the local service would continue. There are special provisions in the present Federation of Malaya's Constitution relating to scholarships, training and civil service posts for Malays. Similar provisions could be made applicable to the indigenous peoples of Borneo. But the process of Borneanisation, however much it is accelerated, cannot be achieved overnight, and the need for overseas staff will continue for many years to come. This is recognised by Tunku Abdul Rahman, who has expressed the hope that they will remain to guide the peoples of North Borneo after independence as they have done in the past. Arrangements will have to be worked out whereby they will be encouraged to remain in their posts while the process of Borneanisation continues on the principles already established.

14. When the Federation of Malaya was formed transitional arrangements were devised to permit the States to join the Federation gradually and smoothly. Similar transitional arrangements, extended perhaps over a longer period, will be necessary with the Borneo territories. The intention would be to cause as little dislocation in the daily life of the people as possible, and drastic immediate changes are not contemplated.

15. The main issue before the people of North Borneo is simply this. They must assess the future advantages of Malaysia; they must weigh up the prospects Malaysia offers of security from external aggression and internal Communist subversion, of stability and prosperity; and they must consider how far they are prepared to give powers to the Central Government of Malaysia to achieve these benefits. The

Central Government must be strong and provide security; it must have powers sufficient for its purpose. But local aspirations and needs must also be recognised and safeguarded. The State Government must be able to protect vital local interests. Some there are no doubt who prefer no change in the existing order of things; to them the answer is that the "winds of change" are blowing and blowing hard, and no good can come out of refusing to face up to this fact, however unpalatable it may be to them. Some would prefer to achieve self-government first before entering into negotiations over Malaysia; this would indeed be attractive if there was a guarantee that the opportunity now presenting itself would still be there to grasp in a few years' time. But there can be no such guarantee. Events in the outside world are moving fast and unpredictably and the danger is that the opportunity, once missed, will not recur. It may indeed be a case of "And we must take the current when it serves, or lose our ventures". Those who would put self-government before Malaysia would do well to reflect on the consequences if the Malaysian plan should come to nothing. Of one thing they may be certain, that there are forces in the world which will not be slow to take advantage of the situation.

16. It is hoped that this publication will help the people of North Borneo to understand the issues on which the Commission will seek their views. It will be the task of the Commission in the light of those views to work out a plan for Malaysia which will be acceptable to the people of North Borneo and Sarawak. There is no reason to suppose that this cannot be successfully accomplished. The people of North Borneo will be given a fair hearing, and it is hoped that, after listening to their representations and assessing what modifications of the present Federal Constitution are necessary to meet local conditions, the Commission will be able to recommend a plan that will be workable, endurable, and acceptable to all the participants, not least the people of North Borneo.

Jesselton, North Borneo.

31st January, 1962.

II.—"MALAYSIA AND SARAWAK". PUBLISHED BY AUTHORITY OF THE GOVERNMENT OF SARAWAK. KUCHING, JANUARY 1962

The British and Malayan Governments have agreed that the creation of a "Federation of Malaysia", embracing the 11 States of Malaya, Singapore, North Borneo, Sarawak and Brunei is a desirable aim. The view of the British Government is that, if satisfactory terms of merger can be agreed, the plan offers the best chance of fulfilling its responsibility to guide the Borneo territories to self-government in conditions that will secure them against dangers from any quarter. A Commission will be visiting North Borneo and Sarawak in the near future to ascertain the views of the peoples of these two territories on this proposal and to make recommendations. It will be for the Commission, in the light of the evidence they receive, to work out a plan which they believe will be acceptable to the peoples of both territories.

2. The object of this publication is to explain in simple terms what "Malaysia" means and to assist the people of Sarawak in making up their minds what views they should present to the Commission when it comes. There has already been much discussion on this subject in the newspapers, and there have been some very useful exchanges of views in the Malaysia Solidarity Consultative Committee, but there is general demand for a factual and objective exposition of Sarawak's place in the Federation of Malaysia.

3. The declared aim of the British Government is to grant independence to all Colonial territories as soon as they are ready for it. Hitherto this has been thought of simply as independence for Sarawak standing by itself or, more recently, in association with North Borneo. Now an opportunity is provided for independence as part of a larger Malaysian unit. There are obvious advantages in this. In area Sarawak is not much smaller than the Federation of Malaya but its population is under three-quarters of a million compared with 7 million in the Federation. It would find it very difficult and very expensive to stand alone as an independent

territory. The peoples of Malaya and Borneo have cultural, economic and historical ties which make them fit naturally together as a group. This is universally recognised and at the recent Solidarity Consultative Committee meeting at Kuching all the delegates supported the concept of Malaysia. What is more difficult to decide in what way Sarawak can best fit into this concept.

4. The first thing to be clear about is that Sarawak is not merely being invited to join the present Federation of Malaya as one of the States equal in status with the other existing States of the Federation. The present 11 States of the Federation of Malaya will be merged in the Greater Federation of Malaysia and the Federation of Malaya as a political entity will cease to exist. This has already been partly achieved, to the extent that the Governments of the Federation of Malaya and Singapore have already agreed on the terms on which Singapore will join the larger Federation. The Prime Minister of Malaya has stated that in the "future constitutional arrangements the Borneo people can have a big say in matters in which they feel very strongly". However, when considering what these future constitutional arrangements should be it is reasonable to take the Constitution of the present Federation of Malaya as a basis for which to start.

5. The present Federation of Malaya comprises 11 States each of which has its own State Constitution and Government with certain powers reserved to it, the principle of which are control over local government, land, agriculture, forestry and State public works. The Federal Government controls external affairs, defence, internal security, civil and criminal law and the administration of justice, Federal finance, trade, communications, education, health, labour co-operatives and Federal public works, to mention the most important. There is also a list of subjects on which both Federal and State Governments can legislate but the Federal law prevails if it conflicts with any State law—the list includes social welfare, scholarships, town and country planning, protection of wild life, sanitation, drainage and irrigation. The residual power of legislation rests with the State, i.e., the State retains the power to make laws with respect to any subject not specifically allocated to the Federal Government. Each State has its own Ruler or Governor or Head of the State, and its own State public service.

6. This Constitution provides for a strong Central Government where a great deal of power rests and which, in view of its wide responsibility, spends about three-quarters of the total revenues. The first instinct of people in Sarawak will be to require a much greater measure of local self-government than is afforded to the States of the present Federation. This is a natural instinct but it should not be pressed too far. To the extent which Sarawak demands a greater say in its local affairs it will have a lesser say in Federal affairs. This may not, in the long run, be in the best interests of Sarawak. We have been assured that representation in the Federal Legislature will not be based purely on population ratios but that account will also be taken of the extensive size and rural nature of the country. This means that Sarawak will have a larger voice in Federal matters than its population strictly warrants. All matters which it reserves to itself will have to be looked after by itself. Federal matters will be the responsibility of the Federation as a whole and will have the whole Federal resources behind their handling.

7. It is generally agreed that a Federal Government must have control over external affairs, defence and internal security. Sarawak would thereby have, through the Federation, representation abroad, participation in the armed forces of the Federation (which would certainly contain Sarawak units), and the Federal authority for the maintenance of law and order. What other Federal powers would Sarawak like to keep as State powers? The Prime Minister of Malaya has already agreed that migration to Sarawak from the other States of Malaysia is a matter on which the Sarawak Government can maintain control. The method by which this may be achieved can be devised by constitutional experts. If it becomes necessary for the development of the economic potential of Sarawak to have more people from other parts of Malaysia this will be decided by the people of Sarawak themselves.

8. It would be an odd Federation which did not have a common system of administration of justice. Justice is at present administered in Sarawak by a combined judiciary covering North Borneo and Brunei. The extension of this to a Federal judiciary should present little difficulty.

9. "Communications" is a comprehensive word which covers the transportation of people and goods by land, air and water and the transportation of messages by similar channels. Postal, telegraphic and radio communications are natural Federal subjects, so are air, road and water transportation as between States. Air, road and water transportation within Sarawak might well however, be a matter in which both State and Federal Governments have functions and responsibilities. In other words it would be a joint subject.

10. Education is a subject which greatly exercises the people of Sarawak. It is also the largest single item in the budget of expenditure, and the item which is growing fastest. Education in Malaya is more advanced than in Sarawak but is developing on similar lines. The school-leaving age there is 15 and this year free universal primary education will be introduced. It may be thought that the quickest way to achieve parity, and to accelerate educational advance in Sarawak would be to leave this as a Federal subject with such reservations as local circumstances may require. This would not affect the present Government policy on the language of instruction in schools.

11. Health lends itself naturally into a division between State and Federal administration, as is at present the case in the Federation of Malaya.

12. It would be desirable that labour legislation should be uniform. Generally speaking, Sarawak is less advanced in this sphere than Malaya and could therefore benefit much from Federal experience.

13. The financial and economic aspects of the incorporation of Sarawak into a Federation of Malaysia are complex and will require expert examination beyond the scope of this paper. Just as North Borneo and Sarawak have recently found it advantageous to conclude a free trade area agreement so will the larger free trade area of Malaysia help to develop the economy by providing a bigger home market for local products. A unit of 10 million people is obviously more viable economically than a unit of 1 million. Sarawak is short of capital. There has recently been very extensive capital investment in Malaya which would no doubt continue in Malaysia and from which Sarawak would benefit. At the recent Consultative Committee meeting the Malayan Delegation has stated that the rate of economic and capital development of the Borneo territories as part of Malaysia would be faster than at present. Malaya has an intensive and rapid programme for rural development which, with adaptation, seems well suited to the needs of Sarawak. Development is a joint subject (i.e., shared by the Federation and the States) and each State has its own development board. With independence, grants from Britain under the Colonial Development and Welfare Act would cease. Britain has been ready to give financial assistance, when this has been shown to be necessary, to other Commonwealth territories after independence and there is no reason to suppose she would not be willing to consider the case of Sarawak in the same way. Aid under the Colombo Plan would continue to be forthcoming as at present. Aid from other sources, such as the International Bank of Development and Reconstruction would be directly available to the Federation of Malaysia as an independent territory. It is important for the individual and for businessmen to remember also that the local and international standing of the currency of Sarawak (the Malayan dollar) rests on the combined strength and viability of all the territories which would make up the Greater Federation and would be secured by entering into a permanent association.

14. On the other hand there would be additional expenses. Sarawak would have to bear its share of the cost of Federal representation abroad and of defence—it would have to do that anyway when independent, and it will be less as part of a larger unit than of a small one. Taxation in some categories is higher in the present Federation of Malaya than in Sarawak. The probability is that as part of Malaysia national taxes as distinct from State and local taxes in Sarawak would have to go up. The Financial Secretary, in his recent budget speech, has said that this is inevitable even if Sarawak continues for the time being as a colony. Improved services and communications have to be paid for and the price of independence is invariably a bigger budget.

15. People have wondered whether the fact that Islam is the official religion of the Federation of Malaya would affect religious freedom in Sarawak as part of Malaysia. This has been clarified at the recent Consultative Committee meeting. Although Malaysia would have Islam as the official religion of the enlarged Federation there would be no hindrance placed on the practice of other religions. Complete freedom of religion would be guaranteed in the Federal Constitution. Sarawak has at present no established religion and it would not be required to accept Islam as its State religion.

16. The matter of a national language was also discussed in the Consultative Committee. Malay is the national language of the present Federation of Malaya and it is the *lingua franca* of this region. The Constitution provides that for 10 years from Merdeka Day and thereafter until Parliament otherwise provides, the English language may be used for official purposes. It has been explained that this period of 10 years or longer relates only to the existing States of the Federation. A longer period could be applied to new States of the Federation of Malaysia if desired. The acceptance of Malay as the national language would not prevent the use, teaching or learning of any other language nor would it prejudice the right of any State of the Federation of Malaysia to preserve and sustain the use and study of other languages.

17. As part of Malaysia there would be two civil services functioning in Sarawak. The State service, over which Sarawak would have complete control, and the Federal service. Control over the latter would naturally have to rest with the new Federal Government but in all Federal service appointments made to the Borneo territories the people of Borneo would be given priority. There would also be opportunities for Bornean Federal officers to serve in other parts of Malaysia and in external affairs posts overseas. Clearly it would be to no one's advantage that there should be any breakdown in services caused by staff dislocations, and present serving officers would carry on in their posts. The progress in Borneanisation of the local service would continue. There are special provisions in the present Federation of Malaya's Constitution relating to scholarships, training and civil service posts for Malays. There could be similar provisions applying to the indigenous peoples of Borneo. The services of overseas officers will still be needed and it will be necessary to devise arrangements whereby they will be encouraged to remain in their posts while the process of localisation continues on the principles already established.

18. The question which the average kampong and longhouse dweller is most likely to ask is "How will I be affected if Sarawak joins Malaysia?" He will not notice any immediate change. When the Federation of Malaya was formed transitional arrangements were devised to permit the States to join the Federation gradually and smoothly. Similar transitional arrangements will be necessary with the Borneo territories. In the long term he may expect to reap the benefits of partnership in a vigorous, young community of independent peoples. If he finds the idea of Sarawak joining Malaysia still too novel he should stop to ask himself a second question, "What is the alternative?" Independence will come to Sarawak within a measurable period of years. This is promised and inevitable. The present state of world opinion suggests that the period will be shorter rather than longer than we anticipate. This opportunity to attain independence by joining Malaysia is unlikely to recur and Sarawak may be left with no other alternative than a perilous existence as a small defenceless country in a large and predatory world.

19. This paper has endeavoured to set out the framework of a greater Federation and to direct attention to the special interests Sarawak has in such matters as religion, land development, migration, education, language and the civil service, and to indicate an approach to the solution of such problems with the intention of assisting the public to put to the Commission constructive proposals for an acceptable plan.

Secretariat, Kuching.
4th January, 1962.

APPENDIX F

The following Memorandum, dated 3rd February, 1962, was submitted by the Chairman of the Malaysia Solidarity Consultative Committee on the 23rd February, 1962, for the consideration of the Commission of Enquiry.

MALAYSIA SOLIDARITY CONSULTATIVE COMMITTEE MEMORANDUM ON MALAYSIA

Introduction

The statement made on the 27th May, 1961, by the Prime Minister of the Federation of Malaya, Y. T. M. Tunku Abdul Rahman Putra Al-Haj, on the concept of Malaysia at a Press Luncheon in Singapore sparked off a lively interest in Malaya, Singapore and the Borneo territories in the idea of Malaysia resulting in all manner of speculations on what plan and form Malaysia might take. While views welcoming the proposal were expressed in the territories concerned, the idea of Malaysia became the target of serious criticisms from certain quarters. In view of the indeterminate way in which the subject, of necessity, had been launched, there was uncertainty in the minds of many of the people, particularly in the Borneo territories. However, one point was clear: few could claim to be apathetic to this vital subject.

Formation of Malaysia Solidarity Consultative Committee

2. Malaysia was first jointly discussed by the leaders of the Borneo territories, Singapore and the Federation of Malaya at the Commonwealth Parliamentary Association regional meeting which was held in Singapore in July 1961. During the Conference, misgivings regarding local interests were expressed and views exchanged. As a result of a preliminary examination, delegations from North Borneo and Sarawak took the initiative to propose the formation of a Malaysia Solidarity Consultative Committee of the Commonwealth Parliamentary Association. Their joint statement said *inter alia* "we have decided to form a Malaysia Solidarity Consultative Committee consisting of representatives from each of the five territories. The object of the Consultative Committee would be to continue the explanations and discussions initiated at the Commonwealth Parliamentary Association and ensure that the impetus given to Malaysia is not slowed down. . . . What emerged clearly from the conference (C.P.A.) was that the delegates who shape and mould public opinion in their respective territories were convinced both of the necessity and inevitability of Malaysia."

Aims and Objects of M.S.C.C.

3. The aims and objects of the Committee as formulated and agreed upon at its first meeting in Jesselton on the 24th August, 1961, are:

- (a) To collect and collate views and opinions concerning the creation of Malaysia consisting of Brunei, North Borneo (Sabah), Sarawak, Singapore and the Federation of Malaya.
- (b) To disseminate information on the question of Malaysia.
- (c) To initiate and encourage discussions on Malaysia; and
- (d) To foster activities that would promote and expedite the realisation of Malaysia.

Committee Meetings

4. The Committee met four times, namely, in Jesselton on the 21st August, 1961, in Kuching on the 18-20th December, 1961, in Kuala Lumpur on the 6th-8th January, 1962, and in Singapore on the 1st-3rd February, 1962.

Brunei's Attendance

5. Brunei did not participate at the Jesselton meeting but attended as observers during the Kuching, Kuala Lumpur and Singapore meetings.

Concept of Malaysia Supported

6. At these meetings delegations submitted reports on the progress made by them in their respective territories with regard to explaining and furthering the concept of Malaysia among the people. The Committee, while reiterating its acceptance of and support for the concept of Malaysia, recognised the need for the widest dissemination of all information relating to Malaysia among the peoples of the territories so that all would appreciate the vital necessity of the realisation of Malaysia as soon as possible.

Not Unitary

7. In view of the fact that all delegations acknowledge the desirability that all component States should retain their identity and autonomy, the possibility of Malaysia being formed as a unitary State was never considered.

Federation Defined

8. The Committee envisaged an association of several sovereign States with a central organ invested with powers directly over the citizens of the member State and in certain defined circumstances over the member States themselves. There would be a Central Government and also State Governments, but from the view-point of international law, the collection of States forming the Federation would be recognised as one Sovereign State within the family of nations.

Strong Central Government Vital

9. The Committee in the course of its deliberations has come to the conclusion that External Affairs, Defence and Security of Malaysia should be vested in the Central Government and it also supports the objective of an effective Central Government as vital to sustain Malaysia. Accordingly, the Committee arrives at the only logical answer that Malaysia should be in the form of a Federation. And, in view of the special problems relating to Singapore, the Committee appreciates the need for special arrangements for Singapore. It was agreed that, like Singapore, the three Borneo territories should have certain local safeguards—in the case of the Borneo territories, in respect of such subjects, for example, control of migration, Borneanisation and special provisions for taxation, customs and other fiscal matters to ensure that the less developed economy of the Borneo territories is not suddenly upset by the application of a unified Malaysian customs and excise duty and other national taxation but should only be made uniform gradually as the development of the economy of these territories progresses—but could otherwise be placed on equal footing with the other States of the present Federation of Malaya.

Wishes of People Respected

10. The Committee, of course, is of the opinion that whatever safeguards might be provided for the Borneo territories must conform with the expressed wish of the Borneo people themselves but that such arrangements should not prejudice the principle of a strong Central Government or curtail the fundamental liberties of the nationals of the Federation of Malaysia.

Singapore Plan

11. The Government notes with satisfaction the Heads of Agreement negotiated between the Governments of the Federation of Malaya and Singapore for the merging of the State in the Federation of Malaysia.

Status of Brunei

11a. The Committee recognises the fact that Brunei is a self-governing State and not a colony as in the case of Sarawak and North Borneo, that the Commission of Enquiry's jurisdiction does not extend to Brunei and that the State is competent to negotiate direct with the Governments of the United Kingdom and the Federation of Malaya.

Sovereignty

12. There is no doubt in the mind of the Committee that, from the international point of view, sovereignty rests with the Federation of Malaysia. The Committee accepts the principle that the Federation of Malaysia should have a constitutional Head of State and there is no reason to discontinue the system of the appointment of Yang di-Pertuan Agong. The sovereignty of the Ruler of each State of the Federation of Malaysia will be guaranteed. Within the concept of Malaysia the Sultan of Brunei will be eligible for nomination to be Supreme Head of the Federation while Sarawak and North Borneo will each have a Head of State. Each State will have a Constitution of its own and its powers defined.

Islam as the Religion of the Federation and Religious Freedom

13. The Committee directed a great deal of its attention to the question of Islam as the religion of the Federation. It is satisfied that the acceptance of Islam as the religion of the Federation would not endanger religious freedom within Malaysia nor will it make Malaysia a State less secular. The present Constitution of the Federation of Malaya, which would serve as the basis of the new Federation, has adequately guaranteed that other religions can be practised in peace and harmony in any part of the Federation. Every person will have the right to profess and practise his religion. No person will be compelled to pay any special tax for purposes of a religion other than his own. Every religious group will be assured of its right to manage its own religious affairs, to establish and maintain institutions for religious or charitable purposes and to acquire and own property and hold and administer it in accordance with the law. There would be freedom to establish and maintain institutions for religious education. No person in the Federation of Malaysia will be required, except in accordance with the laws of his own religion, to receive instruction, or take part in any ceremony or act of worship of any religion. All these rights which are in fact universally enjoyed at present in the Federation of Malaya will be enshrined in the Constitution of the Federation of Malaysia.

Islam in Relation to a State within the Federation

14. The Committee examined the position of Islam in relation to a State other than a Malay State and finds no objection to the present arrangement for Penang and Malacca being adopted in the future States of Sarawak and North Borneo and Singapore. Each of these States will have in its Constitution provision for conferring on the Yang di-Pertuan Agong the position of Head of the Muslim religion in the State whose legislature would make laws for regulating Muslim religious affairs and for constituting a council to advise the Yang di-Pertuan Agong in matters relating to the Muslim religion. The Committee observes that in practice these three territories are already, to some extent, concerning themselves with the affairs of Muslim religion and the adoption of this principle on a formal basis would present no difficulty.

Fundamental Liberties

15. The present Constitution of the Federation of Malaya has firmly established constitutional guarantees for the people. The Committee has taken it for granted that these provisions in the Constitution safeguarding the fundamental liberties of the people of the Federation of Malaya would be extended to the people of the Federation of Malaysia whose rights could be enforced by the courts which could countermand and invalidate any attempt to undermine any of those rights whether by legislative or executive action or otherwise.

Elections of Representatives to Federal Parliament and State Legislatures

16. In view of the fact that political advancement in the Borneo territories is at the moment in varying stages of development, the Committee is convinced that it would not be possible to apply at once on merger the general practice adopted in the Federation of Malaya regarding elections to the Federal Parliament and State Legislatures. The Committee is of the opinion that, although the pace of these developments should be accelerated, no precipitate step should be taken lest some unforeseen and undesirable consequences might ensue. The Committee therefore appreciates the suggestion that for the time being in Sarawak the electoral college system may be retained under Malaysia for the State Legislature and the representatives for the Federal Parliament may be elected by the Council Negri from among its members. In the case of North Borneo, the question of representation to the State Legislature and the Federal Parliament should be a matter for consideration by the Commission of Enquiry.

The Chief Executives

17. With regard to the appointment of the chief executive of the State, namely, the Chief Ministers in North Borneo and Sarawak respectively, the Committee has not applied its mind on how this should be effected. Undoubtedly the Chief Minister will be someone who has the support of the State Legislature. It will be his responsibility to select persons from among the members of the State Legislature to assist and advise him as members of the Executive Council or the Supreme Council, as the

case may be. Brunei is in somewhat a different position and it is envisaged that until a new Constitution is introduced and other arrangements made, the Mentri Besar, members of the State Legislature, as well as the Executive Council, will continue to be appointed in accordance with the present arrangements.

Direct Elections for Future Consideration

18. It is accepted that these arrangements in the Borneo territories must necessarily be temporary in nature and should not be allowed to continue indefinitely if these territories are to keep in step with the other States of Malaysia in their political advancement. As soon as possible, consideration should be given to the desirability of introducing at the proper time the system of direct elections in respect of State and Federal representatives.

Adequate Representation in Parliament

19. In regard to the question of representation in the Federal Parliament, the Committee is satisfied with the assurance that the Borneo territories would be given adequate representation and that the universal democratic practice of giving weightage to representation for less densely populated areas would be adopted. The present arrangement in the Federation of Malaya regarding the appointment and election of members of the Senate should be adopted for the new States of Malaysia.

National Language

20. The Committee accepts the view that the Federation of Malaysia should have a national language and places no objection to the adoption of the national language of the present Federation of Malaya, Singapore and Brunei which is also the *lingua franca* of this region. The Committee is aware that in the present Federation of Malaya Constitution it is provided that for 10 years from Merdeka Day the English language may be used for official purposes. However, Parliament may also provide that the period be extended. In any case this period of 10 years is applicable to the Federation of Malaya and it is reasonable to expect that this period should only apply to the new States of the Federation of Malaysia with effect from the day Malaysia comes into being. The Committee is satisfied with the assurance that this period would be extended if so desired and the acceptance of Malay as the national language would in no way prevent the use, teaching or learning of any other language nor would it prejudice the right of any State of the Federation of Malaysia to preserve and sustain the use and study of other languages.

Position of English

21. English as an international language would maintain its place in Malaysia.

English as Medium of Instruction

22. It has been very much in the minds of the people of Sarawak and North Borneo that the acceptance of Malay as the national language might create problems relating to the policy of making English as the medium of instruction in schools. There has been uncertainty of the rule of English in schools in the Borneo territories. The Committee welcomes and accepts the explanation that the use of English as medium of instruction in schools will in no way conflict with the acceptance of Malay as the national language of Malaysia.

Complete Integration Desirable

23. The Committee has also noted that although the advancement of education is at different stages in different territories its development has been on similar lines whether in the Borneo territories or in the Federation of Malaya. As from 1962 free universal primary education is introduced in the Federation of Malaya and the school leaving age is 15. It is therefore hoped that the transitional period which will precede a complete integration of the educational system would be as short as possible so that the Borneo territories would quickly achieve parity in education with the other States in the peninsula.

Migration

24. The Committee dealt very extensively with the question of immigration into the Borneo territories. While the concept that the Central Government should be

responsible for immigration is acceptable in view of the excellent control and fortunately similar laws that exist to-day in the Borneo territories, Singapore and Malaya, it is a matter of great apprehension to the delegations from the Borneo territories that there might be free movements from Singapore and the peninsula into the Borneo territories. At the moment these territories are very sparsely populated and therefore may attract settlers from the over-crowded and densely populated areas of Singapore and the peninsula States. The Borneo territories are anxious to protect their lands, trade and employment from being taken up by people from the other parts of Malaysia. They are also anxious to see that no undesirable elements from other parts of Malaysia are allowed entry into the Borneo territories, and noted that there are now adequate security arrangements for this purpose.

Safeguards Desirable

25. The Committee is not oblivious of the fact that if the future States of Borneo desire quick progress and development they will need to attract labour and technical men and these should be obtained at reasonable rates. However, in fairness to the Borneo territories the Committee feels that the territory concerned should be given an opportunity to determine the rate and scope of development it may wish to adopt, having taken into account the population problem such development may create and at the same time keeping in step with the general tenor and trend of the general development of the whole Federation of Malaysia in accordance with the national plan. There are of course certain safeguards which are available to the States in view of their autonomy in matters of land, agriculture and the machinery of State government and control over local governments. The adoption of certain policies in regard to these matters can have the effect of discouraging or even preventing the migration of people into these States. But the Borneo territories will not be completely happy unless they are provided with constitutional safeguards.

Control to be Devised

26. The Committee therefore welcomes the statement from the Prime Minister of the Federation of Malaya that he is extremely sympathetic with the view of the Borneo delegations in this matter. The Committee is therefore satisfied with the assurance that there would be no unimpeded migration into the Borneo States from the other States of Malaysia and the constitutional provisions whereby such control will be affected can be devised by constitutional experts.

Citizenship

27. The Committee dealt with the question of citizenship at some length since this subject is of paramount importance to the peoples concerned. The position is further complicated in that the people of the Borneo territories, Singapore and the Federation of Malaya are governed by distinct and different citizenship and nationality laws. The Committee has noted that with regard to Singapore there is already an understanding reached with the Government of the Federation of Malaya whereby on merger all Singapore citizens and Federation of Malaysia citizens would automatically acquire Federation of Malaysia nationality and will, as nationals, have equal rights, carry the same passport, enjoy the same protection and be subject to equal duties and responsibilities under the Constitution of the Federation of Malaysia. The Committee agrees with the view that there should be a single Malaysian nationality.

Brunei Subjects as Citizens of Malaysia

28. With regard to Brunei the Committee is satisfied with the proposal that a subject of His Highness the Sultan should automatically become a citizen of the Federation of Malaysia.

Position of British Subjects Permanently Resident in Sarawak and North Borneo

29. In the case of North Borneo and Sarawak the Committee has accepted the formula that on the date on which the Federation of Malaysia comes into existence, every British subject born in either Sarawak or North Borneo or naturalised before that date will become a citizen of the Federation of Malaysia, provided he is permanently resident on that date in the territory in which he was born or naturalised or in one of the other territories of Malaysia.

Person Absent

30. However, subject to paragraph 33, no person shall become a citizen of the Federation of Malaysia on the appointed day who has been absent from the territories comprising the Federation of Malaysia for a period of seven years upwards immediately prior to the appointed day.

Position of British Subjects not Permanently Resident

31. A British subject born before that day in either Sarawak or North Borneo, whose father was himself born in the same territory or was a permanent resident of the territory concerned, will also be entitled to Federal citizenship. The word "father" referred to means father by blood but not by adoption of a child.

Permanent Residence

32. A suggestion was made that a person shall be deemed to be "permanently resident" in a territory who has completed a continuous period of 15 years residence in that territory. This presumption would not of course exclude persons who have not completed the specified period from establishing permanent residence. The period it is felt, would be a matter for consideration by the Commission of Enquiry.

Continuity of Residence

33. In calculating the period of residence, periods of absence which are not inconsistent with essential continuity of residence should not be taken into account. The Committee appreciates that the question of "permanent residence" is a judicial matter and acknowledges the fact that in practice it is subject to a liberal interpretation which would prevent any miscarriage of justice in cases where a citizen lives abroad but maintains substantial connexion with his home in the territory concerned.

Citizenship by Registration, etc.

34. The Committee is generally satisfied with the proposal that the provisions of the present Federal Constitution *mutatis mutandis* will apply after merger to citizenship by operation of law, registration or naturalisation. Some transitional arrangements might be desirable in regard to citizenship by registration.

Arrangement for Persons Born during Brooke and Chartered Company Régimes

35. The attention of the Committee was drawn to the fact that Sarawak became a colony only on the 1st July, 1946, while North Borneo was transferred from the Chartered Company on the 15th July in the same year. Before those dates the people did not have the status of British subjects. The Committee therefore accepts the arrangement that a person who would have been a British subject if the territory in which he was born had been a British Colony, in the case of Sarawak from the commencement of the Brooke régime, or, in the case of North Borneo, from the date of the commencement of the Chartered Company régime, will be regarded as a British subject. This formula would obviate any future difficulties relating to this very important and complex subject.

Position of Indigenous Peoples

36. It is acceptable to the Committee that on the creation of Malaysia the indigenous peoples of the Borneo territories should be placed in the same position as the Malays under the present Constitution of the Federation of Malaya. They are the "founder citizens" and to place them in a position different from that of Malays from the constitutional point of view would only create anomalies. The special provision in the present Federation of Malaya Constitution relating to Malays should be extended to the indigenous peoples of the Borneo territories so that they would equally share whatever advantages might be derived therefrom. These provisions relate to the reservation of such proportion as may be deemed reasonable of positions in the public service, scholarships and other similar educational or training programmes and special facilities relating to trade or business in order that they may be able to take their rightful places along with the other communities.

Legitimate Interests of Others Safeguarded

37. The Committee is satisfied with the guarantee in the existing Constitution of the Federation of Malaya that the rights and legitimate interests of the other communities in the Federation of Malaysia will adequately be safeguarded.

State, Federal and Concurrent Lists Applicable

38. Having accepted the principle that all the Borneo territories would join the Federation of Malaysia as States equal in status with the other existing States of the Federation, the Committee is cognisant of the arrangement that the State list, Federal list and Concurrent list of the present Federation of Malaya Constitution defining the present powers and responsibilities of the State and the Federal Governments will, subject to local autonomies and paragraph 41, be applicable in the new Federation of Malaysia. There may of course be some administrative problems in the case of integration of services and such like matters but the Committee is confident that all those could be resolved by a joint working party of officials. In this regard the Committee is of the view that nothing should be done so as to disrupt the machinery of Governments and reduce the efficiency of the services concerned.

Assurance on Civil Service

39. With regard to the public services in the Borneo territories it is agreed that all State civil service appointments would be under the control of the respective State Governments. In the case of Federal services, the Committee welcomes the assurance given by the Prime Minister of the Federation of Malaya on the 6th January at the Kuala Lumpur meeting of the Committee when he stated, "I can also give a categorical assurance that there would be a progressive Borneanisation of the public services in the Borneo territories and in addition the people of the Borneo territories would have new opportunities to serve in high appointments in the Federal service. Of course, as I have declared before, nothing should be done to disrupt the present machinery of Government. Expatriate officers who are now serving the various territories would continue to do so until suitable local officers are found to take their places."

Service in Armed Forces

40. The Committee also welcomes the statement of the Prime Minister in the same speech that the local people of the Borneo territories should participate in the defence of Malaysia. "Their young men should be encouraged to enlist in the army, navy or the air force of the Federation of Malaysia and take a legitimate pride in being officers and other ranks in such forces. Programmes will have to be arranged whereby those in schools who aspire to make the armed forces their career will be given suitable training either in our own military college or overseas. The warriors of the Borneo territories should stand shoulder to shoulder with their compatriots in the peninsula in the protection of Malaysia."

Amendment Safeguard

41. In the course of its deliberations, the Committee referred to the fears entertained by some delegates that it would be possible for the Federal Government to amend the Constitution and withdraw whatever powers it had agreed to give to the States. The Committee is of the opinion that when an individual State is given autonomy in respect of a particular matter which is not conceded to all States some form of safeguard will be desirable. The assurance in this regard was most welcomed. The form such safeguard will take is a matter to be worked out by constitutional experts.

Existing Laws to Continue until Replaced

42. With regard to the question of the validity of the existing laws in the Borneo territories until replaced by Federal law, the Committee is satisfied with the explanation that, subject to modifications, existing laws on Federal matters would continue until amended or repealed by Parliament. Existing laws on State matters will continue until amended or repealed by the State legislature.

Economic Aspects of Malaysia

43. The Committee made a thorough study of the papers relating to the economic aspects of Malaysia which were tabled by the Federation Delegation *vide* Appendices A and B*. The Committee is adequately assured that the future economic and trade policy of the Federation of Malaysia would not deviate from those precepts which are admirably suited for the purpose of the common prosperity and welfare of the people of Malaysia.

* Not reproduced.

Allocation of Development Funds and Scholarships

44. Assurances on the allocation of development funds were most welcome. The Committee endorsed the principle that the amount should not depend on the size of the State but on priorities, so that the less developed State would get a greater share of such funds. In regard to the Federal and Colombo Plan scholarships, candidates would be selected on a fair basis depending on merits. State scholarships would remain purely a State matter. Account will be taken in the allocation of Federal, Colombo Plan and other overseas scholarships and training facilities of the need to narrow the gap in educational and technical standards amongst people in various States.

We, the members of the delegations to the Malaysia Solidarity Consultative Committee from Brunei, Sabah, Sarawak, Singapore and the Federation of Malaya, having completed our deliberations in Singapore this day do hereby attest this Memorandum:

Done at Singapore this third day of February, 1962.

Chairman : D. A. STEPHENS.

BRUNEI DELEGATION (OBSERVERS):

Leader: Dato Setia Pengiran Ali bin Pengiran Haji Mohd. Daud

Members:

Dato Setia Pengiran Haji Mohd. Yusuf
Haji Jamil bin P.U.K. Awang Haji Umar
Dato Temenggong Lim Cheng Choo
Dato Abdul Aziz bin Haji Mohd. Zain.

SABAH DELEGATION:

Leader: O.K.K. Datu Mustapha bin Datu Harun

Members:

Pang Tet Tshung
O.K.K. G. S. Sundang
Lai En Kong

SARAWAK DELEGATION:

Leader: Yeo Cheng Hoe

Members:

Ong Kee Hui
Temenggong Jugah ak Barieng
Pengaruh Montegrai ak Tugang
Dato Abang Haji Openg
Ling Beng Siew
James Wong
Remigius Durin ak Nganau

FEDERATION OF MALAYA DELEGATION:

Leader: Mohammed Khir Johari

Members:

Mohamed Ismail bin Mohd. Yusof
V. Manickavasagam
Dr. Burhanuddin bin Mohd. Noor
Lee Siok Yew
Syed Esa bin Alwee
Abdul Ghani bin Ishak

SINGAPORE DELEGATION:

Leader: Lee Kuan Yew

Members:

Ahmad bin Ibrahim
S. Rajaratnam
Dato Abdul Hamid bin Haji Jumat

MALAYSIA

REPORT OF THE INTER-GOVERNMENTAL COMMITTEE, 1962.

CHAPTER I

INTRODUCTION

1 A Commission under the chairmanship of Lord Cobbold visited North Borneo and Sarawak between February and April, 1962, and its Report was published as CMND 1794 on the 1st August 1962. The Commission was unanimously agreed that a Federation of Malaysia is in the best interests of North Borneo and Sarawak and that an early decision in principle should be reached.

2 The Report was considered in detail in a series of meetings in London in July 1962 by British and Malayan Ministers. In the light of the Report and of the agreement reached between the Government of Malaya and the Government of Singapore, the British and Malayan Governments decided in principle that, subject to the necessary legislation, the proposed Federation of Malaysia should be brought into being by the 31st August 1963. A copy of the Joint Public Statement is at Annex C.

3 The two Governments decided to establish an Inter-Governmental Committee, on which the British Malayan North Borneo and Sarawak Governments would be represented. Its task was to work out the future constitutional arrangements, including safeguards for the special interests of North Borneo and Sarawak to cover such matters as religious freedom, education, representation in the Federal Parliament, the position of the indigenous races, control of immigration, citizenship and the State Constitutions.

4 The Minister of State for Colonial Affairs, Lord Lansdowne, the Chairman of the Committee, and the Deputy Prime Minister of the Federation of Malaya, Tun Abdul Razak, the Deputy Chairman of the Committee, visited North Borneo and Sarawak in August 1962 and a Preparatory Meeting of the Inter-Governmental Committee was held in Jesselton on the 30th August, 1962.

5 At this Preparatory Meeting it was decided to set up five Sub-Committees —

The Constitutional Sub-Committee

The Fiscal Sub-Committee

The Legal and Judicial Sub-committee

The Public Service Sub-Committee

The Departmental Organisation Sub-Committee.

6 On the 12th September, 1962, the following motion was unanimously adopted by the Legislative Council of North Borneo —

"Be it resolved that this Council do welcome the decision in principle of the British and Malayan Governments to establish Malaysia by the 31st August 1963, provided that the terms of participation and the constitutional arrangements will safeguard the special interests of North Borneo, and do accordingly authorise the following Members of this Council to represent North Borneo on the proposed Inter-Governmental Committee to prepare detailed constitutional arrangements which will be laid before this Council —

The Honourable the Chief Secretary

The Honourable the Attorney-General

The Honourable the Financial Secretary

The Honourable O.K.K. Datu Mustapha bin Datu Haroo, O.B.E

The Honourable Khoo Siak Chiew

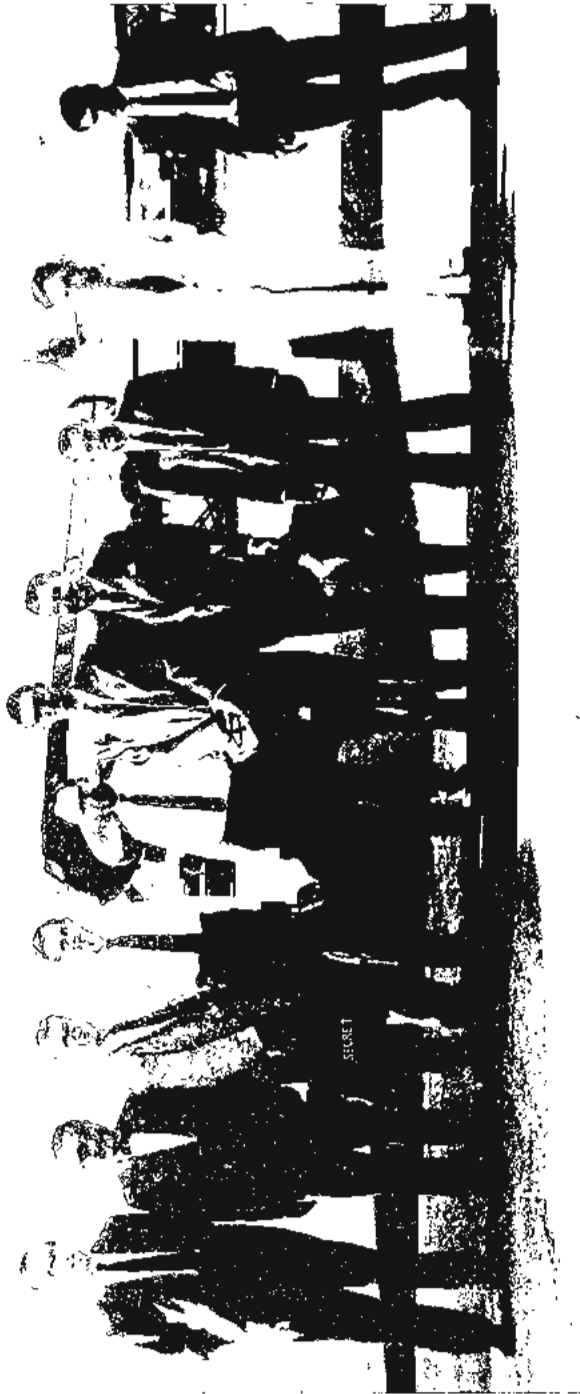
The Honourable D.A. Stephens "

7 On the 26th September, 1962, the following motion was adopted without dissent by the Council Negri of Sarawak:—

"That this Council—

(a) welcomes the decision in principle of the British and Malayan Governments to establish Malaysia by the 31st August 1963, on the understanding that the special interests of Sarawak will be safeguarded,

(b) notes that an Inter-Governmental Committee has been established to work out the detailed constitutional arrangements and the form of these safeguards, which will be laid before this Council:



Arrival of officials of the inter-Governmental committee from North Borneo, Sarawak and Britain in Kuala Lumpur on 17 January, 1963. Left to right, Mr. Frank Mills, first secretary of the British High Commission, Mr. Aazs Yeop, Deputy Secretary, Malaysia Div, Prime Minister's Department, Mr. T.J.O' Brien (Britain), Mr. J. Pike (Sarawak), Mr. G.A.T. Shaw (Sarawak), the Honble Mr. P.E. H. Pike (Sarawak), Mr H.P. Hall (Britain), Mr. W. S. Holley (North Borneo) and Mr. J. O. Ballard (North Borneo).

(By courtesy of the Sarawak Museum Archives)

CHAPTER II

ESTABLISHMENT OF THE FEDERATION OF MALAYSIA

(c) **authorises** the Chief Secretary, the **Attorney-General**, the Financial Secretary, the Datu Bandar **Abang Haji Mustapha**, **Tomenggong Jugah** anak Barieng, **Pengarah Montegrai** anak **Tugang**, Mr. **Ling Bong Siew** and Mr. **Chua Chin Shin** to represent Sarawak on this **Committee**; and

(d) **authorises** the Governor in Council to nominate as additional members of the Committee or as members of Sub-committees thereof such unofficial members of this Council and such public officers as may be desirable "

8. **The** first Sub-committee meeting was held in Jesselton on the 8th October, and the series of meetings concluded with Plenary **meetings** in Kuala Lumpur on the 18th, 19th, and 20th December. A **list** of the meetings held and the delegates who took part is at Annex D.

9. The recommendations of the Inter-Governmental Committee, in so far as they are not fully covered in the body of this Report are set out in Annex A, and with respect to the Public Service in Annex B.

10. The **Federation** will consist of the States of the existing Federation of Malaya **Sabah** (at present known as North Borneo), Sarawak and Singapore and also, if agreement is reached on the admission of Brunei, that State. The name of the Federation shall be Malaysia.

11. The Committee noted the intention stated in paragraph 4 of the joint public statement (Annex C) to conclude a formal agreement embodying detailed constitutional arrangements including safeguards for the special interests of North Borneo and Sarawak. In order to carry out this intention, the annexures to the formal agreement should include —

(a) a Bill to be introduced into the Malayan Parliament to amend the Constitution of the present Federation of Malaya to meet the requirements of the new States and to change the name of the Federation;

(b) the Draft State Constitutions to be submitted to Her Majesty in Council

12. The Committee examined the Constitution of the Federation of Malaya and this Report sets out the amendments, including transitional provisions, which the Committee considers will be necessary to meet the requirements of North Borneo and Sarawak (hereinafter referred to as the Borneo States) and, subject to these and the amendments necessary in relation to any other new State, accepts that the Constitution of the Federation of Malaysia will be based upon the Constitution of the Federation of Malaya as it applies in relation to the States which are at present States of the Federation of Malaya. This Report will be laid More the Legislative Council of North Borneo and the Council **Negri** of Sarawak. If it is approved by those Councils, the draft of the formal agreement will be drawn up and initialled by representatives of the United Kingdom, the Federation of Malaya, North Borneo and Sarawak.

13. The Committee **recognised** that the nature of the constitutional arrangements to govern the relationship of the State of Singapore to the Federation of Malaysia was not a matter within its terms of reference. But certain of the Committee's recommendations, for example regarding the composition of the Federal Supreme Court, and the establishment of territorial High Courts are in some respects necessarily of general application and in other respects such that a considerable **degree of uniformity is clearly desirable**. **Consequently** in a few wntexts the recommendations **are** formulated in general terms applicable to the **whole** of Malaysia and the **Committee** has expressed the **hope** that these recommendations will be acceptable in relation to Singapore and, should Brunei join the Federation, that State.

14. In certain respects the **Committee** agreed that the requirements of the **Borneo** States could appropriately be met by undertakings or assurances to be given by the Government of the Federation of Malaya rather than by Constitutional provisions, and these are mentioned in the appropriate sections of this Report. The Committee agreed that the more important undertakings should be included in the formal agreement and envisaged that the other undertakings and assurances might be dealt with in exchanges of letters between the Governments concerned.

PROPOSED CONSTITUTIONAL ARRANGEMENTS

Religion

15.—(1) No amendment is required to Article 3 (1), which provides "Islam is the religion of the Federation, but other religions may be practised in peace and harmony in any part of the Federation" As in the case of Penang and Malacca (Article 3 (2)) the Heads of State in the Borneo States should not be Head of the Muslim religion in the State; but Article 3 (3) should be left unamended so as not to confer on the Yang di-Pertuan Agong the position of Head of the Muslim religion in the Borneo States

(2) The guarantee for religious freedom contained in Article 11 should be retained. As regards Article 11 (4) which provides "State law may control or restrict the propagation of any religious doctrine or belief among persons professing the Muslim religion", it was agreed that the Constitutions of the Borneo States could properly provide that a law having the effect described in Article 11 (4) would need to be passed by a two-thirds majority vote of the total membership of the State Legislative Assembly.

(3) Sections 36 and 37 of the Malaysian Education Act, 1961, should not be applied to North Borneo and Sarawak; Federal Law should not provide for special financial aid for the establishment of Muslim institutions or the instruction in the Muslim religion of persons professing that religion in respect of North Borneo and Sarawak without the concurrence of the State Government concerned; and the Federal Constitution should be amended to secure that where federal law provides for special financial aid for Muslim institutions or Muslim religious education in pursuance of Article 12 (2) the Malaysian Government would grant to the North Borneo and Sarawak Governments proportionate amounts* for social welfare purposes in those States. Any grants paid out by the Malaysian Government from the proceeds of lotteries conducted by the Social and Welfare Services Lotteries Board would not be regarded as payment made from Federal revenue in this respect.

(4) Article 38 (2)(b) and (6)(d), which deals with the functions of the Conference of Rulers relating to the extension of religious acts, observances and ceremonies to the Federation as a whole, should not apply to the Borneo States.

Immigration

16 The following arrangements should apply

- (a) immigration into Malaysia should remain on the Federal List, but legislation should be enacted by the Federal Parliament to ensure that, except as provided in sub-paragraph (f) below, entry into the Borneo States will require the approval of the State concerned;
- (b) the Federal Constitution should be amended to enable the Federal Parliament to legislate to control the movement of persons between the existing Federation and a new State or between new States on any ground (i.e. not merely the grounds specified in Article 9 (2));
- (c) the Federal Government should undertake in the formal agreement for the establishment of Malaysia to pass before Malaysia Day a law coming into operation on Malaysia Day, the draft of which would be agreed by the Governments of the Borneo States and scheduled to the formal agreement and an outline of which is set out in sub-paragraph (f) below;
- (d) the Federal Constitution should be amended to provide that this law may not be amended or repealed in its application to a Borneo State without the concurrence of the Government of the State concerned;
- (e) the Federal Constitution should be amended to provide that the provisions referred to in sub-paragraphs (b) and (d) may not be amended or repealed in their application to a Borneo State without the concurrence of the Government of the State concerned
- (f) the law referred to in sub-paragraph (c) should contain provisions to secure that:
 - (i) any person from outside Malaysia whose entry into a Borneo State the Government of that State considers is necessary for State purposes shall be given entry except in cases where the Federal Government, which will be consulted for this purpose, considers that it is desirable in the national interest that entry should be refused;
 - (ii) subject to Article 9(1) and to sub-paragraph (iv) below, admission to a Borneo State will not be granted to any other person or class of persons, whether from inside or outside Malaysia, without the approval of the Government of the State concerned.

* These amounts should bear the same proportion to the amount of special financial aid paid from Federal revenue as the amount of Federal revenue derived from a Borneo State during the financial year in question and retained by the Malaysian Government bears to the total Federal revenue for that year

- (iii) subject to Article 9(1) and to sub-paragraph (iv) below, any person who is present in a Borneo State contrary to the provisions of sub-paragraph (ii) above or whose presence is otherwise unlawful, whom the Government of the State wishes to be removed from the State, shall be so removed;
- (iv) the provisions outlined in sub-paragraphs (ii) and (iii) above do not apply to members or officers of the Federal Government or any person or class of persons whose temporary presence in the State the Federal Government, after consultation with the State Government, considers is necessary in order to enable the Federal Government to carry out its constitutional and administrative responsibilities, or any citizen who enters for the purpose of exercising his rights in connection with the functioning of parliamentary democracy in Malaysia or any part thereof, or any person who belongs to the State, i.e. who is a permanent resident of the State or who is a citizen of Malaysia on account of connection with the State;
- (v) no person who resides temporarily in the State in accordance with sub-paragraph (iv) shall by reason of such residence be deemed to belong to the State or to be a citizen of Malaysia on account of connection with the State for the purposes of that sub-paragraph; and
- (g) the Federation Government should give an assurance that labour for federal projects in the Borneo States will not be recruited from outside the State if adequate local labour is available, and that it is not the intention of the Federal Government, in its control of immigration, to hinder the recruitment of persons from outside Malaysia as experts or technical advisers or for the purpose of employment by the Governments of the Borneo States

Education

17. Certain aspects of religious education have been dealt with under the heading "Religion". In addition:—

- (a) although Education (item 13 (a) of the Federal List in the Ninth Schedule) will be a federal subject the present policy and system of administration of education in North Borneo and Sarawak (including their present Ordinances) should be undisturbed and remain under the control of the Government of the State until that Government otherwise agrees. In particular:—
 - (i) the present policy in the Borneo States regarding the use of English should
 - (ii) knowledge of the Malay language should not be required as a qualification for any educational opportunity until such time as the State Government concerned considers that sufficient provision has been made to teach Malay in all schools in the State;
 - (iii) there should be no application to the Borneo States of any Federal requirements regarding religious education;
 - (iv) State provisions for the special position of the indigenous peoples should continue to apply;
 - (v) the Directors of Education in the Borneo States, who would be officers serving in Federal posts and responsible to the Federal Minister of Education through the Ministry of Education, should carry out much the same duties as they do at present in consultation with the State Government concerned;
 - (vi) to enable local wishes to be fully consulted and taken into account as far as possible, the Directors of Education of the Borneo States should continue to be advised by the respective existing Boards of Education and the local Education Committees; and
 - (vii) in the case of Sarawak the local authorities should continue to be used as agents for primary education, and
- (b) when expansion of higher education facilities was being considered by the Malaysian Government the requirements of the Borneo States should be given special consideration and the desirability of locating some of the institutions in the Borneo States should be borne in mind

Citizenship

18.—(1) Any citizen of the United Kingdom and Colonies who

- (a) was born in North Borneo or Sarawak or was naturalised or registered as a citizen of the United Kingdom and Colonies in North Borneo or Sarawak, and
- (b) was ordinarily resident on Malaysia Day in North Borneo, Sarawak or Brunei;

should become a citizen of the Federation of Malaysia by operation of law on Malaysia Day

(2) Any person of or over the age of eighteen years and ordinarily resident in Sarawak or North Borneo on Malaysia Day but who does not become a citizen of Malaysia by operation of law should be entitled during the first eight years after Malaysia Day to be registered as such a citizen if he satisfies the Federal Government that—

- (a) he has resided before Malaysia Day in North Borneo, Sarawak or Brunei (whether in one or more of them) or after Malaysia Day in any part of Malaysia for periods amounting to seven out of the ten years preceding his application and which include the twelve months immediately preceding his application;

- (b) he intends to reside permanently in Malaysia;
- (c) he is of good character, and
- (d) (except in the case of a person who has attained the age of forty-five years and who applies within two years after Malaysia Day) he is able to satisfy the existing language test applicable to applicants for naturalisation in North Borneo or Sarawak as a citizen of the United Kingdom and Colonies

(3) There should be no presumption as to good character on the lines of the former Article 18(4) of the Federal Constitution; that provision has proved inconvenient in operation and has been repealed. Applicants for registration should be required to take the citizenship oath in the form prescribed in the existing Federal Constitution.

(4) It was considered that Article 15(2) of the existing Federal Constitution makes adequate provision for the registration of the minor children of persons who obtain citizenship by registration. Should there be no federal registrar of citizens in either of the Borneo States powers of registration should be delegated to the State Secretary under paragraph 4 of the Second Schedule to the Federal Constitution.

(5) The Constitution should provide that the provisions recommended in sub-paragraphs (1) and (2) above should not be amended or repealed in their application to a Borneo State without the concurrence of the Government of the State concerned.

(6) Subject to the provisions recommended in sub-paragraphs (1) and (2) above, the provisions of the Federal Constitution relating to the acquisition and termination of citizenship should apply *mutatis mutandis*. As regards persons born within Malaysia after Malaysia Day, arrangements should be made to secure that, where one of the parents was a citizen or permanent resident of Malaysia, this fact should be entered in the register of births.

(7) The Constitution should provide that no amendment of the citizenship provisions referred to in sub-paragraph (6) above should be made that discriminated against the inhabitants of the Borneo States.

Federal Legislature

19.—(1) Two members of the Senate should be elected for each Borneo State in accordance with Article 45(1)(a) of the Constitution. Article 45(1)(b) of the Constitution should be amended to increase the number of appointed members of the Senate by six in respect of the accession of North Borneo and Sarawak to Malaysia. An assurance should be given that, on the occasion of the first appointments of these additional members after Malaysia Day, at least two would be appointed from North Borneo and at least two from Sarawak after consultation with the Chief Minister of the State concerned.

(2) Article 46(1) should be amended to increase the number of elected members of the House of Representatives from one hundred and four to one hundred and fifty-nine (including the fifteen proposed for Singapore). Of the additional members sixteen should be elected in North Borneo and twenty-four in Sarawak. The proportion that the number of seats allocated respectively to Sarawak and to North Borneo bears to the total number of seats in the House should not be reduced (except by reason of the granting of seats to any other new State) during a period of seven years after Malaysia Day without the concurrence of the Government of the State concerned and thereafter (except as aforesaid) shall be subject to Article 159(3) of the existing Federal Constitution (which requires Bills making amendments to the Constitution to be supported in each House of Parliament by the votes of not less than two-thirds of the total number of members of that House).

(3) The question of elections to the House of Representatives is dealt with in paragraph 25.

State Constitutions

20.—(1) The first Head of State should be a person nominated before Malaysia Day by Her Majesty the Queen and His Majesty the Yang di-Pertuan Agong and should be appointed by him for a period of two years. Thereafter the Head of State should be appointed by the Yang di-Pertuan Agong acting in his discretion after consulting the Chief Minister of the State. The Head of State should be known as the Yang di-Pertua Negara in the case of North Borneo and as the Governor in the case of Sarawak and should exercise similar functions to those of the Governors of Malacca and Penang.

(2) As regards Article 71(4) which enables the Federal Parliament to make provision for giving effect in a State to "the essential provisions" of a State Constitution set out in the Eighth Schedule or for removing from a State Constitution provisions inconsistent with the essential provisions, the question whether a State Constitution does not contain the essential provisions or contains provisions inconsistent with them should be one which is ultimately determinable by the Courts and not one depending solely on the opinion of the Federal Parliament.

(3) Subject to sub-paragraph (4) below Part I of the Eighth Schedule to the Federal Constitution should apply to the Borneo States in the same way as it applies to the States of Penang and Malacca subject to the following modifications—

- (a) the definition of "office of profit" in Article 160(2) should be amended by the addition of a provision to the effect that the expression shall not include the office of Chief Minister or any other member of the Executive Council or Speaker or any other member of the Legislative Assembly of the State. In order to make it clear that a Ministerial system is not precluded in the Borneo States this amendment should apply to them as if the reference to the office of Chief Minister included a reference to the office of any Minister;
- (b) Clause 2(3) of the Eighth Schedule should allow persons who are citizens by registration to be appointed Chief Minister;
- (c) the Legislative Assembly should be able to choose its Speaker either from among the members of the Assembly or from among persons who are not members but are qualified to be members;
- (d) Sarawak should be allowed to call their Executive Council "the Supreme Council" and to call their Legislative Assembly "the Council Negri";
- (e) in section 4(1), the words after "provide" should not apply, and
- (f) provision should be made giving a member of the Legislative Assembly who becomes subject to the disqualification mentioned in section 6(1)(e) a period of grace during which to pursue an appeal against his conviction or sentence, and securing that during that period the member should be suspended from taking part in the proceedings of the Assembly.

(4) Until the expiration of ten years after Malaysia Day, or such earlier date as the Federal Government may, in relation to either State, prescribe with the concurrence of the Government of that State, provision on the lines of Part II of the Eighth Schedule, which will require amendment in the light of the terms of the draft State Constitution, should apply. This would ensure that the essential parts of the State Constitution are not amended in such a way that the amendments would constitute a backward step from the position on Malaysia Day.

Distribution of Legislative Powers

21.41) The modifications to the Legislative Lists which should be made in respect of the Borneo States are set out in Annex A to this Report.

(2) New provision should be inserted in the Federal Constitution enabling the Federal Parliament by law to empower a State Legislature to legislate, either unconditionally or subject to such conditions and restrictions as may be specified in the law, on a matter on the Federal List. Until such time as Parliament otherwise provides, this power and the power to authorize the State to exercise federal executive authority under Article 80(4) should also be exercisable in relation to the Borneo States by order made by the Yang di-Pertuan Agong which should be required to be laid before both Houses of the Federal Parliament as soon as practicable after it has been made.

(3) To the extent that power to legislate on a matter on the Federal List is conferred on a State Legislature, the principles contained in Article 82 regarding the distribution of financial burdens should apply as respects that State as if the matter were one enumerated in the Concurrent List.

(4) A reference to the law or custom of Natives (defined as in paragraph 29) should be inserted after the reference to Muslim law or custom of the Malays in Article 76(2).

(5) Article 76(4), which empowers the Federal Parliament to legislate on certain State matters for the purpose of ensuring uniformity of law and policy, should not apply to the Borneo States.

Land

22.—(1) So as to ensure that State Governments are consulted with regard to the acquisition under Article 83 of alienated as well as unalienated, land in the State for Federal purposes, Article 83(5)(a) should not apply to the Borneo States.

(2) Article 88 should, subject to the preceding paragraph, be replaced by provision on the following lines:—

"Parliament may by law make any provision necessary to adapt Articles 83 to 86 in order that they may apply to land in the States of North Borneo, Malacca, Penang, Sarawak and Singapore as nearly as practicable, having regard to differences in the system of land tenure, in the same manner as they apply to land in other States."

(3) Article 89, which relates to Malay reservations, should not apply to the Borneo States and instead there should be provision in the Constitution enabling the legislature of a Borneo State to make provision with respect to the reservation or alienation of land to Natives of the State. (For the meaning of the expression Natives, see paragraph 29 of this Report).

(4) In Article 91, which relates to the establishment and functions of the National Land Council, the last phrase of Clause 5, which reads "and the Federal and State Governments shall follow the policy so formulated", should not apply to the Borneo States. The representatives of the Borneo States would participate in the Council as members without vote.

(5) Article 92 should be amended in its application to the Borneo States so as to provide that the concurrence of the State Government concerned will be required in respect of any development plan which it is proposed should be put into operation in that State.

(6) The last phrase of Article 94(1), which reads "and the agricultural and forestry officers of any State shall accept any professional advice given to the Government of that State under this Clause", should not apply to the Borneo States and instead provision should be made that the heads of the Agriculture and Forestry Departments of those States shall consider any professional advice given to the Government of that State under Article 94(1).

National Council for Local Government

23. The last phrase of Article 95A(5), which reads "and the Federal and State Governments shall follow the policy so formulated", should not apply to either of the Borneo States until such time as the Federal Parliament with the concurrence of the State Legislative Assembly concerned otherwise provides. The representative of a Borneo State would participate in the Council as a member without vote until such time as the State has accepted the obligation to follow the advice formulated in the Council under Article 95A(5).

Financial Provisions

24 —(1) Taxation, including in particular customs and excise duties and taxes on incomes, and profits, should be a Federal subject but each Borneo State should have power to impose a Sales Tax, if it wishes, provided that any Federal sales tax would take priority over any State sales tax and provided that discriminatory rates would not be imposed on goods of the same type but of different places of origin. The level of Federal taxation in the Borneo States should be brought up to Federation of Malaya levels in graduated stages over a period of years and the steps should not be grossly disproportionate. There should be *ad hoc* consultation with the senior officials concerned in the Borneo States regarding tax changes and in addition the Borneo States should each be represented on a Malaysian Board of Income Tax.

(2) (i) Subject to the provisions of sub-paragraph (9) below relating to reviews, the revenues to be assigned to the States of Sarawak and North Borneo should, in addition to those listed in Part III of the Tenth Schedule of the present Federal Constitution, consist of the following revenues levied in the State:—

- (a) import duty and excise duty on petroleum products;
- (b) mechanically propelled vehicles and drivers' licence fees for the period of the delegation of carriage of passengers and goods by land*;
- (c) export duty on timber and other forest produce,
- (d) export duty on minerals up to a joint total of royalty and export duty of 10 per cent *ad valorem* calculated in the manner laid down for the payment of export duty;
- (e) State Sales Taxes,
- (f) in respect of North Borneo only 30 per cent of Customs revenue less revenue from import duty on petroleum products and from export duty on timber and other forest produce for so long as North Borneo is responsible for Medical and Health expenditure; and
- (g) fees and dues from State ports and harbours.

(ii) It was noted that trade licence fees as imposed under the Sarawak Business Professions and Trades Licensing Ordinance and the North Borneo Trades Licensing Ordinance (Cap. 144) would be State revenue.

(3) North Borneo and Sarawak should receive a capitation grant as provided for in Part I of the Tenth Schedule to the Federal Constitution.

(4) North Borneo and Sarawak should receive a State road grant for the first two years after the application of Part VII of the Constitution at a rate to be agreed between the Federal and the Borneo Governments; thereafter the provisions of Part II of the Tenth Schedule should apply but so that—

- (a) the average cost of maintenance should be that in the State concerned and should include an on-cost element for supervision and for the depreciation and maintenance of plant and equipment (excluding depreciation of any plant or equipment given free by the Federal Government);
- (b) minimum standards of roads lower than those applicable in other States could qualify for the road grant, and
- (c) roads maintained by local authorities at the expense of the State should qualify

(5) If the rate of annual road grant for North Borneo finally agreed upon is less than \$4,500 per mile in respect of 1,151 miles (representing the 1962 road mileage) the Federal Government should make good the short-fall in each year up to and including 1967.

(6) Subject to the provisions for review made in sub-paragraph (9) below in order that the Borneo State Governments should have enough revenue to meet the cost of State services, the State should receive as of right, where the assignment of revenues to the State would in 1963 have resulted in a deficit, an annual balancing grant equal to the difference between the estimated State revenue in 1963, including assigned revenue and statutory grants, and the estimated cost of State services in 1963, calculated as if the proposed constitutional arrangements had already come into force. The published Revenue and Expenditure Estimates for 1963 would be used as the basis of the calculations.

(7) Subject to the provisions for review made in sub-paragraph (9) below, in addition to the annual balancing grant, Sarawak should receive as of right revenue sufficient to meet the annual increase in the current costs of State services plus any sum required to offset any decrease in the State's revenue. During the first ten years this would take the form of an escalating annual grant; the amount of this grant would be fixed in advance for each of the first five years and would be decided at the end of this period by an independent assessor as described in sub-paragraph (9). In recognition of the fact that the Sarawak State Departments are still relatively undeveloped compared with their Malayan equivalents and because otherwise there would be no means of enabling them to develop to an acceptable level the escalating annual grant together with the natural growth in State revenue and revenue assigned will, until the first independent review, assure an expansion of State services of not less than 10 per cent per annum provided examination of expenditure over the period 1959 to 1962 shows a rate of expansion in such services of not less than that rate. If the average percentage growth over the period 1959 to 1962 proves to be less than 10 per cent per annum then the escalating annual grant shall be calculated so as to provide for a continued expansion at the same rate.

(8) Subject to the provisions for review made in sub-paragraph (9) below, North Borneo should receive each year a grant equal to 40 per cent of any increase in Federal revenue derived from North Borneo and not assigned to the State over the Federal revenue which would have accrued in 1963 if these financial arrangements had been in force in that year. The sum payable would be calculated on the basis of actual revenue received in each year.

(9) (i) The following arrangements should be subject to review by the Governments concerned and, in default of agreement, by an independent assessor, appointed jointly by the Federal Government and the Government or Governments of the State or States concerned and his recommendations would be binding upon each party.—

- (a) the annual balancing grants referred to in sub-paragraph (6);
- (b) the escalating annual grant referred to in sub-paragraph (7); and
- (c) the grant equal to the percentage of the increase in Federal revenue referred to in sub-paragraph (8).

(ii) The assessor should, in carrying out his review, take into account not only the needs of the State concerned but also the financial position of the Federal Government. Subject to that, he should aim to ensure that his recommendations will result in securing as of right to the State or States concerned sufficient revenue to meet the cost of State services at their then existing level with such provision for their expansion as he thinks reasonable.

(iii) The first review should be undertaken in time to enable the assessor's recommendations to be implemented with effect from the beginning of the sixth year after the application of Part VII of the Constitution to the Borneo States, and once implemented should remain in force until superseded by implementation of the recommendations of a second assessor.

(iv) The second review should similarly be undertaken in time to enable the assessor's recommendations to be implemented with effect from the beginning of the eleventh year and should relate to the ensuing period of five years or such longer period as might be agreed upon by the parties concerned, and once implemented should remain in force until the end of that period and thereafter until superseded by implementation of the recommendations of a subsequent assessor.

(v) If, before the end of the period to which the second (or any later) review relates, or at any time afterwards, any of the parties desires a further review, but not otherwise, an assessor should again be appointed.

(vi) The Federal Government should be able on the occasion of any review to vary any of the assignments of revenue specified in sub-paragraph (2)(i) (a), (c) or (d), and on the second or a subsequent review, that specified in sub-paragraph (2)(i) (b); on the second or a subsequent review this power should extend to any substituted assignment made on the occasion of a previous review. Where the Federal Government intends to do this, it should give the State concerned and the assessor notice of its intention, and the assessor should take the effect into account in his recommendations.

(10) The Malayan Government agreed that the figure of \$300 million should be accepted for planning purposes as the total of Federal and State development expenditure required in Sarawak for the first five years after the inception of the Federation of Malaysia, and, subject to the amount of financial aid which might be forthcoming from the British Government and to the general availability of funds, undertook to use its best endeavours to enable this amount of development expenditure to be achieved.

* See item 10 in the Federal List in Annex A.

(11) The North Borneo delegation mentioned that development expenditure in North Borneo should amount to \$200 million during the first five years after the establishment of Malaysia in order to obtain a satisfactory rate of economic growth. The Malayan delegation noted this estimate and recognised that State resources under the proposed arrangements would be inadequate to reach this level of investment and that subject to the amount of financial aid which might be forthcoming additional funds from outside North Borneo would be required.

(12) The British delegation promised on behalf of the British Government that a grant of one and a half million pounds a year would be paid for five years after Malaysia Day towards the development of the Borneo States. This grant would be for the specific sum of one and a half million pounds a year and would not be to cover any gap in development finance. It would be taken into account at the ultimate financial settlement. How the grant was divided between the two Borneo States would be for the Government of Malaysia to decide. The British Government was extending this promise for five years on the basis that the Malayan Government was also extending aid for the same purpose for at least this period.

(13) Notwithstanding the provisions of Article 166(7) it was recognised that North Borneo and Sarawak would wish to specify certain property and assets they would wish to retain and discussions on this are proceeding. Where assets (including loans and investments) created from the proceeds of a State Government loan issue were retained by the State Government, the State Government would remain liable for the corresponding public debt. It was also accepted that Article 166(7) of the Constitution should not be applicable to assets representing the unappropriated balances and reserves of North Borneo and Sarawak, which would remain State assets.

(14) Where State loan funds had been expended on what would become a Federal purpose on Malaysia Day the debt service charges should become a liability of the Federal Government except where the State concerned retained the asset in question under sub-paragraph (13).

(15) The principles of Article 166(2) and 166(3) of the Federal Constitution in their relation to land and buildings should apply *mutatis mutandis* in Sarawak and North Borneo and the principles of Clause (3) should also apply to land and buildings which were used for purposes which might become exclusively Federal after a lapse of time after the establishment of Malaysia (e.g. Medical and Health in the case of North Borneo).

(16) The agreement set out in sub-paragraphs (13) to (15) was reached on the understanding that the Federal Government would be responsible for payment of any contribution in lieu of rates in respect of buildings to which Article 166(3) of the Constitution applies and also for the cost of upkeep. Where office buildings would be occupied only in part by Federal Departments the contribution in lieu of rates and the cost of maintenance would be borne between the Federal and State Governments concerned on a basis to be determined. The possibility of fixing a flat rate per square foot to cover these costs should be examined.

(17) The principle of Article 166(3) should not apply to Government quarters other than institutional quarters used for exclusively Federal purposes. Where such quarters in North Borneo and Sarawak were occupied by officers serving in or seconded to Federal departments, the Federal Government would pay to the State Government concerned an economic rent on a basis to be agreed. The payment of an economic rent would not affect the question of rent to be paid by the individual officer. The same principles would apply where a Federal quarter was occupied by a State officer.

(18) Sarawak and North Borneo should have a right to raise loans within the confines of the State with the approval of the central bank for the time being of Malaysia, and Article 111 of the Federal Constitution should be amended accordingly.

(19) The Federal Government should accept liability for all current and future pensions (including gratuities and retiring allowances) payable by the Governments of North Borneo and Sarawak and for contributions to the Widows and Orphans Pensions Funds of the Borneo States in respect of officers serving in State and Federal Departments. This should not apply to pensions payable by Sarawak to His Highness the Rajah and his dependants and those future pensions for which either State expressly accepted liability. Similarly, the pensions payable by the State to officers of local authorities and statutory bodies would be Federal on the understanding, however, that the State would reimburse the Federal Government for such pensions, if the authorities concerned did not refund to the Federal Government that portion of the pensions liability which was due from them.

(20) With regard to Article 112 of the Federal Constitution in relation to its application to Sarawak and North Borneo—

(a) the power to approve the creation of posts, up to and including those in Division III of the Borneo establishments where the liability for payment of pensions, gratuities or retiring allowances falls on the Federal Government, should be delegated for one year at a time to the Financial Secretaries of the respective States to be exercised after consultation with the local branch of the Federal Establishment Office; this delegation to be subject to annual renewal at the discretion of the Federal Government; and

(b) the Financial Secretaries of the respective States should, subject to annual renewal and consultation with the local branch of the Federal Establishment Office, have delegated power to create supernumerary posts in any Division of the Public Service, as might be necessary to accommodate returning scholars or local staff who were qualified for appointment or promotion to a grade for which there were no vacancies so as to facilitate implementation of the Borneanisation programme.

(21) The Financial Secretaries of North Borneo and Sarawak should consult the local branch of the Federal Establishment Office before creating posts of any grade for contract officers whose salaries and gratuities are borne entirely by the State Government.

(22) All salary scales, whether for permanent or temporary officers and whether or not retirement benefits were the liability of a State or Federal Government, should be subject to the approval of the Federal Government.

(23) The functions of the Auditor-General in respect of accounts of the States of North Borneo and Sarawak and State statutory bodies for the years up to and including 1968 should be delegated to the Directors of Audit in those States. The Reports on the State's accounts and those of the State statutory bodies should be presented to the Head of State concerned as well as to the Yang di-Pertuan Agong.

(24) Part VII of the Federal Constitution as modified to give effect to this Report should apply in North Borneo and Sarawak not later than 1st January 1965, except for Articles 105, 106 and 107 (Audit) and 111 (State borrowing) which should apply on Malaysia Day. The Committee considered that it is desirable that this Part should apply on 1st January, 1964, if this is practicable. The periods of time variously specified in this paragraph should begin from the date on which Part VII, as amended, came into operation in the Borneo States.

(25) Since Part VII of the Federal Constitution will not apply to the Borneo States on Malaysia Day, it is necessary to make transitional financial arrangements. The proposed arrangements are as follows.—

- (a) until such time as Part VII of the Constitution is applied to the Borneo States they should be responsible for all expenditure whether or not it relates to Federal or State services;
- (b) all revenue accruing to or collected in the States which would accrue to the Federal Government under the terms of the Constitution as amended will continue to accrue to the Borneo States until Part VII of the Constitution applies;
- (c) the Governments of the Borneo States should continue to accept liability for the payment of pensions and for all contributions to the Widows' and Orphans' Pensions and Provident Funds until Part VII of the Constitution applies;
- (d) all assignments of revenue and statutory grants payable to the Borneo States in furtherance of this Report and under the Constitution should only be payable to the States when Part VII of the Constitution applies;
- (e) all development projects in the Borneo States relating to what will be Federal services after Malaysia Day will remain liabilities of the States until Part VII of the Constitution applies;
- (f) all equipment, stores and supplies ordered by the Governments of the Borneo States for what will be Federal services after Malaysia Day but for which the charges do not fall due for payment until after Malaysia Day shall be liabilities of the States until Part VII of the Constitution applies, but shall be the liabilities of the Federal Government if they fall due after that date;
- (g) all assets and liabilities of the States which should properly become assets and liabilities of the Federal Government on Malaysia Day will remain assets and liabilities of the Governments of the Borneo States until Part VII of the Constitution applies;
- (h) any expenditure which should, under the terms of the Constitution, be charged on the Federal Consolidated Fund on and after Malaysia Day shall not be so charged but shall, until Part VII of the Constitution applies, be charged on the revenues of the Borneo States; and
- (i) nothing in the foregoing should preclude the Federal Government from incurring additional expenditure on its own account in the Borneo States before Part VII of the Constitution applies.

Elections

25.—(1) Article 114 should be amended to provide for the appointment of an additional member of the Election Commission. An assurance will be given that he will be appointed from the Borneo States.

(2) Initially members of the House of Representatives for a Borneo State will be elected by the Legislative Assembly of the State, and the Federal Constitution should so provide. The Federal Constitution should require the Head of State of each State, with the concurrence of the

Yang di-Pertuan Agong, to provide by regulations for the procedure to be followed by the State Assembly in electing members of the House of Representatives; and the procedure may be such as to require or not to require that members of the House of Representatives are elected from among the members of the Assembly. The Committee recommends that consideration should be given to a procedure designed to result in representation reflecting the political composition of the State Assembly.

(3) During an initial period after Malaysia Day elections to the State Assemblies should be indirect and during this period elections to the State Assemblies should be a matter on the Concurrent List and not included in Item 6(a) of the Federal List.

(4) The Federal Constitution should provide that direct elections will be introduced in each Borneo State for--

- (a) the first general election to the House of Representatives, and,
- (b) the first general election to the Legislative Assembly,

held after the fifth anniversary of Malaysia Day or such earlier date as the Federal Government may, in relation to either State, prescribe with the concurrence of the Government of that State. With effect from this date elections to the State Assemblies should become a matter included in Item 6(a) of the Federal List. In order to enable the first constituencies to be delimited for the purpose of the first direct elections the Federal Constitution should enable the Federal Government to require the Election Commission to consider and make recommendations on the division of a Borneo State into constituencies for the purpose of elections to the House of Representatives or the Legislative Assembly within such time as the Federal Government may specify. Provisions on the lines of the Thirteenth Schedule to the existing Federal Constitution should apply to this first delimitation (The total number of members of the House of Representatives to be elected in each Borneo State will be specified in the Constitution itself—see paragraph 19 above).

(5) When the first constituencies have been delimited, it will be necessary for the Election Commission to prepare electoral rolls for each constituency, and the federal legislation governing the procedure to be followed by the Commission in discharging this function will need to be extended with any necessary modifications, to the Borneo States concerned, as also will the federal legislation governing the conduct of elections to the House of Representatives and the Legislative Assemblies of the States

The Judiciary

26 41) In addition to a supreme Court of Malaysia the Federal Constitution should establish three High Courts, for the States of the existing Federation, Singapore and the Borneo States* respectively.

(2) The supreme Court of the Federation of Malaysia would consist of--

- (a) the Chief Justice of Malaysia, who would be President of the Court,
- (b) the Chief Justice of the High Court of Malaya,
- (c) the Chief Justice of the High Court of Singapore;
- (d) the Chief Justice of the High Court of the Borneo States, and
- (e) such number of Judges of the supreme Court as Parliament may provide

The Chief Justice of Malaysia should have power to designate as an Acting Judge of the supreme Court any of the Puisne Judges of the High Courts when he considers that the interests of justice so require.

(3) The Federal Constitution should provide that the supreme Court shall have--

- (i) exclusive jurisdiction to hear appeals from the High Courts,
- (ii) exclusive original jurisdiction in cases between States and between any State and the Federation; and
- (iii) power to determine constitutional questions in accordance with Articles 129 and 130 of the existing Federal Constitution subject to an amendment of Article 129 to permit reference of such a question to the supreme Court from a High Court.

(4) The domicile of the supreme Court should be in Kuala Lumpur. Normally at least one of the Judges of the supreme Court should be a Judge with Bornean judicial experience when the Court is hearing a case arising in a Borneo State; and it should normally sit in a Borneo State to hear appeals in cases arising in that State.

(5) The High Court of the Borneo States should consist of a Chief Justice and not less than four nor, unless the Federal Parliament enacts a law increasing the maximum number, more than eight Puisne Judges

* In this paragraph the term "Borneo States" could include Brunei

(6) Each of the High Courts should have--

- (a) unlimited original jurisdiction in the State or States for which it is established except matters within the exclusive original jurisdiction of the supreme Court, and
- (b) such appellate and revisional jurisdiction over inferior Courts in that State or States as may be provided by Federal Law

(7) The domicile of the High Court of the Borneo States should be in such centre in the Borneo States as may be convenient

(8) As regards appointment of Judges of the supreme Court and the High Courts--

- (a) the Chief Justice of Malaysia should be appointed by the Yang di-Pertuan Agong after consulting the Conference of Rulers, on the advice of the Prime Minister of Malaysia;
- (b) the Chief Justice of the High Court of the Borneo States should be appointed by the Yang di-Pertuan Agong after consulting the Conference of Rulers, on the advice of the Prime Minister of Malaysia, who would be required before tendering his advice to consult the Chief Justice of Malaysia, the Chief Justices of the High Courts and the Chief Ministers of the Borneo States;
- (c) the permanent Judges of the supreme Court should be appointed by the Yang di-Pertuan Agong after consulting the Conference of Rulers, on the advice of the Prime Minister of Malaysia, who would be required before tendering his advice to consult the Chief Justice of Malaysia and the Chief Justices of the High Courts;
- (d) the Puisne Judges of the High Court of the Borneo States should be appointed by the Yang di-Pertuan Agong after consulting the Conference of Rulers on the advice of the Prime Minister, who would be required before tendering his advice to consult the Chief Justice of Malaysia and the Chief Justice of the Borneo States; and
- (e) the consultation by the Prime Minister with the Chief Justices would be direct

(9) The qualifications for appointment as a Judge of the supreme Court or any of the High Courts should be as provided in the existing Federal Constitution subject to--

- (a) provision on the lines of Article 174(1) for the continuance in office* as Judges of the High Court of the Borneo States of existing members of the unified Judiciary in the Borneo States notwithstanding anything in Article 123,
- (b) provision applying Article 123(b) to advocates of the future High Courts and of the existing Supreme Courts of Singapore and of Sarawak, North Borneo and Brunei and to members of any of the existing judicial and legal services in Singapore or the Borneo States;
- (c) provision additional to but on the lines of Article 174(3)† with the substitution of a reference to Malaysia Day for the reference to Merdeka Day and a reference to the existing judicial and legal services in Singapore or the Borneo States for the reference to the judicial and legal service of the Federation; and
- (d) provision additional to, but on the lines of, Article 174(4)‡ should be made referable to Malaysia Day but applicable only to the appointment of a Judge of the High Court of the Borneo States

(10) The retiring age for Judges of the supreme Court and the High Courts should be 65 subject to extension for up to six months in the case of a particular Judge as provided in Clause 125(1) of the Federal Constitution.

(11) The provisions of Article 125(3) of the Federal Constitution should apply to the removal of Judges of the supreme Court and Judges of the High Courts

(12) Article 125(5) of the Federal Constitution should be amended so as to provide that

- (a) the Chief Justice of Malaysia may be suspended by the Yang di-Pertuan Agong upon the recommendation of the Prime Minister,
- (b) other Chief Justices and other Judges of the supreme Court may be suspended by the Yang di-Pertuan Agong on the recommendation of the Prime Minister after consulting the Chief Justice of Malaysia; and
- (c) Puisne Judges of the High Courts may be suspended by the Yang di-Pertuan Agong on the recommendation of the Prime Minister after consulting the Chief Justice of the High Court concerned

(13) The Federal Constitution should enable the Yang di-Pertuan Agong on the recommendation of the Chief Justice of Malaysia, after consulting the Chief Justice of the High Courts concerned, to transfer a Puisne Judge from one High Court to another. This power should however, only be exercisable with the consent of the Judge concerned in the case of a Judge serving on Malaysia Day

* to permit the continuance in office of these Judges their eligibility for full compensation payable by instalments should be preserved and they would remain designated officers under the Overseas Service Aid Scheme.

† This dispenses with the citizenship requirement of Article 123 in the case of a person who was a member of the judicial and legal service of the Federation immediately before Merdeka Day. This enables an appointment to be made within ten years after Merdeka Day of a person who is not qualified under Article 123, if he is and has been for not less than five years an advocate of a superior court in any Commonwealth country; and enables such an appointment to be made for a fixed period.

(12) Appointments of acting Judges of a High Court should be made in the same way as substantive appointments.

(15) The Federal Constitution should contain provision enabling Judicial Commissioners to be appointed in the Borneo States on the lines of the existing section 10(i)(b) of the Sarawak North Borneo and Brunei (Courts) Order in Council subject to the following two modifications—

(a) there should be two methods for the appointment of Judicial Commissioners—

(i) by the Yang di-Pertuan Agong on the advice of the Chief Justice of Malaysia, and

(ii) by the Head of State of North Borneo or Sarawak on the advice of the Chief Justice of the High Court, and

(b) Judicial Commissioners should be appointed only from among persons qualified under Section 4(1) of the Advocates Ordinances of North Borneo and Sarawak to practise as advocates before the High Court

(16) The Federal Constitution should provide that the provisions establishing the High Court of the Borneo States and providing for the appointment and removal of Judges and for the Court's jurisdiction may not be repealed or amended without the concurrence of the Governments of the Borneo States

(17) The Chief Justice of each High Court would be responsible to the Federal Ministry for the administration of his Court, on the understanding that the Registrar of the supreme Court would be the channel of communication between the High Courts and the Ministry

Public Service

27—(1) The Federal Constitution should be modified as necessary in its application to each of the Borneo States to secure that the qualifications (including language) normally required in Malaya for candidates for appointment in each Division of the Federal Public Service may be adjusted in relation to the Borneo States so as to permit the acceptance of the qualifications in force in those States on Malaysia Day. An assurance would be given that they would be so adjusted until such time as, after consultation with the State Government, the Federal Government was satisfied that a sufficient number of candidates from that State was available with the standard qualifications under the Federal schemes of service.

(2) The Federal Constitution should provide for the establishment for a minimum period of five years of two separate branches of the Federal Public Service Commission, one in North Borneo and one in Sarawak. Each branch should have jurisdiction over members of the Federal public services in the State concerned who would otherwise be under the jurisdiction of the Federal Public Service Commission, and the provisions of Article 144 should be applied to these branches so as to give them full powers of appointment, promotion and disciplinary control over persons to whom their jurisdiction extends within the Borneo States*. The Federal Government should undertake that the branches of the Federal Public Service Commission would consist of the members of the respective State Public Service Commission with the addition of not more than two members of the Federal Public Service Commission designated by the Federal Government. The Chairman of a branch would be such member of the branch as may be designated by the Chairman of the Federal Public Service Commission. The Governments of the Borneo States would undertake that so long as the arrangement lasted whereby members of the State Public Service Commission were members of the branches of the Federal Public Service Commission new appointments to the State Public Service Commission would only be made after consultation with the Federal Government

(3) Provision should be made in the appropriate constitution for an Appeals Board with neutral membership (see paragraph 23 of Annex B) to which any overseas officer entitled to compensation can appeal in the event of a disciplinary decision of a Service Commission affecting his compensation or pension. The appeal would be against the effect of the decision on the officer's compensation or pension rather than against the disciplinary decision itself

(4) Detailed recommendations covering the Public Service generally are set out in Annex B.

National Language

28 Malay should be the national language of the Federation of Malaysia but Article 152 should be modified in its application to the Borneo States so as to secure that—

(a) for a period of ten years after Malaysia Day and thereafter until the State Legislature otherwise provides, the English language shall be an official language and may be used in the Legislative Assembly and for all other official purposes in the State, whether Federal or State purposes, including correspondence with Federal Ministries and Departments,

(b) for a period of ten years after Malaysia Day and thereafter until the Federal Parliament otherwise provides, the English language may be used by the representatives of the Borneo States in both Houses of the Federal Parliament;

* Where a regional post is established for the Borneo States, appointments to the post and disciplinary control over the holder should be vested in the branch of the Federal Public Service Commission established for the State in which the holder is normally stationed or, in the event of doubt, in whichever branch is designated by the Federal Government for this purpose

(c) for a period of ten years after Malaysia Day and thereafter until both the State Legislatures have otherwise provided, all proceedings in the supreme Court relating to cases arising in the Borneo States and all proceedings in the High Court of the Borneo States shall be in the English language (subject to the proviso regarding evidence in the existing Clause (4)); and

(d) until the State Legislature otherwise provides, all proceedings in subordinate Courts in the State, other than the taking of evidence, shall be in the English language.

Special position of the indigenous races

29. It was agreed that—

(a) in the application of Article 153 of the Federal Constitution in and to the Borneo States its terms should be construed as if "Natives" were substituted for "Malays";

(b) the term "Native" should be defined in the Federal Constitution by adopting

(i) in Sarawak the definition in the Sarawak Interpretation Ordinance, and

(ii) in North Borneo the definition that will appear in the State Constitution,

(c) in the application of Article 153 to the Borneo States the Yang di-Pertuan Agong should continue to exercise his powers under the Article on the advice of the Federal Cabinet, but such advice shall only be given after consultation with the Chief Minister of the State concerned. This procedure will apply to the Federal Public Service in the Borneo States,

(d) in the application of Article 153 to the Federal Public Service as a whole (as distinct from the Federalised Departments in the Borneo States) the term "Malays" should be construed to include the term "Natives" as defined under (b) above; and

(e) Article 153(10), which permits the Constitution of 'a State of any Ruler' to make provision corresponding to Article 153 should be amended so as to apply to the Borneo States

Constitutional Safeguards

30.—(1) It is mentioned in other parts of this Report that the Federal Constitution should provide that certain provisions relating to the Borneo States should not be amended or repealed without the concurrence of the Government of the State concerned. These provisions relate to immigration, citizenship representation in the Federal Parliament and the High Court of the Borneo States. In addition, in relation to the Borneo States, special safeguards on these lines will also be needed in respect of the distribution of legislative powers, and the executive authority of the Borneo States on matters within their legislative powers, and related financial arrangements and in respect of the following other matters—

(i) religion,

(ii) language; and

(iii) the special position of the indigenous races

(2) It is considered desirable that modifications to the special constitutional arrangements made in respect of a Borneo State should, subject to the safeguard of the consent of the State Government in cases where this is required, be capable of being amended to the extent of bringing the State into line with the present States of the Federation without the requirement that the Federal Bill making such amendment should be supported by the votes of not less than two-thirds of the total number of members of the Houses of Parliament. Article 159(3) should not, therefore, apply to such amendments which would then fall under Article 159(4)(bb). However Article 159(4)(bb) should be amended so as to ensure that such modifications could not go beyond bringing a Borneo State into line with the present States of the Federation.

Proceedings questioning the validity of a Federal or State Law

31. Under Article 4(3) of the existing Federal Constitution the validity of a law made by the Federal Parliament or the Legislature of a State may not be questioned on the ground that it makes provision with respect to any matter with respect to which Parliament or the Legislature in question has no power to make laws except in proceedings of the kind mentioned in paragraphs (a) and (b) of Article 4(3), i.e., in proceedings between Governments. In order to enable proceedings questioning the validity of a law on this ground to be brought otherwise than by a Government Article 4(3) should be amended to enable its validity to be questioned in proceedings for a declaration commenced with the leave of a Judge of the Supreme Court, to which the Federal Government and the Government of any State to which the law applies should be entitled to be parties

Existing Laws

32.—(1) The Malaysian Constitution should contain provision to secure that laws on Federal matters in force in a Borneo State immediately before Malaysia Day continue in force, notwithstanding inconsistency with the Constitution, until repealed by the competent authority under the Constitution and subject to any amendment or modification made by such authority.

(2) In order to enable necessary modifications to the laws of the Borneo States to be made expeditiously the Federal Constitution should empower the Yang di-Pertuan Agong until Parliament otherwise provides by order—

to make such modifications to existing State laws on Federal matters as may be necessary or expedient for the purpose of bringing them into accord with the provisions of the Federal Constitution.

(b) to extend existing Federal laws on Federal matters, with or without modification, to a Borneo State; and

(c) to repeal or modify State laws on Federal matters in so far as may be necessary or expedient in consequence of such extension

Every such order should be required to be laid before each House of the Federal Parliament as soon as practicable after it has been made

Emergency Powers

33 In order to enable a Proclamation of Emergency to be made when a grave emergency threatens the security or economic life of the Federation or any part thereof, whatever the cause and even though no war, external aggression or internal disturbance has actually broken out, Article 150(1) should be amended by the deletion of the words "whether by war or external aggression or internal disturbance". Furthermore, in order to ensure that the central government will have adequate powers to govern during a national emergency, Article 150 should also be amended to give Parliament unqualified power, while a Proclamation of Emergency is in force, to make laws which appear to Parliament to be required by reason of the emergency with respect to any matter, other than religion, citizenship, language, Muslim law or the custom of the Malays or Native law or custom in North Borneo or Sarawak notwithstanding anything in the Constitution. Article 79 of the Constitution would not apply to a Bill for any such law, nor should any such law be invalid on the ground of any inconsistency with any provision of the Constitution. Article 150(7) would apply to every such law which would, consequently, cease to have effect six months after the end of the emergency to the extent that it could not have been validly made but for the emergency.

Transitional Arrangements for Federal Departments

34 In paragraph 6 of the Joint Public Statement at Annex C it was agreed that there should be a transitional period during which a number of constitutional powers will be delegated to the State Governments. The Report contains certain recommendations with regard to delegation or devolution of powers from the central Government. Apart from the services or departments directly involved in these specific recommendations, transitional arrangements would have to be provided for other departments of the Federalised services and these should be determined as expeditiously as possible.

Pending Legal Proceedings

35 Transitional provision will be needed in connection with pending proceedings by or against Her Majesty in respect of North Borneo or Sarawak and the replacement of the old courts in Borneo by the new—including provision for the continuation in the new courts of proceedings pending in the old courts, and for conferring on the new courts power to deal (on appeal or otherwise) with judgments and orders of the old courts.

International agreements for financial and technical aid

36 The Federal Government should take such action as may be appropriate to secure the continuance in force of, and the assumption by that Government of international responsibility for, rights, liabilities and obligations under existing international agreements relating to the provision of financial and technical assistance to the Borneo States, but should give an assurance that, as respects matters administered by a Borneo State, the benefits of the agreements will continue to be enjoyed and administered by the State.

Consent of Conference of Rulers

37 It was noted that the agreement of the Government of the Federation to the recommendations contained in this report is subject to the consent of the Conference of Rulers to the proposed amendments to Articles 38, 70 and 153 being obtained before the conclusion of the formal agreement referred to in paragraph 11.

Signed this twenty-seventh day of February, 1963.

LANSDOWNE	ABDUL RAZAK
J. M. MARTIN	ABDUL AZIZ
H. P. HALL	C. M. SHERIDAN
D. J. GORDON-SMITH	N. DAUD
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	CHIA CHIN SHIN
	G. A. T. SHAW (Joint Secretary)

LEGISLATIVE LISTS, ADMINISTRATIVE ARRANGEMENTS AND ASSURANCES

General

It is accepted that in the early years after the establishment of Malaysia as few changes as possible should be made in the administrative arrangements in the Borneo States affecting the day to day lives of the people. During this period certain Federal powers should be delegated to the State Governments.

Some administrative details have been included. Others remain to be worked out.

LEGISLATIVE LISTS as in the Ninth Schedule to the Federation of Malaya Constitution

LIST I. FEDERAL LIST

1. External Affairs, etc.*	Federal	This is subject to the undertaking on Immigration set out in paragraph 16 of the Report.
2. Defence, etc.	Federal	Subject to internal security considerations, licensing powers in respect of shot, guns and their ammunition and in respect of a waiver or reduction of licensing fees, should be delegated to the Borneo State Governments. The function of licensing should be exercised by the State Governments in consultation with the Police.
3. Internal Security, etc.	Federal	
4. Civil and Criminal Law and procedure and the administration of Justice, including	Federal	In the early years there should be as few changes as possible in respect of the law relating to the practice and procedure of the Courts of the Borneo States.
(a) Constitution and organisation of all Courts other than Muslim Courts and Native Courts.	Federal	<i>Subordinate Courts</i> It should be the aim eventually to establish a uniform system of magistrates courts throughout Malaysia, but no change should be made in the organisation of subordinate Courts in the Borneo States for a period of five years without the agreement of the State Government concerned. Thereafter any changes would be made by the Federal Government in consultation with State Governments. The integration of the professional magistracy in Borneo should take place at an early date.
(b) Jurisdiction and powers of all such Courts;	Federal	
(c) Remuneration and other privileges of the judges and officers presiding over such Courts;	Federal	
(d) Persons entitled to practise before such Courts;	Federal	Restrictions on the lines of the existing Borneo legislation should be continued, so that practice at the local Bar would, subject to certain exceptions provided for in that legislation, be restricted to resident advocates until otherwise agreed by the Borneo State Legislatures.
(e) Subject to paragraphs (ii) and (iii), the following—		
(i) Contract, partnership, etc.	Federal	
(ii) Muslim and Native personal law relating to marriage, divorce, guardianship, maintenance, adoption, family law, gifts or succession testate and intestate;	State	
(iii) Personal law of persons who are neither Muslims nor Natives relating to matters mentioned in paragraph (ii) above;	Concurrent	
(f) Official secrets; corrupt practices; etc.;	Federal	
(g) Use or exhibition of coats of arms.	Federal	
(h) Creation of offences in respect of any of the matters included in the Federal List;	Federal	
(i) Indemnity in respect of any of the matters in the Federal List;	Federal	
(j) Admiralty Jurisdiction;	Federal	

* "Etc." at the end of an item indicates that the remainder of the item is intended to follow the existing item in the Ninth Schedule.

LEGISLATIVE LISTS—(Contd.)

LIST 1. FEDERAL LIST—(Contd.)

(k) Ascertainment of Muslim and Native law for purposes of federal law, and	Federal	
(l) Betting and lotteries	Federal	
5. Federal citizenship and naturalization; aliens.	Federal	This is subject to the recommendations on citizenship in paragraph 18 of the Report
6. Machinery of Government, etc.	Federal	Subject to paragraph 25 (3) of the Report. The use of the Information Department by the State would be allowed to continue
7. (i) Finance, etc., except State Sales Taxes	Federal	This is subject to the arrangements set out in detail in paragraph 24 of the Report
(ii) State Sales Taxes	State	
8. Trade, commerce and industry including—		
(a) (i) Production supply and distribution of goods, price control and food control,	Federal	This should be subject to delegation of legislative authority over the North Borneo and Sarawak Rubber Funds to the extent to which they are subject to the Federal List. The Government of North Borneo should not without the concurrence of the Federal Government amend the Rubber Industry Replanting Fund Ordinance, 1954, to alter the minimum or maximum rates of cess, nor should the Government of Sarawak alter the rate of rubber cess without the concurrence of the Federal Government
(ii) Adulteration of food-stuffs and other goods,	Concurrent	
(b) Imports into, and exports from, the Federation;	Federal	The present practice of exporting timber as logs from the Borneo States should not be interfered with
(c) (i) Subject to (d) and (iii) below Incorporation, etc.	Federal	
(ii) Incorporation of local charities and regulation and winding up of such corporations;	Concurrent	
(iii) Incorporation directly by State law of authorities and other bodies set up by State law for State purposes and regulation and winding up of such corporations	State	
(d) Insurance, including compulsory insurance;	Federal	
(e) Patents, designs, etc.;	Federal	
(f) Establishment of standards of weights and measures,	Federal	The local authorities in the Borneo States should continue to exercise those functions in this respect which they now exercise under local legislation
(g) Establishment of standards of quality of goods manufactured in or exported from the Federation;	Federal	
(h) Auctions and auctioneers;	Federal	
(i) Industries, regulation of industrial undertakings,	Federal	
(j) Subject to Item 2 (e) on the State List development of mineral resources, mines, mining, minerals and mineral ores; etc.,	Federal	
(k) Factories; boilers and machinery, and	Federal	
(l) Dangerous and inflammable substances.	Federal	The local authorities in the Borneo States should continue to exercise those functions in this respect which they now exercise under local legislation
9. Shipping and Navigation, including—		
(a) (i) and navigation on the high seas and in tidal and inland waters, other than shipping under fifteen registered tons;	Federal	
(ii) Shipping under fifteen registered tons.	Concurrent	

LEGISLATIVE LISTS—(Contd.)

LIST 1. FEDERAL LIST—(Contd.)

(ii) Ports and harbours not so declared,	State	The Federal Government will not interfere with the present policy which aims at administration of ports by port authorities. In respect of port fees and dues, discrimination should not be introduced designed to divert shipping from current trade routes
(iii) Foreshores;	State	This is subject to the overriding requirements of defence. The Borneo Governments undertook that their legislation should provide that foreshores are either alienated or State land
(c) Lighthouses and other provisions for the safety of navigation,	Federal	
(d) Maritime and estuarine fishing, etc	Concurrent	The Federal Government would not interfere unnecessarily with native fishing rights in traditional fishing grounds
(e) Light dues; and	Federal	
(f) Wrecks and salvage	Federal	
10. Communications and transport, including—		
(a) Roads, bridges, ferries and other means of communication if declared to be Federal by or under federal law;	Federal	
(b) (i) Railways, etc., excluding North Borneo Railway;	Federal	
(ii) North Borneo Railway,	State	The position of the North Borneo Railway should be reviewed after ten years together with road transport
(c) Airways, aircraft and air navigation; civil aerodromes; provisions for the safety of aircraft.	Federal	As an Airways Limited and Borneo Airways Limited should for the present remain as separate entities but with close liaison and pooling arrangements between both Companies. The Federal Government should continue for the time being the present practice of allowing a rebate on landing fees for Borneo Airways and should accept the contingent liability for rural air services
(d) (i) Regulation of traffic by land and air and by water, except— (A) within State ports and harbours; (B) on rivers wholly within one State but excluding Federal ports and harbours on such rivers;	Federal	
(ii) Regulation of traffic excepted from sub-paragraph (i) above,	State	
(c) (i) Carriage of passengers and goods by land and air and by water other than in vessels of under fifteen registered tons	Federal	(i) Legislative authority over carriage of passengers and goods by land and mechanically propelled vehicles should be fully delegated to the Borneo State Governments for ten years, after which this delegation should be reviewed by the Federal Government in consultation with the State Government concerned.
(ii) Carriage of passengers and goods excepted from sub-paragraph (i) above;	Concurrent	
(f) Mechanically propelled vehicles;	Federal	(ii) The power of regulating licensing fees for mechanically propelled vehicles for a period of ten years should be similarly delegated to the North Borneo and Sarawak Governments.
		(iii) The cost of the land transport departments would be borne by the Federal Government which would reimburse local authorities performing functions on behalf of the Motor

LEGISLATIVE LISTS—(Contd.)

LIST I. FEDERAL LIST—(Contd.)

(g) Posts and telecommunications, and	Federal	(i) There should be one Borneo Region for the purposes of Posts and Telecommunications and the Federal Estimates should provide for a Regional Director with Headquarters in either Kuching or Jesselton and a Deputy Director in the State Capital where the Headquarters are not situated.
		(ii) The Regional Director should be granted direct access, through the Permanent Secretary to the Federation Minister for Posts and Telecommunications until otherwise agreed. He should have administrative responsibility, subject to overriding Ministerial responsibility, in those matters delegated to him, and in the execution of day to day affairs.
		(iii) The Regional Director or his representative, should sit on any existing or new Malaysian co-ordinating bodies whose work affects the Region, with such other Regional Directors and representatives of other telecommunications interests as the Minister deems appropriate.
(h) Wireless, broadcasting and television.	Federal	(i) There should be a delegation of executive functions in each case on a State basis.
		(ii) The broadcasting service within the State should retain its local identity.
11. Federal works and power, including—		
(a) Public Works for federal purposes,	Federal	Public Works Departments should be State Departments and should undertake Federal public works on a repayment basis of direct costs.
(b) (i) Inter-State water supplies, etc.;	Federal	This item should be redrafted to make it clear that water supplies, rivers and canals entirely within a State are State matters.
(ii) State Works for production, distribution and supply of water power, including hydro-electricity; and	Concurrent	
(c) Electricity other than hydro-electricity; gas and gas works; and other works for the production and distribution of power and energy.	Federal	Subject to delegation of legislative authority in the case of electricity and distribution of gas.
12. Surveys, inquiries and research, including—		
(a) Census; registration of births and deaths; registration of marriages; registration of adoptions other than adoptions under Muslim law or Muslim custom or Native law or custom;	Federal	
(b) (i) Survey of the Federation excluding cadastral surveys, social, economic and scientific surveys; meteorological organisations;	Federal	(i) Subject to such delegation of legislative authority as may be necessary to maintain the Labuk survey as a State function.
		(ii) Topographical and geodetic surveys should be Federal subjects but should continue to be carried out as at present by the State Land Survey Departments as agents for the Federation Government on a repayment basis on a stated percentage of the annual cost of the Department subject to such cost being reviewed from-time to time and to such surveys being made in conformation with Federal policy.
		(iii) Geological surveys should be a Federal subject, but the present joint Borneo Geological Surveys Department would be a branch of the Federal Department with administrative autonomy. The Director of the Borneo Geological Surveys Department should work direct to the Federal Minister responsible, through the Permanent Secretary.
(ii) Cadastral surveys;	State	
(c) (i) Scientific and technical research, excluding Agricultural and Forestry Research,	Federal	

LEGISLATIVE LISTS—(Contd.)

LIST I. FEDERAL LIST—(Contd.)

(ii) Agricultural and Forestry Research; and	Concurrent	If the Federation Government accepted responsibility for any part of the work there should be a devolution of responsibility to the Head of Department concerned for the day to day research to be carried out on the ground.
(d) Commissions of inquiry	Federal	
13. Education including—		
(a) Elementary secondary and university education, etc.;	Federal	Subject to an assurance that no declaration should be made without the concurrence of the State Government concerned.
(b) (i) Libraries, museums, ancient and historical monuments and records and archaeological sites and remains if declared to be Federal by or under federal law,	Federal	
(ii) Libraries, etc., not so declared.	State	
14. Medicine and Health, etc	North Borneo Concurrent until 31st December, 1970 and then Federal Sarawak: Federal	Subject to an assurance that local policy and the system of administering these subjects in Sarawak would not be disturbed until the State Government otherwise concurs. The financial provision for the services would be Federal. The local authorities should continue to exercise those functions in this respect which they now exercise under local legislation.
15. Labour and social security, including—		
(a) Trade unions, etc	} Federal	(i) For an interim period until otherwise agreed the Commissioners of Labour of Sarawak and North Borneo should remain in charge of their respective Departments and should have direct access to the Federal Ministry and should be directly responsible to the Federal Minister of Labour.
(b) Unemployment, etc		
		(ii) In the case of Sarawak, the Sarawak labour laws should remain in force when Malaysia is established and when necessary there should be a gradual move towards a common form of Malaysian legislation in this respect. In the meanwhile the registration of trade unions should be left with the Registrar-General of Sarawak.
		(iii) In the case of North Borneo, the Malayan Trade Union Act and the Malayan Trade Disputes Ordinance should be applied immediately after Malaysia Day, but current legislation on
		(a) Welfare of labour including housing of labourers by employers; employers liability and workmens compensation, and
		(b) Unemployment insurance; health insurance, widow's, orphan's and Old age pensions, maternity benefits, provident and benevolent funds; and superannuation should remain in force for a period of seven years or such longer period as may be otherwise agreed.
		(iv) In the case of both North Borneo and Sarawak there should be a delegation of powers to make subsidiary legislation to deal with conditions peculiar to the State.
(c) Charities, etc.	Concurrent to the extent necessary to enable the States to legislate to control local charities.	

LEGISLATIVE LISTS—(Contd.)

LIST I. FEDERAL LIST—(Contd.)

16. Welfare of aborigines	Federal	This item should not apply to North Borneo or Sarawak.
17. Professional occupations other than those specifically enumerated	Federal	
18. Holidays, other than State holidays; standard of wage.	Federal	Provision should be made to allow substitution in the Borneo States where Federal holidays relate to religious or other occasions that have no significance in the Borneo States.
19. Unincorporated societies	Federal	There should be the maximum possible delegation of executive authority to the Borneo States.
20. Control of agricultural pests; protection against such pests, prevention of plant diseases	Concurrent	
21. Newspapers, publications, publishers printing and printing presses	Federal	The Borneo Literature Bureau should remain a State responsibility.
22. Censorship	Federal	Subject to an assurance that the existing censorship arrangements relate to films and entertainments in North Borneo and Sarawak should continue until other arrangements were made.
23. Subject to item 5 (f) of the State List: theatres, cinemas, cinematograph films; places of public amusement	Concurrent	
24. Federal housing and improvement trusts.	Federal	
25. Co-operative Societies.	Federal	Until otherwise agreed between the Federation and Borneo States, the administration of co-operatives in the Borneo States should continue on the present lines.

LIST II. STATE LIST

1. Muslim law, etc.	State	
1A. Native law and custom and Native Courts, including Personal Law relating to marriage, divorce, guardianship maintenance, adoption, family law, gifts or succession, testate or intestate.	State	
2. Land, etc.	State	Item 2 (b) should apply to Native Reservations instead of Malay Reservations
3. Agricultural and forestry, etc.	State	The Government of North Borneo should not without the concurrence of the Federal Government amend the Rubber Industry Replanting Fund Ordinance, 1964, to alter the minimum or maximum rates of cess, nor should the Government of Sarawak alter the rate of rubber cess without the concurrence of the Federal Government
4. Local Government, etc.	State	
5. Other services of a local character, that is to say— (a) Fire brigades, etc. (b) Boarding houses, etc. (c) Burial and cremation grounds, (d) Pounds and cattle trespass, (e) Markets and fairs, and (f) Licensing of theatres, etc.	State	Consideration should be given to the need to include other services of a local character
6. State Works and Water, etc.	State	This item should also include river wholly within a State

LEGISLATIVE LISTS—(Contd.)

LIST II. STATE LIST—(Contd.)

7. Machinery of the State Government subject to the Federal List, etc.	State	(i) (a) There should be a state Legal Department. (b) The State Attorney-General should be a State Officer and appointed by the Head of State on the advice of the Chief Minister from a panel of names submitted by the State Public Service Commission. The Chief Minister should be required to consult the Federal Government before tendering his advice. The appointment should after Malaysia Day normally be made from the Federal Legal and Judicial Service but if no suitable candidate were available, the post could be filled on contract terms from outside Malaysia after consultation with the Federal Government, and (c) The remaining posts in the State Legal Department would be filled by secondment from the Federal Legal Service if the State so desired (ii) The appointments of the State Secretary and State Financial Secretary should be a matter for the State Governments but in making these appointments the procedure for making the appointment of the State Attorney General should be followed and the persons appointed should be members of the Public Service
8. State holidays.	State	
9. Creation of offences in respect of any of the matters included in the State List	State	
10. Inquiries for State purposes, etc.	State	
11. Indemnity in respect of any of the matters in the State List	State	
12. Turtles and riverine fishing	State	

LIST III. CONCURRENT LIST

1. Social Welfare, etc.	Concurrent	
2. Scholarships	Concurrent	(i) The present Federation of Malaya quota system in the award of scholarships should not apply in the Borneo States. (ii) In any central allocation of scholarships by the Federal Government the award of Colombo Plan and other scholarships to the Borneo States should be kept separate at all levels from awards in other States in Malaysia. (iii) Informal contact and the handling of detailed arrangements over scholarships between the Governments of the Borneo States and the authorities of the donor countries concerned should be maintained, but the formal and final conclusion of such awards and scholarships should be effected through the Federal Ministry of External Affairs. (iv) The Borneo States should be given generous treatment in the allocation of Places for training in establishments within the Federation of Malaysia. (v) In the Borneo States local non-Government scholarships should remain a State responsibility (vi) In Sarawak— (a) Boarding subsidies and indigent pupils fund allowances should be a Federal liability. The present Sarawak policy on local scholarships should continue in force; (b) The Supreme Council Centenary Scholarships should remain a State responsibility; and

LIST III. CONCURRENT LIST—(Contd.)

		(c) As regards overseas scholarships and training courses, the Federal Government should pay for scholars returning to Federal posts and the State Government should pay for scholars returning to State service. As an <i>ad hoc</i> basis the Sarawak Government should provide for \$350,000 in its recurrent budget to meet the cost of State scholarships
3. Protection of wild animals and wild birds; National Parks.	Concurrent	National Parks should not be established in the Borneo States without the concurrence of the State Government concerned.
4. Animal husbandry, etc.	Concurrent	The departments concerned should remain State departments.
5. Town and Country planning, except in the federal capital	Concurrent	Subject to an assurance that Federal powers in this respect should only be used to enable the Federal Government to carry out its constitutional and administrative functions.
6. Vagrancy and itinerant hawkers.	Concurrent	
7. Public health, sanitation, etc.	Concurrent	Administrative functions in respect of these subjects should, where appropriate, continue to be exercised by local authorities in the Borneo States
8. Drainage and Irrigation	Concurrent	The departments concerned should remain State departments
9. Rehabilitation of mining land, etc.	Concurrent	

THE PUBLIC SERVICE

1. The arrangements for the Public Service have three main purposes: to provide for the proper functioning of the Federalised and State Departments in the Borneo States when Malaysia comes into being while preserving the existing terms of service of serving officers, to provide for the progressive Borneanisation of the State Departments and over an interim period of the Federalised Departments, and subject to these interim arrangements to provide for the full integration of the Federalised Departments with the Federal Public Service as a whole. The means recommended for achieving these purposes are set out below

Arrangements on the Establishment of Malaysia

2. When Malaysia comes into being, about one half of the posts filled by serving officers will be in Federalised Departments. The rest of the existing Public Services will be in State Departments, and the officers in these Departments will thus continue in State service with their conditions of service unchanged. Officers in Borneo Divisions IV and V and in Division III up to the maximum of scale C3 and equivalent grades N4 and P7 (except in respect of the Police) serving in Federalised Departments will also remain in State service; their conditions of service will be unchanged and they will be subject for all purposes of appointment, discipline, promotion and termination of service to the State Public Service Commissions

3. Officers in Borneo Divisions I and II and scale C4 to 6 of Division III and equivalent grades NS-7 and PS-9 (except in respect of the Police) serving in Federalised Departments will be seconded for an indefinite period to the Federal Public Service. They will retain their existing conditions of service, including the application to them of the State pensions legislation and Widows' and Orphans' Pensions and Provident Fund legislation, and they will remain subject to the disciplinary control of their parent State Public Service Commission. It will be open to local and non-designated expatriate officers at any time to opt to transfer to the Federal Public Service and promotion will be conditional on transfer to that Service. Designated officers will not be eligible to opt to join the Federal Public Service and therefore their promotion will not be conditional on their transfer to that Service. Officers whether seconded, transferred or promoted to the Federal Public Service will not be liable for service outside the Borneo States save with their consent. Once an officer has transferred to the Federal Public Service he becomes in all respects subject to the jurisdiction of the Federal Public Service Commission. Officers transferring to the Federal Public Service and officers newly appointed to Federalised Departments will serve on Borneo conditions of service until posted outside the Borneo States

4. The Federal Government will be responsible for the emoluments of all officers serving in Federalised Departments and will pay all the officers direct. Until income tax throughout Malaysia is made uniform the remuneration of existing officers serving in Federalised Departments in the Borneo States will be subject only to income tax under the legislation in force in the Borneo State concerned

The Interim Period

5. Borneanisation of the Public Services in the Borneo States is a major objective of policy. For a number of years to come special arrangements will be necessary to secure this objective and to protect the legitimate interests of the Native peoples. There are two problems: the preference to be given to Native over other candidates for State and Federalised posts and the laying-down of suitable schemes of service

6. In relation to the State Service there will be provision in the State Constitution on the lines of Article 153 of the Federal Constitution to empower the State Government to prescribe, from time to time, the extent which preference will be given to Natives. The term "Native" will be defined in the Constitution by adopting—

- (i) in Sarawak the definition in the Sarawak Interpretation Ordinance, and
- (ii) in North Borneo the definition that will appear in the State Constitution.

Similarly the State Governments will prescribe in respect of the State Services their own schemes of service and decide how far external recruitment is needed. If such recruitment is needed the State may either make its own arrangements through the Department of Technical Co-operation or from any other sources acceptable to the Federal Government or ask for the help of the Federal Government

7. In relation to posts in the Federalised Departments Article 153 of the Federal Constitution will be construed as if Natives were substituted for Malays. The Yang di-Pertuan Agong will continue to exercise his powers under Article 153 on the advice of the Federal Cabinet, but in relation to the Borneo States there will be provision that such advice shall be given only after consultation with the Chief Minister of the State concerned. In relation to the Public Service as a whole (as distinct from the Federalised Departments in the Borneo States) Natives should be included with Malays for the purposes of the application of Article 153

8. Until the Federal and State Governments agree otherwise, in filling posts in Federalised Departments in the States the full qualifications normally required by the Federal Government for candidates for each grade of the Service will be brought into line with the qualifications at present in force in the States. Instructions to the Public Service Commissions will provide that when a local candidate is in sight no vacancy will be filled except on a temporary or contract basis or by promotion of a serving officer.

9. To reassure officers seconded or transferred to the Federal Public Service, and to reassure officers in the States that Borneanisation will be given first priority in the Federalised Departments, the Federal Constitution will provide for the establishment of a separate branch of the Federal Public Service Commission in each State. Subject to the directions given to them in relation to Borneanisation and schemes of service, these branches will have full authority, except as provided in paragraph 2 above, in respect of all appointments, promotions and discipline in the Federalised Departments, saving that the discipline of seconded officers will be a matter for the State Public Service Commission. The Federal Government will undertake that the members of these branches will be the members of the respective State Public Service Commissions together with not more than two members of the Federal Public Service Commission nominated by the Federal Government. These arrangements will be subject to review five years after Malaysia Day. While they are in force the State Government will consult the Federal Government before making any new appointments to the State Public Service Commissions.

10. Recruitment to Borneo Divisions IV and V and to Division III up to the maximum of scale C3 or equivalent grades will be by the State Public Service Commission for service in the State. Recruitment to and promotion to posts above this scale will be by Federal Public Service Commission whether for federal service in the State or for federal service throughout Malaysia. To facilitate such recruitment and general liaison between the Federal and State Public Services, the Federal Government will establish branches of the Federal Establishment Office in the States.

11. New recruits to Federalised Departments and local and non-designated expatriate officers serving in these Departments who opt for liability to serve outside Borneo will receive equal consideration for promotion with officers throughout Malaysia who are similarly liable. Within Federalised Departments officers without this liability will be eligible for promotion within the area of their original service equally with officers who are so liable.

12. Certain problems also arise from the citizenship requirements under the Federal schemes of service. Many serving officers in the Borneo States are British subjects (and probably also citizens of the United Kingdom and Colonies) who were born in Hong Kong, Burma or other former British possessions in South East Asia, some of these officers may not qualify for Malaysian citizenship by operation of law immediately on the creation of Malaysia. The citizenship requirements of Federal schemes of service should not be applied to officers otherwise eligible to opt to join the Federal Public Service serving in Federalised Departments in the Borneo States on Malaysia Day. But in view of the traditional composition of the existing Borneo Public Services there will be further provision relaxing the citizenship requirements of the Federal schemes of service to the extent that if it is the clear intention of candidates for service to obtain Malaysian citizenship they will be eligible for appointments on contract or other temporary terms. When they subsequently acquire Malaysian citizenship they will be eligible for permanent appointment with up to four increments on the salary scale, and the back-dating of their appointments for pension purposes only to the date of their original appointment on contract or temporary terms.

13. Subject to the transitional arrangements recommended in paragraph 24(25)(c) of the Report the Federal Government will assume responsibility for the pensions of all retired and serving officers of the State Public Services and the Chartered Company and Rajah's Services which preceded these services, including Widows' and Orphans' Pensions and Provident Fund payments. Future pensions legislation affecting these officers and their dependants will be a matter for the Federal Parliament but there will be constitutional provision protecting these officers and their dependants against changes to their detriment in pension terms. There should also be constitutional provision that the discretionary power to withhold, reduce in amount or suspend any benefit under such legislation may not be exercised adversely to any officer or his dependant unless the appropriate Service Commission or corresponding authority concurs in this exercise of the discretion.

Designated Overseas Officers and Members of Her Majesty's Overseas Civil Service

14. There are about 630 overseas officers either designated by the British Government under the Overseas Service Aid Scheme or members of Her Majesty's Overseas Civil Service, serving in the two States. On Malaysia Day those serving in Federalised Departments will, like their local colleagues in these Departments, be seconded to the Federal Service on their existing terms of service. They will not be eligible to opt to join the Federal Public Service. Subject to the overriding requirements of Borneanisation they will be equally eligible with their local colleagues for promotion within the Federalised Departments according to current service principles and the provisions of paragraph 11 above. Pensions legislation will need to be amended to make such promotion effective for the purpose of pensions. While on secondment they will remain subject to the State pensions legislation and retain the benefits of the existing State Widows' and Orphans' Pensions and Provident Fund legislation. The North Borneo Government have tabled a study of the prospects of future service by overseas officers. The Sarawak Government are engaged in a similar study. These studies will be further considered by the Governments concerned and the intention is that they should enable these Governments to advise individual overseas officers of the minimum length of service likely to be open to them.

15. The inducement allowances, education allowances and half the passage costs of these officers are met by the British Government by reimbursement of the State Governments under the Overseas Service Aid Scheme Agreements concluded with the Governments in 1961. The Agreements are for a period of 10 years and payments will therefore continue after Malaysia Day. Payments will continue to be to the State Government in respect of the designated officers remaining in State Service. In respect of officers seconded to the Federal Public Service for service in Borneo and in respect of judges, since these officers will be paid by the Federal Government the British Government are willing to enter into an Overseas Service Aid Scheme Agreement with the Federal Government to make similar reimbursements to that Government. Such an Agreement will extend only to overseas officers serving in the Borneo States on Malaysia Day or overseas officers subsequently recruited under the arrangements in paragraph 17 for service in the Borneo States.

16. Once the Federal Government assumes a general financial responsibility for Service pensions the British Government will also, under the proposed Overseas Service Aid Scheme Agreement with the Federation, reimburse the Federal Government in accordance with the principles of the Scheme the proportion of an officer's pension attributable to the pensionable element in the inducement allowance provided by the British Government.

17. Under the Scheme it will be possible for the Federal and State Governments, subject to agreement with the British Government each year about overall costs, to continue to recruit on contract from overseas to fill gaps in the Services while Borneanisation proceeds. Save in exceptional cases new recruitment under the Scheme will be confined to citizens of the United Kingdom and Colonies and of the Irish Republic. The British Department of Technical Co-operation are willing to be agents for such recruitment and will need in any case to receive particulars of new recruits to discharge their statutory responsibility for the designation of officers under the Scheme.

18. Since the allowances under the Scheme are variable in accordance with changes in economic and other living conditions the British Government will wish to keep in touch with the Federal and State Governments about the working of the Scheme and, subject to their concurrence, with the staff associations concerned.

Judicial and Legal Officers

19. As stated in paragraph 26(9) of the Report, the existing members of the Unified Judiciary in the Borneo States will continue in office as judges of the High Court of the Borneo States. In view of the overriding requirements of Borneanisation the term of office of those existing judges who are overseas officers will be for a period of years after Malaysia Day to be prescribed by the Federal Government. There should be provision to preserve the eligibility for full lump sum compensation payable by instalments for the existing judges who are overseas officers and they should remain designated officers under the Overseas Service Aid Scheme.

20. Existing members of the Judicial and Legal Services in the Borneo States will be eligible for appointment on transfer to the High Court of the Borneo States. Existing members who are designated officers will also be eligible for such appointment but in view of the overriding requirements of Borneanisation the appointment of any such officer should be for a fixed period in accordance with Article 174(4) of the Federal Constitution. The transfer provisions of the compensation scheme should not apply to designated officers accepting appointment as judges of the High Court of the Borneo States and they should remain designated officers under the Overseas Service Aid Scheme.

Compensation and Public Officers Agreements

21. In accordance with undertakings given by the British Government to Her Majesty's Overseas Civil Service, a compensation scheme on the lines of the attached draft will be brought into force on Malaysia Day for entitled officers serving in the Borneo States.

22. The compensation scheme should be brought into effect by an Order in Council, which will preserve the continuing rights under the scheme of an officer who is seconded to Federal Service within the Borneo States. To all officers, other than those who may be required to retire under procedures laid down in the scheme, compensation is to be paid by instalments over a period of five years. These capital payments are exempt from income tax in the United Kingdom. The Order in Council should provide for a similar exemption from tax in the Borneo States, and insofar as this may be necessary the Federal Government will secure that these payments (but not any interest payable on them) are exempt from tax under Federal law.

23. Certain features of the compensation scheme have special implications for the Federation —

- (a) the scheme contains special inducements to officers to continue to serve until their posts can be filled by local officers. In particular, to reassure officers who continue to serve that their compensation and pension cannot be lost by a possibly arbitrary decision of Government, the scheme provides for the establishment of an Appeals Board with neutral membership to hear and decide any appeal by an entitled officer against a disciplinary decision insofar as that decision involves the loss of compensation or pension. There should be provision for this Board in the appropriate Constitution;

- (b) the scheme lays down a special procedure for the localisation of posts held by entitled officers and provision for this procedure should be made in the State and also the Federal Constitutions; and
- (c) the scheme contains special provisions for the commutation of pensions. Federal pensions legislation should be amended as necessary to provide for this commutation

24. Public Officers Agreements on the lines of the attached draft should be concluded with the Federal and State Governments to safeguard the conditions of service of overseas officers, and in particular their pensions. These Agreements should come into effect on Malaysia Day

Designated Contract Officers

25. Over 100 contract officers from overseas are serving in Departments due to be Federalised. The great majority of these are serving on contracts for a single tour. The Federal Government and the Borneo Governments wish to reassure these officers that the terms of their existing contracts will be observed and that they can expect to complete the full term of their contracts on secondment to the Federal Service but without liability to serve outside Borneo

26. The terms of service of the small number of officers serving on long-term contract will also, of course, be observed. It appears likely that these officers too will complete the full term of their contracts and the Governments of North Borneo and Sarawak are confident that this will prove to be the case. It is however, desirable both as a protection for officers and a proper provision for Government that a regular procedure should be laid down for localising the posts of these officers if and when this becomes possible, similar to the procedure for localising the posts of pensionable overseas officers. This would involve a special payment to the officer to compensate for any premature termination of contract

Officers other than Designated Officers serving on certain overseas terms

27. Some officers serving in the Borneo States, although not eligible for designation under the Overseas Service Aid Scheme and not in receipt of overseas inducement pay, have within certain limits been recognised as overseas officers, primarily by according them overseas passage terms. These officers will be treated in all respects as local officers, so that no question of the Borneanisation of their posts will arise and they will throughout their careers be equally eligible for promotion with local officers. Since the establishment of Malaysia is not to disturb existing conditions of service, they will continue while serving in the Borneo States to enjoy their existing overseas passage terms on a personal basis unless they opt to surrender them at some future date as part of a generally favourable change to new conditions of service.

28. There are a small number of officers not eligible for designation under the Overseas Service Aid Scheme who are in receipt of overseas inducement pay from the Sarawak Government. The Sarawak Government will consider whether some alternative offer of premature retirement terms should be made to them.

Police

29. Principles similar to those set out above for the State Public Services should apply to the North Borneo Police Force and the Sarawak Constabulary. Designated officers will be seconded to the Federal Police Service retaining their existing terms of service and they will be eligible for promotion within the Borneo States according to the principles in paragraph 14. All Police Officers and all non-designated officers serving with the Police Forces will also be seconded to the Federal Police Service. It will be open to non-designated officers at any time to opt to join the Federal Police Service and promotion will be conditional on transfer to that Service. Officers will not be liable for service outside the Borneo States save with their consent. For disciplinary purposes officers transferred to the Federal Police Service will be subject to the Federal Police Service Commission. Officers seconded from the State Public Service will be subject to a State Police Board with the following membership —

- Chairman — The Chairman of the State Public Service Commission.
- Members — The State Attorney-General,
The State Commissioner of Police, and
A representative of the Inspector General of the Federal Police Service

The State Police Board will have powers similar to the Federal Police Service Commission to delegate its authority and it is recommended that it should delegate this authority to the full extent that the Federal Police Service Commission delegates its authority. Once the Police Service is fully federalised the State Police Boards will cease to exist

General

30. The arrangements set out above should go far to meet the representations made by the North Borneo Civil Service Union and the Sarawak Government Asian Officers Union which have been taken into account. They should also secure the smooth transition of the existing Public Services in the Borneo States into the Federal Public Service, where appropriate on the establishment of Malaysia and preference for local officers for promotion in the Borneo States. They

must not, however, be allowed to impede a constructive partnership within the future Federal Public Service. In the longer term, Malaysia will be an unreal creation unless the principle of Malaysianisation is accepted. In its absence, the Borneo States will be the first to suffer, Borneo officers must play their part in helping to frame Federal policies in the Federal Capital and enjoy opportunities of entering Federal Departments of which the Borneo States have no present counterparts. Similarly Malayan officers in the Federal Public Service must be brought to view problems from a Malaysian point of view that takes full account of the interests, anxieties and hopes of the Borneo States. They can never do this until numbers of them have had reasonable opportunities of serving in the Borneo States and of being made to be directly responsible for their interests. If the safeguards provided for Borneanisation were used for the permanent exclusion of Malayan officers from Federal posts in the Borneo States, Federal policies could not take full account of the views of the Borneo States.

31. During the early years of Malaysia it is desirable that a limited number of suitably qualified officers from the Borneo States should be posted to other parts of Malaysia. The opportunity will also be taken of posting to the Borneo States a limited number of Federal officers or officers from other States. If any designated overseas officers are posted on secondment from the Borneo States, either as a part of these exchanges, or in the interests of the Borneo States to Federal Ministries and Departmental headquarters, they will continue to be entitled to the benefits of the Overseas Service Aid Scheme

32. It is recommended that the Federal and State Governments should as soon as possible set up a Joint Commission to enquire into and make recommendations on bringing terms and conditions of service throughout the Federal Public Service in Malaysia into line; to recommend whether officers in Divisions III to V serving in Federalised Departments may opt to join the Federal Public Service of Malaysia, and to recommend whether Federal conditions should apply to officers who join the Federal Public Service but continue to serve in the Borneo States.

NORTH BORNEO AND SARAWAK

SCHEME OF RETIREMENT BENEFITS FOR MEMBERS OF HER MAJESTY'S OVERSEAS CIVIL SERVICE AND FOR OFFICERS DESIGNATED UNDER THE OVERSEAS SERVICE (NORTH BORNEO/SARAWAK) AGREEMENT, 1961.

Date of Introduction of the Scheme

1.—(i) The Scheme shall come into operation on the date (which shall be the "operative date" of the Scheme) on which North Borneo/Sarawak becomes part of the Federation of Malaysia, or on the date on which the Public Service Commission enjoys executive powers, whichever is the earlier.

(ii) The details of this Scheme will be embodied in an Order in Council

(iii) With effect from the operative date, entitled officers, as defined in paragraph 2 below, will be entitled to lump sum compensation which shall be calculated and paid in accordance with the provisions of this Scheme.

Definition of Officers Entitled to Compensation

2.—(i) Pensionable overseas officers, who are members of Her Majesty's Overseas Civil Service or who are designated officers under the Overseas Service (North Borneo/Sarawak) Agreement 1961, and who were either (a) selected for appointment or (b) were admitted to the pensionable establishment or (c) were transferred to the service of the North Borneo/Sarawak Government from other scheduled service, before the 1st January, 1963, shall be entitled officers and are referred to hereinafter as "entitled officers" for the purposes of this Scheme.

(ii) Officers aged 55 or over, judges aged 62 or over, officers seconded or temporarily transferred to North Borneo/Sarawak from other public service and officers on leave pending retirement on the operative date (other than those who before that date, have been called upon to retire for constitutional reasons) or who, without the agreement of the Government, have given less than six months notice of retirement under paragraph 10 below shall not be entitled officers

(iii) Entitled officers who are borne on the establishment of the Government of North Borneo/Sarawak, who, on the operative date, are seconded for service outside North Borneo/Sarawak will be treated in the same way as other entitled officers, and the compensation will be paid to them in accordance with paragraph 6 of this Scheme. Where an entitled seconded officer was serving on an incremental scale at the time of his secondment, compensation will be calculated on the basis of the point on that scale which he would have reached had he not been seconded.

(iv) An officer who is serving on probation on the operative date, but who otherwise satisfies the requirements for entitlement set out in sub-paragraph (i) above, shall, subject to the provisions of paragraphs 6 (viii) and 13 (v) below, become entitled to compensation with effect from the date on which he is confirmed in his appointment and his compensation will be calculated with effect from that date. Service on probation will be "service" for the purposes of this Scheme

Termination or Continuation of Service

3.—(i) As soon as possible after the publication of this Scheme, the Government shall notify every entitled officer whether he will continue to be employed in the pensionable service of the Government and if so for what minimum period. At the conclusion of that or any further minimum period, Government shall notify every entitled officer whether he will continue to be employed in the pensionable service and if so for what further minimum period

(ii) Every entitled officer shall as from a date not less than four months before the operative date be permitted to give by notice in writing in accordance with paragraph 10 below, notice of retirement to take effect from a date not more than four months before the operative date

(iii) An officer who continues in pensionable service after the operative date may at any time after that date give notice of retirement in accordance with paragraph 10 below.

Eligibility for Pension

4.—(i) The effect of the Scheme on pensions (in view of the provisions of the Pensions Laws and Schemes in North Borneo/Sarawak and in other territories) is as follows

(ii) Any entitled officer who (a) elects to retire from the pensionable service under this Scheme (whether he accepts an offer of a contract appointment or not) or (b) retires from the service on medical grounds or (c) is required to retire from the service either in accordance with the provisions of paragraph 12 or 13 below or to facilitate the reorganisation of the Public Service or on the grounds of public interest or because of the abolition of his office or on grounds of age will be eligible to receive such pension from the Government of North Borneo/Sarawak as he has earned by his pensionable service in North Borneo/Sarawak irrespective of whether his length of service in North Borneo/Sarawak is less than ten years and of whether he has attained the minimum retiring age at the date of his retirement or has served the minimum period under the Scheme applicable to him

(iii) Where an entitled officer has other scheduled service, his eligibility for pension in respect of that other service will depend on the pensions law relating to it. An entitled officer who elects to retire before he has completed ten years' total pensionable service (including qualifying service which is not in itself reckonable for the computation of pension) will be eligible only for a gratuity in respect of that part of his scheduled pensionable service which was not served in North Borneo/Sarawak; provided that reciprocal arrangements will so far as possible be made by the Governments of the Federation of Malaya, Singapore, Sarawak, Brunei and North Borneo so that an officer who retires under this Scheme with less than 10 years' total pensionable service which includes other scheduled pensionable service in Malaysia will receive pension in respect of his pensionable service under those Governments notwithstanding that his length of pensionable service is less than 10 years

(iv) The pension of any entitled officer who is called upon to retire under this Scheme (either for constitutional reasons or to facilitate the localisation of the Public Service or to facilitate the reorganisation of the Public Service or because of the abolition of his office or on grounds of age) (paragraphs 6 (vi) to (viii), 12 and 13 below refer) will be calculated on the basis of the pensionable emoluments which he is drawing at the date on which his leave prior to retirement expires, and the averaging provisions of the Pensions Ordinance will not apply to such officers.

Calculation of Compensation

5.—(i) An entitled officer will be eligible for compensation to be calculated and paid as set out below.

(ii) Compensation shall be calculated as a lump sum in accordance with the tables (Appendices I and II) which have been drawn up by the Government Actuary in the United Kingdom. These tables take account of length of pensionable service up to ten years. The maximum amount of compensation payable under this Scheme shall be £12,000.

(iii) Compensation shall be calculated by multiplying the officer's annual pensionable emoluments at the date taken for calculation by the factor appropriate to his age and length of service at that date.

(iv) The dates taken for calculation shall be—

(a) in the case of the initial instalment, the operative date, or for an officer serving on probation, the date of confirmation,

(b) in the case of subsequent instalments each anniversary of the operative date, or, for an officer serving on probation, each anniversary of the date of his confirmation;

(c) the date of retirement, when an officer's compensation will be finally fixed,

provided that at each date taken for calculation after the operative date, the point in time in relation to which the calculation is made shall be the point most favourable to the officer between the operative date and that date.

(v) Service (whether under the North Borneo/Sarawak Government or under a scheduled Government) shall count for compensation to the same extent as it counts in the computation of the officer's retirement benefits in respect of service under a scheduled Government as defined in the Pensions Ordinance.

(vi) The pensionable emoluments to be taken for calculation will be the pensionable emoluments which the officer is drawing on the date taken for calculation.

(vii) The compensation due to officers who remain on the pensionable establishment will not decrease below the figure as assessed on the operative date. The compensation of these officers will be recalculated each year to take account of changes in age, salary and length of service or promotion, where this will result in an increased assessment, and the officers' entitlements will not thereafter fall below the increased amounts. This process will continue after the sixth instalment has been paid and any further compensation will be paid on each anniversary of the date taken for calculation

(viii) The tables shall be interpreted on the basis of completed months of age and service only where this is to the advantage of the officer concerned. In all other cases, the compensation factor of an officer shall be based on completed years of service and his age on his last birthday before the date taken for calculation.

(ix) Every entitled officer who is offered promotion carrying an increase in his pensionable emoluments after the operative date will (irrespective of the effective date of the promotion) be required, as a condition of the offer of promotion, to undertake to serve the Government of North Borneo/Sarawak for a further period of not less than 24 months' residential service from the date of notification of the promotion. The recalculation, on any date subsequent to the operative date of an officer's entitlement to compensation, will also be made on the basis of the pensionable emoluments which the officer is drawing on such subsequent date, except that if the officer breaks his undertaking by retiring without the agreement of the Government before serving for 24 months' residential service, his compensation will be calculated on the basis of the annual pensionable emoluments he was drawing immediately before the date of his promotion, or on the basis of the average of his annual pensionable emoluments during the three years before his retirement, whichever is the greater. An officer who accepts promotion, after giving an under-

taking to serve for not less than 24 months' residential service, and who might, in order to complete his 24 months, have to return to North Borneo/Sarawak for a final tour of less than 12 months may be required by the Government to serve for a final tour of not more than 12 months.

(x) The compensation of an entitled officer who continues in the pensionable service after the operative date will be increased by an amount arrived at by multiplying his annual pensionable emoluments on each anniversary of the operative date or finally on his retirement by a factor of 0.10 in respect of each completed period of 12 months service (and pro rata for each completed month) since the operative date or the previous anniversary as the case may be. This compensation shall not be affected by the ceiling of £12,000 provided for in sub-paragraph (ii) above and shall be paid in one lump sum on each anniversary of the operative date and finally on retirement. For the purpose of this sub-paragraph deferred leave as at the operative date shall not be reckoned as service.

(xi) Each entitled officer will be given an initial certificate of the amount of compensation to which he is entitled on the occasion of its initial calculation and (in the case of officers who continue to serve on pensionable terms) on the occasion of any subsequent recalculation. Where an officer retires from the pensionable service before the final instalment of compensation has been paid to him, he will be given a final certificate of his entitlement as soon as possible after his retirement leave has expired and after all details of his age, salary and length of service at the date of his final retirement have been taken into account.

(xii) Some officers may wish to use the certificates provided under (xi) to establish their creditworthiness with various lending institutions. To assist in this Her Majesty's Government have informed the major financial institutions in the United Kingdom which provide credit—the banks, insurance institutions and building societies—of the existence of compensation schemes providing for capital payments by instalments to which Her Majesty's Government contribute and of the provision of certificates of entitlement to individual officers. These institutions have informed their branches accordingly and have left it the responsibility of their branch managers to take account of these certificates to the extent they think appropriate in assessing the creditworthiness of individual officers. The Department of Technical Co-operation are prepared, on request from an entitled officer, to write to a particular bank or similar institution confirming the status of the certificate that the officer may have shown to the institution. The Governments of North Borneo and Sarawak will consider whether these certificates should be made negotiable.

Method of payment

6.—(i) Subject to the provisions of sub-paragraphs (v) to (viii) below and to the provisions of paragraphs 12 and 13 of this Scheme, the lump sum compensation calculated in accordance with paragraph 5 above shall be payable over a period of five years from the operative date in six instalments, of which the first shall be paid as soon as possible after the operative date. Subsequent instalments shall be paid at intervals of one year from the operative date.

(ii) These instalments shall be paid to all entitled officers whether they elect to retire from the Public Service or to remain on the pensionable establishment or to retire from the pensionable service and accept an offer to remain in the Public Service on contract terms (see paragraph 9 below).

(iii) Subject to the provisions of paragraph 7 below, the initial instalment of compensation shall be £1,000 or one-sixth of the total compensation payable, whichever is the greater, except that where the total compensation is £1,000 or less it shall be paid in full at once. Subject to the provisions of sub-paragraph (iv) below, one-fifth of the balance of compensation due will be paid as a second instalment, one-fourth as a third instalment and so on.

(iv) If on any anniversary of the operative date, the instalment due does not exceed £400 then, if the total amount of the balance of compensation payable is more than £400, an instalment of £400 shall be paid; if the balance of compensation payable is less than £400, then the balance shall be paid at once. If, when any instalment is paid, the balance of compensation after payment of the instalment would be less than £100, it will be paid in full forthwith.

(v) An entitled officer who attains the age of 55 (or, in the case of a judge, the age of 62) shall be paid forthwith the balance of compensation due to him.

(vi) An entitled officer who is required to retire at any time on medical grounds or in the public interest shall be paid forthwith the balance of compensation due to him.

(vii) An entitled officer who is required to retire at any time either to facilitate the reorganisation of the Public Service or because his office is abolished or on grounds of age in accordance with the provisions of the Pensions Ordinance shall be paid forthwith the balance of compensation due to him and shall also be given the additional benefits set out in paragraph 13 (iii) or (iv) as may be appropriate.

(viii) If an officer serving on probation (who is otherwise an entitled officer within the meaning of paragraph 2 (i) above), is required to retire either to facilitate the reorganisation of the Public Service or because his office is abolished or on grounds of age in accordance with the provisions of the Pensions Ordinance, he shall be deemed to have been confirmed in his appointment and the provisions of sub-paragraph (vi) of this paragraph shall then apply to him.

Officers who undertake to continue to serve on pensionable terms for a minimum further period of 24 months of residential service

7.—(i) An entitled officer who gives a written undertaking to continue to serve on pensionable terms for a further minimum period of 24 months of residential service, and whose undertaking is accepted by Government, shall receive an initial compensation payment of £2,000 if the compensation due to him exceeds £2,000, or the total due to him if his entitlement is less than £2,000. In subsequent years, payment will be one-fifth, one-quarter, etc. of the reassessed balance of compensation, subject to the provisions of paragraph 6 (iv).

(ii) An entitled officer who enters into this arrangement and who might, in order to complete his 24 months of residential service, only have to return to North Borneo/Sarawak for a final tour of less than 12 months, may be required by the Government to serve for a final tour of not more than 12 months.

(iii) An entitled officer who, having received an initial payment of £2,000, breaks his undertaking to serve on pensionable terms for a further minimum period of 24 months of residential service by retiring without the agreement of the Government, shall be liable to lose one-half per cent of the total compensation due to him (as calculated, if appropriate, in accordance with the provisions of paragraph 5 (vi) above) in respect of each month or part of a month by which he has failed to serve.

(iv) An entitled officer who enters into this arrangement may proceed in one of the following ways:—

(a) if the undertaking is given not later than three months after the operative date, any period of service in North Borneo/Sarawak between the operative date and three months thereafter will count towards his 24 months' residential service; and he will be entitled to an initial payment of £2,000. (If, before the undertaking is given the officer has already received an initial instalment calculated in accordance with paragraph 6 (iii) above the additional sum required to bring his first instalment up to the appropriate figure calculated in accordance with sub-paragraph (i) of this paragraph will be paid to him as soon as possible after he has given the undertaking); or

(b) if the undertaking is given after the expiration of three months from the operative date but before the expiration of 12 months from the operative date, the period of 24 months of further residential service, which he undertakes to serve will start from the day on which the undertaking is given. He will already have received an initial payment of compensation, as though he had given no undertaking (see paragraph 6); but as soon as possible after he has given the undertaking, a further payment will be made to him to bring his initial payment up to the enhanced level set out in sub-paragraph (i) of this paragraph.

Payment of Interest

8.—(i) Interest at 5 per cent per annum, based on the previously assessed balance of compensation due, will be paid at the time of the payment of the next instalment. Where a recalculation of the entitlement to compensation is made on an anniversary of the operative date interest will become payable on the reassessed balance from the date when the recalculation is made.

(ii) Where a recalculation is made on the occasion of an officer's retirement interest will be paid, at the time the next instalment of compensation is due, calculated as follows:—

Five per cent per annum on the balance of compensation due at the previous anniversary of the operative date for the period between the anniversary of the operative date and the date of retirement, plus 5 per cent per annum on the balance of compensation due on recalculation at the date of retirement from the date of retirement to the next anniversary of the operative date.

(iii) For the purpose of calculating interest the first instalment of compensation will be deemed to have been paid on the operative date.

Contract Appointments

9.—(i) An entitled officer may request re-engagement on contract terms and, with the approval of the Public Service Commission, such officer may be so re-engaged on terms which are not more favourable than those he enjoyed before he retired. Such entitled officer will not be required to give the normal period of notice of retirement.

(i) The contract will commence with effect from the first day of the month following the officer's acceptance of the offer of contract employment.

The day immediately preceding the effective date for the commencement of the contract will be regarded as the last day of the officer's pensionable service for the purpose of computation of his pension and of final calculation of his compensation entitlement. Re-engagement on contract terms will not affect the officer's entitlement to payment of pension and compensation under this Scheme as from the date of his retirement from the pensionable service.

(iii) Any leave due to the officer on the day on which his contract service starts will not be regarded as pensionable service, but will be added to leave earned under the contract and will earn gratuity.

The giving of notice by entitled officers who elect to retire from the Service

Giving notice while in North Borneo/Sarawak

10—(i) An entitled officer may, at any time after the date on which this Scheme is announced, give notice of his intention to retire from the Public Service. An officer will normally be required to give six months' resident service notice of retirement, provided that—

- (a) no period of notice can start more than four months before the operative date,
- (b) a shorter period of notice than six months may be accepted by mutual agreement between the officer and the Government;
- (c) the Government will not insist on the full period of six months' notice, if this would entail the officer's serving more than the normal tour prescribed for him or if approval has already been given for the officer to proceed on leave within six months of the date on which he gives notice of his intention to retire,
- (d) if the officer gives notice of his intention to retire within three months of the commencement of his current tour, his period of notice will start on the day following the completion of the first three months of his tour.

(ii) An entitled officer who gives notice of his intention to retire under this Scheme and who proceeds on leave prior to retirement before the expiration of the normal tour prescribed for him will be entitled to the full retirement passage and baggage concessions, prescribed by Standing Orders, which he would have been entitled to if he had completed the normal tour prescribed for him.

Giving of notice while on Vacation Leave

(iii) An entitled officer who is absent from North Borneo/Sarawak on vacation leave may (at any time after the announcement of this Scheme) give notice of his intention to retire from the Service, provided that no period of notice can start more than four months before the operative date

(iv) The Government may require the officer concerned to return to North Borneo/Sarawak after the expiration of the leave granted to him for a period of six months' residential service to work out his notice, in which event, the Government will pay the full cost of passages for the officer and his family to and from North Borneo/Sarawak and will give the officer full retirement baggage concessions on his final journey from North Borneo/Sarawak, as if he were returning for and completing a full normal tour of service. The Government will avail itself of its right to require an officer to return to North Borneo/Sarawak in these circumstances, only if this is essential in the public interest

(v) If it is agreed that the officer need not return to North Borneo/Sarawak to work out a period of notice, he will forthwith be granted any balance of leave (including any deferred leave) earned up to the day on which he proceeded on leave, he will be allowed the retirement baggage concessions prescribed in Standing Orders, to enable him to transport his effects from North Borneo/Sarawak; and his service will be deemed to finish on the expiration of the leave due to him

(vi) If the officer himself expresses a wish to return to North Borneo/Sarawak to settle up his affairs, he will be permitted to do so, but the cost of his and his family's passages will be paid by the Government only if he completes on his return a final tour of not less than 12 months.

Withdrawal of notice

(vii) An entitled officer may request permission to withdraw his notice of retirement, but it will be for the Government to decide whether or not he should be permitted to do so

Arrangements on Transfer

11.—(i) If an entitled officer is offered, after the operative date, a transfer to pensionable public service scheduled under the Pensions Laws without a break in his service, and if he accepts such a transfer, he will be liable to return any instalments of compensation paid to him; and it will be for the Government of North Borneo/Sarawak to satisfy itself as to the arrangements made with the officer for this repayment. (The amount of the refund will be shared equally between the North Borneo/Sarawak Government and the United Kingdom Government).

(ii) If an entitled officer accepts a transfer (as defined in sub-paragraph (i) above) to a post carrying lower pensionable emoluments than his post in North Borneo/Sarawak, he will be granted compensation either—

- (a) the multiple of the amount of his pensionable emoluments prior to transfer multiplied by his annual pensionable emoluments of his new post by the factor appropriate to his age as set out in the table prepared by the Government Actuary, at Appendix III; or
- (b) equal to the compensation which would have been payable to him if he had retired at the date of his transfer;

whichever is the less, and the compensation shall be paid as set out in paragraph 6 above

Officers who are required to retire during 1963 and subsequently to facilitate the introduction of constitutional changes

12.—(i) An entitled officer who is required to retire in the circumstances described above will be entitled to the following benefits.—

- (a) the compensation due to him will be paid in one lump sum as soon as possible after he has been given notice of his retirement,
- (b) he will receive (before or as soon as possible after his departure on leave prior to retirement) a disturbance grant equal to one-quarter of his annual pensionable emoluments and this grant will not be liable to income tax either in the United Kingdom or in North Borneo/Sarawak;
- (c) if he has less than six months' earned leave (including any deferred leave) standing to his credit when he leaves North Borneo/Sarawak, he will be granted additional leave to bring his period of leave up to a total of six months;
- (d) he will receive full retirement passages and baggage concessions as if he had completed a normal tour;
- (e) his pension will be calculated on the basis of the pensionable emoluments which he is drawing at the date of his retirement, and the "averaging" provisions of the Pensions Ordinance will not apply to him

(ii) The decision whether or not a particular retirement falls within the terms of this paragraph will rest with the Public Service Commission.

Officers who are required to retire to facilitate the localisation of the Public Service

13.—(i) The Government may inform the Service Commissions that, as a general policy, expatriate officers should be required to retire in sufficient numbers whenever suitably qualified local candidates are available for appointment or promotion and sufficient vacancies are not available to accommodate them, or, alternatively, it may inform the Service Commissions of the application of this policy to particular cadres from time to time. It will be for the Service Commission concerned to determine whether suitably qualified local candidates are available who cannot be accommodated in existing vacancies and, if so, to select the individual expatriate officers who should be required to retire.

(ii) No officer who has been notified that he will continue to be employed for a minimum period in accordance with paragraph 3 above shall be required to retire under this paragraph before the expiry of that minimum period.

(iii) It will be for the appropriate Service Commission to determine, in the light of the public interest, what period of notice should be given to an entitled officer who is required to retire in these circumstances, provided—

- (a) that, unless the officer is on vacation leave, the period of notice shall not be less than six months' resident service, or such shorter period as the officer, with the concurrence of the appropriate Service Commission, may wish to give;
- (b) that, if an entitled officer is required to retire while absent from North Borneo/Sarawak on vacation leave, the special provisions set out in sub-paragraph (v) of this paragraph will apply;

(iv) Every entitled officer who (while in North Borneo/Sarawak) is required to retire in these circumstances shall be entitled to the following benefits:—

- (a) the balance of any compensation due to him (re-assessed as provided in paragraph 5 (vii)) will be paid to him in one lump sum not more than one month before his expected date of departure from North Borneo/Sarawak;
- (b) if he has less than six months' earned leave (including any deferred leave) standing to his credit when he leaves North Borneo/Sarawak, he will be granted additional leave to bring his period of leave up to a total of six months;
- (c) his pension will be calculated on the basis of the pensionable emoluments which he is drawing at the date of his retirement, and the "averaging" provisions of the Pensions Ordinance will not apply to him;
- (d) he will be given full retirement passage and baggage facilities as if he had completed a normal tour.

(v) If an entitled officer is given notice to retire in these circumstances while on vacation leave, he shall be granted the following benefits:—

- (a) the balance of any compensation due to him (re-assessed as provided in paragraph 5 (vii) above) will be paid to him in one lump sum forthwith,
- (b) if he has less than six months' leave (including deferred leave) outstanding at the date on which notice is given, additional leave to bring the period of leave due to him on that date up to a total of six months;
- (c) his pension will be calculated on the basis of the pensionable emoluments which he is drawing at the date of his retirement, and the "averaging" provisions of the Pensions Ordinance will not apply to him.

(d) passages at Government expense to and from North Borneo/Sarawak for himself (but not for his family) to enable him to settle up his affairs;

(e) full retirement baggage concessions, as prescribed in Standing Orders, to enable him to transport his effects from North Borneo/Sarawak.

(vi) If an officer serving on probation (who is otherwise an entitled officer within the meaning of paragraph 2 (j) above) is required to retire in these circumstances he shall be confirmed in his appointment forthwith and shall then be entitled to compensation and other appropriate benefits set out in this paragraph.

Death of an Entitled Officer

14.—(i) The dependants or the legal personal representatives of an entitled officer who after the operative date dies while still serving or while on leave prior to retirement and before all payments of compensation due to him have been made, shall receive the outstanding balance of compensation and the death gratuity for which provision is made in the Pensions Ordinance, provided that the death gratuity shall, where applicable, be calculated by reference to the special table of factors provided for in paragraph 15 (f) below and to the additional commutations of pension provided for under paragraph 15 (ii) below.

(ii) Where an entitled officer dies after he has retired, his dependants or legal personal representatives shall receive the outstanding balance of any compensation and any other benefits due to them under the Pensions Ordinance.

Commutation of Pensions

15.—(i) Entitled officers retiring under this Scheme shall be entitled to commute up to one-quarter of their earned pension (whether that pension has been earned solely by service in North Borneo/Sarawak or partly by service in North Borneo/Sarawak and partly by service under another Government or administration which schedules North Borneo/Sarawak in its pension law) in accordance with the special table of commutation factors which is set out in Appendix IV. The North Borneo/Sarawak Government will bear the cost arising from the difference between these factors and the commutation factor provided for in the pensions law of the other Government or Administration. These special factors shall also apply to the commutation of pensions of entitled officers who retire after the final instalment of compensation has been paid.

(ii) Entitled officers who remain in the Service on pensionable terms after the operative date shall be entitled, on retirement, to commute a further one-sixteenth of their pensions earned in respect of their service in North Borneo/Sarawak for each completed year of service after the operative date, in accordance with the special table of commutation factors set out in Appendix IV provided that deferred leave (i.e., vacation leave due to an officer in excess of vacation leave earned in respect of his final tour of service) shall not count as service in respect of which the officer may commute an extra one-sixteenth of his pension.

(iii) An entitled officer will be permitted to commute the whole or any part in excess of the statutory provisions of the pension earned in respect of his service in North Borneo/Sarawak up to a maximum of £300 in accordance with the special table of commutation factors set out in Appendix N, but any excess of pension over £300 will be forfeited.

(iv) Officers who are pensionable under the Oversea Superannuation Scheme are not entitled under the Regulations of that Scheme to commute any part of their pensions but instead receive a smaller pension and a lump sum which is equivalent to one-quarter of a normal pension multiplied by a factor of 10. North Borneo/Sarawak will add to this lump sum to bring it up to the amount which would have been payable if the officer had not been eligible for a pension and a lump sum but had been eligible for a pension calculated on a pension constant of one-sixthundredth for each month of service and had been able to commute one-quarter of that pension in accordance with the table referred to in sub-paragraph (i) above.

Incidence of Income Tax

16.—(i) Compensation payments (whether paid in a lump sum or by instalments), disturbance grants and capital sums paid in respect of commutation of pensions, whether paid to the officer or (in the event of his death) to his dependants or his legal personal representatives shall not be liable to income tax either in the United Kingdom or in North Borneo/Sarawak.

(ii) Interest paid on the balance of compensation due to an entitled officer (after the initial payment has been made) may be liable to income tax either in the officer's country of residence or in North Borneo/Sarawak or in both, according to the circumstances of the officer and subject to the provisions of any Double Taxation Agreement where applicable.

Disciplinary proceedings which may affect the pension or compensation of an entitled officer serving after the operative date

17.—(i) If any decision of a Service Commission has the effect of withholding, suspending, reducing or otherwise altering to his detriment any pension compensation or other retiring benefit due to or in respect of an entitled officer, he or his legal personal representatives as the case may be shall have the right to appeal against the decision to an Appeals Board whose decision shall be final.

The Appeals Board will be composed of one member selected by the Chief Minister, one member selected by an association representing public officers or a professional body nominated by the entitled officer concerned, and one selected by the two other members jointly, to be Chairman of the Board. An officer shall be entitled to legal representation before the Board.

(ii) If an entitled officer, who has retired from the pensionable service with compensation and has been engaged on contract terms, terminates his contract or has his contract terminated for any reason, this will not affect the payment of his pension or the payment of any balance of compensation due to him.

Officers on temporary transfer from the Home Civil Service

18. An officer on temporary transfer from the Home Civil Service who is in the service of the North Borneo/Sarawak Government on the operative date and who would then have been an entitled officer if he had not been serving on temporary transfer if he returns to the Home Civil Service to a post carrying lower pensionable emoluments than the post he holds in North Borneo/Sarawak, shall receive (after the date of his return to the Home Civil Service) compensation calculated as in paragraph 11 above, provided—

- that, in the opinion of the appropriate Service Commission, he would have had a reasonable expectation of being appointed to the pensionable establishment of North Borneo/Sarawak if such appointments had not been generally discontinued;
- that either he has served for a period of not less than 24 months of residential service after the operative date or his office has been abolished or he is required to return to the Home Civil Service to facilitate the localisation or re-organisation of the Public Service;
- that the compensation shall not in any case exceed half the compensation which would have been payable to him if he had retired at the date of his transfer; and
- that the compensation shall be paid as set out in paragraph 6 above.

Arrangements regarding the refund of compensation on established appointment to the Home Civil Service (including the Foreign Service)

19.—(i) An entitled officer who enters the pensionable establishment of the Home Civil Service through a competition conducted by the Civil Service Commissioners will not be required to refund his compensation if there is a break between the last day of his pensionable service under the North Borneo/Sarawak Government and the first day of his established service in the Home Civil Service.

(ii) An officer who takes up an established appointment in the Home Civil Service without a break in service may be regarded for the purpose of the North Borneo/Sarawak Pensions Law as having been transferred to the Home Civil Service. Subject to the provisions of paragraph 11 above, he will be required to refund any instalments of compensation he has received and will not be eligible to receive a pension from the North Borneo/Sarawak Government (or any other scheduled government which he has served) until his final retirement from public service.

(iii) An entitled officer who, having been formerly a pensionable member of the Home Civil Service, returns to a pensionable appointment in that Service, otherwise than as the result of a competition conducted by the Civil Service Commissioners, within twelve months of the expiration of his retirement leave from North Borneo/Sarawak, shall receive either compensation calculated in accordance with paragraph 11 above, or half the compensation to which he is entitled, whichever is the less, and will be required to refund any instalments of compensation in excess of this amount which he may already have received. The amount of the refund will be shared equally between the North Borneo/Sarawak Government and the United Kingdom Government. The compensation shall be paid as set out in paragraph 6 above.

Abolition of office terms

20.—(i) An entitled officer shall not be eligible to receive any addition to earned pension or gratuity provided for in the Pensions Ordinance or Scheme in respect of abolition of office if he receives compensation for loss of career.

(ii) An entitled officer who before the operative date gives notice of retirement under this Scheme may at his option on his retirement receive the abolition addition to pension provided for in the pensions law or Scheme instead of the compensation provided for under this Scheme.

General

21. Any compensation or gratuity payable under this Scheme to an officer or to his personal representatives or dependants shall be paid in accordance with any requests made from time to time by such officer, his personal representatives or his dependants, as the case may be, in any of the following countries:—

- in the United Kingdom;
- in North Borneo, Sarawak, Malaya or Singapore;
- in the country from which the officer was recruited or where he intends to reside,

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(d) in the case of payment to the personal representatives of an officer or his dependants, in the country in which the personal representatives or the dependants, as the case may be, reside, or

(e) in such other country as the officer or his personal representatives or dependants may, with the concurrence of the North Borneo/Sarawak Government, select

Payment shall be made in the currency of the country in which payment is to be made, and where payment is to be made in a country other than North Borneo/Sarawak, the amount of the payment shall be such as would produce at the official rate of exchange prevailing at the date of payment, the amount in sterling of the compensation or gratuity as calculated at a rate of exchange not less than Sterling two shillings and four pence (Ss. 4d) to the Malayan dollar.

Age of Officer	Factor when length of service is							
	3 years	4 years	5 years	6 years	7 years	8 years	9 years	10 years or more
21	.16							
22	.18	.24						
23	.21	.28	.34					
24	.23	.31	.39	.47				
25	.26	.35	.44	.53	.62			
26	.30	.40	.50	.59	.69	.79		
27	.33	.44	.56	.67	.78	.89	1.00	
28	.38	.50	.63	.76	.88	1.01	1.13	1.26
29	.44	.58	.72	.87	1.02	1.16	1.30	1.45
30	.51	.68	.85	1.02	1.19	1.36	1.53	1.70
31	.60	.80	1.00	1.21	1.41	1.61	1.81	2.01
32	.70	.94	1.18	1.41	1.64	1.88	2.12	2.35
33	.81	1.08	1.36	1.63	1.90	2.17	2.44	2.71
34	.92	1.23	1.54	1.84	2.15	2.46	2.76	3.07
35	1.02	1.36	1.70	2.05	2.39	2.73	3.07	3.41
36	1.11	1.48	1.86	2.23	2.60	2.97	3.34	3.71
37	1.19	1.58	1.98	2.38	2.77	3.17	3.56	3.96
38	1.24	1.66	2.08	2.49	2.90	3.12	3.74	4.15
39	1.28	1.70	2.13	2.56	2.98	3.41	3.83	4.26
40	1.29	1.72	2.15	2.58	3.01	3.44	3.87	4.30
41	1.28	1.71	2.14	2.57	3.00	3.42	3.85	4.28
42	1.26	1.68	2.10	2.51	2.93	3.35	3.77	4.19
43	1.21	1.62	2.02	2.42	2.83	3.23	3.64	4.04
44	1.15	1.54	1.92	2.30	2.69	3.07	3.46	3.84
45	1.08	1.44	1.80	2.16	2.52	2.88	3.24	3.60
46	1.00	1.33	1.66	2.00	2.33	2.66	3.00	3.33
47	.91	1.22	1.52	1.82	2.13	2.43	2.74	3.04
48	.82	1.10	1.37	1.64	1.92	2.19	2.47	2.74
49	.73	.98	1.22	1.46	1.71	1.95	2.20	2.44
50	.64	.85	1.06	1.28	1.49	1.70	1.92	2.13
51	.54	.72	.90	1.07	1.25	1.43	1.61	1.79
52	.43	.57	.71	.85	.99	1.14	1.28	1.42
53	.30	.40	.50	.60	.70	.80	.90	1.00
54	.15	.20	.25	.30	.35	.40	.45	.50
55 or more	NIL	NIL	NIL	NIL	NIL	NIL	NIL	NIL

NOTE: The factor corresponding to the officer's age and service in years and completed months should be obtained by interpolation.

NORTH BORNEO AND SARAWAK COMPENSATION FACTORS

JUDGES—NORMAL RETIREMENT AGE 62

<i>Age of Judge</i>	<i>Factor</i>	<i>Age of Judge</i>	<i>Factor</i>
40	3.96	55	2.50
41	4.15	56	2.27
42	4.28	57	2.04
43	4.30	58	1.78
44	4.28	59	1.42
45	4.22	60	1.00
46	4.13	61	50
47	4.02	62 or over	Nil
48	3.89		
49	3.74		
50	3.57		
51	3.38		
52	3.17		
53	2.95		
54	2.73		

NOTE: These factors apply where the judge has at least ten years' service. The factors corresponding to the judge's age in completed months should be obtained by interpolation.

Appendix III

NORTH BORNEO AND SARAWAK

COMPENSATION IN RESPECT OF TRANSFERRED OFFICERS

FACTOR TO BE APPLIED TO REDUCTION IN SALARY SUSTAINED ON TRANSFER

<i>Age</i>	<i>Factor</i>
30 and below	5.00
31	5.08
32	-5.21
33	5.47
34	5.90
35	6.56
36	7.44
37	8.10
38	8.53
39	8.79
40	8.92
41	9.00
42	8.92
43	8.77
44	8.40
45	7.61
46	6.39
47	5.60
48	5.23
49	5.08
50 and above	5.00

NOTE: The factor corresponding to the officer's age in years and completed months should be obtained by interpolation.

NORTH BORNEO AND SARAWAK

COMMUTATION OF PENSION UNDER COMPENSATION ARRANGEMENTS

TABLE SHOWING THE LUMP SUM TO BE PAID FOR THE COMMUTATION OF EACH £1 PER ANNUM OF PENSION

<i>Age of officer</i>	<i>Factor</i>	<i>Age of officer</i>	<i>Factor</i>
25	17.08	40	15.07
26	16.97	41	14.90
27	16.86	42	14.73
28	16.74	43	14.55
29	16.62	44	14.36
30	16.50	45	14.17
31	16.38	46	13.97
32	16.25	47	13.76
33	16.12	48	13.54
34	15.98	49	13.32
35	15.84	50	13.08
36	15.70	51	12.84
37	15.55	52	12.59
38	15.40	53	12.50
39	15.24	54	12.50

NOTE: The factor corresponding to the officer's age in years and completed months should be obtained by interpolation.

PUBLIC OFFICERS AGREEMENT BETWEEN HER MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM AND THE GOVERNMENT OF SARAWAK

Her Majesty's Government in the United Kingdom and the Government of Sarawak have agreed as follows —

Interpretation

1.—(1) In this Agreement—

(a) "the appointed day" means Malaysia Day.

(b) "conditions of service" means the laws, rules, regulations, orders and other instruments that regulate the terms of service of an overseas officer relating to his tenure of office, disciplinary control, salary (including salary scales), pensionable allowances and passages;

(c) "overseas officer" means an officer whose conditions of service before the appointed day included an entitlement to free passages from the country to which he was before that day the substantive holder of a pensionable office in the Public Service of Sarawak, being a person—

(i) who was selected for or offered appointment to the Public Service of Sarawak by a Secretary of State; or

(ii) whose appointment to the Public Service of Sarawak was approved by a Secretary of State; or

(iii) who had entered into an agreement with the Crown Agents for Overseas Governments and Administrations to serve in the Public Service of Sarawak; or

(iv) who (although not an officer falling within heads (i), (ii) or (iii) of this sub-paragraph) is or has been a member of Her Majesty's Overseas Civil Service or Her Majesty's Overseas Judiciary, or has been a member of a former Colonial Unified Service, or is or was a designated officer for the purposes of the Overseas Service (Sarawak) Agreement, 1961.

(b) "pension" means any pension, gratuity, compensation and interest thereon, retiring allowance or other like benefit payable by the Government of Sarawak to or in respect of any overseas officer or to the widow or child of any overseas officer or their legal personal representatives, including any increase of pension, and any contributions repayable and interest payable to any officer under any law providing for payment of pensions to widows and children of officers.

(2) "Substantive holder" in relation to any office includes a person serving in that office on probation but does not include a person (other than a person serving under a probationary agreement) serving in the office for a specified-term under a contract.

Conditions of service.

2. The conditions of service applicable to an overseas officer who continues to be the substantive holder of a pensionable office in the Public Service of Sarawak on or after the appointed day shall not be less favourable than those which were applicable to him immediately before the appointed day.

Retirement and Pensions

3. The entitlement to retire and the eligibility to receive a pension of any overseas officer who continues to be the substantive holder of a pensionable office in the Public Service of Sarawak on or after the appointed day or of his widow, children, dependants or personal representatives shall be as provided for in the laws, regulations and administrative directions in force on the appointed day or in such other laws, regulations and administrative directions made thereafter as are not less favourable, and pensions shall be granted and paid to such officers and other persons accordingly.

Preservation of Pensions

4. The pension of any overseas officer who has ceased to be the substantive holder of a pensionable office in the Public Service of Sarawak before the appointed day, or of the widow, children, dependants or personal representatives of any such officer, shall be granted and paid, or if granted before that date shall continue to be paid in accordance with the laws, regulations and administrative directions governing those pensions immediately before the appointed day or in accordance with such other laws, regulations and administrative directions made thereafter that are not less favourable.

Payment of Pensions

5.—(1) A pension shall, at the option of the person to whom it is payable, be paid either in Sarawak or in the country in which he is residing or in any other country to which he had an entitlement to a free passage for the purpose of leave of absence upon the completion of a tour of duty as may from time to time be requested by him in writing.

(2) An option exercised under paragraph (1) of this Article—

(a) may be revoked at any time and a fresh option be exercised;

(b) shall be exercised or revoked by notice in writing,

(c) shall take effect on the first day of the next succeeding month, or at the person's election on the first day of any subsequent month after the date on which the notice is received by the [Secretary to the Treasury.]

(3) Pensions payable outside Sarawak after the appointed day shall be paid in the currency of the country in which payment is to be made, and the amount of the payment shall be such as would produce, at the official rate of exchange prevailing at the date of the payment, the amount in sterling of the pension calculated as at the official rate of exchange prevailing on the appointed day; Provided that if there is a general revision of salaries consequent upon the revaluation of the currency in use in Sarawak as a result of which the pensionable emoluments of an overseas officer may be increased the Government of Sarawak may require that officer to agree that any pension that may be granted to him shall be calculated at the rate of exchange prevailing at the date of the revision of salaries before granting him the benefit of the increase of pensionable emoluments.

(4) Where the person to whom a pension is payable is a minor, his or her lawful guardian may exercise the option conferred by this paragraph.

6. For the purposes of this Agreement, in so far as the law, regulations or Options administrative directions applicable to the grant of a pension or to other conditions of service depends on the option of the person to or in respect of whom the pension is granted or is to be granted, or of the overseas officer to whom the conditions of service apply the law, regulations or administrative directions for which such person or officer opts shall be taken to be more favourable to him than any other law, regulation or administrative direction for which he might have opted.

7.—(1) Overseas officers who are members of Her Majesty's Overseas Civil Service or of Her Majesty's Overseas Judiciary shall continue to be eligible for consideration by Her Majesty's Government in the United Kingdom for transfer to or promotion to employ in the Public Service of some other territory.

(2) The Government of Sarawak shall comply with any reasonable request that may at any time be made by Her Majesty's Government in the United Kingdom for the release of an overseas officer for transfer or promotion in pursuance of paragraph (1) of this Article and shall take any action that may be necessary to preserve his pension rights when he is so transferred or promoted.

(3) Before he is released an overseas officer shall be required to make arrangements satisfactory to the Government of Sarawak for the repayment to that Government of any compensation or instalments of compensation he may be required to make under the (Compensation Scheme), but not of any interest paid on outstanding instalments.

8. Section (Appeals Board) of the (Constitution) relating to Appeals Board benefits, to which Section of the (Constitution) applies, that may be granted or that may have been granted to or in respect of any overseas officer, shall not be revoked or amended to the prejudice of the interests of any such officer.

9. This Agreement may be cited as the Public Officers (Sarawak) Agreement, 196 . and shall come into operation on the date of signature (Citation and Commencement)

Done in duplicate at Sarawak this day of 196

Signed on behalf of Her Majesty's Government in the United Kingdom

Signed on behalf of the Government of Sarawak

JOINT PUBLIC STATEMENT

Issued by the British and Malayan Governments on the 1st August, 1962

1 The British and Malayan Governments have received and studied the Report of the Commission under the chairmanship of Lord Cobbold which visited North Borneo and Sarawak earlier this year to ascertain the views of the inhabitants on the proposal to create a Federation of Malaysia embracing Malaya, Singapore, Sarawak, North Borneo and Brunei. The Report is being published today.

2 The two Governments are most grateful to the Commission for their valuable Report and have accepted almost all the recommendations on which the Commission were unanimous. The two Governments have noted in particular that the Commission were unanimously agreed that a Federation of Malaysia is in the best interests of North Borneo and Sarawak and that an early decision in principle should be reached.

3 In the light of this Report and of the agreement reached between the Government of Malaya and the Government of Singapore, the British and Malayan Governments have now decided in principle that, subject to the necessary legislation, the proposed Federation of Malaysia should be brought into being by 31st August, 1963.

4 To give effect to this decision, the two Governments intend to conclude, within the next six months, a formal agreement which, among other things, will provide for

(a) the transfer of sovereignty in North Borneo, Sarawak and Singapore by 31st August, 1963;

(b) provisions governing the relationship between Singapore and the new Federation, as agreed between the Governments of Malaya and Singapore;

(c) defence arrangements as set out in the Joint statement by the British and Malayan Governments dated 22nd November 1961, and

(d) detailed constitutional arrangements, including safeguards for the special interests of North Borneo and Sarawak, to be drawn up after consultation with the Legislatures of the two territories.

5 These safeguards will cover such matters as religious freedom, education, representation in the Federal Parliament, the position of the indigenous races, control of immigration, citizenship and the State constitutions.

6 In order that the introduction of the new Federal system may be effected as smoothly as possible and with the least disturbance to existing administrative arrangements, there will be, after the transfer of sovereignty, a transition period, during which a number of the Federal constitutional powers will be delegated temporarily to the State Governments.

7 An Inter-Governmental Committee will be established as soon as possible, on which the British Malayan, North Borneo and Sarawak Governments will be represented. Its task will be to work out the future constitutional arrangements and the form of the necessary safeguards.

8 The Minister of State for the Colonies, Lord Lansdowne, who will be the Chairman of this Committee, and the Deputy Prime Minister of the Federation of Malaya Tun Abdul Razak, will proceed shortly to Sarawak and North Borneo to conduct discussions.

9 In order to maintain the efficiency of the administration, the British and Malayan Governments are agreed on the importance of retaining the services of as many of the expatriate officials as possible. The Minister of State will discuss with the Governments of the territories and with the Staff Associations how this best can be done.

10 The British and Malayan Governments have informed the Sultan of Brunei of the agreement they have reached and have made it clear that they would welcome the inclusion of the State of Brunei in the new Federation.

List of Meetings and Members of Plenary Sessions and of Sub-committees of the Inter-Governmental Committee (1962)

A MEETINGS

1. Plenary			
Preparatory Meeting	—	30th August	— (Jesselton)
1st Meeting	—	22nd October	— (Jesselton)
2nd Meeting	—	Morning of 23rd October	— (Jesselton)
3rd Meeting	—	Afternoon of 23rd October	— (Jesselton)
4th Meeting	—	Afternoon of 23rd November	— (Jesselton)
5th Meeting	—	Morning of 24th November	— (Jesselton)
6th Meeting	—	Afternoon of 25th November	— (Jesselton)
7th Meeting	—	Morning of 26th November	— (Jesselton)
8th Meeting	—	18th December	— (Kuala Lumpur)
9th Meeting	—	Morning of 19th December	— (Kuala Lumpur)
10th Meeting	—	Afternoon of 19th December	— (Kuala Lumpur)
11th Meeting	—	Morning of 20th December	— (Kuala Lumpur)
2. Constitutional Sub-committee			
1st Meeting	—	8th and 9th October	— (Jesselton)
2nd Meeting	—	14th, 15th and 16th November	— (Kuala Lumpur)
3. Fiscal Sub-committee			
1st Meeting	—	19th October	— (Jesselton)
2nd Meeting	—	14th November	— (Kuala Lumpur)
3rd Meeting	—	17th December	— (Kuala Lumpur)
4. Public Service Sub-committee			
1st Meeting	—	6th November	— (Kuching)
Meeting of Officials only	—	Afternoon 24th November	— (Jesselton)
2nd Meeting	—	6th December	— (Jesselton)
5. Legal and Judicial Sub-committee			
1st Meeting	—	18th October	— (Jesselton)
2nd Meeting	—	8th November	— (Kuching)
6. Departmental Organisation Sub-committee			
1st Meeting	—	7th November	— (Kuching)
2nd Meeting	—	7th December	— (Jesselton)

B. MEMBERS

British Members

Lord Lansdowne (Chairman)

Sir John Martin, K.C.M.G., C.B., C.V.O., (Chairman of Sub-Committees)

Mr. H. P. Hall, M.B.E.

*Mr. M. G. Smith

Mr. E. M. West

Mr. D. G. Gordon-Smith

*Mr. R. G. Treweek

Mr. T. J. O'Brien, M.C. (Joint Secretary)

Malayan Members

- The Hon'ble Tun **Abdul Razak bin Dato Hussein**, S.M.N. (Deputy Chairman)
*The Hon'ble Dato Dr **Ismail bin Dato Haji Abdul Rahman**, P.M.N.
*The Hon'ble Enche Tan Siew **Sim**, J.P.
*The Hon'ble Enche **Cheah Theam Swee**
*Dato Sir James **Thomson**, P.M.N., F.J.K.
Dato **Abdul Aziz bin Haji Abdul Majid**, P.M.N., D.P.M.K., F.J.K.
*Dato **Abdul Jamil bin Abdul Rais**, P.M.N., F.J.K.
The Hon'ble Enche **Ismail bin Yusoff**
*Dato **Hamzah bin Abdullah**
Mr. C. M. **Sheridan**, C.M.G.
*Dato **C. H. Fenner**, C.M.G., P.M.N.
Dato **Nik Daud bin Haji Nik Mat**, S.P.M.K.
Mr. **R. J. C. Wait**, O.B.E., F.J.K.
Enche **Abdul Kadir bin Shamsuddin**, A.M.N.
*Enche **Abu Bakar Samad bin Noor**
*Mr. **G. W. Gould**, M.C.
*Enche **Chong Hon Nyan**, A.M.N.
*Enche **Yeap Kee Aik**, A.M.N.
*Enche **W. Fernando**, K.M.N.
Enche **Abdul Aziz bin Yeop** (Joint Secretary)

Sarawak Members

- The Hon'ble Mr. **F. D. Jakeway**, C.M.G., O.B.E.
The Hon'ble Mr. **P. E. H. Pike**, Q.C.
The Hon'ble B. A. **St. J. Hepburn**, C.M.G.
*The Hon'ble Mr. **A. R. Snelus**, C.M.G.
The Hon'ble Datu **Bandar Abang Haji Mustapha**, C.B.E.
The Hon'ble Temenggong **Jugah**, O.B.E.
*The Hon'ble Datu **Abang Haji Openg**, O.B.E.
*The Hon'ble Mr. **James Wong**
The Hon'ble **Pengarah Montegrai**
*The Hon'ble Mr. **Chen Ko Meng**
*The Hon'ble Wan **Abdul Rahman bin Datu Tuanku Bujang**
*The Hon'ble **Penghulu Umpau**
*The Hon'ble Mr. **Mak Yau Lim**
The Hon'ble Mr. **Ling Beng Siew**
The Hon'ble Mr. **Chia Chin Shin**
*The Hon'ble Mr. **Yeo Cheng Hoe**, O.B.E.
*The Hon'ble Mr. **Ainnie bin Dhoby**
*The Hon'ble Mr. **Dagok anak Randen**
*Mr. **R. L. V. Wilkes**, C.M.G.
*Mr. **P. E. Turnbull**
*Mr. **R. Kirkwood**, M.B.E.
*Mr. **J. R. Blease**
*Mr. **A. J. N. Richards**
*Mr. **G. V. C. Young**
Mr. **J. Pike**
*Mr. **J. A. Williams**
*Mr. **W. C. B. Wilson**
*Mr. **Gerunsin Lembang**
Mr. **G. A. T. Shaw** (Joint Secretary)

North Borneo Members

- The Hon'ble Mr. **R. N. Turner**, C.M.G. } Joint Leaders
The Hon'ble Mr. **D. A. Stephens** }
The Hon'ble Mr. **W. K. H. Jones**
The Hon'ble Mr. **H. W. Davidson**, C.M.G., O.B.E.
*The Hon'ble Mr. **J. H. Macartney**
The Hon'ble Datu **Mustapha bin Datu Ham**, O.B.E.
The Hon'ble Mr. **Kho Siat Chew**
*The Hon'ble Mr. **Pang Tet Tshung**
*The Hon'ble Mr. **Peter Lo**
*The Hon'ble Mr. **R. G. Barrett**
*Mr. **D. Matheson**
*Mr. **C. J. Fenton**, O.B.E.
*Mr. **A. H. Masterton-Smith**
*Mr. **M. V. Saville**
*Mr. **D. F. Barton**
Mr. **J. O. Ballard**
Mr. **W. S. Holley** (Joint Secretary)

Chief Justice of Sarawak, North Borneo and Brunei

Sir **John Ainley**, M.C.

Brunei Observers

- Dato' **Setia Peng Haji Mohd. Yusof**
Tuan **Haji Jamil**

(Those marked * were not members of Plenary Meetings)

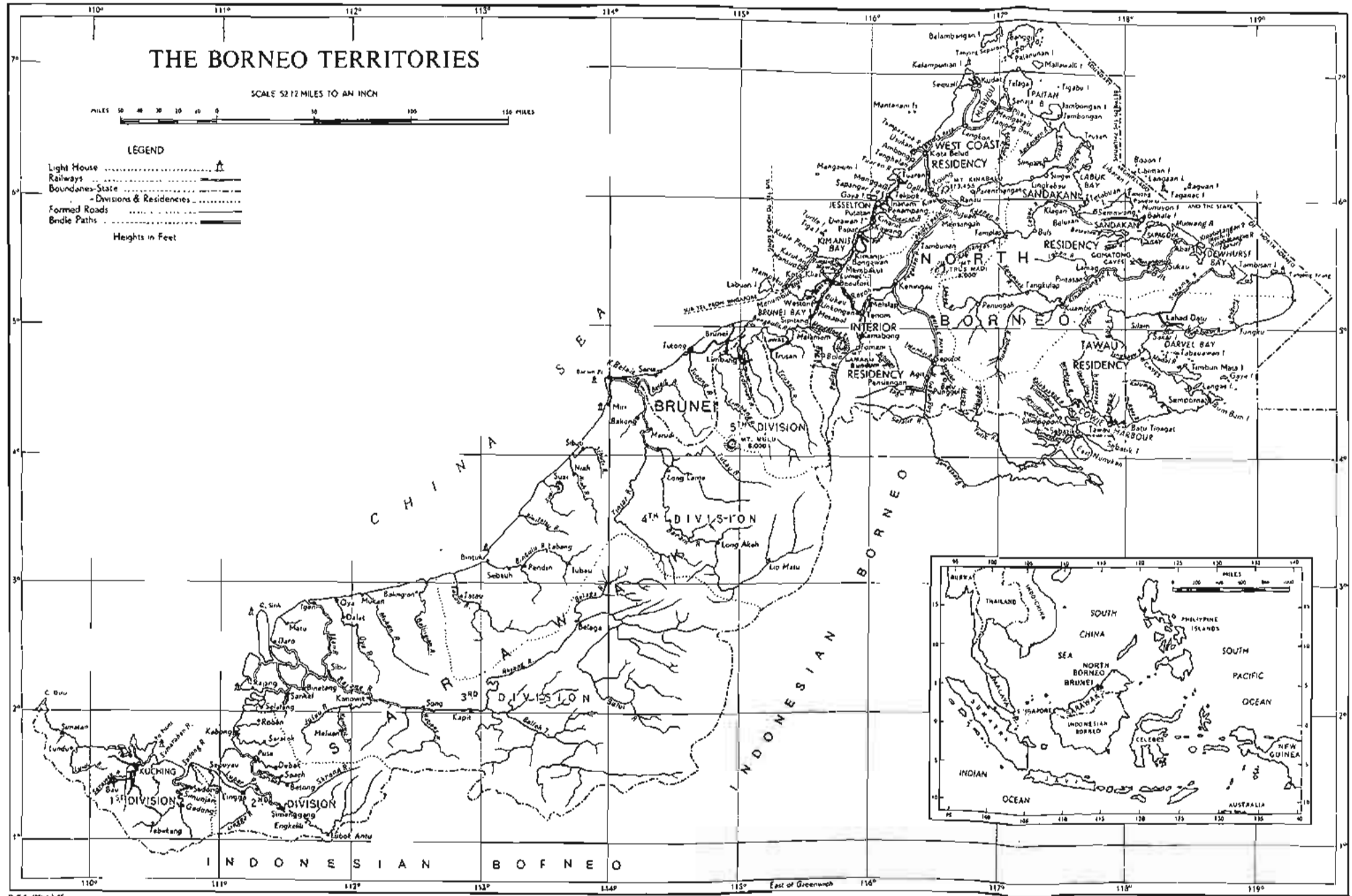
THE BORNEO TERRITORIES

SCALE 52.12 MILES TO AN INCH



LEGEND

- Light House
- Railways
- Boundaries-State
- Divisions & Residencies
- Formed Roads
- Bridle Paths
- Heights in Feet



D.C.S. (H.M.C.) 85
 Published by Directorate of Colonial Surveys 1933.
 As shown boundaries of Borneo Territories constituted 1962