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Peperiksaan Semester Kedua

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HSM 213 – Dokumen-Dokumen Dalam Sejarah Malaysia

[Masa: 3 jam]

KERTAS PEPERIKSAAN INI MENGANDUNGI ENAM [6] SOALAN DI DALAM ENAM BELAS [16] HALAMAN.

Jawab **TIGA** [3] soalan sahaja.

1. Dengan pengenalan Malayan Union pada 1946, British telah mengubah sama sekali sistem politik dan susunan sosial yang didapati di Semenanjung Tanah Melayu. Dengan merujuk kepada Kertas Putih Malayan Union No. 6724, jelaskan apa sebabnya orang Melayu menolak Malayan Union?
2. Dengan merujuk kepada rencana surat khabar *Majlis* pada 4 dan 7hb Januari 1946 setujukah anda bahawa Sultan-sultan Melayu tidak lagi dianggap unggul dalam fikiran politik orang Melayu? Jelaskan perubahan-perubahan yang dapat dikesan dalam hubungan antara Sultan-sultan Melayu dan rakyat mereka yang didapati dalam petikan Majlis ini.
3. Dengan merujuk kepada petikan daripada Perlembagaan Rakyat PUTERA-AMCJA, bincangkan keistimewaan rupa bangsa (nationality) Melayu yang dicadangkan oleh PUTERA-AMCJA dan kenapa ini mengancam kedudukan UMNO?
4. Apakah perbezaan antara Persekutuan Tanah Melayu dan Federation of Malaya dan apa sebabnya sebutan Persekutuan Tanah Melayu diterima sebagai nama sah dari sisi undang-undang?
5. Dengan merujuk kepada dokumen-dokumen yang pernah dibaca oleh anda, Persekutuan Tanah Melayu tidak boleh dianggap sebuah negara kerana tidak ada ciri-ciri kenegaraan dalamnya. Bincangkan.
6. Adakah fasal 20 perkara antara Sabah, dan Semenanjung Tanah Melayu dalam pembentukan Malaysia pada 1963 merupakan perjanjian sementara sahaja atau suatu persetujuan yang kekal?

.../Lampiran

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Lampiran



MALAYAN UNION AND SINGAPORE

Statement of Policy on Future Constitution



*Presented by the Secretary of State for the Colonies to Parliament
by Command of His Majesty
January 1946*

LONDON
HIS MAJESTY'S STATIONERY OFFICE
ONE PENNY NET

Cmd. 6724

MALAYAN UNION AND SINGAPORE

STATEMENT OF POLICY ON FUTURE CONSTITUTION

Previous position.

1. The territories concerned in this statement comprise first, the Colony of the Straits Settlements (that is to say Singapore, Penang, and Malacca in Malaya; Labuan, off the north coast of Borneo; and Christmas Island and the Cocos-Keeling Islands to the south of Sumatra); secondly, the Federated Malay States of Perak, Selangor, Negri Sembilan, and Pahang, in the Malay Peninsula; and thirdly, the Unfederated Malay States of Johore, Kedah, Kelantan, Trengganu and Perlis, also in the Malay Peninsula. The Colony of the Straits Settlements was, before its occupation by the Japanese, under direct British administration. In the Malay States, on the other hand, British authority rested upon agreements concluded with the Rulers, under which each Ruler retained sovereignty in his State, though each was bound to accept British advice on all matters except Mohammedan religion and Malay custom. Administrative co-ordination was achieved by the Governor of the Straits Settlements in his capacity as High Commissioner for the Malay States. As Governor of the Straits Settlements he was in direct charge of the Colony's administration; on matters pertaining to the Federated Malay States, as High Commissioner, he exercised his functions through the British Resident in each of the four States and through the Federal Secretary at the Headquarters of the Federal Government (Kuala Lumpur); on the business of the Unfederated Malay States, again as High Commissioner, he exercised his functions through an Adviser in each State. This co-ordination had, however, to be effected through a variety of legislatures and administrations. Legislation in the Colony was enacted by the Legislative Council of the Straits Settlements, legislation in the Federated Malay States by the Federal Council and each State Council, and legislation in each Unfederated Malay State by the State Council of each State. Uniformity of legislation in the Malay States, therefore, required separate action by at least six, and in some cases by ten, legislatures.

Need for reform.

2. This divided and separatist position in a country scarcely larger than England was formerly not inappropriate and in many ways indeed can be shown to have represented a necessary and useful stage in the development of the several States. But the increasing complexity of modern administrative, economic and social developments demand a system of government less cumbersome, more adequate for large common services, and making better use of time and labour. A return to the old position would be manifestly contrary to the interests of the territories and their inhabitants in the post-war world, with its difficulties arising out of the war and, for Malaya, the special problems created by the Japanese occupation. A stage has now been reached when the system of government should be simplified and reformed. International relations as well as the security and other interests of the British Commonwealth require that Malaya should be able to exercise an influence as a united and enlightened country appropriate to her economic and strategic importance. On a longer view, too, the pre-war system will not lend itself to that political adjustment which will offer, through broad-based institutions in which the whole community can participate, the means and prospect of developing Malaya's capacity in the direction of responsible self-government. In this development all those who have made the country their home and should have the opportunity of a due share in the country's political and cultural institutions. Efficiency and democratic progress alike demand therefore that the system of government should be simplified and reformed.

His Majesty to possess jurisdiction in Malay States.

3. The British Crown must provide the common link which will draw together the communities of Malaya and promote a sense of common interest and the development of common institutions. Under the old situation His Majesty had no jurisdiction in any of the Malay States, although under the Treaties the Malay Rulers had to accept British advice (except in matters of religion and custom). The new policy, however, requires that His Majesty should have jurisdiction in the Malay States, so that he may be enabled to legislate for all the States alike under the Foreign Jurisdiction Act. Accordingly, Sir Harold MacMichael, as Special Representative of His Majesty's Government, has been engaged on a mission to the Malay States, and has successfully concluded with each of the Malay Rulers, after consultations conducted with friendliness and goodwill, an Agreement which, supplementing the existing Treaties, grants full jurisdiction in each State to His Majesty. [For the directions given to Sir Harold MacMichael see Appendix.]

Outline of proposals.

4. It is proposed that the present combination of the Straits Settlements of Penang, Malacca, and Singapore in one political unit should be readjusted on the following lines:

(a) the Settlement of Singapore should be a separate Colony; and

(b) the Settlements of Penang and Malacca should be administered with the Malay States in a Malayan Union.

These proposals will be carried into effect, so far as the Malay States are concerned, under the Foreign Jurisdiction Act, 1890, and, as regards the Straits Settlements, under legislation now before Parliament (the Straits Settlements (Repeal) Bill).

Special position of Singapore.

5. In considering the need for a closer political integration in Malaya, His Majesty's Government consider that, at least for the time being, Singapore requires separate treatment. It is a centre of entrepôt trade on a very large scale and has economic and social interests distinct from those of the mainland. It is recognised, however, that there were and will be close ties between Singapore and the mainland, and it is no part of the policy of His Majesty's Government to preclude or prejudice in any way the fusion of Singapore and the Malayan Union in a wider union at a later date should it be considered that such a course were desirable.

The Colony of Singapore.

6. As mentioned above, the Settlement of Singapore, with which will be included the Cocos-Keeling Islands and Christmas Island, will be constituted as the Colony of Singapore under a Governor with an Executive and a Legislative Council. During a transitional phase between the termination of the present military administration and the inauguration of the new constitution, the Governor will be empowered to legislate with the help of an Advisory Council, which he will be instructed to select on a basis as broadly representative as conditions in this phase allow. During this phase he will be instructed to give careful consideration to the questions of the composition of the Executive Council and of appointment and election to the Legislative Council, so as to ensure full and effective representation of the various sections of the community.

For the purposes of local government, the Municipality of Singapore, the Harbour Board, and the Singapore Improvement Trust will be reconstituted

and set to work with the minimum of delay. During the transitional phase mentioned above the Governor will be instructed to give careful consideration to broadening the sphere of authority of the Municipal Commission and its basis of representation.

The Malayan Union.

7. The constitution of the Malayan Union will provide for a central authority consisting of a Governor with an Executive and a Legislative Council. In each State and Settlement there will be a local Council, which will have such powers of administration and subsidiary legislation delegated to it by the central authority as are appropriate to the purposes of local government. These Councils, both central and local, will consist of official and unofficial members; but, while it is the intention that their constitution shall be broad-based and representative, the final determination of numbers and of the details of representation will not be decided until there has been consultation with local opinion. In the initial phase after the termination of the Military Administration and before the new constitution is brought into effect, the Governor will be empowered to enact necessary legislation with the help of an Advisory Council, which he will be instructed to select on a basis as broadly representative as conditions in this phase allow. During this phase the Governor will be instructed to complete his local consultations with a view to the formal institution of the Executive and Legislative Councils as soon as possible.

These changes in the legislative system will have respect for the continuity of the principles of land policy in the Malay States. The Malay Land Reservations policy, in particular, will be maintained.

Malay Rulers.

8. His Majesty's Government have borne in mind the special position of the Malay Rulers as traditional and spiritual leaders of the Malay people. It is intended, therefore, that the Ruler in each State shall preside over a Malay Advisory Council whose members he will appoint, subject to the approval of the Governor. The main functions of these Malay Advisory Councils will relate to matters affecting Mohammedan religion; but they may also advise the Ruler on other matters at the request of the Resident Commissioner acting with the Governor's approval. On matters of Mohammedan religion, excepting the collection of tithes and taxes, each Ruler, with the help of his Council, will have legislative powers within his State. Such legislation will require the Governor's assent, and for this purpose he will be assisted by a Central Advisory Council of the Malay Rulers sitting together under his Chairmanship. In addition to passing in review all legislation affecting Mohammedan religion, this central Advisory Council may discuss other subjects, either at the instance of the Governor or at the instance of any of the Rulers with the Governor's consent. By these arrangements it will be ensured that each of the Rulers can play his part not only in the affairs of his State but in the future development of Malaya as a whole. Each Ruler will of course be assured of a Civil List appropriate to his dignity.

Subjects of Pan-Malayan Importance.

9. There will be a special need to develop harmonious and mutually profitable relations between the Malayan Union and Singapore on matters of trade. Subjects of pan-Malayan importance which require full identity of policy throughout Malaya, such as Higher Education, Immigration, Currency, Income Tax, Civil Aviation, Posts and Telegraphs, Shipping and other matters, will be matters of common arrangement between the Union and the Colony. The currency will continue to be managed under pan-Malayan agreement.

Malayan Union Citizenship.

10. The policy of His Majesty's Government is to promote a broad-based citizenship which will include, without discrimination of race or creed, all who can establish a claim, by reason of birth or a suitable period of residence, to belong to the country. It is proposed, therefore, to create by Order in Council a Malayan Union Citizenship. The following persons will acquire Malayan Union Citizenship:—

(a) persons born in the territory of the Union or of the Colony of Singapore;

(b) persons who at the date on which the Order in Council becomes operative have been ordinarily resident in those territories for ten years out of the preceding fifteen. (In calculating the fifteen years' period, the period of Japanese occupation will be disregarded.)

It will also be possible for persons to acquire Malayan Union Citizenship after five years' ordinary residence in the Malayan Union or Singapore. British subjects who acquire Malayan Union citizenship will not thereby lose their British nationality. Save with the consent of the Governor, no person who is not a Malayan Union citizen will be admitted to public office or membership of Central and Local Councils.

Those acquiring Malayan Union citizenship otherwise than by birth will be required to affirm allegiance to the Malayan Union.

Courts.

11. There will be a Supreme Court of the Malayan Union and a Supreme Court of Singapore, each with a Chief Justice at its head. Each will consist of a Court of first instance and a Court of Appeal. The Chief Justices and the puisne Judges of the Supreme Court of the Union and of Singapore respectively will be *ex officio* judges in the other territory. There will be appeals to the Privy Council from both Courts of Appeal.

Transfer of State and Settlement Property to the Union.

12. Arrangements will be made for the transfer, with certain exceptions, of the assets and liabilities of each of the Malay States and of the Settlements of Penang and Malacca to the Malayan Union. It will be necessary to arrange for an apportionment of the assets and liabilities of the Government of the Straits Settlements between the Governments of Singapore and of the Malayan Union.

Proposed Appointment of Governor-General.

13. There will be need for co-ordination and direction of the policies of Government as between the Malayan Union and Singapore. It is proposed that this should be one of the functions of the Governor-General whom His Majesty's Government have it in mind to suggest for appointment in this area. The exact area with which the Governor-General would be concerned and the exact scope of his activities have not yet been finally determined. Besides the Malayan Union and Singapore the area would include Labuan and Brunei and, if negotiations now in progress are brought to a satisfactory conclusion, Sarawak and British North Borneo. The Governor-General will not have any direct administrative functions, but he will have power of co-ordination and direction and power to convene conferences on any subject. These conferences would be attended by British Governors and other British representatives within his sphere of authority.

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APPENDIX

The following are the directions which were given to Sir Harold MacMichael for his discussions with the Malay Rulers:—

" You will visit Malaya, at a date to be agreed by the Supreme Allied Commander, South East Asia Command, and invite each Malay Ruler's co-operation in the establishment of a fresh constitutional organization of Malaya which has been approved by His Majesty's Government and communicated to you and which is intended to ensure and facilitate the progress of the people of the country towards unity and ultimate self-government within the British Empire.

" In furtherance of this object you are authorized as Special Representative of His Majesty's Government to conclude with each Ruler on behalf of His Majesty's Government a formal Agreement by which he will cede full jurisdiction to His Majesty in his State."

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MALAYAN UNION - TIDAK SAH

**SURAT-SURAT TREATI YANG TIADA MENDAPAT PERSETUJUAN RAKYAT-
RAKYAT, TIADA SAH DAN TIADA HALAL.**

Kemajuan Malaya Membahayakan Umat Melayu

Tiada ada sebuah negeri pun dalam dunia ini yang boleh mencapai setinggi-tinggi kemajuan dengan cepat seperti Malaya. Sungguhpun sebelum Kerajaan British masuk menaungi Malaya ada juga sedikit-sedikit bilangan orang-orang Melayu dan Cina berkerja melombongi bijeh timah dan emas. Tetapi adalah begitu ramai manakala British masuk di Malaya. Dibika jalan-jalan besar, jalan raya diserata mukim dan daerah dan dibuka jalan-jalan kereta api merentang bercawangan diserata-rata negeri di Malaya. Apa lagi kompeni-kompeni, syarikat-syarikat British Pun makin bertambah ramai masuk menyelongkar-menyelongkar mengali korek serta serata-rata bumi Malaya kerana harta-harta karun bijeh timah dan emas. Begitu juga orang-orang Cina tidak ketinggalan dengan jalan inilah mula-mula dibawa masuk kuli-kuli Cina dan India kedalam Malaya. Daripada 40 tahun dahulu galian emas di Raub, Pahang ity termasuk dalam bilangan yang sangat masyur didalam dunia. Tetapi galian bijeh timah di Tronoh, Perak lebih lagi termasyur termasuk dalam darjah yang sangat tinggi dalam dunia.

Pendeknya, Empire British dapat Malaya jadi suatu karun yang timbul dalam dunia. Didalam itu datang pula bijih-bijih benih getah dari Brazil, Amerika Selata. Benih getah merbahaya ini sangat bersetuju dengan kesuburan hawa bumi Malaya. Lambat ditanam sahaja dia pun mula tumbuh. Getah ini besar gunanya kepada orang-orang dunia. Apalagi, habislah lincin hutan-hutan rimba, bukit-bukau di Malaya ini ditebang ditanam getah. Kuli-kuli Cina dan India semakin bertambah-tambah banyak masuk ke Malaya tiap-tiap masa dengan tidak terhad. Sekarang apa sudah jadi diatas bumi Melayu kita Malaya? Dengan kekayaan dan kesuburan buminya, didalam masa yang sangat cepat Malaya telah memberi kepada orang-orang British harta-harta karun yang dibawa balik kenegeri nya. Tiada dapat nilainya.

Begitu juga orang-orang Cina tiada juga ketinggalan. Selain daripada itu sekarang orang-orang Cina, India dan lain-lain telah penuh dalam Malaya. Lebih banyak bilangannya daripada umat Melayu kita sekalian. Bukannya faedah-faedah dan bumi kita sahaja dimilek perintah, bahkan hak-hak rakyat dan negeri kita pun telah termasuk kedalam tangan mereka sekalian. Tak usah disebut pasal perniagaan kerana sekalian perniagaan-perniagaan daripada luar dan dalam negeri daripada sebarang jenis semuanya sekali ada dalam tangan mereka itu sekalian. Yang demikianpun tak pada lagi sekarang hak-hak kerakyatan kita pula hendak disapukan. Apa ada lain bagi umat Melayu kita tiada lain melainkan RedIndian?

Semangat kata dengan demikian halnya didalam rencana ini patutlah saya kata-kata sebagaimana Kerajaan British berperang melawan Nazi dan Fascists, begitu juga Kerajaan negeri-negeri Melayu telah mengistiharkan perang. Orang-orang British membuang nyawa melawan kecerobohan Jepun begitu juga orang-orang Melayu membuang nyawa sebagaimana yang telah terbukti dengan beberapa banyaknya telah hilang nyawa Melayu dalam Malay Regiment yang memang diakui oleh Radio London. Tetapi pada masa ini nampaknya jasa mereka hilang begitu sahaja. Di Eropah dan di Asia, Kerajaan British mendapat kemenangan yang gilang gemilang.

Mengapa pula hak-hak Melayu hendak dihilang? Kemenangan British dapat menakluki takluk jajahan, mengapa pula hak-hak Melayu ditelan? Kita berperang, bersending bahu membuang nyawa, bertindih mayat bersama-sama British. British mendapat kemenangan sebagaimana pula terbalik kita mendapat kekalahan? Maka dengan sesungguhnya kita sangat bersetuju Kerajaan British menjaga kehormatan diatas muslihat-muslihat dan feadah-faedah am rakyat Melayu.

Tiada disangkakan Kewrajaan British memperbuat treati atas hak-hak rakyat Melayu bersembunyi dengan raja-raja dan sultan-sultan Melayu. Mengapakah pula rakyat Melayu tiada diberi tahu? Beginikah yang dikatakan keadilan? Harapkan kepada persatuan dan kesatuan. Saya harap rancangan ini dan apa-apa jua lain-lain sebarang rencana dalam surat khabar Melayu yang berkenaan dengan hak-hak bangsa dan watan patutlah sangat dibaca dalam tiap-tiap kesatuan dan persekutuan supaya menanam benih semangat dan darah kebangsaan. Mudah-mudahan boleh jadi kebajikan dan munafat diatas umat Melayu kita sekalian didalam masa yang kemudian.

Sepuluh tahun dahulu hijrah 1355 saya telah mengarang sebuah risalah yang bernama **Watan Kita Dengan Orang Asing**. Dalam risalah itu saya bantah, saya tiada bersetuju diadakan kesatuan-kesatuan dan persekutuan-persekutuan umat kerana saya berharap semata-mata pada raja-raja dan sultan-sultan serta orang besar-besarnya. Tapi dalam masa sekarang dunia beredar, zaman berubah, fikiran am berlainan. Jadi termustahak lah diatas kita kena berdiri dibawa kesatuan dan persekutuan. Kita tiada boleh dapat ketahu adakah raja-raja dan sultan-sultan kita telah terkena tekan. Oleh sebab umat Melayu itu umat Melayu kenalah kesatuan dan persekutuan membelakan.

Penutup Kata

Akhir kalam, orang-orang yang mengerti tentulah paham akan rencana ini. Bukan sekali-kali membenar serong atau menyinggung keatas kehormatan raja-raja dan sultan-sultan. Maka dengan kerana soal atau hujjah hendak membatalkan treati yang Kerajaan British perbuat dengan jalan bersembunyi yang tidak sah dan tiada halal itu kenalah ditafsir, diperterangkan bagaimana kedudukan adat istiadat, lembaga-lembaga pemerintahan negeri dan bagaimana rupa kedudukan hak-hak diantara raja-raja, sultan-sultan dengan hak-hak rakyat negeri yang bersabit dengan treati itu.

Maka sungguh begitupun oleh sebab kalam saya menyebutkan nama-nama raja-raja dan sultan-sultan didalam rencana ini, jadi terpaksa lah kena saya meminta ampun.

Patek hamba pacal yang huna memohon beribu-ribu ampun daripada kebawa tapak cerpu Duli Yang Maha Mulia Tuanku Raja-raja dan Sultan-sultan. Oleh kerana patek hamba ini seorang hamba anak watan, jadi mustahaklah diatas patek hamba menulis ini kerana mudah mudahan berharap hendak memelihara hak-hak kaum bangsa dan watan. Dipenuhi dengan berib-ribu ampun. Allah peliharakan raja-raja dan sultan-sultan serta juga Semenanjung Tanah Melayu dan umat Melayu sekalian.

Ayub Abdullah,
KEDAH

KESATUAN MELAYU - MALAYAN UNION

**SURAT-SURAT TREATI YANG TIADA MENDAPAT PERSETUJUAN RAKYAT-
RAKYAT TIADA SAH DAN TIADA HALAL.**

Adat-istiadat, hak membatalkan Raja-raja atau Sultan-sultan:

Bahawasanya menurut adat daripada zaman berzaman bahawa tiap-tiap Raja atau Sultan itu dilantik dan ditabal oleh rakyat. Manakala mangkat seseorang Raja atau Sultan, bertanggunglah diatas rakyat mermufakat, berhimpun, bermesyuarat mencari gantinya. Manakala telah putus didalam mesyuarat itu didapati mana-mana seorang yang layak samada daripada waris-earisnya atau lainnya, lalu ditaballah menjadi Raja atau Sultan menggantikannya. Maka walaupun ada pusaka mempusaka, waris-mewaris sekalipun tetapi diatas tiap-tiap satu itu bertanggung diatas rakyat juga bagi mempersetujui, mengesah atau sebaliknya.

Dan lagi atas dunia ini tiap-tiap seorang yang hendak dilantik atau ditabal menjadi Raja atau Sultan itu ada bermacam-macam jenis adat resam kebangsaannya. Ada juga adat-adat lebih dahulu dikehendakki sign surat perjanjian tauliah atau sumpahan pusaka yang mewajibkan spaya taat setia menjalankan kewajipan tanggungan diatas rakyat dan negeri.

Hak-hak Raja dan hak-hak Rakyat:

Maka manakala telah sempurnalah adat istiadat mentabal seseorang menjadi Raja atau Sultan, seseorang yang menjadi Raja atau Sultan itu termasuklah ketangannya kekuasaan hak memerintah dan menghukum diatas negeri dan rakyat dengan jalan-jalan adil. Maka sekiranya pemerintahannya dan hukumannya tiada adil dan tiada suatu dengan kehendak negeri dan rakyat, maka rakyat ada hak boleh pecat peraturan daripada takhta dan diganti dengan dengan yang lain.

Diatas dunia beberapa banyak raja-raja, sultan-sultan dipecat, diperturun daripada takhta dan diganti dengan yang lain. Di negeri Perak, orang-orang rakyat Melayu kita Perak telah pecat, perturun seorang Sultannya daripada takhta Kerajaan Perak, iaitu al-marhum Sultan Ismail dan ditabal al-marhum Sultan Abdullah menggantikannya. Sebarang musuh dtang melanggar negeri, bertanggung diatas rakyat membuang nyawa melawan musuh kerana memelihara negeri dan hak-haknya.

Tatkala demikian adalah harus mana seorang raja atau sultan yang hendak sign mana-mana treati menyerahkan hak-hak negeri dan rakyat kepada mana-mana pihak yang lain jika lebih dahulu tiada mendapat persetujuan dalam mesyuarat ramai oleh rakyat negerinya dan jika ada berlaku juga demikian itu sign dan diserahkan tiada persetujuan rakyat negeri, adakah surat-surat dan treati itu boleh diakui sah?

Pengajaran didalam umat Islam (demokrat Islami) adalah pengajaran-pengajaran didalam umat Islam manakala wafat nabi Muhammad s.w.t. berhimpun dan bermesyuaratlah kaum kaum Islam memilih didalam mesyuarat ramai nal melantikan seorang gantian iaitu Kalifa. Iaitu manakala telah putus mesyuarat dilantiklah Sayiddina Abu Bakar. Begitu juga kemudiannya Sayiddina Osman, Umar dan Ali. Maka manakala hendak berperang menyuruhlah Kalifa itu berhimpun sekalain kaum Islam itu bermesyuarah. Begitu juga jika ada apa-apa maksud bagi pendamaian atau apa-apa lain sebaran perkara berkenaan dengan hak-hak atau muslihat ramai.

Bermesyuarahlah kaum-kaum Islam itu berserta Kalifanya menjadi sebulat keputusan. Begitulah umat Islam memberi pengajaran dengan hak-hak dan muslihat am bagi kaum dan negeri. Maka sekiranya ada mana-mana trati yang berkenaan dengan hak-hak negeri dan muslihat am yang di sign serta oleh mana-mana raja-raja atau sultan dengan kehendak hatinya sendiri dengan tiada muafakat mengambil persetujuan suara ramai rakyat-rakyat negerinya itu adakah halal berbetulan seperti mana pengajaran umat Islam? King dan sultan tiada berkuasa jika tiada dengan persetujuan rakyat. Telah diadatkan di England, Duli Yang Maha Besar Baginda King tiada berkuasa boleh sign apa-apa sebarang jenis surat-surat trati dengan lkasnya kuasa asing negeri dengan pandai dirinya sendiri jika lebih dahulu tiada mendapat persetujuan suara ramai daripada orang-orang rakyat negerinya di England.

Maka sekarang dinegeri-negeri Melayu kita duduk dibawah naungan Kerajaan British maka apa-apa yang dicadangkan adat bagi Raja Kerajaan British, itulah juga adat bagi raja-raja Kerajaan Melayu kita ini. Tatkala begitu, sekiranya ada mana trati yang di sign oleh raja-raja Melayu dengan pandai dirinya sendiri tiada menurut seperti manaadat yang tersebut tadi, adakah surat-surat trati itu boleh diakui sah? Nyata dan terang sekali tiada sah, tambahan pula tada ada mana-mana undang-undang tuboh Kerajaan negeri-negeri Melayu ini yang pemesyaratkan membenarkan raja-rajanya boleh membuat ikut suka hatinya yang demikian itu.

Kuasa ramai bagi negeri-negeri Melayu (demokrat Melayu) lagi pun negeri-negeri Melayu kita bukannya daripada dibawah kuasa tunggal atau kuasa bangsawan tetapi negeri-negeri Melayu kita duduk dibawah aturan kuasa ramai atau demokrasi. Maka apa-apa syarat ramai demokrasi peraturan kuasa kenalah diturunkan semula adat negeri-negeri dalam dunia zaman sekarang. Negeri yang bertamuddun di Eropah atau orang-orang capri (negro) di Afrika sekalipun tiada ada memberi hak pada raja-rajanya boleh memperbuat surat trati sembunyi diam-diam dengan pandai dirinya sahaja menjual hak-hak kaum, bangsa dan negerinya. Perbuatan yang melanggar adat ini tiada sah dan tiada halal.

Ayub Abdullah
KEDAH

CITIZENSHIP.

SECTION 2:—

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

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

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

"Citizenship" is the status of those who owe permanent allegiance to

a state by reason of birth, naturalisation, or (in the case of women) marriage.

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

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

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

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

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

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

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

A divided allegiance is, in our opinion, a contradiction in terms, and acquisition of citizenship under our Proposals therefore means the renunciation of all other allegiances. It is to be noted, however, that this renunciation will not mean, in the case of British subjects, a transfer of allegiance from the Crown: the allegiance of such persons would, on acquiring citizenship, be transferred to His Majesty and Their Highnesses the Malay Rulers jointly.

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

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

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

Loyalty cannot be adequately defined without reference to allegiance. The ordinary usage of words confirms that a man cannot be said to be "loyal" to an alien country, a country to which he does not belong, to which

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

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

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

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

This question of the necessity for co-operation on the part of citizens if the government is to be effectively administered is treated in greater detail in our explanation of the provisions of Section 24.

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

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

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

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

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

We stand most firmly and completely by this principle, and seek to give

to it, in our Proposals, the real and valid expression which we feel was not given to it by the Proposals of the Working Committee.

This we have done:

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

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

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

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

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

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

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

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

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

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

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

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

As we have shown, this protection can only be given, and this welfare can only be effectively promoted, by eliciting the co-operation and consent of the citizens by the acknowledgment of political rights. Such an acknowledgment of rights must be accompanied by an acknowledgment on the part

of citizens of those civic duties which, together, comprise the general duty of allegiance.

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

The Malay delegates at the Constitutional Proposals Conference of PUTERA and the A.M.C.J.A. on July 4 to 7, 1947 drew attention to the very real fear among the Malays that, as a result of British imperial policy, they might be submerged in their own country by aliens who owed no allegiance to the country, and felt no sense of loyalty, duty or obligation towards its indigenous and domiciled people.

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

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

Paragraph 81 on Page 23 of the Working Committee's Report states:
"Before proceeding to the detailed consideration of the various categories of persons who should be included as citizens, the Committee wished to have clearly before it the meaning of 'citizenship' and its implications. It was explained that it was not a nationality, neither could it develop into a nationality. It would not affect or impair in any respect whatever the status of British subjects in the Settlements, or the status of subjects of the Rulers in the Malay States."

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

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

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

Those who offered this "explanation" to the Working Committee were very well aware that the basis of the definition of nationality, in British law as in the law of other countries, is allegiance. This, we suggest, is such an